

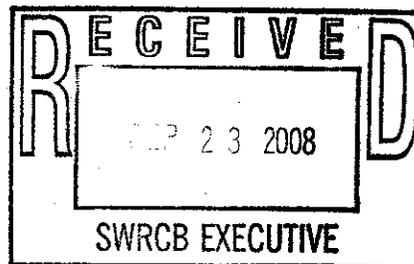


# City of Downey

10/1/08 Board Workshop  
Urban Water Conservation  
Deadline: 9/23/08 by 12 noon

FUTURE UNLIMITED

September 23, 2008  
Ms. Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
1001 I Street 24<sup>th</sup> Floor  
Sacramento, CA 95814



**Subject: Comment Letter - Proposal to Mandate Water Conservation Management Practices**

Dear Ms. Townsend:

The City of Downey has long been an ardent supporter of water conservation. Our City has been at the forefront of implementation of water saving devices, public education programs, and reclaimed water usage. We believe that there are compelling arguments for the importance of water conservation to California's water security and reliability. However, neither the Dickey Water Pollution Act, nor the Clean Water Act, nor the Porter-Cologne Act, give the State Water Resources Control Board the rule-making authority over water conservation. The State Water Board was given a critical mandate by the Dickey Water Pollution Act to set statewide policy for water pollution control, and to coordinate with state and local agencies in controlling pollution. Therefore, the City of Downey has some concerns about the State Water Board's proposal to adopt water conservation regulations. Specifically, we are alarmed that advisory practices advocated by a private organization with voluntary membership would be adopted as state regulations.

The Best Management Practices (BMPs) set forth in the Memorandum of Understanding (MOU) with the California Urban Water Conservation Council (CUWCC) are goals for agencies to achieve; these goals take considerable time and capital investment to accomplish. The water industry agreed that BMPs are goals that each supplier should strive for – if they were easily achievable and economically appropriate for every water purveyor, they would simply be industry standards, not best management practices. Not all of the BMPs will be practical for all water agencies; for some agencies, some BMPs are cost-prohibitive or otherwise untenable. Some water agencies are implementing programs known as "at least as effective as;" these alternatives are cost-effective and achieve greater water savings than the BMPs. A statewide regulation requiring conformation to the CUWCC's BMPs would constitute an unfunded mandate initiated by a non-state entity.

In response to the State Water Board's key issues and questions from the *Development of an Urban Water Conservation Regulatory Program*:

- 1) No, the State Water Board should not adopt an urban water conservation regulatory program because laws, regulations, and best practices already mandate urban water

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- conservation. Urban water conservation is outside the scope of authority described in the legislation that authorized the State Water Board.
- 2) The appropriate definition of an urban water supplier should be confined to the already-codified definition in the Urban Water Management Planning Act. Re-definition by the State Water Board would only confuse water purveyors and undermine the efforts of the Urban Water Management Planning Act.
  - 3) No, an urban water conservation regulatory program should not apply to all areas of the state because this would be an unauthorized expansion of the scope of the State Water Resources Board. Furthermore, because the State's ecosystems are tremendously varied, regionally specific guidelines and regulations are necessary to conserve water while addressing the unique requirements of each watershed.
  - 4) A performance-based urban water conservation regulatory program is not within the scope of the State Water Board's authority, and it duplicates efforts by the State Legislature and the Department of Water Resources. It also undermines the voluntary efforts of the California Urban Water Conservation Council. Should the State Water Board institute a regulatory program, urban suppliers must be given credit for demand reductions already in place, and performance expectations must be tailored to the unique climates and industries within each urban supplier's service area.
  - 5) No, the State Water Board should not adopt prescriptive urban water conservation management practices such as the CUWCC's BMPs. The water industry agreed that BMPs are goals that each supplier should strive for – if they were easily achievable and economically appropriate for every water purveyors, they would simply be industry standards, not best management practices. More importantly, the BMPs are under a continuous revision process driven not by urban water agencies but by environmental groups and consultants, groups that do not understand the intricacies of water purveyor systems, cannot accurately predict the economic impact of BMP revisions, and stand to profit from the revisions.
  - 6) Water pricing structures may be an effective conservation measure, but a statewide mandate, particularly one that specifies one volumetric rate structure or block rates, must not be enacted. Local water agencies must have the flexibility to determine rate structures based on local climate, infrastructure, housing density, water supply resources and water supply costs. These variables are too disparate across the state for one rate structure to serve appropriately all of California's water customers.
  - 7) There are not enough data available to support mandating particular water conservation practices. Vast differences exist in the implementation of water conservation practices at water agencies throughout the state, due primarily to the regional differences in the cost-effectiveness of these measures. For instance, some agencies have been leaders in the use of reclaimed and recycled water while many others still waste thousands of acre-feet of potable water for non-potable uses. Some agencies already limit water-intensive practices such as hosing down driveways and planting ample turf areas, while others have been leaders in water use prohibitions and incentives for drought-tolerant landscaping.

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Implementing an urban water conservation regulatory program will duplicate statewide and regional conservation efforts. Please continue the critical efforts of the State Water Board in preventing water pollution and protecting our state's water supplies, and allow the state agencies charged with performing water conservation duties to perform them.

Sincerely,



Desi Alvarez  
Deputy City Manager