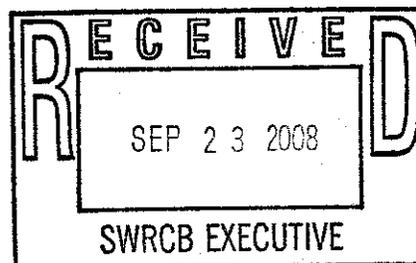




CALIFORNIA URBAN WATER AGENCIES

September 23, 2008

Tam Doduc, Chair
and Members of the
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814



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

Dear Chair Doduc and Members of the Board:

The eleven members of California Urban Water Agencies are all signatories to the California Urban Water Conservation Council (CUWCC) Memorandum of Understanding (MOU). Our member agencies provide drinking water to over 23 million people in California and they have been operating successful conservation programs for many years by complying with the CUWCC best management practices (BMPs), implementing additional measures not included in the CUWCC BMP list, and supporting legislation, such as plumbing code changes, that has led to tremendous water savings. Conservation is an important source of supply in our member agencies' water supply portfolios. It is CUWA's position that a mandated regulatory program is not advisable at this time. Imposing such a program could actually result in reduced water savings as agencies refocus their efforts on complying with a regulatory program, rather than implementing management practices that are most effective in their service areas.

We urge the State Water Resources Control Board (State Water Board) to defer consideration of a regulatory approach because there are three on-going processes that will lead to more effort on conservation in the next few years.

- The CUWCC is currently in the midst of a year-long evaluation of the BMPs and is considering creating foundational BMPs that all signatory water agencies must implement, as well as a flex track approach that allows water agencies to select additional practices that will result in water savings in their service areas. This effort will be followed by an update to the CUWCC reporting system that will more adequately capture the full range of activities that are resulting in water savings. The State Water Board should allow the water agencies who are signatories to the MOU to continue to voluntarily save water while complying with the CUWCC requirements.
- A number of state agencies, including the State Water Board are working with the Department of Water Resources on the Governor's call to reduce per capita water use by 20 percent in 2020. That effort will be concluded by early 2009. Our members believe that the 20 percent reduction in per capita water use statewide is an achievable goal. The process that DWR and the other state agencies are proposing, which acknowledges past conservation efforts in setting regional goals, is supported by CUWA's members.

455 Capitol Mall, Suite 705, Sacramento, CA 95814 916.552.2929 FAX 916.552.2931

City of Sacramento

Alameda County Water District

San Diego County Water Authority

Metropolitan Water District of Southern California

San Francisco Public Utilities Commission

City of San Diego Water Department

Santa Clara Valley Water District

Zone 7 Water Agency

Contra Costa Water District

East Bay Municipal Utility District

Los Angeles Department of Water & Power

- The California Air Resources Board is expected to finalize its Scoping Plan for the implementation of AB 32 by the end of 2008. The Scoping Plan includes a section on the water sector, with a strong emphasis on conservation.

Additionally, AB 1420 goes into effect in 2009 requiring compliance with the CUWCC's BMPs to maintain eligibility for state funding. This statute is expected to be a powerful motivator for those agencies that have not yet fully committed to a robust conservation program.

CUWA's members are already working with other agencies and stakeholders in their regions on cost-effective conservation and greenhouse gas reduction programs. We are ready to take the lead in working within regions to increase conservation efforts to meet the regional goals. We are ready to lead an effort to refine reporting of water use to allow the State Water Board and other state agencies to better understand the amount of water being saved by conservation, the impacts of demand hardening within the service areas of water agencies with long histories of water conservation programs, and the remaining water conservation potential statewide. CUWA believes the voluntary approach should be allowed to achieve its full potential before imposing regulations. We urge the State Water Board to defer development of an urban water conservation regulatory program and allow the water agencies to demonstrate through the revised CUWCC BMP program and the 20x2020 program that additional water can be conserved.

We urge the State Water Board to assist the voluntary efforts in the following ways:

- Work with the CUWCC to identify urban water agencies that have not signed the MOU and urban water agencies who have had limited success in implementing conservation programs and conduct outreach efforts to encourage voluntary conservation among these agencies;
- Work with CUWA and the CUWCC to address implementation barriers to conservation as a result of external market forces beyond the control of water agencies, and establish a broader stakeholder effort incorporating land use and stormwater agencies, manufacturers, regulatory agencies, the landscape industry, energy providers and others to develop a multi-dimensional approach to water conservation policies throughout the state;
- Work with the Regional Water Quality Control Boards and stormwater permittees to develop integrated policies and best management practices to reduce water waste that results in substantial dry weather runoff;
- Consider a primary role for Integrated Regional Water Management planning groups and/or other regional agencies for establishing regional water conservation goals and programs;
- Work with DWR to improve the tracking of progress in implementing demand management measures described in urban water management plans;

- Work with other state agencies, the water utility industry, and public interest organizations to develop and implement a statewide "Flex Your Efficiency" water conservation education and marketing campaign, similar to the statewide Flex Your Power campaign for energy;
- Support the CUWCC on development of a statewide conservation database that adequately reports on water efficiency practices and gains from a (bottom up) end use as well as water agency and regional IRWM perspective;
- Develop a streamlined statewide policy on the use of gray water;
- Bring agricultural users in as equal partners in meeting the challenge to efficiently use water in California. Recognizing the significant efficiency gains made in recent years by California farmers, important steps remain to be taken in identifying appropriate standards and devising incentive programs. This includes implementation of water use measurement by all water users.

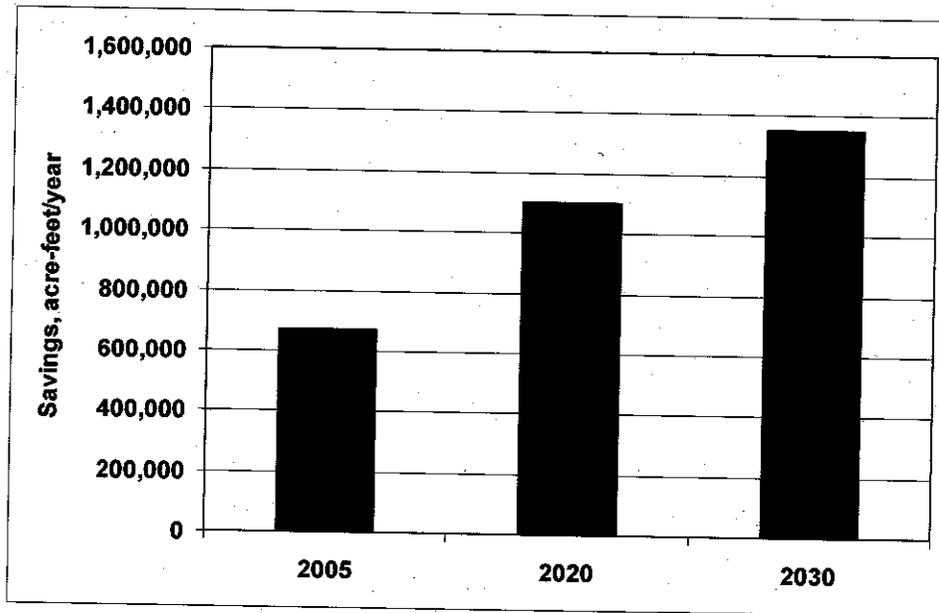
We offer comments on the following key issues and questions listed in the State Water Board's Discussion Paper.

1. Should the State Water Board adopt an urban water conservation regulatory program? Will mandating urban water suppliers to implement certain practices or meet specific performance standards be beneficial for enhancing water conservation?

The State Water Board should defer consideration of an urban water conservation regulatory program. CUWA urges the State Water Board to continue to work with the CUWCC to advance voluntary water conservation efforts. The voluntary approach has resulted in significant water savings. CUWA conducted a survey of our member agencies' water conservation activities. CUWA's members have saved 1.5 million acre-feet of water due solely to their active conservation programs between 1991 when the CUWCC Memorandum of Understanding (MOU) was signed and 2006. There is a steadily increasing trend with up to 180,000 acre-feet of water saved in 2006 alone due to active conservation programs. These savings have been achieved through the expenditure of almost \$700 million dollars since 1991. Attachment 1 contains more details on how these water savings have been achieved.

Active conservation efforts are only part of the story. The total water savings are much greater (over 600,000 acre-feet in 2005 alone) because CUWA's members have influenced customer behavior due to their efforts to change the plumbing code, adoption of ordinances, and support for legislation that has mandated conservation devices. Our members are continuing to aggressively pursue conservation and have set ambitious goals, as indicated in the following figure.

CUWA Member' Conservation Savings



In summary, a mandated regulatory program is not needed at this time and may actually result in less water savings as agencies refocus their efforts on complying with a regulatory program rather than implementing management practices that are most effective in their service areas.

2. What is an appropriate definition of urban water supplier?

The State Water Board should define an "urban water supplier" based on the definition given in the Urban Water Management Planning Act (Water Code, § 10610 et seq.), that is "a supplier, either publicly or privately owned, providing water for municipal purposes either directly or indirectly to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually. An urban water supplier includes a supplier or contractor for water, regardless of the basis of right, which distributes or sells for ultimate resale of customers." (Water Code, § 10617).

3. Should the regulatory program apply to all areas of the state or only to areas subject to certain criteria?

The State Water Board should defer consideration of a regulatory program. A voluntary water conservation program should apply to all areas of the state. As acknowledged by the State Water Board in the workshop notice and by the Air Resources Board in the AB 32 Draft Scoping Plan, conserving water saves energy and results in fewer greenhouse gas emissions, even in areas that have abundant water supplies. While water conservation provides consumer benefits even in areas that are not water short, establishing a "one size fits all" regulatory program that applies to all areas of the state assumes that each area has the same water conservation needs. Urban water agencies understand the water conservation needs unique to their regions. Therefore, CUWA recommends that urban water agencies be allowed to continue to work regionally on

conservation programs. We do however recommend that the State Water Board work with CUWCC and other agencies to encourage voluntary conservation throughout the state and not just in certain areas.

4. Would a performance-based regulatory program, allowing latitude for urban water suppliers to select the practices to meet specified water use reductions, be an effective approach? In what form should the performance standards be expressed, for example, targeted reductions based on total urban per capita use or on water use sectors (residential, commercial, institutional and industrial)?

A voluntary, cost-effective, performance-based program is an effective established approach to achieving water conservation. As stated previously, the CUWCC BMP Revision Process and the 20x2020 Program are evaluating performance metrics. These processes, which will both be completed by the end of this year or early in 2009, are the appropriate venues for discussion of performance metrics.

5. Should the State Water Board adopt prescriptive urban water conservation management practices, such as the CUWCC's BMPs? Would some of the BMPs be more appropriate for state wide implementation than others?

The State Water Board should not adopt prescriptive urban water conservation management practices at this time. As stated previously, CUWA recommends that the State Water Board support the CUWCC program. Compliance with the CUWCC's BMPs or other prescriptive urban water conservation management practices does not measure all progress on water conservation. CUWA's members have an excellent record of complying with the BMPs as well as funding other conservation measures that meet the water conservation needs unique to their regions of the state. Also, as stated previously, the CUWCC is currently in the midst of a year-long evaluation of the BMPs, including consideration for creating foundational BMPs that all member water agencies must implement and a flex track approach that allows water agencies to select additional practices that will best result in water savings within their service areas.

6. Are water pricing structures the most effective conservation measure to mandate on a state wide basis? Should particular volumetric water rate structures, such as increasing block rate, be specified? What criteria should be considered in defining a rate structure? What should the rate structure look like?

The State Water Board should not mandate rate structures. Our member agencies have a variety of conservation water rate structures that promote water use efficiency which have been developed based on the individual needs of each agency. The process of setting water rates is complex and is the responsibility of local water agencies' boards of directors or city councils. Water rates are adjusted frequently by urban water agencies based on many local factors, including the need to fund capital improvement programs. To that end, the elected decision-makers of local water agencies need to consider and have the flexibility to determine how much to recover from the fixed component of water rates, and how much to recover from a variable rate component.

Water pricing structures are one tool to encourage customers to conserve water, along with public education, water audits, rebate programs, and other measures. The 2007 revisions to the CUWCC's BMP 11 – Retail Conservation Pricing, which were negotiated among all its members, requires volumetric rate structures while providing flexibility for local water agencies. BMP 11 is one of the foundational BMPs in the proposed revisions to the CUWCC BMPs.

7. What data are available to support mandating particular water conservation practices and estimating the potential water savings associated with those measures?

The CUWCC has data estimating the potential water savings associated with particular water conservation practices. However, some of this data is based on older studies and needs to be updated. In addition, as previously mentioned, CUWA urges the State Water Board to defer mandating water conservation practices until an assessment of performance under the revised CUWCC Program and the 20x2020 Program is conducted and the Air Resources Board concludes its AB 32 Scoping Plan. In addition, the CUWCC plans to complete a deemed water savings guidebook in 2009 to compliment the BMPS and assist water agencies in selecting and reporting on water conservation savings for their services areas. The planned expansion to the CUWCC database will provide a useful tool to local, regional, and state agencies in helping quantify statewide conservation efforts.

On an important related matter, CUWA recommends that the State Water Board take steps toward requiring the measurement of all water supplies used in the state. Achieving conservation goals cannot be accomplished without first quantifying water use in both the urban and agricultural sectors, including groundwater. The successful management of water use depends on having reliable data on consumption.

Water is a precious resource in California. CUWA believes it is in the interest of all Californians that we make efficient use of our valuable water supplies. Our agencies have achieved tremendous savings at considerable cost and are planning for even more substantial investments in conservation programs that are tailored to our specific service area needs. The current voluntary program is working. We urge the State Water Board to work with us and the CUWCC to improve the voluntary program rather than developing a regulatory program.

Please call me if you have any questions on our comments.

Sincerely,



Elaine M. Archibald
Executive Director

Attachment

Attachment 1 Water Conservation Measures

Residential Savings

CUWA's members have been directly responsible for saving 1.3 million acre-feet of water since 1991 due to residential conservation programs. Key components of the residential programs include:

- ◆ Almost 3.4 million ULFTs and HETs have been retrofitted or rebated
- ◆ Almost 3.5 million showerheads have been replaced
- ◆ About 350,000 high efficiency clothes washers have been rebated
- ◆ Approximately 325,000 faucet aerators have been distributed
- ◆ More than 680,000 water use surveys have been completed

Other programs that contributed water savings include toilet displacement devices, toilet flapper replacements, water softener replacements, and pipe leak repairs.

Commercial, Industrial, and Institutional Savings

Commercial, industrial, and institutional water savings total 84,000 acre-feet since 1991 due to the following programs:

- ◆ 150,000 ULFTs and HETs have been installed
- ◆ 33,000 high efficiency clothes washers have been rebated
- ◆ Approximately 29,000 pre-rinse spray valves have been distributed
- ◆ Almost 23,000 interior water use surveys have been conducted

Other programs that contributed water savings include cooling towers, X-ray film process retrofits, high efficiency commercial dishwashers, water brooms, and flush valve kits.

Landscape Savings

Landscape conservation programs have only recently been implemented and the focus has been on the following programs:

- ◆ Almost 90,000 landscape water use surveys have been completed

- ◆ Over 16,000 rotator spray heads have been distributed
- ◆ Almost 10,000 weather-based “smart” irrigation timers have been distributed

Most of the water savings in this sector (70,000 acre-feet since 1991) has come from landscape water use surveys. Other measures currently being implemented by CUWA’s members include turf removal rebates, rain sensors, and water budgets.