OLIVENHAIN
Municipal Water District
65 Years of Pure Excellence

May 29, 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,

Olivenhain Municipal Water District appreciates the opportunity to submit comments to the State Water Resources Control Board 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.

OMWD has been and continues to be committed to water stewardship and water use efficiency. Over the past several decades, OMWD and water agencies statewide have developed and successfully implemented water use efficiency programs in partnership with our customers. As a result of these continuous statewide actions, the total amount of urban use water is roughly the same level as in 1990, despite a 30 percent increase in population (per the Legislative Analyst's Office January 2024 Report).

OMWD supports many of the changes already made to the proposed regulation to address the feasibility, cost, and flexibility concerns we expressed with the previous version. Thank you for considering our comments and acknowledging the considerable time invested by stakeholders in the regulation development process. 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. It should be noted that DWR's recommendations are a direct result of years of extensive analysis, workshop collaboration, and thorough discussion with hundreds of subject matter experts representing policymakers, water retail agencies, environmental groups, businesses, and the public. The following provides further detail regarding OMWD's concerns and potential adverse impacts on our customers:

Unrealistic Landscape Efficiency Factor: The proposed regulations continue to disregard DWR's recommendation to set the landscape efficiency standard at 0.63 in 2030 and beyond. The proposed regulation reflects an efficiency standard that decreases to 0.55 in 2040, without any reasonable basis. The 2018 legislation states that the landscape efficiency factor values should reflect a factor that allows

for "the amount of water necessary to efficiently irrigate both new and existing landscapes" (Water Code §10609.9). The proposed regulation's landscape efficiency factor is too low to irrigate and maintain healthy new and existing landscapes within the region, introducing a conflict with existing state law. The proposed standards reflect design standards that are not based on, or reflective of, actual irrigation efficiency. The proposed 2040 standard of 0.55 would not provide adequate water supplies to existing landscapes. Over time, irrigation systems naturally degrade and become less efficient. Assuming a system continually operates at a design standard is not practical. The 0.55 landscape efficiency standard may be theoretically appropriate for new development; however, it does not properly account for existing landscapes and will place a financial burden on customers to convert significant portions of landscaping. Further, OMWD is concerned that as the landscape efficiency factor reduces from 0.80 to 0.55 the burden will disproportionately impact low-income and fixed-income customers.

Inclusion of Irrigable Non-Irrigated Landscape Area Allowance: Thank you for partly addressing OMWD's concerns by including the 20 percent irrigable non-irrigated landscape area budget permanently. However, as previously stated, an automatic 20 percent allowance without further studies is insufficient and conflicts with the recommendation by DWR. DWR's recommendation to SWRCB was to change the INI allowance based on the outcome of further studies to be conducted by DWR and SWRCB, and not without any empirical support. OMWD strongly encourages SWRCB to prioritize further research studies as recommended by DWR, to substantiate an appropriate INI allowance through empirical data. In addition, this proposed regulation is inconsistent with codified law through SB 606 and AB 1668, which require all irrigable landscapes to be included in urban water use efficiency standards and conservation measures.

New Tree Provisions are Overly Burdensome: While OMWD appreciates the intent of adding the variance category of "existing residential trees" to decrease urban heat and reduce turf water use by planting trees, the proposed regulations are complicated and burdensome. Notably, the start date for this variance type coincides with the aggressive landscape efficiency factor of 0.55 in 2040. Allowing this variance type no sooner than 2040 fails to address the needs of existing trees now. In order to take advantage of the variance, this new regulation mandates that water agencies conduct a comprehensive inventory and analysis of existing trees, including species identification and measurement of tree diameter for at least 10 percent of the trees or a statistically valid sample. The tree provisions for the variance require significant resources, including the hiring or consulting of certified urban foresters. The regulation also requires extensive documentation, including annual reports, urban forest management plans, and evidence of efforts to convert high-water use landscapes. As proposed, OMWD is concerned about creating further administrative and financial burdens through the addition of the new tree provisions.

Incongruencies Amongst Report Timeframes: The proposed regulations indicate that Urban Water Use Objective reporting will be conducted on a state fiscal year basis (July 1 through June 30). Metrics utilized in the Urban Water Use Objective calculations are taken from previously submitted reports (eARs, MWELO, etc.) that are based on the calendar year. Therefore, the requirement to incorporate metrics from previously submitted reports and compare with water use from July 1 through June 30 unnecessarily complicates the Urban Water Use Objective analysis. Switching audit reporting timesteps is costly and compromises data integrity.

Administratively Burdensome Reporting Requirements: California Water Code §10609(c)(4) specifies that the state must "identify opportunities for streamlined reporting, eliminate redundant data submissions, and incentivize open access to data collected by urban and agricultural water suppliers." However, with the implementation of each additional reporting requirement, necessary departmental coordination, data collection, supplemental staffing or professional services support, and the myriad of associated costs, OMWD's already-taxed resources will be even further depleted. Staff time spent on exhaustive, precise, and duplicative reporting will not result in additional water savings. The cumulative administrative burden upon water agencies to manage reporting compliance will inevitably have a financial impact, leading to upward pressure on future water rates. This will further aggravate the statewide water affordability crisis. To comply with existing state law, OMWD requests SWRCB prioritize the reduction of duplicative reporting and reduce reporting burdens associated with proposed regulations.

Inadequate Variance Threshold: While we appreciate the changes to focus the threshold on only the associated standard, we still disagree with the threshold of 5 percent 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 applies 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.

Disclosable Buildings Within Service Area – Unreasonable Effective Date: Despite the SWRCB providing the method by which to obtain information about disclosable buildings within our service area, adequate time was not allocated to gather the data on all disclosable buildings within our 48 square mile service area. This requires a significant administrative and field effort which involves extensive verification, coordination, and time. The proposal to meet this request by June 30, 2024, before it is expected to be adopted by SWRCB, 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.

Net ETo Not Adequate for Geographically Diverse Water Districts: 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 the

calculation of the outdoor standard for residential landscapes and landscapes with a dedicated irrigation meter.

Expand List of Special Landscape Areas: Additional types of landscapes should include (but are 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.

Counterproductive Livestock Variance Definition: This variance is defined as the lesser of what is specified in the proposed regulations or the amount listed in §697; this 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.

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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