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Judy Colvin
Office of Water Use Efficiency and Transfers
California Department of Water Resources
P.O. Box 942836
Sacramento, CA 94236-0001
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rec'd 3/25/08

Re: Model Water Efficient Landscape Ordinance

Dear Ms. Colvin

I have not had the time to review your Model Water Efficient Landscape Ordinance but have received a copy of the comments expressed by the Southern California Chapter of the American Society of Landscape Architects that were sent to you. I agree with all of their concerns which are repeated below.

The largest problem with ordinances and regulations that we face as professionals (who have always been stewards of the land) is the huge amount of extra time needed to prove compliance and get plans approved, the loss of design freedom from ordinances that often have good intentions but look at things from only one perspective, and the additional cost to the client which often prohibits them from doing what is best for the environment. I just hope that the ordinance can be streamlined, can be simple to show compliance, can allow design creativity and can have little cost to the client.

Copy of SCASLA concerns:

Issue #1:

It is our understanding that this ordinance does not appear to apply to local water purveyors and as such, they are not required to comply with its provisions. While it would appear that the intent is that the Cities, Counties and other government agencies work together to use water efficiently, the fact is that due to privacy issues, they are not permitted to share information with the water purveyors. And the water purveyors in turn are not permitted to share information with the government agencies. The end result would be a lot of unnecessary red tape, additional bureaucracy, and added delays to the construction process.

Recommendation #1:

Our recommendation would be to require the water purveyors to track water use utilizing a "Maximum Water Allowance" and assess penalties for exceeding this allowance similar to what is currently being done in the Irvine Ranch Water District. They assess penalties for water use over and above the Maximum Water Allowance and this has had a positive effect in actual and real water savings.

Issue #2:

The Ordinance requires the design professional to design to an overall water budget of .7 ETAF and for that professional to certify compliance. Currently there has been adequate research to document water consumption characteristics of conventional turf grasses, but unfortunately, there has been very little research to document the water consumption characteristics of trees and shrubs that are utilized in our landscapes other than for the turf grasses. The reality is that water consumption characteristics of trees and shrubs are based on the WUCOLS III documents which is only anecdotal with NO SUPPORTING SCIENTIFIC RESEARCH.

Recommendation #2:

Each region within our State has need of a different plant palette and as such it becomes almost impossible given the ordinance to totally comply with the provision as it relates to the .7 ETAF. Our recommendation would be to initiate a study to evaluate the water consumption characteristics for the many trees and shrubs commonly used in the landscapes within California and require that trees and shrubs used in the landscapes meet a certain low water consumption rate that can be backed up with appropriate scientific research.

Issue #3:

The Ordinance states that, "The initial cost to developers designing and installing water efficient landscapes would be the same." It also goes on to state that there will be no cost impacts on local agencies or school districts because they can levy service charges to pay for the costs associated with adopting the model ordinance." It is our professional opinion that if this ordinance is enacted as currently proposed, there will be a considerable increase in the amount of work that will be needed to be done in order to comply with all of the provisions of this document. This will include an increase in the amount of fees paid to landscape architects and irrigation consultants, new fees to be paid to the hundreds if not thousands of water auditors that will now be needed in order to 'certify' each and every landscape project across the state that exceeds 2,500 square feet in size. And there will need to be an increase in the amount of personnel that each government agency will need in order to review all of these new documents that now being required to be submitted.

Recommendation #3:

We cannot offer a recommendation for this issue as we cannot see how this ordinance will not have a financial effect on the people of California. They will have to bear the financial burden of increased fees as eventually these will be passed on down the line to the end user, which in most cases will be the property owner.

Issue #4

The Ordinance allows certain tasks to be accomplished by professionals that are not in compliance with state law. Licensed Landscape Architects under 5615 of the Business and Professions Code may prepare construction drawings and specifications as well as responsible construction observation. This pertains to constructed elements, planting, irrigation, and grading. Under the Landscape Architects Practice Act Article 3, section 5641 identifies exemptions and exceptions. Within this section it clarifies the responsibilities and capabilities of Property Owners, Nurserymen, Architects, Professional Engineers, Land Surveyors, Landscape Contractors, Golf Course Architects, and Irrigation Consultants. The Model Ordinance should be revised to reflect the responsibilities of these professionals. For example, the Model Ordinance allows Landscape Contractors to submit designs and certify completion. However, under state law they are only allowed to complete design services if they are also performing or directly supervising the installation. This should be clarified.

It is our opinion that a Certified Water Auditor may not have the necessary skills, knowledge or experience that would enable them to be able to accurately judge whether or not an irrigation system was efficient in its design or installation. It is our understanding that in order to obtain a certification to be a water auditor all that is needed is to complete a 2 day seminar. A landscape architect goes to school for 4 years were they take intensive design and construction classes. After graduation they must then work for 2 years in an internship position under a licensed landscape architect before being eligible to qualify for the Landscape Architects Registration Examination (L.A.R.E.). This is a national exam which must be completed successfully over the course of multiple days prior to obtaining a license to practice in California. The minimum amount of time invested from start to finish is approximately 7 years. We are concerned how an individual who only takes a seminar for 2 days can be considered equal in their abilities to determine the effectiveness of an irrigation system.

Recommendation #4:

We would suggest that this section be clarified so that the appropriate responsibilities of licensed professionals under state law be identified and noted and that water auditors be taken out of this section completely and make it a requirement to have a California licensed landscape architect or licensed landscape contractor conduct the determination as to the efficiency of the irrigation system and submit the Certification of Completion.

Issue #5

We also have a concern regarding the entire issue of conducting water audits. A water audit is traditionally done on flat turf areas, but the ordinance as written requires that ALL landscaped areas in excess of 2,500 square feet be required to have a water audit. We are not sure how accurate a water audit on a 2:1 slope would be or of what use that data would be in determining water efficiency. If the irrigation manufacturers have a difficult time in obtaining water efficient data on their own irrigation heads under laboratory conditions, how is a water

auditor with a 2 day certification supposed to be able to determine whether or not a system is being water efficient using their catch can equipment?

Recommendation #5:

We would suggest that water audits be taken out of this section completely as it serves no purpose and only increases the costs of the irrigation design to our clients as well as further burdening the approval process with unnecessary paperwork that in the end will increase the costs across the board.

Issue #6

The Model Ordinance Document is so cumbersome and prescriptive that it will be virtually unenforceable. The depth of applicability and the overly complicated methods of implementation which includes so many forms, certifications and documents would create an unnecessary burden on applicants and agencies trying to manage and implement these requirements. Doubling or tripling the time and effort required to submit documents is not going to promote water conservation. The Model Ordinance must be simplified so that it can be implemented successfully.

Recommendation #6:

We would strongly recommend that the ordinance stick to statutory authority and create a set of design standards to assist in implementing water conservation without creating a lot of additional and unnecessary paperwork. The Model Ordinance must focus on design standards only without creating another level of bureaucracy.

Issue #7

We strongly disagree with the definition of 'Landscaped Area' and believe that pervious non-irrigated areas should be allowed as part of the landscape area. Only 10% of non-irrigated allowable area unnecessarily limits the designer's creativity for compliance. This is a narrow-minded definition and is based on old and outdated design methodology. If two projects each have 10,000 square feet of pervious landscape area then they both should be given the same water budget. The way the document is written if one designer uses no pervious non-irrigated surfaces then they are allowed to use more water on their site than another designer that includes a wood deck, succulent garden or decorative dry stream bed. In fact, this will increase water use in projects because it provides a disincentive to using succulent gardens and other non-irrigated landscape solutions.

Recommendation #7:

While we can understand the intent of this provision, we feel that it is unnecessarily restrictive and in the end would not accomplish the goals of AB 1881. LEED certified sites require a certain amount of pervious surface material to allow for filtration of storm water and to allow natural rainfall to help replenish ground water in order to gain maximum points to obtain a LEED Certification. The United States Green Building Council (USGBC) recommends the use of pervious paving whenever practical to do so, yet it is our understanding that to do so would result in less of a water allowance. The definition of landscape area should include pervious surfaces WITHOUT limitation.

Issue #8

The number of Documents that is required as outlined in the Ordinance is far more than what is reasonably necessary in order to comply with the overall intent. For example, a soil analysis is not always possible to be provided at the time that the plans are initially prepared due to the timing of the construction of the project. Often times, landscape plans are required in order to obtain a grading permit and as such, the soil condition may not be known until the grading operation has been completed. Requiring this plan may not be possible or practical in many cases. *This process must be simplified. Furthermore, the applicant shouldn't have to submit their Water Efficient Landscape Worksheet to the local retail water purveyor.* As previously noted, this exceeds the jurisdictional responsibility of many municipalities.

Recommendation #8:

The provision requiring a Soils Management Plan should be removed or at least reworded to say that a soils report prepared by a competent soil laboratory capable of preparing soils analysis and an agricultural suitability report be required after the precise grading of the project and prior to installation of the landscape. This would provide the necessary information and would also meet the intent of the Ordinance.

Issue #9

Another area that needs to be addressed is in regards to who can stamp and sign landscape plans. The Ordinance states, "Each sheet of the landscape design shall contain the following statement along with a landscape architect's or licensed landscape contractors stamp and signature, "I have agreed to comply with the criteria and qualifications of the Ordinance and I have applied them according for the efficient use of water in the landscape design plan." Under California State Law, only a licensed landscape architect, architect or civil engineer may stamp and sign landscape plans. A licensed landscape contractor may prepare plans but only for those projects for which they are going to install. A licensed landscape contractor does not have the ability to stamp and sign plans.

Recommendation #9:

This needs to be clarified as to who is legally able to stamp and sign plans. As a licensed professional in the State of California which is governed by the Landscape Architects Technical Committee, this statement being required on all plans is unnecessary and redundant and the signature on the plans implies that the plans were prepared under their direction and that all that is contained within has been done according to the standards set forth by the governing agency.

There are a number of other issues that need to be addressed, but they have been covered in full by the responses by the American Society of Irrigation Consultants and the California Council of Landscape Architects.

Thank you for your hard work and attention to our concerns.

Sincerely yours,

A handwritten signature in cursive script that reads "Ronnie Siegel". The signature is written in black ink and is positioned above the printed name.

Ronnie Siegel