

**Association of California Water Agencies  
California Municipal Utilities Association  
California Water Association  
Inland Empire Utilities Agency  
Metropolitan Water District of Southern California  
San Gabriel Basin Water Quality Authority  
WateReuse California**

January 13, 2014

The Honorable Diana S. Dooley, Secretary  
California Health & Human Services Agency

The Honorable Matthew Rodriquez, Secretary  
California Environmental Protection Agency

Dear Secretaries Dooley and Rodriquez,

The above-listed organizations sincerely appreciated the opportunity to participate in the Drinking Water Reorganization Task Force (Task Force) and provide input on transitioning the Drinking Water Program (DWP) from the California Department of Public Health (CDPH) to the State Water Resources Control Board (SWRCB). As members of the Task Force, we felt the Administration took great care to openly and collaboratively explore issues important to agencies which provide safe drinking water to the vast majority of Californians.

The Administration's January 3, 2014, proposal largely reflects the materials presented to the Task Force. We understand that Task Force input is not reflected in the compiled Administration proposal since agency staff will provide you with the Task Force's recommendations. This letter highlights a few areas—particularly enforcement and the continuation of a stakeholder advisory group—for which we wish to provide additional information to ensure the Administration fully understands our concerns. Attachment 1, which we provided to the Task Force, summarizes in one page, much of the input that we presented during the Task Force process and, in particular, at the Task Force's final meeting on December 18, 2013. Following is the additional information:

First, drinking water enforcement should be executed under the authority of the Deputy Director for the DWP and should not be subject to SWRCB review unless the Deputy Director's action is appealed. Although the Administration's proposal appropriately precludes Regional Water Quality Control Board enforcement, it does not clearly reference authority for the Deputy Director to issue enforcement actions.

Second, we strongly encourage the Administration to continue the work of the Drinking Water Task Force with a stakeholder advisory group. A transition of such magnitude and public health importance warrants a deliberative and on-going conversation with stakeholders. Although the SWRCB's public meetings and the Executive Director's reports provide a base level of transparency and accountability, a more collaborative and focused effort would ensure the Administration's goals for the transfer are achieved. Further, ongoing work of a stakeholder advisory group could alert the Administration to any unintended consequences involving the transition and could help resolve substantial issues in a timely manner. The expected demand on program staff to facilitate the meetings would likely be more than compensated by early problem solving

during the transition. Attachment 2 is the proposal that we made to the Task Force for a stakeholder advisory group.

Finally, we encourage the Administration to focus first on a smooth and effective transition of the DWP prior to addressing new policy or funding issues. We recognize that there are multiple legacy issues that must be worked through as part of this transition and strongly encourage that adequate staffing and other funds be provided to ensure that the SWRCB has the capacity to make this transition a success. In addition, though the Administration acknowledges the challenge of providing financial assistance for disadvantaged communities—particularly regarding funding for operations and maintenance or consolidations—we encourage the Administration’s transition plan to focus first on transferring the Safe Drinking Water State Revolving Fund and conforming to the U.S. Environmental Protection Agency’s Corrective Action Plan. Once the State Revolving Fund is transitioned and effectively operating, other funding issues could then be addressed.

Once again, we appreciate the opportunity to participate in the Drinking Water Task Force and to provide comments at this time. We also appreciate the work of CDPH and SWRCB staff that convened the well-planned and managed meetings.

Sincerely,



Jill Duerig, Chair  
Water Quality Committee  
Association of California Agencies



Phyllis Currie, Board President  
California Municipal Utilities Association



Jack Hawks, Executive Director  
California Water Association



Martha Davis  
Inland Empire Utilities Agency



Brad Coffey, Asst. Group Manager  
Water System Operations  
Metropolitan Water District  
of Southern California



Ken Manning, Executive Director  
San Gabriel Basin Water Quality Authority



Dave Smith, Managing Director  
WateReuse California

Attachments

## ATTACHMENT 1

### KEY ELEMENTS FOR DRINKING WATER REORGANIZATION AND STATUTORY CHANGES AS NEEDED

The water agency and recycled water organizations participating in the Drinking Water Task Force recommend that the Administration include the following elements in the transition plan for the Drinking Water Program (DWP) to ensure an effective transfer. Some of these elements will additionally need to be made in statute to provide greater assurance to stakeholders.

- A. Deputy Director Expertise:** In addition to public health experience, include as a required qualification experience in managing or regulating a public water system, or providing operational, environmental or technical assistance to a public water system.
- B. No Regional Board Implementation Authority:** Include in the operative language that no DWP implementation authority will rest with the Regional Water Boards.
- C. Regulations Subject to Administrative Procedures Act (APA):** Include in the operative language that DWP regulations are subject to the Administrative Procedures Act (with the exception of State Revolving Fund implementation).
- D. Enforcement:** Include in the operative language that enforcement authority for the Drinking Water Program will be with the Deputy Director, with only appeals heard by the State Water Resources Control Board.
- E. Emergency Response Role:** Include in the operative language that responsibility and authority for emergency notification decisions and notifications will be with the Deputy Director.
- F. No Effect on Existing Authorities:** Include in the operative language that the program transfer does not affect: A) water rights; or B) existing drinking water or water quality requirements.
- G. No Effect on Existing Permits:** Include in the operative language that the program transfer maintains existing permits unless later modified or renewed.
- H. New Division of Drinking Water:** Include in the operative language that the Drinking Water Program will be implemented in a new Division of Drinking Water at the State Water Resources Control Board.
- I. Potable Reuse Permitting Authority:** Include in the operative language new authority for the Drinking Water Division to issue permits for potable reuse.
- J. Stakeholder Advisory Group:** Establish a stakeholder advisory group for a longer term (through July 1, 2019) to help make sure that the DWP program is effective after the transfer. (As noted at the December 11, 2013 Drinking Water Reorganization Task Force meeting, the water agency and recycled water organizations listed above recommend that the stakeholder advisory group should, among other things, provide input into the Administration regarding how the program is working (e.g., efficiency in the Safe Drinking Water State Revolving Fund and permitting programs), as well as suggestions for enhancing the program's effectiveness.) A statutory change is not needed for this purpose.

## ATTACHMENT 2

### DRINKING WATER REORGANIZATION TASK FORCE

#### RECOMMENDATION FROM WATER AGENCY AND RECYCLED WATER REPRESENTATIVES

Association of California Water Agencies  
California Municipal Utilities Association  
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Metropolitan Water District of Southern California  
San Gabriel Water Authority  
WateReuse

#### FOR COMPOSITION OF STAKEHOLDER ADVISORY GROUP

##### 1. Background:

The Drinking Water Reorganization Task Force (Task Force) is providing advice to the Brown Administration to inform the preparation of the transition plan for the transfer of the Drinking Water Program from the California Department of Public Health to the State Water Resources Control Board. One of the issues that the Task Force is discussing is whether there should be an advisory group for a longer period. The water agency and recycled water representatives listed above recommend that the Administration establish a stakeholder advisory group for a longer term (through July 1, 2019) to help make sure that program is effective after the transfer. The stakeholder advisory group should, among other things, provide input into the Administration regarding how the program is working (e.g., efficiency in the Safe Drinking Water State Revolving Fund and permitting programs), as well as suggestions for enhancing the program's effectiveness.

##### II. Suggested Composition of Stakeholder Advisory Group

The water agency and recycled water representatives recommend that the Stakeholder Advisory Group be composed as listed below.

- 1) One representative from a community advocacy group representing the interest of residents in disadvantaged communities with water quality challenges
- 2) One representative from a community advocacy group representing disadvantaged communities in rural areas
- 3) One representative from a state environmental organization
- 4) Two representatives from advocacy organizations for public water agencies

- 5) One representative from an advocacy organization for California Public Utilities Commission-regulated water systems.
- 6) One representative from an agency that remediates impaired water in an urban area
- 7) One representative from an advocacy organization for water recycling
- 8) One representative from a wholesale public water system
- 9) One representative from an urban retail water system
- 10) One representative from a public water system which owns and operates a water recycling system
- 11) One representative from a water system serving a small disadvantaged community
- 12) One representative from an irrigation district;
- 13) Two representatives from the California Conference of Local Health Officers
- 14) Two representatives from a local government environmental health directors organization.
- 15) One representative from a technical assistance provider.

cc: The Honorable Ron Chapman, Department of Public Health  
The Honorable Felicia Marcus, SWRCB  
Ms. Kathleen Billingsley, Health and Human Services Agency  
Mr. Tom Howard, SWRCB  
Ms. Liz Haven, SWRCB