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Department of Water Resources
Office of Water Use Efficiency and Transfers
Attention: Judy Colvin
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County of San Diego

LAND USE AND ENVIRONMENT GROUP

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March 27, 2008

Department of Water Resources
Office of Water Use Efficiency and Transfers
Attention: Judy Colvin
P. O. Box 942836
Sacramento, CA 94236-0001

COMMENTS ON THE NOTICE OF PROPOSED RULEMAKING FOR PROPOSED AMENDMENTS TO DIVISION 2, TITLE 23, CALIFORNIA CODE OF REGULATIONS TO AMEND AND ADD TO CHAPTER 2.7. MODEL WATER EFFICIENT LANDSCAPE ORDINANCE, SECTIONS 490 THROUGH 495

The County of San Diego has received and reviewed the proposed amendments to the California Code of Regulations relating to the State's Model Water Efficient Landscape Ordinance dated February 8, 2008 and appreciates this opportunity to comment. The County of San Diego, as a local agency that would be responsible for adopting and implementing an ordinance at least as effective as that proposed by the state, has concerns regarding the content and scope of the proposed rulemaking. Our concerns and comments are detailed below.

1. The ordinance proposes to expand the applicability of the State Model Ordinance from new private commercial, industrial and multi-family residential projects to include all new, *rehabilitated and existing landscapes with a minimum of 2,500 square feet of landscaped area*. This would represent a significant expansion of locally regulated landscapes that does not appear to be justified. The significant regulatory expansion of landscaped area was not specified in Section 65596 of the Government Code, which outlined the requirements of the new model ordinance to be developed. The County has concerns with the significant expansion of regulatory authority and requests that the State reevaluate the applicability of the ordinance to cover only those landscapes necessary to achieve water conservation goals. Furthermore, the ordinance should only regulate those landscapes that the local agency could feasibly regulate. Regulation of rehabilitated and existing landscapes would be difficult and costly to implement and enforce.

2. The Department of Water Resources (DWR) has indicated in its Statement of Reasons, that the ordinance will not increase costs to local jurisdictions. The County of San Diego respectfully disagrees with this determination. The ordinance clearly expands local agency scope of authority over landscapes and mandates implementation of new programs (e.g. auditing, education). To implement the ordinance, local agencies would be required to obtain additional staffing and expend significant funds.

3. The requirements for landscape audits on 20% of existing and new landscapes with a landscape area above 2,500 square feet would be particularly burdensome for local agencies. The audits would require additional local agency staffing of "certified landscape irrigation auditors" and significant staff hours to administer such requirements. For example, local agencies would need to track the size and water usage of most landscapes over 2,500 feet and coordinate with water districts to determine water usage. The cost to implement and administer such requirements would be even greater for local agencies served by numerous different water providers, such as the County of San Diego. The County recommends that landscape auditing requirements be removed from the ordinance. Compliance with the water efficiency standards should be achieved using existing mechanisms available to local agencies, such as complaint based enforcement and other code enforcement actions.

4. The level of detail included in the ordinance cannot be efficiently implemented at the local level. Local agencies should be responsible for identifying the implementing mechanisms to meet the water efficiency standards set by the State. While the County recognizes the State's role in setting regulation to meet water conservation goals, the regulation should provide guidance and broad standards, not detailed ordinance requirements. Local jurisdictions can best determine how to cost effectively and efficiently implement requirements for water efficient landscapes.

In summary, the proposed model ordinance requirements are overly specific and far reaching. Local agency cost to implement the ordinance represents an unfunded mandate by the State. While the County appreciates the importance of water conservation and the regulatory mechanisms necessary to achieve conservation goals, the broad applicability and detailed nature the regulation is not conducive to cost effective implementation at the local level.

The County of San Diego appreciates the opportunity to comment on the Notice of Proposed Rulemaking for the Model Efficient Landscape Ordinance. Given the number of significant issues raised, the County requests that another full public review be provided of any future revision of the model ordinance. If you have any questions regarding these comments, please contact Bobbie Stephenson, Land Use Environmental Planner, at (858) 694-3680.

Sincerely,

Chandra Wallar

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