

April 13, 2015

Jessica Bean, Engineering Geologist
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Subject: Comment Letter – Proposed Regulatory Framework to Achieve a Statewide 25% Reduction in Potable Urban Water Usage

Dear Ms. Bean:

The Santa Clara Valley Water District (District) appreciates the opportunity to provide the State Water Resources Control Board (State Water Board) with recommendations for responding to Governor Brown's April 1, 2015 Executive Order to achieve a statewide 25% reduction in potable urban water usage.

As the primary water resources and groundwater management agency for the nearly 2 million residents and wholesaler to 13 urban water suppliers of Santa Clara County, the District strongly supports efforts by the Governor and State Water Board to reduce water usage in response to the ongoing, extreme drought. In this fiscal year, the District has dedicated over \$20M to drought response including enhanced outreach, increased water conservation rebates including over \$10M in approved landscape conversion rebates, and supplemental water acquisition. Despite these proactive measures, total water use was reduced by only 13% in 2014, short of the Governor's and our Board of Director's call for 20% of 2013 usage. Due to reduced groundwater recharge and increased groundwater pumping, an estimated 80,000 AF was withdrawn from local groundwater reserves in 2014, which lowered water levels to the point of concern regarding long-term land subsidence.

In March 2015, our Board of Directors increased the call for potable water use reductions to 30% based on the urgent need for action to protect the county's groundwater basins and minimize the risk of permanent land subsidence. Over 13 feet of subsidence has occurred historically in Santa Clara County, and subsidence poses significant threats in terms of damage to critical infrastructure, salt water intrusion, flooding, and loss of economic productivity in the heart of Silicon Valley should it resume. From this perspective, we offer the following recommendations for your consideration.

Apportioning Urban Water Supplier Reductions

The Executive Order directs the State Water Board to consider the relative per capita water use within a given water supplier's service area for the establishment of tiers. The District acknowledges and appreciates urban water supplier efforts that have resulted in increased water use efficiency. However, the proposed conservation standards should consider calls for urgent conservation made by local water wholesale agencies, which in some cases may be higher than the State Water Board target. These requests are based on local needs – in our case, the need to protect our groundwater basins and minimize the risk of additional land



subsidence. In consideration of local needs, we recommend that the State Water Board defer to local water wholesale agencies that have called for a higher level of savings than the State, and that the State Water Board revise their conservation standards to be consistent with these local requests. This approach would help ensure consistent messaging within local communities, a key issue in engaging the community to achieve the needed savings.

Enforcement

The District applauds the State Water Board's efforts to explore all enforcement tools to ensure compliance with the Governor's Executive Order. The waste of potable water is immediate and not recoverable. Restitution for waste is not available. The Legislature should direct that trial courts give procedural priority to any criminal prosecution for the wasting of potable water.

While the State Water Board enforcement alternatives would apply to urban water suppliers, the Proposed Regulatory Framework does not provide for enforcement at the end user level. The District has broad authority to prevent the waste and diminution of local water supplies, including the ability to adopt an ordinance related to water conservation. However, the lack of enforcement powers severely limits our ability to achieve water use reduction targets. We encourage the State to consider legislation or other alternatives to grant special districts enforcement authority, such as the ability to levy fines to those not complying with local ordinances.

Groundwater Sustainability

As the exclusive local agency with power to comply with the Sustainable Groundwater Management Act (SGMA) in Santa Clara County, the District will pursue expedited implementation of SGMA as a means of providing additional tools to respond to this extreme drought. We intend to work closely with local cities and water suppliers in developing new tools identified in SGMA such as the regulation of pumping, which may be needed to protect groundwater and prevent subsidence. As the SGMA implementation plan is still being developed, we will be requesting support from the State Water Board and Department of Water Resources in expediting local implementation.

New Development

The District strongly supports Executive Order provisions to increase water use efficiency standards for new development. In particular, we believe there are significant water use savings that could be achieved through expansion and further implementation of the Model Water Efficient Landscape Ordinance. We encourage the State Water Board to implement an expanded Water Efficient Landscape Ordinance as soon as practicable, and support State Water Board efforts to ensure compliance after implementation.

We also support the efforts of the State Water Board and other state agencies to expedite development of additional measures to promote sustainable water supplies. These measures target both existing and new development, and include higher efficiency standards for appliances, integrated on-site reuse systems, water use monitoring software, and improved irrigation technology. To improve long-term water supply reliability, the District strongly supports the pursuit of these and other innovative approaches to achieve net-zero water use for new development.

Expediting Recycled Water Infrastructure

The District's long-term water supply plans identify up to 30,000 AF of new recycled and purified water development by 2035. Due to serious concerns about the potential for land subsidence and the unknown duration of the current drought, the District is working to expedite several indirect potable reuse projects. These projects could provide up to 45,000 acre-feet per year by 2020 at an estimated cost of \$800M in current dollars. We estimate these projects would also create or sustain 7,000 to 15,000 jobs. To accelerate these projects, the District is working closely with local partners including cities, private water companies, and companies like Apple.

The State Water Board should formally request that the Legislature and Governor reduce barriers that delay construction of water infrastructure projects for communities facing water shortages or land subsidence. Methodologies that should be considered include CEQA exemptions for recycled water infrastructure for the duration of the drought. Any recycled water CEQA exemption should allow for a multi-year exemption that is specific in its scope.

We estimate that a CEQA exemption for recycled and purified water projects could reduce project implementation time by 1 to 2 years. As the drought continues, the need for the expedited implementation of these projects becomes more critical. By allowing for this exemption legislatively or through emergency executive action, the District and other California water agencies will be able to better construct drought infrastructure more quickly. For our District, this will help us to ensure sustainable supplies and minimize land subsidence by adding a new locally-controlled, drought-proof source of water.

In addition the State Water Board should expedite the Division of Drinking Water's Report to the Legislature on the feasibility of developing uniform water recycling criteria for direct potable reuse ahead of the December 31, 2016 due date.

Tiered Rates and Infrastructure Financing related to Proposition 218

On a related matter, the Executive Order directs the State Water Board to work with water suppliers to identify mechanisms that would encourage and facilitate the adoption of rate structures and other pricing mechanisms that would promote water conservation. Water suppliers and the courts have not been successful in determining when a tiered water rate structure is in conformance with Proposition 218. If tiered water rates are to serve as a method for water conservation, such a determination cannot await a single precedent setting judicial decision but must be done legislatively. The Governor should convene a conference of all interested parties, as was done for the 218 Omnibus Implementation Act, that would lead to legislation allowing for tiered water rates.

We also request that the Water Board address and make recommendations surrounding the Proposition 218 two-thirds vote requirement to establish and renew special taxes. We request that you address and make recommendations relative to lowering the requirement to 55 percent, for the approval of special taxes to pay for much needed water-related public infrastructure. Many public water agencies have failed to raise the funding required to build new projects or replace aging infrastructure that would improve the services provided to the public. The change to Proposition 218 would bring water-related infrastructure in line with the same requirements currently imposed on school districts.

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As the groundwater management agency and water wholesaler for Santa Clara County, we are committed to reducing water demands and protecting local resources during this extreme drought. We look forward to continued discussions with the State Water Board, Department of Water Resources, and other state agencies to help ensure sustainable water supplies. Please contact me at (408) 630-2634 if you would like to discuss these recommendations or if we can assist the State Water Board in any way.

Sincerely,



Beau Goldie
Chief Executive Officer

cc: District Board of Directors
Felicia Marcus, State Water Resources Control Board
Nancy McFadden, Office of the Governor