

# LATE COMMENT



Offices of John S. Mills  
P.O. Box 1160  
Columbia, Ca. 95310

Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24th Floor  
Sacramento, CA 95814

April 22, 2015

Dear Ms Townsend:

Please accept these comments on the proposed draft "Proposed Text of Emergency Regulation for Drought Emergency Water Conservation" as released on 4/28/15 on behalf of my clients Calaveras County Water District (CCWD).

CCWD supports the Governor's April 1, 2015 Executive Order and his objective of achieving an aggregate statewide 25% reduction in water use through February 2016. We also support the Board's efforts to promptly impose the necessary regulations to carry this out.

CCWD previously submitted comments on the earlier version of the Emergency Regulation for Drought Emergency Water Conservation and those comments stand with the addition of the comments submitted herein.

The refinements made to the earlier regulation proposal as reflected in this most recent version did help clarify some points of concern. Nonetheless, we believe there are significant concerns remaining specific to the amount of conservation required and how that was determined. We believe the existing proposal fails to recognize clear regional and local differences related to climate, existing requirements under permits for the State Drinking Water Program, existing on-hand surface reservoir supplies, wildfire demands on urban potable water systems and population numbers for the months of June 1 to September 30 based on census data, but include areas dominated by summer vacation use.

CCWD wants the SWRCB to fully appreciate the challenges and complexities that the conservation objectives impose on local water agencies. CCWD also wants to point out that there are significant complicating factors that if brushed

aside, or otherwise overlooked will create a system of significant inequities in the assignment of water use reductions and create unnecessary hardship on local communities, CCWD customers and the District.

What is needed to assure this does not happen and that the State does achieve its 25% reduction without significantly harming some communities, cities and counties and regions, is a more flexible methodology regarding specific points.

**The three-month measurement period** - The proposal to only use the three hottest and driest months of the year, as a period of measurement does not reflect the actual year-round water use of CCWD. By limiting the measurements to those three months, in particular in very hot interior areas as well as high tourism and vacation use, this will impose an unjust burden upon agencies like CCWD. We strongly urge that a 12-month measurement period be used instead.

**Current water treatment plant operating permit conditions** - The State Drinking Water Program, in compliance with the U.S. EPA's Stage 2 Disinfectants and Disinfection Byproducts Rule (DBP rule), establishes certain protection levels from disinfection byproducts to assure adequate water quality from treated water plants. These requirements are for systems with sources such as lakes, reservoirs and rivers. Pathogens found in those waters may cause numerous health risks and therefore municipal supplies must be disinfected to kill or otherwise render inactive those pathogens. Unfortunately chlorine, used to disinfect water may react with naturally occurring matter in the water and form byproducts in the water. The byproducts include: a) Trihalomethanes (THM); b) Haloacetic acids (HAA); c) Chlorite and; d) Bromate. The DBP rule was imposed specifically to protect human health.

Unfortunately, when lake levels are reduced in drought years such as this year, the amount of organic material in the water in those lakes increase. This in turn requires adjustments in the treatment of the water at the treatment plants. Permits which allow some of those plants to operate (such as CCWD's plant that treats water from New Hogan Reservoir) require flushing flows of the system to reduce the levels of THM's and HAA5 in the potable water. Those flushing flows use a substantial amount of water downstream of the treatment plant. It is not justifiable to include those flows in computations of water use by CCWD. Nonetheless, due to the way the calculations were originally developed those flushing flows were not subtracted out of total water actually consumed by end users. The SWRCB should provide accommodation to agencies that must carry out regular flushing flows to meet the State Drinking Water Program permit requirements. A process should be permitted in advance of assigning final conservation requirements for the responsible water agency for that agency to

supply the SWRCB with the amount of water to be subtracted from total water use in determining water conservation objectives and monthly reporting.

**Wildfire** - Wildfires may place substantial demands on a municipal treated water system for an extended period of time. For example, the Rim Fire in 2013 burned over 250,000 acres in a Sierra Nevada Watershed and lasted for over a month. A process should be permitted for local agencies to be able to submit additional information to the SWRCB when such conditions may occur so that conservation objectives subtract out that use and monthly reporting incorporate such factors.

**Surface Reservoir Storage** - The proposed Section 865(c)(2) only allows for areas that have a four-year supply of storage at this time, but makes no provision for areas, which may have lesser increments of multi-year storage, but not have the four-year supply on hand. This is arbitrary and does not reflect the value of firm surface storage supplies for multi-year periods to water agencies. CCWD urges the Board to instead adopt a sliding (on-hand storage) scale such as below:

48 month on-hand surface storage supply = 4% reduction from 2013 monthly use levels.

36 to 47 month on-hand surface storage supply = 6% reduction from 2013 monthly use levels.

36 to 47 month on-hand surface storage supply = 8% reduction from 2013 monthly use levels.

18 to 35 month on-hand surface storage supply = 10% reduction from 2013 monthly use levels.

**High Percentage of Vacation Homes** - The CCWD service area includes two areas with very high vacation home rentals (2/3 of the homes). Those homes are primarily occupied during the summer season of June 1 to September 30 of each year. Persons per household in those homes are significantly higher than the year-round person per household levels found in the remainder of the CCWD system. Therefore, basing water use targets, in particular, on summer (peak use) months, but using a person per household number which is based on year-round family size skews the R-GPCD and GPCD significantly higher, but only because of the months selected by the SWRCB as the months for comparison. A process should be permitted for local agencies to be able to submit additional information to the SWRCB so that conservation objectives are made based on the higher person per household occupancy, which represents the real cause of higher water use, and that information should be incorporated into R-GPCD or GPCD calculations and reflected in required conservation standards.

CCWD believes absent accommodation for regulatory requirements, potential wildfire events, adjusted surface storage on-hand supplies and adjustment for vacation home occupancy levels, the proposed Emergency Regulations are prejudicial towards local agencies like CCWD, and will unnecessarily impose conditions on them that place an unwarranted burden on the customers of the CCWD, the communities of Calaveras County and the District itself.

**Next Steps** - Irrespective of the actual content, timing or the (ultimate) duration of the emergency drought regulations, CCWD urges the SWRCB to work with a stakeholder group to assist the Board in developing not only future drought conservation standards, but also to assist the Board in the development of new permanent conservation regulations.

We also urge the SWRCB to engage in workshops to examine the potential role of allocation-based tiered rate structures in meeting California's future water efficiency needs and by doing so in a fashion that comports with the requirements of Proposition 2018.

CCWD is committed to supporting the Governor in achieving a 25% statewide reduction in potable urban water use during these times of extremely dry conditions within the San Joaquin River watershed and much the state in general. The District and its customers remain committed to supporting the Governor in on-the-ground actions that will help protect the supplies available for what may be yet another drought year ahead. We hope that the Board will continue, as time and resources permit, to hold workshops for an open communication between the regulated community and the Board. Only through those sorts of regular opportunities for discussion on policy issues, lessons learned and suggestions for going forward, can we make the progress necessary for the state in facing the challenges ahead and create an environment of necessary trust between the Board and the regulated community.

Please do not hesitate to contact me directly with questions or to discuss these matters.

Best,

*John S. Mills*

John S. Mills