

Sent via ELECTRONIC MAIL to [Mary.Yang@waterboards.ca.gov](mailto:Mary.Yang@waterboards.ca.gov)

August 25, 2017

Ms. Mary Yang  
Environmental Scientist  
Division of Drinking Water  
State Water Resources Control Board  
1001 I Street  
Sacramento, CA 95814

**Re: AB 401 (Dodd) Program Implementation**

Dear Ms. Yang:

Thank you for the opportunity to comment on the progress thus far by State Board staff and researchers at UCLA on the plan for funding and implementing a low-income rate assistance (LIRA) program for water, as required by Assembly Bill 401 (Dodd) of 2015. While we appreciate the work that has gone into what is an incredibly complex issue, we have grave concerns about the structure and methodology of the study that we urge you to consider addressing and including in your report to the Legislature. Please consider the following:

**1. The study contains fundamental data gaps that render it impossible to convincingly determine the need for such a program in the first place.**

The Luskin Center is using two sets of data to model the LIRA scenarios that State Board staff has proposed: census data and the average cost of water. Census data tells us how many Californians would be eligible for the LIRA program given the income requirement of 200 percent of the federal poverty level—34 percent of the state's households—and the State Board's survey of California water agencies yielded an average cost of \$55 for 12 HCF.

What these two sets of data do not tell us, however, is the average water use or the average bill for eligible low-income households. These two items are critical for your board to make an informed decision regarding the recommended levels of subsidy—20 to 35 percent—and how much the programs are likely to cost California taxpayers and/or water ratepayers. Instead, your board is left to consider recommending a program with a staggeringly broad eligibility and no clear way to judge its impacts or benefits. This is in conflict with the direction of AB 401, which calls for "a description of the method used to determine the amount of moneys that may need to be collected from water ratepayers to fund the program."

**2. The 12 HCF threshold is an assumption that is not supported by evidence.**

The lack of data also renders arbitrary the 12 HCF that State Board staff is recommending as the cap at which water use will be subsidized by the program. At public workshops, State Board staff has explained that the 12 HCF limit was the product of assuming four people per household, multiplied by the 55 residential gallons per capita per day (R-GPCD) recommended by the *Making Water Conservation a California Way of Life* report. This comes to 220 gallons of indoor water use per household per day, with 79.2 gallons per day left for outdoor use. Again, we have no idea how many eligible households use more, less, or anywhere near the 12 HCF, and no evidence for the current assumptions regarding housing density has been provided. And while we understand that the Board is using four people per household as the standard based on federal poverty level guidelines, 2010 Census data indicates that the statewide housing density is closer to 2.7 people per household; extrapolations through 2016 support this number.

**3. The 55 R-GPCD figure is high and does not seem to be based in fact.**

AB 401 intends to achieve assistance for low-income households through conservation; given that environmental NGOs advocated strenuously during the development of the *Conservation as a Way of Life* report for an R-GPCD closer to 35, with the interest if not outright support of State Board staff, we find it surprising that the subsidy limit is capped at so high a number. Anecdotally, the majority of our customers that would qualify for the LIRA subsidy live in multi-family dwellings with little to no outdoor water use and have R-GPCDs below 40; such anecdotes, provided as they are by water purveyor staff in constant contact with end users, should be no less compelling than assumptions made by State Board staff. We hope they at least give your board pause to consider the necessity of revisiting those assumptions and how to move closer to an informed estimation of need.

**4. The justification for the amounts selected as thresholds and standards is not based on a proven method.**

Part of the explanation for the arbitrary levels State Board staff have landed on and instructed the Luskin Center to use in their analysis is that these are common levels used by other PUC-authorized LIRAs developed and employed by investor-owned utilities. The idea for a 20-percent benefit on a certain “basic” level of consumption comes specifically from the California Alternative Rates for Energy (CARE) program. While this program has dispensed billions of dollars in benefits over its history, there has been no analysis of the actual efficacy or impact of that program at the individual level presented as part of the justification for borrowing its methodology—something one would at least hope for before developing another statewide program that could cost ratepayers and/or taxpayers upwards of \$650 million annually.

**5. The collection and distribution of subsidy funds remains an open question.**

Neither State Board staff nor the Luskin Center has sufficiently addressed the aspect of collecting and dispersing funds. Difficulties abound with both aspects of such a program in the public sector, as we've seen this year with SB 623 (Monning), the Safe and Affordable Drinking Water Fund Act. Given the complexities of a public sector water LIRA, we urge your board to consider postponing discussion of the means of collecting and ways of distributing such benefits until the program has been developed.

**6. A robust needs assessment would alleviate many concerns.**

Many of the foregoing concerns could be alleviated by a thorough needs assessment. What such a needs assessment would require, in short, would be to match (anonymized) end-user data with the Census and water rate data the Luskin Center already has. We wouldn't need complete coverage of user data—the Luskin Center could easily provide an estimate of what a representative sampling would look like—and we imagine purveyors would be happy to contribute to the effort. Camrosa certainly would. While this would be a time-intensive process, and would require extending the Luskin Center contract, it could in the long run end up providing cost savings to the people of California providing the funds for the LIRA program. It would certainly make for a more effective program.

**7. The study's parameters conflict with the spirit of AB 401 and Governor Brown's intent.**

In his signing message for AB 401 dated October 9, 2015, Governor Brown characterized the plan in the bill as "...modest, additional steps...". In the plan's current form, however, subsidizing fully one-third of California households' water bills as a result of their eligibility under federal poverty guidelines (FPL) is far from modest. To the contrary, this would be a wide-ranging, multi-million dollar program requiring a great deal of oversight and additional scrutiny on the part of water agencies and state personnel. And the selection of the 200 percent of FPL as the low income threshold is also arbitrary. AB 401 defines "low income" as "a household with income that is equal to **or no greater than** 200 hundred percent of the federal poverty guideline." This definition allows the State Water Board to use a threshold that is lower than 200 percent. We urge the consideration of additional scenarios at various income levels to obtain a fuller picture of other possibilities.

**8. The process has been lacking in transparency and inclusivity.**

Transparency is imperative to assure the legitimacy of any program to emerge from this process. To ensure this, all materials used in the program development of AB 401 should be publicly available. We understand that State Board staff may be in possession of additional information relevant to the bill's implementation—specifically, a discussion paper about methods and results, as well as the actual data the Luskin Center used in its analysis—and we

ask that the Board make available to the public all of the information provided by UCLA relative to AB 401.

In addition, as a stakeholder in this process, we request additional opportunities to provide feedback to the Board. There has been a public outreach effort, which we commend, but only one, invitation-only upcoming stakeholder meeting (to which we were not invited). Since water agencies will be on the ground doing the bulk of the implementation of this program, the water community merits greater inclusion—and not simply the “usual suspects” in this regard; small- to medium-sized agencies deserve a voice in the process as well.

Once again, thank you for the opportunity to comment. We welcome further discussion on this issue with you or your staff.

Sincerely,



Tony Stafford  
General Manager

cc: The Honorable Felicia Marcus, Chair, SWRCB  
The Honorable Steven Moore, Vice Chair, SWRCB  
The Honorable Tam M. Doduc, Member, SWRCB  
The Honorable Dorene D’Adamo, Member, SWRCB  
The Honorable E. Joaquin Equivel, Member, SWRCB  
Mr. Gordon Burns, Undersecretary, CalEPA  
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