PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DIVISION OF WATER AND AUDITS Water and Sewer Advisory Branch

RESOLUTION W-5082 February 11, 2016

RESOLUTION

(RES. W-5082) RESOLUTION EXTENDING AND MODIFYING THE RESTRICTIONS ADOPTED IN RESOLUTION W-5041 TO CONTINUE TO ACHIEVE A REDUCTION IN POTABLE URBAN WATER USE CONSISTENT WITH RESTRICTIONS IMPOSED BY THE STATE WATER RESOURCES CONTROL BOARD'S RESOLUTION NO. 2016-0007, ADOPTED FEBRUARY 2, 2016.

SUMMARY

On November 13, 2015, Governor Edmund G. Brown Jr. issued Executive Order B-36-15 (EO) directing the California Public Utilities Commission (Commission) and the State Water Resources Control Board (Water Board) to continue restrictions on water use through October 31, 2016, should the drought persist through January 2016. The Governor's order stated that modifications could be made to the then existing restrictions to reflect insights gained from enforcing those restrictions during 2015. This resolution continues the restrictions the Commission adopted on May 7, 2015 by Resolution W-5041 with system specific modifications to adjust for climate, growth, and use of drought resilient source capacity. These changes are consistent with the changes adopted by the Water Board in its Resolution 2016-0007, adopted February 2, 2016. The Water Board has stated that should conditions in March or April 2016 warrant, it will consider adjusting further, or eliminating, the restrictions. The Commission will then act accordingly to consider adjusting or eliminating restrictions for its regulated utilities.

BACKGROUND

The existing Emergency Regulation was adopted by the Water Board on May 5, 2015 by Resolution No. 2015-0032. The restrictions were to remain in effect for 270 days. The Commission ordered the utilities under its jurisdiction to comply with the Water Board's order on May 7, 2015 by Resolution W-5041. The Emergency Regulation, as adopted by Res. W-5041, is attached as Appendix A.

The Governor issued EO B-36-15 on November 13, 2015. The order stated that California faced the prospect of simultaneously preparing for a "fifth year of drought and the possibility of major winter storms driven by the warming trend in the Pacific Ocean known as El Niño." The Water Board was ordered to extend the then existing emergency drought restrictions through October 31, 2016 should drought conditions persist through January 2016. The order also stated that the "Water Board shall continue modifying its existing restrictions to address uses of potable and non-potable water, as well as to incorporate insights gained from existing restrictions." The Commission was also requested to take similar action.

The Water Board had already convened a stakeholder group to consider modifications to the Emergency Regulation. In response to the EO, it held a public workshop on December 7, 2015, to solicit input on elements of the existing Emergency Regulation, if any, that should be modified. A staff report entitled "Proposed Regulatory Framework for Extended Emergency Regulation for Urban Water Conservation" was issued on December 21, 2015 and public comment was solicited on the report. The Water Board issued the Proposed Text for Emergency Regulation (Proposed Regulation) for

public comment on January 15, 2016. Resolution 2016-0007 adopting the Proposed Regulation was passed on February 2, 2016.

DISCUSSION

Despite above average precipitation in December 2015 and January 2016, the effects of the drought will likely continue through 2016 and beyond. The Governor has asked the Commission to act in concert with the Water Board in continuing the Emergency Regulation to conserve the water supply. This resolution continues the regulations adopted by Resolution W-5041 through October 31, 2016, the date set by the Governor in EO B-36-15. Regulations for most systems will likely remain unchanged. However, urban systems (those with more than 3,000 service connections) that meet certain criteria would see a reduction of the conservation standards currently imposed by the tier system.

The existing Emergency Regulation assigns each urban supplier a tier with conservation standards from 4 to 36 percent based on gallons per capita per day usage for July through September 2014¹. The Commission's Class A and B utilities were able to meet the conservation standards in forty-nine of the sixty urban systems during the summer of 2015, with the remaining systems achieving significant savings. The modifications proposed herein would provide some relief in the form of a reduction of the conservation standard of 2% to 4% in systems with hotter than average climates. The standard for systems which have experienced growth would be reduced proportionately with that growth. A system that has developed a drought resistant source of supply, amounting to at least 1% of its total production, would receive reductions ranging from 1% to 8% in its conservation standard. The total of the three adjustments are capped at 8%

¹ While the tiers are defined using 2014 data, the conservation requirement for a given month is as compared to the same month in 2013.

for any one system and in no case will the adjustments cause the conservation standard to go below 8%. The conservation standard of most systems would not change. Systems which currently have a 4% conservation standard would not be eligible for an adjustment. No system would have a higher standard than that which was in effect in 2015. A description of each proposed adjustment follows.

Climate Adjustment:

The Emergency Regulation incorporates a climate adjustment that reduces the conservation requirement by up to 4 percentage points for water systems located in the warmest regions of the State. The climate adjustment is based on each urban water system's approximate service area evapotranspiration (ET) for the months of July through September as compared to statewide average ET for the same months. The adjustment ranges from a 2-4 percentage point decrease in an urban water system's conservation requirement depending on service area ET as follows:

Deviation from Average ET	Reduction in Conservation Standard
>20%	4%
10 to 20%	3%
5 to <10%	2%

Default service area ET will be based on the California Irrigation Management
Information System (CIMIS) Mapped ET Zone² for which the system's service area has the
greatest overlap. Each Urban Water Supplier will have the opportunity to refine its

² http://www.cimis.water.ca.gov/App_Themes/images/etozonemap.jpg

service area ET using specific data from CIMIS stations within its service area, provided each station used has a continuous period of record of at least 5 years.

Growth Adjustment:

This adjustment provides a mechanism to adjust urban water supplier conservation standards to account for water efficient growth since 2013. The adjustment will be equal to the ratio of the additional volume of water used since 2013 to the baseline water use for 2013, multiplied by the water supplier's conservation standard. The volume of water added due to growth will be calculated as the sum of:

- 1. Number of new permanent residents served since 2013 multiplied by the average residential water use for that supplier's service area during the months of February through October 2015, in gallons.
- 2. Number of new commercial, industrial, and institutional (CII) connections since 2013 multiplied by the average CII water use per connection during February through October 2015.

Drought Resilient Sources of Supply Credit:

The credit provides a reduction from one percent to eight percent of the conservation standard of urban water suppliers using new drought resilient water supplies providing at least four percent of its total potable water production. The credit would apply to urban water suppliers that certify, and provide documentation upon request, that at least one percent of its potable supply from a new local source of supply the creation and use of which does not injure another legal user of water or the environment and was developed since 2013.

Cap on Credits and Adjustments:

All credits and adjustments are capped to allow up to a maximum of an eight percentage point decrease to any individual water supplier's conservation standard. These adjustments will not reduce a system's conservation standard below eight percent. Systems which currently qualify for a four percent conservation standard will not be eligible for any adjustment.

Class C and D Utilities

Systems with fewer than 3,000 connections, which includes all Class C and D utilities as well as non-urban districts of some Class A and B utilities, shall continue the conservation rules adopted by Resolution W-5041 through October 31, 2016.

All Utilities

The Commission invites bold actions by its utilities to continue maintaining these mandatory restrictions by including provisions for, but not limited to: (1) mandatory water audits; (2) customer funded remotely read meters; (3) restriction on water use for the top residential, commercial and industrial users, particularly outliers³, e.g. those with excessive water use; (4) flow restrictor requirements; (5) restrictive outdoor watering rules; and (6) limits on total water use.

³ Outliers include those users that are in the highest category of water users that may be masked by overall consumption from average users. Targeting these outliers could reduce overall water use.

All Class A and B water utilities should continue assuring compliance with the restricted water uses by working with local law enforcement or public agencies charged with enforcing the mandatory use restrictions.

Ratemaking Mechanisms

Utilities that have established memorandum accounts to track lost revenues and expenses due to the drought, consistent with Resolution W-4976, February 28, 2014, should be authorized to track the shortfall as long as drought management measures are necessary.

SAFETY

The Commission is issuing this Resolution to conserve potable water by restricting its use for outside watering and irrigation and by limiting the use of potable water for inside use to ensure that California has sufficient water supplies, including safe and adequate drinking water, during this drought to provide for the safety and welfare of its citizens.

COMMENTS

The Division of Water and Audits (DWA) believes that the public necessity requires that the comment period be eliminated. As it is, nine days will have lapsed in which the Commission's regulated water utilities will not have the clear guidance necessary to enforce drought regulations. An additional comment period would allow another two weeks to elapse. A comment period was allowed in the case of Resolution W-5041, and the rules contained herein merely extend and make minor adjustments

easing those rules. Furthermore, the California Water Association (CWA), which represents our regulated utilities, and a broad cross section of the public have participated throughout the rulemaking process of the Water Board. DWA staff has reviewed comments submitted to the Water Board by CWA and by a cross section of the public and believes that the Water Board has been responsive to the concerns expressed. Most significantly, the Water Board has agreed to revisit the issue in March or April 2016 should conditions warrant. DWA believes little is to be gained by allowing comments on this Resolution.

Therefore, as provided by Rule 14.6 (a) of the Commission's Rules of Practice and Procedure, the 30-day public review and comment period has been waived.

FINDINGS AND CONCLUSIONS

- On November 13, 2016, Governor Edmond G. Brown Jr. issued and Executive Order B-36-15 ordering that Emergency Regulations remain in effect until October 31, 2016 should drought conditions continue through January 2016.
- 2. Executive Order B-36-15 granted authority to the Water Board and the Commission to consider changes to the existing Emergency Regulations.
- 3. On February 2, 2016 the Water Board issued Resolution 2016-0007 for the public water agencies under its authority and this Resolution is the Commission's proposal for compliance by its jurisdictional investor-owned water utilities.
- 4. The restrictions which are not modified herein which were adopted in Resolution W-5041 on May 7, 2015 should be continued until October 31, 2016.

- 5. These emergency regulations are necessary to preserve sufficient potable water to ensure safe drinking water for Californians.
- 6. Utilities that have established memorandum accounts to track lost revenues and expenses due to the drought, consistent with Resolution W-4976, February 28, 2014, should be authorized to track the shortfall as long as drought management measures are necessary.
- 7. The Water Board has stated that should conditions in March or April 2016 warrant, it will consider adjusting further, or eliminating, the restrictions. The Commission will then act accordingly to consider adjusting or eliminating restrictions for its regulated utilities.
- 8. The Commission invites bold actions by its utilities to continue maintaining these mandatory restrictions by including provisions for, but not limited to: (1) mandatory water audits; (2) customer funded remotely read meters; (3) restriction on water use for the top residential, commercial and industrial users, particularly outliers, e.g. those with excessive water use; (4) flow restrictor requirements; (5) restrictive outdoor watering rules; and (6) limits on total water use.
- 9. All Class A and B water utilities should continue assuring compliance with the restricted water uses by working with local law enforcement or public agencies charged with enforcing the mandatory use restrictions.
- 10. As provided by Rule 14.6(a) of the Commission's Rules of Practice and Procedure, the 30-day public review and comment period has been waived as a public necessity.

THEREFORE, IT IS ORDERED THAT:

- All water utilities under the jurisdiction of the California Public Utilities
 Commission shall comply with the Emergency Regulations as adopted by the
 State Water Resources Control Board by Resolution No. 2016-0007 at its meeting of
 February 2, 2016.
- 2. The restrictions adopted in Resolution W-5041 on May 7, 2015 shall be continued until October 31, 2016, except as modified herein.
- 3. Utilities that have established memorandum accounts to track lost revenues and expenses due to the drought shall be authorized to track the shortfall as long as drought management measures are necessary.
- 4. All water utilities shall comply with all monitoring and reporting requirements as established by the State Water Resources Control Board.
- 5. All Class A and B water utilities shall continue to take bold actions in maintaining these mandatory restrictions by including provisions for, but not limited to: (1) mandatory water audits; (2) customer funded remotely read meters; (3) restriction on water use for the top residential, commercial and industrial users, particularly outliers, e.g. those with excessive water use; (4) flow restrictor requirements; (5) restrictive outdoor watering rules; and (6) limits on total water use.
- 6. All Class A and B water utilities shall continue assuring compliance with the restricted water uses by working with local law enforcement or public agencies charged with enforcing the mandatory use restrictions.

7. This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on February 11, 2016; the following Commissioners voting favorably thereon:

/s/ TIMOTHY J. SULLIVAN
TIMOTHY J. SULLIVAN
Executive Director

MICHAEL PICKER
President
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
CARLA J. PETERMAN
LIANE M. RANDOLPH
Commissioners

Appendix A

EMERGENCY REGULATIONS ADOPTED BY RESOLUTION W-5041

1. End-User Requirements in Promotion of Water Conservation

The following uses are prohibited:

- The irrigation with potable water of ornamental turf on public street medians;
 and
- b. The irrigation with potable water of landscapes outside of newly constructed homes and buildings in a manner inconsistent with regulations or other requirements established by the California Building Standards Commission. All commercial, industrial and institutional properties not served by a water utility meeting the requirements of Water Code section 10617 or section 350 shall either:
 - a. Limit outdoor irrigation or ornamental landscapes or turf with potable water to no more than two days per week; or
 - b. Reduce potable water usage by 25% for the months of June 2015 through February 2016 as compared to the amount used for the same months in 2013.

2. Mandatory Actions by Water Utilities

In furtherance of the promotion of water conservation each Class A and B water utility shall:

- a. Provide prompt notice to a customer whenever the utility obtains information that indicates that a leak may exist within the end-users exclusive control.
- b. Prepare and submit to the Water Board by the 15th of each month a monitoring report on forms provided by the Board. The monitoring report shall include the amount of potable water the Class A or B utility produced, including water

provided by a wholesaler, in the preceding calendar month and shall compare that amount to the amount produced in the same calendar month in 2013. The monitoring report shall specify the population served by the Class A or B utility, the percentage of water produced that is used for the residential sector, descriptive statistics on water conservation compliance and enforcement efforts, the number of days that outdoor irrigation is allowed, monthly commercial sector use, monthly industrial sector use, and monthly institutional sector use. The monitoring report shall also estimate the gallons of water per person per day used by the residential customers it serves.

- c. To meet the requirements of the Governor's April 1, 2015 Executive Order, each class A and B water utility shall, for each district serving more than 3,000 service connections, implement a customer water use reduction program designed to reduce its total potable water production by the percentage identified as its conservation standard in this subdivision. Each Class A and B water utility's conservation standard considers its service area's relative per capita water usage. This usage data is based upon three months of summer residential gallons-per-capita-per-day (R-GPCD) for July through September 2014.
- d. Each Class A and B water utility whose source of supply does not include groundwater or water imported from outside the hydrologic region in which the water utility is located, and that has a minimum of four years' reserved supply available may, submit for Division of Water and Audit (DWA) approval via a Tier 2 Advice Letter a request to reduce its total water usage by 4% for each month as compared to the amount used in the same month in

- 2013. Any such request shall be accompanied by information showing that the utility's sources of supply do not include groundwater or water imported from outside the hydrologic region and that the utility has a minimum of four years' reserved supply available.
- e. Each Class A and B water utility, as identified below by its average July-September 2014 R-GPCD, shall reduce its total water usage by the specified percentage as compared to the amount used in the same month in 2013.
 - July-September 2014 R-GPCD was less than 65 shall reduce its total water usage by 8 percent.
 - July-September 2014 R-GPCD was between 65 or more but less than
 80, shall reduce its total water usage by 12 percent.
 - July-September 2014 R-GPCD was between 80 or more but less than95, shall reduce its total water usage by 16 percent.
 - July-September 2014 R-GPCD was between 95 or more but less than
 110, shall reduce its total water usage by 20 percent.
 - July-September 2014 R-GPCD was between 110 or more but less than
 130, shall reduce its total water usage by 24 percent.
 - July-September 2014 R-GPCD was between 130 or more but less than
 170, shall reduce its total water usage by 28 percent.
 - July-September 2014 R-GPCD was between 170 or more but less than
 215, shall reduce its total water usage by 32 percent.
 - July-September 2014 R-GPCD was greater than 215 or more shall reduce its total water usage by 36 percent.
- f. Beginning June 1, 2015, each Class A and B water utility shall comply with the water usage reductions set forth above. For Commission jurisdictional water

- utilities that must file Schedule 14.1 tariffs, those utilities are to prepare for and file Advice Letters to establish the Schedule 14.1 tariffs to comply with the reductions above as soon as practicable.
- g. Compliance with the requirements set forth above shall be measured monthly by the Board and assessed on a cumulative basis.
- h. Each Class A or B water utility that provides 20 percent or more of its total potable water production for commercial agricultural use meeting the definition of Government Code section 51201, subdivision (a), may subtract the amount of water supplied for commercial agricultural use from its water production total, provided that the utility complies with the Agricultural Water Management Plan requirement of paragraph 12 of the April 1, 2015 Executive Order. Each Class A and B water utility that serves 20 percent or more of its potable water production for commercial agricultural use meeting the definition of Government Code section 51201, subdivision (a), shall certify that the agricultural uses it serves meet the definition of Government Code section 51201, subdivision (a), and shall report its total water production pursuant to subdivision (b)(2), identifying the total amount of water supplied for commercial agricultural use.
- i. Each Class C and D water utility, and districts with 3,000 or less service connections, that is not covered by the applicable restrictions for Class A or B water utilities, shall take one or more of the following two actions to achieve a 25% reduction in potable water consumption relative to the amount consumed in 2013:

- Limit outdoor irrigation of ornamental landscapes or turf with potable water by the persons it serves to no more than two days per week; or
- Implement another mandatory conservation measure or measures (e.g. file Tariff Rule 14.1 and add Schedule 14.1;
 And
- Shall submit a report by December 15, 2015, to the Water Board, on a form provided by the Board, that includes:
 - (1) Total potable water production, by month, from June through
 November 2015 and total potable water production, by month, for
 June through November 2013.

The Water Board, through its Executive Director, or his designee, may require the submittal of additional information beyond that required to be reported pursuant to the other provisions of the Water Board's Emergency Regulation. The failure to provide the information requested within 30 days or any additional time extension granted is a violation subject to civil liability of up to \$500 per day for each day the violation continues pursuant to Water Code Section 1846.

End of Appendix A

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