

## Comment Letters

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**From:** Royce Cunningham [mailto:Royce.Cunningham@cityofvacaville.com]  
**Sent:** Wednesday, January 06, 2016 4:46 PM  
**To:** Frevert, Kathy@Waterboards  
**Subject:** Comments on Proposed Regulatory Framework

Dear Kathy,

It was with extreme disappointment that I reviewed the “Proposed Regulatory Framework for Extended Emergency Regulation for Urban Water Conservation” document distributed by the State Water Board on December 21, 2015.

First, and perhaps foremost, the State Water Board did not give adequate opportunity for water managers of the many urban water purveyors statewide to discuss the proposed regulatory framework with their respective city councils or agency boards. The document was distributed four days before Christmas, with comments required five days after New Years. Most agencies have their council or board meetings in the second week of the month. This has the appearance of the Water Board wanting to avoid comment on the document and adopt it without the true policy makers even having an opportunity to review it. This is also perplexing because there does not appear to be a justifiable urgency to receive comment on this document within the first month of the winter rain season. Precipitation in December was relatively close to normal, the Sierra snowpack is actually above normal, it is only early January and El Nino storms are coming in as this e-mail is being written. There is no obvious reason the State Water Board could not have provided a few more weeks to comment on the regulatory framework, so policy makers could return from the holidays and adequately discuss the issue and provide helpful, informative feedback to the Water Board.

Another disappointing aspect of the proposed regulatory framework is the lack of effort over the past year of the State Water Board to refine the methodology of setting the water conservation standards. In April of 2015, after abysmal precipitation and snowpack totals over the winter of 2014/15, it was obvious the State needed to take drastic action to deal with the drought. Most agencies felt the methodology developed by Water Board staff for calculating water conservation standards was extremely flawed, but water agencies understood the need for action, and wanting to be part of a solution, have done their best to meet the established standards. But now another year has passed, and the Water Board has done nothing to revise the water conservation standards that are actually rather arbitrary and capricious. Here is an example, one that is not intended to pick on the named agencies, but intended to use factual data to highlight the flaws in the methodology:

*The City of Arcadia, located on the coast near Eureka and serving a population of approximately 60,000, had water production of 4.35 billion gallons in 2013, or an average annual residential water consumption of 198 gpcd. The per capita daily water use of Arcadia in July through September of 2014 was 318 gpcd, resulting in a water conservation standard of 36%. The City of Vacaville, located in the central valley on I-80 between Sacramento and San Francisco and*

## Comment Letters

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*servicing a population of approximately 92,000, had water production of 4.53 billion gallons in 2013, or an average annual residential water consumption of 135 gpcd. The per capita daily water use of Vacaville in July through September of 2014 was 200 gpcd, resulting in a water conservation standard of 32%.*

*If Arcadia meets their 36% water conservation standard exactly, their annual water use should drop to 2.78 billion gallons, or to an annual average of 127 gpcd. For a coastal community, in a cooler climate, this is still a relatively high per capita use. But Arcadia would meet the standard and not be exposed to potential penalties. For Vacaville to meet their water conservation standard, they would need to reduce total water use to 3.1 billion gallons per year, or an annual average of 92 gpcd. For a community located in the much warmer central valley, this is much more difficult. If Vacaville were to only reduce their consumption to an annual average of 127 gpcd, like Arcadia, they would only have reduced water consumption by 6% from their 2013 usage, and would be subject to penalties.*

*This example highlights the inequities of the water conservation standard methodology. Two cities could end up with the exact same annual average per capita water use, yet they would be treated very differently.*

There was adequate time from April 2015 to December 2015 for the State Water Board to review the methodology for calculating the water conservation standards, and come up with a reasonable statewide baseline per capita daily usage, one based on human needs, and then allow upward adjustments to take into account variations due to climate, large commercial business water use, and other justifiable reasons for water agencies to use more water than just the necessary lifeline amount for human needs. The current methodology does not create a level playing field for water purveyors, and in many cases pits one against another.

In a previous letter, the City of Vacaville pointed out how in the 1950s the water agencies in Solano County lobbied the federal government for the construction of the Solano Project, which includes the 1.6 million acre-foot Lake Berryessa. Over the past 50 years, the agencies in Solano County have paid the federal government back for the project, through water rates to our customers. Lake Berryessa gives the water agencies over seven years of storage, even during times of drought. At the writing of this e-mail, the City of Vacaville still has three years worth of water stored in Lake Berryessa, even if there is no rainfall during that period. The water agencies in Solano County also have water from the State Water Project, and groundwater from wells, in our water supply portfolios. However, the proposed regulatory framework provides no recognition for the water agencies in Solano County for developing their sustainable water supply portfolios. It is our opinion that the State has unfairly mandated unnecessary, arbitrary, and capricious water conservation standards on the water agencies in Solano County, water conservation standards that result in dramatically reduced water sales revenues, and place the agencies in economic harm. In Fiscal Year 2015/16 the City of Vacaville is projecting a \$2.5 million revenue shortfall in the Water Fund due to the 32% water conservation standard.

## Comment Letters

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Therefore, we respectfully request the Water Board to:

1. Delay any action of the proposed regulatory framework until the end of February, when an accurate evaluation of precipitation and snowpack totals can be made.
2. Spend the next two months re-evaluating the entire methodology for determining water conservation standards, and develop statewide water conservation standards based upon true human water needs rather than an arbitrary water use period in the summer of 2014. Then, if the drought does continue, a fairer methodology will be available.
3. Take into account that some agencies have spent decades investing in sustainable water supplies. Those agencies should not be punished for their wise investments.

Please feel free to contact me if you have any questions or require additional information.

Regards,

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