



October 28, 2016

To: State Water Resources Control Board  
Department of Water Resources  
California Public Utility Commission

Re: Implementation of Executive Order B-37-16 regarding the Human Right to Water

We are now in our sixth year of severe drought, which continues to have the greatest impact on small, rural communities. Of the nearly 2,400 wells statewide identified as critical or dry, affecting over 11,700 California residents, over two-thirds are located in small, rural communities in Tulare County. Some families, such as those in East Porterville, have been without running water for over three years due to the severity of the drought and the lack of resources, both technical and financial, to ensure the community's resiliency. In response, the state has allocated over \$148 million to Tulare County alone in the past two years for emergency drought relief and long-term water solutions. As climate change will make droughts more frequent and severe, water conservation and drought resiliency plans are essential for ensuring a crisis of this scale does not happen in California again.

Governor Brown's Executive Order B-37-16 establishes permanent regulations to make this a reality, including using water more wisely, eliminating water waste, and strengthening local drought preparedness. As the State Water Resources Control Board (State Board) and the Department of Water Resources (DWR) focus on implementation of the new regulations in the coming months, the undersigned organizations recommend the following principles be addressed in this process:

***1) We urge the State Board and DWR to explicitly reference the human right to water in the forthcoming permanent regulations and to consider how new laws will be implemented to ensure the needs of small, rural, and disadvantaged communities are addressed, especially as the state collects data and allocates resources.***

In 2012, California passed AB 685, the Human Right to Water, which states, "every human being has the right to safe, clean, affordable, and accessible water adequate for human

consumption, cooking, and sanitary purposes.” During the ongoing drought, thousands of people lost access to their human right to water due to dry domestic wells and increased contamination. Conservation regulations and drought contingency plans need to be implemented through the lens of the human right to water, specifically where it concerns small and disadvantaged community access to water. Small, rural communities should not be exempt from these regulations or else they will remain vulnerable to drought impacts in years to come. Instead, sufficient technical and financial assistance needs to be made available for these communities to effectively respond to new regulations and planning requirements.

***2) The State Board and DWR should provide financial and technical assistance to ensure that water efficiency standards, leak repair, and other resiliency strategies are implemented in small communities to secure vulnerable water supplies.***

Meeting the objectives of the EO will require substantially increased investments at the utility level in order to realize the potential for water use efficiency. The need for increased spending on conservation combined with reductions in water use present unique problems for utilities that have traditionally relied upon water sales as their primary source of revenue. The State Board and DWR should squarely recognize these challenges and propose a menu of incentives for addressing them, as well as the elimination of various barriers to financing for unconventional, innovative water supply and water quality solutions. The State Board and DWR should provide support and guidance for water agencies to implement rate structures that incentivize water conservation and assure affordability of basic service for low-income customers, while promoting revenue stability for the agencies. Low-income households in non-shortage years can spend up to 10% of their income on water. Increased rates due to conservation minded rate structures will only continue to burden these families. While determining conservation and pricing policies, both low-income and larger households need to be considered to ensure everyone has access to affordable water, regardless of a shortage.

There are many strategies available to protect communities from drought and promote more resilient water systems. Yet, small communities do not typically have the financial and technical capacity to implement these strategies. For example, many small, rural water systems cannot afford to install and/or maintain water meters for the communities they serve. Without meters, residents cannot conserve water effectively because they don't know their water use and all households are subject to flat rates, paying the same amount regardless of their water use. Moreover, drought surcharges, if implemented, would most likely be applied to all households equally. Flat rates and surcharges place undue burden on low water users, many of whom are low-income households. Establishing tiered rate structures to create a more resilient water system and more equitably allocate costs will be impossible until the necessary infrastructure and assistance are in place.

Meters are not the only tool needed for small systems to properly manage their water supplies. Resources for leak detection and repair are also essential. One example is the community of Seville, which has been waiting for funding to repair its dilapidated distribution system for years. Recently, residents here ran out of water temporarily due to leaks and lack of meters to control use. Rather than excluding small systems from requirements to install meters, report use, minimize leaks and establish drought contingency plans, assistance must be made available to facilitate the implementation of these measures. If we continue the pattern of exempting small systems from these types of requirements, data will never be available on water vulnerability for the state and these communities will not be able to adequately respond to vulnerabilities.

Funding for these resources (i.e., meters, technical and financial assistance for leak detection and repair, etc.) should continue to be prioritized from the Drinking Water State Revolving Fund. Specific funding for technical assistance around creating drought rate structures and budgeting also needs to be allocated to ensure effective drought resiliency.

***3) The State should further ensure that drought contingency plans are prepared and implemented for small communities and rural populations not served by urban water agencies so that they are able to access safe, adequate, and affordable water supplies.***

Many small, rural communities are dependent on groundwater and are, as a result, disproportionately vulnerable to regional conditions and management and often have limited technical, managerial and financial (TMF) capacity to adapt. Therefore, these communities typically are disproportionately impacted by drought conditions. Drought planning for small and rural populations should leverage the opportunity presented by the Sustainable Groundwater Management Act (SGMA). Groundwater sustainability plans (GSPs) must be developed for medium to high priority groundwater basins by 2020. There will likely be significant overlap in data required to develop GSPs and data to be used by small water systems to assess drought vulnerabilities.

The first step should be to analyze drought and domestic water supply vulnerability for small and rural communities. GSPs should be used to provide thorough drought vulnerability assessments and conduct stress test drought impacts of small systems and domestic well owners. To do this DWR should provide statewide information on well logs for domestic wells and partner with the State Board to do something similar for public supply wells, not already subject to Urban Water Shortage Contingency Plans.

Then, based on the results of these analyses, County action plans should be developed to: 1) outline concrete steps to reduce vulnerabilities prior to drought and 2) a tiered action plan to be implemented during drought conditions.

Precisely because of the potential magnitude of drought impacts on rural water supplies, as demonstrated by our current drought, and the limited ability for small systems and self-suppliers to adapt during drought conditions, contingency planning for rural areas, more so than for urban water suppliers, needs to strongly emphasize resiliency strategies. Two key resiliency strategies are as follows:

- Consolidations are key to long-term water sustainability in many areas with very small systems. Where feasible and done effectively, they ensure improved capacity for technical, managerial and financial capabilities. In East Porterville, a community devastated by the ongoing drought, consolidation with the nearby City of Porterville is essential to increase resiliency against future drought and ensure residents have running water. The State Board should continue to encourage consolidations where possible, and use its power within SB 88 for consolidations when necessary.
- For some communities, back-up wells provide relief if their primary well becomes inactive due to contamination or lack of water. However, in many small, rural communities, the back-up well can be polluted or dry as well. Even though water may be available, since it is not safe to distribute to residents, it is not an acceptable alternative as a domestic water supply. All systems should have a safe and reliable back-up water supply.

Critical to success of these plans are their integration with other mandated plans, especially the groundwater sustainability plans (GSPs) in critically overdrafted basins. It is critical that the updates to water supply contingency plans within urban water management plans and small and rural community drought contingency plans all be integrated into GSPs and developed consistent with regional water supply planning.

With the passing of SB 244 in 2011, all California cities are required to consider unincorporated communities within their sphere of influence when updating their general plans. Incorporating this concept into urban Water Shortage Contingency Plans is essential for adequate water management. In the current drought, cities have been asked to provide water for small, unincorporated communities with dry wells within their sphere of influence. This practice is likely to continue during the next drought, as city service extensions and consolidations provide a sustainable solution to these vulnerable communities. Additionally, urban water providers which are not cities should still make a point to include contingencies for unincorporated communities within their sphere of influence as they are likely to be approached for emergency aid as well.

Due to climate change, droughts will continue to increase in frequency and severity in California. It is essential that water systems plan proactively for their occurrence and small and rural communities are not left behind. In California, access to safe, clean and affordable water is a

human right. Keeping this in mind while implementing the Governor's Executive Order is key to ensuring it this right is a reality.

Respectfully submitted,

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