

Home of
Travis Air Force Base

CITY OF FAIRFIELD

Founded 1856

Incorporated December 12, 1903

January 27, 2016

Via Electronic Mail

The Honorable Felicia Marcus, Chair and
Members of the State Water Resources Control Board
c/o Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
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Re: Notice of Proposed Emergency Rulemaking (January 22, 2016):
Prohibition of Activities and Mandatory Actions During Drought
Emergency

Dear Chair Marcus and Members of the Board:

The City of Fairfield (City) has commented extensively on the State Water Resource Control Board's (SWRCB) Drought Emergency Water Conservation Regulations adopted last May (Emergency Drought Regulations), and the proposed regulatory framework for extending those regulations (Proposed Regulations). In our previous comment letters (dated May 4, 2015 and December 1, 2015, and incorporated by reference herein) the City raised numerous objections to the water use reduction mandates. Chief among these objections was that the requirement for every water agency in the State to meet a prescribed conservation target does not fairly take into account good preparation, planning, investment, and management by agencies such as the City. Regrettably, the proposed revisions to the Emergency Drought Regulations do not address the City's primary concerns, and thus, the City's prior comments continue to apply to the Proposed Regulations and plan to extend them through October 31, 2016. Based on its strong concerns about the scope and effect of the conservation regulations, the City provides the following additional comments relating to the Proposed Regulations.

Extended Term

As an initial matter, the City notes that the Governor's November 13, 2015 Executive Order (Executive Order) directed the SWRCB to extend the regulations until October 31, 2016 "if drought conditions persist through January 2016." Yet, neither the Executive Order nor the Proposed Regulations define "drought conditions," and the vagueness of this term makes it impossible for the regulated community, including the City, to understand the criteria upon which the SWRCB will base its decision whether to, and for how long to, extend the regulations.

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Significant rain and snow already have fallen this winter, and forecasts predict substantial additional precipitation. If, despite these changed conditions, the SWRCB elects to extend the Emergency Drought Regulations, it should reevaluate the existence of “drought conditions” monthly, and with respect to regional availability of water supplies. Areas with above-average local rainfall and a normal snowpack should not be deemed to be subject to “drought conditions” and should be excused from further compliance with the mandatory conservation requirements. Moreover, as emphasized in our prior comments, areas like the City with robust local water supplies should be excused from ongoing compliance (or at a minimum, allowed to seek a conservation target reduction), regardless of whether some portion of their overall supply is imported.

Compliance Measurement

The Proposed Regulations continue to require that compliance be measured monthly and assessed on a cumulative basis. This approach is not a good indicator of actual conservation efforts because use patterns are highly variable year-to-year and seasonally. Compliance assessment should focus on the highest water use months (June through September), where the highest savings can be achieved.

Climate Adjustment

The City generally supports an adjustment factor that reflects the differing climatic conditions that exist throughout the state. A more meaningful adjustment would reduce an agency’s conservation target based on the adequacy of its existing local supplies.

Growth Adjustment

The City supports an adjustment in conservation targets to reflect economic growth. However, the proposed adjustment for growth that has occurred since 2013, which allows for growth-related adjustments based on the number of new homes or new commercial or industrial connections, is unreasonably narrow; it fails to adequately account for unique local conditions, including expansion of existing water-dependent industry and preexisting legal obligations. The City’s largest industrial water user is the Anheuser-Busch brewery, which was established in 1976. The City has a contract with Anheuser-Busch that obligates the City to supply up to 3.1 million gallons per

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day (MGD) for use at the brewery. Anheuser-Busch has been an excellent environmental steward that has cut its water use by more than half in recent years. The brewery's peak consumption was 2 MGD; through significant conservation efforts between 2007 and 2014, consumption is now below 1 MGD, a 56 percent reduction.

Anheuser-Busch recently made the business decision to relocate a portion of its operations to the City due to facility capacity availability and security of the City's water supply. The brewery intends to increase production in 2016, which will require increased water use. The City's long-term water strategy and strategic drought planning had this use and growth in mind, and the City planned and secured stable water supplies to meet customer demands, even during prolonged droughts, in order to maintain the City's overall financial health. As a result, the City has a more than adequate local water supply available to meet Anheuser-Busch's needs.

The mandatory conservation regulations put the City between a rock and a hard place: the regulations require the City to reduce its water usage compared to its 2013 use (and face significant penalties if it fails to do so), while the City's contractual obligations require it to supply more water. The Proposed Regulations, including the growth adjustment factor, fail to provide the City with the flexibility to use its ample, locally developed water supply to meet its contractual obligations. Continuing on this path, when the City's local water supplies are adequate to safely meet the needs of the community, will be injurious and is unacceptable to the City. At a minimum the growth adjustment component of the Proposed Regulations needs to include a provision that does not penalize communities with expanding existing industrial uses.

Adjustment for Drought Resistant Supplies

The proposed downward adjustment in conservation targets for agencies that developed drought resistant supplies after 2013 is misguided – it rewards water suppliers that may have taken a reactionary approach to conservation planning and punishes agencies like the City that proactively devoted substantial resources to developing secure, drought-resistant supplies *before* the drought occurred.

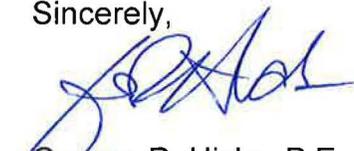
The City, like other water suppliers, has developed drought strategies and made significant financial investments to prepare for a multi-year drought. In fact, the City's past investments in securing backup water supplies have put

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the City in a position to provide adequate water supplies to its residents without any reduction in water use even if the current drought extended for several more years. The existing Drought Emergency Conservation Regulations caused substantial economic losses to the City in 2015 by reducing water consumption revenues and discouraging water intensive industry from locating in the City. The City was, thus, denied the benefit of its sound water management practices, long-term planning and financial investment, and was effectively forced to forego utilizing its drought water supply. The City reiterates its previous comments that any mandatory water conservation regulations should exempt regions without drought conditions and further, that the use of an imported water supply as part of an agency's water portfolio should not preclude that agency from receiving an exemption when a robust local water supply has been developed in conjunction with the imported supply.

The City recognizes and appreciates the severe impact the multi-year drought has had on much of California. The City is optimistic that recent rainfall and snowfall patterns will provide statewide relief from the drought, but recognizes that there remain significant concerns about the potential for continuing drought-related impacts in some areas of the state. Notwithstanding our opposition to the mandates, the City will continue to strive to meet all conservation targets. However, we reiterate our position that conservation cannot be accomplished in a "one size fits all" approach, and should not punish those who have made plans and investments for these precise circumstances. We respectfully request that the SWRCB modify the Proposed Regulations to address the important issues raised in these comments.

Sincerely,



George R. Hicks, P.E.
Public Works Director