

Report on New and Expanded Funding Sources

to address the needs of disadvantaged communities in
unincorporated areas that do not have safe drinking water

**Governor's Drinking Water
Stakeholder Group**

August 13, 2013

GOVERNOR'S DRINKING WATER STAKEHOLDER GROUP

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INTRODUCTION

Background

The Governor's Drinking Water Stakeholder Group (the 'DWSG') was formed in June, 2012 to develop a shared understanding of the operations and maintenance (O&M) challenges and the challenges encountered by creative solutions accessing state agency programs; identify promising solutions; and develop a plan and recommendations for the Governor's office. The DWSG issued a Report in August, 2012 which led to numerous actions by the Administration and Legislature. Specific to the issue of O&M Funding, the Report states:

"The Stakeholder Group (DWSG) 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 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."

The DWSG presented a 2013 Work Plan to the Governor's office in November 2012, which focused on (1) monitoring and advancing recommendations in the August 2012 Report, including those related to existing funding programs; (2) advancing the discussion on new and expanding funding sources for O&M; and (3) developing recommendations regarding data collection and management for small systems and private wells.

This Report summarizes the process and discussion regarding New and Expanded Funding Sources and advances promising options, particularly as they related to increasing economies of scale and maximizing opportunities through "shared solutions." The DWSG acknowledges that the best

solution for each community will differ among a variety of options that are not limited to "shared solutions". For example, there will be areas where individualized and non-scalable solutions will be necessary. This particular Report focuses on exploring opportunities and actions to maximize solutions by creating efficiencies and building institutional capacity to address O&M and other sustainability and affordability challenges through shared solutions.

Definition of Shared Solutions

The DWSG believes it is appropriate to consider the definition of "Shared Solutions" to be broad and expansive, and not prescriptive or limited to full or physical consolidation of drinking water treatment and delivery systems. The term "shared solutions" refers to any solution that allows a system or systems to achieve technical, managerial, or financial efficiencies and/or water supply or delivery efficiencies by partnering with another system(s). Shared solutions can range in options and can include the following:

- Informal arrangements (e.g., sharing of equipment);
- Formal arrangements (e.g., sharing of technical, managerial and financial resources or joint management between neighboring or various systems, including isolated systems);
- More complex arrangements that may lead to structural changes (e.g. physical sharing of water sources or treatment facilities and even full systems consolidation).

Objective & Scope

The objective of this Report is to examine potential new and expanded funding sources to address the needs of disadvantaged communities in unincorporated areas that do not have safe drinking water, particularly those impacted by nitrate and located in the Salinas Valley and Tulare Lake Basin Hydrologic Region (the "Target Area").¹

The Target Area covers 5.7 million acres and is home to approximately 2.65 million people, almost all of whom rely on groundwater as a source of drinking water. The Target Area includes four of the most productive agricultural counties in the nation and more than half of California's dairy herd. These areas are also some of California's poorest communities; a number of these communities are categorized as "severely disadvantaged" (less than 60% of the state's median household income), and a number of the remaining communities are considered "disadvantaged" (less than 80% of the state's median household income). These communities have little economic means and technical capacity to maintain safe public drinking water systems.²

¹ The DWSG recognizes that other pollutants in water supplies, such as naturally-occurring arsenic, present a challenge for disadvantaged communities.

² *Addressing Nitrate in California's Drinking Water*, January 2012 Center for Watershed Sciences, UC Davis

Summary of Issues Covered by this Report

The DWSG discussed methods to address and develop sustainable O&M funding, including: creating additional revenue sources, implementing “shared solutions”, increasing the number of eligible projects, and reducing costs through efficiencies and economies of scale. In general, over the long-term, drinking water systems should have the ability to cover O&M costs while maintaining affordable rates. However, the Group identified funding needs in the immediate-term to enable disadvantaged communities to transition to systems that are economically sustainable. In addition, there is a need to reduce short-term costs due to source contamination, particularly for disadvantaged communities in unincorporated areas. As further detailed below, the DWSG discussed possible revenue sources to support O&M and other funding challenges; each of the identified options presents significant legal and political challenges, and thus will require additional discussion and effort for any to become viable.

Process Used to Identify Issues/Challenges/Opportunities

In order to develop a clearer understanding of new or expanded funding needs, the DWSG developed the attached background matrix. The matrix identifies the types of funding needs, and then for each, lists 1) the approximate funding requirements, 2) existing funding sources and availability, and 3) the new or expanded funding sources discussed by the DWSG, with notes on important considerations for each. All members of the DWSG were asked to contribute ideas and input that were included in the matrix to focus and clarify our discussion and development of recommendations on new or expanded funding sources.

The DWSG formed five working groups from DWSG members and representatives to monitor, develop and advance concepts included in both the August 2012 report and this Report. These working groups covered Legislative, Government Structure, Capacity & Technical Assistance, Utilizing Existing Funding Sources, and Data/Monitoring. Attached to this Report are summaries of working group activities, except for the Data/Monitoring working group which will complete its tasks later this year. The DWSG intends to file a final report on Data/Monitoring by November, 2013.

GUIDING PRINCIPALS

The DWSG agreed to the following guiding principles regarding new and expanded funding sources:

- 1) No single source of revenue is appropriate – ideally, a portfolio of funding sources will be available to address solution components.
- 2) There is a need to develop economically sustainable solutions at the local/regional level that can cover O&M costs over long-term.

- 3) Significant, targeted resources are necessary to address the costs of transitioning systems to economically sustainable solutions, particularly to foster “shared solutions” that take advantage of economies of scale and address factors that may make these systems economically sustainable.

FUNDING NEEDS AND GAPS

The DWSG identified the following categories of vital funding needs, and key gaps in existing and limited funding sources:

- **Disadvantaged communities without an existing public water system** – The funding needs of communities with private wells and state smalls (systems under 15 connections) are often ineligible for funding from existing sources.³ Funding needs include appropriate testing of individual wells, facilitation of community meetings to understand the problem and evaluate and choose an affordable and sustainable solution, all the pre-planning and planning analysis and documentation described above, construction of new infrastructure, legal entity formation and Local Agency Formation Commission (LAFCO) processes, on-going technical, managerial and financial capacity development and leadership training, as well as O&M costs and interim solutions. Furthermore, a number of these communities are not adequately identified or mapped by local and state planning agencies, and also may lack any form of organized governance structure, making development of solutions and funding even more challenging.

Existing state bonds and federal Safe Drinking Water State Revolving Fund (SRF) funding are restrictive and limited for areas without an existing public water system. Significant funding will be needed to address the needs of communities without regulated drinking water systems, and more comprehensive and targeted mapping, water testing and other data collection (such as median household income (MHI) surveys), technical assistance, community outreach and facilitation efforts are needed to adequately estimate this need and develop solutions.

- **Disadvantaged communities served by privately owned public water systems** – Disadvantaged communities reliant on small, privately-owned public water systems (such as those serving mobile home parks and labor camps) experience similar challenges. Funding for privately-owned systems through existing funding programs is more restrictive than for publicly-owned systems, and is primarily loan-based. As a result, pre-planning and construction loan repayment costs are generally passed to the tenants through increased water rates. Residents in these systems have similar affordability challenges.

³ The Safe Drinking Water State Revolving Fund and past state grant programs restrict funding eligibility to public water systems. Federal as well as state statute defines a public water system as “a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.”

- **Project Pre-planning & Planning** – Existing funding sources for this work are often very restricted. Funding opportunities are often spread over a number of different agencies and programs making them difficult to access for disadvantaged communities. Furthermore, other than a few pilot projects,⁴ these funds are often only available in piecemeal and communities need to apply individually for each step in their planning process. A more comprehensive, coordinated and targeted effort is needed, to provide required funding for all of the pre-planning, planning and technical assistance components listed above. The funds should be available for all types of disadvantaged communities in unincorporated areas that do not have safe drinking water regardless of whether they are served by an existing public water system or lack a regulated water system, and regardless of whether the water system is a privately-owned or publicly-owned entity.

Project planning and pre-planning were among the primary funding gaps and needs identified. Specifically, this category includes the need to more comprehensively identify community needs, help communities evaluate and determine the best solution that can provide sustainability and affordability over the long-term (including evaluating new operations or new or improved governance structures that create more economies of scale), and develop the project plans and documentation necessary to implement the solution. This includes:

- Technical assistance
 - Outreach
 - Data collection (such as well testing, income surveys, etc.)
 - Facilitation of joint project development
 - Feasibility studies
 - Governance structure analysis
 - Legal assistance and entity formation
 - Engineering
 - Project design
 - Development of plans and specifications
 - Environmental analysis
- **Technical Assistance** – Technical Assistance is vital to enable disadvantaged communities to develop projects and access funding. The funding needs listed above as “pre-planning” or “planning” needs often require technical assistance to develop robust plans. These efforts may be funded directly through technical assistance providers in some existing agency programs. Specific technical assistance needs include:

⁴ In the regions of focus, there have been two pilot projects that have begun to spearhead a more comprehensive planning process focused on fostering shared solutions – the Tulare Lake Basin Disadvantaged Community Water and Wastewater Study, and the Upper Kings Basin Water Authority Disadvantaged Community Pilot Project. Both were funded through special appropriations within DWR's Integrated Regional Water Management funding program.

- Project development and management
- Responding to requests for proposals and completing full applications
- Community outreach and meeting facilitation, data collection support – including MHI surveys
- Technical, managerial and financial capacity development
- Leadership training

Some funding sources currently provide technical assistance to disadvantaged communities to access existing funding programs. However many of these programs are extremely limited, can be difficult to access and are restricted in the programs or services that can be funded. A more comprehensive, coordinated and targeted effort is needed, including providing required funding for all of the pre-planning, planning and technical assistance components listed above. The funding should be available regardless of whether the community is served by an existing public water system or lacks a regulated water system, and regardless of whether the water system is a privately-owned or publicly-owned entity.

- **Construction and Capital Costs** – Most existing funding is for capital improvement projects. However, there is almost no funding available for capital costs for communities without a public water system. In addition, the overall needs associated with drinking water infrastructure in the state far exceed existing resources. Without significant, targeted efforts to provide the planning and technical assistance funding needed to develop “shovel ready” long-term, sustainable and affordable solution projects, the existing construction funding will not flow to disadvantaged communities.
- **Ongoing O&M** – Water systems are facing higher and higher O&M costs due to increasing source water contamination (including nitrates), and increasing regulatory standards (including requirements that cause water providers to have to hire more staff, contract for certified professional services, and meet new and stricter water quality levels). Typical O&M costs include, but are not limited to, staff (management, administrative, and operations, etc.), financial services (bookkeeping, billing, accounting, audit and financial reporting), professional services (certified operator, engineer, attorney), water quality monitoring, permit fees, insurance, annual equipment and infrastructure repair and replacement, energy costs, chemical or other water quality treatment materials, wholesale water purchases. Rates and charges can also include components for loan repayment, and creation of capital reserves.

The only existing funding source for O&M is local rate payers. Proposition 218 requirements are a factor relative to rate setting. There are currently no federal, state-wide or regional funding sources to supplement these costs for local water providers.

As a result, many disadvantaged communities are often unable to raise enough funding through rates alone to provide for even the basic costs of running a water system. At the same time rates become increasingly unaffordable for low-income residents, who face water shut-offs if they cannot pay their full bill, and often have to pay for alternative water sources when the system is unable to provide safe drinking water. Often the first area of costs that are under-funded are the capital reserves for future infrastructure repairs and replacements for infrastructure.

As discussed in our August 2012 Report, efforts must be made to reduce O&M costs as much as possible, as well as create more economies of scale. Although the DWSG agreed that the developed solutions need to be self-sustaining, there was also agreement that significant investment and targeted efforts to create new systems that allow for more economies of scale was needed to achieve this outcome, and initially there may need to be interim support for O&M cost.

More investigation and discussion is needed regarding the development of funding options that allow for water providers to ensure an affordable rate for basic water needs for disadvantaged communities in unincorporated areas.

- **Interim Solutions** – Interim solutions are needed to ensure that disadvantaged communities in unincorporated areas can have immediate access to safe drinking water while developing and implementing sustainable and affordable long-term solutions. Creating well-planned new or modified governance structures and infrastructure projects can take years, and many disadvantaged communities lack access to safe drinking water now. Interim solutions, such as providing bottled or vended or hauled water, or installing small-scale (such as point-of-use/entry) treatment systems to disadvantaged communities, ensures that residents are able to access safe and affordable drinking water while long-term solutions are being developed and implemented.

Currently only a one-time allocation of \$4 million statewide has been made available to fill this need through state funding sources. While useful, the source of the funding limits the flexibility of the program to provide the most cost-effective interim solutions, and the one-time nature of the fund limits the amount of funding available per community, regardless of need.

Some private funding sources have initiated efforts to support these kinds of funding needs, including local Rotary Clubs, and private foundations such as The California Endowment. Additionally, individual growers have provided bottled water to some neighboring communities (i.e. areas in the Santa Maria and Salinas Valley). The State Water Resources Control Board (STWCB) and the regional water quality control boards have initiated some efforts to develop additional orders for dischargers to provide replacement water to neighboring communities. However, there is no ongoing, reliable source of funding for this need.

- **Mitigation of Pollution Impacts** – When drinking water sources are contaminated by natural and/or anthropogenic sources of pollution, many of the costs listed above are needed to mitigate that pollution. The needs are particularly acute in disadvantaged communities in unincorporated areas that often only have one or two wells as the sole source of drinking water. Funding for planning, technical assistance, capital costs, increased O&M and interim solutions are often needed to develop a new source or treat an existing source of drinking water.

Currently the only available funding for these costs is either through local ratepayers, limited state or federal programs, or, for some anthropogenic sources of pollution, through complex individual enforcement or liability actions (which are even more complex and challenging in the case of non-point pollution).

- **Wastewater Infrastructure** – The DWSG is focused on safe drinking water solutions. As a point of information, the DWSG notes that often communities without safe drinking water may also lack adequate wastewater services and infrastructure. This can lead to further contamination of drinking water sources and public health impacts. Many of the same funding needs identified for disadvantaged community drinking water solutions, including preplanning and planning, technical assistance, capital costs, and O&M are needed for wastewater as well.

Currently the amount of grant funding needed in the state for wastewater projects far exceeds the amount available through existing funding sources. Planning and construction funding is generally available (almost always as loans), but funding for ongoing operations and maintenance is restricted and therefore in greater need. Furthermore, even with extra points or priority for disadvantaged communities, without significant, targeted efforts to provide the planning and technical assistance funding needed (as outlined above) to develop “shovel ready” long-term, sustainable and affordable solution projects, the existing construction funding will not be able to adequately address disadvantaged community needs.

- **Data Gathering and Management** – Existing public drinking water systems (with 15 connections or more) are required to monitor water quality and report data from certified labs to the regulatory agency (California Department of Public Health (CDPH) or Local Primacy Agencies (LPAs), such as County Environmental Health programs), and CDPH has an existing data management system for that data. However there is no central system for gathering or managing data on water quality for areas outside of existing public drinking water systems. As a result, there is extremely limited data on water quality and water needs for disadvantaged communities that are on private wells or state smalls (less than 15 connections).

CDPH's existing data collection and management system is funded by public water systems that pay for the monitoring directly, and pay for the data collection and management costs through their permit fees. There are very limited funding mechanisms and funding sources available for data collection or management for areas on private wells or state smalls (<15

connections). Even the existing funding sources have been insufficient to uniformly fund a complete and adequate database for small public water systems (15-1000 connections) resulting in the lack of considerable information required to plan for the water related needs of these communities. Furthermore, access to this data is limited for various reasons. This creates local data availability problems for communities seeking cost-effective solutions, because information on the construction, depth and screening level of nearby wells is not always available, forcing communities to dig unnecessary test wells. Given the limited availability of planning funds, a solution to this dilemma should be explored.

Estimating the Amount of Need

General estimates of the amount of funding needed to address drinking water quality challenges were included in the UC Davis Report on Nitrates in Drinking Water, and recent needs assessment updates from USEPA. The attached matrix provides estimates on different types of needs, to the extent available through a variety of sources, as well as a brief description of the source and/or assumptions underlying those estimates. The DWSG was not able to further refine estimates of the total dollar amount needed for some of these topics, in part because there has not been a comprehensive needs assessment. As noted above, the DWSG believes ongoing needs assessments are required to fully comprehend the scope and magnitude of this problem, and to target funding and refine future funding requests. However, the DWSG agreed that the lack of an estimate on the total amount needed for some of the topics listed above does not mean that the type of need is any less real or urgent.⁵ To the contrary, in many cases it is an indication that it is a gap in existing funding and should be a focus of new and additional or expanded funding efforts. Where such gaps exist, one option for reducing delays and providing immediate assistance is to design pilot programs that fund a limited number of projects. This has the benefit of providing information and guidance for future program development, while at the same time providing urgently needed assistance without delay.

TYPES OF NEW AND EXPANDED FUNDING ALTERNATIVES CONSIDERED/DISCUSSED

The DWSG identified and considered new and expanded funding alternatives, including but not limited to those included in the SWRCB Report to the Legislature.

Water Bond

The DWSG reached consensus that some portion of the solution was appropriate to be funded by general obligation bonds. There was also consensus that a modified version of the 2014 water bond should have significant, targeted funding to address this problem. There was recognition

⁵ The UC Davis Report on Nitrates in Drinking Water demonstrated a significant overall need and quantified that need at a very course level.

that funding from a modified version of the 2014 bond is not guaranteed because it has to pass by a two-thirds vote of the Legislature and then be approved by the voters. Funding would also take significant time to become available even with a successful bond due to the legislative appropriations process and the development by agencies of funding guidelines and criteria.

While bonds are generally not used to fund O&M costs, it was suggested that under special circumstances a bond could fund a limited amount of O&M and start-up costs if written into the bond as a transition to implement regional solutions that will ultimately be self-sustaining. This concept requires further legal and financial analysis.

Regional Financing

The DWSG agreed **in concept** that regional or county contributions may be an appropriate part of the funding solution. There was an acknowledgement, however, that obstacles to implementation include local economies (many of the regions that have the largest problems are also the poorest regions), local politics, existing jurisdictional boundaries and authorities, and Proposition 218 processes.

Specifically, the group discussed a county-wide or regional special tax that could be added to sales tax collections on goods at the local level. Special taxes have been authorized by local agencies and then passed by local voters to pay for various programs or specified projects. Many counties have established such taxes for county-wide transportation purposes. A majority vote of the legislature authorizing such use would be required followed by local authorization and a two thirds majority of local voters. Funds raised could be dedicated to local safe drinking water projects, although any regional sales tax would be a regressive tax. The group noted that passage of any such a measure would require significant campaign investment to be successful, and would require an existing county or a new or existing regional entity to administer the funds and any related debt issuances.

Nitrogen Fee/Fertilizer Tax

Agricultural representatives believe it is premature to discuss the appropriateness of a nitrogen fee or fertilizer tax while other available funds have not been fully utilized and regulatory efforts are still being realized, as not all nitrate contamination in disadvantaged communities is a result of farming practices. Additionally, not all farming areas in the state have nitrate issues in drinking water.

However, agricultural landowners and growers recognize there is a shared responsibility for and interest in maintaining acceptable water quality. They recognize that past fertilizer inputs, as well as other historical land use practices, may have contributed to groundwater quality problems, and are focused on finding solutions to address the contribution that may be coming from existing agricultural practices.

Farmers and ranchers within the Central Valley and the Central Coast regions currently pay significant mandatory regional water board regulatory program monitoring and reporting costs,

which the agricultural industry estimates to average about \$37 million a year. Additionally, farmers and ranchers have significant costs to implement new beneficial management practices and infrastructure upgrades to comply with the surface and groundwater elements of the Irrigated Lands Regulatory Program and the Dairy Regulatory Program. The grower-funded cooperative groundwater program approved by the Central Coast Regional Water Board will locate and sample domestic supply wells and characterize groundwater aquifers with a focus on the quality of shallow groundwater. Agricultural industry representatives estimate this program will cost growers about \$13 per acre.

Agricultural representatives noted that agriculture has also been proactive in addressing groundwater problems locally by partnering with local agencies, including recently, the community of San Lucas. We anticipate this practice will continue as monitoring results are analyzed.

Environmental justice representatives stated that some contribution from agriculture is necessary to fund part of the costs of solutions and mitigation of nitrate impacts on groundwater quality degradation.

Water User Charge (Fee/Tax)

Like the proposed fertilizer fee/tax, the proposal for a statewide water user fee/tax (also known as a public goods charge) generated opposition from a specific group of stakeholders, water agencies. Water agencies stated that 1) such a charge would be a tax because the payers in most areas of the state would not receive a benefit from their payment, and they would not have contributed to the water contamination problem; 2) as a tax it would require a two-thirds vote of the Legislature to enact; 3) the tax would be a regressive tax; and 4) the State Water Resources Control Board's (SWRCB) February 2013 Nitrate Report recommendations noted that this type of charge may be viewed as a burden on low-income residents.

Environmental justice representatives stated that a public goods charge is regularly brought up as a way to fund statewide priorities, and that the development of long-term sustainable solutions for communities without safe water should be given the same statewide priority.

Point of Sale Fee/Tax on Agricultural Commodities

A point of sale fee or tax on agricultural commodities at the retail level has also been discussed and was one of the recommendations made by the SWRCB in their report to the Legislature. Such a fee or tax applied to food items would be regressive and precedential in nature given the tax-exempt status of food items currently. Agricultural representatives also feel such a fee is too narrow and wrongly assumes that all drinking water contamination is agricultural based. The constitutionality of charging a fee or tax on the out-of-state agricultural commodities is also a concern.

Environmental justice advocates are concerned that a fee or tax would further disproportionately impact low-income communities and especially those already dealing with contaminated drinking water.

Federal Funding - Farm Bill

DWSG members have initiated discussions at the national level to create a pilot project within the Rural Utility Service program (funded by the Farm Bill) for grants and technical assistance for disadvantaged communities in rural areas and in cities and towns with a population of less than 10,000 where drinking water is impaired by nitrate contamination.

PROMISING OPTIONS / ACTIONS

Transitional Funding Program

At the state level there is a need for a targeted and coordinated funding program with the clear goal of transitioning small disadvantaged communities in unincorporated areas without safe drinking water (including those communities with and without existing public water systems) to achieve, self-sustaining, affordable drinking water systems. Such an effort would need to include targeting significant amounts of existing funding sources, and will need new and additional funding sources to adequately address the needs and gaps identified above. The modified Water Bond should include significant funding for this effort.

This newly targeted program should specifically include funding for the following:

- Community outreach and data collection and analysis of community needs, particularly for communities without public water systems
- Facilitation of stakeholder-driven development of shared solutions, and on-going communication, outreach, and organization of community participation
- Engineering and governance feasibility studies and pre-planning
- Project planning, design and environmental review
- Funding for implementation of shared solutions, including construction, implementation of new or modified governance structures and other one-time costs associated with setting up a new entity
- Technical Assistance for both 1) project application and project operation and management (currently eligible under CDPH funding but not DWR IRWM funding), and 2) leadership and capacity training

- A pooled capital reserve fund, which can cover both short-term financing costs and help lower O&M costs.⁶
- Some O&M subsidies for an initial period of time until long-term solutions are implemented and self-sustaining⁷

As a “transitional” program, the associated funding should be limited to supporting the transition of existing disadvantaged communities (including those that have a public water system as well as those that currently lack a regulated water system) into self-sustaining systems that can achieve compliance with the applicable regulatory requirements and ensure affordable rates. The program should not be a long-term, on-going financial support mechanism. As such, a disadvantaged community’s participation in a transitional funding program should have conditions and incentives to ensure it is meeting certain objectives and milestones in a timely manner. What types of conditions and incentives and what is an appropriate timeframe are issues that need discussion.

Consolidating Disadvantaged Communities Representation

The Need

Many disadvantage communities (DACs) lack sufficient organization and representation required to develop, implement and maintain drinking water solutions. In areas with high concentrations of disadvantaged communities, the number of issues and diversity of interests are difficult to address given the limited scope and resources of local entities (water districts, counties, neighboring communities, Integrated Regional Water Management or IRWMs, and Non-Governmental Organizations (NGOs)) and the various State agencies as each and every DAC require specific analysis and support.⁸ While counties and other existing water agencies are able to support some of these functions, there is a need in some areas for a new entity that will have the focused mandate, capacity and in some cases, political will to fill the needed planning function and facilitation of solutions for DACs.

In order to effectively and efficiently implement solutions in areas with a large number of disadvantaged communities in unincorporated areas without safe drinking water, including the Tulare Lake Basin and Salinas Valley, consideration should be given to how representation of DACs can be coordinated and in some instances consolidated. Without this kind of coordination, disadvantaged communities in unincorporated areas will likely remain isolated, disjointed, and often unorganized without structural capacity and an ability to implement cost effective drinking water solutions.

⁶ Further review/analysis by bond counsel is required to determine limits and restrictions under tax law if this is funded from bond funds.

⁷ IBID

⁸ systems serving DACs are An additional complicating factor is the fact that many small community water private entities (e.g. mutual water companies, mobile home parks, labor camps, etc.). These entities are generally governed as corporations not subject to governmental agency requirements such as open meetings or public records laws, and are often restricted in their ability to obtain full grant funding through state and federal water funding programs.

Attributes Needed from a DAC Representative Organization or Entity

In concept, the mission of any organization or entity formed for DAC representation should be focused on disadvantaged community water needs and 1) provide the organization, structure, and capacity needed to support development and funding of sustainable and affordable shared solutions, 2) represent and integrate disadvantaged communities into local and regional planning processes, including IRWMPs, and 3) provide direct management and operations of DAC water systems when needed or not being implemented by other interested parties.

Specific objectives and outcomes for a DAC representative organization or entity could include:

1. Develop, collect, and update inventory of DAC water needs.
2. Provide outreach, communication, and capacity development with local disadvantaged communities in unincorporated areas (including those served by public water systems and districts, as well as those without regulated water systems).
3. Facilitate and support locally-developed, voluntary consolidation and regional planning efforts by providing expertise for studies or analysis, stakeholder facilitation, as well as legal and LAFCO processes, with the goal of advancing the most sustainable and affordable solutions.
4. Serve as receiver and/or operator for individual systems, as needed or requested, with the objective of ensuring affordable rates and increased sustainability.⁹
5. Represent and integrate DAC water needs within IRWMPs and other planning efforts.
6. Provide financing/fundraising/grant writing/fiscal management for local and regional drinking water projects for disadvantaged communities in unincorporated areas without safe drinking water, as needed or requested (regardless of whether they are served by an existing public water system or lack a regulated water system, and regardless of whether the water system is a privately-owned or publicly-owned entity).

Considerations for Potential Forms and Structures of DAC Representative Entities

The DWSG discussed the various structural forms within California law to develop regional DAC representation. In some areas, for example, a county may be appropriate to coordinate DAC representation. However, while counties are perhaps most closely aligned with these objectives, some of them lack sufficient resources, focused mandates, and DAC expertise to apply proper priorities to DAC water needs. One option for a solution is to provide the needed resources and training to counties to conduct this work. Joint power authorities may also be a feasible alternative for local interested parties to address drinking water issues.

⁹ The entity should be able to operate these systems as one larger system to spread costs and create more economies of scale and increase affordability.

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AUGUST 13, 2013

The DWSG had discussions about the potential for creating one or more new regional entities as another option that could provide DAC representation that communities or systems could participate in on a voluntary basis in regions with a large number of disadvantaged communities in unincorporated areas without safe drinking water. The jurisdictional lines of the entities could be watershed based, starting with just the Tulare Lake Basin and Salinas Valley. Other jurisdictional lines (e.g., smaller than watersheds) might be practical as well.

Such an entity or organization could be housed in an existing agency or local government or be a new independent entity. Future development of this concept should include input from LAFCOs on their involvement and discussions on how to avoid conflict with other water suppliers.

More discussion and work is needed to evaluate the related issues and develop a full proposal for the structure and role of any such entity or organization. However, considerations should include the following:

- The entity should not just become another layer of bureaucracy or costs for small DACs, but instead create efficiencies, additional capacities, and reduced overhead.
- The entity should have sufficient expertise in the technical, managerial and financial needs of DAC communities, as well as a clear and focused mandate.
- In developing the entity, consideration should be given to what legal authority and financial capacity is needed to serve the functions outlined above; this could include planning, fundraising and financial management, and direct operation of systems as needed.
- The entity should be complementary, rather than duplicative or directly competitive, with existing IRWMs, local water agencies or other local or regional jurisdictions.
- The structure should allow for the entity or organization to authentically and independently represent the DACs within its area of coverage.
- The size/scale of any entity should be appropriate (for example, it should be sufficient to achieve needed economies of scale and provide representation for DACs in processes such as IRWMPs and local, regional and state efforts. However, the scale must be small enough to make the entity and its operation accessible to its DAC membership).