



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:

The Environmental Justice Coalition for Water (EJCW) appreciates the opportunity to comment on the draft report on Options for Implementation of a Statewide Low-Income Water Rate Assistance Program, and commends 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.

We welcome the Board's emphasis on affordability as a key element of the State's commitment to the Human Right to Water and support the report's efforts to situate any W-LIRA program within a broader suite of complementary regulatory and policy initiatives to improve universal access to safe and affordable drinking water for all Californians. Our comments encourage the Board to incorporate additional elements into the final report that reflect this conception of the Human Right to Water and the Board's acknowledgement of the need for an integrated solution that recognizes the broader connections among water affordability, quality, conservation, and above all, accessibility for the State's most vulnerable residents.

Support for the Letter Submitted by the Pacific Institute, et al.

EJCW has signed onto and supports the thorough, thoughtful analysis and recommendations included in the comment letter submitted by the Community Water Center, the Leadership Counsel for Justice and Accountability, Clean Water Action, and the Pacific Institute. In particular, regarding eligibility: we support the letter's recommendations to calculate marginal, rather than absolute benefit rates for tiered discounts; regarding revenues: we support the proposal for a high earners income tax and a bottled *beverage* tax with exemptions for large bottled water sizes (over one gallon to exempt Californians who lack safe tap water and purchase bottled water out of necessity); regarding the distribution mechanism: we support distribution on the energy bill due to its higher inclusivity and ability to reach most low-income Californians regardless of home ownership status, housing type, geographic location, and citizen status.

We also strongly support the letter's recommendation that the final report more sufficiently address systemic drivers of unaffordability and particularly urge the Board to take up the letter's suggestion that the final report recommend next steps for assessing the impacts of wastewater fees on affordability, as water for sanitation is a crucial but often neglected component of the Human Right to Water. Similarly, we add to these recommendations by encouraging the Board to include in the final report an acknowledgment of the need for more robust regulation and prevention of drinking water contamination to reduce another significant driver of increasing water rates that also implicates the State's interest in environmental sustainability. Ideally, we would like to see the final report recommend, as a complementary measure, increased efforts to prevent and mitigate contamination of drinking water sources, including the incorporation of a polluter pays approach into potential funding mechanisms, in recognition of the linkage between water quality and water affordability in many of California's most vulnerable communities. A sustainable water affordability program will need to address contamination.

Additionally, while we support the inclusion of consolidation as a tool to complement any affordability program, we urge the Board to incorporate affordability as a factor in assessing whether to pursue a consolidation and consider requiring affordability protections for water customers who might initially face increased rates as a result of a consolidation.

While we agree with the above mentioned comment letter's analysis and recommendation regarding 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**") and believe that the Board should ideally calculate and subsidize EIU rather than 12 CCF, we would underscore the importance of designing a program that will adequately serve larger households. Accordingly, in the event that the Board does not follow the recommendation to adjust the

benefit based on household size, we do not support (without careful analysis) reducing the amount subsidized from 12 CCF to a lower amount, as low-income households tend to be larger households, particularly in areas with high housing costs, and we believe it would better promote affordability for low-income households to err on the side of a larger amount of water to capture such larger households as part of a statewide W-LIRA program.

We believe that careful consideration of these comments will improve the draft report, and will more robustly address potential challenges and fully realize the provisions of the Human Right to Water and Sanitation.

Affordability Rather than Assistance is the Required Standard

As noted above, EJCW appreciates the Board's emphasis on the Human Right to Water and Sanitation and its approach to AB 401 implementation as one mechanism to fully realize the State's commitments in AB 685. However, we recommend that the final report acknowledge that AB 685 and the Human Right to Water require that water be *affordable*, and that assistance, while useful in achieving that standard, is not the same thing. To fulfill the Human Right to Water, the framework of the W-LIRA program needs to be designed to achieve the goal of affordability, and should build in a mechanism to reassess how well it is doing after a set number of years (every 5 years, the same period of time the above-mentioned comment letter recommends for assessing the right amount of water to subsidize). Looking at changes in the number of water service disconnections (and ideally the demographics of households experiencing disconnections) should be one feature of this assessment, since international experts have found that water service disconnections for inability to pay violate the Human Right to Water and can constitute strong evidence that water remains unaffordable for vulnerable households. Getting the right framework for affordability set in this report, even if the State decides to fund the program in phases, should be the primary goal. Likewise, we suggest that the Board include this emphasis on affordability and the need to prioritize reaching households that are particularly vulnerable to losing access to water for basic needs as minimum standards and that the Board analyze and strategically plan for a phased approach to implement the right framework if it would need to be funded over time. The Board should consider the results of other efforts to identify areas of greatest need, including the results of the Integrated Regional Water Management Disadvantaged Community and Tribal Involvement Program's Needs Assessment, as well as the Board's Drinking Water Needs Assessment once it is conducted to help scope such a phased approach.

Reaching Vulnerable Groups

Finally, the report should emphasize that the Human Right to Water requires that water for human consumption, sanitation, and hygiene be economically accessible to *all persons* and recognize that this program is unlikely to reach certain critically vulnerable groups, such as mobile home owners, persons dependent upon private wells, and persons experiencing homelessness. The final report's list of complementary measures should include a call for the development of mechanisms to reach these populations, such as legislation recognizing the

urgent needs of unsheltered persons in realizing the Human Right to Water and allocating funding to the establishment and operation of community hygiene centers. Similarly, the report makes no mention of the unique needs of California's Native American Indian residents; we suggest that at a minimum, the final report signal the need for further consultation with California's Native American Indian population, including unrecognized tribes and Native individuals living on allotment lands and in urban areas, to understand their water affordability priorities and collaboratively develop recommendations.

Thank you for your consideration. If you have any questions or require additional information, please contact Maddie Duda at (540) 435-2767 or maddie@ejcw.org.

Sincerely,

The Environmental Justice Coalition for Water