

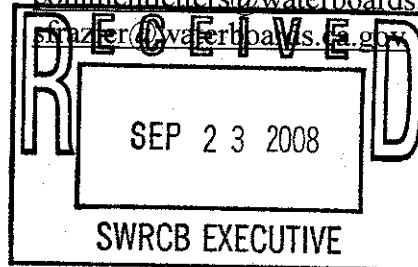


Association of California Water Agencies

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10/1/08 Board Workshop
Urban Water Conservation
Deadline: 9/23/08 by 12 noon

By Electronic Transmittal to:
commentletters@waterboards.ca.gov



Tam Doduc, Chair
and Members of the
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Subject: Comment Letter - Proposal to Mandate Water Conservation Management Practices

The Association of California Water Agencies (ACWA) appreciates the opportunity to submit preliminary written comments on the State Water Resources Control Board (SWRCB) proposal to develop a regulatory program to address urban water conservation. We understand that the SWRCB is beginning the process and that oral and written comments will continue to be solicited after the scheduled October 1, 2008 workshop, and until around the end of this year. Consequently, ACWA offers this comment letter as our preliminary thoughts on this matter.

ACWA is a trade association of nearly 450 public water agencies that supply over 90% of the water delivered in California for domestic, agricultural and industrial uses. Our member agencies have been promoting responsible water use in California for many decades. Effective water conservation is a core value of our industry. Among our member agencies are national leaders in conservation, who have collectively developed and delivered state-of-art programs that have maintained California's water reliability in the face of steady population and economic growth and periodic droughts.

ACWA recognizes that Californians can and must do more to advance water conservation as a fundamental building block of a comprehensive plan to meet our unprecedented water supply and reliability needs. The water crisis is real, and is serious. That is why ACWA included clear commitments for efforts to implement best management practices for urban and agricultural water use efficiency among the suite of actions and investments identified in our comprehensive water policy document, *"No Time to Waste: A Blueprint for California Water"* (2005).

At its July meeting the ACWA Board of Directors formed of a special high-level subcommittee of the Board, the Drought Planning and Conservation Task Force, to articulate policy principles and develop a "roadmap" that water agencies can use to address these interrelated matters. The work of this task force is underway, and ACWA

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expects that it will soon provide input to inform the 20X2020 policy planning effort, the 2009 update of the California Water Plan, Legislative efforts in 2009, and the efforts of the SWRCB on this matter.

Given our past leadership and commitment to water conservation, ACWA offers the following comments on the SWRCB's current proposal to mandate water conservation management practices.

General Comments:

1. ACWA supports the Governor's goal of 20% by 2020. We see this high-level public policy goal as achievable, and on behalf of California's water agencies we offer our collective expertise and leadership to meet this goal.
2. ACWA member agencies are among the leaders nationwide in water conservation, and have by their past and on-going actions already helped to mitigate the national trend of ever-rising domestic water use. California agriculture leads the world in increasing agricultural productivity per unit of water used.
2. ACWA believes existing regulatory tools and programs can and should be used more effectively to deliver increased level and sustainable levels of water conservation, but that confrontational regulatory tactics and command-and-control approaches developed by state employees unfamiliar with local circumstances will not be productive nor accomplish the desired goals.
3. ACWA believes the fundamental purpose of increased water conservation and improved water use efficiency is to bolster water supply system reliability by reducing current water demand and meeting future demand associated with continued population and economic growth.
4. ACWA encourages the SWRCB to take care not to overestimate the benefits to the environment that may accrue from water conservations. Conserved water is most often used by the agency where the conservation occurs. In some cases conserved water becomes available for use by other water contractors. Sometimes conservation may allow additional water management flexibility to support improved river flow and temperature management that may help improve ecosystem functioning, but such actual benefits need careful study to substantiate.
5. ACWA questions the broadly stated premise contained in the staff discussion paper that "conservation can result in saving considerable capital and operating costs for utilities and consumers" (p.1). Although specific cases of cost savings may be found, in general water agencies are turning to water supply strategies that are dominated by local water resources investments that are considerably more expensive than previously low cost

surface water supplies of the 20th century. Water will get more expensive, and the water agencies will need to prepare rate payers for these rising costs. Additionally, the actual cost-effectiveness of investments in water conservation and the value of their contribution to increasing utility water reliability are key considerations for utilities and their customers.

6. The current drought situation calls for aggressive action on many fronts, but there is no need for the state to make "scatter gun" regulatory or legislative efforts that would be administratively burdensome and unlikely to achieve intended results.

Responses to Key Issues and Questions

The following are preliminary responses to key issues and questions identified by SWRCB staff in the discussion paper dated August 22, 2008. As the SWRCB proposal takes shape, and as our own policy principles also take shape, we will offer additional input.

1. Should the State Water Board adopt an urban water conservation regulatory program? What should be the scope and content of such a program? Will mandating urban water suppliers to implement certain practices or meet specific performance standards be beneficial for enhancing water conservation?

No, the SWRCB should continue to coordinate its efforts and leverage its authorities to implement existing and emerging water conservation policies and programs cooperatively with the Governor, the Legislature, the Department of Water Resources, the California Energy Commission, the California Public Utilities Commission and others. We believe mandates on urban water suppliers to implement specific practices or performance standards would be a counterproductive effort.

2. What is an appropriate definition of urban water supplier? Should it include both wholesale and retail water suppliers? One option is to use the definition of "urban water supplier" in the Urban Water Management Planning Act (Wat. Code, § 10610 et seq.), that is, a supplier, either publicly or privately owned, providing water for municipal purposes either directly or indirectly to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually. An urban water supplier includes a supplier or contractor for water, regardless of the basis of right, which distributes or sells for ultimate resale to customers. (Wat. Code, § 10617.)

The SWRCB should use the existing definition of "urban water supplier" in the Urban Water Management Planning Act.

3. Should the regulatory program apply to all areas of the state or only to areas subject to certain criteria? Water conservation can provide consumer benefits even in areas that are not water short. Key benefits can be lower water bills and reduced energy use for water heating. However, water conservation has significantly greater importance in areas that are chronically water short or that depend on water exported from watersheds that are under environmental stress, such as the Delta. Perhaps the State Water Board's regulatory authority should be focused on these special areas.

ACWA realizes that all regions of the state must be expected to do more to conserve water. However, it is also true that focusing water conservation efforts on areas that are highly dependent on imported water supplies will likely result in the greatest near-term measurable results. The efforts to do this for the "CalFed solution area" may be worth revisiting. Yet it is also clear that for local and statewide political and ethical reasons, all Californians need to be asked to make appropriate contributions to water demand reduction goals.

4. Would a performance-based regulatory program, allowing latitude for urban water suppliers to select the practices to meet specified water use reductions, be an effective approach? In what form should the performance standards be expressed, for example, targeted reductions based on total urban per capita use or on water use sectors (residential, commercial, institutional, and industrial)?

Although performance-based regulatory approach is preferable to an attempt to impose a centralized command-and-control approach, ACWA supports continued efforts to implement the California Urban Water Conservation Council's BMP and flex track approach. Water agencies and public interest groups have invested hugely in efforts to revise the program and improve reporting and accountability for results. This program can and should be made to work.

5. Should the State Water Board adopt prescriptive urban water conservation management practices, such as the BMPs in Table 1? Would some of the BMPs in Table 1 be more appropriate for state wide implementation than others?

No, the SWRCB should not attempt to adopt, duplicate, or innovate alternatives to the CUWCC program. However, there may be ways that the SWRCB can work with water agencies to increase the membership and accountability of the CUWCC.

6. Are water pricing structures the most effective conservation measure to mandate on a state wide basis? Should particular volumetric water rate structures, such as increasing block rate, be specified? What criteria should be considered in defining a rate structure? What should the rate structure look like?

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Water pricing and rate-setting is extremely complex and subject to many local considerations that water agencies are best-equipped to address. The SWRCB should again defer to the expertise of the CUWCC on this matter.

7. What data are available to support mandating particular water conservation practices and estimating the potential water savings associated with those measures?

Again, the CUWCC has developed extensive information concerning the effectiveness and potential water savings associated with a wide range of conservation measures. The SWRCB should work cooperatively with the CUWCC and the water industry on this matter.

ACWA intends to provide additional and more specific information for consideration by the SWRCB on this matter. Additionally, individual water agencies with significant experience and strong opinions on this matter will undoubtedly weigh-in as well. We encourage the SWRCB to move cautiously and cooperatively toward finding is optimum role helping Californian's improve the way we use our water resources.

Sincerely



David Bolland
Interim Director of Regulatory Affairs