



CLEAN
WATER
ACTION



January 9, 2017

State Water Resources Control Board

Attn: Kathy Frevert

1001 I Street, 24th Floor

Sacramento, CA 95814

Comments Submitted Electronically to Kathy.Frevert@waterboards.ca.gov

Re: Comment Letter on Statewide Low-Income Rate Assistance Program

Dear Ms. Frevert and State Water Resources Control Board staff:

The above listed organizations, which work directly in, or on behalf of, small, rural, and/or low-income communities throughout the state, write to provide recommendations on how to design a statewide low-income rate assistance program.

Although Californians are legally guaranteed the human right to safe, clean, affordable and accessible water, many communities in California face exceedingly high water rates. Water district investments to maintain and upgrade water treatment and delivery systems in areas that have a small and/or declining ratepayer base leads those water districts to often substantially increase the rates they charge to customers. In some cases, water rates have jumped as much as 300% since 2006.¹

A study by the Community Water Center, Pacific Institute, and Fresno State, "[Assessing Water Affordability](#)," found that 18% of water systems in the Tulare Lake Basin had unaffordable rates. Some families were paying up to 10 percent of their monthly income on water alone. Families who pay for contaminated water from their taps and additional costs for bottled water pay even more.

Assemblymember Dodd, who authored Assembly Bill 401 (AB 401) in 2015, illustrated the severity of unaffordable water rates with a community in his district, Lucerne. "In 2005, The

¹ http://autl.assembly.ca.gov/sites/autl.assembly.ca.gov/files/2014_01_30_water_rate_affordability_final.pdf

CPUC granted Cal Water a rate increase of 120% in the Lake County community of Lucerne. Again, in 2009 Cal Water raised rates another 41.8%. When you consider that the accepted water rate affordability threshold is 1.5% of a household's annual income, the average water rate in Lucerne of \$107/mo. is more than 3.0 [times] the affordability threshold for that community, where more than 8% of elderly residents were found to have incomes below the federal poverty level in recent years."²

In his signing of AB 401 (Dodd) in October 2015, Governor Brown wrote, "Proposition 218 serves as the biggest impediment to public water systems being able to establish low-income rate assistance programs." While Prop. 218 provides valuable accountability and transparency requirements for local governments, it makes it very difficult for local water agencies to manage water sustainably and equitably and to generate water rate assistance for low-income Californians. However, even if Prop. 218 were amended to allow water systems to use ratepayer funds to create low-income assistance programs, water systems in predominantly low-income areas would still need outside revenue to cover the cost of an assistance program.

Recommendations:

The Lifeline Rate:

The State Water Resources Control Board's (SWRCB) plan for a statewide Low-Income Water Rate Assistance (LIRA) Program shall propose to the Legislature to enact a statewide surcharge on water to subsidize lifeline rates and efficiency programs for low income residents. While water is affordable for the vast majority of California's households and businesses, lifeline rates are a straightforward approach to meet the most basic human need: safe, clean, and affordable water.³ Specific comments and recommendations continue below.

Safe, affordable water:

- We were pleased to receive clarification from State Water Board staff at the November 16, 2016 AB 401 conference call that they are committed to addressing specifically both water safety and affordability in the LIRA program. We agree that addressing one but not the other would be, as Max Gomberg stated on the November 16th call, an "incomplete system." The LIRA program must ensure that Californians can access affordable and safe drinking water.
- We are also pleased with the statements made repeatedly by State Water Board staff in the initial October-November AB 401 public workshops and conference call regarding their commitment to the Human Right to Water. We deeply believe designing a LIRA program should be done through the lens of the Human Right to Water, which guarantees every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. To underscore the above bullet point, lack of access to safe drinking water due to the high costs of treating unsafe water is an affordability issue; therefore the cost to ensure Californians have safe water must be included in this LIRA plan. Accordingly, the LIRA

² http://autl.assembly.ca.gov/sites/autl.assembly.ca.gov/files/2014_01_30_water_rate_affordability_final.pdf

³ http://www.ppic.org/content/pubs/report/R_314EHR.pdf

must address infrastructure costs as well as operation and maintenance costs necessary to secure safe and affordable drinking water.

O&M:

- Both capital costs and treatment costs associated with treating contaminated water fall to rate-payers, often making water rates unaffordable. We acknowledge that the State Water Board helps provide financial assistance for capital costs through Prop. 1, DWSRF, and other funding sources. However, the fiscal challenges in the hundreds of communities like Lanare in Fresno County, Alpaugh in Tulare County, and Morada in San Joaquin County go far beyond capital costs.
 - In the early 2000s Lanare received a Community Development Block Grant to fund a treatment plant for arsenic contamination; but, once it started operating, water rates soared; Lanare could no longer afford to run the plant, incurred debt, and shut down the plant. Since 2008, the plant has sat idle and arsenic has run through the community's drinking water supply.⁴ Now the town's water system is operated by a receiver and residents pay a monthly bill for running water -- but they still can't drink it. Instead, many spent \$30 or more each month for bottled water until the community began receiving funding from the SWRCB for bottled water through its Interim Emergency Drinking Water Funding Programs.^{5 6}
 - Alpaugh is a small rural farming community in the corner of Kings and Tulare counties whose 761 inhabitants are fifty-four percent Latino, and where twenty-eight percent of families have incomes below the poverty line. The water has dangerously high levels of arsenic. In 2008, the Alpaugh Joint Powers Authority (AJPA) proposed a \$20 per household water rate increase (from \$55 to \$75) with no guarantee for safer water. The AJPA failed to follow the parameters set out by Prop 218 by not holding any public hearings about the rate increase and by not distributing the rate increases across users (e.g. the Western Farms West Isle Production Plant, a fertilizer producer that has had chemical spills in the past, was to receive a lesser rate increase compared to residential users). Over 100 residents protested against and successfully stopped the water rate increases. More recently, Alpaugh successfully passed a water rate increase through Prop. 218 to account for increased arsenic treatment plant costs. However, the increase barely keeps the district afloat and they are not able to generate any reserves, which will impact their ability to address unexpected needs, such as repairs, in the future.⁷
 - A recent news article detailed the situation in Morada, a town in San Joaquin County in which an elderly, fixed-income resident's water bill was expected to increase from \$285 per year to \$1,035 per year - a 263 percent increase. In previous years, Morada residents have successfully blocked rate hikes through Prop 218 provisions. However, with residents refusing to pay more even as the cost of delivering water increases, the district will have a deficit of more than

⁴ <http://digitalcommons.pepperdine.edu/cgi/viewcontent.cgi?article=1090&context=sturesearch>

⁵ <https://ww2.kqed.org/stateofhealth/2013/11/18/central-valley-community-fights-for-clean-water/>

⁶ http://www.waterboards.ca.gov/board_info/exec_dir_rpts/2015/edrpt111715.pdf

⁷ Email from Abigail Solis, Self-Help Enterprises

\$180,000. “Even if customers agree to pay higher rates, it will be three years before even the smallest amount of savings will be available for emergency repairs or other needs.”⁸

- These examples illustrate the need for a dedicated, targeted, and sustainable funding source to help water systems afford ongoing operations and maintenance costs to ensure safe drinking water. We are encouraged that the Water Board is moving forward with developing a “Safe Water” proposal to address statewide O&M needs for communities without safe drinking water, and strongly urge continued progress on that issue.

Water Efficiency:

- Inefficient water delivery systems, leaking plumbing and outdated appliances in small, disadvantaged communities throughout the state, taxes our water supply, creates unnecessary energy use, and contributes to unaffordable drinking water rates. The State Water Board should directly link the LIRA program to state programs and policies that promote water efficiency and prevent loss of water through leaks and inefficient appliances. A lifeline rate that goes hand-in-hand with an efficiency program would enable program participants to keep their water use below a maximum amount allowed under the lifeline program.
 - At least 9 public water systems serving small, disadvantaged communities sought financial assistance from the 2015-16 Drinking Water State Revolving Fund for water metering and efficiency projects. The cumulative need for those systems totals approximately \$31.5 million. This is a minute representation of the need for water metering and efficiency investments in DACs to address both costs associated with wasted water and prevent depletion of drinking water supplies.
 - The LIRA should address the unique challenges many low-income customers often face in their efforts to reduce water use. Aside from the financial obstacles low-income Californians face in financing home repairs, renters have little control over inefficient fixtures and leaky pipes. Older water systems themselves often have leaking and inefficient infrastructure. The program should also provide assistance to water systems serving disadvantaged communities that are unable to finance leak repairs or replace inefficient water system components.
 - Households that qualify for the lifeline rate should also receive targeted efficiency assistance. Direct-install programs and fixture upgrades targeted at low-income customers help them keep their water bills low while improving conservation rates for the water system. Whether these resources are provided directly through the LIRA program or simply connected to separate programs that offer these resources, the outreach, eligibility for, and disbursement of both water rate assistance and efficiency resources should be closely linked and tracked at a state level.

⁸ <http://www.recordnet.com/news/20161210/for-some-morada-water-rate-hike-hurts-more>

Defining affordability and eligibility

- The definition of water affordability depends on the scale of analysis. Most analyses evaluate whether water in a given area costs more than 1.5-2.5% of median household income. The State Water Board used a threshold of 1.5% of median household income in their [2016 California Drinking Water State Revolving Fund Intended Use Plan](#) to gauge water affordability in a given area. However, using the cost of water for median-income households is a poor indicator of affordability because it overlooks the cost burden for low-income households, especially low income households residing within relatively higher income communities. The LIRA must secure affordable drinking water for low-income households.
- A lifeline rate should ensure that no household spends more than 1.5% of their income to meet their basic indoor water needs. 50 gallons per person per day is a reasonable first-order estimate of basic water needs.
- Finer-scale income measures of household income better reflect the cost of water for low-income customers. As examined in the pilot study by CWC, Pacific Institute, and Fresno State University, “[i]n both the urban and rural case studies, analysis of actual household incomes rather than median household incomes revealed the highest levels of unaffordability.” Additionally, “[w]hile water may be affordable at the state scale, it may not be affordable at the water system scale. And while water may be affordable at the water system scale, it may not be affordable at the Census Block group scale (when there are multiple block groups within a system) or the household scale.”⁹
- Multiple lower income families often share a household, which can artificially inflate MHI for the household and community. In households with multiple families, LIRA eligibility standards should allow a single family, rather than the household to apply for and receive assistance.
- SWRCB must address assistance for renters. Renters must be eligible even those that are not directly responsible for paying for drinking water service as rental costs in those circumstances incorporate costs associated with drinking water service.
- In addition, many low-income Californians are forced to buy bottled water because their tap water is unsafe to drink; this is referred to as “replacement costs.” For example, replacement water costs associated with buying bottled water, vended water, or water filters to ensure safe drinking water supplies can dramatically increase unaffordability. Families that rely on contaminated groundwater as a drinking water source pay for water that is unhealthy or unclean, therefore there is an additional water replacement cost not reflected in the utility bill. Unfortunately, current laws do not include these additional replacement costs in assessments of water affordability. We understand that collecting data on the number of Californians that have replacement costs or the statewide total of replacement costs is difficult to do. However, extrapolations and estimates can be made. We recommend the SWRCB staff use recent analyses conducted by the Division of Drinking Water for the 1,2,3-trichloropropane

Maximum Contaminant Level economic analyses.¹⁰ This does not mean we are proposing that the SWRCB discontinue to provide interim emergency drinking water through funding programs such as the Cleanup and Abatement Account, which are invaluable for communities with emergency water needs due to drought or acute contamination impacts.

Other Eligibility Factors:

- We strongly recommend that eligibility for the LIRA program not be limited to MHI and the percentage of income spent on water. We recommend that eligibility requirements are broad, flexible, and targeted to the most vulnerable. We recommend the State Water Board examines whether using annual or monthly measures of income provide a more appropriate framework to determine affordability. Many Californians who have seasonal or part-time work may be classified as low-income in one month but not low-income on an annual measure, or low-income on an annual measure, but high income in just a few months of the year.
- We recommend that other factors including but not limited to the following are considered when determining program eligibility:
 - Changes in insurance policies (e.g. Disability or SSI insurance)
 - Changes in health coverage
 - Changes in household composition due to births or deaths
 - Changes in marital status or household membership
- Additionally, we recommend that residents with water debts (i.e. those who fall behind on water bill payments) are automatically screened for eligibility.

Enrollment:

- We recommend that the LIRA plan takes special care to ensure the enrollment process is simple and accessible for all users. We would encourage that all materials are made available in multiple languages, and that online application platforms are easy to understand and complete.
- Use existing eligibility requirements from other sectors to automatically enroll customers, while still taking into account more specific factors experienced by individual families as described above.
 - There are many well-established programs to ensure that low-income households have affordable access to utility services for electricity, natural gas, and telecommunications, including: California Alternate Rates for Energy (CARE);

¹⁰ Their Standardized Regulatory Impact Assessment analyzed the cost of Californians that may be purchasing bottled water due to health concerns over 1,2,3-TCP contaminated water, “Based on the assumption that customers with health concerns would replace at least 2 liters/day of their drinking water, we can estimate that each person would purchase 0.5 gallons (~1.9 liters) per day. The average cost of bottled water is \$1.20/gallon (<http://www.bottledwater.org/economics/real-cost-of-bottled-water>); therefore each person will spend average \$18.00/month. Based on demographics, an average household size of 4 persons was assumed for these affected communities (http://web.stanford.edu/dept/csre/reports/exec_summary5.pdf); hence, each household will spend approximately \$72.00/month.” These extrapolations could help the SWRCB determine eligibility and the level of assistance required to ensure affordability.”

the Family Electric Rate Assistance Program (FERA); the Federal Low Income Home Energy Assistance Program (LIHEAP); the Low Income Energy Efficiency Program (LIEE); and the California LifeLine Program.

- A number of water suppliers use the same program-enrollment eligibility as CARE or another public assistance program such as Medicaid/Medi-Cal; Women, Infants, and Children Program; SNAP/CalFresh; Supplemental Security Income; Temporary Assistance for Needy Families (TANF); or Tribal TANF.
- Energy affordability programs have been in existence for many years and routinely collect information about who is eligible. In some cases, utilities or public welfare agencies may be able and willing to share this information with water service providers. In such cases, it can minimize administration costs to automatically enroll customers who are participating in programs with matching eligibility requirements, sending a letter to the household announcing that they will receive benefits unless they request otherwise. However, even if this information is not made available, a water service provider can allow customers to enroll themselves with proof of participation in a program with matching eligibility requirements.¹¹

Nature of the assistance that could be offered by the program:

- The program should prioritize forms of assistance that save ratepayers money up-front (i.e. bill reductions or benefit transfers to ratepayers that can be used to pay water bills). The assistance should not be a flat-dollar amount for all enrollees of the LIRA program, but instead be based on the level of need per enrollee.
- Forms of assistance that require payments up-front that are later refunded (i.e. rebates, tax credits) would not address short-term cash-flow problems for low-income households.
- The program should also consider forms of assistance that complement monetary savings, including protection from water shut-offs.
- We also recommend that the SWRCB considers providing debt-forgiveness as part of the LIRA program.

Outreach and other eligibility/enrollment recommendations:

- Tailor to private well owners (e.g. subsidy for electric bill if electricity is used to operate private well), shelters, homeless communities.
- Renters - reach out to housing advocates to gather recommendations on the best way to reach tenants. In addition, the Board can promote actions to complete the conversion of all master-metered multifamily properties to individual meters as quickly as possible.
- Respect confidentiality. Prohibit SWRCB from reporting overcrowding and sensitive issues such as the documentation status of residents.

¹¹ <http://pacinst.org/app/uploads/2013/01/water-rates-affordability.pdf>

Program funding resources

- We acknowledge the State Water Board is examining many sources of data to estimate the revenue needed to ensure low-income Californians have safe, affordable water, and we appreciate that staff are committed to implementing the human right to water for all Californians, not just those served by public water systems. We would like to emphasize the needs and special attention required to address water affordability for private well owners, renters, and other marginalized communities that may not directly pay a water bill, such as homeless populations.
- The revenue estimation should include the costs of making water affordable and safe, plus ongoing operations and maintenance costs which often lead to increased rates.
- Revenue should be generated by multiple sources, although we recommend that the majority of revenue be generated by a statewide surcharge on water. Low-income Californians who are eligible for the LIRA program or who can otherwise prove that the surcharge would cause a significant financial burden, should be exempt from paying the surcharge. In addition, the other funding mechanisms should also contribute to the LIRA program fund:
 - Utilize existing State Water Board fee collection mechanisms where feasible
 - Identify new fee mechanisms, such as a fee to address nitrate pollution from agriculture or agricultural pumping fee. As the most prevalent man-made contaminant, nitrate pollution of groundwater has impacted tens of thousands of Californians in current or former agricultural areas. The state's \$55 billion annual agricultural industry must play a lead role in funding solutions for communities impacted by their activities.
 - Offer voluntary donation opportunities and incentivize with tax credits
 - Tax on bottled water and soda

Technical administration of the program

- Both local and state government must participate in the administration of a low-income rate assistance program. As the primary source of funding, surcharges should be imposed on a regular water bills collected by local water utilities. The LIRA surcharges would be transferred from the local water utility to a fund centrally administered by the State Water Board.
- SWRCB should develop eligibility guidelines and provide regular oversight and ensure equitable disbursement of funds to local or regional agencies to the recipients of the assistance.
- We agree with State Water Board staff that existing programs that meet the State's criteria for the LIRA program would be allowed to continue, but would require modification or standardization so that all programs provide the same level of assistance and so the revenue needed to support the LIRA program is sufficiently generated. Allowing existing programs to continue would reduce transaction costs of transferring funds to the State and back to the utility, and may also prevent any interruption of assistance.

- The revenue needed statewide to fund the LIRA program should be assessed annually. Alternatively, the LIRA program and action plan for its administration as well as the assessment of need could be updated every 5 years.

Sanitation/Wastewater:

- Nowhere in the AB 401 legislation does the language restrict the LIRA plan to strictly drinking water rate assistance. We understand that the State Water Board is looking at various data sources to estimate the funding needed to address water affordability. We encourage the State Water Board to include wastewater (sewage) rates in the LIRA plan, especially if the data analysis reveals that wastewater rates contribute to a significant portion of water (utility) bills or contribute to unaffordability of safe and affordable water service. Additionally, we encourage the state board to assess the costs associated with maintaining septic systems in areas not served by sewer systems.
- If including wastewater is not possible in the Board's initial LIRA plan, we ask that in the State Water Board's recommendations to the Legislature, staff propose that the Legislature evaluates the existing LIRA plan and commits to also include sanitation/sewer costs in future years.

Thank you again for the opportunity to provide comments on the LIRA program. Should you have any questions about our comments, please feel free to reach out to us.

Sincerely,

, Policy & Communications Analyst, Community Water Center
, Co-Director, Leadership Counsel for Justice and Accountability
, Water Programs Manager, Clean Water Action
, Executive Director, Pueblo Unido CDC
, Director of Legislation, California Food Policy Advocates
, California Director, Food & Water Watch
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Cc:

Max Gomberg, State Water Resources Control Board
Liz Haven, State Water Resources Control Board