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June 19, 2015

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



(Delivered by e-mail to: commentletters@waterboards.ca.gov)

Subject: Comment Letter: Conservation Pricing

Dear Chair Marcus:

On behalf of the Board of Directors and ratepayers, Rincon del Diablo Municipal Water District (Rincon Water) appreciates this opportunity to provide comment on the upcoming workshop related to Conservation Pricing.

As noted in your Solicitation of Comments Regarding Conservation Water Pricing, your comments recognize the effectiveness of conservation pricing as a tool to prevent wasteful water use, while also reducing demand by providing an economic incentive for consumers to conserve water. It also recognizes that many water suppliers have already established rate structures and pricing mechanisms to incentivize conservation. Further, it recognizes that *"rate-setting is a complex undertaking that involves numerous **local** [emphasis added] determinations. Conservation water pricing must be carefully tailored to **local** circumstances to be effective. Moreover, water suppliers must carefully construct and document their rate structures to comply with the constitutional limitations of Proposition 218, as demonstrated..."*

In general response to your three questions related to the upcoming webinar, the overall answer is there is little to no action required from the State Water Board in price setting. Local agencies have been following an established legislative procedure, Proposition 218, and are very familiar with the requirements. Even prior to the final Court of Appeals decision of the San Juan Capistrano case, water agencies have been utilizing consulting agencies and the AWWA M1 Manual on rate setting to ensure that there is a suitable nexus between the costs to provide the services and the rates being charged. Additionally, the Court of Appeals found that tiered rates are not illegal, predominantly that the cost nexus needs to exist.

Specific responses are below:

1. Q: What actions should the State Water Board take to support the development of conservation pricing by water suppliers that have not yet developed conservation rate structures and pricing mechanisms?

R: Though we appreciate the State Water Boards interest in this matter, your own Solicitation language recognizes that there is a separate legal process for setting rates, governed by Proposition 218. If there is any attempt to develop certain methodologies from the state level, this would only continue to confuse water agencies, as well as any attempt at a "one-size-fits-all" methodology would be disastrous. Each agency is separate and unique, as evidenced by the use of the word "local" in your own solicitation, and there is an already well-established process for rate setting. If there is anything the State Water Board could do is to provide limited funding (with minimal to no strings attached) to smaller agencies or fiscally constrained agencies to hire the proper consultant to assist in the development of properly tiered rates, and incorporate a separate drought rate that can be enacted based on specific agency drought Ordinances, in line with Proposition 218.

2. Q: What actions should the State Water Board take to support water suppliers that have already developed conservation rate structures and pricing mechanisms to improve their effectiveness?

R: Again, we appreciate the efforts to assist in this area. The primary focus would be on providing an interface to judicial processes so that any potential litigation against tiered rate structures is reviewed and discussed in a reasonable manner. This is not to say that rates that were not properly developed on the cost nexus should be allowed, but that litigation be held in abeyance so that proper rates can be developed without the additional costs of the judicial process. This assistance should only be conducted at the request of the specific agency.

3. Q: What actions can the State Water Board take to assist water suppliers in demonstrating that existing rate structures harmonize competing legal authorities associated with water rates?

R: Please define competing legal authorities. Once that is defined, agencies can better respond to this question.

In response to the follow-on inquiry about "interest in receiving information on the efficacy of conservation pricing and proposals for how conservation price signals can be improved consistent with Proposition 218", the whole emergency drought response, percent reduction requirements per retail agency, and rate setting has had negative intentional or unintentional consequences upon retail agencies and place many in a conundrum. For instance, there are several regions throughout the state that have adequate supplies for this year (and next) based on significant fiscal investment and drought-hardening projects, yet are mandated to conserve based on an arbitrary methodology. This has caused consternation and confusion with ratepayers and significant public relations outreach efforts to explain the competing issues. On top of this, many agencies are either passing new rates or recently passed rates, and many are enacting higher cost drought rates to make up for the lost revenue of reduced sales. Thus, from a customer standpoint, they are told to conserve and reduce usage, yet end up paying more for their reduced use. Yes, that is conservation pricing in a nutshell, but it does not take the State Water Board to be involved with local price setting, unless the State Water Board is willing to field all customer complaints and inquiries related to conservation goals, rates, and cost increases?

Rincon Water understands the dire situation the State of California faces with this severe drought, its impacts across multiple spectrums related to health, safety, economy, and our way of life, and has taken the appropriate steps to get the District and our customers through it. Please contact the undersigned at 760-745-5522 or gthomas@rinconwater.org for any further information.

Sincerely,



Greg Thomas
General Manager

Cc: Assemblymember Marie Waldron
Senator Joel Anderson
Rincon Water Board of Directors
Executive Officer, ACWA
Maureen Stapleton, General Manager, SDCWA