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Securing Your Water Supply

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April 13, 2015

Jessica Bean
State Water Resources Control Board
Post Office Box 100
Sacramento, CA 95812-0100

Sent via Email to: Jessica.Bean@waterboards.ca.gov

Subject: Concerns and Challenges with Proposed Regulatory Framework for Mandatory Conservation (as released April 7, 2015)

Dear Ms. Bean:

Western Municipal Water District, on behalf of the communities we serve, appreciates the opportunity to provide constructive comments regarding the Draft Regulatory Framework for Mandatory Conservation. In a spirit of open-minded collaboration, **Western is proposing reasonable alternatives designed to address the inequitable and discriminatory aspects of the existing proposed framework, while still achieving the Governor’s objective.** We request that the State Board consider the suggestions outlined in this letter.

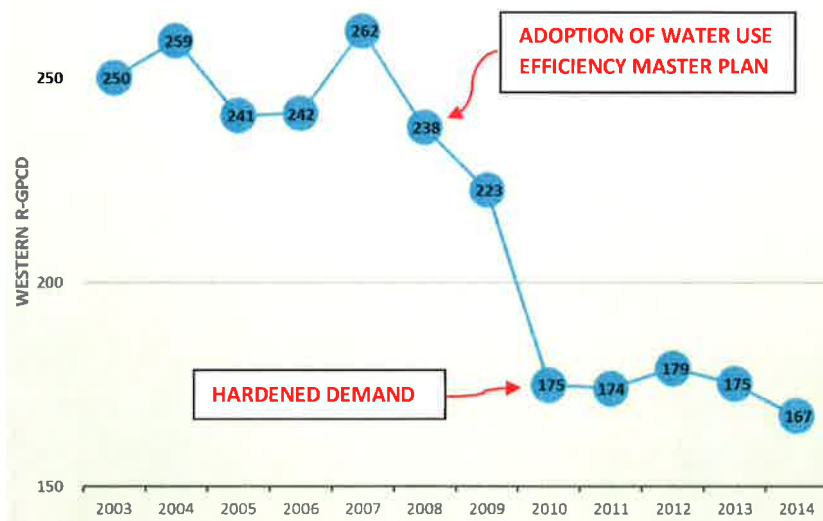
Western supports the goal of the Governor’s Executive Order B-29-15 to reduce urban water demand statewide. It is possible to achieve the Governor’s objectives. However, reasonable modifications to the details will be required to avoid failure and successfully implement the plan.

| Governor’s Executive Order: | Is Modification Needed to Ensure Success? |
|--|--|
| A statewide reduction of 25% in urban demand | Yes, proposed solution outlined in this letter |
| Restrictions in commercial, industrial, and institutional water use to match local reductions | Yes, proposed solution outlined in this letter |
| Prohibition of turf irrigation in public medians, if using potable water | No modification necessary, implement immediately |
| Prohibition of irrigation in new construction that is not delivered by drip or micro irrigation, if using potable water | No modification necessary, implement immediately |
| The use of rate structures that encourage water conservation and the elimination of water waste | No modification necessary, encourage implementation by suppliers immediately |
| Monthly reporting of actions in support of conservation and reduction mandates | No modification necessary, implement immediately |

Western has—in addition to investing hundreds of millions of rate-payer and State grant dollars in local supply reliability projects—adopted proactive water use policies, **progressive budget-based rate strategies, and implemented innovative conservation programs designed to manage water demands in all supply conditions.** As a result, the communities we serve have become less dependent on imported water, are more locally reliable, and have significantly reduced urban demand. Our practical actions to increase efficiency and eliminate waste began with the adoption of a Water Use Efficiency Master Plan in 2008.

Western's Master Plan deployed customer-tailored, solution-oriented strategies that can be sorted into three categories: Sustained Outreach; Rules, Regulations, and Rates; and Customer Support Programs. At the foundation of our success lies a unique approach to a water budget-based rate structure. Our system includes free efficiency support for all customers; real-time daily water budgets calculated using microzone-specific evapotranspiration data with monthly adjustments based on University of California research; and a link to our Water Supply Shortage Contingency Plan (WSSCP). Western believes that a linkage to the shortage plan is a critical component of a well-designed rate structure as it allows for flexibility in supply shortages while protecting revenue stability.

Using the State Board's methodology to calculate residential GPCD (R-GPCD), **Western can demonstrate the success of our past actions** as well as our ability to manage demands at an efficient level.



As illustrated in the figure above, **our communities have reduced R-GPCD from an average of 241 (2005–2009) to 174 (2010–2014)**. This is a reduction of **29 percent**—a very significant effort that should be recognized by the State and accommodated in any mandates for further reduction. Western Municipal Water District is not alone. There are other water suppliers that have made monumental strides to reduce waste and increase the efficient use of water. We agree that additional efficiencies can be gained relative to the 2013 base period through reasonable and targeted action (see our community's response from 2013 to 2014, above, as an example of continued resolve). However, **imposing a fourth tier and 35 percent reduction**, as proposed, upon rate payers that have clearly made contributions to the benefit of the state is:

1. **Unreasonable**, considering the efforts our communities have already made;
2. **Un-proportional**, considering the size our communities' population relative to the state as a whole;
3. **Inequitable**, considering our communities neighbor those with lower reduction mandates *in the same cities*;
4. **Discriminatory**, considering many of our service-oriented communities are lower income relative to coastal populations; and
5. **Profoundly harmful** to the fragile economies of communities we serve.

In addition to the objections listed above, Western strongly opposes the State Board's Proposed Framework because it:

1. assigns agencies to a reduction tier based on a single R-GPCD snapshot in time – September 2014;
2. does not account for any pre-2013 reduction efforts and investments in efficiency by water users and agencies;
3. discourages innovative local supply projects designed to lower demand on supplies of the state; and,
4. uses R-GPCD calculations that:
 - a. are not true measures of the efficient use of potable water;
 - b. do not account for climate or seasonal population variations in reporting;
 - c. do not easily allow removal of agricultural water use that is comingled in our residential sector;
 - d. are biased toward higher density population centers of the state simply because they have the advantage of more people; and
 - e. are biased toward coastal regions of the state simply because of their geographic location.

Western believes that the following itemized suggestions, in response to issues raised above, will add a significant degree of parity and reasonableness to the State Board's plan to achieve the objectives outlined in the Governor's Executive Order.

1. Assignment to Compliance Tiers

It is inappropriate to segregate and assign water suppliers to reduction compliance tiers based on a single month of R-GPCD data. The use of R-GPCD to rate and compare water agencies without regard for local demographic, land use, and climate factors is blatantly unjust. Requiring one region's water rate payers to subsidize another's likely violates the requirements of California Constitution Article XIII D (Assessment and Property-Related Fee Reform)—the case when 135 suppliers are mandated to conserve more water to subsidize 144 suppliers that are given the State Board's permission to conserve less than an equitable share.

Proposed Alteration:

- A. Establish the maximum Conservation Standard in the compliance matrix at 25 percent.**
- B. Establish additional levels of Conservation Standards between 10 and 25 percent in increments of 2.5 percent.**
- C. Determine the annual average R-GPCD for calendar year 2013 using the State Board's established methodology to calculate monthly R-GPCD.**
- D. Assign water suppliers to Non-Adjusted Conservation Standards based on their annual average R-GPCD for 2013.**
- E. Adjust each supplier's compliance Conservation Standard using the methodologies outlined below.**

Additional Background:

Mandatory reduction targets will impact local economies, property values, and water rates more so in areas with 35 percent reduction targets than those with 25 percent targets. Revenue losses from a 35 percent reduction will be greater than revenue losses from 25 percent reductions. Revenue loss will ultimately affect supplier water rates. To subject an agency to a reduction target that may result in financial penalties for non-compliance will impact local water rates when the supplier has to fund a compliance fine. At the local level, the California Constitution prevents a water supplier from subsidizing one water sector's lower rates with another's higher rates. The State Board is clearly impacting the future water rates of some rate payers more than others. What the State Board is proposing is clearly inequitable and probably unlawful.

If it is inappropriate for a water supplier to reduce water production by 25 percent from 2013, that supplier should be required to demonstrate:

- a. Recent actions that have been undertaken by the supplier that have resulted in significant demand hardening; and/or,
- b. The calculated local R-GPCD is equal to the measure of efficient indoor *and* outdoor use in the sector.

2. Penalized for Pre-2013 Efforts

Progressive agencies that have invested in local water use efficiency measures either through rate structures, outreach, ordinances, conservation programs, or some combination of all of these activities do not get credit for reductions in water demand prior to 2013.

Proposed Alteration:

- A. Using the State Board's established methodology to calculate monthly R-GPCD, determine the annual average R-GPCD for each year for the period 2004 through 2013 (ten years prior to Governor's declaration).**
- B. Calculate the 3-year average R-GPCD for 2011, 2012, 2013 (the current duration of the statewide drought); [Recent R-GPCD].**
- C. Calculate a three-year R-GPCD average for any three consecutive years prior to 2011, but within the 10-year period described in "A," above; [Base R-GPCD].**
- D. Calculate the percent change using the difference between the Base R-GPCD and Recent R-GPCD; [Demand Hardening Percentage].**
- E. Calculate the product of the Demand Hardening Percentage and the Conservation Standard and subtract from the Conservation Standard; [Adjusted Conservation Standard].**
- F. If the Adjusted Conservation Standard shows that they should be in a different Tier, then the supplier will be responsible for a different compliance target, if the adjustment is not large enough to move the supplier completely into another Tier the supplier will be responsible for the original Conservation Standard.**

3. Local Water Supply Projects

Many agencies, like Western, have invested millions of dollars in local supply projects that reduce demand on import supplies. These local supplies include recycled water, brackish groundwater desalination, and even ocean-water desalination. In most cases, local supply projects provide reliability, but at a higher cost per acre-foot. A mandatory reduction in production that is blind to the source of supply will result in water suppliers reducing production of more expensive local supplies and instead relying on more imports from the Bay-Delta—it just makes more economical sense.

Proposed Alteration:

- A. Develop a credit to directly lessen the Conservation Standard reduction based on the per capita volume of water produced locally that uses an alternative treatment methodology.**

4. R-GPCD as a measure of efficiency is flawed

R-GPCD without additional context and adjustment is not an effective way to compare water suppliers, yet that is what the State Board has done using methodology to assign water suppliers to the matrix of Conservation Standards. GPCD, especially R-GPCD, without an understanding of the factors that determine a region's water use: housing density and evapotranspiration (temperature, solar radiation, humidity, and wind) cannot be a measure of water efficiency. A presumed low R-GPCD in a coastal community may not be efficient water use and a relatively high R-GPCD may already indicate deficit irrigation of landscaping. Many inland urban water suppliers also serve a mix of orchards with residential homes. The comingling of agricultural use will significantly inflate R-GPCD.

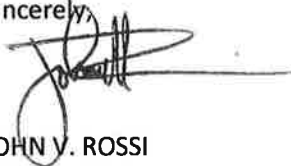
Proposed Alteration:

- A. Using the suggested alterations above, specifically "A" and "B," will partially alleviate inequities associated with population density and climate.**
- B. All potable water delivered to agriculture should be subtracted from the potable water production used in the calculation of R-GPCD.**

Due to the serious nature of the water issues we face as a state, and the high likelihood that we may have additional dry years ahead, Western encourages the State Board to develop a task force of water professionals to review all suggestions made in response to Executive Order B-29-15 and develop a carefully crafted strategy to deal with future supply emergencies and drought. Western, along with an interagency group of water professionals, is working on a suggested new framework that will assist in the development of significant and achievable water savings, without economically stressing fragile local economies in our region and others.

Thank you again for the opportunity to comment.

Sincerely,



JOHN V. ROSSI
General Manager