



October 13, 2017

Board of Directors
Municipal Water District of Orange County
18700 Ward Street
Fountain Valley, CA 92708

Re: MWDOC Engagement on Legislation Related to “Making Water Conservation a California Way of Life”

Members of the MWDOC Board:

As discussed with Orange County’s retail water agencies and MWDOC staff at a meeting on October 12, 2017, I write to you on behalf of MWDOC member agencies in attendance at this meeting to request that the MWDOC Board of Directors reconsider its agency’s position and legislative outreach activities on AB 1668 (Friedman) and SB 606 (Hertzberg/Skinner), the “Making Water Conservation a California Way of Life” legislation. There remain a significant number of policy and implementation issues which have yet to be addressed in the bills and which are of great importance to urban retail water agencies in Orange County and throughout California.

This legislation will almost exclusively affect urban retail water suppliers. Given its implementation of retail-level, budget-based water use efficiency targets and more extensive drought planning (including an annual stress test), the legislation will impact how Orange County’s *retail* member agencies operate, invest in local resources, and engage with their customers going forward.

While Orange County water agencies fully support legislative efforts to bring greater water use efficiency to California’s urban communities and to enhance drought planning across the state, California water policy is inherently complex. While “Making Water Conservation a California Way of Life” connotes well-intended, positive water policy, it is extraordinarily difficult to implement because of the vast differences among water agencies, geographic areas, climates and economies around the state.

Because of this, there are a number of amendments still needed in the bills to address large policy issues such as enforcement standards, state agency authorities, and the treatment of drought resilient supplies. Additionally, amendments are needed to make the bills workable given the practical realities and constraints retail agencies face. A summary of the key issues being raised by Orange County retail agencies, in partnership with the larger water community,

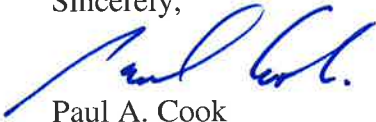
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was attached to the Public Affairs and Legislative Committee package and is also attached to this letter.

Given the changes the Orange County retail agencies need, we ask that MWDOC recognize the importance of these issues and that it work with the water community coalition, especially its member agencies – none of which have taken a support position for AB 1668 or SB 606 – to obtain the amendments requested. If MWDOC is not able to rejoin the water community in its efforts, we ask that MWDOC, at the very least, not work against its members and their interests on this important issue.

I thank you and your staff for engaging with us on this issue at your Public Affairs and Legislative Committee meetings and at the managers meeting held earlier this week. We all appreciate MWDOC taking the time to meet, consider, and evaluate the issues we have raised.

Sincerely,



Paul A. Cook
General Manager

Outstanding Water Community Concerns with Current Versions of “Making Water Conservation a California Way of Life” Legislation

Prepared for Orange County Retail Water Agencies

	AB 1668/SB 606	Water Community Position
Legislature’s, SWRCB’s, and Retail Water Agencies’ Roles in Setting Water Use Standards	<p>AB 1668/SB 606 propose the following roles for the Legislature, SWRCB, and urban water suppliers:</p> <ul style="list-style-type: none"> • Legislature gives SWRCB one-time authority to set certain water use efficiency standards and implement water use objectives/targets. • SWRCB establishes guidelines and methodologies to identify how urban water use objectives/targets are to be calculated and reported. • Urban retail water suppliers annually calculate an urban water use objective and report on accomplishments. • Legislature to retain sole authority over future standards revisions. 	<p>Conceptually, the statutory model outlined in AB 1668/SB 606 for the one-time and up-front water use efficiency standard setting is acceptable in terms of structure, <u>but the bills need substantial modifications to ensure appropriate sideboards over state agency discretionary actions are embedded.</u></p> <p>The urban retail water suppliers’ annual obligation to calculate its urban water use objective must be clearly informed by accurate, comprehensive, and timely data provided by state agencies. <u>The bills need to be amended to require that the accurate, comprehensive, and timely data needed to calculate urban water use objectives annually will be provided to urban retail water suppliers at set intervals by state agencies.</u></p>
Standard Setting		
Indoor Residential Standard	<p>Legislature establishes indoor water use efficiency standard through statute at 55 gallons per capita per day (gpcd) until 2025, when the standard is reduced to 52.5 gpcd. In 2030, the indoor standard is reduced to 50.0 gpcd.</p>	<p>Water agencies agree that the Legislature should set this standard in statute and acknowledge that the indoor standard levels were heavily negotiated, <u>but the unintended consequences of reducing the indoor standard on wastewater systems, recycled water supplies, and potable reuse supplies should be studied and understood before it is reduced further.</u></p>

Outdoor Residential and Commercial, Industrial, and Institutional (CII) Irrigation Standard	SWRCB establishes outdoor water use efficiency standard for residential landscapes and CII irrigation based on the principles of MWELO.	MWELO provides water use criteria for efficient outdoor water use based on property age. <u>Outdoor irrigation standards must be set consistent with providing an equivalent level of water use as provided for in the MWELO, not just incorporate the “principles” of MWELO.</u>
Water Loss Standards	SWRCB establishes water use efficiency standard for water losses.	Water loss compliance is already being addressed through a statutory and regulatory process. There is no need to further complicate a process that is already well underway. <u>Water loss standards should be met through the ongoing process and should not be included in the urban water use objective.</u>
CII Performance Measures	SWRCB establishes performance measures for CII use.	<u>Implementation of performance measures for the CII sector by urban retail water agencies should be undertaken in consideration of feasibility and cost-effectiveness of the measure.</u> The bills do not require that established performance measures look at these factors.
Variances	SWRCB may, but is not required to, establish variances to address anomalous situations.	<u>SWRCB should be required to adopt variances and variance processes</u> for a variety of anomalous situations, including irrigation with recycled water in areas having high levels of total dissolved solids, seasonal populations, environmental uses, etc. SWRCB must be required to allow suppliers to apply the approved variances when requests are in compliance with the guidance established by SWRCB.

Treatment of Recycled Water & Potable Reuse

Recycled Water and Potable Reuse

AB 1668/SB 606 propose the following approach for crediting recycled water and potable reuse within the context of the long-term water use efficiency statutes:

- The bills currently give consideration for landscapes irrigated with recycled water other than granting SWRCB permissive authority related to significant landscaped areas irrigated with recycled water having high levels of total dissolved solids.
- The measure would provide a recycled water credit based on the volume of potable reuse an urban retail water supplier delivers, on an acre-foot basis, but the credit is capped at 10% of the supplier's water use objective.
- The bills currently give no consideration for recycled water and potable reuse supplies during a drought emergency.

In order to promote investments in water reliability projects, the water use efficiency legislation should recognize that recycled water and potable reuse are important components of water use efficiency and the state's effort to be more resilient to drought. The bills need to do the following:

- The standard for recycled water irrigation should be set at 1.0 x ET and should require SWRCB to develop a standardized variance for irrigation with recycled water in areas having high levels of total dissolved solids.
- The legislation should provide a recycled credit in the actual amount of delivered potable reuse water, on an acre-foot basis. The cap should be significantly higher than 10%.
- The legislation should provide that, during a declared drought emergency, recycled water supplies (including potable reuse), emergency supplies, desalination, and other drought resilient supplies identified in an urban water supplier's water shortage contingency plan, should not be restricted but instead used efficiently for beneficial uses.

Water Efficiency for CII Water Users

Commercial, Industrial, and Institutional Customers (CII)

AB 1668/SB 606 propose the following approach for addressing CII water use within the context of the long-term water use efficiency statutes:

- SWRCB establishes outdoor water use efficiency standard for CII dedicated irrigation meters.
- SWRCB establishes CII performance measures, which are actions to be taken by urban retail water suppliers that will result in increased water use efficiency by CII water users. Process water is excluded from performance measures.
- CII water use classifications, separating mixed CII meters to provide dedicated irrigation meters, and Best Management Practices related to water audits and water management plans will be examined.

The business community compromise related to performance measures was intended to address concerns for the industrial sector and not issues within the institutional and commercial sectors or implementation issues raised by urban retail water suppliers. There remain substantial implementation issues for urban retail water suppliers with regard to performance measures.

The bills need substantial modifications to ensure appropriate sideboards over state agency discretionary actions related to performance measures.

- **Feasibility, practicality, and cost-benefit must be key factors DWR and SWRCB must consider in the development of performance measures that urban water suppliers will be asked to implement for the CII sector.**

Calculating Water Use Objectives

Calculation of Urban Water Use Objectives

AB 1668/SB 606 outline a one-size-fits-all approach where every urban retail water supplier must utilize a water budget-based approach to calculate urban water use objectives.

To ensure that the bills' approach is workable for California's diverse set of urban retail water suppliers, **the bills must grant DWR the authority to develop alternative methods for calculating an urban water use objective where unique conditions make it technically, economically, or administratively infeasible to calculate the objective using the standard method developed.**

<p>State Agency Responsibility for Providing Data</p>	<p>AB 1668/SB 606 provide that DWR shall provide each urban retail water supplier with data regarding the area of <u>residential irrigable lands</u> by January 1, 2020.</p> <p>The bills also provide that urban water suppliers shall use the landscape area and other data provided by DWR when calculating its water use objective unless the supplier has demonstrated that it has alternative data that is equivalent or superior.</p>	<p>Calculating a budget-based water use objective, as provided by the bills, requires a tremendous amount of data. <u>The bills should:</u></p> <ul style="list-style-type: none"> • <u>Require DWR to provide all of the data urban retail water suppliers need to calculate an urban water use objective.</u> • <u>Require that the accurate, comprehensive, and timely data needed to calculate urban water use objectives annually will be provided to urban retail water suppliers at set intervals by state agencies.</u>
<p>Reporting Compliance</p>	<p>AB 1668/SB 606 require that by July 1, 2022, and each July thereafter, urban retail water suppliers shall calculate their urban water use objective and calculate actual urban water use.</p> <p>Actual water use is defined as being composed of the sum of the following uses for the previous calendar year:</p> <ul style="list-style-type: none"> • Aggregated residential water use; • Aggregated outdoor irrigation of landscaped areas with dedicated irrigation meters in connection with CII water use; and • Aggregated water losses. 	<p>Water suppliers operate on either a fiscal or calendar year basis. To ease the annual reporting burden on urban retail water suppliers, as has been done in other bills (i.e. SB 555), <u>the bills should:</u></p> <ul style="list-style-type: none"> • <u>Allow suppliers to report water use on either a fiscal or calendar year basis.</u> • To allow for this and, if water losses remain a factor in the compliance calculation, to allow for data from water loss audits to be used in the compliance calculation, <u>the annual reporting deadline should be moved to November 1 of each year.</u> • <u>Finally, water use and loss cause by a disaster (e.g. fire or earthquake) from the compliance calculation.</u>

Water Use Objective Enforcement

Enforcement	<p>The legislation would grant state agencies with new enforcement powers, including the ability to require water suppliers to take punitive enforcement actions on their customers, and the authority to deny state grant and loan funds for a water supplier's failure to meet an undefined standard of "compliance."</p>	<p>The legislation should be amended to shift the enforcement emphasis away from granting punitive enforcement authorities to state agencies and toward technical assistance and information sharing, along with appropriate authorities to ensure that reporting, planning, and other requirements are satisfied.</p> <p><u>Specifically, the enforcement provisions should incorporate time to cure, remedial actions plans, and enforcement on the actions detailed in those plans.</u></p>
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Drought Response

Local Implementation of Drought Response Actions and Use of Local Supplies	<p>AB 1668/SB 606 state that it is the intent of the Legislature that SWRCB defer to implementation of local adopted water shortage contingency plans to the extent practicable.</p>	<p>Water suppliers support enhanced drought planning, but the bills do not guarantee that water suppliers will be allowed to carry out the plans they are being asked to prepare. The bills need to provide that:</p> <ul style="list-style-type: none"> • SWRCB shall defer to local adopted water shortage contingency plans to the extent practicable and <u>allow suppliers to implement their plans based on the level of shortage being experienced locally.</u> • <u>In order to promote investments in water reliability projects, recycled water supplies (including potable reuse), emergency supplies, desalination, and other drought resilient supplies identified in an urban water supplier's water shortage contingency plan, should not be restricted during a declared drought emergency, but instead used efficiently for beneficial uses.</u>
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