



CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

FIGHTING FOR JUSTICE, CHANGING LIVES



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RE: Comment Letter - Safe Drinking Water Plan

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California Rural Legal Assistance, Inc. (CRLA) is a non-profit law firm that represents low-income people, particularly farmworkers, in rural areas throughout California. On behalf of our clients, Cynthia Newton Enloe and A.G.U.A. Coalition, CRLA filed suit against the then separate California Department of Public Health, asking the courts to require the DPH to issue this Water Plan in accordance with California Health and Safety Code Section 116355. In 2011 a settlement agreement was reached and today we are pleased to review the draft Safe Drinking Water Plan and offer our comments.

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Many of our clients live in disadvantaged unincorporated communities that lack access to safe drinking water. Many of these communities' water supplies are not regulated as public water systems and have not been afforded the opportunity to consolidate¹ with larger, better-funded water systems. As a result, their drinking water is contaminated with levels of arsenic, nitrates, and/or other contaminants in excess of the MCLs. The low-income residents of these communities must choose between consuming unaffordable unsafe water and spending significant percentages of their income to purchase bottled water. Furthermore, due to low levels of education regarding drinking water contamination, some residents boil their tap water in an effort to make it safe for consumption - an act which, tragically, concentrates the non-biological contaminants in the water, thus increasing the health risks.

William G. Hoerger
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¹ We note that the draft Plan appears to use the term "consolidation" to refer not only to the consolidation of multiple PWS but also to the extension of PWS drinking water lines to residential areas that previously were not served by a PWS. Because the term "consolidation" is generally used only to refer to the first, and not the second, we recommend that the Plan clarify the specific meaning of the term "consolidation" as used within the Plan.

Regional Offices

Arvin	Oceanside
Coachella	Oxnard
Delano	Salinas
El Centro	San Luis Obispo
Fresno	Santa Cruz
Madera	Santa Maria
Marysville	Santa Rosa
Modesto	Stockton



CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

FIGHTING FOR JUSTICE, CHANGING LIVES

We commend the State Water Resources Control Board ("State Water Board") on its draft Drinking Water Plan for California ("draft Plan"). In particular, we appreciate the draft Plan's focus on and examination of the drinking water needs of disadvantaged communities. In the interest of addressing these needs, we hope that the Board will move forward as quickly as possible with the majority of implementation measures set forth in the draft Plan. However, in order to maximize the impact of the final Plan and realize the goal of safe drinking water for all Californians, we urge the Board to strengthen the Plan by incorporating several additional elements, as set forth below.

I. The Human Right to Water includes all Californians

A. The scope of the draft Plan should be expanded to include all Californians

The draft Plan repeatedly notes that it "address[es] issues related to drinking water served by public water systems" (draft Plan, p. 17) and does not examine the needs of consumers who are not served by a public water system. We note that many subsections of Section 116355(b) of the Health and Safety Code require analysis applicable to all Californians, not only those who are served by a public water system. See, e.g., Section 116355(b)(10). Similarly, the Human Right to Water legislation, codified as Section 106.3 of the Water Code, applies to all Californians. Currently, private wells owners and consumers of very small water systems (fewer than 15 service connections or 25 individuals) are not systematically regulated and are not eligible for funding to meet drinking water needs such as contamination in excess of MCLs. The draft Plan should contain a detailed analysis of the difficulties confronting these consumers and recommendations to address those needs. We understand that this would be a difficult task. Therefore, we urge the State Water Board to expand the scope of the Plan in future updates to address the drinking water needs of Californians who are not served by a public water system. For this first cycle, we urge the State Water Board to release a supplemental plan addressing the needs of Californians who are not served by public water systems.

B. The draft Plan needs to account for all PWS

Relatedly, we note that the definition of "public water system" set forth in Sections 116275(h)-(k) of the Health and Safety Code includes any system that has at least 15 service connections or that "regularly serves at least 25 individuals daily at least 60 days out of the year." Health & Safety Code Section 116275(h) (emphasis added). Thousands of Californians, particularly those in low-income rural areas such as mobilehome parks and employee housing facilities, are served by systems that have fewer than 15 service connections but serve at least 25 individuals daily. This is true of almost all of California's so-called "Polanco parks," mobilehome parks or other employee housing facilities defined by Section 17021.6 of the Health and Safety Code, which by definition have fewer than 15 service connections. However, many of these facilities serve at least 25 individuals daily and therefore should, by the terms of Section 116275(h), be regulated as public water systems. In practice, however, LEHJs/LEAs only regulate systems with 15 or more service connections, ignoring the prong of the statutory definition that



refers to 25 or more individuals. We recommend that the Board acknowledge this significant flaw in the existing regulatory scheme and develop a recommendation, including a fixed timeline, to work with LEHJs/LEAs to regulate effectively those small PWS that have fewer than 15 service connections but serve 25 or more individuals daily. This issue bears discussion at a number of points throughout the draft Plan, including, but not limited to, the following: Executive Summary; Recommendations set forth at the end of Chapter 2; introduction to Chapter 4 (noting that small water systems with at least 25 individuals but fewer than 15 service connections are not represented in the data set forth throughout this chapter); Chapter 5 (noting the data gaps regarding small water systems with at least 25 individuals but fewer than 15 service connections, and including a recommendation to address this data gap).

C. Water systems in mobilehome parks must be regulated

We also suggest that Recommendation 2-1, regarding the need for the Board to coordinate with the Department of Housing and Community Development regarding the regulation of water systems in mobilehome parks, be strengthened by revising the first sentence to read as follows: "The State Water Board will resolve the conflicts with DHCD regarding these agencies' different requirements particularly as relates to mobile home parks." We also urge the Board to include in this Recommendation a commitment to include community stakeholders, including representatives of low-income mobilehome park residents, in these discussions.

Finally, we suggest that Recommendation 8-6 for an annual assessment of small public water systems in DACs with water quality issues be reworded to clarify that it also applies to disadvantaged communities that are not currently regulated as small PWS (i.e., those with fewer than 15 service connections).

II. Affordable Drinking Water

A. The draft Plan needs more clarity around water affordability

We are encouraged to see a thorough analysis of the affordability of water. As stated in the draft Plan, looking at the average yearly cost of water in comparison to the median household income does not paint a true picture for individual households at all income levels. Those who fall under the MHI pay a higher percentage of their income on water and we commend the Board for that acknowledgement. (draft Plan, p. 141)

We do note however that the report does not state what is considered affordable water. For example, housing is unaffordable if a household spends more than 30% of its income on housing related costs, including rent/mortgage and other essential utilities such as water. No such line was stated for water cost. We would like to see a definitive statement of what definition the Board is using to determine water affordability.

The actual cost of water is also not easily comparable across regions and water systems. The draft Plan



CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

FIGHTING FOR JUSTICE, CHANGING LIVES

provides the amount paid for water by region and water system but does not give a standard measurement. A breakdown of cost per 1,000 gallons of water for example would allow for a clearer comparison by eliminating different water usage amounts. The information currently provided does not account for the difference in water usage. For example, rural areas tend to have bigger lawns and gardens and therefore greater water usage in comparison to urban areas. Therefore, what rural residents pay for water may be higher because of how much water they use. To avoid privacy concerns, the total water delivered by a water system and the total billed to all customers can be used.

B. A rate subsidy instead of a tax credit would be more beneficial

Recommendation 8-4 states that the Board recommends “evaluating the potential for establishing a water service tax credit” for families whose water cost is unaffordable. While we fully support the Board’s position that water should be affordable we would recommend a rate subsidy instead of a tax credit. Many low-income, very low-income, and extremely low-income families who pay an unaffordable amount for water need assistance paying for each month’s bill. Every month many families must forgo providing their families with much needed necessities in order to keep the water running. If a family is unable to pay the water bill the consequences begin to accumulate. Late fees are assessed, the water may be shut off and then they have to pay a reconnection fee, all taking a low-income family’s already scant resources. For this reason, if the purpose is to allow families to pay an affordable amount for water and to keep the water on each month without incurring extra fees, a monthly rate subsidy would be more effective. Though a tax rebate is a step in the right direction, it is more beneficial to a family to receive a monthly subsidy and we encourage the Board to include this recommendation.

Further we want to make sure that all households that have unaffordable water costs will be eligible for assistance. When the State Water Board decides on water assistance, assistance should not be provided on the condition that the water meets certain quality requirements, that the PWS be in compliance, or any similar requirement that would penalize an individual family for the poor performance of a PWS. Further, assistance should be available to all families, not just families served by PWS.

C. Metering and rate structures

Recommendation 8-1 recommends the “enactment of legislation to require that all PWS customers be metered, and that each customer be charged based on the amount of water used.” While we support metering we note that PWS in small and rural communities need financial support to install, maintain, and use meters, and in developing and setting new rates. We are aware of at least two communities who started installing meters a few years ago but have either been unable to meter the whole area or have been unable to use them due to lack of funding. In order for small and rural PWS to meet the requirement to be metered they will require funding, therefore we encourage the Water Board to recommend financial support in the implementation of metering.

The second part of recommendation 8-1 states that “each customer be charged based on the amount of water used.” While we agree with this idea in the sense that it will help lower water consumption and



CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

FIGHTING FOR JUSTICE, CHANGING LIVES

conserve water, we would like to see more flexibility in the rate structures allowed. A direct charge based on water usage may not be the best rate structure for small and rural PWS who rely on a much smaller customer base to cover the growing expenses for treating water and the cost to maintain the necessary infrastructure. Already, as noted in the draft Plan, “water rates charged by many small systems are insufficient to fully fund costs for operation and maintenance, reserves, and capital investments.” (p.153) Further, water systems that rely solely on variable costs like water usage will see a fluctuating stream of revenue. (p. 140) For these PWS, a mixed rate structure with a base rate plus a usage rate, or a contribution towards reserves and capital improvements together with a usage rate, would be more beneficial. The Board should allow for mixed rate structures that don’t limit the rate strictly to usage.

D. Incidental Users

Western Fresno County purchases its water from Westlands Water District who does not bear legal responsibility for complying with State Drinking Water laws. Districts like this one provide water for purchase to small systems and “incidental water users” who bear the costs of tertiary treatment. These “incidental users” are often agricultural laborers that live on and around the fields that receive water for irrigation. We encourage the State Water Board to seek creative measures along with the California Bureau of Reclamation to ensure that large districts that provide water to these “incidental users” of the Central Valley Project are required to conduct treatment of all surface water meant for residential use, rather than continuing to burden the least resourced communities with the costs of tertiary treatment.

E. Consumer education

Our experience working in rural disadvantaged communities has allowed us to see the great opposition to water rate increases. Residents are unaware of the true cost of providing water and are even less aware of the increased cost for small water systems that rely on a smaller customer base. We are encouraged by recommendation 8-2 to “collaborate with the water utility industry, public interest groups and other organizations to develop strategies to educate consumers on the factors that affect the cost of operating a water system.” Residents and PWS will benefit from the greater understanding of the true cost of water.

However, we again emphasize the importance of affordable water. In the unincorporated areas of Merced County, we have heard from residents that are already struggling to pay their monthly water bill. For them, the proposed water rate increases will create an even greater burden regardless of whether the rate increase is necessary to continue receiving safe water. For families paying an unaffordable amount, understanding the true cost of water will not change the fact that they are unable to afford their monthly water bill.

The draft Plan highlights the effect of Proposition 218 as making it more difficult for water systems to increase their rates to address critical infrastructure issues. If residents knew that their monthly bills would not exceed an affordable amount, they would not be as opposed to rate increases. We encourage the Board to emphasize water affordability.



CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

FIGHTING FOR JUSTICE, CHANGING LIVES

In an effort to keep residents informed about the cost and quality of the water they receive, we ask the Board to ensure water systems are providing important information in a language that is accessible to their consumers. We would like to see a recommendation encouraging PWS to conduct appropriate assessments of the demographics they serve to better understand the languages that are spoken in their areas. We ask that the Board provide draft language and assistance to local agencies and PWS in translating their Consumer Confidence Reports, notices of MCL violations, and “Notes of Importance.” Specifically, we ask that translations be provided for Oaxacan indigenous languages, Mixteco, Zapoteco, and Triqui, which are widely spoken in many communities suffering water quality violations.

III. Shared Solutions with Local Agencies

A. New building permits should be allowed in DACs to support affordable housing

Recommendation 2-3 states that "as resources allow, the State Water Board will coordinate with local county and city planning departments, LAFCOs, and LEHJs to identify: 1) areas currently developed without safe drinking water to determine where Community Services Districts could be created, 2) areas where upgrades to housing are needed, and 3) areas where new development or issuance of new building permits should be postponed until safe water is demonstrated.”

We support the recommendation of the State Water Board to coordinate with county and city planning departments and LAFCOs to identify areas that are currently developed without safe drinking water. However, we think it is imperative to be sensitive to low-income and farmworker housing, many of which need rehabilitation and are also currently struggling with lack of access to safe drinking water.

The draft Plan makes several recommendations regarding cessation of residential development in areas that cannot demonstrate the availability of safe drinking water. See, e.g., Recommendation 2-3; "Conclusions" section of Chapter 4. We applaud the Board's commitment to ensuring the availability of safe drinking water in new residential development, but we would like to point out that measures such as withholding building permits can stand in the way of much-needed rehabilitation of severely substandard mobilehome parks, employee housing facilities, and other housing for low-income people in rural areas. Furthermore, some of these farmworker communities are quite remote, making it extremely difficult and costly for them to connect to municipal water systems capable of providing safe drinking water; under the recommendations made in the draft Plan, these communities would face a downward spiral of worsening conditions with no possibility for rehabilitation.

In Monterey County, for instance, affordable farmworker housing is often in short supply and many farmworkers live in housing which would benefit from rehabilitation. Policy should strike a balance which would allow housing rehabilitations to be performed as long as a community is exploring possible solutions for their drinking water issues. Many communities certainly lack the capacity and ability to obtain long term drinking water solutions and even interim drinking water solutions, such as bottled water



or POU, prove to be a financial challenge. These communities should not be precluded from rehabilitating their housing facilities if they have shown that they are willing to implement the drinking water solutions that are available to them. We would further emphasize that priority needs to be placed on expanding service for existing water providers and improvements to existing communities.

We suggest that, instead of a complete denial of building permits, the Board recommend that rehabilitation of housing - particularly affordable housing in disadvantaged communities - be allowed to go forward with interim measures in place to address immediate water needs until a permanent source of safe drinking water can be secured. Such interim measures might include POU treatment, funding for bottled water, or other measures. Furthermore, such communities should receive priority for funding to address drinking water needs, either through consolidation with a PWS capable of providing safe drinking water or by other means.

We would also add that State Water Board coordination with County planning departments, LAFCOs, and LEHJs should coincide with the process for updating city and county general plan land use elements. SB 244's mandate - that in updating general plan land use elements, unincorporated, disadvantaged communities' water needs - must be accounted for. We urge the Board to incorporate SB 244 considerations in at least the following portions of the draft Plan: Recommendation 2-2; additional recommendation in Chapter 2 and/or Chapter 8 regarding the financial resources analysis required by SB 244.

B. County Service Areas may not be the ideal solution

Recommendation 2-4 states that "as resources allow, the State Water Board will coordinate with local county and city planning departments, LAFCOs and LEHJs to identify those unincorporated areas within the county where a county-wide County Service Area (CSA) could be created to address drinking water needs particularly associated with water systems smaller than regulatory size. If communities or neighborhoods within the CSA wished to seek funding and/or consolidation, the LAFCO can then establish a specific zone of benefit for that area within which drinking water would be provided by a PWS. The CSA would then be eligible to apply for funding on behalf of the area."

With regards to establishing new service areas, we think it is important to think broadly in terms of what type of new service area is appropriate to serve disadvantaged communities; unregulated small water systems and new service areas should not be limited to a County Service Area. Many of the unregulated small water systems, as well as communities serviced by domestic wells, are disadvantaged communities that may need more support than just establishing a zone of benefit by LAFCO to support the CSA option.

We are also concerned by the role of LAFCOs who have a track record of underfunding DACs. They may not be willing to work with small water systems. California is riddled with island communities, these are communities that are surrounded by city but are still part of the county and often lack basic services such as sewer, sidewalks, and lighting. The Central Valley is especially plagued by island and



fringe communities that have been purposefully neglected. We are concerned that this historic neglect will continue.

We are also concerned about the steps that must be taken for the CSA to apply for funding. As it is written, Recommendation 2-4 requires communities or neighborhoods to initiate the conversation to seek funding. We do not think this is the most effective model. Communities and neighborhoods on their own lack the knowledge to advocate for themselves. Low-income and rural communities can often be primarily non-English speaking communities who are unfamiliar with the civic engagement process. If we want CSAs to be successful we cannot rely on these communities alone to lead the conversation or inform residents of their ability and the process to seek funding. The State Water Board should require local agencies to identify and prioritize communities in which to take the lead in getting these communities to discuss consolidation and decide whether or not to seek funding.

C. Consolidation requires funding

Recommendation 4-2 states that "the State Water Board will continue to promote consolidation of small water systems where ever feasible since consolidations with a larger water system is the best solution." Recommendation 8-5 further states that "the State Water Board recommends enactment of legislation to mandate a requirement that a small public water system that is within the sphere of influence of a larger water system should be required to annex to the larger system. Any legal or financial barriers to such consolidations should be addressed and funding options to facilitate consolidation should be made available such as through changes to the SDWSRF and/or future water bonds. The State Water Board will use the Transition Advisory Group as a forum to address barriers to consolidation and receive recommendations."

We appreciate the State Water Board's promotion of consolidation of small water systems with larger water systems. It is our experience that this can prove to be very difficult, even with SDWSRF consolidation incentives for municipalities or other larger public water systems, without further support to make these consolidations happen. If the water system seeking connection to a larger water system is under 15 connections or serves less than 25 people, which is most likely the case, the larger water system would have to apply for funding on behalf of the smaller system.

For instance, in Monterey County alone there are over 900 very small water systems (under 15 connections excluding single user domestic wells). CRLA works with a few unincorporated and disadvantaged small water systems in Monterey County that are regulated as very small water systems and lack long term access to safe drinking water and seek consolidation. The consolidation plan for these communities takes an extraordinary amount of effort. Before a project is even shovel ready, the water systems must undergo a long process consisting of (1) outreach; (2) putting together a suite of consolidation options; (3) exploring roles between municipalities, counties, water districts, LAFCOs; (4) finding appropriate grants that will match the financial needs of the small water system; (5) getting various jurisdictions to work together towards a mutually beneficial solution. Without funding to assist



CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

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these long processes, small water systems will continue to be overlooked because they do not have the capacity to complete this process on their own.

The State Water Board should also consider the types of incentives that may be provided to larger water systems to encourage them to take on smaller water systems. Many larger systems agree to work with smaller water systems as a "good neighbor" policy but certainly have no obligation to do so. Similarly, very small systems usually lack the necessary legal entity status to apply for any kind of planning or construction grants themselves. For example, many small water systems in Moss Landing in Monterey County lack the requisite legal entity to apply for public grant funding. As such, they have spent many years struggling with issues of nitrate contaminated water, and now the threat of seawater intrusion. Pajaro Sunny Mesa Community Services District applied for Pre-Planning funding on behalf of these small systems as a good neighbor policy but many small systems do not have this option. Further, it is unclear if the Pre-Planning funding will be available in the years to come. Some smaller systems are geographically isolated from larger water systems and there would be no way for them to connect to a larger special district or municipality.

The State Water Board should consider allocating further planning funds, similar to the Pre-Planning funds that were allocated last year.² This would at least allow non-profits who work with disadvantaged communities to maintain a technical team with legal, engineering, and other technical assistance expertise to help both the small and large system navigate a successful consolidation.

Given that many loan and grant programs are inaccessible to applicants who cannot pay up front for costs such as planning, engineering, and environmental review, we recommend the creation of strong incentives for larger, well-financed water providers to share TMF capacity with smaller, disadvantaged PWS, and/or water providers that serve fewer than 25 individuals or 15 service connections, to support not only O&M of these smaller systems but also applications for financing to improve the safety and reliability of drinking water for users.

We also urge the Board to adopt measures to address the recalcitrance of large, well-resourced water providers to use existing sources of revenue and/or to apply for SDWSRF loans to support consolidation or extension projects to provide safe drinking water to disadvantaged communities in their service area. For example, the Coachella Valley Water District has stated that it is unwilling to support SDWSRF loans because it is structured as a loan rather than a grant program, and has also indicated an unwillingness to use existing revenues to pay for consolidations or extensions to serve disadvantaged communities within its service area.

We would also recommend promoting consolidation of small water systems with one another, when feasible. Recent outreach efforts in northern Salinas Valley have discovered that residents who rely upon

2

http://www.waterboards.ca.gov/drinking_water/services/funding/documents/srf/2013/2013PrePlanningSolicitation.pdf



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FIGHTING FOR JUSTICE, CHANGING LIVES

contaminated drinking water wells are interested in consolidating to form a larger water system, but there is little to no funding to support that effort. Support similar to the Pre-Planning funds discussed above would assist these small systems to navigate a consolidation project with one another. State Water Board could also promote administrative consolidations. For example, various small water systems could be operated by a single operator, spreading operating costs among more systems. Another example might be forming an entity that could represent various small water systems so that this entity might apply for funds and manage grant monies on behalf of small systems.

Finally, we recommend that the discussion of financing options in Chapter 8 be amplified to describe the limitations on each program, particularly the limitations that are most likely to create obstacles to small PWS and/or disadvantaged communities. For example, cost-reimbursement structures can be prohibitive for poorly capitalized entities that do not have cash on hand to pay for project costs up front; requirements or extra application points for "shovel-readiness" make funds unattainable for small PWS or disadvantaged communities that cannot afford to pay for planning, engineering, CEQA analysis, and other such costs out of pocket.

IV. Program Actions to Protect Water Quality

A. Prevention should be emphasized while holding contaminating parties responsible

Recommendation 4-4 states that "where the State Water Board has identified responsible parties that have contaminated local groundwater used as a drinking water source and has caused a PWS to be out of compliance with an MCL, the State Water Board will require those parties to cover the cost of mitigation including capital and treatment operation and maintenance costs. The Division of Drinking Water will coordinate its response with Regional Boards and the Office of Enforcement when issues are identified."

We support the State Water Board in its efforts to hold responsible parties accountable. We are especially glad to see that the mitigation costs include much needed operation and maintenance costs. This will be especially beneficial for small and rural water systems. We are concerned however with the requirement that contamination must have made a PWS become out of compliance and with the process of identifying responsible parties.

We do not agree that a party responsible for contaminating groundwater used as a drinking water source will not be held responsible if such contamination did not cause a PWS to be out of compliance with an MCL. A responsible party should be held responsible for the contamination. In areas with PWS that have been able to keep up with the increased cost of treating drinking water so as to stay in compliance with applicable MCLs should not be left unprotected. Otherwise, parties will be allowed to continue to contaminate our drinking water sources with no consequences until the contamination reaches such a point that PWS can no longer address them. This is ultimately unfair. PWS will be forced to increase rates to treat water that is more and more contaminated and consumers will have to pay more for water



until the PWS and the consumers can no longer afford water treatment.

While we suggest that enforcement be prioritized for PWS that are out of compliance because of a party's contamination, we do not agree that noncompliance should be required before holding a contaminating party responsible. Therefore we urge the Water Board to revise its recommendation to eliminate the need for a noncompliant PWS and instead prioritize noncompliant PWS.

We are also aware that much of the information necessary to connect an individual contaminating party to drinking water contamination is hard to gather. Further, it is simply difficult to establish causation and responsibility. In many areas, there are a number of parties that each contaminates the same water source. In other areas contamination may not be directly discharged into groundwater but eventually ends up in groundwater sources. Further, holding parties accountable is a long, expensive process.

The draft Plan is very clear in stating that “what has changed since the 1991...survey is an increase in the number of groundwater sources that now require treatment to meet primary drinking water standards.” (draft Plan, p.134) Every year more groundwater sources are being contaminated. As much as holding those responsible accountable is necessary we must focus on *preventing* further contamination. We urge the Board to include recommendations to strictly regulate contaminants before they are introduced into our water sources.

B. Contamination through septage should be addressed

The draft Plan makes note that it is “relatively inexpensive” to continuously measure nitrate contamination. (draft Plan, p. 112) At this point, PWS are able to measure nitrate levels and we know that many communities, especially low-income rural communities in the Central Valley, have constant nitrate contamination in their water. The State Water Board must place more emphasis on preventing further nitrate contamination.

One source of nitrate contamination is septage, as was noted repeatedly in the Board's Recommendations for Addressing Nitrate in Groundwater. Septic systems carry the risk of nitrate contamination to underground water sources. Unfortunately many of the low-income rural communities, mobile home parks and unincorporated island communities still depend on septic tanks. Since septage is a known risk, the State Water Board should add a recommendation to phase out septic tanks and extend sewer services to these communities. Especially in larger cities such as Modesto, where there are island communities of only a few hundred residents just two miles from the city center and less than a mile from the main wastewater treatment plant, the respective LAFCO, city, and county should be required to extend sewer services. We strongly urge the State Water Board to require extension of sewer services to island and fringe communities, and to strongly encourage extension of sewer services to other already existing communities.

C. Contamination from agriculture must be regulated



CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

FIGHTING FOR JUSTICE, CHANGING LIVES

Nitrate and microbiological contaminants are released into water sources by agricultural activities and the State Water Board must do more to address this source of contamination. The draft Plan mentions “confined animal feeding operations” as a source and pesticide use as another major source for contamination but there are no recommendations to address these issues. (draft Plan, p.40)

Regional Water Boards are required to issue discharge regulations for irrigated lands but have failed to do so in a manner that actually protects our water sources. Currently CRLA has a petition before the State Water Board challenging one such regulation in the Central Valley.

The draft Plan also brings to light what our low-income rural communities must deal with: “agricultural chemical pesticides...have been the most common organic chemicals found to exceed MCLs.” (draft Plan, p. 66) One chemical pesticide especially, 1,2,3-TCP, “is a potentially significant problem for PWS serving less than 10,000 services connections.” (draft Plan, p. 66) 1,2,3-TCP, NDMA, and other chemical pesticides are unregulated yet they have been found to be present in drinking water sources and pose public health threats. (draft Plan, p. 110) We urge the Water Board to regulate chemical pesticides starting with 1,2,3-TCP and NDMA.

The State Water Board must do more to prevent the continued contamination of California’s water sources by agricultural activities at the expense of primarily low-income and rural communities. We ask the State Water Board to include recommendations to study ways to mitigate nitrate contamination created by agriculture, to create a tax on the use of nitrogen fertilizer, and to work with regional boards to implement stringent discharge regulations.

We highly support the recommendation to establish a stable, long-term funding source to provide safe drinking water for small DACs. In the Salinas Valley, because fertilizer application on irrigated lands is such a large source of contamination in drinking water wells, we encourage the State Water Board to associate this long-term funding with this non-point source pollution.

Where generalized agricultural activity is clearly to blame for nitrate contamination, as noted in the State Water Board’s report to the legislature on this topic, we encourage the State Water Board to consider creating a mitigation fund for all agriculture producers to pay into based on contaminant use or acreage.

D. Disinfection Byproducts

“The last regulation addressing DBPs, the Stage 2 Rule, affects CWS and NTNCWS serving less than 10,000 people. Under that rule, those PWS were required to begin compliance monitoring in October 2013. Therefore, compliance data for that Rule are not available at this time.” (draft Plan, p. 62) We support the State Water Board in identifying systems that are non-compliant with Surface Water Treatment Laws and who are delivering surface water that is above the MCL for Disinfection Byproducts TTHM and HAA5.

In the agricultural heart of the state, Western Fresno County residents receive residential water that exceeds legal limits and is not approved for consumption, and despite this, pay exorbitant costs for their



CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

FIGHTING FOR JUSTICE, CHANGING LIVES

residential water. In Fresno County there are 30 non-compliant PWS whose residents are forced to purchase bottled water to drink in addition to receiving non-potable water for residential use in their homes. Additionally, many growers pipe water from their irrigation sources to their labor housing, providing water that is neither regulated nor treated.

Although the long-term chronic effects of disinfection byproducts and their interaction with organic compounds have been understood since the 1970s, monitoring of these contaminants and tracking of the associated risks in small water systems were not conducted until 2013. We encourage the State Water Board to expedite the address and remedy of these violations in Fresno County. We would like to see concerted effort placed into finding interim solutions for these communities and action at the source of contamination to protect residents from these harms.

E. Fracking

We encourage the State Water Board to take a hard stance on hydraulic fracturing. After July 2014, when 11 fracking wastewater injection wells were shut down after being found to be injecting wastewater directly into protected aquifers, it has become strikingly obvious that the hydraulic fracturing industry does not have an interest in protecting California's drinking water. This incident has shown that the very practice of hydraulic fracturing, when performed around protected aquifers, can cause irreversible harm to California's drinking water supply. This harm outweighs any potential short-term benefit of extraction and we urge the State Water Board to take action with the long-term health and wellbeing of our water supply in mind. The Central Valley is disproportionately impacted by these practices and furthermore, communities who already suffer the burden of unregulated and unmonitored private wells will continue to suffer the greatest hazards. Since July's incident, we don't require any more data to see the impacts: it is critical that the State Water Board collaborate with the Department of Oil, Gas, and Geothermal Resources to place strict restrictions on a practice that is already threatening the lives of communities across the Valley.

V. Additional Matters

We also wish to suggest certain corrections or clarifications that might assist in maximizing the intelligibility and usefulness of the draft Plan.

Effect of AB 1830: Prior the passage of AB 1830, mobilehome park residents had the right to file complaints regarding the justness and reasonableness of water rates and/or the adequacy of service. See Public Utilities Code Sec. 2705.6. However, after a finding that unjust and unreasonable rates had been charged, residents were generally not entitled to retroactive relief for having paid unjust, unreasonable rates in the past. AB 1830 amplified residents' rights, allowing mobilehome park residents to seek reimbursement after a finding that unjust and unreasonable rates had been charged for water service.



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Role of LEHJs/LEAs: The discussion of the state drinking water regulatory program in Section 2.2 should include a description of the role of LEHJs and LEAs.

Hexavalent Chromium: We recommend that Chapter 6 and Chapter 7 (including, but not limited to, Section 7.6) be revised to incorporate the newly developed MCL for hexavalent chromium.

Water Bond: We also recommend that the draft Plan be updated in light of the passage of the Water Bond in the November 2014 election.

Thank you for the opportunity to comment. We commend the State Water Board's efforts in preparing this draft Plan. We are especially encouraged by the focus on disadvantaged communities. We look forward to working with the State Water Board in the future.

Sincerely,

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