

Colvin, Judith

From: mweo-bounces@water.ca.gov on behalf of Nancy Palmer [npalmer@ci.laguna-niguel.ca.us]
Sent: Wednesday, March 26, 2008 5:43 PM
To: mweo@water.ca.gov
Cc: jgibson@ci.laguna-niguel.ca.us
Subject: [MWEO] AB 1881 Draft Model Water Efficient Landscape Ordinance

Attachments: AB 1881 Water Conservation comment letr Mar 08.doc



AB 1881 Water
Conservation com...

Please see attached letter.

Nancy Palmer
City of Laguna Niguel
949-362-4384



March 27, 2008

Judy Colvin
Department of Water Resources
Office of Water Use Efficiency and Transfers
P.O. Box 942836
Sacramento CA 95814
mweo@water.ca.gov

DRAFT MODEL WATER EFFICIENT LANDSCAPE ORDINANCE

Dear Ms. Colvin:

The following comments are being submitted relative to the draft Model Water Efficient Landscape Ordinance released by the California Department of Water Resources on February 8, 2008. We applaud the Department in fulfilling the requirements of AB 1881 in developing this updated model ordinance, and looks forward to working cooperatively with our local agencies in efforts to conserve water through implementation of the ordinance when finalized.

However, we are concerned that the draft model ordinance does not fully appreciate the impact on financially-constrained city governments. It inappropriately places certain responsibilities on cities that should be implemented instead by retail water purveyors. The draft also neglects to coordinate with related efforts of the Regional Water Quality Control Boards and municipal National Pollutant Discharge Elimination System (NPDES) permits. We believe these deficiencies are substantial enough that we request that the public comment period on the draft ordinance should not be finally closed at this time. Rather, the comments received to date should be considered in developing in a revised draft, and the draft model ordinance should be re-issued for an additional public comment period.

1. To effectively implement the model ordinance, cities would likely need to:

- a. Develop localized language “at least as effective” for water conservation as the model ordinance, and then go through procedures to adopt the ordinance.
 - b. Adopt new water conservation policy guidelines in the General Plan.
 - c. Modify Zoning Code Design Guidelines.
 - d. Modify Standard Conditions of Approval for all related entitlement, discretionary or administrative permit actions.
 - e. Modify the citywide Jurisdictional Urban Runoff Management Plan and the template for site-based Water Quality Management Plans (WQMPs) that define post-construction water management and maintenance requirements for projects meeting certain land use and threshold size requirements under our NPDES permits.
 - f. Train or hire staff or consultants to acquire the necessary expertise for planning and permitting reviews and construction inspections.
 - g. Develop a Memorandum of Understanding with the local retail water purveyor (which is a completely separate entity from the city government) for plan review procedures and access to water consumption data; and/or for delegation of authorities and responsibilities.
 - h. Develop a system for implementing the audits on existing developments, including a mechanism for identifying and measuring landscaped areas on all sites including single-family homes that may have over 2500 of irrigated landscaping; and then tracking their water consumption even though an unknown but probably large proportion of the water would be consumed indoors.
 - i. Consider adoption of an enforcement mechanism for wasted water.
2. While it is reasonable that cities, with their land use permitting powers, should be the lead agency for new and substantially-rehabilitated landscape projects requiring permits, it is not reasonable to assume that cities have the capacity to oversee water consumption over time. In this region, most city governments do not operate and have no direct control over water supply infrastructure, and do not have any right to water consumption data for individual sites. Water purveyors (unlike cities, which are very constrained in their revenue-generating options) have this control and data access, as well as the ability to raise or tier water rates to meet their expenses or to encourage conservation. A mechanism is necessary to require that the retail water purveyors should be the responsible lead agency for tracking and enforcing water consumption against the water budgets for existing developments. Cities and water purveyors should be required to coordinate to determine the most effective ways to achieve water conservation goals for both new and existing developments.
3. There does not appear to have been effort made to coordinate the draft model ordinance provisions with the municipal NPDES permits issued by the Regional Water Quality Control Boards. The RWQCBs are strongly encouraging Low-Impact Design (LID) strategies to reduce urban runoff and water pollution. Some

model ordinance provisions are likely to work at cross-purposes to LID. For example, the exclusion of non-irrigated softscape areas from the “landscape area” water budget calculation may tend to encourage a higher percentage of hardscape, which is counterproductive for urban storm runoff control. Also, the urban runoff Best Management Practices of manually-irrigated landscaping and green roofs do not appear to be accountable in the water budgets. Additionally, the NPDES permits in southern California typically require that “priority projects” meeting certain land use and size thresholds should be subject to post-construction Water Quality Management Plans, inventoried and inspected regularly for BMP maintenance, but no effort has been made to coordinate these thresholds or activities with those required under the Draft Model Ordinance, or to take advantage of NPDES enforcement provisions.

We have also briefly reviewed comments on the draft model ordinance being separately developed by the Municipal Water District of Orange County, and by the Southern California Chapter of the American Society of Landscape Architects, and wish to register our general agreement with the concerns expressed by these organizations.

As noted above, we request that the public comment period on the draft ordinance should not be finally closed at this time. Rather, the comments received to date should be considered in developing in a revised draft, and the draft model ordinance should be re-issued for an additional public comment period. Also, please place us on your email distribution list for future communications regarding the model ordinance (attention to: npalmer@ci.laguna-niguel.ca.us and jgibson@ci.laguna-niguel.ca.us). If you have questions regarding the above comments, please call me at (949)362-4384.

Sincerely,

Nancy R. Palmer, A.S.L.A.
Senior Watershed Manager/Landscape Architect

Cc: Jeff Gibson, Community Development, City of Laguna Niguel