

# Drinking Water Reorganization Task Force

## Summary of Input to: Secretary for Environmental Protection Secretary of Health and Human Services

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Transfer of Drinking Water Program from  
California Department of Public Health to  
State Water Resources Control Board

January 2014





**STATE OF CALIFORNIA**

Edmund G. Brown Jr., Governor

**CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY**

Matthew Rodriguez, Secretary

**CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY**

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## Acknowledgements

The Administration would like to thank the Task Force members for their commitment and participation. The Task Force meetings were scheduled on a compressed timetable over an eleven week time period. Task Force members committed a significant amount of time and energy to this effort. The Administration’s reorganization effort will benefit significantly from the Task Force members’ input – which is summarized in this document. In addition, the Administration would like to thank staff from the Department of Public Health and the Water Boards who contributed their valuable subject matter expertise to the Task Force meetings.

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## Introduction

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In October of 2013, a group of stakeholders consisting of representatives of environmental and community groups, Local Health Officers, Local Environmental Health Directors, Water Agencies, Utilities, Environmental Justice organizations, Legislative Staff, and other interested parties were invited to participate in a new Drinking Water Reorganization Task Force (Task Force) which was jointly convened by the California Environmental Protection Agency and the California Health & Human Services Agency. The purpose of the Task Force was to inform the transition plan that will be prepared for the proposed transfer of the Drinking Water Program from the California Department of Public Health to the State Water Resources Control Board. The transfer is intended to align the state's drinking water and water quality programs in an integrated organizational structure. This structure will best position the state to effectively protect water quality and meet both current needs and future demands on water resulting from climate change, increasing population, and economic growth. The Drinking Water Program will still maintain a strong public health focus and continue to focus attention on small and disadvantaged communities, supporting them as they address their unique drinking water challenges.

This summary document is organized by Task Force topics of discussion. The Appendix contains a consolidated version of the Administration Proposals, Power Point presentations given by Department of Public Health and Water Board staff during the Task Force meetings, and letters submitted by Task Force members and Administration Representatives. In this document, the words "transition" and "reorganization" are interchangeable and refer to the proposed transfer of the Drinking Water Program from the California Department of Public Health to the State Water Resources Control Board. This document summarizes the feedback on the proposed transition. The comments in the summary should not be interpreted as consensus views held by all Task Force members.

## TASK FORCE INPUT BY TOPIC

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### PUBLIC HEALTH FOCUS

#### ***Maintaining the Public Health Focus of the Drinking Water Program***

Task Force members commented that Field Office assistance is an important function of the Drinking Water Program (DWP) and the local DWP staff roles should be maintained after the transition. Another Task Force member(s) remarked that the proposal to keep the transition budget-neutral could diminish public health capacity within CDPH and recognized lessons learned regarding the potential impact on CDPH programs from when the former Department of Health Services was split to create CDPH and DHCS. A Task Force member stated that the establishment of MCLs should remain at CDPH and not move with the DWP.

#### ***What is the public health focus of the DWP, and what does it mean to you?***

A Task Force member said that the connection between public health and water should stay intact after the transition. Another Task Force member said that the transition must maintain integration of the DWP with other CDPH health programs, and the important nexus between safe potable water, housing, and homelessness should be recognized.

Another Task Force member commented on the importance of integrating new staff training in public health principles to maintain the public health focus of the DWP (which is particularly important when some existing staff retire).

#### ***Transition Benefits***

A Task Force member discussed the benefits of the transition as an opportunity to reach out to all water users and have transparent water quality information with easy data access. The member noted that the Water Boards have good data systems that the DWP could integrate into Local Primacy Evaluations, State Smalls List, and private wells post-transition.

A Task Force member stated that California needs to develop a strategy for safe drinking water to assess public health, which can include source water protection plans, as part of the Drinking Water Source Assessment and Protection Program. One member also remarked that integrating the Drinking Water Program into Water Board functions makes sense.

#### ***Outreach, Education, and Messaging***

Comments were made by Task Force members regarding the need to address messaging to the public, stakeholders, and other agencies. The member explained that communicating clearly to the public is important to build confidence in the delivery of high quality water to Californians.

### ***Funding and Hidden Costs***

A Task Force member wanted to ensure the proposed Transition Plan identifies hidden costs to assist the reorganization efforts. For example, the CDPH Duty Officer Program crosses over into other CDPH departments, not just the DWP.

### ***Need for Reorganization***

Some Task Force members expressed the need to examine the benefit of reorganization and if the transition is the appropriate solution.

### ***What should be done to maintain the public health focus after the transfer?***

### ***What structural components of the existing program would you particularly like to see continued?***

### ***Does the transfer present any opportunities for changes that would particularly speak to the public health focus?***

The Task Force discussed the need for the reorganization to consider public health needs and respect the expertise of Local Health Officers. A Task Force member noted CDPH has done a good job of balancing health issues with costs.

A Task Force member stated that CDPH and Water Board regulation are fundamentally different. The member noted that permits are not contested as frequently at CDPH as at the Water Boards. The member felt that CDPH is perceived as being more collaborative with their Permittees, and the Water Boards are perceived as being more adversarial. The Task Force member saw the collaborative approach as being key to the success of the drinking water program.

A Task Force member noted that the process to develop MCLs needs improvement. Finally, a member noted the importance of preserving the collaborative nature of CDPH relationships with local public health partners.

## **REGULATORY PROGRAM**

### ***Regulatory Function of the Drinking Water Program and Changes That May Be Needed to the Regulatory Functions and Authorities of Drinking Water Program***

#### ***Enforcement Authority***

The Task Force discussion began with questions clarifying enforcement authorities and specific questions regarding who would issue enforcement orders/actions. State Water Board staff explained no change is currently planned and the existing Drinking Water Program's process for issuing fines would remain the same after the transition, but that the State Water Board is open to suggestions. A Task Force member commented that CDPH had previous problems tracking



finances and compliance. CDPH staff responded that as of January 2013, all enforcement actions are posted online.

### ***Water Board Fee Structure***

A Task Force member commented that CDPH and the State Water Board use different fee models for their programs; the Administration is open to Task Force input on which model is preferable.

### ***Handing Back Oversight to CDPH/Local Primacy Agencies***

A Task Force member asked about the status of Local Primacy Agencies (LPAs) handing back oversight to CDPH. The member suggested that the Administration should consider reinstating, or encouraging those LPAs that have dropped out of the program to rejoin.

### ***Funding***

A Task Force member commented there is no problem with the regulatory structure, but the issue is funding and getting the money out to the small water systems that need it.

### ***Readiness to Proceed***

A Task Force member stated that the State Water Board emphasizes readiness to proceed and CDPH prioritization is based on health based considerations as well as readiness to proceed. Disadvantaged communities may face funding challenges because they are generally the least ready to proceed.

### ***Relationships and the District Offices***

A Task Force member noted that the role of the District Office staff should not change and suggested that the State Water Board should maintain oversight at state level and, but keep locally-based District Offices under the DWP Headquarter office umbrella. A Task Force member said it was important to strengthen relationships between the District Offices and Sacramento Headquarters.

### ***Communication***

Another Task Force member commented that the DWP needs to strengthen communication with non-governmental organizations and communities.

### ***Local Health Officers***

Task Force members representing Local Health Officers stated their opposition to transferring the regulatory component to the State Water Board due to concerns that the public health focus may be lost.

### ***Public Health Background***

A Task Force member remarked that the Executive Director should have a public health background since the Deputy Director of the Drinking Water Program will report to the Executive Director of the State Water Board.

### ***Decision Making Process***

A Task Force member noted that CDPH and the State Water Board operate under differing regulatory authorities (Clean Water Act vs. Safe Drinking Water Act), and this difference may create issues.

A Task Force Member stated that the Water Board appointments should have knowledge of drinking water issues.

### **MAXIMUM CONTAMINANT LEVEL (MCL) – SETTING**

A Task Force member asked if the Administration had considered leaving the responsibility of setting MCLs with CDPH and not the DWP. By doing so, MCL setting would stay with a public health agency as opposed to an environmental health agency. CDPH staff explained that this option is not feasible because the MCL-setting process relies on the expertise of the DWP staff – who would all be moving with the program. CDPH staff stated there are several critical aspects of developing MCLs which benefit from the relationship with the regulatory program, including the reliance on technical staff who know how to find and deal with the Best Available Technology (BAT), are up to date with current research, and have experience developing an economic impact report.

A Task Force member expressed concern about the length of time it takes to set an MCL.

### ***Stakeholder Process at the State Water Board***

A Task Force member noted the importance of weighing end consumer vs. industry interests and asked how this weighs in the decision making process. The Task Force member pointed out that industry interests can attend meetings held during the day, but members of the public may not be able to attend – and therefore can't give adequate input.

### ***State Water Board Member Experience and Background***

A Task Force member commented that the Administration's proposal can be improved by reviewing the responsibilities and expertise of the State Water Board members to ensure someone on the State Water Board has public health expertise. This will ensure public confidence and credibility. Also, during the transition process the State Water Board mission and responsibilities should be evaluated to integrate public health expertise and responsibilities.

## **LOCAL PRIMACY AGENCY PROGRAM**

The discussion focused on the challenges facing the Local Primacy Agency (LPA) currently in the program and on the opportunities the transition could offer to meet those challenges. Task Force members suggested that the transition could be an opportunity for the DWP program to implement additional performance measures and develop performance reports to evaluate the LPA capabilities, specifically for resources and funding. The transition could also be an opportunity for the LPAs to combine their resource and funding needs, including operation and maintenance needs identified in the nitrate report. The group expressed support for keeping the strong relationships among CDPH District Field Offices, CDPH Headquarters office, and the LPAs consistent and transparent. Currently, LPAs regulate 53% of all water systems in California and there is a unique technical and financial collaborative relationship among the three entities. Task Force members suggested that the Water Board's Mission Statement could be amended to include language that strengthens and nurtures relationships with LPAs and small water systems in the future.

### ***Funding Local Primacy Agencies***

A Task Force member noted that the one-time DWP set-aside incentive is a good solution when an LPA signs a delegation agreement. However, this is not a long-term solution for LPA resource challenges. For example, the set-aside funds can't be used to hire long-term staff. LPA counties may set their own fees, or utilize the CDPH fee structure. The Task Force member noted that, in general, for those LPAs that use the CDPH fees, they are not adequate for small water systems. However, the large water system regulatory program is adequate and should not change. Annual operating fees vary throughout California. Counties adopt ordinances to set their own fees, but the Task Force member noted that it is usually not sufficient to fund the program because the fees that can reasonably be charged to a water system are not enough for LPAs to assure compliance with CDPH regulations.

### ***Employee Burnout, Funding, and Data Reporting Nexus***

A County Task Force member pointed out that the annual operating fees that LPAs charge do not cover the cost to comply with increased CDPH regulations. Based on the jurisdiction size, LPA staff sizes vary from small to large. There are Engineers and Registered Environmental Health Specialists who do the work and their background and education vary. A Task Force member noted that some Registered Environmental Health Specialists or Engineers are under-employed, for example, they enter state-required data instead of conducting inspections. This leads to staff burnout and turnover. More LPA Counties may hand their programs back to CDPH due to inadequate funding and because CDPH has a larger economy of scale to be able to successfully regulate the water systems. A Task Force member(s) suggested surveying the LPAs about how much funding is needed to meet requirements. The group discussed the need to retain the legal regulatory expertise as well as Information Technology and other support.

## ***Reporting Requirements for LPAs and State Small Water Systems***

A taskforce member stated that, in general, information sharing has drastically improved at the DWP, but there is no uniform statewide requirement for water quality data reporting for state small water systems (systems with fewer than 15 service connections and serving less than 25 people; not regulated by CDPH or LPAs, but regulated by all counties). This means that the status of compliance with state small water systems is unknown.

The Administration stated that the Water Board has data electronically submitted on their website for various core regulatory programs (including the Underground Storage Tank Program) and could upgrade the system to accept drinking water system data. DWP is also capable of accepting such data – the key challenge is that the data for state small systems is not required.

### ***LPA Regulated Water Systems***

A Task Force member suggested that, since the CDPH LPA evaluations are not available to the public, they should be made available on a website.

## **RECYCLED WATER**

The Task Force members discussed the U.S. Department of Food and Agriculture proposed rule that establishes science-based standards for produce on farms. The intent of the proposed rule is to address microbial contamination of produce and is consistent with the California Leafy Greens Marketing Agreement (LGMA). Specifically, the proposed rule addresses agricultural water used for produce and would require that all agricultural water be safe and of adequate sanitary quality for its intended use.

The proposed rule has no direct relationship with the Water Boards' water quality objectives. However, a long-term objective should be to coordinate agricultural water food safety objectives with water quality objectives.

### ***Regulatory Fees (related to recycled water)***

Most of the Water Boards' core regulatory programs are supported by annual fees and cover regulatory and policy development work. The Groundwater Ambient Monitoring and Assessment Program (GAMA) and Surface Water Ambient Monitoring Program (SWAMP) are supported by surcharges on those annual fees.

CDPH charges a fee for service for permit related activities, but fees are not used for CDPH regulation development. On the other hand, the Water Board uses regulatory fees for both regulation and policy development work. In addition, clarification was made that Water Board Mandatory Minimum Penalties are not used for core regulatory programs, but instead the penalties are sent to the Water Board Cleanup and Abatement Account (CAA). The CAA money is used by the Water Board to support projects, including the \$2 million in funding to assist CDPH to provide interim replacement drinking water for economically disadvantaged communities.

A Task Force member(s) stated that regulations for potable reuse are incomplete and regulations for non-potable reuse need to be updated to reflect current treatment technology. A Task Force member(s) stated that CDPH does not have the resources to develop and approve regulations as needed to support the need for additional recycling in California. A Task Force member(s) raised concerns regarding the source of funds for recycled water regulations and asked the Administration to identify regulatory process gaps and develop/identify funding to address the gaps. Task Force member(s) indicated that all or some of the revenue for development of recycled water regulations should be from the general fund and that the water recycling agencies are ready to engage in a discussion about an equitable fee structure to cover costs not covered by a general fund contribution.

### ***Permitting (related to recycled water)***

A Task Force member(s) suggested having the new Division of Drinking Water rather than the Regional Water Boards write potable reuse Recycled Water Permits for efficiency and consistency. CDPH stated the existing DWP does not have the funds and resources to write Recycled Water Permits. A Task Force member suggested that fees currently paid to Regional Water Boards for recycled water permitting could cover Division of Drinking Water costs for permitting.

The Task Force then moved to discuss Residential Water Recycling where local agencies are delegated to inspect and ensure residential areas are complying with CDPH Recycled Water Permit conditions.

## **EMERGENCY RESPONSE**

### ***Regulation Challenges and Synergizing the Emergency Response Programs***

Task Force members commented that the transition is an opportunity to address any DWP regulatory issues. A Task Force member mentioned a previous problem translating Tier 1 Unsafe Water Alert Notices from English to other languages.

A Task Force member commented that the transition is an opportunity for both emergency response programs to work in partnership.

## **OPERATOR CERTIFICATION**

### ***Recruiting and Retaining Certified Operators***

Task Force members discussed outreach and education needs to help promote Wastewater and Drinking Operators as a sustainable career opportunity. A Task Force member raised a concern regarding the lack of qualified Operators and the need to replace the retiring Operators. Another Task Force member stated that efforts should be directed at recruiting younger, newly-trained Operators. A Task Force member stated that small Public Water Systems sometimes end up serving as training grounds for Operators who then move on to

large Public Water System jobs, making it difficult for small Public Water Systems to retain qualified staff. Other Task Force members expressed the importance of coordinating with California Community Colleges and training organizations to help recruit new Operators to the industry.

A Task Force member commented that DWP operator testing is infrequent, and large time gaps exist between exams. The member suggested that the program transfer could facilitate administering more frequent exams and possibly allow for individually-scheduled exams to boost the number of Certified Operators. Another Task Force member pointed out that CDPH lacks a web-based data management system, which has led to problems administering the program/exams. A Task Force member commented that the transition is an opportunity to combine the exams and possibly offer applicants the opportunity to pay extra fees to schedule individual exams, thereby avoiding long periods between exams. A Task Force member commented the transition is also an opportunity for CDPH to offer Operator in Training experience/credits.

### ***Operator Certification Programs***

Concern was expressed by several Task Force members that the Operator Certification Programs are different and the DWP has been operating at a high level with very few staff compared to the Water Board.

## **FUNDING: FEE STRUCTURES AND PROGRAM RESOURCES**

### ***DWP Funding Gap Concerns***

A Task Force member inquired about CDPH's recycled water regulations backlog and questioned whether CDPH has an adequate ongoing revenue source to address the backlog. State Water Board staff explained that Senate Bill 918 (2011) allowed the State Water Board to partially fund CDPH work on recycled water regulations. State Water Board staff commented that completing regulations is a Water Board priority. State Water Board staff further clarified that the current SB 918 resources contract would not be necessary after the transition. A Task Force member then raised an objection to any fee increases on the recycled water community and suggested that a general fund component could at least partially address the DWP funding gap.

### ***Fee Structure and Statutory Authority***

The Task Force members discussed State Water Board and CDPH fee structure statutory authority. Several Task Force members noted that since the DWP cannot cost recover for regulatory updates, the federal subsidies should be used for these purposes and on DWP program areas where funds cannot be recovered.

A Task Force member remarked that the funding discussion appears to lead to one solution, raising fees.

## ***Maximizing Efficiency***

A Task Force member commented that this is an opportunity to take full advantage of the transition process and to address the needs of small water systems to get financial and technical assistance and streamline and improve the performance and efficiency of the DWP.

A Task Force member noted a Legislative Analyst Office's (LAO) Report claimed that on an ongoing basis, the DWP should realize a \$1 million budget efficiency from reorganization. Given this report, the Task Force member suggested identifying where the DWP will get efficiencies and focus on those program areas. The Administration has since clarified that the LAO report states that the ongoing costs to the State Water Board from the transition would be roughly comparable to the savings to CDPH, e.g. the LAO found that the estimated *net* additional cost is likely to be negligible. The LAO did additionally identify that there would likely be one-time costs from the transition.

## **FINANCIAL ASSISTANCE FOR THE DRINKING WATER PROJECTS, INCLUDING FOR DISADVANTAGED COMMUNITIES**

### ***Transferring Funds / Electronic Transfers***

Task Force members discussed the transfer of capitalization grant funds from one SRF program to other. State Water Board staff explained that transferring capitalization grant funds is not currently authorized by state law. A Task Force member emphasized the importance of electronic funds transfer (EFT) and cited other agencies that use this system such as FTB and EDD.

### ***Wastewater and Water Uses Rates***

A Task Force member noted the proposal to link wastewater rates to water use rates, and a State Water Board member said this issue has the Board's attention.

### ***Applications and Pilot Pre-Planning Project***

A Task Force member expressed support for the State Water Board's process of continuous acceptance of applications and expedited payments within 30 days. The Task Force member also expressed support for the DWP's pilot Pre-Planning funding assistance program.

### ***Readiness to Proceed***

A Task Force member noted that small disadvantaged communities are generally the least likely to be ready to proceed and often need additional assistance.

### ***Federal Rules***

A Task Force member would like discussion of changes to federal rules/issues. The Administration is open to hearing suggestions, however the Administration is focused on state

statutes and regulations since changing federal requirements is a lengthy and potentially difficult process outside of state control.

## **STAKEHOLDER ADVISORY GROUP**

### ***Future of the Task Force***

A sub-group of Task Force members presented a document outlining a proposal for a Stakeholder Advisory Group (see Appendix). The group would address long-term challenges of the Drinking Water Program. A Task Force member who co-authored the proposal stated details of the proposal are not yet worked out and the some details were left undecided to provide the group flexibility. The sub- group stated that the Stakeholder Advisory Group could meet every six months post-transition, and more frequent meetings could be scheduled as necessary, possibly quarterly.

Another Task Force member suggested that the current Task Force group simply continue, with the new goal of addressing DWP long-term challenges. Another Task Force member said that the Water Board's public process offered opportunities for input and questioned the necessity of having a separate stakeholder advisory group.

### ***State Water Board Executive Director's Report***

A Task Force member noted when reviewing the last two State Water Board Executive Director's Reports, there was no mention of the DWP transition. State Water Board staff responded that the Executive Director's Report is usually for regular reporting of existing programs, therefore, there have been no reports on the DWP transition other than a verbal briefing at a recent Board meeting which included the announcement of the appointment of the State Water Board Director of Transitions.

## **REVIEW AND UPDATING REGULATIONS**

### ***Operation and Maintenance Issues***

A Task Force member asked whether, after the transition, the State Water Board would commit funding to disadvantaged communities, specifically to address operation and maintenance (O&M) issues. State Water Board and CDPH staff explained both agencies' SRF programs are prohibited from using funds for O&M. State Water Board staff noted that Cleanup and Abatement Account money can be used for O&M activities to clean up or abate waste but not to clean up or abate naturally-occurring substances in the absence of a waste.

### ***Clean Water State Revolving Fund***

In response to the Administration stating that it would seek to conform some state regulations that govern the Safe Drinking Water SRF to the state regulations that govern the Clean Water SRF, a Task Force member suggested that the conforming could also go the other way: i.e., if the Administration noted any positive aspects of the Drinking Water SRF that can be applied to the Clean Water SRF.



## ***Section 100 Change***

A Task Force member asked if it was possible to conform state regulations to federal law by reference. Both State Water Board and CDPH staff noted the possible use of Section 100, Title 1 of the California Code of Regulations, which can be used to revise existing regulations to conform to federal requirements. CDPH staff noted Section 100 has been used before but for specific technical changes for water treatment devices.

## ***Administrative Procedures Act (APA) Process***

A Task Force member stated that there had been a bill proposed to speed up the APA process, but the bill had not passed. Another Task Force member opposed deleting the APA process on the basis that the public process should be retained. Another Task Force member noted the DWP could use the State Water Board's public process to replace the APA process.

A Task Force member said that CDPH's rulemaking processes are slower than other agencies' rulemaking process, and asked if this would be the same after the transition. (CDPH responded that efforts are being made to speed the regulatory process and additional legal staff has been hired.) CDPH staff responded that additional legal staff has been added and that CDPH is able to move forward with upcoming rulemaking activities more quickly than before

A Task Force member asked why CDPH couldn't develop guidelines for the Drinking Water SRF like the State Water Board without using the APA. CDPH staff said there are exemptions to the APA process in CDPH as well, but there are no exemptions specific to the Drinking Water SRF.

## **MEMORANDA OF UNDERSTANDING (MOUs) AND INTERAGENCY AGREEMENTS (IAs) BETWEEN CDPH AND STATE WATER BOARD**

A Task Force member asked if the Water Board is able to oversee the development of Consumer Confidence Reports after the transition; CDPH staff stated the work would continue after the transition.

A Task Force member noted the relationship between CDPH and the Office of Environmental Health Hazard Assessment (OEHHA) on standard-setting. CDPH staff stated the collaboration between the two agencies would continue after the transition.

A Task Force member asked if there was need for a finance agreement on emergency issues. The Administration is still reviewing emergency preparedness and will work with the DWP Acting Division Chief to identify whether there is a need for a new agreement.

## **INTEGRATED WATER QUALITY: MAXIMIZING THE EFFICIENCY AND EFFECTIVENESS OF THE NEW STRUCTURE (COMBINING DRINKING WATER, GROUNDWATER, AND WATER QUALITY PROGRAMS) TO BENEFIT WATER QUALITY, PUBLIC HEALTH, AND ENVIRONMENTAL HEALTH**

### ***Potable Reuse Permits***

A Task Force member requested that potable reuse permits should be written at the State Water Board level instead of at the Regional Water Board level.

A Task Force member also requested the development of a General Permit for direct potable reuse and to consider all recycled potable projects being handled by the State Water Board's new Division of Drinking Water.

### ***Groundwater Management***

A Task Force member commented that groundwater recharge regulations have taken 28 years because of the lack of certainty on how to move forward.

A Task Force member discussed the groundwater management draft language and suggested the DWP consider local conditions while focusing on active groundwater management plans – the Task Force member pointed out that some local jurisdictions have active groundwater management plans already in place.

A Task Force member asked the Administration to look at water management as a whole. A Task Force member asked the Administration to focus on resources and better coordination. The Task Force member stated that the Administration should focus on learning from successful grassroots coordination efforts like the Northern Tulare Strategy. The Task Force member suggested possibly adding an additional layer of governance and additional resources to increase consolidations.

A Task Force member noted administrative efforts/fixes at the DWP level appear to be more successful than previous legislative efforts.

## **ADDITIONAL LEGISLATIVE ACTION**

### ***Funding Obstacles***

A Task Force member stated that a water system can obtain funding to repair a specific well, but can't always obtain funding to correct problems with the entire water distribution system.

### ***Mirror Programs***

A Task Force member noted the benefits of having the Drinking Water SRF mirror the Clean Water SRF, but added that work is needed to fill the gap on unfunded liabilities. The Drinking Water SRF backlog far exceeds available funding and is only enough to meet part of the infrastructure needs.

### ***Cross-Collateralizing***

A Task Force Member suggested finding the ability to cross-collateralize loans could be a funding solution.

### ***Priority List***

A Task Force member commented that the Project Priority List is not useful and the process for getting on the list and maintaining the list has been difficult to track. CDPH staff responded that work has been done to clean up the list and to request entities to reapply, which creates the opportunity to move up the list. A benefit of keeping entities on the list is to keep them in the queue for further evaluation in the future.

### ***Borrowing State Revolving Funds***

A Task Force member noted the need to prevent or make difficult the practice of borrowing from the SRFs when there are General Fund shortages.

### ***Interest Rates***

A Task Force member noted the importance of setting the interest rate appropriately to maintain sustainable funding.

## **TASK FORCE TOPIC PRIORITIES**

### ***A Task Force Sub-Group***

A Task Force member representing a group of water agencies identified the group's position on the priority setting topic. The group's two highest priorities were ensuring the public health expertise of the Deputy Director position, and the preclusion of the Regional Water Boards from implementing the Drinking Water Program. The group representative stated that it was also important to continue a stakeholder advisory group to meet on an annual or biannual basis, perhaps more frequently in the first year of the transition. Other suggestions by the group include; that enforcement authority remain with the Deputy Director/Division, that appeals of enforcement actions be heard by the State Water Board, and that there should be no effect on existing permits during the transition unless later modified or reviewed.

A Task Force member echoed that the reorganization should not affect the validity of existing permits. Another Task Force member proposed collapsing all the SRF DWP Stakeholder Groups to one.

A Task Force member noted the Transition Plan must be clear and should paint an accurate picture of, and focus on, providing safe drinking water to the estimated 1% of Californians who do not have regular access to safe drinking water and who are not accounted for. The plan should clearly identify impacted communities.

Another Task Force member expressed concern that the number of impacted Californians is not adequately documented, and estimated that 5% of Californians rely on drinking water that exceeds MCLs.

A Task Force member echoed the water agencies' priorities, voiced a concern that the Regional Boards not be given implementation authority, and stated that the authority should be at State Board's new Division of Drinking Water. Another Task Force member noted that he was familiar with communities and individuals that have been impacted and that it was important to address issues at the levels they need to be addressed.

A Task Force Member remarked on the importance of Operation and Maintenance and Technical, Managerial, and Financial issues and that they need to be funded in order to address water system issues.

### ***Local Health Officers Position***

A Task Force member representing the LHOs stated that their official position is that they oppose the transition and are highly concerned with disadvantaged communities meeting drinking water standards. The member stated that if the move does occur, the Local Health Officers' recommendation would be that the Deputy Director be a registered environmental health specialist with 5 years of experience at supervisory level, Master's degree and/or 12 years of experience in the public health field.

### ***Priority-Setting among the Task Force's Previous Topics***

The Task Force members were each given a couple of minutes to identify their priorities among the topics previously discussed. The main points are listed below; if more than one person made the same point, that number is indicated in parentheses. Note that some Task Force members may not have repeated a topic that had already been stated as a priority by preceding members; therefore, the numbers do not indicate an overall ranking by the Task Force.

### **ADEQUATE FUNDS (7)**

*Ensure adequate general funds to fully implement the Drinking Water Program.*

### **FOCUS ON DISADVANTAGED COMMUNITIES (7)**

*Target Drinking Water Program resources towards disadvantaged and severely disadvantaged communities. Find funding to facilitate help to ensure protective standards and operation and maintenance of water systems.*

### **MAXIMUM CONTAMINANT LEVELS (6)**

*Ensure MCL-setting process progresses and is streamlined. The process should be quick and efficient and the level should be set to protect public health. Continue working with the Office of Environmental Health Hazard Assessment on the MCL-setting process and follow the Administrative Procedures Act to set standards.*

### **OPERATOR CERTIFICATION PROGRAM (4)**

*Make testing easily available/accessible and update testing to respond to new technologies.*

**MAINTAIN THE CULTURE OF THE DRINKING WATER PROGRAM (3)**

*Maintain the field office functions with regards to funding, permitting and delivering clean drinking water. Nurture the current relationships with Drinking Water Program staff and other entities.*

**PUBLIC HEALTH FOCUS (3)**

*Maintain the public health focus of the Drinking Water Program.*

**DUTY OFFICER PROGRAM (3)**

*Ensure Duty Officers meet the minimum qualifying criteria.*

**ALIGN STATE REVOLVING FUND PROGRAMS (2)**

*Align the Clean Water and Drinking Water State Revolving Fund programs and remain flexible.*

**INTEGRATED WATER QUALITY / MAXIMIZE POTENTIAL EFFICIENCIES (2)**

*Maximize potential efficiencies of the transition by tying the Drinking Water Program to other water quality programs in the state.*

**DRINKING WATER SOURCE ASSESSMENT AND PROTECTION PROGRAM (2)**

*Focus resources on the Drinking Water Source Assessment and Protection Program.*

**IMPROVE DATA MANAGEMENT (2)**

*Gather data on small water systems and develop a local primacy agency data system with an integrated management approach.*

**DEPUTY DIRECTOR QUALIFICATIONS (2)**

*The new Deputy Director should have adequate experience and education.*

**MOUs AND AGREEMENTS (2)**

*Maintain Drinking Water Program relationships through agreements or memorandums of understanding.*

**CONCERN WITH BUDGET-NEUTRAL PROCESS (2)**

*A budget-neutral process could diminish the Drinking Water Program.*

**REGIONAL WATER BOARD RELATIONSHIPS (1)**

*Improve Regional Water Board relationships with various entities such as water agencies and drinking water system owners.*

**LONG-TERM FUNDING (1)**

*Ensure adequate funding to sustain the Drinking Water Program over time. There is concern about erosion of the Drinking Water Program over time.*

**RECYCLED WATER: PERMITTING POTABLE REUSE PROJECTS (1)**

*Solve the issue of permitting potable reuse projects and update the regulatory program to be consistent with science and technology.*

**PROVIDE TECHNICAL ASSISTANCE (1)**

*Provide information in one easily accessible place (one-stop shop) for technical assistance.*

**OUTREACH AND EDUCATION (1)**

*Provide outreach and education to disadvantaged communities and provide direct access to help/advice from Drinking Water Program staff.*

**DWP RELATIONSHIP WITH STATE WATER BOARD / REGIONAL WATER BOARDS (1)**

*The Drinking Water Program authority should be consistent and predictable and remain at the State Water Board vs. the Regional Water Boards.*

**ECONOMICS AND AFFORDABILITY (1)**

*Consider economics and affordability to implement the Drinking Water Program.*

**GROUNDWATER PROGRAMS (1)**

*Maintain partnerships in the development of ground water programs.*

**LOCAL PRIMACY AGENCY (1)**

*Ensure sustainable funding for Local Primacy Agencies.*

## **Appendix A:**

### **Administration Proposals Presented to Task Force**

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#### **Maintain and Improve the Local Primacy Agency Program at the State Water Board**

The State Water Board plans to maintain the existing Local Primacy Agency (LPA) Program managed by the new Division of Drinking Water.

- The new Division of Drinking Water would maintain existing Drinking Water Program staff and their expertise, including LPA Program expertise.
- The State Water Board has a long track record of working with local agencies:
  - For more than 20 years, the Board has had 20 annual contracts with Underground Storage Tank (UST) Local Oversight (LOP) agencies.
  - For the last several years, the Board has had 17 annual contracts with local agencies to carry out the Beach Monitoring Program.
  - For 17 years, the Board has had extensive working relationships with the 100 Certified Unified Program Agencies (CUPAs) to carry out the UST Leak Prevention Program.

#### **Facilitate the Safe and Efficient Use of Recycled Water at the State Water Board**

The Recycled Water personnel in the Drinking Water Program would be organized under the new Division of Drinking Water, providing continued public health management.

- By being under the State Water Board, the Recycled Water public health functions could be more effectively coordinated into Water Board permits.
- The State Water Board does not propose to change how Water Board permits are issued, but would actively seek opportunities for more efficient and effective permitting and would engage stakeholders in this effort.
- The State Water Board would continue and finalize the work CDPH has started for the groundwater recycled water regulations, the reservoir augmentation regulations, and the report on the feasibility of direct potable reuse, as required by Senate Bill 918 (Chapter 700, statutes of 2010).
- On October 8, 2013, the Governor signed Senate Bill 322 (Hueso), stating, “In an effort to enhance the use of recycled water, I have proposed the consolidation of the management of the drinking water program and all other water quality programs, including recycled water, under the State Water Board. I am directing the Water Board to ensure that this work is completed expeditiously; the 3-year time frame mandated in this bill is too slow. California needs more high quality water and recycling is key to

getting there.”

## **Emergency Response**

- The State Water Board would maintain the existing local emergency response structure of the Drinking Water Program, including rotating District Office Duty Officers.
  - State Notification: Office of Emergency Services (OES) emergency calls are triaged to the on-call District Office Duty Officer, who relays calls to the District Engineer for appropriate action.
  - District Notification: Water system informs its District Engineer of an emergency, who notifies the Deputy Director of the Drinking Water Program and takes appropriate action.
- As a Division of the State Water Board, the Drinking Water Program would become a part of the Cal/EPA Emergency Response Management Committee (ERMaC), which is a coordinating body that assists in emergencies requiring cross-department or cross-agency solutions. CDPH’s Drinking Water Program already participates in ERMaC.
- For emergencies affecting water quality such as sewage or chemical spills, the Drinking Water Program would continue to coordinate with Regional Water Quality Control Boards. In emergencies, the Water Boards already send liaisons to CDPH’s Emergency Operations Center as appropriate.

## **Operator Certification**

- The State Water Board plans to jointly manage both Operator Certification Programs within the Division of Financial Assistance, maintaining close ties with the Division of Drinking Water
- The State Water Board has a new web-based data management system for wastewater operators and would expand this system to include drinking water operators
- We would investigate opportunities to modernize the administration and content of exams for both operator certification programs
- We will continue to involve external stakeholders for both operator certification programs
- There are differences between the Operator Certification programs; we would welcome discussion to find synergies while continuing the important differences



## **Funding Program Resources**

- The State Water Board does not propose to revise the existing Drinking Water Program fee schedule at this time.
- We will consider any recommendations that come out of the Task Force process regarding fee structures.

## **Financial Assistance for Drinking Water Projects, including for Disadvantaged Communities**

- In order to optimize and expedite the funding of drinking water projects, the State Water Board plans to jointly manage both State Revolving Funds (SRFs) and both Bond programs within the Division of Financial Assistance, maintaining close ties with the Division of Drinking Water.
- There are differences between the Drinking Water and Clean Water SRFs; we welcome input as we seek not only to build upon synergies from joint management of the SRFs but also to address, as feasible, constraints that are specific to the Drinking Water SRF.
- Using Task Force input, we would propose statutory and regulatory changes to harmonize the Safe Drinking Water State Revolving Fund with the Clean Water State Revolving Fund.
- To serve disadvantaged and other communities, the Division of Financial Assistance would become a one-stop shop for water quality infrastructure financing, including application assistance.
- The Administration acknowledges the significant challenges ahead as it continues to provide financial assistance for drinking water projects in disadvantaged communities.
  - The State Water Board's Nitrates Report and the Drinking Water Stakeholder Group both recommended that the Legislature approve a new, sustainable source of operations and maintenance funding.
  - Both entities also acknowledged the need for further consolidation, regionalization and shared solutions.
- For the Drinking Water SRF, the State Water Board would:
  - Continue the Department of Public Health's actions under their SRF Corrective Action Plan approved by USEPA, including a loan over-commitment strategy.
  - Utilize our recent experience and updated master indenture agreement to sell revenue bonds to generate the State Match funds (as bonds diminish).
  - Fully utilize the Loans and Grant Tracking System (LGTS) database, including adopting its dynamic cash flow modeling system.

- Utilize cross-collateralization to assist in funding drinking water projects.
- Continue the existing Regulatory Program funding provided by the SRF set-aside.
- Funding for interim drinking water for severely disadvantaged communities would be facilitated by joint management of Proposition 84 and Cleanup and Abatement Account funds.

### **Stakeholder Advisory Group**

- The State Water Board’s meeting schedule (normally twice a month) would provide regular opportunities for stakeholders to directly address decision-makers regarding the Drinking Water Program transition or other Program opportunities or concerns. Staff would provide regular updates to the State Water Board on Transition progress by means of the Executive Director’s Reports, ensuring program transparency and accountability.
- The State Water Board would continue CDPH’s existing stakeholder groups for Operator Certification and Drinking Water Funding Programs.
- The Administration is interested in Task Force members’ perspectives on the need for continuing this Task Force through the next fiscal year (July 1, 2015) to advise on the reorganization process. However, the Administration is not currently proposing this extension due to expected demands on Program staff time as they implement the transition.

### **Reviewing and Updating Regulations**

- The State Water Board would use its current rulemaking process for the Drinking Water Program’s upcoming regulations and welcomes Task Force input on their relative priority.
- The State Water Board will propose changes (1) to conform the state law that governs the Drinking Water State Revolving Fund with the state law governing the Clean Water State Revolving Fund, and (2) to allow guidance for implementing these voluntary financial assistance programs to be accomplished through the State Water Board’s policy process (which gathers public input both in writing and orally at Board Meetings), rather than through the regulatory process.

### **Memoranda of Understanding and Interagency Agreements between CDPH and State Water Board**

- A new interagency agreement would be needed between the State Water Board and CDPH (Drinking Water and Radiation Laboratory), since primacy for the Drinking Water Program requires the availability of laboratory services currently provided by CDPH.
- Interagency agreements required by SB 918 (Pavley, 2010) for the development of (1) criteria for reuse of recycled water for groundwater recharge and surface water augmentation, as well as (2) a report on the feasibility of developing criteria for direct potable reuse, would no longer be necessary since the State Water Board would fund the work directly.

- The existing \$2 million Cleanup and Abatement account interagency agreement for interim water supplies for severely disadvantaged communities would no longer be necessary since the State Water Board would fund the projects directly.
- The Memorandum of Agreement on the Use of Reclaimed Water (dated 1996) would no longer be necessary since recycled water would be managed under the State Water Board. The State Water Board plans to continue to implement the MOA's existing provisions regarding Regional Water Board roles.
- The Administration will review the need for any addition MOUs or interagency agreements.

**Integrated Water Quality: “Maximizing the efficiency and effectiveness of the new structure (combining drinking water, groundwater, and water quality programs in a single agency) to benefit water quality, public health and environmental health.”**

- The State Water Board would have a renewed focus on protection of surface and groundwater quality, since its responsibility for water quality protection would include the treatment and delivery of drinking water. Integrated water quality management in a single governmental entity would provide a coordinated approach and would further key elements in the draft [California Water Action Plan](#) and the State Water Board's draft [Groundwater Workplan Concept Paper](#). Comprehensive management of water quality would enhance both environmental and public health.
- The State Water Board recognizes that our groundwater resources are being stressed by nitrate fertilizer applications, industrial pollution, sea water intrusion, and use of deeper aquifers due to over-pumping or contamination of shallow groundwater. The State Water Board would manage the assessment portions of the Drinking Water Source Assessment and Protection Program (DSWAP) alongside the State Water Board's Groundwater Ambient Monitoring and Assessment (GAMA) program and Surface Water Ambient Monitoring Program (SWAMP), to allow for a holistic understanding of surface and groundwater and to inform the Water Boards' regulatory responsibilities.
- The State Water Board would ensure close coordination between the Drinking Water Program and groundwater cleanup activities overseen by the Regional Water Boards. For example, currently there is no governmental nexus between well siting and groundwater cleanup. A public water system that plans to drill a new well may not be aware of nearby groundwater cleanup activities regulated by the Water Boards. This lack of awareness could lead to contaminants from a nearby plume being drawn into a new municipal well, an expensive and avoidable problem. Conversely, the new well could compromise the effectiveness of the groundwater remediation system that is cleaning up the groundwater. The transition allows us to strengthen relationships among these entities and improve coordination.

- The Water Board’s focus on water quality planning would be enhanced by the program transfer, for example in the Salt and Nutrient Management Plans mandated by the State Water Board’s Recycled Water Policy. These Plans may lead to identification of areas needing special protection of drinking water.
- The State Water Board could review the Potentially Contaminating Activities identified under DSWAP for potential applicability to Water Board permitting of discharges of waste and for potential identification of areas requiring special protection.
- Recycled water permitting and regulation development could also benefit from the transfer. In the face of water scarcity and the imperative to reduce greenhouse gasses, the State Water Board has committed the State to greatly increase the use of recycled water. Consolidating the Drinking Water Program’s role in recycled water into the Water Board structure is expected to enhance coordination and facilitate water recycling. Public health recommendations under the Water Code could more seamlessly be integrated into Water Board permits. The public health standards-setting for recycled water would continue with existing staff and would be consolidated into the State Water Board’s existing recycled water activities. In addition, the State is already looking ahead to direct potable reuse. The State Water Board would include drinking water considerations in wastewater treatment for eventual direct potable reuse, including the following:
  - Possible development of general permits by Division of Drinking Water
  - Potential benefits of co-locating for eventual direct potable reuse projects (if authorized by statute):
    - Single Operator program
    - Single permit (issued by Division of Drinking Water)
- Having a one-stop agency for water quality would ensure the public knew which agency to hold accountable for water quality concerns and would further heighten the Water Boards’ responsibilities to regulate discharges of waste that affect drinking water quality.

### **Additional Legislative Action**

- In order to provide expanded flexibility and administrative effectiveness in co-managing the State Revolving Funds (SRFs), the Administration will propose changes (1) to better align the state law that governs the Drinking Water SRF with the state law governing the Clean Water SRF, and (2) to allow guidance for implementing these voluntary financial assistance programs to be accomplished through the State Water Board’s policy process (which gathers public input both in writing and orally at Board Meetings), rather than through the regulatory process.
  - (1) The state statutory Drinking Water SRF provisions include:
    - Interest rates are locked in at ½ the General Obligation (GO) bond rate; program may not reduce
    - Priority-setting language more prescriptive than federally required
    - Program must consider applicants’ efforts to secure other sources of funding
    - Extensive restrictions on applications and on program’s ability to loan funds
    - General Fund loan language that could jeopardize the continued receipt of

federal capitalization grants.

- (2) The State Water Board would consider, after public comment and consideration at a Board Meeting, which Drinking Water SRF regulatory provisions should be retained in a Drinking Water SRF policy. The Drinking Water SRF regulations include:
- Program must invite applicants, who then must submit statement of intent and complete application by date certain
  - Zero percent interest rate loans for “local match” applicants is limited to projects >\$5 million
  - Amounts of source water protection loans are limited
  - Financing for planning is limited
  - Ability to refinance is limited
  - Program’s ability to fund projects that are ready-to-proceed is further limited beyond federal restrictions
  - Late penalties on loan repayments are high
- The Administration will consider any recommendations that come out of the Task Force process regarding additional legislative actions.

## **Appendix B: Power Point Presentations Presented to Task Force**

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*Click on a selected topic below to open PDF versions of the Power Point Presentations.*

### **State and Regional Water Boards**

[Board Meeting Process](#)

[Emergency Management at the State and Regional Water Boards](#)

[Fee Program](#)

[Financial Assistance](#)

[Office of Operator Certification](#)

[Recycled Water Program](#)

### **Department of Public Health - Drinking Water Program**

[Emergency Preparedness and Response](#)

[Funding for Public Water Systems](#)

[Local Primacy Agencies](#)

[Maximum Contaminant Levels \(MCLs\)](#)

[Operator Certification Program](#)

[Overview of the Drinking Water Program](#)

[Recycled Water Program](#)

[Regulations](#)

[Regulatory Fee Structure](#)

[State Operations \(Funding\)](#)

## Appendix C: Public Health Focus

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### Drinking Water Program: Department of Public Health

#### Public Health Focus

- Water quality is one of the foundational public health responsibilities. We see ourselves as public health officials with the overall authority and scope to address or oversee the health of residents in our communities.
- The public health approach deals with the level of impact to the members of the community and working with a variety of groups.
- Ensure that the focus on disadvantaged communities is not lost. Continue the public health focus on addressing disparities and working for solutions for the 1% of people that don't have access to clean drinking water.
- Some concrete examples of health concerns that arise with water are: epidemiologic analysis and emergency response – dealing with water borne infectious disease, water contamination.
- The public health focus is important in establishing the MCLs for the drinking water. Hope to continue to avoid politicization and bureaucracy in the setting of MCLs and enforcement of regulations.

#### Communication

- Maintain communication between Local Health Officers and DWP state and local staff, particularly access to support for quick and immediate attention to urgent issues (beyond public process)
- Would like to see increased communication from the Board to the locals.
- Important that the LHO and EHD have ongoing access to the staff and the director at the DWP in the SWB (not limited to public process). LHOs contribute through the formal process as well, but a great deal gets done through open communication and frequent discussion with the local DWP branch staff, working proactively on local issues.
- Promote respective sharing of information (For example, the LPAs used to send an annual assessment of the community. In turn, the LHO can communicate the incidence of water borne diseases.)
- Importance of continuing a collaborative culture and maintaining public health perspective

## Public Health Training

- Consistent, shared background, training and commitment to public health (at local and state level) is very important.
- There is concern that the focus on public health, with emphasis on people and communities may be overlooked or not considered if staff (outside of DWP) does not have training to view issues through a public health lens.
- Reinforce the public health focus by having the leader of the division have public health experience and qualifications (MPH).

## Local Focus

- Drinking Water is very much a local issue. When issues arise, community members and advocates contact the LHO, or the EHD or board of supervisors.
- One of the things that is distinct about the program is the local and regional aspect; there is ongoing and continuous interaction between locals and DWP water quality staff. There is concern about losing that ongoing and continuous interaction.

## Local Health Officer

- The LHO is responsible for speaking up on issues of water quality; maintaining strong adherence to the science.
- The LHO is often involved in creating the notices for the water system users and going out to the communities, answering questions from the media and the public. This effort goes above and beyond issuing the warning – using the LHO’s knowledge of the community, demographics and challenges to help ensure residents are aware of reasonable measures to protect themselves.
- Emergency response: LHO is initial response to outbreaks of water borne disease or potential impacts of an emergency to the safety of drinking water - before State involvement.
- The LHO also deals with multiple programs such as landfill inspections, sewage disposal, well permits, hazardous materials and the protection of drinking water; as well as LPAs.
- LHO’s maintain a focus on the human component through knowledge of their local communities.
- LHOs rely on assistance from DWP to address acute issues from a public health perspective.

Other:



- Importance of ensuring adequate funding for local health department work. (Some services now being done are not even billed.)

#### **Role of LHO compared with EHD:**

EHD: Integral part of the overall county PH team under the LHO authority to protect health

- Addressing health and safety of the environment in which people live and work
- In some county structures the EHD may not directly report to the LHO

LHO: Authority and ultimate responsibility to oversee health of residents of the jurisdiction

- Appointed by the BOS
- Charged with creating conditions in which people can be healthy
- EH is one integral component, other components include:
  - Infectious disease, chronic disease control and prevention, nutrition and obesity prevention, birth defects, emergency/disaster preparedness and response, epidemiology and disease surveillance

## Appendix D:

### Letters from Task Force Members

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1. [Advisory Board and/or Groups, January 15, 2014](#)  
American Water Works Association, California-Nevada Section
  
2. [Key Elements and Statutory Changes, December 18, 2013](#)
3. [Deputy Director Qualifications, Advisory Group, and Transition Process, January 13, 2014](#)
4. [Composition of Stakeholder Advisory Group, December 11, 2013](#)  
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  
WaterReuse California
  
5. [Drinking Water Reorganization Priorities, January 27, 2014](#)  
California Rural Legal Assistance Foundation  
Clean Water Action  
Community Water Center  
Leadership Counsel for Justice and Accountability  
Planning & Conservation League  
PolicyLink  
Pueblo Unido
  
6. [Drinking Water Program Priorities, submitted December 18, 2013](#)  
Self Help Enterprises
  
7. [Changes Needed to Improve the Drinking Water Program, October 30, 2013](#)
8. [Recommendations and Input on Program Move, January, 16, 2014](#)  
California Conference of Local Health Officials
  
9. [Concerns and Recommendations, February 3, 2014](#)  
California Association of Environmental Health Administrators  
Health Officers' Association of California