



April 22, 2015

Ms. Jessica Bean
State Water Resources Control Board
1001 I Street
Sacramento CA 95812-0100

Sent via e-mail: Jessica.Bean@waterboards.ca.gov

Dear Ms. Bean:

The City of Barstow ("City") submits the following comments on the State Water Resources Control Board's ("SWRCB") Proposed Emergency Regulation to implement the Governor's April 1, 2015 Executive Order, No. B-29-15, directing the SWRCB to impose regulations to achieve a statewide 25% reduction in potable urban water use. The City remains committed to reducing its water usage as part of its response to the continuing historic drought facing California. The City supports the revisions to the proposed regulations, as compared to the proposed regulatory framework previously released for comment, as a decent first step. However, the SWRCB did not go far enough in revising the proposed regulations.

The City is concerned that the proposed regulations still simultaneously place a greater conservation burden on those cities and urban water providers which have already demonstrated responsibility in the statewide need to conserve water, while rewarding those who have conserved little or even increased water consumption. Rather than encouraging this, the proposed regulations should be revised to explicitly credit previous conservation efforts and to impose heightened conservation requirements on suppliers who failed to conserve. Additionally, the SWRCB should revise the conservation tiers to include additional conservation tiers at the higher ends, above 36%.

I. Cities Should Be Credited With Water Use Reductions Already Achieved.

The proposed regulatory framework still fails to account for reductions already achieved by urban water providers, even though this data exists. Imposing a cumulative conservation standard on urban water providers is consistent with the

Governor's goal, which is a cumulative reduction of 25% statewide since February 2013, not a reduction of 25% on top of reductions already achieved since February 2013.

Not accounting for conservation efforts or failures to date penalizes those who have conserved the most and rewards those who have done the least. This is irrational because suppliers with essentially the same average usage for the measurement period face drastically different conservation requirements. For example, compare two agencies with similar average water usage for July to September 2014 and within the same proposed "tier," the 32% tier:

- the City of Brawley, with an average July to September 2014 usage of 179.6 R-GPCD, has already reduced its total water consumption by 41% since 2013, but has a further conservation target of 32%, for a net total conservation burden of 73%;
- Phelan Pinon Hills Community Service District, with an average July to September 2014 usage of 181.6 R-GPCD, has actually increased its water consumption by 6% since 2013, and with the same conservation target of 32%, has a net total conservation burden is 26%, roughly a third of Brawley's.

These two cities, and countless other similarly situated in every tier, are nominally required to conserve the same amount, yet because the proposed regulations do not factor in conservation efforts to date, have significantly greater or lesser net conservation requirements which are inversely proportional to the goal of conservation.. Not only is this itself irrational, but the effect is to reward those who used profligately while penalizing those who heeded the call for conservation.

Sadly, this is exactly the strategy many users have vocally advanced—one should use more water in order to set their "base" as high as possible in anticipation of mandatory conservation efforts. Rewarding this irresponsible strategy is poor public policy. Absent providing credit for reductions to date or additional conservation requirements for increases, the City will have a much more challenging time convincing its residents and businesses of the need for additional conservation restrictions when many in the state have done nothing to conserve or have even increased consumption, yet face little consequences.

As a further example, compare the cities of California City and Barstow, which are both arid, inland cities. Barstow has an average R-GPCD for July to September of 166.2, and if does not get any credit for the 9% reduction it has already accomplished, with the proposed conservation requirement of 28% it end up with a effective increased

conservation total of 37%. By contrast, California City (which has a conservation requirement of 36%) has an average R-GPCD for July to September of 2014 of 307, and increased its usage since 2013 by 6%. California City thus has an effective reduced conservation requirement of 30%. Yet, while California City's average water usage for the measurement period **almost 100% higher than Barstow, Barstow has a 20% higher net conservation standard**. This is irrational and could not have been intended by the SWRCB. Giving credit for conservation successes, and increasing standards by the amount of additional usage would repair this error.

To resolve these concerns, the City proposes the addition of the following sentence to the end of section 865, subdivision (c)(1):

Each urban water supplier's conservation standard in subdivision (c)(3-10) will be modified by subtracting the total percentage of water usage conserved from the period of February 2013 through February 2015, or adding the total percentage of water usage increased from the period of February 2013 through February 2015.

These proposed revisions will impose a cumulative conservation standard on urban water providers, taking into account the amounts already conserved or any additional water usage, as reported by the SWRCB in its spreadsheet detailing each urban water supplier's proposed tier. For example, Barstow, through its retail water supplier Golden State Water Company, has already achieved a reduction of 9% relative to 2013, thus its new target under the proposed tiers, would be an additional reduction of 19% relative to 2013, for a total 28% reduction.

II. Regulation Should Be Revised to Include Additional Tiers, at the Higher End.

Governor Brown's order requires the SWRCB to impose restrictions intended to achieve a 25% reduction statewide in domestic water use since 2013. The proposed regulations impose a graduated tier of required reduction levels on urban water suppliers, ranging from 8% to 36%, depending on per capita water usage from July to September 2014. The City supports the addition of four more tiers of proposed reductions, compared with the draft regulatory framework. However, this does not go nearly far enough in adequately apportioning conservation requirements across the state's urban water providers.

As compared with the draft regulatory framework, the proposed regulations expand the number of tiers, thereby narrowing the range of usage levels within each tier for the lower usage levels, and adding one additional tier above the originally

proposed 35%. Not only is this inadequate, but it again rewards those who use the most water with the least conservation requirements. Instead, the SWRCB should revise the proposed regulations to include several additional tiers above 36%--up to 50% or higher for the highest levels of use. All the tiers should also be adjusted across the board as needed to secure a 25% total reduction statewide while providing credit for reductions already accomplished or increased conservation requirements for cities that did not save any water to date. Increasing the number of tiers, narrowing the usage range within each tier, and providing credit or increases as appropriate would create a more rational conservation approach, avoiding inequities and unintended consequences discussed above, while ensuring that the highest water users bear progressively greater conservation burdens. This would also achieve the Governor's mandate of 25% overall urban water conservation.

III. SWRCB Must Revise Regulations to Allow Administrative Corrections to Monitoring Reports.

The proposed regulations divide providers into eight reduction tiers based on residential per capita daily usage for July through September 2014. At present, there is no clear path for a city to submit revised and corrected monitoring data to the SWRCB. In light of the importance of accurate usage figures for every urban water supplier, the SWRCB must revise the proposed regulations to add a process, either in the proposed regulations or another appropriate SWRCB policy that permits a city to make administrative corrections after submitting monitoring data and reports to the SWRCB.

IV. SWRCB Should Still Consider Other Approaches to Divide Providers Into Tiers, Beyond Residential Gallons Per Capita Daily, Because this measure Fails to Account For Differences Across Providers.

The proposed regulations divide urban water suppliers into reduction tiers based on each provider's R-GPCD used for July to September 2014, the same as the proposed regulatory framework. As before, the City remains concerned that this approach fails to adequately capture regional variation in appropriate water use levels. The proposed regulations apply a one-size-fits-all approach by subjecting every community to the same set of conservation tiers. The assumption underlying this approach is that there is a single appropriate level of R-GPCD statewide, regardless of regional variations. This is inappropriate.

Instead, the SWRCB should consider alternate ways of dividing providers into conservation tiers that recognize that using the R-GPCD metric for comparisons across providers up and down the state, in different geographic and hydrologic regions, and

with vastly different economic, population, demographic, and land use characteristics, is inappropriate. One approach would be to use each community's population density, average residential lot size, annual per capita income, and average rainfall to modify its raw average R-GPCD into a comparable weighted average R-GPCD for statewide comparative purposes.

V. City Supports Clarification that Prohibition on Watering Turf in Medians Does Not Prohibit Watering Trees.

The Governor's order prohibits the use of potable water for watering turf in public medians. The City supports the provisions in the proposed regulations that clarifies that this prohibition applies to ornamental turf and thus does not extend to watering trees in public medians. The City would support further clarification as to whether this applies to ornamental turf adjacent to roads, but not within a median.

VI. Conclusion

For the foregoing reasons, the City requests the Board revise its proposed regulations to:

- Adjust net water conservation requirements by conservation reductions or increased consumption from February 2013 to February 2015 for each water supplier or city;
- Include additional, higher conservation standard tiers above 36% for communities with a high R-GPCD and revise all tiers to achieve a total reduction statewide of 25% while still providing adjusting conservation requirements to reflect reductions or increases to date;
- Revise the regulations to allow administrative corrections of monitoring reports;
- Use a weighted average of residential per capita daily use that takes each communities' economic, population, demographic, and land use characteristics into account.
- Clarify that trees planted in medians may still be irrigated with potable water.

The City seeks these amendments to ensure that the proposed regulations are reasonable, feasible, and will accomplish the Governor's stated goal of a 25% statewide water use reduction. The City recognizes that this historic drought requires an

aggressive response. It has already conserved 9% of water via the Golden State Water Company and 20% via the Mojave Water Agency since 2013, and will work together with its residents and businesses to achieve its 28% conservation target. The City urges a **net conservation requirement** as the vehicle for rational, consistent and achievable conservation which will implement the Governor's expected 25% conservation target by February 2016—now only 10 months away.

Sincerely,



Charles C. Mitchell
City Manager
City of Barstow

cc: Barstow City Council
Teresa L. Highsmith, City Attorney