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April 14, 2017

To: Honorable California State Assembly Members and Senators

Regarding: Opposition to Permanent Water Conservation Regulations

Dear Assembly Member,

On behalf of the Mountain Counties Water Resources Association (MCWRA), I write to strongly oppose the process and legislation being proposed in the Governor’s budget Trailer Bill 810 to establish permanent water conservation rationing on the water districts, counties, and communities in the Mountain Counties Area. This draconian and arbitrary rationing decision tramples upon the personal rights of individuals to make choices on their beneficial use of water, undermines local conditions, undermines local control, the state’s water rights priority system and Area-of-Origin water right assurances in this region.



MCWRA advocates for the water interests of its members in all or a portion of 16 counties from the southern tip of Lassen County down to Fresno County.

As California recovers from the drought, it is troubling that there is push by certain interest groups to move legislation by adding to a trailer bill and to establish permanent water conservation mandates, beyond this emergency. It seems that these groups are focused more on their ideology or political agenda than on the real impacts that such a permanent “state of emergency” will have on other people’s lives and livelihoods. There are concerns with this strategy and I would like to offer the following comments and suggestions for your consideration.

Permanent conservation does not equal water use efficiency. Brown lawns are not a sign of efficiency; they are a sign of rationing. California should use the term “conservation” when there is a drought, broken water line, tank out, water quality issue, or other emergency, but not as a permanent term. Over time, the term “conservation” will lose its effectiveness. People will be hesitant to respond effectively in the next emergency, or unable to, if efficiency measures have hardened their water demands to the breaking point.

The state would greatly benefit from a more strategic approach to water management than what is being proposed in Sacramento.

1. Why the need for permanent regulations on urban uses when 90% of the statewide water use comes from other uses?
2. Why not focus/fix the several other issues identified in the California Water Action Plan 2016 that could increase water supply, thus lessening the urban and agricultural water demand issues?
3. Why does the state encourage local control, yet seeks to expand regulatory authority to execute the recommendations in the framework?
4. Why impose indoor and outdoor targets/standards on water agencies that have demonstrated responsible stewardship, invested for the future, and created a water supply portfolio that provides water reliability and resiliency for their ratepayers?
5. How will “hardened demand”, created by the continued ratcheting and rationing, build resilience to future droughts, especially when the warming climate will only increase water demand?
6. Why not consider funding improvements to increase water supply for the next generation to thrive rather than only survive with permanent rationing?



Obviously a “one size fits all” approach to water use in California does not work. Whether you live in the rural mountain communities, the Sacramento San Joaquin Delta, southern CA, or in an apartment high rise with a potted plant for landscape, we live in these areas for diverse socioeconomic reasons, sometimes by necessity, and often for a certain quality of life. As such, people should not be governed by the same regulations and be expected to thrive. People have different needs depending on where they live, as do the varied ecosystems.

If permanent conservation regulations become law, they would erode water rights, adversely affect local control over land use decisions, wildlife and aquatic habitats, recreation, tourism, our economies and the quality of life people enjoy in this region. The proposed standards have the potential to increase fire-prone vegetation, tree mortality and the risk of catastrophic fire in the Wildland Urban Interface (WUI) which characterizes the mountain counties region.

Unlike coastal urban areas, all the water in this region, both indoors and outdoors not used by people or for the environmental needs of wildlife, landscape, and soil, moves down into the streams and creeks, provides beneficial uses to the valley floor, and replenishes the ground water aquifers. The people and the environment in this region are knitted together. Unless intelligently crafted, conservation measures can harm the environment, the region’s unique ecosystem, and the resident’s quality of life.

As proposed, there will be likely be new water-use standards including a water-use target methodology based on some calculated formula for all indoor water use (55 gallons per day, per person) and outdoor landscape based on data collected per parcel from Light Detection And Ranging (LiDAR) imaging systems. LiDAR imaging systems allow mapping professionals to examine both natural and manmade environments, including rural landscapes. Make no mistake, once fully implemented, targets and standards will be ratcheted downward for both indoor and outdoor usage by subsequent state mandates. Water districts will be required to calculate their unique water use targets based on customer household population, residential landscape area by parcel, landscape age, an applied evapotranspiration adjustment and other factors.

The proposal goes to the heart of water right erosion. There are several longstanding state assurances that are paramount to this regions quality of life and should be honored unequivocally such that no state and/or federal agency exert authority to hinder or reallocate area-of-origin and/or watershed-of-origin water supplies that lays harm to the communities and eco-systems in the Mountain Counties Area. This functions as a backdoor to allow a junior water right to take from a senior water right. Someone looking to overturn the priority principle of California water rights could hardly have designed a cleverer takings strategy.

The state would greatly benefit from a more comprehensive, strategic and holistic approach relying on local and regional water managers to manage water supply rather than by implementing permanent water-use standards. Water conservation and shortage regulations require social solutions at the local level.

The Department of Water Resources, when referring to the fundamental principle of Integrated Regional Water Management (IRWM) framed it correctly, “regional water managers, who are organized into regional water management groups, are best suited and best positioned to manage water resources to meet regional needs.”

The California Water Action Plan has 10 Action Items. While “making conservation a California way of life” and “manage and prepare for dry periods” are two of the 10 Action Items, why does the state not address the other eight Action Items with as much vigor?

It is inconceivable why hundreds of thousands of acre-feet of water is dumped into the ocean annually, while other parts of the state are parched for lack of water.

- Why has the state not expedited Proposition 1 bond funds to add surface storage to increase supply, reduce flooding and take pressure off the fragile levee system.
- Why is it acceptable to let the Sierra Nevada and Delta ecosystem die? Does it not warrant an Executive Order Emergency by the Governor? Over 20 years ago, in 1996, the Sierra Nevada Ecosystem Project (SNEP) released a report to Congress on an assessment of the Sierra Nevada ecoregion. The report said that development of streams and other resources of the Sierra Nevada over the past 150 years has met the downstream demands of society throughout California, but has impaired the quality and availability of water for both ecological and social needs in many parts of the mountain range.

{The connection between watershed condition and downstream water supply and quality is rarely recognized and almost none of the high economic value of water at its end use is returned to the source area. Sierra runoff accounts for an even larger proportion of the developed water resources and is critical to the state's economy.}

Yet, legislators look to establish permanent conservation rationing and excessive and costly controls over California water purveyors and their ratepayers.

Customers willingly sacrificed landscape and adjusted habits to save water supply for another year. Extensive education and messaging created a high level of public awareness and made consumers more mindful of our finite fresh water supply. Consumers have learned to use water wisely without additional state mandates.

In the near term, the State should first adjust its priorities and focus on and rectify the regulatory and environmental impediments to implement all the Action Items in the Water Action Plan. Then the State should encourage and assist struggling water-short communities, provide funding to improve drought-resiliency, encourage new water-use efficiency technology development, and provide other incentives such as water transfers from this region of conserved water, rather than legislate with a blunt instrument.

As you address the challenging and complex aspects of long term water management, I would like to provide you with an inland northern mountain counties perspective "**OVERVIEW**" of the statewide issues and what needs to happen in California for its healthy future.

I hope this information is helpful.

If you have questions or if you would like to discuss this information, please contact me at (530) 957-7879.

Sincerely,

A handwritten signature in blue ink, appearing to read "John Kingsbury".

John Kingsbury, Executive Director
Mountain Counties Water Resources Association

C: Board of Directors, Mountain Counties Water Resources Association

The Honorable:

Senator Tom Berryhill

Senator Ted Gaines

Senator Jim Nielsen

Assembly Member Frank Bigelow

Assembly Member Brian Dahle

Assembly Member James Gallagher

Assembly Member Kevin Kiley



OVERVIEW

STATEWIDE WATER ISSUES

Watershed Health, Permanent Conservation, the Delta, Tunnels, Bay-Delta Flow Objectives,
Climate Warming, Sustainable Groundwater Management

REGULATORY ISSUES

- Water Right Curtailments
- Wild & Scenic River Designations
- Dismantling the historical Water Rights system
- Eroding Area-of-Origin Assurances
- Environmental and Regulatory Overreach

WHAT'S AT STAKE

Agriculture – Consumptive & M & I – Economy – Environment
Hydro Power – Recreation – Tourism

PROBLEMS

Watershed Health

- Lack of connection between watershed and downstream water supply, value, and quality.
- Lack of proper management to create healthy forest and foothills
- Forest prone to disease from competition of water resources due to overstocked forest
- Decreased water supply due to overstocked forest
- Increased risk of catastrophic fires like the Rim, King, Butte, and other fires
- A fire suppression objective rather than a fire prevention objective
- Sediment clog waterways, degrade water quality, warms streams, reduces reservoir storage capacity
- Critically degraded ecosystem/wildlife habitat due to lack of proper management and “mega fires”

Permanent Water Conservation

- Permanent Conservation – *Brown lawns are not a sign of efficiency, they are a sign of rationing*
- Regulatory Overreach – *inequitable, invasive, illegal*
- Rural vs Urban environments – *Rural water moves down into the streams and creeks, providing beneficial uses to the valley floor, and replenishing the ground water aquifers – Lack of recognition for statewide significance*

Sacramento/San Joaquin Delta Issues

- Seismic risk - potentially severing water supplies to 25 million people in southern California
- Endangered species – Drivers (stressors) - Not simply a flow issue
- Pumping impacts from exports on energy costs and fish losses
- Sea level rise – A recent report claims that the Bay Area will see the ocean swell as much as 3-4 feet by 2100. This will require an increase in fresh water supplies from northern California to hold X2
- There will be increased levee pressure from flooding due to lack of surface storage and due to the lack of proper forest management
- Increased subsidence, reduced agriculture
- Lack of food and cover for endangered fish species
- Increased water quality issues (salt, pesticides, nitrogen, etc., etc.)
- The Delta in its current form is inefficient for water conveyance and a healthy Delta

Bay-Delta Water Quality Control Plan – More water for the fish (Salmon/Smelt)

The State Water Resources Control Board looks to increase the Delta tributary inflows of from 35 percent to 75 percent of “unimpaired flow”

State Water Resources Control Board

“Unimpaired flow is the total volume of water that would flow past a point of interest if no diversions (impairments) were taking place in the watershed above that point”.

- Lack of balance between human, agricultural, and environmental needs
- Potential collateral damage to the environment and a multitude of species

Water Flow to the Ocean Millions of Acre-Feet Annually – irrecoverable loss

Delta Stewardship Council – Independent Science Board Reports

April 2015 – Currently the science on fishes and flows in the Delta is inadequate to make reliable predictions of how water management affects fishes because the underlying processes that connect changes in habitat conditions to fishes are inadequately understood.

August 2015 – The theme in this review is research on how freshwater flows affect Delta fish populations

- 1) Historical flow conditions in the Delta had more marsh area, more dynamic flow and salinity regimes, higher turbidity, and more seasonally and tidally inundated wetlands.
- 2) Flow is but one factor affecting fishes: Five major drivers are considered as agents of change in any given ecosystem. These are habitat alteration and loss, resource use and exploitation, invasive species, pollution, and climate. All of these drivers have played a role in the Delta and affected fishes.
- 3) It is almost impossible to assess how flows affected fishes historically in the Delta because the ecosystem has undergone and is still experiencing dramatic alterations, in habitat, species composition and interactions, channel morphology, and water quality.
- 4) Effects of flows and other drivers on fishes need to be examined for their direct and indirect effects on essential fish production processes and vital rates.

California's Warming Climate and Environment

- Increased persistence of longer drought periods
- Sea level rise and increased salt Intrusion in the Delta
- Higher water demands from higher temperatures
- A greater demand for groundwater to produce crops
- Warming will see more a shifting of snow to rain events
- Warmer water temps in streams and reservoirs, increased flooding and flood frequency due to the lack of surface water storage and forest management
- Longer, more intense fire seasons complicated by lack of proper forest and foothill management
- Population – Vehicles – There are almost as many registered vehicles as people in California
- Increased asphalt, cement, plastic grass harms the environment and produces heat

What Needs to Happen for California and its future

- 1) Water Purveyors must have a unified voice, retain local control as social solutions require local decisions. Water managers are best suited and positioned to manage their local water resources
- 2) Water purveyors must have operational and regulatory certainty and assurances for planning
- 3) State must guard and defend the historical water rights priority system and area-of-origin assurances
- 4) Educate and cultivate support from County Supervisors/State Legislators
- 5) Focus the discussion and act to bring balance to water for all beneficial uses
- 6) Fix the Forest – (Abandonment)
 - a. Advance the stewardship in the watersheds and headwaters in the State
 - b. Increase the water carrying capacity in the watersheds
 - c. Healthy forest will improve groundwater basins naturally
- 7) Fix the Delta – (Stressors) Provide food and cover, then add water
 - a. Inefficient water conveyance system
 - b. Pumping impacts on energy and fish
 - c. Endangered species
 - d. Invasive plants
 - e. Water quality issues
 - f. Subsidence
 - g. Reduce export water demand
- 8) Improve water-use-efficiency practices and technology, and provide funding incentives
- 9) Increase surface water storage, both upstream and downstream
- 10) Recover lost storage; dredge and raise existing reservoirs
- 11) Apply Co-Equal Goals to all of California
- 12) Re-operation existing water systems and increase opportunities and ability for water transfers
- 13) Optimize recycling, groundwater injection, storm water capture, groundwater banking, and desalination