

April 15, 2011

TO: Kent Frame, Department of Water Resources
Cc: Gwen Huff, Department of Water Resources

VIA email to kframe@water.ca.gov and ghuff@water.ca.gov

FROM: California Chamber of Commerce
California Grain and Feed Association
California League of Food Processors
California Manufacturers and Technology Association
Industrial Environmental Association
Pacific Egg and Poultry Association
Western Agriculture Processors Association
Western Growers Association
Western States Petroleum Association

Re: Regulations to Implement Process Water Provisions of SB x7 7 of 2009

The undersigned industrial water users appreciate the continuing efforts being made by the Department of Water Resources (Department) to implement the process water provisions of SB x7 7 of 2009. We have participated in the Department's "U5 Process Water Working Group" and have provided our thoughts and comments throughout the emergency rule making process. We welcome the opportunity to provide our input on the Certificate of Compliance Rulemaking Related to Emergency Rulemaking File #2010-1207-01E which constitutes the final process water regulations.

As we have expressed to the Department, we continue to have significant concerns about the threshold for "substantial percentage" proposed by the Department. We have a fundamental concern that the proposed threshold of 12% limits the ability of water suppliers to avoid creating a disproportionate burden on customer sectors by subtracting their process water deliveries from their gross water use.

It is clearly the intent of the legislation that water suppliers would have liberal access to this capability, to the extent of their ability to quantify their process water deliveries. Instead, the proposed threshold of 12% would make this adjustment available to very few districts, and leave many others in the untenable position of requiring increased conservation from other water users, thus creating a disproportionate burden the statute clearly intends to avoid.

Specifically, we have concerns with Section 596.2, which establishes the criteria for excluding process water use from the gross water use calculation. Subsection (a) establishes a 12 percent threshold to determine if industrial water use constitutes a "substantial percentage" of total water use in the determination of process water exclusions. This proposed threshold is too high and many districts will not meet the 12 percent even though they have substantial industrial

water use in their districts. We would recommend reducing this threshold to 5 percent in order to properly implement the legal requirements of SBx7 7.

Further, we would recommend the inclusion of an additional criterion that would allow a water supplier the flexibility to determine if process water must be excluded to avoid a disproportionate burden on another customer sector.

In conclusion, we want to underscore the point that the statute prevents urban retail water suppliers from mandating conservation measures that would reduce the use of process water, and allows suppliers to subtract their process water deliveries from gross water use in establishing and meeting the statute's conservation requirements.

There are critical policy reasons for these provisions. Process water, as defined in statute, is a business input for many industries that are critical for preserving and growing employment in California. For many of these water uses, the only practical way to reduce water use is to decrease production and hence decrease employment. Our state's employment conditions have only declined since SB x7 7 was enacted, and it is now more important than ever for all State agencies to exercise their statutory and regulatory authorities with a view to maximizing employment.

We thank you again for the opportunity to provide our input.