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March 27, 2024

State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814
VIA EMAIL: commentletters@waterboards.ca.gov

Re: Comment Letter –Proposed Making Conservation a California Way of Life Regulation

Dear Clerk of the Board,

On behalf of Olivenhain Municipal Water District, thank you for the opportunity to provide the State Water Resources Control Board with input on the proposed Regulatory Framework for Making Conservation a California Way of Life. OMWD provides 87,000 customers in northern San Diego County with water, wastewater, recycled water, hydroelectric, and recreational services.

We appreciate SWRCB extending the allowance of 20% irrigable, non-irrigated landscape area in the outdoor residential standard and adding nonresidential agriculture customers to the list of excluded demands. Additionally, we appreciate the water use objective compliance date extension to 2027 to better align with the original timelines set forth by SB 606 and AB 1668.

However, the proposed regulations still include several areas of concern that we would like to bring to the attention of SWRCB. We remain especially concerned with areas where SWRCB's proposed regulations contrast with the recommendations made by the Department of Water Resources. DWR's recommendations are a direct result of years of extensive analysis, workshop collaboration, and thorough discussion with hundreds of subject matter experts representing both policymakers and water retail agencies. Furthermore, the recommendations made by DWR achieved the intent of SB 606 and AB 1668 by recommending standards based on efficient use of water to achieve conservation levels greater than those of SB X7-7. Arbitrarily disregarding DWR's recommendations and proposing more restrictive regulations is not only unwarranted but punitive.

For example, DWR's recommendation was to set the landscape efficiency standard at 0.63 in 2030 and beyond. The updates to the proposed regulations continue to disregard this recommendation and offer an efficiency standard that decreases to 0.55 in 2040, without any reasonable basis. OMWD strongly requests that §968(a)(3) be deleted from the proposed regulations.

Another example are the proposed updates to the variance threshold requirements per §968(f). While we appreciate the changes to focus the threshold on only the associated standard, we still disagree with the threshold of 5 percent in order for an urban retail water supplier to be able to incorporate one of the available variances. Water suppliers should be able to apply for any of the available variances if they



meet the required conditions irrespective of what volume of water is applicable to said objective. This would be particularly relevant during the initial reporting years when water agencies may struggle to meet the unknown objectives and even small variances might alleviate significant penalties. Further, the efforts required for an urban water supplier to calculate each variance amount are not insignificant. It is likely that an urban water supplier will self-determine which variance to apply for, based on considerations such as amount of the staff time and expected cost to calculate the variance, the expected amount of variance, and whether the supplier is close to exceeding its water use objective. For example, the variances for livestock, evaporative coolers, emergencies, dust control, and ponds are not likely to represent a significant amount of water individually. The cost/benefit is high enough that OMWD would not likely apply for these variances, even without the 5 percent threshold requirement, if not needed. However, if OMWD determines it is exceeding its budget, every acre-foot matters, and being able to include any amount of variance will assist with meeting the water use objective. Despite the update to associate the required threshold with only the affiliated standard, OMWD still asks that the 5 percent threshold be removed entirely.

Regarding the proposed updates to §974(a), despite providing the tools to obtain the required information, OMWD requests more time to identify all disclosable buildings within a water supplier's service area. The proposal to meet this request by June 30, 2024, or the effective date of this section is not acceptable. Asking water agencies to adhere to regulations before they are fully adopted or on the day they become effective is illogical and SWRCB should provide a reasonable timeline to allow agencies to acquire and report on the required information.

In addition to these comments regarding the proposed updates to the draft regulations, OMWD has previously expressed several other concerns that have yet to be addressed. One concern is that the method to determine the Net ETo does not adequately account for districts with multiple evapotranspiration zones. OMWD covers 48 square miles and includes coastal zones, inland valleys, and semi-arid deserts. Additionally, population density is not evenly distributed throughout district boundaries and property sizes (and associated irrigable areas) vary significantly. OMWD asks that the highest Net ETo to fall within district boundaries be used in calculation of the outdoor standard for residential landscapes and landscapes with a dedicated irrigation meter.

Another concern remains with the proposed §969(a)(5). Additional types of landscapes should be included in the list of special landscape areas, including but not limited to bioswales, retention areas, fire defense zones, etc. Further, the ask of water suppliers to quantify the measured total square footage of the irrigated area of CII landscapes with Dedicated Irrigation Meters is not practical and overly burdensome. SWRCB should provide these measurements to water suppliers similar to the requirement for residential areas.

Another concern that has not been addressed pertains to §968; the livestock variance being defined as the lesser of what is specified in the proposed regulations or the amount listed in §697 is counterproductive and was not recommended by DWR. §697 should not be used in determining the variance amount. For example, the proposed variance for medium-sized livestock is 8 gallons per day. §697 allows just 1.5 and 2.5 gallons, for most medium-sized animals. However, §697 also allows for 35 gallons per day per head for hosing out a dairy barn. OMWD requests that reference to §697 be deleted,

or alternatively, that the 35 gallons per day per head for hosing out dairy barns be added to the proposed variances.

One final area of concern that has not been addressed is the requirement that reporting be based on a fiscal year, as would be required by §966(b). This requirement is inconsistent with existing reports, including the Interim Annual Water Use Template provided by DWR. OMWD's annual eAR and Water Loss Audits follow a calendar year cycle. Being required to adopt a fiscal year cycle for the water use objective reporting would create unnecessary additional work for staff and be inconsistent with existing reports. OMWD asks that SWRCB provide an option to water suppliers for using a calendar year approach, versus strictly fiscal year as accommodated by DWR.

We appreciate your consideration of our concerns. If you or your staff should need any additional details pertaining to this assessment, please do not hesitate to contact me at 760-753-6466 or kthorner@olivenhain.com.

Regards,



Kimberly A. Thorner
General Manager

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