

March 15, 2015

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th floor Sacramento, CA 95814



Via Email Only

Comment Letter – March 17, 2015 Agenda Item 7 URBAN WATER CONSERVATION

Ms. Townsend:

I appreciate the opportunity to provide comments to the State Water Resources Control Board (SWRCB) on Urban Water Conservation. As an engineer working in the field of environmental regulations for over 26 years, and as an elected water official with Newhall County Water District (NCWD) for the past 11 years, I know this is a very important subject for California.

I previously submitted comments for the December 17, 2014 workshop on this topic. I believe those comments are still relevant to the March 17, 2015 proposed action under Agenda Item #7 “Re-adoption of Emergency Regulations for Urban Water Conservation.” I have attached my prior letter and ask that you reconsider those points at this March meeting.

At a high level, I am very concerned about SWRCB actions for several reasons:

- 1) They are technically vague and difficult to implement
- 2) They set a precedent of using Emergency Action to shortchange public review and CEQA
- 3) They give a false impression of water issues and solutions to the public
- 4) They distract from long delayed dialog on the necessary long term solutions

1) Vague is difficult to enforce, easy to circumvent

I believe any regulation should be clear as to how it helps achieve the goal. It should also be prepared with an eye to viable enforcement.

At the December 17, 2014 public hearing we heard public testimony from water agencies about valid metrics to use. There was support for efficiency targets and water budgets. Both of these are numeric and easy to calculate. Our own agency (NCWD) switched to a water budget format using publically available data, quite cost effectively.

Continued reliance on “days of week” watering restrictions does not tie to volumetric reductions other than in a general awareness sense. People quickly figure out they are “legally” allowed to water multiple times on designated days, as long as they avoided runoff. The public is also aware that fewer people observe watering (or violations) at night.

Similarly, your proposed new mandate that irrigation be turned off for 48 hours after “measurable” rain is not complete. Define measurable? We get “measurements” of rain down to one-hundredth-of-an-inch. On a 95-degree day, under other water restrictions (days of week) it is not logical to criticize people for watering if it rained 0.02 inches. In this category I would suggest you look at evapotranspiration and soil and climate conditions to come up with a reasonable amount of rain that would dictate stopping otherwise scheduled watering. 1/2 inch of rain in temperatures below 60F might be a better starting point than “measurable.”

In December 2014, we heard a lot of testimony that the “20%” cutback over prior year was not a good target, because it did not account for current and prior year rain nor did it account for areas that were

already conserving. Some areas have an existing low per-capita use and therefore are already more efficient, numerically, than areas that are more wasteful, yet cut back a higher percentage.

As water agencies, we have a lot of data available to us. Long term, the proper tracking of this requires information similar to water budgets, with climate information and types of use included. Poorly written regulations with ill- thought out or unclear targets will result only in haphazard enforcement and results of questionable quality.

I strongly support using water efficiency targets gallons per capita per day for indoor and outdoor use. Using factors for household size and landscape area with a climate overlay were mentioned in testimony in December 2014 and are a good idea. Use a method that allows water agencies to back out business use and list that in a separate category because different communities have different levels of commerce. Food packaging plants, theme parks, etc. really are not comparable to a “per capita” household use and should be their own category with their own, separate, reduction goals. All of this is doable and will make your data better.

2) Emergency actions circumvent public discussion and CEQA

As a citizen and as an elected official, I strongly dislike emergency actions that are not fully vetted through California Environmental Policy Act and full engagement of all stakeholders.

We heard in December 2014 that many of you went on a tour to Australia with environmental advocacy groups. Have you been able to spend similar amount of time with public water agencies and industry groups to understand the water planning issues we manage? Have you spent a day with an agency such as ours to discuss how we have both invested in water banking projects and budgeted for capital improvements based on customer demand and projections from the Department of Water Resources? This is a complex process. The Association of California Water Agencies and other water working groups spend a lot of time planning and have reasons for what we do, tied to many other mandatory regulations.

When a “short term” regulation is extended (and I fear it will be extended over and over again) you are extending things that impact water operations that were otherwise well thought out and designed. Not all areas of the state need help. Some have failed to plan or outright caused their own problems. If you are trying to assist the citizens of the state, please take time to understand the causes and also understand how your “fixes” are indeed causing their own problems that are not being fully vetted.

For instance, one aspect of that is CEQA. In the south it can get very warm. Los Angeles County and other warm areas are suffering tree losses. Trees help prevent a heat island and reduce power demand due to shade in the summer, and distressed trees become a fire hazard. We also see shifts in wildlife patterns as the animals struggle with reduced natural water AND less water from the urban sources that they use to supplement their needs. Certainly we know other operations such as agriculture or water conveyance, for instance, need to consider “incidental habitat.” Reauthorizing emergency regulations may very well cause long term environmental damage in certain areas, but by painting with a broad brush and avoiding CEQA review, no one really knows for sure, including your agency.

Because the drought may very well continue, I urge you and the legislature to immediately open an appropriate formal rulemaking process to work with agencies up and down the state on how efficiency is best achieved. The emergency mandates certainly should not be renewed over and over again even if the drought persists, as it may very well do.

3) False impressions of water issues confuse the public

As I previously pointed out, it is clear that the majority of the general public believes that we are helping California by taking part in these conservation measures. This is no more valid than saying saving a quarter a day is a path to secure retirement savings.

a) Urban conservation is a drop in the bucket

Killing every plant in the State of California will not help the areas that have no water. Not serving water ever again at a restaurant will not help the areas that have no water. They are, at best, a trivial help to extend supply in local communities and are statistically irrelevant statewide.

The reasons for this are volume and infrastructure. Volumetrically, ALL urban landscape is, at best, 15 % of statewide water use. When you remove large landscapes (golf courses, parks, school athletic fields) homeowner impact is near negligible.

b) Lack of infrastructure contributes to the problem

The central coast and some valleys that struggle have largely overpumped and not invested in outside water resources sufficient to keep up with demand. Even if water resources are “forcibly taken” from other areas that have invested and planned wisely – the means to transport the water does not exist. There are no pipelines to move water from urban areas back to the rural areas that did not fund such pipelines. Urban areas have generally planned wisely, invested heavily, and conserved significantly.

People are under the impression that these actions will “help the state.” Certainly it will help our own communities last a little longer in drought conditions. Our area has invested in 3 years of backup supply. 20% conservation extends that to 3.6 years. An area with a one-year supply gains 2 ½ more months supply. This is neither a permanent fix nor does it help with water resource distribution issues.

The media continually runs stories of the San Joaquin subsidence (caused by decades of willing overdraft) or coastal areas (who chose not to connect to aqueducts to limit growth and/or reduce costs) coupled with stories of how we need to “help our state.” Your own draft resolution (“Whereas #10”) points to struggling communities that have “only 50 gallons of water per day per person.” This is followed by “Whereas #12” that deems urban landscaping as something unnecessary and “Whereas #13” that states a generality of “many” reports of excessive water use. Indeed your own “Whereas #11” states that conservation will “provide flexibility for all California communities.” These statements imply two falsehoods: urban outdoor water use is bad and curtailing it helps statewide.

With regard to the economic drivers of California and, indeed, where most people live, it is inappropriate to make judgment calls regarding urban water use. Part of attracting and retaining business and maintaining individual households depends on water for business, parks, and yes, homes with trees and landscaping. Both recreation/hospitality and real estate far exceed agriculture as an economic contributor both on a macro level and on an “average citizen” level. Personal finances and jobs depend just as importantly on recreation and real estate as they do on agriculture, yet your wording appears to imply that the “state” has decided outdoor landscape is wasteful. This is arbitrary and capricious opinion that should not continue into long term regulation. Efficient use of water is appropriate use for the need. Defining efficiency should not include judgment calls as to the value of the need itself.

In addition, criticizing and tightening down on urban areas will do absolutely nothing to help communities that are not connected to them by infrastructure. Groundwater aquifers are distinct and separate from neighboring ones. Pipelines and aqueducts exist or don’t exist based on both topography and political and economic decisions made by communities.

People and businesses locate in communities that have ample water, parks, and recreational spaces. They pay into the water systems there (and statewide) for a reason. Elected officials in many water agencies have carefully planned for contingencies and set pricing based on the needs of their communities for current year and drought year supply. The areas that have planned well should not be smashed into the mold of those that planned poorly. For those who wish to play “Robin Hood” and redistribute water, there is limited structural means to do so.

Urban water use (20% of the statewide total) is not appropriately cast as the “problem to be fixed” in California’s drought. Southern California, for instance, only withdraws 4% of the water from the Sacramento Delta, yet to

hear both SWRCB and the media, urban users are a problem that must be solved. The biggest problem with this is it is a distraction from the real solutions.

4) Distraction drains willpower for long term planning

The public wants to help and they think urban conservation is helping "the state." Not only is that not true, when they are asked to vote on things such as water infrastructure, they believe, from the messaging, that they can just keep "conserving more." A simple glance at newspaper opinion letters validates this.

Continuing focus on urban conservation will do nothing significant to help the State in short or long term drought. We must have both infrastructure projects that reflect the trend toward moisture falling as rain, not snow AND expedite and streamline regulations for water recycling, water recharge, and, ultimately, desalination. (Desalination is extremely costly and power intensive so is likely the last option for added water supply.)

All experts I have heard are predicting more rain and less snow. We are in no position to do anything other than let that go to the ocean as potentially damaging flood flows. Both Northern California (the primary user of the Delta for both flood control and water) and Central and Southern California will benefit from not wasting the rain that is predicted to fall instead of snow. When I was elected to NCWD 11 years ago, I was told we had already been arguing about fixes to the Sacramento Bay Delta for 30 years. Our time and energy and voter awareness needs to be on that and other infrastructure for water management. It's a hard issue. All of us have limited time to make a difference. It is a misuse of regulatory and public time to "feel good" about regulating cups of water at a restaurant while the real fixes are given no sense of urgency.

Water recycling and recharge regulations are also a quagmire. The Integrated Regional Water Management Process (intended to address those things) is often a mess of different agencies, with different rules, spending three or four times the money to get one partially effective project done because the regulations between drinking water, sanitation, recharge, and flood don't work together. This makes projects take longer and cost much more than they need to.

In closing, I urge SWRCB to focus on wise use of California's water. Talk to the water planners, urban businesses and residents about what they need and what would help them. Understand the lack of infrastructure and the many differing agencies that manage components of water under different regulations. Let's not keep piling on feel-good do-little regulations at this critical time. Talking about lawns and cups of water is not only statistically irrelevant, it's a dangerous distraction from the big picture planning that we all must work on NOW to help California long term.

Thank you for your consideration of these comments.



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Attachment

December 17, 2014

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Comment Letter – Urban Water Conservation Workshop

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I appreciate the opportunity to provide comments to the State Water Resources Control Board (SWRCB) on Urban Water Conservation. As an engineer working in the field of environmental regulations for over 26 years, and as an elected water official for the past 11 years, I know this is a very important subject for California. I offer the following comments for consideration:

Water conservation should target areas where most gains can be made. Urban use is 20% of the total in the state. SWRCB actions only targeted public water agencies... an even smaller portion. A 20% mandate on 20% of the water is, at best, 4% of California's water. Efforts would be better spent on larger uses such as large irrigated areas and agriculture. It is judgmental and distracting to focus on urban landscape when deserts are literally being irrigated for water intensive crops. Urban users dwarf agricultural interests in terms of contributions to the state's jobs and economy and in many areas invest far more for water. The choice of urban users to grow plants, and pay for water projects to do so, should have no more scrutiny than the hospitality and recreation industry's golf courses and parks, or industrial farmers growing rice and strawberries in areas with overdrafted groundwater tables. If SWRCB focus is solely on urban public agencies, a sledgehammer approach is being used to strike a pushpin of a problem.

Emergency regulatory actions do not allow for full public process. There could indeed be negative environmental impacts from watering restrictions. In arid southern California, wildlife at the urban interface depends on irrigation water runoff. Irrigation supports trees that reduce cooling costs and energy demand and support bird populations. The real estate market, gardening and landscape industry, land development, and business users of water can suffer greatly with cutbacks and water supply uncertainty. The emergency action left a much larger group of water users (agriculture) completely unaffected, though many of their areas have the worst overdraft and supply problems. Because of lack of water system connectivity and the structure of water investments, "saving" water in urban areas did nothing to help the areas having shortages, but it appears the public did not understand that. Thorough discussion of equitable public policy, environmental and economic impacts in a proper rulemaking process is necessary.

These actions were unfunded mandates, so little to no budget was available for implementation of a program that reduces water sales and negatively affect our balanced budgets that cover things like capital improvements, maintenance, and debt service.

The public elects public water officials to represent them on water supply. Many officials have engineering, law, finance or water industry backgrounds and work diligently to provide water for their communities. The State Water Resources Control Board should not change governance authority on water supply. Many agencies do quite well at planning for their areas and carefully invest in supplies and long term projects. They should not be treated the same as areas that did not manage their supply well. This is similar to people who have put away retirement savings versus those that did not...it is not fair to dictate actions upon those who have planned appropriately just because some did not.

These actions did not necessarily reduce water use. As customers quickly figured out, the SWRCB mandate for watering day restrictions meant people could water twice as much as long as they did it on

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December 17, 2014

their allowable days. Other factors such as weather, demographics and economic issues all affect water usage. Neither the governors' 20% mandate or the emergency regulations considered what was achievable in the short or long term. Many urban areas have invested in both supplies and conservation planning. It is irresponsible to set public expectations at immediate 20% conservation and then follow that with repeated public criticism in the media. SWRCB and the associated RWQCBs can facilitate good long term water planning through reasonable recycled water policy and realistic scientifically based TMDLs that take into account water reuse needs as an important beneficial use. SWRCB and RWQCB can also assist in streamlining the process for other water supply projects, including water storage, considerations of environmental water needs, stormwater capture and recharge projects, etc. It is my understanding that different areas have different policies and uniform policies would help water planners.

SWRCB is legally and structurally in no position to take over the complex world of water supply planning. They should work with water agencies to discuss the feasibility of their desired goals. It may be appropriate, as the emergency regulations alluded to, that SWRCB establish minimum standards for water availability from a health and welfare standpoint, if that is within their regulatory authority. Public agencies (and private suppliers) can then prove how they will meet those standards, similar to how the new state groundwater regulations have been formatted.

In conclusion:

- Do not distract the public by targeting certain uses (urban landscape) when other uses dwarf that in water demand. Water conservation and supply planning need to be equitable, achievable, and logical.
- Work with all water suppliers (public, private, commercial and individual) and set realistic, non-judgmental targets and a good database of information that supports conservation and water reuse. Databases must consider mitigating factors such as weather and business mixes to be useful for comparative purposes.
- Allow flexibility for areas that have invested in their water supplies and have solid long term plans built on public input and economic investments. A one-size-fits-all approach is not appropriate.
- Participate in partnerships rather than be dictatorial and contrary to existing efforts. If SWRCB can support, though its water quality programs, innovative conservation and water reuse projects, that would be much more helpful than a negative, finger-wagging approach.

Thank you for your consideration of these comments.



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