



Mahdi Aluzri
Interim City Manager

April 13, 2015

VIA ELECTRONIC MAIL TO JESSICA.BEAN@WATERBOARDS.CA.GOV

Ms. Jessica Bean
State Water Resources Control Board
P.O. Box 100
Sacramento, California 95812-0100

Re: Comment Letter: Mandatory Conservation Proposed Regulatory Framework

Dear Ms. Bean:

The City of Beverly Hills (“City”) welcomes the opportunity to comment on the State Water Resources Control Board’s (“Water Board”) April 7, 2015 Mandatory Conservation Proposed Regulatory Framework (“Regulatory Framework”). As the retail supplier of potable water to approximately 11,000 customers within the City and portions of the City of West Hollywood, the City is committed to providing a safe and reliable source of water to its customers, while working to reduce customer consumption during this severe drought. There is no question that these are challenging times as statewide drought conditions have reached dire levels. Significant action is needed to conserve water. Against this backdrop, the City has already taken important steps intended to meet the requirements established under the Water Board’s existing emergency conservation regulations. The City is also committed to working with the Water Board to achieve the Governor’s statewide conservation goal of reducing urban water use by 25 percent below 2013 levels.

The City offers the following comments and recommendations to the Regulatory Framework in order to ensure a fair and feasible process to help water suppliers capably achieve the Governor’s conservation mandate.

First, the Regulatory Framework classifies urban water suppliers into one of four conservation tiers without affording the supplier a reasonable opportunity to contest its classification through an administrative process. Four tiers of conservation standards ranging from 10 percent to 35 percent are currently proposed, and a supplier’s classification is based exclusively on its September 2014 reported gallons per capita day (R-GPCD). Since the September 2014 R-GPCD reporting data serves as the sole basis for allocating required reductions, the final regulations should include an administrative process or other mechanism by which a water supplier can contest its classification. Each water supplier is faced with specific demographic and geographic factors that do not allow the standard R-GPCD to accurately measure performance. As an

example, Beverly Hills water service area is comprised of 42,157 residents. We call this our night time population. However, a large part of what keeps Beverly Hills thriving is our day time population, which can reach over 250,000 water users. The current targets place a significant burden on our small permanent customer base. Urban water suppliers could not have known in October 2014 that their monthly reporting data would be used as the sole basis for determining an unforeseen mandatory conservation standard. Self reporting on R-GPCD was intended to be an estimate of monthly water consumption, which could be subject to inaccuracies or discrepancies that should be subject to further review and clarification.

Second, the Regulatory Framework does not provide a timeline by which a water supplier must achieve its conservation standard or whether the standard may be phased in over time. Although the goal may be immediate compliance, such an expectation may nevertheless be infeasible if an urban water supplier, such as the City, is expected to achieve water savings of 35 percent. In the City's case, new ordinances, rate structures, and other policies may have to be prepared, studied, and ultimately implemented. Indeed, under the City's current water conservation ordinance, the City Council may face the difficult decision of declaring a "Stage E" water shortage, the highest possible stage, which is primarily intended to preserve potable water use for health and safety needs of water utility customers during a "catastrophic interruption of potable water supply." The City recognizes that drastic action may be required, but developing an appropriate policy to achieve the required water savings will take time, particularly to educate customers about the new conservation measures.

The City believes it is appropriate for the Water Board to gradually assess compliance with the required water reductions throughout the entire 270 day period between June 2015 and February 2016. To that end, the Water Board should delay any formal enforcement actions until water suppliers have been given an opportunity to develop and fully implement new conservation measures. This is particularly important when non-compliance can potentially lead to Administrative Civil Liabilities of up to \$10,000 per day. While the City recognizes that the Regulatory Framework contemplates that the State Board will utilize informal enforcement as a compliance tool, such as warning letters, the final regulations should clarify that those measures will be implemented for a sufficiently long period of time to allow water suppliers to implement necessary conservation measures.

Third, the final regulations should allow water suppliers to demonstrate that another conservation tier, or another conservation standard altogether, is potentially appropriate for considerations not based exclusively on September 2014 R-GPCD, including existing conservation measures and achievements, unique characteristics of the customer base, and other environmental considerations. For example, water suppliers serving communities with high fire risk due to significant amounts of brush or hillsides require more water simply to reduce potential fuel loads. Water suppliers in those communities may face additional challenges in complying with the required usage reductions without potentially compromising the health and safety of the community. A more flexible and equitable regulation should consider the conditions present in a particular community when calculating required usage reductions.

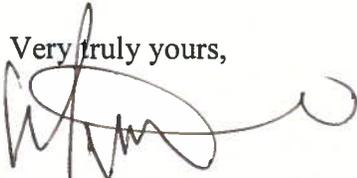
Finally, the proposed classification system based solely on reported September 2014 R-GPCD does not account for water usage reductions a supplier may have already achieved over the past year. In Beverly Hills, for example, the City has already declared a Stage B water shortage, which includes mandatory conservation measures intended to achieve a ten percent reduction in

potable water use. Such measures include a restriction on outdoor watering to three days per week, promoting conservation rebate programs, expediting leak repairs, and other measures intended to comply with the Water Board's emergency regulations. Since declaring a Stage B water shortage, the City has seen the residential per capita usage reduced by 8.3%. This reduction was calculated using the State Water Resources Control Board's methodology and comparing data from September 2014 – February 2015 to the same period one year ago.

The City recognizes that further conservation measures will be required to achieve the Governor's conservation mandate. However, the City is concerned that achieving a 35 percent conservation standard in such a short time may ultimately be infeasible. Marginal savings beyond those already attained will be increasingly difficult to achieve as more demanding measures will be needed to achieve each additional unit conserved. In other words, water suppliers that have already achieved substantial usage reductions will often be compelled to take more onerous measures to further reduce water usage. Accordingly, the City recommends that the State Board consider savings already attained under existing emergency conservation regulations when determining the conservation standard for any given urban water supplier.

The City of Beverly Hills appreciates the challenge of crafting a regulatory scheme that equitably distributes the burden of water conservation between low and high water users needed to achieve an across the board reduction in water use of 25 percent below 2013 levels. However, given the substantial difference in required savings between the four conservation tiers, water suppliers should be granted the opportunity to demonstrate a basis for classification that individually and accurately assesses the characteristics and safety needs of a given customer base. The City looks forward to working with the Water Board to achieve the Governor's water conservation mandates.

Very truly yours,



Mahdi Aluzri
Interim City Manager