



May 8, 2018

Honorable Robert Hertzberg
California State Senate
State Capitol, Room 4038
Sacramento, CA 95814



Honorable Laura Friedman
California State Assembly
State Capitol, Room 2137
Sacramento, CA 95814

SUBJECT: OPPOSE SB 606 (Skinner and Hertzberg)/AB 1668 (Friedman)

Dear Senator Hertzberg and Assembly Member Friedman:

In recent years, California Coastkeeper Alliance has been a leading voice for water conservation and efficiency, working during the emergency drought to develop drought-response measures and to engage the public on the need for conservation. We worked closely with agencies, the Legislature and the Governor's Office to build on lessons learned during the drought to develop lasting, permanent changes to better prepare our state for a hotter, drier future. Your offices deserve tremendous credit for taking early action to develop a permanent framework to establish new standards to promote conservation and efficiency for a more water secure future. However, despite your leadership and our many months of work with your offices on this legislation, we regret that we must now oppose Senate Bill 606 and Assembly Bill 1668.

The most recent amendments to AB 1668 (as amended 5/3/2018) and SB 606 (as proposed to be amended) increase a "bonus" for potable reuse projects from ten percent to fifteen percent. This would artificially raise the efficiency targets for a number of water districts who are constructing or operating potable reuse projects. While we strongly support the expanded use of water recycling, California simply cannot afford to waste any water, especially such a highly treated, expensive supply as recycled water. This increased potable reuse bonus comes on the heels of dozens of amendments that our coalition has accepted over the past eighteen months in order to make the legislation flexible and workable for water suppliers. As the attached chart reflects, environmental organizations have demonstrated a willingness to incorporate requested changes with respect to efficiency standards, enforcement, water shortage contingency plans and agriculture standards. However, a vocal minority of water suppliers have continuously moved the goal post by requesting—and receiving—a series of amendments that have set us back substantially from the early intent and promise of the legislative reforms on the table that collectively result in hundreds of thousands of acre feet of water savings lost.

This latest amendment to increase the potable reuse bonus is unfair, unnecessary, and sets a poor precedent to allow exemptions for some suppliers to continue current practices instead of creating an equitable, comprehensive efficiency framework. One of the biggest benefits of the new framework as initially crafted was that it would create an even playing field for all communities by setting standards for water use that, along with population, land use, and climate, would be used to set customized water use targets. It is precisely because the legislation already includes provisions to account for local conditions in setting the use target that any use "bonus" would merely allow communities using potable recycled water to use more water than is reasonable, essentially codifying water waste. The increased bonus was developed to benefit a select group of large southern California cities, although not a single water supplier has provided data demonstrating a need for a recycled water "bonus."

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The increased potable reuse credit, incorporated in recent days, rewards the bad faith negotiations by San Diego water agencies led by the San Diego County Water Authority (SDCWA) and the City of San Diego to continuously demand special carve-outs and exceptions, while serving to disadvantage communities who are unable to develop potable reuse projects because of cost or other constraints outside of their control. This is at odds with good public policy that serves the greater good of the entire state, and is following the lead of a water agency who has consistently fought efforts to advance water conservation and efficiency efforts.

These latest efforts by San Diego water agencies and led by SDCWA to undermine the current legislation are part of a more concerted effort to stave off statewide efficiency efforts. In September 2015 at the height of the drought, they penned a letter to the State Water Board questioning the need for conservation, and in January 2017, the SDCWA Board of Directors unilaterally adopted a resolution declaring the drought was “over” in San Diego, even though the state was still in a state of emergency drought pursuant to the Governor’s Executive Order. Though the San Diego region imports over 85% of its water, San Diego water agencies have routinely sought to distance themselves from statewide drought and water efficiency efforts, insisting instead that a state framework aiming to ensure long term sustainability and resiliency is unnecessary and an improper overreach. The result of this positioning and supply-driven messaging, unsurprisingly, is that San Diego water use this year is considerably *higher* than it was compared to pre-drought water use. San Diego houses some of the highest per-capita water users in the state, including the elite community of Rancho Santa Fe, where use continues to exceed 300 gallons per capita per day.

Unfortunately, the newest amendments to this legislation serve to bolster San Diego’s position, and create a real risk that San Diego water agencies will continue down this errant path that wrongly pits water efficiency against responsible supply development, and rejects statewide efforts to develop a meaningful and equitable conservation framework. A path which will continue to lead to increased water costs, leaving lower income residents to bear a disproportionate brunt of the costs of additional unnecessary large infrastructure projects. We ask the Legislature not to reward this bad behavior and to resist future attempts to undermine sound statewide water conservation and efficiency policy by any water agency, particularly since the vast majority of water suppliers have been water conservation stewards and partners in these statewide efforts.

Despite our opposition to these bills in their final form, we hope to work with your offices on future reforms that secure a resilient and secure water future for our communities, environment, and economy.

Sincerely,



Sara Aminzadeh
California Coastkeeper Alliance



Matt O'Malley
San Diego Coastkeeper



Kyle Jones
Sierra Club

BILL COMPARISON CHART

Environmental advocates, water suppliers, and others worked together to develop legislation that makes water conservation a way of life. The bill, which has undergone numerous amendments, reflects a well-vetted, carefully considered, and workable approach. With meager winter snowpacks and a likely emergency drought ahead of us, we urge Members not to delay any further and support AB 1668 and SB 606.

	ORIGINAL	CURRENT
EFFICIENCY STANDARDS	State Board directed to set all 3 standards (residential indoor, outdoor, and water loss)	Legislature setting the indoor standard, DWR setting the outdoor standard, State Board setting the water loss standard per SB 555 (2015, Wolk)
	State Board authorized to revise the standards every 5 years	New legislation required to modify the standards
	No variance process	DWR required to establish variances
	No rewards for potable recycled water	Potable Reuse "Bonus" of up to 10% of total water use objective
WATER RIGHTS	No protections	Explicit water rights protections language included, including in enforcement provisions
ENFORCEMENT	SWRCB had broad enforcement authority, including use of Cease & Desist Orders	No Cease 7 Desist authority. Replaced with glide path enforcement; informational order, written notice, conservation order, civil penalties
URBAN WATER MANAGEMENT PLANS & WATER SHORTAGE CONTINGENCY PLANS	Required agency to include impacts of climate change on local communities and water supplies	Requires agency to describe the current climate
	Directed agency to use data from local or regional land-use authorities	Allows greater discretion for data sources
	No distinction between retail and wholesale suppliers	Distinction between retail and wholesale suppliers, some requirements apply only to retailers
	Required reporting of energy intensity	Requires reporting of energy intensity, but acknowledges that energy use is only one factor in water supply planning and shall not be considered independently of other factors
	Required 6 uniform shortage stages	Allows utilities to use their own water shortage levels if they cross reference to the 6 standard shortage levels
	Required water suppliers to declare a water shortage emergency at a water shortage level 4 or greater	Leaves shortage declaration to the discretion of the water supplier
	Annual water shortage assessment due May 10	Annual water shortage assessment due June 1; for those using imported water, links deadline to 14 days after receiving allocations from SWP or Bureau of Reclamation
	Directed water suppliers to adhere to the prescribed procedures and implement shortage responses identified in WSCP	Provides flexibility by allowing suppliers to adhere to prescribed procedures where feasible and appropriate
	No direction to State Board for drought proclamations	Suggests that board should defer to implementation of locally adopted WSCP during a drought proclamation
	DWR required to review UWMPs and WSCPs for completeness, internal consistency, and conformity to requirements	Removes language directing DWR to review UWMPs and WSCPs for completeness, internal consistency, and conformity to requirements
	DWR required to submit a report to the State Board about acceptance of UWMPs and WSCPs	Removes language requiring DWR to submit a report to the Board about the acceptance of UWMPs and WSCPs
	No mention of water suppliers recovering costs	Clarifies that water suppliers could recover costs associated with preparation of the drought risk assessment and water supply and demand assessment

BILL COMPARISON CHART

	ORIGINAL	CURRENT
AGRICULTURE	Water suppliers required to increase flexibility by offering arranged demand delivery within 24 hours of a request	Water suppliers required to increase flexibility only "within operational limits"
	DWR must approve the methodology for determining whether an efficient water management practice is locally cost effective or technically feasible	Water suppliers to determine whether an efficient water management practice is locally cost effective or technically feasible
	Water suppliers required to describe and quantify inflows and outflows of water in their service area	Removes requirement to describe many inflows and outflows including transfers and exchanges, drainage from the service area
	Water suppliers required to quantify inflows and outflows of water in their service area	Removes requirement to quantify a prescribed list of inflows and outflows
	Required water suppliers to quantify measures to increase agricultural water efficiency	Water suppliers only required to identify water objectives to improve water efficiency and implement actions to reduce water loss and improve water system management
	Required water suppliers to identify opportunities and constraints for improving drought resilience	Limits this requirement to opportunities and constraints based on new technology or information or the ability to use additional supplies during a drought condition
	Required public posting of plans and amendments by agricultural water suppliers to match the requirements of urban water suppliers	DWR to post reports to its website
	Authorized DWR to refer non-compliant water suppliers to the State Board for enforcement action	The bill would authorize the department, if it has not received a plan or determined that the plan submitted is noncompliant, to contract with certain entities to prepare or complete a plan on behalf of the agricultural water supplier
	Required agricultural water management plans to include response actions corresponding to different levels of water shortage	Requires agricultural water management plans to simply include a water shortage contingency plan

Accepted Amendments to AB 1668/SB 606

- Clarify that reporting and use of objectives can be based on calendar or fiscal years
- Clarify that the SWRCB must adopt variances, pursuant to the provisions of the bills
- Update definitions of recycled water to reflect enactment of AB 574, particularly amends to WC §13561
- Add definition of “potable reuse” consistent with AB 574
- Push back all dates one year
- Revise study language regarding the appropriate standard for indoor residential water use to also include consideration of how changing the indoor efficiency standard will impact water and wastewater management, including potable water usage, wastewater, recycling and reuse systems, infrastructure, operations, and supplies
- Change name of “credit” to “bonus incentive”
- Clarify that “principles of the model water-efficient landscape ordinance” means those provisions of the ordinance applicable to the establishment or determination of the amount of water necessary to efficiently irrigate a landscape; e.g., ET adjustment factors, maximum applied water allowance, special landscape areas, including the type of water used for irrigating the landscape, etc.
- Clarify that DWR, in recommending variances, shall also recommend a threshold of significance for each recommended variance
- Clarify process for obtaining a variance
- Clarify that in recommending acceptable levels of accuracy for the supporting data, DWR is to recommend the acceptable level of accuracy for compliance with the urban water use objective
- Move the reporting date for the urban water use objective from July 1 to November 1
- Authorize the SWRCB to waive the water use efficiency requirements for up to five years due to a disaster, such as an earthquake or fire
- Clarify that the supplement to the urban water management plan to include the urban water use objective is not an update or an amendment to the plan, and, therefore there is no need to comply with the public notice and hearing requirements before submitting the information to DWR
- Clarify that a water supply and demand assessment consider a drought lasting up to and no more than five years
- Clarify that the water shortage contingency plan assess the current year’s available supply, considering hydrological and regulatory conditions in the current year and up to one dry year. However, the annual supply and demand assessment may consider more than one dry year solely at the discretion of the urban water supplier.