

**VIA ELECTRONIC MAIL**

April 13, 2015

Jessica Bean  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95814-0100  
commentletters@waterboards.ca.gov

Re: Mandatory Conservation Proposed Regulatory Framework

Dear Ms. Bean:

California Water Association ("CWA") submits the following comments on the Mandatory Conservation Proposed Regulatory Framework issued by the State Water Resources Control Board ("State Water Board") on April 7, 2015 (the "Proposed Framework").

CWA is a statewide association representing the interests of its members, which are many of the 113 investor-owned water utilities ("IOUs") that are subject to the jurisdiction of the California Public Utilities Commission ("CPUC"). As the drought has worsened, CWA's members have implemented increasingly aggressive regulatory directives from the CPUC aimed at preserving the state's limited potable water supplies. Directives include CPUC Resolutions W-4976 and W-5000, both adopted in 2014, as well as Resolution W-5034, which the CPUC approved just last week on April 9, 2015. Resolution W-5034 directs the IOUs to implement the State Water Board's March 17, 2015 emergency regulations and orders each of the IOUs to move beyond the current mandatory restrictions in place and implement the Governor's April 1, 2015, Executive Order ("EO") by adding a schedule to their existing tariff restrictions that calls for mandatory conservation and water-use reductions by the utilities' customers.

CWA is optimistic that continued close coordination between the State Water Board and the CPUC will help move the state toward the dramatic statewide conservation effort envisioned by the Governor, and it commends the State Water Board for acting quickly to develop a draft framework for achieving the EO's mandatory aggregate statewide 25% reduction in potable urban water use through February 2016. CWA agrees that the current state of drought demands increased water conservation efforts by water customers across the state. The water IOUs, with leadership from the CPUC, are considering bold

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strategies for communicating this urgency to their customers in order to generate meaningful water savings and, consistent with that effort, appreciates having the opportunity to provide input on the State Water Board's Proposed Framework.

### **The R-GPCD Water Use Range and Corresponding Conservation Standards**

CWA appreciates that the Proposed Framework seeks to implement the EO's directive that a 25% statewide reduction in potable urban water usage be achieved by considering the relative per capita water usage across water supplier service areas. Asking customers who have already achieved significant reductions in water usage to make the same percentage cutbacks as others would raise concerns for impairing public health and safety, as well as concerns for fairness. While the Proposed Framework seeks to account for this issue, CWA recommends considering additional factors, outlined below, in assigning conservation standards in order to implement a more equitable, and thus more effective, policy.

#### ***A. Community climate conditions should be considered in assigning conservation standards to urban water suppliers' service areas.***

Water usage varies from community to community, as well as within any community, for a variety of reasons, one of which is that the state comprises different hydrogeologic areas that can greatly affect evapotranspiration and, therefore, outdoor water usage. While there are benefits to adopting a simple and straightforward conservation framework, CWA is concerned that ignoring the impact of the state's distinct hydrogeologic areas could mean holding communities of modest-sized lots in the state's hotter and drier central and eastern regions to the same conservation percentage reduction standards as neighborhoods of large estates that benefit from milder climates along the coast. CWA acknowledges that every water user is being asked to change usage behavior during this unprecedented drought. But an uncomfortable inequity arises when those who can afford to pay higher monthly water bills and penalty charges get to preserve inefficiently<sup>1</sup> designed landscaping, while the smaller-sized, water efficient outdoor area of a less affluent inland family is forced to brown until it can afford to convert to a drought-tolerant landscape.

CWA recommends grouping water supplier service areas into their specific hydrogeologic areas and then setting more appropriate conservation goals using GPCD numbers that reflect differing climate conditions within the state. The Governor's EO clearly seeks to target *inefficient* water use first and foremost in the effort to meet statewide conservation goals. CWA encourages the State Water Board to consider how climate conditions affect water use efficiency and to adjust its conservation standards accordingly.

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<sup>1</sup> Efficiency should be referenced to the California Department of Water Resources Model Water Efficient Landscape Ordinance as currently chaptered, and as revised pursuant to the April 1, 2015 Executive Order.

**B. Assigning urban water suppliers' service areas among the State Water Board's four conservation categories based on a single month's R-GPCD (September 2014) is unnecessarily restrictive.**

CWA agrees with the State Water Board that it makes sense to look to GPCD data from the summer months in order to best target outdoor irrigation use. However, using a single month as the basis for assigning urban water suppliers' service areas among conservation categories has too much potential to include outliers to be considered a reliable measure. Instead, CWA suggests that a three-month summer average be employed so as to better normalize for irregularities that may be present in a single month's data. Alternatively, the State Water Board could consider making specific accommodations for water system service areas that are less than 1 GPCD over a particular conservation standard break point. Considering these circumstances on a case-by-case basis would help to mitigate the harsh result whereby a mere fraction of a GPCD subjects a service area to a more demanding conservation standard.

Additionally, CWA understands that the Association of California Water Agencies ("ACWA") is working to produce a formula that would arrange water system service areas along a conservation curve, rather than into strict tiers, as the Proposed Framework currently contemplates. CWA supports the idea of a curve in concept, in that it would eliminate the potential for a water system service area to be bumped into a significantly more challenging conservation tier than its R-GPCD would justify.

**Normalization of Usage Data to Support Rational Compliance Determinations**

In order to assess compliance by commercial, industrial and institutional ("CII") sector customers, the Proposed Framework would institute certain new reporting requirements. Each of the reporting requirements calls for submission of *monthly* use data, but CWA notes that usage data collected by water systems through billing records will almost never correspond to the actual usage in a particular month. Water systems typically bill in arrears and read meters of a portion of their customers almost daily throughout the month. The usage measured in a given month typically relates to billing periods, which can begin on any day of the month and can span portions of two or three months, depending on whether the utility operates on a 30- or 60-day billing cycle. Therefore, there will be a lag between actual usage and measured usage that does not occur with the reporting of production. This should be taken into account in whatever use is made of the reported CII monthly usage with respect to determining whether goals are being met.

In addition, there are other factors that can cause variation in usage data. Billing periods may have fewer or greater numbers of days of usage compared with the same billing period in 2013. Also, most urban water providers are primarily residential with a very small number of large CII customers so the addition of one or two new large CII customers could cause a significant increase in CII usage on a percentage basis. For these reasons, the numbers may not accurately reflect whether a water system is meeting target conservation goals. These potential discrepancies have serious implications for the State Water Board's determinations of

compliance and for potential regulatory enforcement actions unless usage data are normalized to account for them.

### **Water Supplier Compliance Depends on Customer Cutbacks**

The Proposed Framework sets a determined course towards achieving the ultimate goal of a 25% statewide reduction in potable urban water use through February 2016. CWA is optimistic that its directives (as will ultimately take shape in formal regulation), in concert with those implemented by the CPUC directing the IOUs, will contribute to the statewide response needed to help protect and wisely employ our limited potable water supplies. But CWA also knows all too well that, for some customers, price signals and conservation messaging will not change behavior. The Proposed Framework's enforcement provisions discuss the various tools available to the State Water Board to enforce its regulations against water suppliers, rather than the individual water user, which may be appropriate if a water supplier is failing to implement the requisite drought response plan.

But the Proposed Framework does not acknowledge that a water supplier may comply with every applicable drought response directive and still not achieve its conservation goals. It is not practical to expect the utility to cut off service once a customer's allocation is reached, due to the gap in time between customer usage and reading of the customer's meter (except in the unusual case where the utility has smart meters in service). The water utility should not be held liable for its customer's actions or inactions. Ultimately, it is the water supplier's customers that are responsible for cutting back their water use, not the water utilities.

CWA understands that the State Water Board intends to work with water suppliers to address issues that may be preventing a conservation program from achieving desired water savings before or instead of pursuing enforcement actions, including monetary penalties. CWA would appreciate having the regulations based on the Proposed Framework reflect that same collaborative intent and recognize that water systems that implement a comprehensive set of drought response measures in concert with the State Water Board's or CPUC's directives (as appropriate) still may not convince all of their customers to conserve, yet will still be in compliance with the State Water Board's existing and forthcoming regulations.

### **Conclusion**

CWA strongly supports the goal of the State Water Board to maximize water conservation consistent with the statewide water reductions, as set forth in the EO. We appreciate the State Water Board's outreach efforts to date and thank you for this opportunity to provide feedback on how best to structure regulatory tools needed to achieve this objective.

Very truly yours,



Jack Hawks

cc: California Water Association Regulatory Committee