PACIFIC INSTITUTE

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Department of Water Resources

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RE: Comments on Emergency Rulemaking File #2010-1207-01E (Chapter 5.1, Article 1, Sections 596, 596.1, 596.2, 596.3, 596.4, and 596.5 to Title 23, Division 2 of the California Code of Regulations)

Thank you for the opportunity to provide comments on the process water emergency rulemaking procedure. As stated in SBx7-7, *Section 10608.24 (e)* "When developing the urban water use target pursuant to Section 10608.20, an urban retail water supplier that has a **substantial percentage** of industrial water use in its service area, may exclude process water from the calculation of gross water use to avoid a **disproportionate burden** on another customer sector."

There are two underlying assumptions to this section of the law. First, it assumes that there are limited or no potential for process water efficiency improvements. Second, it assumes efficiency improvements would harm the industrial sector. These assumptions are fundamentally flawed.

There is significant potential for improving the efficiency of process water through technological improvements and the use of recycled water. Appendix F of the Pacific Institute report Waste Not, Want Not provides a large number of examples for each industry, including recirculating and reusing water onsite and installing self-closing and automatic shut-off nozzles. Other documents, including East Bay Municipal Utility District's Watersmart Guidebook, provide a number of additional examples. Furthermore, recycled water can be used for process water, effectively offsetting potable water demand. Excluding process water reduces the incentive to replace potable water with

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recycled water and ultimately hinders the expansion of recycled water throughout California.

Second, I would argue that waste and inefficiency are a much bigger threat to the long-term sustainability of California's industrial sector than the modest efficiency improvements under SBx7-7. California faces a number of issues that threaten the availability and quality of its water resources, including population growth, climate change, and the need to restore damaged ecosystems. While there is no silver bullet, efficiency improvements are the cheapest, fastest, least destructive ways to satisfy growing water demands. They also improve water system reliability and reduce vulnerability to short-term and long-term water supply constraints. In short, water conservation and efficiency promote a more robust and sustainable industrial sector in California.

Given that the provision has been written into the legislation, however, criteria are needed to determine process water exclusions. The Department of Water Resources has developed a set of criteria to determine what defines a "substantial percentage." The proposed rulemaking identifies the following criteria:

(a) Total industrial water use is equal to or greater than 12 percent of gross water use, or

(b) Total industrial water use is equal to or greater than 15 gallons per capita per day, or

(c) Non-industrial water use is equal to or less than 120 gallons per capita per day if the water supplier has self-certified the sufficiency of its water conservation program with the Department of Water Resources under the provisions of section 10631.5 of the Water Code, or

(d) The population within the suppliers' service area meets the criteria for a disadvantaged community.

These criteria are much too broad. They will allow an estimated one-third of California water agencies exclude process water, reducing the likelihood that California will meet a 20% reduction in per capita water use by 2020.

The criteria for process water exclusion must be made narrower. In particular, criteria B should be raised to 20 gallons per person per day. Additionally, Criteria C and D should be eliminated, as the justification for their inclusion is weak. While disadvantaged communities should be a consideration in all state policies, the process water exclusion provides few, if any, direct benefits. Programs to assist these communities should be a priority, but should be addressed through other mechanisms.

Thank you,

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