



# CALIFORNIA FARM BUREAU FEDERATION

OFFICE OF THE GENERAL COUNSEL

2300 RIVER PLAZA DRIVE, SACRAMENTO, CA 95833-3293 · PHONE (916) 561-5665 · FAX (916) 561-5691

Sent via E-Mail

[commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

July 1, 2015



Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24th Floor  
Sacramento, CA 95814

RE: **Comment Letter: Conservation Pricing**

Dear Ms. Townsend:

The California Farm Bureau Federation (“Farm Bureau”) appreciates the opportunity to provide these preliminary written comments to the Board, in advance of the public workshop noticed for July 8, 2015 on the subject of conservation water pricing. Farm Bureau plans to appear in person at that workshop, and provide additional comments.

Farm Bureau is a non-governmental, non-profit, voluntary membership California corporation whose purpose is to protect and promote agricultural interests throughout the state of California and to find solutions to the problems of the farm, the farm home and the rural community. Farm Bureau is California's largest farm organization, comprised of 53 county Farm Bureaus currently representing more than 57,000 agricultural, associate and collegiate members in 56 counties. Farm Bureau strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of California's resources.

As part of the statewide initiative to “Save Water,” in Executive Order B-29-15, Governor Brown has directed the Board to “direct urban water suppliers to develop rate structures and other pricing mechanisms, including but not limited to surcharges, fees, and penalties, to maximize water conservation consistent with statewide water restrictions.”<sup>1</sup> To accomplish this end, the Water Board is directed to “adopt emergency regulations, as it deems necessary, pursuant to Water Code section 1058.5[....]”<sup>2</sup> The Water Board is “further directed to work with state agencies and water suppliers to identify mechanisms that would encourage and facilitate the adoption of rate structures and other pricing mechanisms that promote water conservation,” and “[t]he California Public

<sup>1</sup> Executive Order B-29-15, April 1, 2015 at ¶ 8.

<sup>2</sup> *Ibid.*

NANCY N. MCDONOUGH, GENERAL COUNSEL

ASSOCIATE COUNSEL:

CARL G. BORDEN · KAREN NORENE MILLS · CHRISTIAN C. SCHEURING · KARI E. FISHER · JACK L. RICE

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Utilities Commission is requested to take similar action with respect to investor-owned utilities providing water services.”

A fundamental point with respect to Executive Order B-29-15 and the Governor’s directives on rate-setting to encourage water conservation is that the Order applies to “urban water suppliers,” as distinguished from agricultural water suppliers. Further, the clear emphasis of the Order as a whole is on discretionary outdoor residential, municipal and industrial water use, as distinguished from water use in connection with production agriculture. The Board is already well aware that agricultural water users this year have seen deep and unprecedented reductions in agricultural water supplies.

Moreover, the Executive Order includes other provisions directed specifically at agricultural water suppliers, relating to new drought management planning requirements and water use quantification in Agricultural Water Management Plans, under paragraphs 12 and 13 of the Order. Paragraph 10 includes direction to the Board to identify and prevent potential unauthorized diversions, and the Water Board is currently focusing a great deal of effort in this area in connection with information orders, new use and diversion reporting requirements, water rights curtailments and potential related penalties. The primary targets of these efforts have been agricultural uses in the Sacramento-San Joaquin River watershed, the Russian River watershed, and a few other select watersheds, including senior pre-1914 and riparian water rights holders and claimants.

In parallel to these efforts by the Board on the water rights enforcement front, federal contractors of the Central Valley Project on the east and west sides of the San Joaquin Valley, in the Tulare Lake Basin, and on the west side of the Sacramento Valley this year, for the second consecutive year, received zero percent allocations from the Bureau of Reclamation. The State Water Project this year will deliver fractional portions of contract totals to State Water Project contractors, including agricultural districts in Kern County and Southern California. Additionally, it now appears that planned water transfers and agricultural water supplies from the projects may be further impacted this year by the Water Board’s recent order to reduce summer releases from Shasta and Keswick to a minimum of 7,250 cfs, to conserve scarce available cold water resources for endangered winter run Chinook salmon this fall. In every sense, much of California’s agricultural economy finds itself well beyond incentive-based voluntary conservation, and in the realm of fractional water deliveries.

For purposes of the Board’s workshop and actions the Board may undertake to assist or support local conservation pricing, it is important to note that while the Executive Order’s direction on tiered-pricing applies on its face to only “urban water suppliers”, as with the Board’s 25 percent statewide reduction regulations, *many of these “urban water suppliers,” particularly in Southern California, serve agricultural as well as residential users*; in other words, that there are agricultural water users embedded within these districts. Consistent with the approach adopted by

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the Water Board in connection its 25 percent reduction regulations, a logical approach for the Water Board with respect to tiered-pricing is to support exclusion of – or differential treatment of - commercial agricultural users within the service areas of affected urban water supplier agencies in the development of any tiered-pricing regulations. The Board should require Agricultural Water Management Plan reporting under paragraphs under paragraphs 12 and 13 of the Executive Order, but should otherwise leave any decisions on agricultural rate-setting to the local jurisdictions.

Among other things, in its June 10, 2015 Notice on “Solicitation of Comments Regarding Conservation Water Pricing and Implementation of Directive 8 of Executive Order B-29-15, the Water Board notes that it seeks input “on the efficacy of conservation pricing and proposal for how conservation price signals can be improvement consistent with Proposition 218.” In the first place, with respect to agricultural water suppliers, the Agricultural Water Management Council notes that tiered-pricing of agricultural water already exists in a substantial portion of agricultural water supplier districts statewide. Beyond this, however, it is also generally true that the great scarcity and expense of water as a major input into the farming enterprise function to send a very strong “price signal” to farmers on the necessity of conserving water. This nowhere so true, perhaps, as in Southern California. With prices for water from urban water supplier agencies as high as \$1,400 to \$1,500 an acre-foot, the cost of water in these primarily urban area of the state is at a premium. Agricultural water suppliers in such areas, therefore, naturally understand the need to use water as efficiently as possible – and are doing so.

The Water Board’s notice notes that, “water suppliers must carefully construct and document their rate structures to comply with the constitutional limitations of Proposition 218, as demonstrated recently by the Fourth District Court of Appeal, Division Three's opinion in *Capistrano Taxpayers Association, Inc. v. City of San Juan Capistrano*.” Farm Bureau agrees that Proposition 218 operates as a fundamental constraint on water rates in many cases, at the same time that conservation pricing offers an opportunity to reduce and make more efficient those discretionary “lifestyle” uses of our precious water resources. We also believe that the California Constitution’s overall command – in Article X, Section 2 – the requirement “that the water resources of the State be put to beneficial use to the fullest extent of which they are capable” contains a clear implication that agricultural water use is in the general welfare, supporting as it does the nation’s most productive farm economy.

We urge the Board to provide guidance and policy on the subject of conservation pricing that respects agricultural water use as a genre of water use that is wholly different from urban uses in terms of supply, demand, productivity, and opportunities for incentive-based conservation, and to provide methodologies for local urban water agencies to “break out” agricultural water users from conservation pricing calculated to reduce lifestyle-based uses of water which are discretionary.

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We look forward to addressing the Board directly on July 8.

Yours truly,

A handwritten signature in blue ink, appearing to read 'CCS', with a stylized flourish extending to the right.

Christian C. Scheuring  
Managing Counsel

CCS/JEF/dkc