

July 21, 2017

The Honorable Robert M. Hertzberg
Chairman, Senate Committee on Natural Resources and Water
State Capitol, Room 5046
Sacramento, CA 95814

Re: Comments of Water Suppliers and the Business Community on Legislation Necessary to Help with “Making Water Conservation a California Way of Life”

Dear Chairman Hertzberg:

On behalf of the 112 undersigned organizations, we are responding to your request at the July 11, 2017, hearing of the Senate Committee on Natural Resources and Water that stakeholders submit their written comments and perspectives on the Committee’s stated intent to “enact legislation necessary to help make water conservation a California way of life.”

Since January 2017, many of the undersigned organizations have been engaged in the development of legislation to implement the vision of the Governor’s framework for “Making Water Conservation a California Way of Life.” To that end, the water community undertook a nearly four-month process to develop a comprehensive, consensus-based approach to ensure continued improvement in long-term urban water use efficiency while strengthening drought preparedness and water shortage response. That approach was put forth in AB 968 and AB 1654, authored by Assembly Member Blanca Rubio (D-West Covina).

AB 968 and AB 1654 were developed with input from dozens of water agencies committed to developing and implementing balanced approaches to water management that include demand reduction through improvements in water efficiency, continued development of resilient water supplies, and preparation for inevitable future droughts. This balanced approach is consistent with Governor Brown’s comprehensive California Water Action Plan.

AB 968 and AB 1654 were also consistent with the framework’s policy objectives of establishing new water use targets for urban retail water suppliers and enhancing drought planning, preparation, and reporting requirements. In addition to promoting these sound water policy goals, these two bills preserved local authority — where experience, expertise and customer relationships are maintained — and balanced the need to improve water use efficiency and further develop drought-resilient water supplies. ***We believe maintaining legislative oversight and local authority must be paramount as the state develops and implements new policies intended to enhance water use efficiency and water shortage planning requirements.***

AB 968 and AB 1654 were supported by more than 100 entities, including water suppliers, cities and counties, business groups and associations. The two-bill package garnered broad-based support because it was guided by the following principles, which should be the foundation for any legislation enacted for “Making Water Conservation a California Way of Life.”

Policy Principles Related to Long-Term Water Use Efficiency and Drought Planning

Long-Term Water Use Efficiency:

1. Preserve the Legislature's authority over long-term water use efficiency target setting. State agencies should **not** be granted the authority to set and revise water use efficiency targets. Commercial, industrial, and institutional (CII) performance measures must be determined by a broad stakeholder task force and not state agencies.
2. Ensure that any water use efficiency target setting approach is flexible to account for the diversity among California's communities and the urban retail water suppliers that serve them. Legislation must include alternative pathways or functional equivalents to compliance, variances, and criteria for the data to be collected.
3. Protect water rights and preserve a water supplier's ability to use water it has a right to access.
4. Protect and create incentives for the further development of potable reuse and recycled water.
5. Provide for appropriate, progressive enforcement authority that accounts for urban retail water suppliers' authorities and responsibilities relative to their customers. The focus should be on corrective action instead of cease-and-desist orders.

Shortage Response Planning:

6. Preserve local decision-making to determine actions to avoid or mitigate shortages. The state should not dictate what actions are to be taken at any stage or specific actions that must be included in a water shortage contingency analysis.
7. Preserve and encourage investments in resilient water supplies. Potable reuse, recycled water, and desalination should all be considered fully reliable.
8. Ensure that annual water supply and demand assessments are based on and accurately reflect local conditions.
9. Maintain the existing legislative intent and challenge period for urban water management plans.
10. Recognize that energy use is only one aspect of water supply planning.

Proposed Goals for the Legislation

The water, city and county, and business communities support the goal of making water conservation a California way of life, but the Administration and the Legislature have yet to

define the means to accomplish this goal. We recommend that legislation be designed to accomplish two objectives: 1) improve urban water use efficiency, and 2) identify demand management and supply augmentation measures that urban retail water suppliers will utilize to address water supply shortages. Improvements in urban water use efficiency should be measured at the urban retail water supplier level based on water use that is considered reasonable and efficient. The legislation should have a goal of reducing the wasteful use of water rather than seeking to reduce the total volume of water served for uses that are reasonable and efficient.

The legislation should also ensure that urban water suppliers engage in drought planning that better prepares them to respond to drought and other water shortages. Any legislation modifying urban water management plans and water shortage contingency analysis requirements should result in usable documents for the supplier and not simply a compilation of hypothetical modeling or academic analyses. The legislation should also consider the benefits and burdens of mandatory reporting requirements placed on urban water suppliers.

Detailed Discussion on Long-Term Water Use Efficiency and Drought Planning

- 1. Preserve the Legislature's authority over long-term water use efficiency target setting. State agencies should not be granted the authority to set and revise water use efficiency targets. Commercial, industrial, and institutional (CII) performance measures must be determined by a broad stakeholder task force and not state agencies.**

California can and should enact legislation establishing new long-term aggregated targets and standards for water use efficiency at the retail agency level that assign appropriate roles for the Legislature, state agencies and urban retail water suppliers. Toward this end, and substantially mirroring the process enacted within the Sustainable Groundwater Management Act and within the Renewable Portfolio Standards policy area:

- The Legislature should establish, in statute, the standards for reasonable and efficient urban water use, and the target formula(s) by which retail agency-level water use efficiency will be measured;
- State agencies should develop guidance and adopt regulations necessary to implement the target formula(s), and provide technical and financial assistance to local urban retail water suppliers; and
- Urban retail water suppliers should have responsibility for using state-provided data and/or local data, if it is of comparable or better quality, to calculate a water use efficiency target that is consistent with state law and that accounts for unique local conditions. An urban retail water supplier also should have responsibility for taking actions within its control to meet its water use efficiency target.

Future revisions to the long-term aggregated targets and standards for water use efficiency at the retail agency level should have a technical or scientific basis that justifies a change in the efficiency standard. State agencies should have responsibility for making recommendations to the Legislature on appropriate updates to the efficiency standards every five years after engaging urban stakeholders and soliciting public input. State agencies also should be required to engage urban stakeholders and solicit public input regarding implementation of the long-term water use efficiency targets given that there likely will be technical issues related to the calculation of and compliance with the targets that will need to be resolved with stakeholders input.

Additionally, the long-term water use efficiency target should not include volumetric targets for the commercial, industrial and institutional (CII) water use sectors. Instead, the water use efficiency approach taken with CII should be the implementation of performance measures designed to promote the efficient use of water. These performance measures, reflecting best management practices, should be developed in conjunction with stakeholders to ensure that the measures are cost-effective, and support California's economic productivity. Stakeholders must play a meaningful role in the development of the performance measures as well as the thresholds for implementation.

Arguments in Support:

The Administration and others have proposed that the State Water Resources Control Board should be granted unlimited authority to set standards for urban water use, including setting standards for indoor residential water use, outdoor irrigation, and CII water uses. However, giving full control of future water efficiency target setting to any state agency risks negative impacts to California's economy, business climate, and quality of life. Furthermore, as written in the introduction to the California Water Action Plan, "To be sustainable, solutions [to management of California's water resources] must strike a balance between the need to provide for public health and safety (e.g., safe drinking water, clean rivers and beaches, flood protection), protect the environment, and support a stable California economy." Additionally, as California moves toward greater water use efficiency, it should be noted that improving water use efficiency may increase costs and reduce water system revenues. The upward pressure on water rates and impact on affordability of water must be considered.

Only the Legislature can balance California's many competing policy goals and priorities, and represent all Californians in determining how water should be used within our urban communities. State agencies should not be granted the unfettered authority to set and revise water use targets.

- 2. Ensure that any water use efficiency target setting approach is flexible to account for the diversity among California's communities and the urban retail water suppliers that serve them. Legislation must include alternative pathways or functional equivalents to compliance, variances, and criteria for the data to be collected.**

Legislation on urban water use efficiency can build on the success of California's "20% by 2020" law by recognizing the diversity that exists among California's many unique urban communities

and more than 400 urban retail water suppliers. Before the Legislature establishes water use efficiency targets based on any single method, including water budgets, that method must be proven to be reliable, broadly applicable, and adaptable to different community characteristics and conditions throughout the state. AB 968 would have accomplished this by providing three clearly defined, codified options for calculating the water use efficiency target. Each option would have allowed water suppliers to calculate a water use efficiency target using existing processes and programs while acknowledging the state's hydrologic, geographic, climatic, and economic diversity.

The Legislature should consider the following, depending on the method(s) chosen for calculating water use efficiency targets:

- If one method is chosen for setting water use efficiency targets, alternative pathways or functional equivalents to compliance should be permitted where the calculation of the water use efficiency target under the chosen method is technically, economically or administratively infeasible.
- If a data-intensive method, such as a retail-level water budget, is chosen as the sole method for calculating an urban retail water supplier's water use efficiency target, the Department of Water Resources should be responsible for providing urban retail water suppliers with accurate data necessary to calculate each urban retail water supplier's water efficiency target.¹
- The legislation must provide for variances that account for unique community attributes and situations.

Arguments in Support:

Calculating retail-level water use efficiency targets using a "one-size fits all" methodology will likely be challenging for a number of technical, economic or administrative reasons. Providing flexibility can aid in the statewide implementation of water use efficiency targets, and can appropriately balance the benefits and resource requirements of the chosen method(s).

If a water budget approach is selected, the Department of Water Resources should provide to urban retail water suppliers, in electronic form, a database of validated aerial imagery and measured irrigable area needed to calculate a water use efficiency target for compliance. The state should provide this data because most urban retail water suppliers do not have it, nor the resources and expertise required to collect the large amount of data necessary to calculate a water use efficiency target using a water budget approach. Those water suppliers that develop

¹ It is important to note that for a water budget approach, as proposed by the Administration, valid data is needed to establish equitable budgets. Time is needed to acquire accurate data, verify data and implement the budget. At a minimum, basic retail-level water budgets will require accurate information on irrigable area, population data, and adjustments or variances to account for unique local circumstances. While aerial imagery and technological advances have improved the ability to calculate landscape measurements, they are not perfect and a number of challenges remain. In many situations, fieldwork will be necessary to confirm the data. More complex water budgets require additional data related to parcel characteristics or development date, type of water served and customer type.

the necessary data locally should be afforded the opportunity to use their own data if its accuracy can be demonstrated.

Independent of the selected approach, flexibility in the form of variances is imperative so that unique community factors and the water associated with those uses are given consideration in the water use efficiency target setting process. Water use due to unique factors can be valid, appropriate, and often efficient uses of water within California's urban communities. For example, urban water use for livestock, agriculture, evaporative coolers, significant seasonal and transient population increases, construction, vegetation irrigated for fire protection purposes, and environmental protection are legitimate uses that would not be captured under the water budget methodology that has been proposed by the Administration. A variance process would allow these unique local uses to be accommodated. Standardized variances also are an integral component of establishing equitable, accurate water use efficiency targets, and are needed to ensure urban retail water suppliers account for similar uses in a consistent manner.

3. Protect water rights and preserve a water supplier's ability to use water it has a right to access.

By securing and defending water rights an urban water supplier can plan for and manage water supplies to meet current and projected demands. Because legislation related to urban water use efficiency has the potential to impact an urban supplier's access to water, legislation in this policy area must expressly provide that **it does not**:

- Alter or affect existing water rights or the full exercise of those rights;
- Modify the authority of any state agency to adjudicate, alter or make a decision related to water rights;
- Permit a state agency to condition any changes to a water right or water-right permits or licenses based on the legislation;
- Permit a state agency or a court to reduce an urban water supplier's discretion to determine the timing and use of its available water supplies; or
- Affect or limit an urban water supplier's right to water conserved or waived through reuse.

Furthermore, the establishment and enforcement of urban water use efficiency targets should not result in stranded water system assets or undermine the financial condition of water suppliers that have invested ratepayer revenue, and in certain cases, state grants and loans, to develop a reliable water supply.

Arguments in Support:

Under California law, water rights are a property right. Without the protection of that right and the preservation of Water Code Section 1011, which provides that water saved and not used as

a result of water conservation efforts may be transferred, legislation related to urban water use efficiency targets may have the unintended consequence of impacting water rights and result in a regulatory taking under the Constitution. By expressly protecting water rights and access to water, and by preserving the full applicability of Section 1011 to water saved under any new target setting approach, the legislation would avoid this consequence and enhance the availability of saved water to be put to beneficial use. The Legislature and state agencies also should consider how current barriers to the voluntary transfer of conserved water could be removed.

4. Protect and create incentives for the further development of potable reuse and recycled water.

Drought-resilient supplies, such as recycled water, potable reuse, desalination, and stormwater, are key components of the state's water supply portfolio. As has been widely acknowledged, California needs to continue investing in these types of supplies as a means to increase water supply reliability and diversification within the state, to reduce reliance on the Delta for future water supplies, to reduce greenhouse gas emissions where applicable, and to recharge groundwater basins. The state must continue on a path toward greater investment in drought resiliency. At minimum, local investments in water recycling should be recognized as part of any water use efficiency legislation, and long-term targets and standards for water use efficiency should protect existing local investments made by urban water suppliers in resilient supplies.

Targets and standards should include a credit and consideration for all types of drought-resilient supplies, and should include the following provisions related to recycled water:

- If an outdoor irrigation standard is set, landscapes irrigated with recycled water should be given a special landscape allowance as set forth in the Model Water Efficient Landscape Ordinance and an evapotranspiration factor of 1.0;
- A variance to the 1.0 evapotranspiration factor should be included where additional recycled water use is necessary to protect and sustain landscaping due to recycled water quality, ambient soil conditions or adverse drainage. A higher level of use should also be allowed when needed to avoid the stranding of recycled water assets, for the application of water to agriculture, or due to other relevant factors;
- An urban retail water supplier should receive a credit for the volume of its recycled water supply that is served for potable uses up to the volume needed, on an acre-foot basis, to meet its water efficiency target;
- Prior to recommending an indoor residential water use efficiency standard of less than 55 gallons per capita daily, state agencies should be required to evaluate and report to the Legislature on the anticipated impacts that the combined reductions in indoor residential and CII water use would have on existing wastewater and recycling/reuse supply, infrastructure and operations.

Arguments in Support:

By its very nature, water recycling reuses wastewater, which would otherwise be disposed of, for beneficial uses and offsets dependence on other sources of supply. Under an urban water use efficiency framework, the quantity of wastewater that is available for recycling already has been subjected to conservation and efficient water use because it is derived from the potable water used within an urban community. Further restricting its use will serve as a disincentive for continued local investment in these types of supplies and could result in recycled water not being put to beneficial potable and non-potable reuse. In fact, if storage is not available, water suppliers could be forced to release recycled water to the ocean or to forego advanced treatment and simply discharge treated wastewater.

Moreover, the approach outlined above recognizes that the application of recycled water in landscape irrigation is already extensively regulated, ensuring its efficient use. The provisions outlined above promote water use efficiency through greater water reuse in California and protect local investments in water recycling.

5. Provide for appropriate, progressive enforcement authority that accounts for an urban retail water supplier's authorities and responsibilities relative to their customers. The focus should be on corrective action instead of cease-and-desist orders.

Water suppliers are responsible for ensuring that the communities they serve have access to safe and reliable water. As stewards of their communities' water resources, water suppliers have taken and will continue to take the appropriate actions to encourage greater water use efficiency within their service areas. Water suppliers, however, do not have the ability to directly control their customers' behaviors relative to water use; instead, water suppliers must cultivate relationships with their customers through a wide variety of locally appropriate incentives and disincentives and communication activities to achieve greater water use efficiency.

The creation of new, punitive enforcement authorities targeting local water suppliers is not appropriate to achieve greater water use efficiency. For example, granting state agencies cease-and-desist authority to compel compliance with water use standards is very problematic. When taken to the extreme, such authority could be used to compel a water supplier to cease delivery of water to its customers, which an urban retail water supplier cannot do legally except for nonpayment. Cease-and-desist powers in this context are inappropriate.

Instead, the legislation should authorize the provision of state agency resources that focus on the goal of eliminating the waste of water within communities. This approach would include notices of noncompliance that provide a time to cure. The legislation should enact enforcement provisions that:

- Grant progressive enforcement authority to the State Water Board, beginning with informational orders, then written notices of noncompliance and ultimately potential civil liability;

- Require that within 90 days of receiving a notice of noncompliance for failing to meet its water efficiency target, an urban retail water supplier must identify additional actions to be taken to encourage users to increase water use efficiency. The supplier also should be required to submit a comprehensive remedial plan detailing the additional steps it will take to the State Water Board for approval;
- Provide for an urban retail water supplier to face potential civil liability for failure to implement the steps identified in an approved remedial plan; and
- Recognize that an urban retail water supplier may take all reasonable and appropriate steps, yet still fail to meet its target.

Arguments in Support:

State agencies should work to cultivate relationships with water suppliers in the same way water suppliers must cultivate relationships with their customers. The state's approach to the enforcement of any new water use efficiency targets should emphasize a technical assistance and information-sharing role for state agencies. Providing state agencies with the ability to issue informational orders as local water suppliers work to achieve water use targets is appropriate. Additionally, providing state agencies with the ability to ensure that reporting and other requirements are satisfied is appropriate. In all cases, however, local water suppliers must retain control over the actions required to meet water use efficiency targets to ensure that they are locally appropriate.

Detailed Discussion on Shortage Response Planning

- 6. Preserve local decision-making to determine actions to avoid or mitigate shortages. The state should not dictate what actions are to be taken at any stage or specific actions that must be included in a water shortage contingency analysis.**

Water agencies agree that smart, thoughtful enhancements to the state's shortage response planning laws can make California more drought resilient. However, urban water suppliers must retain the authority and responsibility to establish and implement the appropriate drought response actions for their community.

This is consistent with one of the primary objectives for strengthening water shortage contingency planning contained in the Administration's "Making Water Conservation a California Way of Life" framework. The objective of strengthened drought planning should be to provide the state with information necessary to evaluate specific urban supplier responses to drought conditions in order to allow focused attention where necessary and forestall overarching mandates that may conflict with existing adequate local plans and policies.

Rather than specify the specific shortage level(s) and actions each urban water supplier should plan and implement, urban water suppliers should:

- Describe and analyze the reliability of their water supplies in greater detail within their Urban Water Management Plans, and be required to assess the vulnerability of those supplies to seasonal or climatic shortage based on the five consecutive driest years that the supplier has experienced, unless a shorter multiple-year period would more severely impact supplies;
- Include more specific elements within their water shortage contingency analysis to ensure that the plans are usable documents that will aid the supplier in responding to a water shortage;
- Retain authority to determine when to declare a shortage emergency declaration;
- Have flexibility to take reasonable alternative actions not included in their water shortage contingency plan to act in real time based on real conditions they are experiencing; and
- Report annually on water supply availability to meet demands, allowing the state agencies to consider the results of the annual assessments (e.g., drought response actions and level) prior to adopting any statewide emergency conservation regulations.

In addition, urban water suppliers should be able to decide actions that are necessary before a shortage is declared to avoid or mitigate shortage impacts to their customers. Urban water suppliers must be able to factor in all water supplies, including supply augmentation, in calculating the suppliers' shortage level.

Arguments in Support:

Effective drought response will occur only when urban water suppliers retain local control to establish and implement the shortage response actions and levels best suited for their communities and local supply conditions. We have a diverse state with no two communities being the same; a "one-size-fits-all" approach does not work while still trying to ensure that Urban Water Management Plans and water shortage contingency plans/analysis are usable documents for the supplier and not simply a compilation of hypothetical or academic analyses.

The Public Policy Institute of California, in evaluating the response to California's multi-year drought, concluded that most water suppliers were prepared and that the mandatory conservation requirements imposed under emergency regulations were a "blunt instrument." Legislation should ensure that all water suppliers are prepared in the future, that this preparedness is well documented, that the state has necessary information on an annual basis to take appropriate and targeted actions, and that any future emergency conservation regulations shall consider this information.

7. Preserve and encourage investments in resilient water supplies. Potable reuse, recycled water, and desalination should all be considered fully reliable.

Many water suppliers have invested in resilient water supplies to ensure that they are able to meet customer demands during times of shortage. Water suppliers make financial and

operational planning decisions based on the availability of those resilient supplies during drought conditions.

Consistent with the approach suggested by the State Water Board and the Department of Water Resources, the legislation should enact better drought planning and preparation and allow local agencies to carry out those plans, if they are complying with the enhanced requirements, and should encourage investments in resilient supplies to ensure California is better prepared to weather the next drought. Additionally, potable reuse, recycled water, and desalination should all be considered fully reliable.

Enhanced planning requirements should be complemented by policies that encourage greater local investment in resilient supplies and protect a water supplier's ability to depend on those supplies during a shortage. Toward this end, the legislation should expressly provide that:

- During a statewide drought, local drought, or water shortage, an urban water supplier shall not be required to reduce its use or reliance on any water supply available for its use and identified in its urban water management plan, or be required to take additional actions beyond those specified in its water shortage contingency plan for the level of shortage that is anticipated in the annual assessment report or the level of shortage that it is currently experiencing, whichever is greater.

Arguments in Support:

There must be a balanced approach of long-term water use efficiency combined with development of drought-resilient supplies if California is to effectively manage future droughts. The governing bodies of urban water suppliers will be reluctant to invest in alternative local supplies without some certainty that they can use the supplies created through the investments of their ratepayers. In its recommendations on fostering water system flexibility and integration, the June 2017 Public Policy Institute of California report titled, "Building Drought Resilience in California's Cities and Suburbs," summarized the impact of not taking a balanced approach best:

"Perhaps more importantly, the state's response to this drought created new uncertainties for local suppliers regarding their investments in drought-resilient supplies, because of concerns that these investments will not be utilized if the state again mandates conservation beyond what is locally needed...This type of uncertainty is very detrimental to planning for the next drought, and it highlights the importance of the state and local suppliers getting on the same page."

8. Ensure that annual water supply and demand assessments are based on and accurately reflect local conditions.

The recent drought highlighted the value of readily available information regarding the steps that individual water suppliers can and will take to respond to drought conditions. While many water suppliers demonstrated high levels of resiliency during the recent drought — as a result of adequate planning, preparation, and investment — state law does not currently require annual reporting of local water supply conditions to the state. Reporting of this information each year will allow the relevant state agencies to better identify water suppliers that are experiencing

actual water shortages, as well as understand which suppliers are well prepared to deal with drought conditions.

Annual supply and demand assessments can provide state agencies and the Legislature with valuable information on local supply conditions throughout California. The assessments can also provide the public essential information on the status of their local supply conditions. Critical to the success of these reports, however, is that they be based on the actual hydrologic conditions occurring in the year the report is being submitted and made public. *The annual report should not require projections for future years and should not be based on hypothetical dry year scenarios.*

The legislation should provide that:

- By June 15 of each year, an urban retail water supplier shall report to the Department of Water Resources the status of its water supplies for that year, considering hydrologic conditions in the current year, and whether the supplies will be adequate to meet projected customer demands over the next 12 months;
- If a supply shortage is projected or exists in its service area, the supplier would be required to implement the appropriate responses described in its water shortage contingency analysis and provide monthly reports to the Department of Water Resources on how the supplier is implementing its plan; and
- The monthly reporting would be required to continue until the supplier finds that it is able to meet customer demand over the next 12 months without continued implementation of its water shortage plans.

Arguments in Support:

By enacting this approach, the state will be able to ensure local suppliers are taking appropriate actions during times of shortage. A targeted state response is more effective than statewide emergency mandates because it focuses state resources where they are needed.

Urban water suppliers must have the support and trust of their customers to be successful in making the necessary investments in supplies and infrastructure and for them to take the necessary demand reduction measures during droughts. A critical aspect to maintaining that trust is that the annual assessments prepared by the urban water suppliers be based on the actual local supply situation and current hydrologic conditions. The reports cannot create unnecessary uncertainties regarding the availability of supplies. The reports need only capture the current year, because they will be submitted annually to provide an accurate “snapshot” of supply conditions. The Urban Water Management Plan, updated every five years, requires the agencies to conduct a dry year assessment that covers a multiple dry-year scenario, and should not be repeated annually.

9. Maintain the existing legislative intent and challenge period for Urban Water Management Plans.

Under the Urban Water Management Planning Act, the legislative intent governing that act states that:

“This part is intended to provide assistance to water agencies in carrying out their long-term resource planning responsibilities to ensure adequate water supplies to meet existing and future demands for water.” (California Water Code §10610.2(c).)

The intent of the act is for the planning process to be an effective tool for urban water suppliers to evaluate supply reliability based on their unique local conditions. This approach is important because it helps ensure that the planning process is useful and not merely an academic exercise. As a result, this approach must be maintained.

Because urban water management plans are designed to be useful, practical documents to aid in long-term water resource planning and to help suppliers ensure that they have adequate water supplies to meet existing and future water demands, land use planning decisions rely on the plans. As a result, the California Water Code requires that challenges to the plans must be brought within 90 days after the plan has been submitted to the state. (California Water Code §10650.) Like other 90-day challenge periods in code, this gives local agencies certainty as to whether the plan can be relied upon.

Several proposals related to the shortage response planning provisions contained in the “Making Water Conservation a California Way of Life” framework have suggested extending this challenge period, which would create uncertainty surrounding the validity of urban water management plans. Instead, the legislation should:

- Preserve the intent of existing law that the Urban Water Management Planning Act is a planning tool for urban water suppliers. The act should not be interpreted or used by state agencies as a regulatory framework; and
- Maintain the existing language in California Water Code Section 10650 regarding the 90-day challenge period.

Arguments in Support:

Urban water suppliers must be able to plan based on their local conditions and not be required to develop their plans based on a “one-size-fits-all” regulated process. In addition, the 90-day challenge should be maintained, because extending the challenge period could present undue legal uncertainty for urban water suppliers. A longer challenge period also creates difficulties for entities making land-use decisions —particularly relating to the construction of new housing — using urban water management plans. These plans support the preparation of required water supply assessments and verifications of sufficient water supply, as called for in the “Show-Me-the-Water” statutes.

10. Recognize that energy use is only one aspect of water supply planning.

The Urban Water Management Planning Act currently states that an urban water management plan may, but is not required to, include information on the amount of energy used to obtain, treat and distribute water supplies to a supplier's customers. (California Water Code § 10631.2.) Providing this data should continue to be a voluntary requirement for urban water suppliers, as negotiated with the water community when § 10631.2 was enacted, and not a mandated requirement as part of compliance with the act.

Any legislation modifying the Urban Water Management Planning Act should:

- Maintain the existing language in California Water Code § 10631.2(a) that allows urban water suppliers to voluntarily provide information on energy usage.

Arguments in Support:

Urban water suppliers consider multiple variables when making water supply investments and when determining the appropriate mix of water resources they will need to meet future demands. These factors include, but are not limited to, cost-effectiveness, growth, potential climate change impacts, availability of resources, energy use, technical feasibility and regulatory issues. With that said, the number one variable considered by urban water suppliers in supply planning is maintaining water supply reliability for the community they serve. Energy use is only one factor in water supply planning, and cannot be considered independent of other factors. Requiring the reporting of this sole factor gives it undue weight in the supply planning process and in urban water management plans. This issue was appropriately not included in the framework for "Making Water Conservation a California Way of Life," and should not be included as a part of development of this legislation.

Conclusion

We appreciate the Senate Committee on Natural Resources and Water's solicitation of stakeholder input into legislation that is consistent with the vision of the Administration's "Making Conservation a California Way of Life" framework. We support the Senate's and Assembly's commitment to engage directly with water suppliers from around the state and other stakeholders as they continue development of this important legislation.

We look forward to working with the Legislature to secure a sustainable and resilient water future that protects local authority and includes sensible approaches to improving water use efficiency and enhancing drought planning and preparation. If you have any questions regarding the comments in this letter, please do not hesitate to contact me at (916) 441-4545 or whitniew@acwa.com.

Sincerely,



Whitnie Wiley
Senior Legislative Advocate
Association of California Water Agencies

WW:jv

Alameda County Water District
Amador Water Agency
Association of California Cities - Orange
County
Bay Area Water Supply and Conservation
Agency
Bella Vista Water District
Calaveras County Water District
California Building Industry Association
California Chamber of Commerce
California League of Food Producers
California Municipal Utilities Association
California Special Districts Association
California Water Association
Calleguas Municipal Water District
Camrosa Water District
Carlsbad Municipal Water District
Carmichael Water District
Casitas Municipal Water District
Central Basin Municipal Water District
Citrus Heights Water District
City of Clovis
City of Fairfield
City of Newport Beach
City of Oceanside
City of Poway
City of Redding – Public Works Department
City of Roseville
City of Sacramento
City of Tustin
City of Yuba City
Coachella Valley Water District
Contra Costa Water District
County of Sacramento
Cucamonga Valley Water District
Desert Water Agency

Dublin San Ramon Services District
East Orange County Water District
Eastern Municipal Water District
El Dorado County Water Agency
El Dorado Irrigation District
El Toro Water District
Elk Grove Water District
Elsinore Valley Municipal Water District
Fallbrook Public Utility District
Foothill Municipal Water District
Georgetown Divide, Public Utilities District
Groveland Community Services District
Helix Water District
Hidden Valley Lake Community Services
District
Humboldt Bay Municipal Water District
Humboldt Community Services District
Irvine Ranch Water District
Jurupa Community Services District
Kinneloa Irrigation District
Long Beach Water Department
Malaga County Water District
McKinleyville Community Services District
Mesa Water District
Modesto Irrigation District
Mojave Water Agency
Monte Vista Water District
Monterey Peninsula Water Management
District
Mountain Counties Water Resources
Association
Murphys Sanitary District
Nevada Irrigation District
Newhall County Water District
Olivenhain Municipal Water District
Orange County Water District

Orchard Dale Water District	Scotts Valley Water District
Otay Water District	Solano Irrigation District
Padre Dam Municipal Water District	South Orange County Economic Coalition
Pasadena Water and Power	South Tahoe Public Utilities District
Placer County Water Agency	Stockton East Water District
Rainbow Municipal Water District	Suisun Solano Water Authority
Rancho California Water District	Sweetwater Authority
Rancho Murieta Community Services District	Three Valleys Municipal Water District
Reclamation District 1004	Trabuco Canyon Water District
Regional Water Authority	Tuolumne County Water Agency
Rincon del Diablo Municipal Water District	Tuolumne Utilities District
Riverside Public Utilities	Twain Harte Community Service District
Rowland Water District	Upper San Gabriel Valley Municipal Water District
Rural County Representatives of California	Utica Water and Power Authority
Sacramento Metropolitan Chamber of Commerce	Vallecitos Water District
Sacramento Suburban Water District	Valley Center Municipal Water District
San Diego County Water Authority	Vista Irrigation District
San Francisco Public Utilities Commission	Walnut Valley Water District
San Juan Water District	Western Municipal Water District
Santa Fe Irrigation District	Yorba Linda Water District
Santa Margarita Water District	Yuima Municipal Water District
	Zone 7 Water Agency

cc: The Honorable Eduardo Garcia, Chairman, Assembly Committee on Water, Parks and Wildlife
The Honorable Nancy Skinner, Member, California State Senate
The Honorable Laura Friedman, Member, California State Assembly
The Honorable Blanca Rubio, Member, California State Assembly
The Honorable Shirley Weber, Member, California State Assembly
The Honorable Members, Senate Committee on Natural Resources and Water
The Honorable Members, Assembly Committee on Water, Parks, and Wildlife
The Honorable Members, Assembly Water Conservation Working Group
Mr. Gordon Burns, Undersecretary, CalEPA
Ms. Kim Craig, Deputy Cabinet Secretary, Office of the Governor
Mr. Kip Lipper, Chief Policy Advisor, Office of the Senate President Pro Tem
Mr. Alf Brandt, Senior Counsel, Office of the Assembly Speaker
Mr. Dennis O'Connor, Principal Consultant, Senate Natural Resources and Water Committee
Ms. Rachel Machi Wagoner, Chief Consultant, Senate Environmental Quality Committee
Ms. Catherine Freeman, Chief Consultant, Assembly Committee on Water, Parks, and Wildlife
Mr. Ryan Ojakian, Senior Consultant, Assembly Committee on Water, Parks, and Wildlife
Mr. Michael Bedard, Chief of Staff, Office of Senator Robert Hertzberg
Mr. Todd Moffitt, Consultant, Senate Republican Caucus
Mr. Robert Spiegel, Consultant, Assembly Republican Caucus