January 5, 2016

RE: Comments on Proposed Regulatory Framework

VIA EMAIL: Kathy.Frevert@waterboards.ca.gov
Ms. Kathy Frevert
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento CA 95814

Dear Ms. Frevert:

The City of Barstow ("City") submits the following comments on the State Water Resources Control Board's ("SWRCB") Proposed Regulatory Framework for Extended Emergency Regulations for Urban Water Conservation, released December 21, 2015. The City supports the SWRCB for providing several public comment opportunities as it considers whether and how to extend the existing water conservation regulations intended to respond to the ongoing drought.

The SWRCB's data indicates that the state, as a whole, has achieved a cumulative 26.3% water savings from June to November 2015, compared to the same period in 2013. At this level, the state has collectively met its conservation target over these six months, and is on track to continue to meet the conservation target overall. Given this fact, the SWRCB is right to respond positively to the stakeholder proposals to modify the existing conservation regulations by reducing individual agency's conservation targets when warranted in a variety of cases.

I. SWRCB Should Adopt Proposed Framework to Adjust Conservation Targets to Reflect Higher than Average Evapotranspiration Rates, and Should Adjust Reduction Percentages Higher

The SWRCB's proposed framework provides that conservation targets for agencies with higher than average evapotranspiration rates will be reduced by up to 4%, reflecting the state's significant climatic variation. The City supports the proposal. Hotter, inland areas have higher heat indexes and evapotranspiration rates and thus require additional water to keep critical flora, including urban trees, healthy relative to cooler, coastal areas. Even with reductions in unnecessary landscape irrigation and limiting outdoor irrigation to critical flora, areas with higher evapotranspiration rates will still need more water for the same amount and type of landscaping as cooler,

220 East Mountain View Street, Suite A • Barstow, California 92311-2888
Ph: 760.256-3531 • Fax: 760.256-1750 • www.barstowca.org

coastal areas. The proposed regulatory framework rightly recognizes this.

However, the City is concerned that the proposal is overly limiting, because it only allows for reductions of up to 4%, for agencies with a greater than 20% upward deviation from the statewide average evapotranspiration rate. Limiting the potential reduction in conservation standards to only 4%, when the state has, as a whole, met the conservation standard and when some agencies have evapotranspiration rates much higher than the statewide average fails to accurately reflect the greater difficulty agencies with higher evapotranspiration rates face in conserving water, particularly high desert communities like Barstow. To reflect this, the City proposes that the SWRCB increase its proposed conservation reductions by 2.5 times across the board, as follows:

Deviation from Average Evapotranspiration	Conservation Standard Reduction
>20%	10%
10-20%	7.5%
5-<10%	5%

These proposed conservation standard reduction amounts are set at half of each tiers average upward deviation from the state's average evapotranspiration rates. The state's proposal sets the conservation reductions much lower, at only one-fifth of the average deviation. The City recommends that the SWRCB adopt the proposed evapotranspiration-rate based conservation standard reduction, but increased to reflect the difficult reality that the significant regional variation in the amount of water required for the same type of landscaping creates for agencies in these areas.

II. City Supports Accounting for Post-2013 Growth, But Recommends Using Population Growth as Well as New Service Connections

The City supports the state's proposal for adjusting the conservation tiers to account for growth in each agency after 2013, using a measure of post-2013 growth to increase the 2013 baseline. However, the City is concerned that measuring growth by the number of new water service connections is not an effective measurement tool in all cases and should be revised. The SWRCB's proposal will not account for population growth since 2013 in existing, developed areas that have added more residents but have not added additional housing. To account for this, the City suggests that, in addition to the state's proposal, each agency's baseline for 2013 should be increased by the percentage its population has increased since 2013, reducing its required conservation volume. This would ensure that additional residents are accounted for in assessing

whether the agency has reduced its water use relative to the agency's use in 2013.

III. Precipitation After January 2016 should be Measured and Used to Reduce Conservation Requirements on a Regional Basis

The City recommends that the SWRCB revise its proposed framework to account for precipitation after January 2016 on a regional basis. Specifically, the SWRCB should use available precipitation data to develop a monthly measure of the precipitation in each hydrologic region after January 2016 relative to the normal precipitation level in each region by month. The revised regulation should then adjust each region's table of required conservation tiers down to reflect any precipitation in that region above the four-year average on a proportional basis. For example, if precipitation in February 2016 in a given region is 15% higher than the normal February average rainfall for that region, then the conservation standards in that region would be reduced by 15% across the board. Given that the current conservation tiers are structured to achieve a 25% statewide conservation level, and have already achieved a 26.3% statewide level, there is no need to tighten the conservation standards if precipitation turns out to be lower than average for each month. The City recommends that precipitation be accounted for and used to reduce conservation tiers on a regional basis, rather than a statewide basis, as precipitation only recharges aquifers and reservoirs where it falls.

This approach would ensure that the significantly higher than average precipitation expected this winter, including due to the El Nino cyclical Pacific Ocean warming and associated weather pattern, is reflected in the state's mandatory water conservation standards. If, as expected, precipitation is significant, then that extra precipitation will filter into aquifers and will refill reservoirs, thus becoming available to some extent for domestic use and reducing the severity of the drought. The City recognizes that one good winter's amount of precipitation will not erase the drought nor completely refill the state's aquifers. Given that, the City only advocates reducing conservation requirements by the percentage that the precipitation exceeds the average and recommends that the tiers be left as is if precipitation is instead low. By maintaining the existing standards if the expected higher precipitation does not materialize, then the state can expect to at least maintain the existing, greater than 25% conservation level achieved under the existing regulations.

IV. Losses to System Leaks Should be Accounted For, and Not Counted Against Agencies, if Agencies Have Plans to Find and Fix Leaks

The City further recommends that the SWRCB revise the conservation

regulations to allow an urban water supplier to deduct losses to system leaks from its reported water usage levels, if the supplier has a documented plan in place to identify and fix the leaks causing that loss. At present, losses to a system leak are not separately accounted for. This means that a water supplier and its community must conserve over and above the actual conservation requirements and bear the burden of increased enforcement and threats of fines while actively working to identify and fix those leaks.

The City urges the SWRCB to take a less punitive approach to water suppliers with system leak issues, encouraging those agencies to identify and fix those leaks as soon as possible. To that end, the City recommends that the SWRCB revise the regulations to deduct the amount of water loss to any documented leaks from the water usage amounts used to assess conservation standard compliance, if the water supplier has developed and is implementing a plan to identify and fix system leaks. If a supplier has leaks, but has not begun to implement a plan to fix those leaks, then the water losses to leaks count against the supplier, providing an incentive to create such a plan.

V. SWRCB Should Consider Water Conservation Efforts Before Establishment of the 2013 Baseline in Evaluating Any Enforcement Actions

As cities and water agencies are enforcing the State conservation requirements, the most common complaint from consumers is that water conservation efforts before the 2013 baseline have been detrimental to both setting and meeting the customers' individual targets. Residents and businesses that made significant investments in water conservation and that have already substantially changed their water use behavior, before the state's 2013 baseline, should be given explicit credit for those past conservation efforts. This disconnect is particularly troubling for those residents and businesses who are subject to the same strict conservation standard as neighbors who failed to previously conserve, yet are having difficulty meeting that standard as they have already conserved significant amounts of water. The State should establish an appeal process that would allow a city or agency to quantifiably demonstrate such pre-2013 conservation, then have their conservation targets proportionally adjusted to reflect the conservation already achieved.

Conclusion

For the foregoing reasons, the City requests the Board revise its existing regulations as follows:

- SWRCB should adopt proposed framework to adjust conservation targets to reflect higher than average evapotranspiration rates and increase the reductions in the conservation standards, to range from 5% to 10%;
- Account for post-2013 growth using population growth as well as new service connections;
- Account for precipitation after January 2016 by reducing conservation standards on a regional basis by the same percentage as monthly precipitation exceeds the normal rainfall average for that month, with no increase in conservation standards if precipitation is less than the corresponding average;
- Revise the regulations to deduct losses to leaks from a water supplier's water usage levels used to assess compliance with the conservation standards, if the supplier has developed and is implementing a plan to identify and fix the leaks.
- Establish a process to allow a city to quantifiably demonstrate pre-2013 conservation, then proportionally adjust conservation targets to reflect conservation already achieved.

The City seeks these amendments to ensure that the revised regulations are reasonable, feasible, reflect the expected significantly increased winter precipitation, and will continue to accomplish the Governor's stated goal of a 25% statewide water use reduction. The City will continue to work together with its residents and businesses to improve its conservation and urges the SWRCB to revise the conservation standards as stated above to ensure that the realities facing it and many other similarly situated cities are taken into account in the revised regulations.

Sincerely,

Charles C. Mitchell

Charles C. Mitchell
City Manager
City of Barstow

cc: Barstow City Council
Teresa L. Highsmith, City Attorney