



May 4, 2015

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Via email to: Jessica.bean@waterboards.ca.gov

State Water Resources Control Board
Attention: Ms. Jessica Bean
1001 I Street, 24th Floor
Sacramento, CA 95814

Subject: Comment Letter - Emergency Conservation Regulations

Honorable Board Members:

Eastern Municipal Water District (Eastern) appreciates the opportunity to provide input to the State Water Resources Control Board ("State Board") on the Draft Emergency Regulations proposed to achieve a 25 percent statewide reduction in potable urban water use. We fully support the Governor's bold leadership in calling for additional reductions in water use statewide and are fully committed to complying with the Governor's mandate.

However, Eastern continues to have serious concerns and strongly opposes the April 28, 2015, draft of the proposed Emergency Regulations and requests that the State Board defer its anticipated May 5, 2015 adoption of the proposed regulations until June 2015, or at a time in which the major issues identified in this letter are properly addressed with input from the regulated water community.

As previously communicated by Eastern and numerous other agencies, our most significant concern is that the proposed method of setting the proposed potable water use reduction requirements is inappropriately simplistic and invariably results in significant equity and implementation concerns. The major flaws with the methodology, which have been identified in two previous letters from Eastern to the State Board and are described below, result in some agencies having to do much less conservation than they are capable of and other agencies having to conserve to unrealistic levels. As a result, this defective methodology will predictably fail to accomplish the Governor's 25 percent statewide reduction mandate.

We believe greater success in achieving the Governor's mandate is possible. On April 22, 2015, Eastern, along with several other agencies, provided an equitable, achievable, and enforceable model for achieving the Governor's call for a 25 percent reduction in urban potable water demand. This model, which was developed by technical experts in water shortage allocation methodologies and water use efficiency, takes into account long-term efforts to reduce potable water demand through conservation and recycled water use, considers key parameters

such as climate and density, and is in a form that can be incorporated into the State Board's final emergency regulations. We reiterate our request that the State Board consider adopting this or a similar equitable and scientifically credible model for implementation of the regulations.

Notwithstanding our request, we offer the following comments on the State Board's proposed regulations for the record:

The Regulations Inequitably Penalizes Early Conservation Adopters: The proposed method of setting conservation standards does not adequately account for earlier investments in conservation. Under The Water Conservation Act of 2009 (Senate Bill x7-7), water suppliers are required to reduce their gallons per capita per day usage by 20 percent by the Year 2020, with incremental progress towards that goal by reducing per capita water use by a least 10 percent by the Year 2015. Many agencies have committed substantial resources toward meeting this statutory goal and are performing well. These agencies have already improved water use efficiency and have reduced their GPCD consumption through investments in both indoor and outdoor water conservation programs. As a result, these agencies' demands are somewhat "hardened," thereby limiting their ability to implement significant additional GPCD reductions in 2014 and 2015, relative to the arbitrary baseline of 2013. This demand hardening is not recognized in the current proposed regulations.

By example, in 2014, EMWD had reduced its gallons per capita per day (GPCD) water use by 22 percent when compared with its average GPCD from 1999 through 2008. In the proposed regulations, EMWD, with a Residential-GPCD of 130.7, is required to reduce potable water use by 28 percent compared to 2013. This is the same reduction requirement EMWD would have been subject to if our GPCD had not been reduced as seen in Table 1.

Table 1 – Benefits of Past Conservation under Proposed Emergency Conservation Regulations

	EMWD Jul-Sep 2014 R-GPCD	Proposed Conservation Factor
With Conservation	130.7	28%
Without Conservation (22% Increase) ¹	159.5	28%

1. Estimated by increasing Jul-Sept 2014 R-GPCD by 22%.

The Regulations Do Not Adjust for Climate Differences: Failing to account for climate in the R-GPCD calculations discriminates against the inland population of California. R-GPCD reporting should be weather normalized. It is our opinion that weather normalizing the R-GPCD reporting would substantially improve the fairness of the proposed target reduction tiers.

The Regulations Do Not Adjust for Drought-Proof Water Supply Development: Expanding the use of recycled water is a priority in the state of California as documented in the California Water Plan. Eastern is a state-wide leader in recycled water use. In 2014, EMWD used 38,800 acre-feet of recycled water to serve agricultural, industrial,

and landscape customers. There have been significant investments made to insure that recycled water is available and used year after year offsetting the need for additional imported supplies and preserving storage. Unfortunately, these significant investments are not considered or recognized in the proposed regulations. Incorporation of recycled water use is an investment in permanent drought proofing and aligns with state recycled water policy goals. Moreover, the implementation of recycled water has the effect of partially “hardening” potable water demands and incrementally reducing an agency’s ability to invoke additional potable demand reductions. Specifically, agencies that have already converted large landscape areas to recycled water do not have the opportunity to further reduce potable water use in these areas.

The Regulations Should Provide an Alternative Compliance Option for Allocation Based Tiered Rate Structures. As previously communicated, allocation-based tiered rates send a strong price signal encouraging customers to efficiently use water. To develop allocation based tiered rates a significant amount of data is collected to set individualized budgets. This data includes persons per household and information about irrigated landscape area that can be used to set efficiency targets. We encourage the SWRCB to use a performance-based efficiency standard, which equates to about a 15 percent reduction, for calculating the targets for agencies with allocation-based rate structures or those that transition to them during the reporting period. We recommend the performance efficiency standard be based on:

- a. Residential indoor residential use at 55 gallons per capita per day:*** A state standard was set in SB x7-7 of 55 GPCD for residential use. December of 2014 was a wet month across the state, the residential water use in that month should reflect mostly indoor demand. A review of the R-GPCD data submitted to the State Board shows that the average indoor use across the state is close to 72 GPCD. Meeting a 55 GPCD target is a 24 percent reduction of average indoor use.
- b. Outdoor landscape allocation based on drought tolerant plants and drip irrigation or other equivalent irrigation system:*** This represents a more efficient landscape standard than is currently in the State’s Model Water Efficient Landscape Ordinance that strongly limits the use of turf (proposed ET Adjustment factor of 0.6). It will apply to residential, commercial, industrial, and institutional landscape accounts. It also limits the impact on indoor commercial, industrial, and institutional water use that could adversely impact the economy.

Eastern also continues to recommend that the State Board recognize agencies which fully implement their Water Shortage Contingency Plans at a level consistent with the State Board’s reduction goals as making an appropriate compliance effort, and work with those agencies that have acted in good faith on “Corrective Action Plans” in-lieu of assessing administrative orders and levying fines. In this regard, we recommend that the State Board clearly define a process for submitting Corrective Action Plans including when and what should be submitted, and specifying standards-based items such as the implementation of sustainable tiered rate structures and commitments to meet minimum, current, or lower indoor/outdoor standards that would meet the goals outlined in the Executive Order.

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We would also continue to encourage the State and Governor to take two other immediate actions. First, to limit its own landscape water use and apply the same if not greater potable water restrictions and reductions to all state owned or controlled landscaped areas. Second, to supplement the Governor's Executive Order, require all agencies in the state to install water meters on potable water service connections no later than December 31, 2015. The fact that some urban areas in the state have been able to avoid such basic water management practices as metered water connections is simply unconscionable. To assist with this, the State Board could immediately deploy low interest loans to ensure timely implementation.

In summary, we are disappointed with the currently proposed State Board Emergency Regulations and the highly flawed methodology being proposed by the State Board for implementing those regulations. However, we are fully committed to complying with the Governor's mandate. At this time we request that the State Board defer adoption of the proposed regulations until June 2015, or at time in which the major issues identified in this letter are properly addressed with input from the regulated water community.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul D. Jones II". The signature is fluid and cursive, with the "II" written in a slightly larger, more distinct font than the rest of the name.

Paul D. Jones II, P.E.
General Manager

c: EMWD Board of Directors

Thomas Howard, Executive Director, State Water Resources Control Board