



CITY HALL

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April 13, 2015

Ms. Jessica Bean
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

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West Sacramento, CA 95691
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Dear Ms. Bean,

The City of West Sacramento appreciates the opportunity to comment on the SWRCB's Proposed Regulatory Framework for Mandatory Conservation Measures (Proposed Framework). The purposes of this letter are to identify the key facts in the Proposed Framework that affect the City, address the problems proposed by the identified facts, and propose solutions that can meet Governor Brown's objectives in the April 1, 2015 Executive Order. The City's comments are divided into the following six categories:

1. The Commercial, Industrial and Institutional Water Use Reductions Should not be Incorporated Into the Overall Per Capita Water Use Target for the Water Purveyors.

The Governor's Order directs the SWRCB to address Commercial, Industrial and Institutional (CII) water conservation in similar percentages to those identified for Residential uses. As the City is a growing food hub, any water use reductions imposed on the Commercial, Industrial and Institutional sector will have a detrimental impact to the City's economy and jobs. Let the City determine how it will meet its required GPCD reduction rather than SWRCB mandating particular requirements for particular classes of water users.

2. The Tier assigned for the City is incorrect.

The proposed tiered R-GPCD is fundamentally flawed because it fails to reflect local factors such as rainfall, temperature, evaporation, population growth, population density, socio-economic measures such as lot size and income and water prices that affect R-GPCD. Furthermore, the R-GPCD base value listed for the City is incorrect. When the SWRCB began requiring reporting of R-GPCD it explicitly stated that it recognized some agencies, especially those not yet fully metered, would have difficulty determining the "percent residential" factor that is critical to the calculation. The City would like the opportunity to work with SWRCB to correct the base R-GPCD and be placed in the appropriate tier.

3. The Mandate for New Home Landscape Irrigation Should be Clarified as Prospective Rather Than Retrospective.

The Governor's Order directs the SWRCB to "prohibit irrigation with potable water outside of newly constructed homes and buildings that is not delivered by drip or microspray systems." The existing Model Water Efficient Landscape Ordinance



(MWELo) obligations dictate the irrigation parameters for newly constructed homes. Retrofitting "newly constructed homes and buildings" would require a significant amount of resources that would result in minimal water conservation savings in the current drought cycle. Time is better spent adjusting the MWELo for future land use plans.

4. The Compliance Assessment Should Reflect Actual Compliance Achieved through Historical Actions and Progress Rather Than an Arbitrary Baseline Assessment.

The Proposed Framework defines the reporting months for which comparisons between 2013 R-GPCD and 2015-16 projected R-GPCD will be made to assess compliance. We suggest that the comparison period be established as June 2012 through February 2013. Such an assessment reflects conditions that existed in the drought's infancy where water users were beginning to understand the implications of reduced precipitation and runoff.

5. The Enforcement Actions Should Clarify What Enforcement Actions Equate with Specific Regulatory Violations and What Procedures will be used in Implementing Enforcement Actions.

The Proposed Framework identifies "informal" and "formal" enforcement actions that might be levied upon urban water purveyors that violate SWRCB mandated actions. The enforcement actions threaten fines of "up to \$10,000 per day for each day of non-compliance." The Proposed Framework should clarify which enforcement actions relate to specific regulations and violations. Simply stating that it is possible for the SWRCB to bring formal enforcement actions against the City of up to \$10,000 per day for "compliance" that the City may or may not be able to control is too vague to warrant meaningful comment.

6. The Proposed Framework Should Clarify How It Implicates the Fundamental Components of California Water Rights Law

California Water Rights law is based upon 150 years of well-established principles for allocating water supplies in times of shortage. The water rights priority doctrine was upheld in the most recent California Supreme Court case dealing with water in California, *Barstow v. Mojave*, where the court reiterated the water rights priority system as the "central principle in California water law." The court contemplated and addressed the California Constitutional prohibition on waste and unreasonable use but returned to the doctrine of priority in rendering its final decision. Reassert the legal principles in California's water rights priority system.

Once again, we appreciate the opportunity to comment on the SWRCB's Proposed Framework. The City is hopeful that SWRCB staff, management and Board Members will deeply reflect upon the underlying inequities of the Proposed Framework that affect the City as well as the regulatory suggestions provided in this letter. If you have any questions about the issues described in this letter, please contact Denix Anbiah, Public Works Director, at (916) 617-4850.

Sincerely,



Martin Tuttle
City Manager

cc: State Water Resources Control Board Members
John Woodling, Regional Water Authority