



Arvin Community Services District



February 1, 2019

Sent Via Email [commentletters@waterboards.ca.gov]

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



Re: Comment Letter – Options for Implementation of a Statewide Low-Income Water Rate Assistance Program

Dear Ms. Townsend:

We appreciate the opportunity to comment on the above-referenced draft report and commend the State Water Resources Control Board (SWRCB) for its continued efforts to fully implement the Human Right to Water to ensure that all Californians have access to safe and affordable drinking water.

The draft report sets forth ambitious and thoughtful recommendations for a statewide Low-Income Water Rate Assistance Program (W-LIRA) which, if implemented, would significantly improve drinking water affordability in the state. We understand that this is just one piece of a many-faceted solution to the problems of drinking water affordability, quality and access, and appreciate the acknowledgement in the Executive Summary of the need to separately address long-term access to safe drinking water through the establishment of the Safe and Affordable Drinking Water Fund. We also look forward to partnering with the Board, other state agencies and the state's public water systems on additional efforts to improve affordability, some of which we will cover in this letter.

Given that legislation will be required to implement the recommendations in the draft report, we urge the SWRCB to play an active role in continuing to facilitate discussions around implementation with interested stakeholders, including scheduling workshops in the near term,¹ and we look forward to supporting efforts to secure passage of a strong water affordability program.

Turning to the substance of the draft report, we agree that a statewide approach to a W-LIRA program is necessary given the practical and legal barriers to system-level programs. These commenting organizations either work directly with, or support policies that will benefit, low-income households and disadvantaged communities. Through this work, we have seen firsthand the impacts of unaffordable drinking water, and the difficult trade-offs between paying for water and other essential expenses that are often required as a result. The draft report correctly notes that these significant challenges cannot often be overcome by small water systems, especially where a majority of a community would be eligible for rate assistance. These challenges are compounded by legal restrictions to system-level rate assistance, such as those posed by Proposition 218.²

We further agree generally, with efforts to tailor the level of benefit to the amount of expenditure for water. A flat percentage discount, depending on the level of the discount, would likely not be effective in delivering affordable water to households that are paying very high water rates. The proposed program attempts to address economic insecurity for households struggling to pay the cost of water, an essential policy goal that will only become more important over time.

We do have recommendations on how to improve the proposal. In particular we hope to see the Water Board expand its perspective on policy solutions for water affordability to address systemic problems that drive up the cost of basic water needs. These recommendations are provided in Attachment "A" below.

An overarching concern with the cumulative recommendations of this report is that it has the potential to essentially absolve public water systems of their responsibility to support their customers. It provides a revenue stream to assist low-income customers that requires virtually no action on the part of the water systems, yet makes no demand on those systems to prioritize conservation efforts for low-income households, design rates that reward low water users, or address leak detection and repair. As a result, the recommendations in the draft report must be paired with legislative and/or regulatory improvements ensuring strong oversight of public water systems, particularly focused on equitable rate design. For small systems that lack the capacity to address these challenges, the State should identify potential new or changes to existing programs that could provide needed funding and assistance.

¹ Given that the California Public Utilities Commission (CPUC) is pursuing a parallel effort to improve access to affordable drinking water (R.17-06-024), the SWRCB should continue to coordinate with the CPUC on workshops and other opportunities for productive discussion.

² We note here that, while Proposition 218 presents challenges to adoption of local W-LIRA programs, it is not an absolute barrier.

Attachment A

I. Program Design

Eligibility: We support using 200% of the Federal Poverty Level (FPL) as the eligibility criteria for the W-LIRA, given that it facilitates cross-enrollment with other income-eligible assistance programs.

Three tier structure: We are supportive of tiered discounts to provide greater equity for program participants that live in areas with high water costs. However, we recommend calculating marginal rather than absolute benefit rates.

Marginal benefit rates would be calculated as follows. For a water service area with an average water cost of \$95, the first \$90 would be discounted at 20%, and the next \$5 at a higher percentage. This approach would prevent the problem of the current proposal that customers in systems receiving 12 CCF for \$90 would receive a far greater benefit than customers receiving 12 CCF for \$89. The marginal percentage discount applied to tiers two and three should be calculated to provide a comparable benefit to that recommended in the draft report.

Comment on Explanation of Benefit Administration: We encourage the Water Board to include more detail in the report on how the benefit would vary by household characteristics (location, household size, and water use).

Our understanding from the stakeholder meetings is that the main proposal described would dispense a constant dollar amount for every household within a water system service area or county, depending on the level of spatial resolution available for water rates in a location. The dollar amount would be constant every month regardless of household size and water use. However, this information should be more clearly explained in the draft report. Specifically, we recommend including greater detail on how the cost of water is calculated for households throughout the state, including households not served by a public water system; and specific descriptions of the benefit dollar amount that would be received by household types differing in size, location, and water use.

Consumption: Rather than subsidizing a fixed volume such as 12 CCF, we recommend that the program should subsidize Essential Indoor Use (EIU). EIU should be calculated as a function of household size and average indoor water use in California and updated once every five years. The EIU calculation and update should analyze whether there are differences between EIU for large and small water systems. EIU should be customized for individual households, so bigger households get a bigger benefit.

Not only is adopting a fixed consumption value for the program problematic, but 12 CCF in particular is an overly high estimate of water use in California for the majority of California.

As described in the Water Board's draft report, the benefit dollar amount does not vary by an individual household's monthly consumption. Rather, every eligible household in a given utility service area receives the same total dollar amount regardless of how much water they use. As a result, the maximum volume of water subsidized has no impact on the total benefit amount distributed. However, it is important to recognize that conservation is a significant component of water affordability on the system level, and that 12 CCF is an extremely generous allotment of water - nearly double actual average household water use.³ We are concerned that using 12 CCF in the draft report will establish an overly high precedent for what the state deems an essential amount of water use. One reason given by the Water Board for this level is the number of large households that would be eligible for subsidies.

In the long run, the best option for identifying a subsidized volume of water is to link the benefit not to a point estimate of water use but to an Essential Indoor Use (EIU) index that is regularly updated. We suggest that the Water Board propose a formula and data source for collecting information on the volume and cost of EIU and calculate the benefit as a percentage of the monthly cost of EIU. At present, the best approach would be to use the lowest winter average residential per-capita water use on record in the Water Board's Monthly Conservation Data to calculate EIU, multiplied by household size. The Water Board electronic Annual Reports would need to survey the cost of the current EIU, changing volume over time as average indoor water use declines. EIU would be customized for each household according to the number of occupants so that the subsidized volume reflects actual household size. As an interim step using EIU to establish a baseline benefit, then allowing large households to apply for an additional benefit, might be appropriate.

We understand that information on household size is not readily available at the current time, but we believe that having better data will improve the program and ensure that it is providing an appropriate level of benefit to each household. We recommend that the Board investigate ways to collect this information. The CARE program requests information about household size; how is that information currently used to improve that program and how could it be used to improve this one?

Updating the estimate of EIU every five years provides an opportunity to reflect improvements in water use efficiency. It also provides an opportunity to study potential differences between different types of water systems. For instance, small water systems are less likely to have the capacity to institute leak detection and repair programs or make water conservation investments; the study should look at the impact of water system resources on EIU. Similarly, climate differences in different regions of the state may also impact this value.

³ As of February 2017, median residential water use among 410 water utilities was 54 GPCD, according to the Monthly Conservation Reports from the State Water Board. That is, the 133 utilities with residential per capita water uses of 54 GPCD and below served 18.2 million of the 36.4 million Californians served by the 410 reporting utilities. Mean household size in California, according to the [U.S. Census Bureau](#), was 2.96 persons in 2017.

II. Revenue Collection Options

Revenues: We support the proposal for a high earners income tax. We would support a bottled beverage tax, with exemptions for large bottled water sizes.

Specifically, we recommend taxing bottled water only in serving sizes under one gallon, while taxing bottled sugary beverages in all sizes. The environmental cost of bottled beverages is not unique to bottled water, and the tax should be applied across the board to all beverage types. We support an exemption for bottled water in serving sizes of at least a gallon, given that at this time, many Californians lack safe tap water and purchase bottled water out of necessity. We do recommend however, that more information be provided about the reliability of proposed funding sources and how revenues could be adjusted due to an increase in program need or a decrease in a revenue source.

III. Options for Benefit Distribution

Distribution Mechanism: Of the options offered, we support distribution on either the energy bill or the water bill, with a preference for the greater inclusivity of the energy bill as a vehicle. CalFresh is an inviable option for distribution. At this time we are neutral on the other distribution options (new EBT program and tax credits), pending further details on how they would be implemented.

Inclusivity and high penetration rates must be the primary goal and most important metric for determining success of a W-LIRA program. Distribution via the energy bill has major advantages in that it would be a highly inclusive program, reaching most low-income Californians regardless of home ownership status, housing type, geographic location, and citizenship status. We applaud the Water Board's effort to design a program that reaches most of the target population.

Distribution via the water bill is less desirable than the energy bill because it would reach a smaller percentage of the target population. However, distribution on the water bill has the advantage that it would most likely measurably increase the rates at which program participants pay their water bill, decreasing arrears and disconnection rates. There is research in the energy sector showing that reducing the principal on energy bills for households with a demonstrated financial need results in program participants paying a higher number of bills on time, paying a higher total amount on each bill, and experiencing a lower rate of service disconnections due to bill arrears.⁴ This is likely due to how utilities enforce service disconnections for arrears: they typically disconnect service once a customer is overdue on some flat amount for more than a

⁴ Colton, Roger. "Part 2: Customer Perspective, and Part 3: Utility Perspective." In Public Service Company of Colorado's (PSCo) Pilot Energy Assistance Program (PEAP) and Electric Assistance Program (EAP): 2011 Final Evaluation Report. Denver, Colorado: Public Service Company of Colorado, 2012. Roger Colton. "Affordable Bills: Increased Revenues and Decreased Collection Efforts." In Baltimore's Conundrum: Charging for Water/Wastewater Services That Community Residents Cannot Afford to Pay, 2018.

certain number of days. As a consequence, when low-income customers cannot pay their entire or nearly their entire water bill, there is no incentive to make a partial payment, as service will be disconnected regardless. Bringing the principal of a utility bill in alignment with what low-income customers are able to pay each month actually increases the total amount of money they pay on average, while decreasing collection costs for the utility, increasing what is referred to as “net-back” for the utility.⁵

Providing a benefit on the energy bill rather than that water bill means that the program will more generally address economic insecurity for households. We encourage the Water Board to carefully consider how to measure program efficacy if the benefit is distributed on an energy bill as opposed to a water bill.

CalFresh is an invariable option for benefit distribution and should not be considered an acceptable avenue vehicle for California state funds. CalFresh requires that program recipients be U.S. Citizens or legal residents. It has a low penetration rate and has high administrative costs.^{6,7} It has onerous paperwork requirements for enrollment.⁸ It also has experienced funding irregularities because of the partial federal government shutdown.⁹ Consequently it offers no advantage relative to the energy bill or water bill, is inconsistent with the Human Right to Water Statute which applies to “every human being,” and has many additional serious deficiencies.

At this time we are neutral on the concept of a new EBT program or a tax refund, pending availability of additional information on how such programs would be implemented.

Finally, we ask that the Board investigate how program delivery through the energy bill might be paired with a water bill benefit delivery mechanism to ensure that the program reaches the largest number of households.

IV. Addressing Systemic Drivers of Unaffordability

While we appreciate the efforts and analysis around a potential statewide W-LIRA program, the report lacks the acknowledgment and proper analysis of complementary changes that can also address water affordability, and even reduce the costs of a statewide W-LIRA. We do recognize the appendices call out other affordability approaches, such as consolidation, rate reform, conservation, and leak prevention and repairs, however these very important tools are

⁵ Ibid.

⁶ Penetration rate in California for 2015 was 60% according to California Food Policy Advocates, “The Program Access Index: Measuring CalFresh Utilization by County,” 2017. <https://cfpa.net/program-access-index-pai-2017/>.

⁷ For Fiscal Year 2012-13, 22% of CalFresh’s budget was spent on administration, according to the Alliance to Transform CalFresh, “CalFresh Funding: Top 10 Things to Know,” July 2013. <http://cafoodbanks.org/sites/default/files/calfresh-funding-factsheet.pdf>. A figure of 23% is given in the Water Board’s Draft Report, Appendix I.

⁸ The enrollment requirements are described in detail in the Water Board’s Draft Report, Appendix I.

⁹ County of San Luis Obispo, “Urgent CalFresh Update,” on 1/15/2019, noted that “California is waiting for guidance from the federal government about March 2019 CalFresh benefits in case the federal shutdown continues.”

dismissed as being incapable of fixing affordability on their own. Such a mindset is incompatible with actually addressing water affordability in our State. We cannot look at all the potential tools within individual silos but must instead be considered in relation to one another. Furthermore, there are several other aspects that we feel are either not at all or insufficiently addressed that must be included in an analysis on water affordability. We will go into detail on each of our concerns below.

Rate Reform

This is possibly the most important non W-LIRA tool for addressing affordability for millions of Californians, yet is dismissed for irrelevant reasons within Appendix L. Progressive rate structures ensure that a basic amount of water is provided at a low cost to all water users, and higher water users are appropriately charged higher rates. Good rate design is needed to avoid conflicts with Prop 218.

Fixed rate structures, used by 8% of all water systems, not only do not encourage conservation, but they also do not allow customers to adjust their use in order to save money. Even with many mixed rate systems, using both fixed and volumetric rates, the fixed charge is quite high and can take up a significant portion of someone's bill, regardless of water use, thus resulting in similar issues as with fixed-only rate systems. Further, some mixed-rate structures when including the high fixed portion of the bill, actually results in higher per CCF for low-water users than for high water users. Reform of such structures, while won't reach all low-income residents struggling to pay their water bills, could result in significant cost reductions for many.

We were confused to see that within the analysis of rate reform one "disadvantage" listed is that "... relying on current water system rate structures to provide affordability assistance to low-income households in California may not be effective as many systems have only mildly progressive rate structures."¹⁰ It is accurate that many systems do not have a sufficiently progressive rate structure to address affordability concerns, yet we believe the purpose of this report is to look at potential new changes that could be implemented, and not to merely acknowledge that a known tool is not being adequately used.

We do not believe that progressive rate structures will solve the affordability crisis on their own. There are systems which cannot adequately restructure their rates to allow a basic amount of water at a low cost for those who need it due to the fact that a large percentage of their population is low-income. However, rate reform can complement a W-LIRA by reducing the number of people who need to be enrolled in a W-LIRA or at least reduce the level of benefit needed.

Prop 218

The AB 401 report and appendices repeatedly acknowledge the significant barriers that Prop 218 pose for public water systems attempting to establish a LIRA program, yet the report does not consider or advocate for 218 reform. Amending Prop 218 to allow the creation of lifeline rates can go a long way for low-income residents living within larger systems which have the

¹⁰ Appendix L p 55

ratebase that can support lifeline rates. Amending Prop 218 is not an easy solution, as it would require a constitutional amendment, and nor will it help low-income residents served by small systems or systems with a high proportion of low-income residents, but again it is a potential tool to help the affordability crisis. Specific reforms to Proposition 218 worth considering: reforms that would allow utilities to operate affordability programs, to adjust principals for low-income customers in arrears, disconnection protection for renters.

We also want to acknowledge that while Proposition 218 creates some challenges, it is not an insuperable barrier to low-income rate design. It is also one of the few tools that ratepayers have to ensure fare rates from public water systems. While Prop 218 reform could of course be beneficial, the Board should also look for additional tools to ensure that water agencies are implementing fair and equitable rates.

Leak detection & repairs

While under SB 555 (2015) the State Water Board has been tasked with developing a plan and assistance programs for urban water systems to address leak detection and repair, this valuable program is not extended to smaller water systems. Smaller systems, especially those serving Severely Disadvantaged Communities (SDACs) or Disadvantaged Communities (DACs), often do not have the capacity or resources to perform leak detection and repairs. In the era of the Sustainable Groundwater Management Act (SGMA), reducing water use is especially critical as Groundwater Sustainability Agencies (GSAs) attempt to reach sustainability. However, even if residents conserve and reduce their use, if there are system or household level leaks, the system will continue to lose water. Water loss results in higher system costs due to the need to obtain the water (pumping, treatment, distribution, purchasing water, wear on the system are just a few costs associated with higher system-level water costs), but additionally, leaks necessitate repairs, repairs that can be cost prohibitive even if early detection will lead to less expensive fixes in the long run. The AB 401 report needs to recommend that the Board extend the SB 555 process to extend the resources and education staff have developed to smaller water systems

Water Conservation

Conservation efforts also address the need to reduce system-level water use and result in many of the same cost reductions that leak detection and repairs lead to. Using less water puts less stress on the infrastructure of the system, thus reducing operation and maintenance costs and reducing the frequency of repairs and replacement of the infrastructure. However, most public water systems fail to adequately invest in conservation measures for low-income ratepayers, in particular direct install programs. Highlighting the need for this type of investment - and promoting it through funding requirements and other measures - could help residents reduce their water use, saving everyone time and water.

Consolidations

Consolidations can play a significant role in ensuring residents have safe and affordable drinking water. Recognizing this important role, in recent years the Legislature has passed several bills granting the Water Board consolidation powers, generally to ensure the provision of safe drinking water. We also suggest exploring a potential further extension of State Water

Board consolidation authority to include other metrics for unsustainability such as rate affordability. Extended high rates can be a sign of unsustainability of a system and it may be preferential for the Water Board to step in to assist the customers. Accordingly, in such a situation effective community and stakeholder outreach will be essential to determine whether consolidation or other tools are the most appropriate solution to water unaffordability. Regardless of the type of consolidation, economic analyses are required to ensure that the proposed solution meets the community's needs, desires, and financial capabilities. However, just because a process may be complicated and involves perhaps only a few systems, does not mean it should not be a valid option analyzed in the context of water affordability issues in California.

Wastewater fees

This report should include a discussion of the impact of wastewater fees on water affordability and make recommendations for next steps in assessing these impacts. Wastewater rates are often regressive - some are assessed on property tax bills, are assessed at a fixed rate regardless of volume, and can be larger than the drinking water portion of the bill. At minimum, a discussion of how the Board's newly granted authority to mandate consolidation of wastewater and septic systems can address affordability is warranted.

We look forward to working with you and interested stakeholders, and thank you for the opportunity to comment.

Signed,

Debi Ores
Attorney
Community Water Center

Michael Claiborne
Attorney
Leadership Counsel for Justice and Accountability

Jennifer Clary
Water Program Manager
Clean Water Action

Laura Feinstein, Ph.D.
Senior Research Associate
Pacific Institute

Bill Allayaud
California Director of Government Affairs
Environmental Working Group

Colin Bailey
Executive Director
Environmental Justice Coalition for Water

Raul Barraza
General Manager
Arvin Community Services District