Monte Vista
Dedicated to Quality, Service and Innovation

March 25, 2008

Mark N. Kinsey
GENERAL MANAGER

Ms. Judy Colvin
DEPARTMENT OF WATER RESOURCES
Office of Water Use Efficiency and Transfers
Post Office Box 942836
Sacramento, California 94236-0001

Comments on Model Water Efficient Landscape Ordinance

Dear Ms. Colvin:

Monte Vista Water District respectfully submits the following comments on the draft Model Water Efficient Landscape Ordinance released by the California Department of Water Resources on February 8, 2008.

The District applauds 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 assisting in the implementation of the ordinance when finalized. However, the District is concerned that many of the model ordinance provisions, as currently written, will create a duplication of service between local agencies and local retail water purveyors, as well as incur significant financial burden to local agencies and retail water providers.

Duplication of Service

Section 490.1(3) of the ordinance states: "Nothing in this ordinance shall be construed to require the local agency's water efficient landscape ordinance to duplicate, or conflict with, a water efficiency program or measure implemented by a public water system…" In fact, the ordinance duplicates water efficiency programs that the District is obligated to develop.

The District is a signatory to the Memorandum of Understanding Regarding Urban Water Conservation in California, which obligates it to make a "good faith effort" in achieving thirteen Best Management Practices (BMPs) to increase water efficiency in its retail service area. These BMPs include requirements to offer and conduct customer surveys of indoor and outdoor residential water use, to create water use budgets for dedicated landscape meters, to offer and conduct water use surveys to large landscape customers with mixed-use meters, and to develop water use efficiency public information and education programs.

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Similar program requirements incorporated within the model ordinance, which does not apply to water agencies without land use authority, create an unnecessary duplication in service exactly the opposite of the ordinance's stated scope.

Status of Local Retail Water Purveyor

The ordinance repeatedly references "local retail water purveyors" without clarifying the role of retail water agencies in assisting local land-use agencies in fulfilling the requirements of the ordinance. The following are areas of concern regarding the local retail water provider's uncertain status in the model ordinance as currently written:

- There is no definition of "local retail water purveyor" included in Section 491, "Definitions."

- In Section 490.2(6), local agencies are asked to "coordinate with the local retail water purveyor to implement a tiered rate structure" without referencing the fact that water providers have requirements under state law concerning water rates well outside the purview of any local agency coordination.

- In Sections 492.14(4)(b)(3) and 493.1(4)(b)(3), a local agency is required to make a "good faith effort" to obtain water use information from the local retail water agency. Retail water providers may have concerns over customer privacy in providing this information to the local agency without the explicit and written consent of our customers.

- In Sections 492.1(2)(b)(3) and 492.2(2)(f), project applicants are required to submit a copy of their Water Efficient Landscape Worksheet and Certificate of Completion to the local retail water purveyor. While this information will be welcome, it is not clear what responsibility the retail water agency will have in filing, responding to, and/or following up on the information in these documents. Also, there is a possibility the applicant will submit copies of the documentation before it receives final approval from the local agency; any documentation should be delivered to the retail water provider by the local agency itself.

- In Section 492.4 (5), one proposed penalty for project applicant non-compliance with the ordinance is to "terminate water service." This reference is inappropriate in the context of a local agency, which is not the local retail water provider, and should be removed to avoid confusion.

- In Section 492.9(1)(a)(7), a reference to local retail water purveyor backflow prevention requirements should be added.

- In Appendix B, Sample Water Efficient Landscape Worksheet, Section B, many of the questions that the project applicant must answer imply that the applicant is required to "coordinate," "ask for assistance from," and "receive…water efficient landscape publications from" both the local agency "or local retail water purveyor." This language suggests that the local water agency is required to assist the project applicant at various stages of compliance with model ordinance requirements, which is not true as the ordinance is currently written.

Landscape Area Coverage Threshold

Section 490.3 of the ordinance sets the coverage threshold for ordinance applicability at 2,500 square feet or more of landscape area. This threshold is far too low and will result in an excessively broad applicability, leading to a huge expenditure of time and resources by local agencies in order to meet compliance. It will be especially difficult for local agencies to obtain landscape measurements for all existing properties within their jurisdictions that meet this threshold in order to comply with Section 493.1 of the model ordinance. Cooperative local retail water providers would also have to dedicate significant staff time to providing water use data to local agencies to help them achieve ordinance compliance. For these reasons, the coverage threshold should be raised to at least 5,000 square feet.

Recycled Water

- Section 492.16(2) requires local water agencies to provide a written exemption for any irrigation system that does not use recycled water. Distributors of recycled water are required by state law and local ordinances to designate recycled water use areas, and then to identify potential recycled water customers within those use areas, as part of a local and regional recycled water master planning process. Requiring a written exemption for *every* irrigation system outside of a designated recycled water use area is unnecessary and creates an undue burden on water agencies that distribute recycled water.

- Consider revising Section 492.16(3) to read, "All recycled water irrigation systems shall be designed and operated in accordance with all local agency, local retail recycled water purveyor, and state applicable codes and ordinances," or in some other way incorporate reference to local codes and ordinances governing local recycled water usage.

Miscellaneous

- In Section 492.8, at the end of the first sentence, add "and shall meet any local agency code requirements." This language is consistent with language used at the beginning of Section 492.9, and incorporates by reference local codes requiring a minimum amount of landscaping or pervious area per property.

- In Section 492.12(2), it is unclear what criteria will be used to judge the relative strictness of an irrigation schedule (time of day? total number of hours?).

Monte Vista Water District will continue to work proactively and cooperatively with local and regional agencies in promoting the efficient outdoor use of water. Because the model ordinance, as currently written, creates unnecessary expense and duplication of service, the District respectfully requests that the Department look at successful models of regional collaboration between water purveyors and land-use agencies to develop landscape efficiency requirements—for instance, Riverside County's Landscape

Ordinance No. 859 and Irvine Ranch Water District's customer water use allocations based on individual water budgets. We appreciate your attention to addressing these concerns, and look forward to your response.

Respectfully,

Monte Vista Water District

Mark N. Kinsey
General Manager

cc: Steve Lustro, AICP, Community Development Director, City of Montclair
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