



June 30, 2015

The Honorable Felicia Marcus  
c/o Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814



***Subject: Comment Letter: Conservation Pricing***

Dear Chair Marcus:

Moulton Niguel Water District (MNWD) appreciates the opportunity to provide comments to the State Water Resources Control Board (SWRCB) on conservation pricing. Effective conservation pricing is an especially important topic for statewide demand management initiatives in the water industry as we face both unprecedented conditions and the need for immediate yet lasting solutions. Academic research suggests that rates are in fact the most cost effective tool to reduce water use, and MNWD's experience supports the research with over a 20 percent reduction in water use since 2007 attributed directly to the implementation of its water budget based rate structure.

MNWD's comments center around the following major themes:

- Better understanding of various rate structures and how they achieve conservation in a measurable way
- Process development for stakeholder input
- Legal support and guidance for effective rate design
- Need for a statewide clearinghouse for best practices and supporting materials for rate setting

*1. What actions should the State Water Board take to support the development of conservation pricing by water suppliers that have not yet developed conservation rate structures and pricing mechanisms?*

Rate structure design is a local decision and unique to each community. Historically, the sole purpose of setting rates was to ensure appropriate collection of funds to support equity through cost of service defined through various legal requirements. Given the current and past drought conditions, some agencies have used their rate structures to promote and in some cases, incentivize conservation. However, the rate structures vary in their policy objectives, design and implementation. An improved understanding of the various rate structures that exist in the State today and how they achieve conservation would assist the SWRCB and decision makers statewide in developing regulations and policies related to conservation pricing. With different approaches, data sets and experiences, it's

critical to take inventory in order to understand how each works, what appears to be most effective given different policy objectives, and where enhancements can be made.

In doing so, valuable lessons learned can be shared, data gaps identified, challenges defined and methodologies for evaluating rate structures' impacts on conservation can be developed in a manner that respects the uniqueness of the State's diverse communities. Additionally, water supplies are expected to be more volatile than ever, with climate change requiring sound financial design to mitigate financial risk from under collecting revenues to meet costs. There has never been a time when better data at the end user level has been needed to form better demand management strategies.

One of the major barriers to better targeted conservation rate structures from a water utility's perspective is in knowing how to design the process for success. The overall process elements of data acquisition, financial planning, outreach, legal review, cost of service allocations, rate design, and implementation of rates all need to be well thought out with multiple internal and external groups collaborating in order to be successful. Setting guiding principles for rate setting would benefit water suppliers in identifying key factors in developing rate structures and the steps involved in the development process. It would be extremely helpful to collect cost of service reports, Proposition 218 notices, project timelines, rate study outreach materials, and any other stories from the rate study process from different agencies to help agencies looking to change rate structures and do so successfully. MNWD recommends that the SWRCB work with other State agencies and Non-Governmental Organizations to develop a clearing house of information in the form of an online library of successful rate implementation materials from across the state.

In order to carry out the above-mentioned ideas, the District recommends the formation of two stakeholder working groups. The first working group would identify the key statewide policy objectives and legal issues for rate structures consisting of water utilities, trade groups, lawyers, and non-governmental organizations. The second working group would be a technical group to act as a resource on the analytical aspects of best practices in rate design and identify case studies to share statewide. In addition, the technical working group would identify issues with both acquiring and housing local end user data to inform better rate design.

The California water industry has a vast resource of talented professionals. Due to time constraints, this resource is often untapped in cross agency rate setting collaboration. A potential solution due to the clear statewide benefit is utilizing Prop. 1 or other grant funds to assist agencies seeking to improve or implement a rate structure that promotes conservation. The funds could also be used to incentivize agencies that have implemented best practices to aid other water utilities in the process of transitioning towards conservation rate structures.

*2. What actions should the State Water Board take to support water suppliers that have already developed conservation rate structures and pricing mechanisms to improve their effectiveness?*

The stakeholder driven efforts described in response to Question 1 would also help agencies with conservation rate structures to build on or refine their existing rates structures to make them even more effective. Funding and legal support from the State would be invaluable as agencies balance financial

responsibility, legal challenges, and public acceptance. The general public can be misinformed or confused by headlines and partial knowledge of various litigations surrounding rates. A strong support position from the State can provide clarity and broad public understanding. One comment made by the 4<sup>th</sup> District Court of Appeals in *Capistrano Taxpayers Association (CTA) v. City of San Juan Capistrano* was that following the American Water Works Association (AWWA) M1 Manual, a reference used nationally, does not in and of itself guarantee compliance with Proposition 218. MNWD went above and beyond the requirements of Proposition 218 to identify incremental costs associated with volumetric and fixed charges. At a statewide level, however, the AWWA M1 Manual is the standard by which rate consultants build rate structures for clients. There is a strong need for a stakeholder driven process to identify rate study guidelines and legal guidance on how to set prices to discourage water waste.

*3. What actions can the State Water Board take to assist water suppliers in demonstrating that existing rate structures harmonize competing legal authorities associated with water rates?*

SWRCB's recent efforts to de-publish the 4<sup>th</sup> District Court of Appeals ruling on *CTA v. City of San Juan Capistrano* serves as an example of the types of support needed locally to continue to set rates in a way that effectively integrates financial needs and demand management. Providing clarity on what court rulings determined and what they did not, will assist in mitigating increased threats of litigation that are unwarranted. Equally important legal support is the State's recognition of local agencies' efforts that tie rates to conservation. The expanded complexity of rate study reports compared to those of five years ago is coupled with increasing costs to develop, document, and implement rate structures and rate adjustments. A large driver of this increasing complexity is uncertainty in the courtroom. Different appeals courts have conflicting rulings on the meaning of Article X Section 2 of the State's Constitution and on the proportionality test of Proposition 218. There is a strong need for an unambiguous legal defense for agencies with well-designed robust rate structures that provide disincentive for the wasteful use of water. A legal stakeholder-driven process would work to remedy this issue.

It's been MNWD's experience that local elected officials and community members respond favorably when our efforts are lauded by the State and independent sources such as the media and academic institutions. It heightens the credibility of local agencies when there is a broad level of recognition and support.

SWRCB can also work with agencies to provide guidance on developing a strong administrative record for rate design. Using experiences of agencies, a set of best management practices can be identified to guide rate setting process for agencies. A key part of this discussion should focus on the importance of education. Education on the differences and the impacts to customers would broaden general understanding of the issues and may encourage local support for conservation based rate structures.

We are encouraged by the State's leadership in guiding the discussion forward as to how pricing can effectively and sustainably achieve demand management. It has been our experience that shared experiences, understanding of the customer base, and support from the State are key in establishing a rate structure that ensures efficient use as well as ensuring sufficient resources to provide critical

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services to the public. By working together, we can appreciate the diversity in effective conservation pricing and the importance of maximizing it as a tool to shift behaviors by valuing water and its scarcity. If you have any questions, please do not hesitate to contact me at (949) 448-4071 or [jlopez@mnwd.com](mailto:jlopez@mnwd.com).

Sincerely,

A handwritten signature in blue ink that reads "Joone Lopez". The signature is written in a cursive, flowing style.

Joone Lopez  
General Manager