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April 13, 2015

Jessica Bean
Engineering Geologist
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Subject: Mandatory Conservation Proposed Regulatory Framework - April 7, 2015 draft

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Dear Ms. Bean:

CMUA appreciates the opportunity to comment on the State Water Resources Control Board (SWRCB) staff's "Mandatory Conservation Proposed Regulatory Framework" and the draft table "Urban Water Suppliers and Proposed Regulatory Framework Tiers to Achieve 25% Use Reduction" (Tiers document) released on April 7, 2015. CMUA and its members support the Governor and the SWRCB in their efforts to manage California's ongoing drought and appreciate the extra public attention that these actions bring to this issue. In collaboration with our member agencies, many of which have different needs and concerns, we offer the following recommendations for the SWRCB to consider when drafting the emergency regulation:

- **Monthly compliance:** CMUA recommends that monthly compliance be assessed using a 12-month rolling average water usage rather than a one-month snapshot. Monthly usage can fluctuate significantly with temperature and precipitation levels. This was seen this past December 2014, when water savings statewide equated to a 22% reduction due to that month having significantly more rainfall than the previous December in 2013. However, in January and February 2015, the water savings dropped down to 8% and 2.8% statewide due to lack of rain and hotter

temperatures than normal. Viewing a 12-month rolling average water usage for the month provides a method of correcting for these wide fluctuations. A CMUA member (LADWP) has provided an example (attached) for your review.

- **Tier allocation:** Several of our members have concerns with the tiers and will be communicating those to you (including possible alternatives). However, should the SWRCB move forward with any tier system, we recommend that the baseline for a tier allocation be calculated using the same time period as the compliance period for the regulation. Because climate and weather differences vary greatly throughout the state, using one month (September 2014) may not reflect true conservation efforts. For example, rather than using only September 2014, the SWRCB could use an average of the entire 9-month period of June 2013-December 2013 plus January-February 2013. Taking an average of the 9 months of data better represents each agency's current R-GPCD and better accounts for differences in climate and weather. This data is already available to SWRCB through previous reporting from water suppliers.
- **CII Sector Use:** CMUA recommends that water agencies be allowed to report total usage for the commercial, industrial and institutional sector, rather than separated out by customer type. Agencies are not always able to accurately separate out these customers and depending on the number of large accounts may unintentionally violate customer confidentiality requirements of the Public Records Act. An overall CII usage amount provided monthly will still achieve the SWRCB's goal, which is to reduce water use in that sector.
- **Recycled Water:** CMUA asks the SWRCB to provide additional clarity related to classifying recycled water in the CII sector. Member agencies have CII accounts that use recycled water blended with potable water, and the percentage can vary depending on the water quality. At what point is the source considered recycled water?
- **Provision for Penalties:** CMUA recommends that a provision be included in the compliance section to assist those water suppliers that can demonstrate they are making steady progress and actively meeting all other requirements except the ultimate assigned water use reduction target. Many water suppliers have been working diligently to reduce water use and will continue to do so with the new rule but there is concern regarding the assessment of Administrative Civil Liabilities (ACL) even with continued progress and good faith efforts by suppliers to comply with the regulation. Such a provision will allow suppliers to proactively work with their customers and the SWRCB on compliance without being assessed substantial fines that would add to the impacts of already reduced revenue.
- **Reductions due to state/federal contracts:** CMUA asks that consideration be given to those urban water suppliers that are reliant upon a single source of water provided through a state or federal contract. Those suppliers already are experiencing severe cutbacks and further restrictions may reduce their water use to an unmanageable level.

- **Alternative Water Sources:** CMUA recommends the SWRCB recognize water suppliers that have developed local water supply projects (e.g. recycled water, ocean and brackish water desalination, indirect potable reuse) by giving a credit for those efforts. We understand that recycled water is not included in the water production information provided to the state and we would like the same consideration given to other similar sources of supply.
- **Agricultural Users in Urban Water Supplier Service Areas:** CMUA recommends that urban water suppliers with agricultural customers be allowed to take those accounts out of their water production numbers for the reporting requirements. These users should be treated the same as other agricultural operations across the state.
- **Urban Suppliers with Fluctuating Populations:** CMUA recommends that water suppliers with populations that fluctuate significantly depending on seasonal tourism be authorized to approve, if appropriate, an alternative means to calculate the per capita water usage that takes into account transient populations, or population influxes.
- **Timing:** CMUA recommends that the SWRCB allow an additional 45 days from the date of the adoption of the new regulation for suppliers to make changes to their Water Shortage Contingency Plan (plan) associated with this rule OR the rule that went into effect on March 27. As the SWRCB is moving forward with the new regulation, many water suppliers are still in the process of implementing the regulation that went into effect on March 27, particularly the provision that allows urban water suppliers to amend their plan with new irrigation limits. Water suppliers in the process of amending their plan may need to make further changes in light of the new reductions and a second action in two or three months would not only be challenging to develop and implement but also extremely confusing for customers. Additional time will allow suppliers to present their governing Boards with a more complete package and help provide clarity to customers, who are key to the success of this regulation.
- **Messaging/Outreach:** Messaging and outreach by the SWRCB and other state agencies will be extremely important throughout the implementation of this regulation. CMUA strongly encourages significant outreach by the Administration, the State Water Board and the news media to communicate the new rule. This will be especially important if different tiers are adopted because there are many areas of the state where the proposed framework would result in water suppliers within the same or adjoining service areas having different reduction requirements (see examples below). We expect this will create significant confusion among customers, particularly since the media and even saveourh2o.org already have announced all urban water users will be subject to a *statewide* 25% reduction. If different tiers are adopted, any outreach should include as much information as possible about the origin of the adopted tiers and why communities have different requirements.

- **Examples:** Placer County Water Agency services parts of Placer County; Rocklin, Roseville, etc. For a portion of Roseville customers (just under 1,000), their reduction would be 25% - but across the street for Rocklin customers - their reduction would be 35%. In Southern California, the City of Glendale is 20% but the Cities of Burbank and Pasadena are 25%.

Thank you for considering CMUA's comments and for engaging stakeholders throughout the development of this regulation. Please contact me at 916-847-8444 or dblacet@cmua.org should you have any questions.

Sincerely,



Danielle Blacet
Director for Water

. cc: Honorable Felicia Marcus, Chair
Honorable Frances Spivy-Weber, Vice Chair
Honorable Dorene D'Adamo, Board Member
Honorable Tam Doduc, Board Member
Honorable Steven Moore, Board Member
Mr. Tom Howard, Executive Director
Ms. Caren Trgovcich, Chief Deputy Director
Mr. Eric Oppenheimer, Director, State Water Board's Office of Research, Planning and Performance
Mr. Max Gomberg, Climate Change Advisor

Attachments:

- LADWP 12 Month Rolling Residential GPCD (Preliminary Supply Data Reported to the SWRCB)
- LADWP Monthly Residential GPCD (Preliminary Data Reported to the SWRCB)