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State Water Resources Control Board  
Division of Water Rights  
PO Box 100  
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Via E-Mail [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

Re: **Dry Year Report Comments**

Dear Members and Staff of the Water Board:

I write in response to the Board's invitation to provide input regarding water rights administration to address the current drought. I do not write on behalf of any particular client; the clients whose experience is reflected in this letter are municipalities of diverse size and water resources. Most are water right holders; some have contract rights of various types; some have storage or access to storage and others do not. All rely largely on surface water for their municipal supply. A common concern is the ability to effectively plan for another drought year.

This past year the Board curtailed post-1914 appropriative water rights in several watersheds. With the limited exception of three fishery based curtailments, those curtailments were not accompanied by any provision for health and safety water. If the drought continues, it is reasonable to anticipate that the Board may again curtail post-1914 appropriative water rights, and may extend curtailment to more senior rights.

The Board is asking for input on its drought response during the 2014-2015 water year. The regulated community does not yet know how the Board's actions during the past water year functioned. That information should be provided by the Board. Examples of the questions that should be answered include:

- What water savings were achieved? How were they achieved?
- What hardships were experienced and how were they handled?
- If curtailment affected an entity's supply to the point that it could not provide adequate municipal service, what happened?
- What enforcement actions were taken? What were the results?

- Is the Board going to address this type of situation the same way this coming year, or if not, what will it do?
- What did the Board learn from the 2013-2014 water year experience that might inform us going forward?

All California communities were called on this past water year to cut back significantly, and many did just that. For some, this entailed significant local investment and planning, in a time of reduced revenues.

Many municipalities are planning for the coming year, assuming that the drought conditions persist. They are looking at pursuing alternative water supplies, conservation, infrastructure improvements, and other tools. For some, supplies that were available this past year in lieu of curtailed rights – or rights for which supply was limited for other reasons - may no longer be available this coming year, or may be available in lesser amounts.

As you know, municipalities cannot “turn the tap off.” They also have limited means to enforce deep rationing. There are numerous laws, economic constraints, and physical factors that constrain their ability to curtail water deliveries, from Proposition 218 to pressure zones to fire and health facility requirements. The idea that a municipality could realistically limit residential water use to 50 - 55 gpcd is at best questionable . Given these imperatives, additional consideration for the complexity of operating municipal water systems would produce better informed decisions about reducing water demand in urban environments. Many municipalities have on-the-ground, practical experience regarding what is feasible, and in what respects pushing the envelope works (i.e., what gets the bigger bang for the buck) in their particular service area.

The Board should respect these constraints in its drought planning. We do not live in a vacuum; we need to work within (or change) those constraints. This drought is pushing all of us to learn how to do more, and to do more. If the Board is to be effective, its actions need to reflect what actually can be implemented in terms of water savings, in each affected community. The Board also needs to provide as much advance notice as possible to provide sufficient time for affected municipalities to plan and implement any new measures in a manner that is feasible, effective, and complies with applicable legal requirements.

In summary:

- the Board should provide information regarding this past year's experience;
- well before the Board adopts any further regulations or orders regarding conservation, curtailment, or other measures, it should talk with those who would be in the role of actually implementing the measures contemplated; and
- the Board should take into consideration applicable constraints on demand reduction.

Respectfully submitted,

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