

commentletters

From: David S. Gehrig <dgehrig@hansonbridgett.com>
Sent: Wednesday, June 24, 2015 8:34 PM
To: commentletters
Subject: Comment Letter: Conservation Pricing



Good evening. I am writing in response to the SWRCB's recent announcement of a workshop regarding the efficacy of conservation pricing consistent with Prop 218 and the recent San Juan Capistrano case. My law firm, Hanson Bridgett LLP, represents a number of local water agencies (primarily county water districts) that have recently addressed, or will be addressing in the near future, the challenges of conservation pricing in light of recent Prop 218 legal developments. We have a few modest suggestions that we think would support and assist local water agencies implement conservation pricing, which we offer for your consideration:

1. Provide guidance on how local agencies with only a single source of water can implement tiered water rates.
2. Provide guidance on how local agencies can utilize "peaking factors" to support a cost basis for each tier so as to satisfy the proportionality requirement of Prop 218.
3. Provide model ordinances or model rate structures that the SWRCB believes would and should withstand judicial scrutiny and comply with Prop 218.
4. In the event that the San Juan Capistrano case is not de-published, work on draft legislation to amend the Prop 218 Omnibus Implementation Act to clarify how tiered water rates can comply with Prop 218. Ideally, this legislation would provide as much discretion for local agencies as possible to provide a "cost basis" to satisfy the proportionality requirement under Prop 218, and effectively nullify or override the San Juan Capistrano case.
5. If a legislative effort is commenced, advise how local water agencies can help build support for the legislation in the state legislature.

These suggestions are submitted strictly on behalf of Hanson Bridgett LLP, and not on behalf of any individual clients of the firm. We hope that these suggestions are helpful. Of course, please feel free to contact me if you have any questions or if I can be of further assistance.

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