

January 12, 2017

The Honorable Felicia Marcus, Chair
and Members of the State Water Resources Control Board
c/o Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Delivered by email: Commentletters@waterboards.ca.gov

Subject: Comment Letter – Urban Water Conservation Workshop

Dear Chair Marcus and Members of the Board:

On behalf of the California Water Association (“CWA”) and its more than 100 investor-owned, CPUC¹-regulated member water companies, thank you for the opportunity to provide comments on the topics to be discussed during the upcoming Urban Water Conservation Workshop convened by the State Water Resources Control Board (“Board”) for January 18, 2017.

Comments

The January 6, 2017 Notice of Public Workshop contains three sets of questions for comment and discussion at the workshop in connection with the Board’s consideration of whether to modify and extend the May 2016 Emergency Regulation. CWA’s comments address these questions in the order set forth in the notice as follows:

1. What elements of the existing May 2016 Emergency Regulation, if any, should be modified? Should the State Water Board wait until the hydrology for the current water year is known (April or later) before proposing adjustments to the current method for calculating conservation standards? And, should the State Water Board allow suppliers to update or modify their conservation standard calculations (and if so, how)?

The hallmark of the Board’s approach to its emergency drought regulations has been adaptability. In response to the severe drought conditions that precipitated the Governor’s April 1, 2015 Emergency Order,

¹ California Public Utilities Commission.



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the Board enacted rigorous state-imposed conservation standards to achieve the 25% mandatory statewide conservation goal. When hydrological conditions improved in the winter of 2015/2016, the Board responded with its supply reliability-based conservation standard.

Because water supply conditions have changed from October 2016 through the present day, further modification of the emergency regulation is appropriate. Nearly all relevant hydrologic measures throughout California are above 100% of normal for this date, including precipitation and snow water equivalents, and most major reservoir capacities in the state exceed 100 percent of historical averages, with only Trinity (80%), New Melones (56%), San Luis (94%) and Castaic Lake (77%) falling short. These data points strongly suggest that the Board need not and should not wait until April to make adjustments. We encourage the Board to recognize that the threat posed by the current drought has been greatly diminished and to act accordingly. However, allowing the emergency regulation to expire by its own terms at the end of February – before the Governor acts to rescind his drought declaration and without better information regarding the hydrological conditions for the water year – may not be prudent. Therefore, if the Board decides to extend the emergency regulation, CWA recommends that the Board adopt the following overall modifications:

- a. Eliminate the state-imposed demand-based conservation standards set forth in Section 865(c)(1) and all related language in the emergency regulation [e.g. §§ 865(d)(1) and 864.5(i)].²
- b. Tailor the regulations to apply on a regional basis in order to account for the fact that emergency drought conditions are no longer prevalent statewide and that some areas of the state not only have sufficient water supply, but are no longer in a drought emergency.
- c. Allow water suppliers to maintain their self-certified “stress test” conservation standards and consider recalculating the “stress test” in the spring or when changes in water supply conditions support a recalculation.

Question 1 assumes that the current emergency regulation will be extended throughout 2017 with modifications that will be adopted by the State Water Board. However, the severity of the drought emergency has been substantially reduced throughout much of the State by the strong precipitation since the beginning of the 2017 Water Year. Accordingly, it is reasonable to consider whether the emergency regulation should be extended at all. Certainly, for those regions in the state that have no current or foreseeable emergency for the applicable

² Water purveyors that maintained a state-imposed standard in May 2016 would move to the stress test approach, unless the emergency regulation was not extended in their particular regions, consistent with CWA’s recommendation in response to Question No. 2 below.

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270-day time frame, the current regulation could sunset in February. If the Water Board adopts this approach, and only extends the regulation for those areas in the state that are still vulnerable, CWA would be supportive.

2. Should the State Water Board account for regional differences in snowpack, precipitation, and lingering drought impacts differently than under the current emergency regulation, and if so, how?

Yes, the Board's emergency regulation should better account for regional differences and varying local conditions by identifying those vulnerable regions in the state and extending the emergency regulation for those areas, with the modifications discussed above. The Board should also re-examine these differences and assess total water supply in late April or early May, which is traditionally near the end of the wet season and during the maximum annual snowpack.

3. Executive Order B-37-16 requires the Board to develop a proposal to achieve a mandatory reduction in potable water use that builds off the mandatory 25 percent reduction in previous Executive Orders and lessons learned through 2016. The Board, however, is not required to act on this proposal. Should the Board act now, or later if conditions warrant, to a conservation standard structure like the one the Board adopted in February 2016 to achieve a mandatory reduction in water use? Should the Board set a conservation floor, individually or cumulatively?

In light of the current improved water supply conditions, the Board should not "build off the 25% mandated reduction" by extending a regime of mandatory water use reductions, as suggested in the Governor's Executive Order. An emergency of the severity experienced in the years leading up to the Board's actions in May 2015 and February 2016 no longer exists, and the type of conservation standard structure mandated to address such conditions should be reserved for a drought emergency requiring decisive and dramatic action to reduce water use by Californians. The customers of our member companies have shown a tremendous response to a true emergency in our state over the last three years, and they are keenly aware of the improved water supply conditions resulting from both their efforts and recent precipitation. The state and urban water purveyors should acknowledge their efforts and recognize the vastly improved water supply conditions by adapting the emergency rules accordingly. The permanent regulatory framework currently being developed by the five Executive Order state agencies (the "EO Agencies") will address the urban sector's long-term usage requirements in all conditions except a severe drought emergency.

For the same reason, it is not necessary for the Board to act now to set a conservation "floor" – individually or cumulatively – as the proposed permanent regulations will establish a floor for each urban water supplier in the state, as defined.

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Conclusion

As a designated member of the Urban Advisory Group convened by the EO Agencies, CWA continues to be engaged in the process to develop the permanent framework that is the subject of the report presently under review by the staff of the EO Agencies. CWA was pleased to see that the public review draft of the Report embraced the need for retail water suppliers to retain flexibility in carrying out their individual responsibilities under the permanent framework. The Board's emergency regulations should be modified appropriately so as to adopt that same approach of flexible, tailored design in order to account for promising precipitation levels and variation in water conditions across the State.

CWA appreciates this opportunity to provide these comments and urges the Board to modify the emergency regulations consistent with the recommendations presented above. If you have any questions, please feel free to contact me at jhawks@calwaterassn.com or (415) 561-9650.

Sincerely,



Jack Hawks

Executive Director, California Water Association

cc: The Honorable Frances Spivy-Weber, Vice Chair, State Water Resources Control Board
The Honorable Dorene D'Adamo, Member, State Water Resources Control Board
The Honorable Steven Moore, Member, State Water Resources Control Board
The Honorable Tam Doduc, Member, State Water Resources Control Board
The Honorable Michael Picker, President, California Public Utilities Commission
The Honorable Martha Guzman-Aceves, Commissioner, California Public Utilities Commission
Ms. Kim Craig, Deputy Cabinet Secretary, Office of Governor Edmund G. Brown Jr.
Mr. Tom Howard, Executive Director, State Water Resources Control Board
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