



September 15, 2011

To: Jim Piefer
City of Sacramento

From: Phil Isenberg

Re: Comments on the Consultant's Draft 2010 Urban Water Management Plan (July 2010)

CHAIR
Phil Isenberg

MEMBERS
Randy Fiorini
Gloria Gray
Patrick Johnston
Felicia Marcus
Hank Nordhoff
Don Nottoli

EXECUTIVE OFFICER
P. Joseph Grindstaff

Dear Mr. Piefer:

Thank you very much for asking me to comment on the Draft 2010 Urban Water Management Plan (UWMP). The subject is very important and the UWMP eventually adopted by the City Council needs to clearly lay out how Sacramento can deliver a reliable supply of water for its citizens, through a prudent and careful use of water, while respecting the natural environment that is such a vital part of our heritage.

On a personal level, I want to thank you and other City officials who have consistently been focused, smart and responsive --- even when I have been occasionally critical of some of the details of the City's water policy. Even in these very tough economic times, the attitude of City staff remains positive and impressive.

These are my personal views as both a long-time resident of the city and as Chair of the Delta Stewardship Council. My colleagues on the Council may or may not agree with some or all of what I say.

When I use the word "city", "City" or "Sacramento" in this letter it refers only to the City of Sacramento, unless otherwise noted

Overall Impression

In my judgment the consultant's draft Sacramento 2010 UWMP does not meet the requirement of law¹. The draft UWMP does not adequately identify steps needed to improve the water efficiency and conservation in Sacramento, nor does the draft clearly focus on areas where the City's current practices may conflict with provisions of the California Constitution requiring all water in the state to be for reasonable, beneficial, and nonwasteful use.

¹**Coequal goals** means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.

The current draft UWMP is not a broad, forward-looking planning document that outlines the advantages and opportunities, and the problems and shortfalls of our current water supply system. Instead, it has been converted into a document that promotes three messages:

- **Sacramento will meet the bare minimum state requirements for urban water use conservation by the year 2020 and that is all we really have to do.**

Complying with the 20% reduction in urban water use by 2020 is easy of course, since the law allows each water district to choose a favorable ‘base’ for calculating required savings (thus limiting the amount of conservation required), and provides a number of exceptions and exclusions. Sacramento is currently among the higher per capita water users in the state (far exceeding the state average), and it is very clear that *nothing in the consultant draft UWMP will change that fact.*

Suggesting that achievement of the bare minimum required by law encourages further state mandatory limits, contrary to the goals of the Urban Water Management Act, which hoped that local water agencies through their own efforts would achieve dramatically high water efficiency and conservation.

Total urban water use by selected water agencies in 2006

Water Agency	Gallons per capita per day
San Francisco	95
Santa Barbara	127
Marin (MWD)	136
Los Angeles (LADWP)	142
Contra Costa (CCWD)	157
San Diego	157
East Bay (EBMUD)	166
Victorville (VVCWD)	246
Bakersfield	279
Sacramento	279
San Bernardino	296
Fresno	354

Developed by DWR staff using PWSS data from 2006

DWR. 2009. California Water Plan Update 2009. Sacramento, CA.

One way to show success through the UWMP is to compare water use in 2005 to the current use in 2010. Unfortunately, there is no clear indication of improvement. For 2010 and all further Plan updates, I strongly recommend that you include a summary of how we are doing compared to other cities in California. At least the Council will be able to judge the City’s performance against other cities.

- **The water metering program is under way and the rest of California should stop blaming us for not installing meters earlier.**

I doubt that by slowly implementing a law we opposed, the City will claim much moral authority or expect much praise from the overwhelming proportion of California urban dwellers that have used water meters for decades. If there is any chance of improving Sacramento’s image in the water world, it will be found in how rapidly and effectively we do more than the bare minimum required by law.

- **All other problems and solutions relating to water, water quality, conservation, efficiency and environmental impacts should be deferred to a later time.**

This theme, suggests that almost nothing in the way of conservation or water efficiency need be done any time soon. We did not recycle a drop of water in 2005. We did not recycle a drop of water in 2010. We have no intention of recycling a drop of water in the future --- unless someone gives us the money to do it! That is not a reasonable response to the water problems that face Sacramento or California.

In a larger sense, this draft consultant report does not provide the Mayor and City Council with a coherent overview of the City's supply, the trends in demand, the practical alternatives for conservation and system efficiencies, nor the larger issue of how Sacramento's water use fits into the use of water in the entire State. The Council cannot be expected to act wisely unless a very clear set of facts is presented, policy options are fully outlined, and full consultant and staff recommendations are included. This is not done in the 2010 UWMP; deferring the hard questions to future reports is not a reasonable option.

Let me outline some significant additional problems with the document. I reference the previous 2005 Sacramento UWMP, which in some respects is far clearer than the current draft version.

Significant Issues

1. The limits to our available water supply are obscured in the draft 2010 UWMP.

In the 2005 UWMP, it was clearly indicated that Sacramento would use up its entire supply of available water by the year 2030, based on then-current patterns of use. It was astonishing that did not become a major public issue at the time, but for whatever reasons, it did not. The 2010 consultant draft UWMP seems to ignore this issue. Are the facts presented in 2005 still accurate? If so, what are the policy choices the Mayor and Council should consider? If not, what has changed?

A careful reader of the 2005 UWMP would learn that Sacramento's total water supply is provided through five (5) Sacramento's water supply contractsⁱⁱ. At least 80 percent or more of the total water comes from surface streams with the remaining balance coming from underground water. This discussion is replicated in the consultant draft 2010 UWMP.ⁱⁱⁱ

Year ⁽¹⁾	Maximum Diversion from the Sacramento River, AFY ⁽²⁾	Maximum Diversion from the American River, AFY ⁽³⁾	Maximum Combined Diversion, AFY
2010	81,800	170,500	227,500
2015	81,800	189,000	252,000
2020	81,800	208,500	278,000
2025	81,800	228,000	304,000
2030	81,800	245,000	326,800
2035	81,800	245,000	326,800

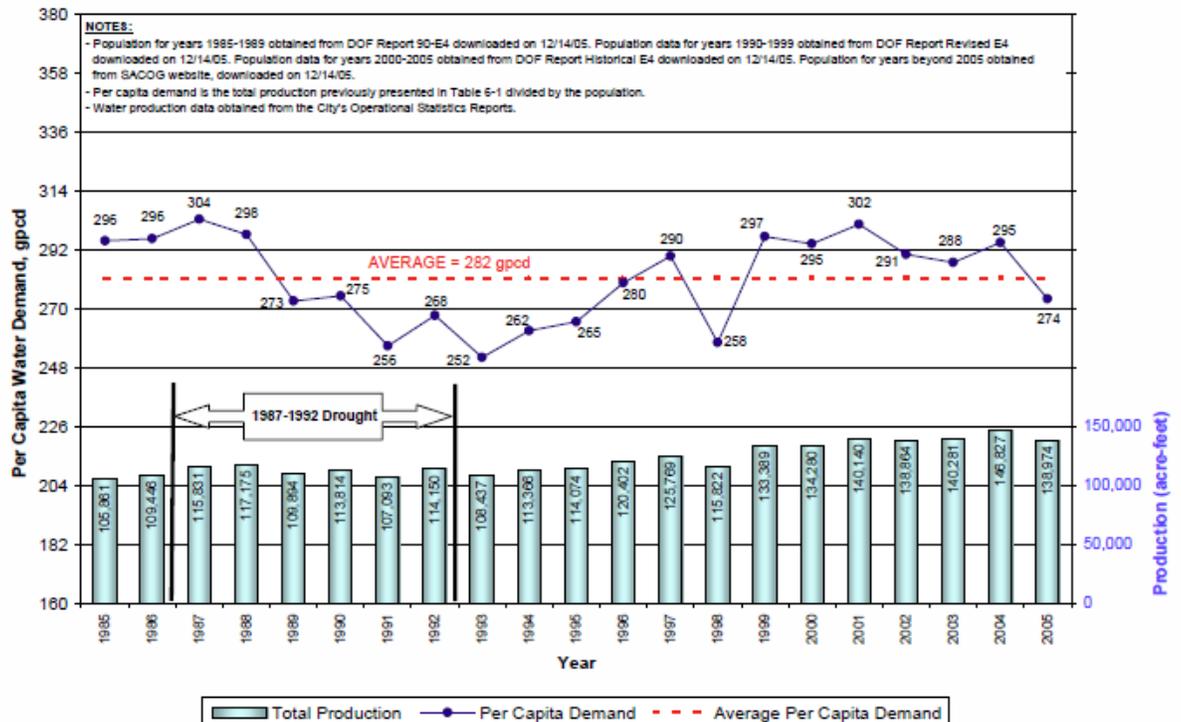
Notes:

1. Data obtained from Schedule A of the 1957 Water Rights Settlement Contract between the U.S. Bureau of Reclamation and the City.
2. The City may divert up to 81,800 AFY from the Sacramento River as long as the total combined diversion from both the Sacramento and American Rivers does not exceed the Maximum Combined Diversion.
3. The City may divert up to the Maximum Diversion from the American River as long as the total combined diversion from both the Sacramento and American Rivers does not exceed the Maximum Combined Diversion.

City of Sacramento. 2010 Urban Water Management Plan. pp. 4-6

In the 2005 UWMP, however, the reader can find a historic per capita use chart clearly indicating the water use patterns of residents of Sacramento.^{iv}

Figure 6-1. Historical Per Capita Water Demand

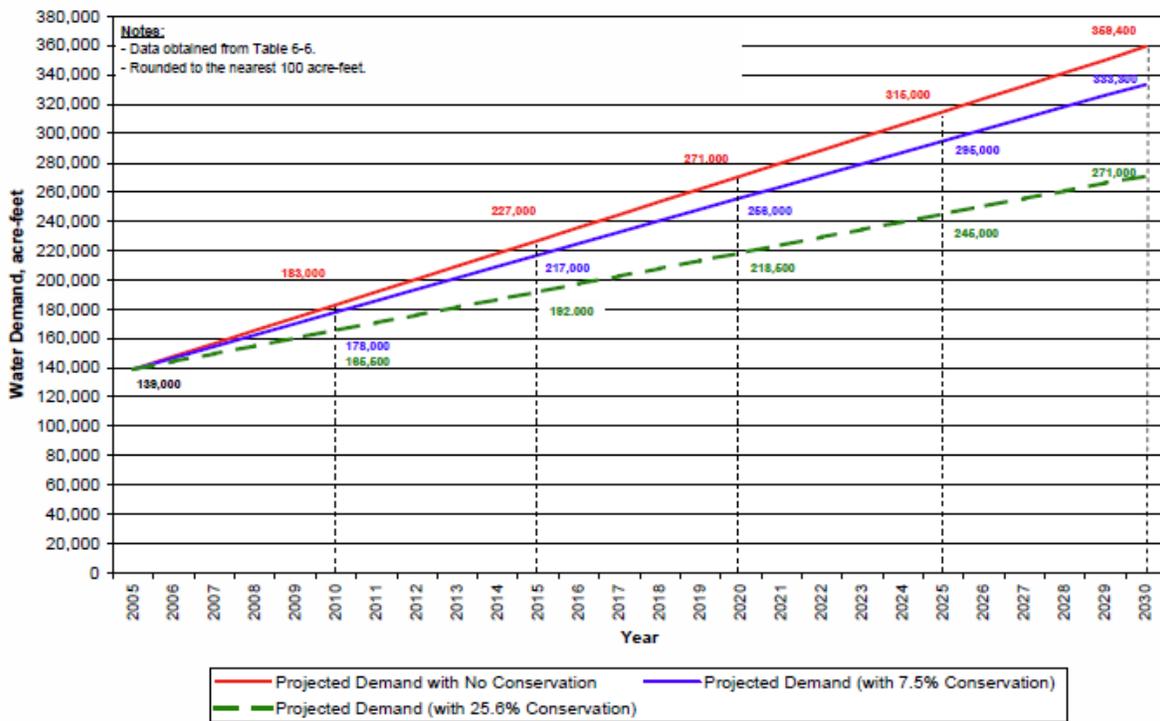


City of Sacramento. Urban Water Management Plan 2005. pp 6-14

It is no surprise that Sacramento uses a lot of water per capita, and far more than the state average, or many other similar cities. By only seeking to achieve the permitted ‘base’ water use calculation in the 2009 water conservation bill, the consultant’s report carefully hides the fact that Sacramento has over time done very little to reduce its per capita use of water.

In the 2005 UWMP you find a chart that compares projected water demands to available supply.^v There is nothing comparable in the 2010 consultant draft and there should be.

Figure 6-3. Projected Water Demands



City of Sacramento. Urban Water Management Plan 2005. pp. 6-15

2. There is no agenda for City action in the draft consultant UWMP.

Sure, there is casual mention of possible repair of the 100-miles of ancient water pipes^{vi}, and the need to consider recycling water in the distant future, but the key elements of the consultant draft can only be found by reference to Appendix I, the City Interim Water Conservation Plan. **And in that Appendix, it is very clear that virtually all of the conservation to be achieved in the near future come from water meters, which we historically opposed!**

3. Is there a Sacramento water conservation goal beyond the he bare minimum required by state law?

If so, it is carefully hidden in the consultant's draft. A reader is left with the clear impression that the City of Sacramento will conserve water only when mandated by law, court order or regulatory changes, and only then if 'someone else' provides the money to make the changes (see p.4-23).

Reading the consultant's draft it is hard to avoid the conclusion that abstract conservation is good; specific actions are not. If the City policy is to actively support conservation and water efficiency, what are the policy choices the Mayor and Council should consider?

4. Is Sacramento in danger of violating the constitutional prohibition on unreasonable use or wasting of water?

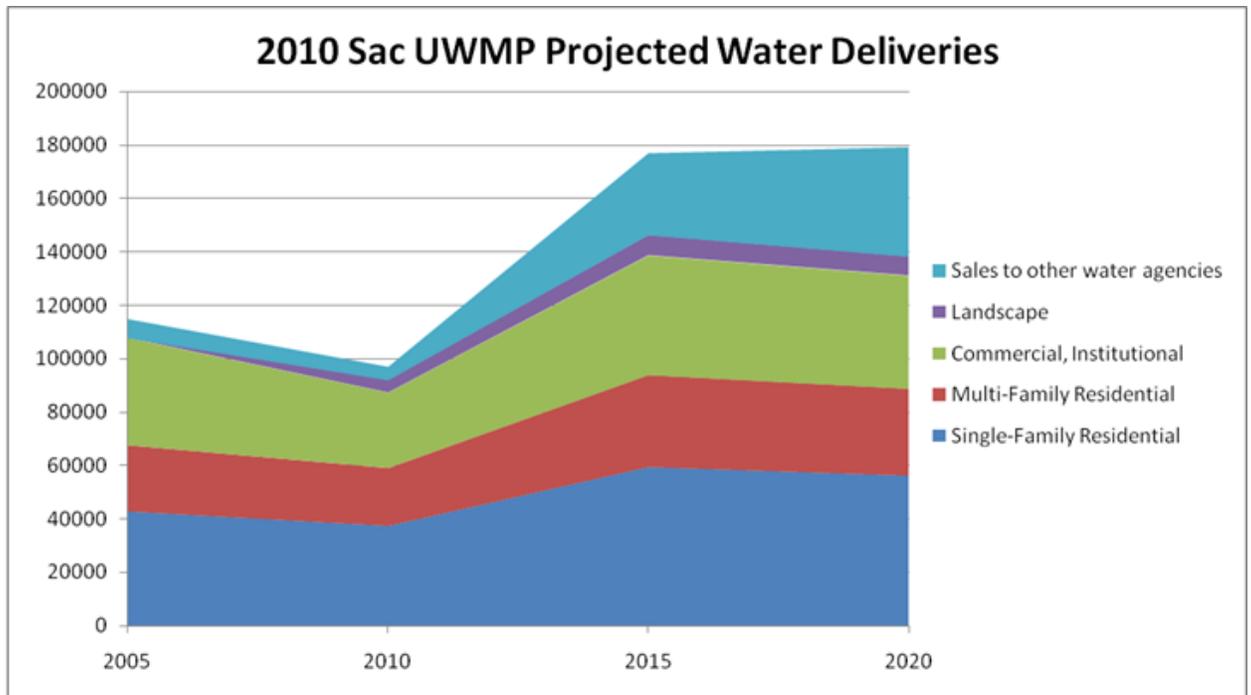
California's Constitution requires that all water use be reasonable and that there be no wasting of water.^{vii} What aspects of Sacramento's current water system might be considered unreasonable use or wasting of water under the Constitution? What policy choices should the Mayor and Council consider to avoid this possibility?

For example, the 2010 UWMP indicates that perhaps "10 percent or higher" of our total water supply is lost through seepage and faulty water pipes. Is that a reasonable use of water? The same figure occurred in the 2005 UWMP (footnote to Table 6-12 at 6-13 and p 6-1), which suggests that very little if anything has been done to address this problem.

As you know, the State Water Resources Control Board is authorized to enforce the constitutional provision of beneficial use, reasonable use and no wasting of water. In 1989, in their famous Decision 1600, the Board found the Imperial Irrigation District in violation of the reasonable use provision of the state constitution by not instituting water conservation to prevent seepage and related water losses.^{viii} It seems to me that failure to mention this problem is totally unfair to the Mayor and the Council and hides an issue which must be addressed. Yes, I acknowledge that the Department of Utilities has expressed concern about this before, but nothing has been done. More disturbing is that the UWMP offers nothing in the nature of a remedy to this problem.

5. In the event of shortages of water, can or should Sacramento continue to serve areas outside the city limits? And do the contracts to provide services outside the City limits interfere with city residents getting water in the event of a severe drought? What policy choices should the Mayor and Council consider?

I include an interesting chart prepared by my colleague Aaron Farber here at the Delta Stewardship Council. He took the information in the 2010 consultant's report and put it into graphic form.



Adapted from 2010 UWMP. Tables 9-12. pp. 3-6 - 3-9

Assuming that we read this correctly, it indicates that increased demand for City water will be primarily to serve sales to other agencies, not for city residents themselves.

- Using the same chart, it appears that the projected modest drop in Single-Family Residential use, which I assume includes household landscaping as well, is more than offset by significant growth in Commercial and Institutional use of water. Does that suggest that the often criticized use of water by the City for its parks and other irrigated public properties, and the same thing for large business owners, is a problem that needs to be corrected? The information seems to suggest that, but the draft UWMP offers no solution.

The draft consultant UWMP examines only some of these alternatives. But in each and every case it recommends absolutely no action whatsoever. Does this meet the test of law?

Additional questions

- Table 9-12 on 3-6 to 3-9 shows no difference in the projected deliveries between metered and non-metered residential sectors of water use through 2030. This calls into the question the savings attributed to metering in Appendix I and throughout the UWMP. How much savings does the city expect from metering?
- If the foundational and programmatic best management practices were implemented and generated the projected savings of 1,869 acre feet (pg. 6-7, Appendix I), it would mean

only a 2% reduction in retail water deliveries (92,060 AF) for 2010. This level of conservation would not seem to allow the city to meet the 2020 water use target of below 95% of the 5 year baseline. Will metering and education measures allow the city to meet the baseline? Are there any other conservation measures that would allow the city to meet 2020 target of 223 gpcd, which would be 20% reduction in per capita use?

- 9.** On 3-5, the 2010 UWMP states that “water demands have been decreasing since the year 2000, except for recent dramatic increases observed since 2008.” From 2007-2010, California experienced a series of dry and critical water years and the Delta ecosystem fully collapsed, leading to the biological opinions. While urban water use (not agriculture) somewhat increases in dry years, does the “dramatic increases” bring into question the city’s reasoning that increased public awareness of drought conditions and the reduced supplies in the Delta produced conservation?
- 10.** Over the next 20 years, the city expects groundwater use to remain constant at 22,300 AF yet expects to activate more of its water right and water diverted from the Sacramento and American Rivers to increase from 94,990 in 2010 to 156,952 in 2020 and 208,862 in 2035. Sacramento had 90 years to activate the full beneficial use of its water rights (e.g. Permit 992) and it seems to run counter to the goal of reducing reliance on the Delta and the objectives of the SWRCB, to finally activate and extract more than 100,000 more acre feet in 2030. How can the ecosystem recuperate, if cities continue to take more out of the rivers that serve as the primary inflows to the Delta, especially when the Sacramento and American Rivers are already fully appropriated for much of the year? Has the city calculated which appropriative water rights users (other communities with more junior water rights) may be pushed out of line?
- 11.** Also, in Tables 9-12, the retail water deliveries per single family residential connection seem to increase from 294 gallons per capita in 2005 and 2010 to 435 gallons per capita in 2015? Is there an explanation for the increase?
- 12.** In the 2005 UWMP, there is a chart which shows the city will reach or exceed its total limits yet the city projects obligated water supplies to reach 34,684 in 2020 and 42,696 in 2030. Will the city consider a moratorium on selling any more water? As we have seen in the past year, a wet year is necessary to aid the ecosystem such as the surge in the splittail population.

Thanks for asking me to submit comments. It was useful to me to do so, and hopefully of some use to you too

ⁱThe UWMP Act is found in Division 6 Part 2.6 of the California Water Code Sec. 10610 – 10656.

ⁱⁱ City of Sacramento. Urban Water Management Plan. 2005. pp. 4-4

ⁱⁱⁱ City of Sacramento. Urban Water Management Plan. 2010. pp. 4-6

^{iv} City of Sacramento. Urban Water Management Plan. 2005. Figure 6-1. Historical Per Capita Water Demand, p. 6-14.

^v City of Sacramento. Urban Water Management Plan 2005. Figure 6-3. *Projected Water Demands*, p. 6-16.

^{vi} City of Sacramento. Urban Water Management Plan 2010. Appendix I. pg. 24

^{vii} *“It is hereby declared that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable methods of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare. The right to water or to the use or flow of water in or from any natural stream or water course in this State is and shall be limited to such water as shall be reasonably required for the beneficial use to be served, and such right does not and shall not extend to the waste or unreasonable use or unreasonable method of use or unreasonable method of diversion of water.....”* California Constitution, Article X, Sec. 2.

This provision was adopted by the voter in 1928 and helped to settle a historic battle between riparian and appropriative users of water. This constitutional provision specifically reversed a 1926 State Supreme Court decision in *Heminghaus v. Southern California Edison Co.* (1926) 200 Cal. 81, “...which allowed a riparian water rights holder to use the entire flow of the San Joaquin River to flood pasture land for the reclamation of soil and for irrigation, thus preventing Edison from developing an upstream power project pursuant to an appropriative right.” For further details see California Water II (2007) Arthur L. Littleworth and Eric L. Garner, Solano Press Books, pp. 40-41.

^{viii} California Water II, at pp. 114-115.