



THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

Office of the General Manager

January 22, 2014

Mr. Peter Brostrom
Water Use and Efficiency Branch
Division of Statewide Integrated Water Management
California Department of Water Resources
P.O. Box 942836
Sacramento, CA 94236-0001

Dear Mr. Brostrom:

Metropolitan Water District Comments on *Public Draft Report to the Legislature on Urban Water Management Plan Demand Management Measures Reporting and Requirements, Independent Technical Panel on Demand Management Measures, December 2013*

Thank you for the opportunity for the Metropolitan Water District of Southern California (Metropolitan) to provide comments to the Department of Water Resources (DWR) on the above referenced draft report by the Independent Technical Panel (ITP). As you know, the ITP was tasked with providing information and recommendations to DWR and the Legislature on new demand management measures, technologies, and approaches, in accordance with AB 1420 (Laird, Chapter 628, Statutes 2007). Since the initial convening of the ITP in May 2013, Metropolitan's staff have regularly attended the meetings of the ITP, providing periodic input to the ITP during the public comments portion of these meetings. Additionally, on December 3, 2013, Metropolitan provided comments by email to the ITP on earlier versions of several of their proposed recommendations. Metropolitan's comments on the current draft report are included in the attached document.

Metropolitan thanks the ITP members for their work on the development of these recommendations. Metropolitan would also like to thank DWR for its administrative and staff support of the ITP. Finally, Metropolitan thanks the Center for Collaborative Policy at Sacramento State University for its facilitation of the ITP meetings.

If you have any questions regarding Metropolitan's comments, please contact Ms. Grace Chan of my staff at 213-217-6798.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Deven N. Upadhyay".

Deven N. Upadhyay
Manager, Water Resource Management

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Enclosure

Metropolitan Water District of Southern California Comments on
*Public Draft Report to the Legislature on Urban Water Management Plan
Demand Management Measures Reporting and Requirements
Independent Technical Panel on Demand Management Measures
December 2013*

Background, Pages 1 and 3: Subheadings “1. Urban Water Management Planning Act” and “2. SBX7-7 (Steinberg)” use a different style from subheadings in the balance of the report – using numbered subheadings on these pages, and unnumbered subheadings elsewhere in the report. The subheading style should be uniform.

Roles and Responsibilities, Page 5: The last two sentences of this section state that, “[a]s specified in AB 1420, DWR has an additional role of submitting comments and recommendations on the ITP report and on the ITP process to the Legislature. DWR’s comments will be provided as a supplemental report to the Final ITP UWMP Report.” What is the schedule for completion and distribution of this supplemental DWR report? Also, the ITP Charter, adopted in May 2013, states (on page 4) that DWR will appraise the ITP of DWR’s likely comments and recommendations. Will this appraisal occur at a future ITP meeting before the completion and distribution of this supplemental DWR report?

Recommendation #1, Page 9: The phrase “(A) *Water waste prevention ordinances.*”, as an identified demand management measure, needs to be indented to join the other identified demand management measures listed immediately below this phrase. The associated list lettering should be changed accordingly.

Recommendation #2, Page 11: The last sentence on this page is referenced by footnote 19, but there is no cited footnote 19 at the bottom of the page. Please provide the referenced footnote 19.

Recommendation #3, Recommended Action, Page 15: The last word in the last sentence of this section should be “date” and not “data.”

Recommendation #4, Recommended Statutory Language, Page 18: In line with Metropolitan’s prior email comments when the ITP originally proposed this statutory language, Metropolitan requests that the word “shall” in each of the last three sentences of the recommended statutory language be changed to “may.” As the title of this Recommendation indicates, providing information on projected water savings resulting from adopted codes, standards, and ordinances, as well as transportation and land use plans is purely voluntary. The recommended statutory language even states that such water savings “may” be provided “[w]hen available and applicable.” However, by using the word “shall” in the last three sentences, the suggested statutory language requires urban water suppliers to: (1) provide citations to the various codes, standards, ordinances, and transportation and land use plans utilized in making the projections; (2) indicate the extent that the projections of the water use consider savings from codes, standards, ordinances and land use planning; and (3) note projections of water use that do not account for such savings. See, e.g., In re Richard E., 21 Cal. 3d 349, 353-54 (1978) (“When the Legislature has . . . used both ‘shall’ and ‘may’ in close proximity in a particular context, we may fairly infer the Legislature intended mandatory and discretionary meanings, respectively. The ordinary import of ‘may’ is a grant of discretion.”) (citing Housing Authority v. Superior Court, 18 Cal. 2d 336, 337 (1941)). Additionally, Metropolitan requests the phrase “When applicable...” be removed from the beginning of two of these sentences. Metropolitan recognizes that the ITP inserted these phrases, in part, to address Metropolitan’s stated concerns. However, this phrase would no longer be needed and would be confusing upon changing the word “shall” to “may”. Accordingly, Metropolitan requests that the last three sentences in the recommended statutory language be revised as follows:

~~“When applicable, the urban water supplier shall~~ may provide citations of the various codes, standards, ordinances, and transportation and land use plans utilized in making the projections. ~~When applicable,~~
~~w~~Water suppliers ~~shall~~ may indicate the extent that the projections of the water use consider savings from codes, standards, ordinances, and land use planning. Projections of water use that do not account for such savings ~~shall~~ may be noted as such.”