



November 30, 2015



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**VIA E-MAIL**

Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814  
commentletters@waterboards.ca.gov

**Re: COMMENT LETTER—URBAN WATER CONSERVATION WORKSHOP**

Dear Ms. Townsend:

I am the General Manager of West Kern Water District ("WKWD") and write this comment letter on behalf of WKWD in regards to the State Water Resources Control Board's invitation to comment on the potential for the extension of the Water Board's current emergency conservation regulations ahead of the December 7 Urban Water Conservation Workshop.

WKWD encourages the Water Board to include in any extended regulations the option for water suppliers who face firm commercial and industrial water use to seek an "alternative method of compliance." Ideally, the alternative compliance option should be codified into the regulations.

The Water Board should also make an explicit finding as to whether Governor Brown's mandate that the Water Board achieve an overall 25% reduction in potable urban water usage continues to be the lodestar of any extended emergency regulations. The Governor's most recent order appears to leave that point purposefully vague.

**I. Alternative Compliance**

The option to grant water suppliers an alternative method to comply with conservation standards has been a useful point of flexibility for suppliers and the Water Board. The Water Board should continue to allow alternative compliance methods in any extended emergency regulations.

**A. Alternative Compliance has been a useful tool for water suppliers and the Water Board.**

When the Water Board adopted the current emergency regulations, its resolution included language providing that, "[i]f the supplier believes the conservation standard

is unachievable due to firm commercial and industrial water use and residential use reductions that would affect public health and safety, it should provide any supporting information or documentation for an alternative method of compliance.” (Resolution No. 2015-0032, ¶ 16.)

The Water Board has granted alternative compliance orders to at least seven water suppliers since the implementation of the emergency regulations. Please review: [http://www.waterboards.ca.gov/water\\_issues/programs/conservation\\_portal/alternative\\_compliance\\_orders.shtml](http://www.waterboards.ca.gov/water_issues/programs/conservation_portal/alternative_compliance_orders.shtml). Each of those water suppliers is tasked with providing reliable sources of water to indispensable state industries, such as power plants and various other industrial operations.

Although these industries may have long-term options to reduce water use, they often have no short-term options to enhance conservation without closing operations and reducing employment. The option to grant alternative compliance orders, therefore, gives the Water Board the flexibility to recognize the unique position of certain suppliers, and relieves suppliers from having to impose counterproductive restrictions on important industries.

**B. Alternative Compliance should be adopted as a formal part of the emergency regulations.**

When the emergency regulations were initially issued, the alternative compliance option was not formally included in the regulations. Instead, the option was included as part of the Water Board’s resolution issuing the emergency regulations. (Resolution No. 2015-0032, ¶ 16.)

The Water Board should take this opportunity to add the alternative compliance option to the regulations.

The alternative compliance option could be added to section 866 of the current emergency regulations as the following subsection (c):

(c)(1) If a water supplier believes that its conservation standard is unachievable due to firm commercial and industrial water use and residential use reductions that would affect public health and safety, it may submit a request to the Executive Director, or the Executive Director’s designee, providing any supporting information or documentation and requesting an alternative method of compliance.

(2) If the Executive Director, or the Executive Director’s designee, determines that a water supplier’s conservation standard is unachievable due to firm commercial and industrial water use and residential use reductions that would affect public health and safety, the Executive Director, or the Executive Director’s designee, shall issue an alternative compliance order.

(3) An alternative compliance order issued pursuant to this subsection (c) may require additional actions by the supplier to maximize achievable conservation and shall permit the supplier to exclude industrial and institutional process water from the calculation of its total potable water production.

The option to exclude industrial and institutional process water from the calculation of total potable water production would be a valuable feature for alternative compliance. Under the current emergency regulation framework, conservation standards are determined by reference to residential gallons per capita per day. But, the supplier's mandate to reduce its total potable water production includes deliveries both to residential and industrial customers. Because industrial customers have no flexibility to reduce process water, the responsibility to make up for the water that industrial customers cannot conserve falls to the provider's residential customers.

The proposed alternative compliance regulation should be adopted to formally add the alternative compliance option to the emergency regulations and advance its utility as a tool for the Water Board.

## **II. The Water Board should clarify whether the 25% reduction mandate remains.**

In April 2015, Governor Brown ordered the Water Board to impose restrictions to achieve a 25% reduction in potable urban water usage through February 28, 2016. In November 2015, the Governor issued a new executive order that requires the Water Board to "extend . . . restrictions to achieve a statewide reduction in urban potable water usage" if drought conditions persist.

The Governor's November 2015 order is vague as to whether the Water Board is required to continue to meet the overall 25% conservation target, or if the Water Board has the freedom to set new objectives.

The Water Board should clarify this ambiguity as soon as possible. If the Water Board is no longer limited by the 25% target, it will have substantially more flexibility to craft regulations that meet the State's immediate needs. It will be easier for the Water Board and other stakeholders to provide productive comments if all parties have a clear understanding of the Water Board's conservation objectives.

Sincerely,



Harry Starkey  
General Manager

cc: Joseph D. Hughes, Esq.