



August 21, 2013

The Honorable Anthony Rendon, Chair
Assembly Water, Parks and Wildlife Committee
State Capitol
Sacramento, CA 95814

RE: Assembly Water Bond Framework

Dear Assembly Member Rendon:

On behalf of the disadvantaged communities that we represent, our organizations are writing to provide input on the water bond framework introduced by your committee on August 15, 2013. We'd like to thank you and your colleagues for recognizing the unique and significant unmet needs of small disadvantaged communities, and look forward to working with you to craft language that ensures sufficient investment in infrastructure and programs necessary to provide communities, especially in disadvantaged areas, safe and affordable water and waste water treatment services. to secure access to the most basic necessity: safe water. Our organizations jointly reviewed the Committee's Framework and have the following concerns and proposed amendments:

III. Retain Definitions

We are concerned that these two words are an indication that the Committee wishes to retain the definitions contained in the bond currently on the 2014 ballot. We request that the definition of "economically distressed areas" be discarded and that category eliminated from the current bond. This definition in the bond expanded eligibility for funds that were nominally set aside for disadvantaged communities. The difficulty is that expanding the pool of eligible applicants creates an uneven playing field; the poorest communities will be unable to compete with larger and wealthier communities for project funding. It defeats the initial purpose for which the set-asides were created.

IV. General Provisions

Eligibility. We agree that investment of public funds should be restricted to projects that yield public benefits. However, in the case of disadvantaged communities, those in need are not exclusively served by public water systems. For example, a pilot project in the Tulare Lake Basin found that more than one-third of communities with at least 15 homes are not served by a public water system: Monterey County tracks 1200 water systems with between 2 and 14 connections – too small to qualify as a public water system – nearly 200 of which exceed the drinking water program standard for nitrates. Mobile home parks in Coachella Valley provide the only viable housing option for among the poorest Californians, but because they are located on private property, are often not eligible for assistance to treat arsenic contamination, upgrade failing septic systems or connect to neighboring municipal services. Provisions in the bond to ensure public benefits should also provide a mechanism for funding critical public health projects for disadvantaged or severely disadvantaged communities not served by public entities and under some circumstances located on private land.

Authorization for Prior Bonds. While it is certainly appropriate to incorporate review of current outstanding bonds into discussion of new bonds, we would ask that bonds authorized to fund safe drinking water projects **not** be included in any revocation of authorization. Small communities can take years to fulfill the requirements to qualify for a bond and enter into a contract; it is imperative that those bond dollars be available when those requirements are finally met.

Local Hiring and Training. These bonds generate thousands of jobs. The Legislature should take steps to ensure that residents of impacted communities are provided the training and opportunity to fill jobs created by bond investments.

Priority for Projects that Produce the Greatest Public Benefit. While we agree that public benefits are a critical requirement for bond investments and that projects should be assessed on the basis of the state's legal and fiscal responsibilities, we are concerned that "greatest public need", is an arbitrary measure that could be used to deny equitable access to funding for small communities. Universal access to safe drinking water and protection of water quality should be a basic requirement for bond investments.

Priority for shovel-ready projects. As many witnesses stated at your August 15th hearing, this requirement makes it difficult, if not impossible, for disadvantaged and severely disadvantaged communities to access funding. In particular, long-term sustainable solutions, such as regional projects that address the needs of multiple communities, are complex and time consuming to develop. The focus of the bond should be to fund the best solution rather than the fastest one.

V. Water Quality

This is naturally the most critical piece of the bond for our constituents. To provide a context for expanding upon these sections, here are the issues for which funding is required.

1. **Technical Assistance.** Small systems almost never have professional staff. A wide range of technical assistance is needed to apply for funding, develop projects and train board members. Design, planning engineering and environmental review expertise is needed. In addition, most projects require local approvals from LAFCos, city councils and boards of supervisors and this local outreach and legal assistance also requires funding. We recommend a specific set-aside of \$25 million for technical assistance for both water and wastewater projects be included in this chapter.
2. **Regional Solutions.** Most communities are decades old, established when groundwater was clean, plentiful and cheap. Once a water supply is contaminated, costs increase dramatically – even if safe water is provided through a grant. Small communities simply lack the economies of scale to run a complex modern water system. Despite that, small local solutions are still the most commonly funded projects. This bond should provide incentives, if not requirements, to create long-term solutions that will provide long-term and truly affordable solutions. That could include full consolidation that results in the elimination of an unsustainable water system, or shared solutions such as shared management or operation services, or shared water sources, that reduce costs to ratepayers.
3. **Operations and Maintenance.** While not a capital cost, operations and maintenance can lead to unaffordable rates for small systems and often limits their ability to solve their water challenges. Crafting bond language that allows for some subsidies could make the difference between safe and unsafe water for communities. One potential option could be to assist communities to establish capital reserves, a requirement that currently adds significant costs to ratepayers.
4. **Septic Systems and Private Wells.** Shallow domestic wells are most vulnerable to surface contamination, yet, they are not regulated, even though testing in some areas has found high levels of contamination. Inadequate septic systems can also contaminate local water supplies. We urge the legislature to establish a fund that would allow grants and loans to low-income homeowners to upgrade their septic systems and drinking water wells.
5. **Infrastructure Investments** on private land, such as in mobile home parks, necessary to secure safe and affordable drinking water and wastewater services to severely disadvantaged communities.

Eligibility requirements. It is not clear that funding in this section is reserved strictly for disadvantaged communities; we urge the committee deliberately state in the bond language which funding is specific for addressing DAC needs.

Cost-sharing. Existing funding programs base eligibility on the median household income of the community served and on the rates that will be charged after the project is complete. The amount of the loan is conditioned on the ability of the community to afford the resulting rates. That seems like an equitable process, ensuring that taxpayer dollars are spent appropriately while at the same time assisting communities with the greatest need.

Eligible projects. As written, this section appears to split funding between groundwater cleanup, wastewater treatment and stormwater management. We would like to propose the following split:

- 1) Projects to deliver safe drinking water
- 2) Wastewater projects
- 3) Groundwater cleanup

Stormwater management is an important multi-benefit activity – including water quality, water supply, flood management and community greening – yet only competes for funding in this chapter. In our opinion, it is more appropriately funded as part of climate change adaptation (Chapters VII and IX).

Groundwater cleanup is a vitally necessary activity. In many cases, a responsible party is available to pay for all or part of cleanup – albeit with some delay. Our understanding with Proposition 84 implementation was that funding for groundwater cleanup would be repaid if and when responsible parties fulfilled their obligation. Later legislation amended that requirement, allowing agencies to retain bond funds to pay for additional cleanup. While that makes perfect sense, it does impact the flow of dollars to other areas of the state with cleanup needs, a concern that we hope can be address in this bond.

Leverage funding. We agree that tax dollars should be stretched as far as possible. We would caution against sending bond dollars to existing federal funds such as the Clean Water or Drinking Water State Revolving Funds. Any dollars placed in those accounts would be subject to the same limitations as the federal dollars, limiting the state’s flexibility to solve problems.

Identify contaminants. The Drinking Water Program has a robust system for prioritizing projects according to public health threat; naming specific contaminants as funding recipients could have the unintended effect of preventing funding of the most needy projects. As an example, the most common reason for boil water notices is the detection of total coliform bacteria in a water system’s distribution system. Persistent detections are a sign of infrastructure needs that require urgent fixes, even though the water system may not exceed a drinking water standard for common contaminants such as nitrates and arsenic. Additionally, some systems, particularly those with nitrate contamination, may exceed a drinking water standard only occasionally – establishing their funding eligibility could be problematic.

Funding caps. Funding limits provide an opportunity to encourage regional solutions. The Legislature should consider a policy that incentivizes consolidation by increasing funding limits for projects that provide safe and affordable water to multiple at risk communities

VII. Climate Change Preparedness and Regional Self-Reliance

Small communities almost never have access to funding that can help address the impacts of climate change – such as conservation funding, funding for alternative water supplies (such as development of gray water projects), or green energy projects. Such projects would help communities reduce their water use and costs. We recommend a set-aside for disadvantaged community projects that would allow communities to fund water or energy conservation projects as part of a safe drinking water project. Current law requires the installation of water meters when new projects are funded; adding a conservation component would allow communities to take proactive steps to reduce their water use.

Thank you for your commitment to safe drinking water, and for allowing us to participate in the development of this bond. We look forward to providing additional advice and input as the discussions continue.

Sincerely,



Jennifer Clary
Program Manager
Clean Water Action



Omar Carrillo
Policy Analyst
Community Water Center



Phoebe Seaton
Co-Executive Director
Leadership Counsel for Justice and Accountability