

GOVERNOR'S DRINKING WATER STAKEHOLDER GROUP

AGREEMENTS AND LEGISLATIVE RECOMMENDATIONS

DEFINING THE PROBLEM¹:

Significant numbers of people lack access or are at risk of lacking access to safe drinking water because nitrates contaminate their groundwater in the Salinas Valley and the Tulare Lake Basin. State and Federal programs exist to attempt to solve the problem, but there are many barriers that prevent communities from making use of those programs, leaving those communities to pay for their unsafe water and the additional cost of purchasing bottled water. According to the UC Davis Nitrate Pilot Project Report, the majority of the nitrates contaminating drinking water are from the agricultural sector.

According to the communities and organizations that advocate on their behalf, and according to the State Water Plan Update, 2009 (page 15-15) two of the most pervasive problems are lack of funds to cover the cost of operations and maintenance and organizational challenges. Because the systems at the highest risk of being entirely without safe water tend to be small systems (serving between 15 and 3300 connections) they cannot achieve the economies of scale necessary to afford the operations and maintenance costs of currently available treatment technologies. If a community cannot demonstrate that they can afford operations and maintenance on their proposed system project they are not eligible to receive most of the available grant dollars from the State or Federal Governments.

Small systems face a number of organizational challenges. There are numerous efforts to address these challenges at the local level. Occasionally creative solutions are difficult to work through our state and federal funding programs, adding one more hurdle for these communities.

STAKEHOLDER GROUP CHARGE:

The Stakeholder Group was asked to:

1. Develop a shared understanding of the O&M challenges and the challenges encountered by creative solutions accessing state agency programs.
2. Identify promising solutions (which may focus on the Tulare and Salinas regions).
3. Develop a plan with a high likelihood of closing these two gaps.
4. Make a recommendation to the Governor's Office.

THE APPROACH²:

¹ As defined by the "Stakeholder Process on Drinking Water Contaminated by Nitrates" document prepared by the Governor's office and provided to the Drinking Water Group at the initial meeting on June 14.

² As defined by the Governor's Office in email dated May 29 inviting the Stakeholder group to the initial meeting of June 14.

SBX2 1 (Perata, 2008) directed the State Water Resources Control Board (Water Board) to study the relationship between nitrate contamination and access to safe drinking water in the Tulare Lake Basin and the Salinas Valley. SBX2 1 also directed the Water Board to provide a report and recommendations to the Legislature. The Water Board contracted with researchers at UC Davis to produce a scientific report that is being used to inform the Water Board's report to the Legislature.

The UC Davis report focused broadly on the nitrates issue and provided a range of promising actions. The Governor's Office convened this Drinking Water Stakeholder Group to identify specific, creative, viable solutions focused in two critical areas; covering the costs of operations and maintenance for small systems, while maintaining affordable water rates³; and state agency actions to make funding programs, regulations, and implementation more flexible and proactive in supporting creative solutions.

The Stakeholder Group was challenged with an aggressive timeline to coincide with the Water Board's development of their report and the remaining 2011-12 Legislative calendar. The Group was convened in mid-June and met regularly together and through workgroups on key issues (governance, navigation, legal/regulatory, legislation). With significant support from participating State agencies, the Group reviewed and discussed existing funding sources (summarized in Attachment A), the barriers from multiple perspectives to achieving sustainable drinking water solutions (Attachment B), as well as local and regional projects that are pursuing safe drinking water solutions for disadvantaged communities in unincorporated areas. Agreements in Principle, Recommended Actions and legislative concepts for this legislative session were discussed and agreed upon at the August 1, 2012 meeting of the full Stakeholder Group and are summarized in this Report.

DECISION-MAKING CRITERIA

From the June 27th meeting, the Stakeholders identified these criteria to help reach consensus:

- ◆ Solutions should be replicable, sustainable, scalable
 - ✓ "Both/and" solutions
 - ✓ *Options* for communities to consider vs. a 'prescription' for what to do
- ◆ Solutions should not harm other areas of the State
 - ✓ Solutions that might be used for more than one pollutant
 - ✓ Avoid creating 'winning' and 'losing' communities.
- ◆ Leverage existing, available resources
- ◆ Creative solutions
- ◆ Move closer to safe drinking water for all Californians
- ◆ Accelerate what is working
- ◆ Solution-oriented
 - ✓ Interim solutions must be sustainable.

³ As defined by the US EPA (*not reviewed or discussed by the Stakeholder Group*)

O&M FUNDING

The Stakeholder Group discussed methods to address and develop sustainable O&M funding, both in terms of creating additional revenue sources and reducing costs through efficiencies and economies of scale. The Group believes that, in general, in the long-term, systems should have the ability to cover operations and maintenance costs while maintaining affordable rates. However, the Group did not rule out the need for additional outside funding sources in the short-term, particularly for disadvantaged communities in unincorporated areas impacted by increased costs due to source contamination. In order to address this challenge, the Group developed recommendations particularly aimed at fostering locally and regionally viable “shared solutions” that allow for increased economies of scale, as well as reducing unnecessary costs for small systems. The Group recognized, however, that the best solution for each community will differ among a variety of options that are not limited to “shared solutions.” While the Group discussed possible revenue sources to support interim O&M funding challenges, each of the identified options present significant legal and political challenges, and thus require additional discussion and effort for any to become viable.

AGREEMENTS IN PRINCIPLE

The Stakeholder Group developed the following Agreements in Principle to guide development of recommendations contained in this Report:

1. It is important to comprehensively and uniformly identify drinking water needs of disadvantaged communities and small systems between 2-14 connections to improve data collection and management.
2. There is a need to incentivize and promote sustainable safe drinking water solutions within disadvantaged communities in unincorporated areas.
3. It is essential to ensure that all disadvantaged communities in unincorporated areas have access to immediate, interim sources of safe drinking water.
4. It is critical to increase access to existing funding sources for disadvantaged communities in unincorporated areas for both long-term and interim safe drinking water solutions and to make it easier for communities to ‘navigate’ the agency/funding systems and requirements.
5. A key element in achieving sustainability is to reduce costs for disadvantaged communities in unincorporated areas to secure and sustain drinking water solutions.
6. There is a need for continued engagement between a diverse stakeholder group and appropriate State agencies (CDPH, SWRCB, DWR, CalEPA) to develop programs to support sustainable solutions to the drinking water challenges in disadvantaged communities in unincorporated areas of California.

**AGREEMENTS WITH ADDITIONAL DETAIL AND
RECOMMENDATIONS FOR ACTION**

- 1. It is important to comprehensively and uniformly identify drinking water needs of disadvantaged communities and small systems between 2-14 connections in unincorporated areas to improve data collection and management.**

The scope and magnitude of the drinking water problems for disadvantaged communities and small systems in unincorporated areas is not fully understood, due to limits in or a lack of current and ongoing assessment of conditions. Additional efforts are necessary to collect and manage information to inform planning and implementation of solutions.

Recommended Actions:

- A. Continue to establish, maintain, integrate, and improve data collection tools to help inform planning, prioritization and implementation of interim and long-term solutions.

- 2. There is a need to incentivize and promote sustainable safe drinking water solutions within unincorporated disadvantaged communities.**

Efforts are necessary to actively foster more sustainable, effective, and affordable drinking water solutions and decrease drinking water system vulnerability for very small disadvantaged communities in unincorporated areas lacking sufficient resources or scale to “stand alone,” through a variety of locally-driven solutions, including (but not limited to) efficient, effective shared services and facilities, technical support and outreach and education. The exact model will be different for different communities, but may include a wide variety of technical and/or management/institutional options. (For the purposes of this Report, the term “shared services” is used to describe solutions/strategies between and across communities that facilitate increased economies of scale.)

Recommended Actions:

- A. Identify water supply needs and potential opportunities for promoting and incentivizing sustainable local drinking water solutions for disadvantaged communities in unincorporated areas
- B. Directly target funding for IRWMs (or other entity where appropriate) to develop an inventory of need and a plan for local solutions (including shared solutions) for disadvantaged communities in unincorporated areas in each hydrologic region of the state as is being used in the Tulare Lake Basin Disadvantaged Community Water Study (SBX2 1 (Perata, 2008)).
 - i. Begin with the Salinas Valley.

- ii. Coordinate these efforts with local health departments, local NGOs, academic institutions and local agencies.
- C. Support and fund project planning to foster local, sustainable solutions (including, but not limited to, shared solutions, inter-community planning facilitation, engineering, legal, financial or managerial analysis, environmental documentation, and other project development activities).
- i. Directly augment funding to regional planning agencies (e.g. IRWMPs or other appropriate entity) to develop community-driven shared solutions where practical for unincorporated disadvantaged communities. (Model this after work begun in IRWM DAC pilots)
 - ii. Drinking water regulatory agencies at local and State levels should more actively identify and address technical, managerial, and financial (TMF) capacity issues.
- D. Improve accessibility of funding pathways for shared services/facilities projects in communities with highest public health priority as identified by regulatory agencies, including but not limited to:
- i. Carve out a set-aside of existing drinking water funding.
 - ii. Provide strong incentives for shared solutions among local systems and provide funding for NGOs/local agencies/universities for increased outreach and education.
 - iii. Promote and incentivize more robust investigation of shared solutions as part of feasibility or planning studies.
3. **It is essential to ensure that all disadvantaged communities in unincorporated areas have access to immediate, interim sources of safe drinking water.**
Currently many of California's poorest small disadvantaged communities in unincorporated areas are left without access to safe drinking water for years as they wait to secure financing to develop a long-term safe drinking water source. These communities are often left paying twice for water, as they continue to pay for unsafe water service and have to buy alternative water sources on top of those costs. It is vital that communities have an affordable option to access safe drinking water in their community through an interim source as they are developing a sustainable long-term solution.

Recommended Actions:

- A. Direct rapid, easily accessible funding to support immediate, interim sources of safe drinking water for disadvantaged communities in unincorporated areas.

- B. Create a renewable funding source for immediate interim solution funding.
- C. Clarify types of solutions eligible for funding including (but not limited to): point of use treatment, point of entry treatment, central high-volume vending machine point, water hauling, etc. Once projects are deemed eligible, develop integrated permitting process to allow for expedited project permitting.

4. Increase access to existing funding sources for disadvantaged communities in unincorporated areas for both long-term and interim safe drinking water solutions.

CDPH, SWRCB and DWR each administer funds to support, develop, and/or implement drinking water solutions. Limits and restrictions, in state and federal law, regulation and guidelines, affect the availability and access to these funds. Processes to access these funds can be difficult and cumbersome, demanding resources and expertise lacking at the local disadvantaged community level. Simplified and expedited processes and additional technical support can increase access to safe drinking water solutions.

Attention to disadvantaged communities in unincorporated areas without a public water system (less than 15 connections) to improve their access to safe drinking water is required. Many disadvantaged communities in unincorporated areas are not served by a public water system but rely on contaminated private wells or unregulated very small systems. In many cases, these communities lack sufficient information on drinking water quality, and wells are often more vulnerable to contamination due to shallow depth and/or construction. However, most existing funding sources are not available for improvements for private wells or infrastructure that is not part of a public water system.

Recommended Actions:

- A. Help small disadvantaged communities in unincorporated areas better navigate funding opportunities across agencies
 - i. Create an interagency 'team' (or "one-stop shop") of existing staff from all State agencies with a role in the funding, regulation, and/or planning of safe drinking water systems in disadvantaged communities in unincorporated areas. This 'one stop' center for DACs will provide technical assistance, professional services, and general guidance to small communities trying to navigate the maze of State agencies and funding/application requirements.
 - ii. Create a single point of entry for communities needing assistance.

- B. Create expedited requirements for funding applications for small disadvantaged communities in unincorporated areas.
 - C. Improve, support and add access to technical assistance programs, including but not limited to: an ombudsmen program housed in a state agency or the Governor's Office; technical assistance from UCs/ CSUs; local government assistance.
 - D. Create fund specifically for project planning for disadvantaged communities in unincorporated areas that is easily accessible and less restricted in who must be actual legal applicant.
 - i. Utilize local set aside in SRF for local planning and grant directly to IRWMPs to develop solutions for disadvantaged communities without safe drinking water within their boundaries.
 - E. Utilize existing technical assistance and set-aside programs to fund non-profits or public agencies to do low-income assistance programs. (e.g. Self Help Enterprises well rehabilitation funding program)
 - F. Expand eligibility for funding and assistance programs for disadvantaged communities in unincorporated areas without a public water system (less than 15 connections).
 - G. Fund non-profit or county programs that support monitoring, planning, maintenance, and improvements for low-income private well owners or systems less than 15 connections in unincorporated areas.
- 5. Reduce costs for disadvantaged communities in unincorporated areas to secure and sustain affordable drinking water solutions.**

The high cost of specific elements of operation and maintenance and other ongoing costs (e.g., financing costs, the cost of administrative requirements, financial audits, and certain regulatory requirements) impact the ability to achieve sustainable and affordable solutions in certain communities.

Recommended Actions:

- A. Reduce high-cost regulatory and administrative requirements for small systems.
 - i. Ease burdens of data reporting and streamline application submission process.
 - ii. Reduce level of audit requirements for small systems
- B. Address cash flow problems for small systems (for example, advancing electronic reimbursements or advance payments).

- C. Address reserve fund burden by creating or supporting a pooled reserve fund for small disadvantaged communities in unincorporated areas.
- 6. There is a need for continued engagement between a diverse stakeholder group and appropriate State agencies (CDPH, SWRCB, DWR, CalEPA) to develop programs to support sustainable solutions to the drinking water challenges in disadvantaged communities in unincorporated areas of California.** *Development and implementation of solutions will require ongoing and coordinated effort between local stakeholders and appropriate state agencies. Additional discussion to expand concepts contained in this report is warranted.*

Recommended Actions:

- A. Support the continuation of this Stakeholder Group as the forum to continue this work, resolve 'open' issues and work to advance the interests of all stakeholders.

ATTACHMENTS

- 1) Existing Funding Matrix
- 2) Legislative concept recommendations for current legislative session