



April 22, 2015

State Water Resources Control Board
Felicia Marcus, Chair
Members of the Board
1001 I Street
Sacramento, CA 95814

Via email to Jessica.Bean@waterboards.ca.gov

Re: Draft Regulations - 25% Conservation Standard

Dear Chair Marcus and Board Members:

The North State Water Alliance (Alliance) joins many entities in Northern California in expressing our concerns with the draft conservation regulations and particularly the authority relied upon by the State Water Resources Control Board (SWRCB) to impose mandatory conservation targets for various water agencies.

Northern California has been challenged in many ways by the fourth consecutive dry year. We appreciate the Governor's leadership and share the objective to achieve greater water savings through continued and improved conservation. As you know, water agencies throughout Northern California have aggressively managed water to stretch existing supplies and they have implemented significant conservation measures that have resulted in tangible water savings.

Importantly, water in the North State is carefully managed for various reasonable and beneficial uses "to the fullest extent of which they are capable." We are therefore concerned by the SWRCB's continued reliance on its "waste and unreasonable use" authority to support various actions throughout the region. Here, the draft regulations state that they will prevent "waste and unreasonable use," which is simply not accurate and is not supported by the facts surrounding water management in Northern California.

The "tiers" of mandated conservation contained in the draft regulations are not based on any particular "unreasonable use" or "waste" of water, but are instead simply tied to urban usage from a specific time period in 2013. The "tiers" do not recognize water right priorities, population density, climatic variation, or any other facts particular to water use. The draft regulations are intended to apply to water diverted and used from any source, whether from surface or groundwater supplies.

Various counsel in the region will provide further details on our concerns. In general, the SWRCB cannot exercise its "reasonable use" authority in a blanket manner, such as the draft regulations. In our view, the SWRCB's "reasonable use" authority is not a panacea. Instead, it is a framework by which the SWRCB can carefully examine specific diversions and uses of water and determine whether, based on specific facts, a particular use is unreasonable. The draft

regulations do not look at any particular use or type of use and instead simply declare the regulations are necessary to prevent the “waste and unreasonable use of water.”

The draft regulations also ignore the rule of priority. The draft regulations implement tiered conservation mandates tied to beneficial use during a portion of 2013, thus in Northern California the regulations will likely result in senior water right holders being forced to cease beneficial use (“conserve”), while junior water right holders are entitled to continue to use water, perhaps at much greater quantities than senior water right holders. Imposing conservation mandates that result in water right holders diverting water without regard to priority “ignores the priority system that is fundamental to the SWRCB’s authority to regulate water uses.

More than 150 cities, counties, water suppliers, businesses, and community groups in Northern California have recently come together around our common interests in water resources to form the *North State Water Alliance* and to speak with a unified voice. The *Alliance* is an urban-rural partnership committed to statewide water solutions that protect the economy, environment and quality of life in Northern California.

Please call us if you have any further questions.

Sincerely yours,

Regional Water Authority
Northern California Water Association
Mountain Counties Water Resources Association
Sacramento Area Council of Governments
Sacramento Metro Chamber