



February 1, 2019

Ms. Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-2000

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Tony L. Stafford



**Comment Letter: Options for Implementation of a Statewide Low-Income Water Rate Assistance Program**

Dear Ms. Townsend:

We appreciate the opportunity to review the SWRCB's January 3, 2019 draft report, *Options for Implementation of a Statewide Low-Income Water Rate Assistance Program*. It is obvious that significant research and analysis went into this report, and that State Board staff took seriously and incorporated some of the public feedback that has gone into its development over the last two years.

The Low-Income Water Rate Assistance Act created requires that "the board shall report to the Legislature on its findings regarding the feasibility, financial stability, and desired structure of the program." What is as apparent from the LIRA report as the amount of work that went into it is that a LIRA program, as currently conceived and as exists in other utility sectors and in some cities in other states, is not feasible in the California public water sector.

Camrosa has voiced its concerns with some of the assumptions made in this analysis, primarily how recommendations concerning the level and amount of benefit could be reached without a better understanding of low-income households' water use patterns. Similar concerns are detailed in ACWA's response to the draft report, to which we contributed, and we won't rehash them there.

Instead, our focus is on the constitutional impasse at which this program finds itself. AB 401 requires that the LIRA report include "a discussion of any constitutional restrictions on public water agency rate setting" and "any recommendations for legislative action that may need to be taken." The main body of the report recognizes Proposition 218 as the constitutional restriction on water systems administering LIRA programs locally (page 15), and goes on instead to propose that a statewide program be funded by sources unconnected to the kind of cross-customer subsidization expressly disallowed by Proposition 218. This is all to the good, as far as it goes.

In Appendix L, however, the report discusses circumventing the spirit and letter of the State Constitution:

*The Board has determined that there are multiple ways the state could exert additional oversight over rates without violating Proposition 218,*

*including: providing more detailed guidelines or requirements for cost-of-service studies, developing sales forecasts, and enhancing public process associated with rate increase proposals. Making these actions mandatory, however, would require new statutory authorities.*

(APPENDICES, 56)

The wording of the final sentence appears to render this paragraph a simple statement of facts, but it is essentially a public declaration of the State Water Board's desire to consolidate authority over community-driven processes. Much is made in the report, and in the LIRA discussion generally, of the proliferation of community water systems in California, as if having 3,000 systems is a flaw that must be corrected or overcome by statewide regulation. But the scale of water management as it exists in California is a function of the constraints on the resource: water is intensely local, its availability and use governed by geology and microclimates. It is also the best scale at which to wrestle with those constraints; if some areas, like Camrosa, have access to water that comes from hundreds of miles away and across myriad hydrological and geological units, it is because the local policymakers in that area decided to pursue those resources.

How a community divides up the cost of that local resource should be a result of the same public processes that govern the other aspects of its management.

To the extent that the State Legislature desires to provide assistance to low-income households in paying their water bills (despite the fact that a large percentage of low-income households do not pay a water bill—perhaps as high as 72 percent, according to the report), we are agnostic, and therefore encouraged that the report proposes funding sources and distribution methods other than water agencies and their ratepayers. But the implication that it is the State's responsibility and ought to be its right to oversee our local process cannot, and will not, go uncontested. We see it as an attempt to undermine local autonomy by appealing to the incontestable moral weight of the Human Right to Water, a tactic we find specious at best and will continue to resist.

Sincerely,

A handwritten signature in blue ink that reads "Tony Stafford". The signature is written in a cursive, flowing style.

Tony Stafford, General Manager