

# Mayor Harry T. Price

Home of  
Travis Air Force Base

May 22, 2009

## COUNCIL

### Mayor

Harry T. Price  
707.428.7395

### Vice-Mayor

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707.429.6298

### Councilmembers

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Chuck Timm

Catherine Moy

Rick Vaccaro

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### City Manager

Sean Quinn  
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### City Attorney

Greg Stepanich  
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### City Clerk

Arietta Cortright  
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### City Treasurer

Oscar G. Reyes, Jr.  
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## DEPARTMENTS

### Community Services

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### Finance

707.428.7496

### Fire

707.428.7375

### Human Resources

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### Community

Development

707.428.7461

### Police

707.428.7551

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### Public Works

707.428.7485

To: The Governor's 20x2020 Agency Team on Water Conservation  
[2020comments@waterboards.ca.gov](mailto:2020comments@waterboards.ca.gov)

As the Mayor of Fairfield, I am writing in response to the proposed "20x2020 Water Conservation Plan Draft" by the Governor's 20x2020 Agency Team on Water Conservation. Please accept these comments as you move toward finalizing your water conservation plan.

The proposed April 30, 2009 "20x2020 Water Conservation Plan DRAFT" provides a model of water savings that creates unintended consequences. By fixating on a 20% target and giving credits to large agencies that have conserved water for several years, the plan creates a massive burden on the non-coastal areas of the state. Achieving this fixed target will require the elimination of a large percentage of irrigated landscape across the interior of the state. In the Colorado River hydrozone, urban water reduction is targeted at 39%. In over half the geographic area of the state, water reduction targets are nearly at or are above 30%. These numbers are so large as to be unachievable with water efficiency measures that do not incorporate significant irrigated urban landscape elimination, and appear to move beyond the point of being locally cost effective.

The scale of these 30%+ targets gives cause for concern. They are so large that they may, in fact, create some of the problems that this conservation plan is intended to prevent. Thirty percent reductions cannot be achieved by simply rearranging the landscape palate, but will require large areas to be taken out of irrigated landscape, which will reduce shade and cooling in the warmer regions of our state. Increased heat will require more artificial cooling. These combined effects carry a burden on power systems and could significantly reduce the CO2 absorption capacity of plant life in over half our state.

It is not in the best interest of our state to pursue this hard 20% agenda. By overshooting a reasonable water-efficiency target, this plan could actually create the localized climate changes that everyone fears.

The 20% urban water reduction target, which is approximately 1.74 million acre feet of water, amounts to 2.1% of water use in the 2000 water year. By holding rigidly to the statewide 20% figure, 6 of the 10 hydrozone targets move past water efficiency into significant levels of urban plant loss. Our sense is that the intent of the governor's goal was to conserve water through higher efficiency and to make some aggressive moves toward changing water use approaches in our state. Eliminating 1/3 to 1/2 of all the irrigated urban landscaping in the state, regardless of local water supply reliability, to achieve approximately one-half percent reduction in state-wide water use seems to go beyond any reasonable interpretation of the governor's stated objectives.

It appears that the planning process has created self-imposed constraints that have pushed this report into unworkable recommendations. It is crucial to recognize which constraints can be relaxed to move conservation efforts forward without the unintended consequences.

It is also concerning to see the conservation strategy proposed in the April 30, 2009 "20x2020 Water Conservation Plan DRAFT" is based on using per capita water use as a regulatory device, a method of command and control over local water rights that was discredited and rebuffed in the legislative battle over AB 2175 last year. Yet the 20x2020 Agency Team on Water Conservation has continued on as if the AB 2175 experience did not occur. Imposing a gpcd regulatory standard ignores variations in local water reliability, dismisses significant variations in land use composition (including the CII sector), and attempts to establish a system to supersede current water rights law.

We urge the 20x2020 Agency Team to consider alternative, workable interpretations of the Governor's call for increased urban water conservation. In that regard, we are providing our correspondence to the Governor on AB 2175 from last year. Those comments apply to the proposed plan before us now.

Please note that our letter to the Governor also contains our opinions regarding a more sound approach to meeting a workable target for 2020. We are attempting to codify our approach in SB 460 this year. Whether we are successful or not remains to be seen, but in plain terms this is our preferred approach:

1. Set a statewide urban target. (An aggregate statewide target of saving 1.74 million acre-feet of water annually compared to what would have been used at 2005 per capita usage will suffice, though we believe any goal calculated based on a

reduction in per capita water use should not apply to the commercial, industrial, institutional sectors. CII and agriculture should have a separate approach. A 1.74 MAF goal is too high for the residential sector alone.)

2. Require all urban water suppliers to adopt "locally cost-effective" water conservation measures. This is significantly more than is required now, and it should be allowed to work first. Note that by the state pouring funds into "buying down" the cost of conservation measures (from water bonds, etc.), more measures become locally cost effective.
3. Measure results.
4. Translate results data into the "per capita" measure requested by the Governor, but do not use per capita as a regulatory device.
5. Adaptive management: If the results are not making sufficient progress to the target, recommend adjustments to the locally cost effective approach. This might mean pouring more state funds into local programs or creating a system of "water conservation credits" along the lines of "renewable energy credits" that have been effective in encouraging more green energy using private market forces.
6. After a period of time, return to "Measure Results."

We believe this approach should be used in preference to all others because it respects the system of local water rights that is the basis of California water law, it is relatively simple to administer, and it will work.

Very truly yours,



Harry T. Price  
Mayor

cc: Honorable Lois Wolk



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Public Works  
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July 21, 2008

Honorable Arnold Schwarzenegger  
Governor, State of California  
State Capitol Building  
Sacramento, California 95814

Re: AB 2175 (Laird) -- Oppose

Dear Governor Schwarzenegger:

The City of Fairfield is joining the Solano County Water Agency and several other local water agencies in opposing AB 2175 (as amended July 1 and as proposed for amendment July 12, 2008). We urge you to veto this bill if it reaches your desk over our objections.

We oppose AB 2175 because it:

- Forces retail urban water agencies that are not short water supplies, such as Fairfield, to implement additional water conservation practices regardless of whether those practices are locally cost effective, thereby placing the statewide burden of generating water supplies through conservation disproportionately and improperly on us and water suppliers like us.
- Will require Fairfield to get state permission to use water rights we already possess by creating an artificial cap on how much water we may use without a state approval. Obtaining such an exception will inevitably lead to state involvement in what have, up to now, been solely local land use decisions. If we exceed the cap, we will be exposed to regulatory sanctions and possible lawsuits for wasting water or using water unreasonably even if our use is beneficial and efficient, representing a significant change in state water law.
- Penalizes Fairfield for the good fortune, good location, and good planning that has led us to have adequate, reliable water supplies, and deprives us of the economic advantages afforded by the Solano Project and other water supplies we have spent a great deal of effort and expense to obtain and maintain over many years including, in particular, water rights protected by the state's area of origin laws.
- Interferes with our ability to meet water supply commitments to our existing customers.
- Does not define how the conserved water will be used if not for our local benefit.

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- Layers new, difficult-to-monitor water conservation requirements on existing, successful water conservation programs and methods rather than building on what already is in place, creating a new, complex state bureaucracy to regulate a new and unnecessary program.
- Accelerates water conservation ahead of other elements of your Delta water plan without assurances that other elements will receive the political support necessary for implementation.

We note at the outset that AB 2175, as amended, claims to be in response to your February 28 call for a "20 percent per capita" reduction in water use statewide by 2020 as part of your seven-point "comprehensive solution to the Delta." We believe there is more than one way to interpret your request, and AB 2175 does not provide a workable program, in concept or in practice. Further, in the rush to adopt this bill, the negative consequences on the state's system of water rights and urban retail water providers such as Fairfield have not been considered.

We are presently required by virtue of our Solano Project water supply contract and the state's Urban Water Management Planning Act to implement certain water conservation best management practices (BMPs), and we comply because we consider those requirements to define "water waste" for us. We are also a member of the California Urban Water Conservation Council (CUWCC), and we use the CUWCC standard of "locally cost effective" as the precept for our further, voluntary water conservation programs. Consequently, although we are not facing water shortages, we have a first-class water conservation program. Nonetheless, our substantial non-residential water use will cause us to exceed the per capita "California standard" that AB 2175 would establish for us, requiring us to cut beneficial water use by up to an additional 15 to 20 percent per capita.

In its original form, AB 2175 was essentially an effort to codify the "locally cost effective" approach to water conservation used by CUWCC, which considers local costs and benefits of new water supplies. The bill has since been amended to abandon the "locally cost effective" approach and replace it with water use standards regardless of cost effectiveness, presumably to produce a new water supply for the state.

In its present form, we see AB 2175 as an attack on our local water rights by an arbitrary redefinition of reasonable use. We see no justification in forbidding us to use water beneficially that we have acquired a legal right to use on the grounds that the state as a whole is short water. While in need of some work, the original version of AB 2175 was much better than the present version.

We believe carefully considered BMPs that define waste, plus the "locally cost effective" standard for further water conservation measures, is the correct approach. The state can adjust the "locally cost effective" component to increase statewide levels of conservation equivalent to the statewide targets in AB 2175 simply by defining costs and benefits to reflect current values, or by providing state funds to "buy down" costs. That is exactly what is done now, and it works: Programs that

Honorable Arnold Schwarzenegger  
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were not cost effective a few years ago have become widespread as the incremental cost of new water supply has increased and conservation technology and methods have come down in price. Even so, an ultra low flow/high efficiency toilet retrofit program was not cost effective for Solano, but in that case the state gave us a grant (through the Solano County Water Agency), which changed the calculation, so now we have a county-wide program.

The “locally cost effective” approach would ensure that local agencies are not forced to conserve water when it is not cost effective to do so, effectively putting the burden of meeting the statewide targets on the local agencies that should do more. Using the “locally cost effective” approach to meet your statewide target of 20 percent per capita water use reduction, some agencies (notably those south of the Tehachapis with very high new water supply costs) would conserve much more than 20 percent while others (like us, north of the Delta and protected by area of origin laws) would conserve much less, but all conservation would be cost effective. Using the AB 2175 approach, agencies will, more or less, be required to meet the same local targets, even if it is not cost effective for many (like us).

Normally if we conserve water, it is to avoid “water waste,” as it is presently defined for us. Water waste is prohibited by the state constitution, and in that sense cost effectiveness is moot. If we voluntarily reduce water use further, it is for our local (cost effective) benefit. We are free to use the conserved water for local economic development or some other perceived benefit. That fact, naturally, enters into the cost effectiveness analysis. AB 2175 changes that approach by making further water use reduction involuntary, and there need be no local benefit. That means the water can become “surplus” to us and therefore may become available for other uses of little or no benefit to us. Our local water rights are essentially being commandeered for a state benefit.

We believe it is inappropriate for the state to expect us to ask the Anheuser-Busch brewery in Fairfield (by far our largest water user) to cut water use when we are not short water and when the Anheuser-Busch Fairfield facility is one of the most water efficient breweries in the United States if not the world. We don't imagine other local cities would like to convey that message either for their big water using, but valuable, beneficial, and water-efficient, industrial customers. In fact, we don't want to deliver that message to ANY high value/high status business (e.g., Jelly Belly, NRE World Bento, Guittard), especially after we have “sold” our town on the availability and reliability of our water supply. In the case of Anheuser-Busch, we have a contractual obligation to serve, so presumably we would have to look elsewhere for water savings, perhaps even to the degree of substantial alterations in existing land use. Again, the “locally cost effective” approach avoids the need for these kinds of artificial complexities to achieve similar or the same statewide results. Simply letting the state decide where to make exceptions, as appears to be provided in the bill, is not comforting. AB 2175 is the wrong approach.

Finally, it has occurred to me that AB 2175 is the result of the same type of rushed, flawed process that led to AB 1890, energy deregulation, of 1996, passed unanimously and signed into law by Governor Davis. There are all sorts of drafting

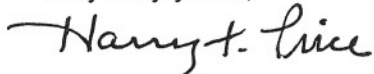
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and conceptual flaws in the bill, which tells me few in the legislature or staff are reading it very critically. Despite the best efforts of our city's professional staff, there are important parts of AB 2175 that we do not understand and cannot interpret.

While I am not suggesting AB 2175 is comparable to AB 1890 in the magnitude of its negative impact, it could be AB 2175 is this legislative generation's example of the same kind of mistake. Such a fundamental change in the state's system of water rights as is represented by AB 2175 should be undertaken only after careful public deliberation and outreach.

Again, we urge you to veto AB 2175 if it reaches your desk over our objections. We also ask that you urge the legislature to consult with us on amendments and/or substitute bills. I have sent a similar letter to our legislative representatives.

Very truly yours,

A handwritten signature in cursive script that reads "Harry T. Price".

Harry T. Price  
Mayor

cc: Honorable Lois Wolk