



April 13, 2015

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Via email to: [Jessica.bean@waterboards.ca.gov](mailto:Jessica.bean@waterboards.ca.gov)

State Water Resources Control Board

Attention: Ms. Jessica Bean

1001 I Street, 24th Floor

Sacramento, CA 95814

Subject: **Input on Proposed Regulatory Framework to Implement the Governor's Executive Order B-29-15**

Honorable Board Members:

Eastern Municipal Water District ("Eastern") appreciates the opportunity to provide input to the State Water Resources Control Board ("State Board") on implementation of the Governor's April 1, 2015 Mandatory Conservation Proposed Regulatory Framework, Executive Order B-29-15. We fully support the Governor's bold leadership in calling for additional reductions in water use statewide, but have serious concerns with the regulatory framework as currently proposed. It is our hope that the proposed 25 percent reduction will be developed and implemented in a manner that will not only provide short-term drought relief, but are designed to result in permanent water use reduction for the state.

The draft regulatory framework sets a simple outline for the implementation of a 25 percent reduction in potable urban water use. Unfortunately, the overly simplistic nature of this framework invariably results in several equity and implementation concerns. This letter has been developed to provide suggestions and recommendations to ensure that the implementation of new regulations meet immediate needs while promoting broader, long-term water resource policy goals for the state.

As such, we provide the following comments for your consideration:

**The Apportionment Ranges are Excessively Wide:** The proposed breakdown of Residential Gallons Per Capita Per Day (R-GPCD) groupings, using conservation standards of 10 percent, 20 percent, 25 percent and 35 percent are excessively wide and appear arbitrary. As an example, the current proposed break-point between tier 1 and tier 2

shows a 0.004 percent GPCD difference, but translates to a 10 percent GPCD target reduction requirement. Likewise, the break-point between tier 2 and tier 3 shows a 0.014 percent GPCD difference, but translates to a five percent GPCD target reduction requirement. To more equitably align the proposed conservation to historical conservation efforts, Eastern recommends that additional tiers would be more appropriate, using 2.5 percent bands, but no greater than five percent bands, would provide a greater level of precision and equity while still achieving the 25 percent statewide reduction target.

**The Model Inequitably Penalizes Early Conservation Adopters:** Under The Water Conservation Act of 2009 (Senate Bill 7x7), water suppliers are required to reduce their gallons per capita per day usage by 20 percent by the Year 2020, with incremental progress towards that goal by reducing per capita water use by a least 10 percent by the Year 2015. Many agencies have committed substantial resources toward meeting this statutory goal and are performing well. These agencies have already improved water use efficiency and have reduced their GPCD consumption through investments in both indoor and outdoor water conservation programs. As a result, these agencies' demands are somewhat "hardened," thereby limiting their ability to implement significant additional GPCD reductions in 2014 and 2015, relative to the arbitrary baseline of 2013.

By example, Eastern has already reached its targeted usage under SB 7x7, with an exemplary reduction in gallons per capita per day of more than 22 percent, exceeding our 2020 compliance target by over 23 GPCD. Eastern was able to accomplish this significant reduction through a combination of water use efficiency incentives and an allocation-based water conservation rate structure that provides strong pricing signals to customers to reasonably use water at all times, not just in times of drought.

Despite these significant strides and successes in water conservation, Eastern customers are now being penalized by failing to include any reasonable factor for the demand hardening that exists from conservation efforts that pre-date the 2013 baseline included in the Governor's Executive Order. Similarly, those agencies that have not implemented significant conservation measures before 2013 have substantially greater capacity to cut water consumption than those that have made substantial strides in implementing structural water use efficiency prior to 2013. To ask agencies that have been good stewards and have achieved accelerated SB 7X7 compliance to cut the same as agencies that have not complied is patently inequitable and poor public policy.

To address this, Eastern proposes that the baseline R-GPCD incorporate a numeric adjustment factor to account for agencies' past implementation of structural water use efficiency and degree of compliance with SB 7X7. This factor would be based upon the established SB 7x7 statutory baseline reporting data provided to the Department of Water Resources and applied as both a positive and negative adjustment such that the framework model would still result in a 25 percent overall reduction among the regulated agencies.

**The Model Should Adjust for Climate Differences:** Eastern's preliminary review of the Excel model provided by the State Board indicates that in the 10 percent reduction tier, 66 percent are on the Coast and others are in in very high-density areas, while in the 25 percent reduction tier, only 4.5 percent are on the Coast. Failing to account for

climate in the R-GPCD calculations discriminates against the inland population of California.

R-GPCD reporting should be weather normalized – readily available temperature, precipitation or evapotranspiration data should be used to normalize water use data for reporting purposes. U.S. Climate Data or the California Irrigation Management Information System are both well established, broadly accessible data sets that can be used for this analysis. Several weather normalization methodologies exist, including methods from the California Urban Water Conservation Council, American Water Works Association, and California Public Utilities Commission. It is our opinion that weather normalizing the R-GPCD reporting would substantially improve the fairness of the proposed target reduction tiers. This climate zone modification adjustment would also be applied to modify individual agency's requirements, but the framework model would provide the desired 25 percent overall reduction among the regulated agencies.

**The Model Should Adjust for Drought-Proof Water Supply Development:**

Expanding the use of recycled water is a priority in the state of California as documented in the California Water Plan. Eastern is a state-wide leader in recycled water, with recycled water accounting for over 25 percent of its overall water supplies. Unfortunately, these significant investments are not considered or recognized in the proposed regulatory framework. Incorporation of recycled water use is an investment in permanent drought proofing and aligns with state recycled water policy goals. Moreover, the implementation of recycled water has the effect of partially "hardening" potable water demands and incrementally reducing an agency's ability to invoke additional potable demand reductions. Specifically, agencies that have already converted large landscape areas to recycled water do not have the opportunity to further reduce potable water use in these areas. As such, the model should also adjust for agencies that can demonstrate a significant amount of recycled water use and apply this adjustment in such a manner as to provide the desired 25 percent overall reduction.

**The Model Should Adjust the Baseline R-GPCD Period:** Due to the high variability in month-over-month water demands across the state, Eastern recommends that the State Board consider a nine-month average of R-GPCD (June 2013 to February 2014). This would more equitably align for hot/cool months across the state and reflect conservation achievements in the entire drought baseline year.

**The State Board Should Avoid Monthly Comparisons:** Progress towards demand reduction should be tracked on a cumulative basis not comparing monthly data. Monthly water use can vary significantly with weather and other factors and is not an indicator of long term trends. Moreover, the State Board's monthly publication of the data in this manner sends a confusing message to the public and skews the actual level of water use efficiency that is being achieved.

We recognize that the State Board has been tasked with developing a framework that will achieve a 25 percent savings statewide, and had very limited time in which to develop a working quantitative model that can appropriately take these considerations into account. To that end, Eastern is working with several other water agencies to apply the aforementioned equitable

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adjustments to the State Board's quantitative model and plans to deliver that corrected model to the State Board no later than April 21, 2015.

Given the short time, we are concerned that the reductions as proposed will have a deleterious impact on the fragile economic recovery of the Inland Empire, and that a better long-term solution which provides alternative compliance paths that recognize extraordinary conservation and water supply developments would be in the best interests of the state.

To that end, Eastern recommends that the State Board recognize agencies which fully implement their Water Shortage Contingency Plans at a level consistent with the State Board's reduction goals as making an appropriate compliance effort, and work with those agencies that have acted in good faith on "Corrective Action Plans" in-lieu of assessing administrative orders and levying fines. In this regard, we recommend that the State Board clearly establish a process for submitting Corrective Action Plans including when and what should be submitted, and specifying standards-based items such as the implementation of sustainable tiered rate structures and commitments to meet minimum, current or lower indoor/outdoor standards that would meet the goals outline in the Executive Order.

We would also encourage the state and Governor to take two other immediate actions. First, to limit its own landscape water use and apply the same if not greater potable water restrictions and reductions to all state owned or controlled landscaped areas: most notably for such prolific and public water users as CalTrans, the California State Universities and the University of California. Second, to supplement the Governor's Executive Order and require all agencies in the state to install water meters on potable water service connections no later than December 31, 2015. The fact that some urban areas in the state have been able to avoid such basic water management practices as metered water connections is simply unconscionable. To assist with this, the State Board could immediately deploy low interest loans to ensure timely implementation.

We appreciate the difficult task ahead of the State Board in implementing standards for statewide reductions of 25 percent in a very short period of time. However, we urge the State Board to provide consideration to a quantitative methodology that more fairly and equitably addresses the unique characteristics of local agencies and populations statewide.

Sincerely,



Paul D. Jones II, P.E.  
General Manager

- c. EMWD Board of Directors  
Thomas Howard, Executive Director, State Water Resources Control Board