



September 22, 2008

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Paul Selsky, Vice Chair

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

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Re: Policy Statement of the Regional Water Authority: SWRCB Proposal to
Develop an Urban Water Conservation Regulatory Program

Dear Ms. Townsend,

While RWA appreciates the State Water Board's desire to encourage water conservation in California, a regulatory approach presents a number of concerns. The comments below are tied to the seven "Key Issues and Questions" identified in the discussion paper prepared by State Water Board staff. The Regional Water Authority represents 22 water purveyor and affiliated agency members in Sacramento, Placer, El Dorado, and Yolo Counties.

1. We do not believe that the State Water Board should adopt an urban water conservation regulatory program. Further mandating urban water suppliers to implement certain practices or meet specific performance standards will not enhance water conservation in the Sacramento region.

The foremost concern with a water conservation regulatory program is that the "one-size-fits-all" approach that is likely to be implemented through regulation cannot adequately reflect important differences between water uses in the many regions of the state. The California Legislature recognized the need for local planning and decision making in Water Code Section 10610.2(a)(2) which states, "*The conservation and efficient use of urban water supplies are of statewide concern; however, the planning for that use and the implementation of those plans can best be accomplished at the local level.*" The State Water Board's discussion paper also reflects this when it states, "*Translating water use efficiency savings into specific water supply reliability benefits will depend on the water system involved.*"

In the greater Sacramento Region, which includes parts of Placer, El Dorado, and Yolo Counties, a significant portion of the water used is returned to local streams and groundwater aquifers, in contrast to other areas of the state for which water is irretrievably removed from one region for the benefit of another. It would not be

appropriate to apply, to our region and others that are similarly situated, water conservation standards that are as stringent as those applied to regions that depend on imported water. Water saved in a transfer-dependent region generates much more value to the region and the state than water conserved within the watershed from which it is derived.

While the inequity that could result from a water conservation regulatory program is our primary concern, we also believe consideration of a regulatory approach is unwise for the following reasons:

- (a) The California Legislature provided extensive and detailed direction to urban water suppliers regarding conservation in the Urban Water Management Planning Act (Act, Water Code Section 10610 *et seq*). If the SWRCB does not believe the Act provides for effective water conservation, the Legislative arena may be a more appropriate setting for a discussion of additional measures.
- (b) The implementation of water use efficiency is currently in a state of flux. The California Urban Water Conservation Council (CUWCC) is in the process of revising its Best Management Practices (BMPs). These revisions should help urban water suppliers make additional improvements in water conservation. Development of a regulatory program before allowing adequate time to complete these revisions and evaluate their effectiveness could be counterproductive.
- (c) AB 1420 (2007) provided additional incentives for water purveyors to comply with the CUWCC BMPs. The legislation requires urban water suppliers to be in compliance to be eligible for grant funding for water projects. Allowing time for this incentive based approach to water conservation to work should precede establishment of a regulatory program.
- (d) Agencies that are U.S. Bureau of Reclamation contractors are required to fully implement the BMPs of the CUWCC. Non-compliance can lead to renegotiation of the water contract. This provides an additional incentive for Bureau contractors in our region to comply with the BMPs.
- (e) The State Water Board and other agencies are currently involved in a public effort to develop a plan to implement the Governor's call for 20% per capita reductions in water use by 2020. A separate process to consider development of a water conservation regulatory program will only serve to confuse stakeholders and reduce their ability to participate in the state's decision making.
- (f) The State Water Board discussion paper notes, "One of the most effective water conservation measures is BMP 4, the installation of water meters and the billing of water according to the amount of water used." Metering is already required under Water Code

Section 525 *et seq.*, allowing a January 1, 2025 timeframe. Central Valley Project contractors in our region have a 2013 deadline for metering. In response to these mandates, water suppliers in our region have already completed, or are aggressively pursuing meter installation programs. Without full metering, a mandatory conservation program with measurable results will be difficult to achieve. Responding to new regulatory requirements will increase the administrative burden on water suppliers, but not accelerate progress.

- (g) A water conservation regulatory program would require significant expenditures for development, implementation, and enforcement at a time when the State and local governments face severe budget deficits. In light of the uncertainty that such a program would have a tangible benefit, it should not be undertaken.

2. We favor the consistent use of the "urban water supplier" definition in the Urban Water Management Planning Act (Water Code Section 10617).

3. We agree that conservation can provide consumer benefits even in areas that are not water short; however, conservation has greater public acceptance in areas that are chronically water short. As noted in the discussion paper, BMPs requiring significant customer interaction were the least implemented. It is difficult to gain participation on customer driven BMPs when water is plentiful, water rates are relatively low, and water meters are not yet installed.

4. The CUWCC has been discussing a flexible approach to BMP implementation. This approach will allow water agencies the flexibility to choose the BMPs that will best fit their customer base, allowing them to efficiently meet a water savings goal. Many water agencies support this approach and are eager to see positive results. However, this approach has not yet been finalized or tested. Allowing time for this approach to work should precede establishment of a regulatory program.

5. A prescriptive approach to water conservation is not working well in all areas, as reflected in the reports produced by the CUWCC. At the CUWCC, it was agreed that certain BMPs are considered to be foundational, which all agencies should implement. These included the educational programs, distribution system audits, metering, water waste programs, conservation pricing, and having a water conservation coordinator. All others are prescriptive and rely on customer participation. In a normal or wet year, agencies do not receive the level of participation they need to satisfy the customer-dependent BMPs, and regulatory requirements are unlikely to change this.

6. Water pricing structures must be left to each agency to implement and not be regulated. There is not a one-size-fits-all solution to establishing water rates. Water rates, which directly

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affect the financial stability of local agencies, must remain under the control of their local Boards or Councils. In addition, an unintended consequence of this approach may be to place a financial burden on those with the least ability to pay.

7. Many of the prescriptive BMPs created by the CUWCC are non-quantifiable. It is assumed that these BMPs save water, but some are difficult or impossible to quantify. In addition, each agency is unique. Some have many large landscape customers, some have a large industrial class, some have a large number of low income residential customers. It is important to realize that not every agency will have similar success rates or save the same amount of water, even if a mandatory conservation program is implemented.

The Regional Water Authority represents 22 water purveyor and affiliated agency members in Sacramento, Placer, El Dorado, and Yolo Counties. Urban water suppliers in the region are actively pursuing water use efficiency in response to a number of requirements, both through their individual efforts and through a regional program administered by RWA. We believe a State Water Board regulatory program will add an administrative burden and considerable expense, while facilitating little or no real improvement in our water conservation efforts. Thank you for the opportunity to comment.

Sincerely,



John Woodling
Executive Director