



# COACHELLA VALLEY WATER DISTRICT

*Established in 1918 as a public agency*

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Jim Barrett

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CLERK OF THE BOARD  
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October 17, 2023

VIA EMAIL TO [COMMENTLETTERS@WATERBOARDS.CA.GOV](mailto:COMMENTLETTERS@WATERBOARDS.CA.GOV)

Courtney Tyler  
Clerk to the Board  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-2000

Dear Ms. Tyler,

**RE: Coachella Valley Water District Comment Letter  
SWRCB Proposed Regulation to “Make Conservation a California Way of Life”**

Coachella Valley Water District (CVWD) welcomes the opportunity to provide comments to the State Water Resources Control Board (State Water Board) on the Proposed Regulation to “Make Conservation a California Way of Life” (Proposed Regulation). CVWD has actively engaged with the Department of Water Resources, the State Water Resources Control Board, and the State Legislature as the framework for “Making Conservation a California Way of Life” has been developing the last few years.

**CVWD: A WATER CONSERVATION LEADER**

CVWD serves approximately 270,000 residents over a 1,000 square-mile service area in one of the hottest and driest regions in California. We have a long-standing commitment to water use efficiency, including our strongest conservation tool, a water budget-based rate structure adopted in 2008.

CVWD has been a pioneering force in water conservation and efficiency. Among the District’s significant milestones was the adoption of our Landscape Ordinance in 2007, which laid the foundation for a more sustainable approach to landscaping in the region. This ordinance has been updated several times to enhance applicability and exceed State standards. In addition, CVWD has implemented several significant water conservation initiatives in its service area.

Notably, since 2009, CVWD’s turf conversion program has transformed over 25 million square feet of turf into water-efficient landscapes, as well as the installation of over 7,000 smart irrigation controllers. In July 2022, CVWD’s Board of Director’s imposed drought penalties and provided \$13.4 million in incentives that converted 4.7 million square feet of turf to desert-friendly landscaping. CVWD took early action to enforce the State Water Board’s prohibition on the irrigation of Non-Functional Turf (NFT) by engaging with CII property owners. To date we have issued fines totaling \$96,000 for non-compliance.

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CVWD's long-time comprehensive conservation efforts have contributed to a 36% reduction in gallons per capita daily consumption, far exceeding the 20% target set by SB X7-7. CVWD's consistent efforts and innovative programs have successfully conserved water resources and have also set an example for sustainable water management for communities across the state.

Despite these efforts, the Water Use Objective Tool reflects that CVWD will need to reduce annual consumption by 22% (19,590-acre feet) by July 1, 2035. Because a large proportion of our residential water demand is for irrigation, CVWD estimates this would require irrigation system upgrades, and future conversion of 100 million square feet of turf, at a cost to Customers exceeding \$800 million.

While CVWD is supportive of the intent of the water use efficiency legislation, this letter highlights the District's overarching concerns that components of the proposed framework will negatively impact Customers, fails to provide an achievable standard that accounts for existing irrigable area and residential pools, and will create unnecessary administrative burdens on water suppliers. CVWD respectfully submits the following comments and concerns on the Proposed Regulation.

### **CUSTOMER AND COMMUNITY IMPACT**

CVWD has heard the State Water Board's staff distinction that water providers are subject to these regulations and not individual households and businesses. CVWD respectfully but strongly disagrees. Absent significant State funding, Proposition 218 ensures the financial burden of these regulations will be entirely borne by Customers, either directly or through higher water rates. CVWD's concern is a disproportionate impact on those most financially vulnerable.

CVWD's best opportunity to successfully meet the proposed standards will be to align our water budgets with the adopted regulations. CVWD's rate structure is organized in a way that higher tiers fund the District's water conservation programs and Customer incentives. Higher tiers for inefficient potable water use incentivize Customers to invest in water use efficiency upgrades. Customers who can afford to make an investment will, while lower income Customers may be unable to afford the Customer share of water efficiency upgrades. The Proposed Regulations will have the unintended consequence of negatively impacting water affordability for vulnerable Customers. There are disadvantaged communities (DAC areas) throughout CVWD's service area, including many low-income and elderly Customers living on fixed incomes. Please see Attachment A for a map of the DAC areas within the Coachella Valley.

The District is concerned that lower income communities will be disproportionately impacted in other ways. CVWD implemented the non-functional turf ban, issuing 200 fines totaling \$96,000 and have incentivized these CII Customers to cease irrigation of non-functional turf. During the most recent drought, CVWD increased turf rebate incentives from \$2 to \$3 per square foot. In response, three cities in CVWD's service area created 100% matching turf rebate programs which increased Customer incentives to \$6 per square foot. Lower-income areas did not provide similar matching rebates. As a result, many commercial properties in these communities simply let their turf die, creating areas that appeared blighted. This creates a greater potential for heat islands within an already severely arid region and also worsens the region's already poor air quality. This highlights the need for the state to provide significant funding for the replacement of turf, particularly in DAC areas.

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This Proposed Regulation will have a significant negative impact on approximately 80% of our Customers who live in common interest developments and mobile home communities. Many of these communities were developed prior to the adoption of CVWD’s stringent landscape ordinance. They will not become more efficient without significant capital outlay to install water efficient irrigation systems, including the removal of turf and installation of desert-friendly landscaping. Higher water costs will be passed on to residents and renters. Large capital improvement projects to improve water efficiency will result in special assessments, increased homeowner association fees, and increased lot rents. This proposed standard will have the effect of increasing housing costs in an already strained housing market.

CVWD is grateful for the support and partnership with the State Water Board as it relates to CVWD’s consolidation of small and at-risk systems within the severely disadvantaged area of the Eastern Coachella Valley. This expansion of CVWD’s water system will increase demand on our domestic water system by more than 850 acre feet per year. This does not account for additional development of affordable housing that the expansion of CVWD’s domestic water and sanitation system will make possible. With no commitment from the state on the frequency of data updates, and a cumbersome variance process, we question how the state will take into account CVWD’s consolidation efforts and local efforts to increase affordable housing to timely update our objective.

Recommendations to minimize Customer impacts while still achieving significant water savings include funding for water use efficiency incentives and adopting the recommendations outlined below.

### **THE RESIDENTIAL OUTDOOR COMPONENT**

**Irrigable Lands:** The Proposed Regulation goes beyond the intent of the 2018 conservation legislation (AB 1668) by limiting the outdoor standard to only irrigable irrigated land. Per the 2018 conservation legislation the “standards for outdoor residential use for adoption by the board in accordance with this chapter... shall apply to *irrigable lands*”. (Water Code § 10609.6(a)(2)(B)) (emphasis added). The Proposed Regulations must include Irrigable Not Irrigated (INI) lands as part of the outdoor standard to comply with the 2018 conservation legislation. Further, the Landscape Area Measurement (LAM) data is not accurate as acknowledged by Water Board and DWR staff, and is a static picture based on 2018 conditions that estimate the Irrigable Irrigate (II), INI, and Not Irrigated (NI) area. However, landscape is not stagnant and continually changes after the LAM imagery is captured. All irrigable lands should be included in the LAM data to recognize that landscapes may, and do, continually change as a result of individual choices and development of new housing.

<p><b>Recommendation:</b> Provide water suppliers LAM data consistent with AB 1668 to include all irrigable lands.</p>
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**Landscape Efficiency Factor:** The Proposed Regulation’s landscape efficiency factor (LEF) is too low to irrigate and maintain healthy new and existing landscapes within the region. The proposed LEF standards reflect design standards and are not based on, or reflective of, actual irrigation efficiency. Over time, irrigation systems naturally degrade and become less efficient. Assuming a system continually operates at a design standard is not practical. The 0.55 LEF may be theoretically appropriate for new development; however, it does not properly account for existing landscapes and will place a financial

burden on customers to convert significant portions of landscaping. Further, CVWD is concerned that as the LEF reduces from 0.80 to 0.55 the burden will disproportionately impact low-income and fixed-income Customers, as mentioned above.

**Recommendation:** Set a floor of 0.80 LEF for use in the Residential Outdoor component.

**Evapotranspiration (ETo) Data:** The Proposed Regulation’s inclusion of Effective Precipitation to calculate NET ETo rather than using just ETo is inconsistent with MWEL0 and irrigation practices. The use of NET ETo will artificially reduce the outdoor component effectively making it more difficult for Customers to maintain healthy landscaping.

As an arid region, CVWD is concerned about the source of ETo data for areas that have California Irrigation Management Information System (CIMIS) stations within their areas. CVWD collects daily ET data from CIMIS stations within our service area used for billing purposes and requests the state to allow agencies to use their CIMIS stations’ ETo data.

**Recommendation 1:** Utilize actual ETo rather than calculated NET ETo to calculate the Outdoor Standard.

**Recommendation 2:** Suppliers who have CIMIS stations should have the option to use their ETo data.

## **VARIANCES AND/BONUS INCENTIVE COMPONENT(S)**

**Residential Pools:** Providing a temporary provision for residential pools is insufficient. As the Water Use Objective is reduced over the implementation period, residential Customers will be unable to efficiently maintain pools and healthy landscapes within the Coachella Valley – a region with 100-degree temperatures for more than 100 days per year. This will significantly impact CVWD as there are more than 54,000 pools in the Coachella Valley. If pools do not receive an adequate LEF, as the regulations tighten into 2035, given the large number of pools within the Coachella Valley, it will unfairly impede water suppliers’ ability to meet the residential outdoor standard. Furthermore, pools are critically important for Coachella Valley residents’ ability to bear the incredibly hot summer months and for children to recreate during summer breaks.

**Recommendation:** Treat residential pools the same as “public pools” and provide an LEF of 1.0.

**Variance Threshold of 5%:** The Proposed Regulation provides an individual variance to a water supplier when that variance represents 5% or more of the sum of a water supplier’s objective. While the Proposed Regulation provides variances for unique uses, the proposed 5% threshold for each individual variance fails to provide for the cumulative impact that unique water uses place on a supplier. The annual approval process places a cumbersome administrative burden on water suppliers to continually apply for annually and receive approval of each individual variance. However, if changes are made to include INI landscape area and limit the LEF to 0.80, as recommended above, there would be less need for administratively burdensome variances.

**Recommendation:** Adopt a cumulative threshold of 5% rather than an individual approach of 5% for any one variance. Providing a cumulative threshold is aligned with the legislation as it will provide water suppliers with variances that have a material effect on water use.

**Annual Variances:** The Proposed Regulation requires water suppliers to apply for and receive annual approval of variances. An annual review creates a significant administrative burden on suppliers to continually gather and aggregate data. Further, variances for unique water uses are not expected to significantly change each year making an annual renewal excessively burdensome. CVWD expects stable demand for water supplied for unique uses such as, Evaporative Coolers, Seasonal Population, Livestock Population, Water Supplied to Sustain Wildlife, and Horse Corrals. These variances, if approved by State Water Board staff, should be valid for a minimum of five years absent any significant changes in conditions.

**Recommendation:** Variances be approved for a minimum of five years.

**Implementation Resources:** The data and aerial imagery underlying this Proposed Regulation is not transparent, complete, or accurate, and is too complex. Even with excellent internal resources such as analysts and GIS specialists, CVWD is unable to validate the information provided. Vendors contracted by the state to participate in the development of data tools underlying this Proposed Regulation have approached CVWD about contracting for their services and highly specialized technological tools - at an annual cost of \$100,000.

Future requirements of the Proposed Regulations will continue to increase demands on staff and their limited resources. Examples of tasks that will significantly burden water suppliers include, but are not limited to, providing annual Special Landscape Area data to the State Water Board to accurately calculate the outdoor standard, implement and report on conservation programs for each CII classification, and continually gather data for any variances or alternatives the supplier may wish to utilize.

CVWD proposes that the State enter into contracts with vendors so that water agencies can access free resources to aid in the implementation of the Proposed Regulation. By entering into master contracts accessible to water providers, the state could leverage economies of scale to reduce suppliers' implementation costs as well as identify and correct data errors more efficiently.

**Recommendation 1:** Provide technological tools, technical assistance, current/accurate data, and aerial imagery that enables all water agencies to successfully implement the State's mandate.

**Recommendation 2:** Provide funding for water use efficiency incentives.

## **TIMELINE/FLEXIBILITY FOR IMPLEMENTING REGULATIONS**

Almost 20 years ago, CVWD recognized the need for bold action to improve water use efficiency. CVWD began the process of creating budget-based tiered rates, a process that ultimately took two years, and involved community advisory groups, extensive community outreach, Customer engagement and

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significant staff resources to create individual water budgets based on each properties' irrigable area.

Water suppliers that have budget-based tiered rates should have an alternative means of compliance that will enable them to use their own billing data for irrigable area, ET, and other water budget components.

CVWD's best opportunity to successfully meet the standards will be to modify and align our tiered rates to fund significantly higher conservation costs in accordance with the standards adopted by the Water Board. This will require CVWD to conduct a cost-of-service study and a Prop. 218 process, both state requirements, which will take a minimum of two years upon the Board's adoption of the standards and CVWD's receipt and validation of the CII landscape area.

<p><b>Recommendation:</b> Provide water agencies sufficient flexibility and time for implementation when the regulations are adopted and the CII landscape area is provided.</p>
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#### CLOSING REMARKS

CVWD appreciates the State Water Board's continued consideration of our input throughout the rulemaking process. We are supportive of the larger set of comprehensive comments submitted by the Association of California Water Agencies (ACWA). CVWD is also a signatory and supportive of the comments submitted by the Coachella Valley Regional Water Management group letter, and a water agency coalition letter submitted by Paul Helliker, General Manager of the San Juan Water District.

Please do not hesitate to contact me at (760) 398-2651, extension 2548 or via email at sburritt@cvwd.org, with any questions about this letter or its comments. Additional staff contacts are Adam McWey, Conservation Manager, at ext. 2214 or amcwey@cvwd.org or Victoria Llort, Government & Regional Affairs, at ext. 3564 or via email at vllort@cvwd.org.

Sincerely,



Scott Burritt  
Director of Service & Communication

cc: J. M. Barrett, General Manager, Coachella Valley Water District

Enclosures/1/as

