
POLICY

RECOMMENDATIONS

Water Governance and Public Participation

The State Legislature Should Establish An Independent Commission To Analyze Social, Economic, And Environmental Inequities Inherent In The Current Water Rights Allocation System, Including The Definition And Legal Interpretation Of The “Reasonable And Beneficial Use” Doctrine.

The California State Constitution and the state Water Code define water as a public good and hold the state responsible for managing it in the public interest. The state is charged with protecting “reasonable and beneficial” uses. Unfortunately, the logic of “reasonable and beneficial use” is driven by two exclusionary principles: 1) water not used for agriculture or municipal purposes is water wasted and 2) the value of water usage is to be measured economically, not socially, culturally or ecologically. These two principles fail to protect Native American uses of water and ecosystem water needs.

CALFED Should Commission An Independent Community Review State And Federal Water Projects’ Social And Economic Impacts On Local Communities. CALFED Should Also Fund An Independent Review Of California Dams To Examine The Possibility Of Decommissioning Operations Through The Federal Energy Regulatory Commission Process Or Through Other Mechanisms.

Dams are destroying Native American cultures by flooding their ancestral homelands and burial sites, and by virtually exterminating salmon runs upon which many tribes depend on for food and livelihood. Several Northern California tribes are currently facing the threat of cultural extinction due to the proposed expansion of Shasta Dam and the continued operation of other dams. Studies of the economic impacts of removing dams have shown that dam removal can greatly improve rural economies by revitalizing fisheries and increasing tourism.

The State Of California Should Require All Water Users, Including Agricultural, Industrial, And Municipal Users, To Implement All Available Water Conservation, Reuse, Recycling, And Other Water-Use Efficiency Options Before Any Dams, Reservoirs, Ocean Water Desalination Plants, Or Other Types Of Water Development Infrastructure Are Approved For Construction.

Water conservation, reuse, and recycling programs have proven successful in increasing water supplies without building additional infrastructure. Many of these programs have also created jobs and economic opportunities in low-income communities. In contrast, dams, reservoirs, desalination plants, and other large water development projects have disproportionate negative impacts on low-income communities and communities of color, particularly tribal communities. They are also expensive, environmentally destructive, and fuel unsustainable coastal and suburban sprawl.

California Law Should Specifically Prohibit Water From Publicly Subsidized Projects From Being Sold Or Traded In Speculative Bulk Water Sales Or Trading Schemes.

California taxpayers pay hundreds of millions of dollars every year to build and maintain water infrastructure that provides water to farmers, municipalities, and others who are under legal obligations to use the water in specific ways. Such water is not private property but a public resource that legally belongs to all Californians. Therefore, anyone receiving publicly subsidized water must not be allowed to sell or trade water for a profit at taxpayers' expense. Instead, water no longer needed should be returned to the environment, or redistributed to communities who lack a safe, reliable drinking water supply.

The State Of California Must Require A Local Public Process For The Review And Approval Of Any Water Transfers And Land Fallowing Decisions. When Water Transfers And Land Fallowing Are Approved, California Must Require Transition Assistance For Communities And Individuals Impacted By Such Projects.

Water transfers and land fallowing impact farm workers, local residents, small businesses, and regional economies in addition to the parties directly involved in the agreement. The decisions to conduct these programs are often made by the boards of landowner-based water districts rather than the community as a whole. It is crucial to ensure meaningful public participation from the outset of any discussions about water transfers and land fallowing. In order to prevent severe disruption of local economies, water districts conducting the transfers must be required to include a transition assistance program for the impacted communities, especially for displaced workers who are left without employment and often, without homes.

California Law Must Require That The Governing Bodies Of All Water Districts Be Popularly Elected. Voting Should No Longer Be Limited To Those Who Own Land And Property.

Many water districts' governance structures are land based and property weighted. Water district board elections are inequitable because they favor wealthy landowners and their interests over those of other residents. Water districts must be responsive and representative of all the water needs in a community. Therefore, any district resident must be able to vote and run for a seat on a water district board.

Water Districts Must Define Their Service Area Broadly So As To Include All Members Of The Community And Their Respective Needs.

Water districts often narrowly define their service area and do not include all populations that are affected by board decisions. Many water districts assess taxes and fees on district residents to help subsidize water infrastructure projects that do not benefit non-landowners. A landowner-controlled irrigation district may focus on its mandate to provide adequate irrigation water and neglect the concerns of people also drink the irrigation water. It is critical that water districts gather accurate information about water problems in their communities, establish formalized processes to represent all users in the development of water policies, and ensure that such publicly made decisions are enforced.

All Water Districts Should Be Required To Develop And Implement Integrated Groundwater Management Plans That Include The Water Quality, Water Supply, And Drinking Water Quality Needs Of All Communities Within Their District Boundaries.

Groundwater is an important source of drinking water for millions of Californians. It is critical to ensure that aquifers are not further polluted or depleted. All water districts, including irrigation districts, must recognize that their practices may adversely impact groundwater sources upon which neighboring communities depend, and must create integrated groundwater management plans to ensure that their actions do not have negative impacts on groundwater supplies.

One Government Agency Should Have Ultimate Regulatory Oversight Over All Potable Water Suppliers To Ensure That All Consumers Have The Same Protections Under The Law Regardless Of Who Provides Their Water.

Different government agencies are responsible for regulatory oversight of public, quasi-public, and private water purveyors. Consumers receive vastly different levels of water quality, access to water, water rates, and customer service depending on who provides their water. Until one drinking water regulatory agency is established, all consumers must receive notification of which regulatory agency to contact when they have concerns about their water.

All Proposals To Privatize Public Water Utilities Must Include A Local Public Review Process That Also Allows All Local Water Consumers To Vote Or Otherwise Decide On Such Proposals Before Public Utilities Are Privatized.

The privatization of public water systems can lead to rate increases, service disconnection, and limited opportunities to hold a private company accountable, among other problems. Therefore, it is critical that all water consumers vote on any privatization proposals. Once a privatization contract is approved, local public agencies – such as city or county governments – should be responsible for monitoring and evaluating how effectively private water suppliers are able to deliver safe and affordable water to all community members. If a company fails to meet these requirements, the water system must be returned to public management. In communities that lack public capacity to manage the water system, the county government, local irrigation district, or other local public entity should assume responsibility for the water system.

The State Should Require That All Water And Land-Use Projects Be Planned, Implemented, And Managed With Participation From Impacted Community Members. Additionally, The State Should Require That Water Be Considered As An Essential Component In All Land-Use Decisions And Projects.

Land-use decisions and plans have a disproportionately negative effect on low-income, communities of color, including the permitting of multiple polluting facilities, such as heavy industries, landfills, power plants, and wastewater treatment plants in their neighborhoods. Land-use planning processes often fail to consider water resources, resulting surface and ground water pollution as well as flooding in low-income communities and communities of color. New water supply and quality, watershed restoration, and wastewater treatment projects, as well as efforts to renew water contracts, authorize or reauthorize dams, transfer water, retire agricultural land, restore rivers, or construct desalination plants can also negatively impact communities. All of these projects must also include a cost-benefit analysis that focuses on generating resources in communities left out of the benefits of California's existing water development.

All State Government Agencies Having Jurisdiction Over Any Aspect Of Water Management And Planning Must Adopt the Cal/EPA Advisory Committee On Environmental Justice Recommendations for Achieving Environmental Justice.

The recommendations revolve around the following four goals:

Goal #1: Ensure meaningful public participation and promote community capacity-building to allow communities to be effective participants in environmental decision-making processes.

Goal #2: Integrate environmental justice into the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.

Goal #3: Improve research and data collection to promote and address environmental injustice related to the health and environment of communities of color and low-income populations.

Goal #4: Ensure effective cross-media coordination and accountability in addressing environmental justice issues.

State agencies committed to achieving environmental justice within water policy must adopt these four goals as essential in addressing the water-related needs and concerns of low-income communities and communities of color. The recommendations outline many strategies public agencies can use to ensure meaningful public participation in water-related policy and decision-making processes. The full text of the recommendations can be found at Cal/EPA and on EJCW's website, www.ejcw.org.

Access to Water Resources

All Potable Water Purveyors Should Be Required To Establish A “Lifeline” Rate For Low-Income Residential Water Users.

Residential water service, particularly in rural areas, can often place a major financial burden on low-income households. Electricity and telephone service utilities offer a “lifeline” rate to low-income consumers. It is vital that all water utilities to provide water at a discounted rate that low-income consumers can afford.

Adequate Funding Must Be Made Available To Build And Maintain Drinking Water and Wastewater Infrastructure For Tribal, Small, And Economically Disadvantaged Communities. State Funding Programs For These Projects Must Be Made Accessible To These Communities.

State agencies must be creative in finding funding for water-related projects in low-income communities and communities of color. One possibility is to use Proposition 50 funds for the Infrastructure Rehabilitation Program, which funds infrastructure projects in disadvantaged communities. The state agencies responsible for distributing the bulk of funds available for water projects—the Department of Health Services, the State Water Resources Control Board and the Department of Water Resources—manage funding programs that are often inaccessible to low-income communities and communities of color. Incorporation of the following principles into existing and future funding programs will ensure that communities are able to access resources necessary to develop and maintain safe, affordable drinking water systems:

- Translate all materials, including funding program guidelines, requests for proposals, instructions, and other documents into languages spoken by at least 10 percent of all Californians;

- Use U.S. mail, fax transmission, and other communication methods to disseminate information about funding programs;
- Contract with community-based organizations to disseminate information about funding programs, and to conduct prospective applicant workshops;
- Define “disadvantaged communities” as communities with an annual median household income less than 80 percent of the statewide annual median household income;
- Define “small community” as one with no more than 3,000 users or 1,000 connections;
- Give disadvantaged communities preference for state funding for safe drinking water and water quality projects;
- Set aside 25 percent of water funding for disadvantaged and small communities;
- Provide disadvantaged and small communities technical assistance in preparing of applications for water-related grants and loans in a manner that addresses community needs;
- If state agencies are unable to provide technical assistance directly to applicants, the state should contract with experienced community development organizations to provide such assistance;
- Disadvantaged and small community water systems, as well as community-based organizations should be exempted from matching funds requirements;
- Disadvantaged and small communities must receive assistance in meeting CEQA and TMF requirements;
- Native American communities should qualify as “disadvantaged communities.”

State Water Project And Central Valley Project Contractors Should Pay A User Fee, Proportional To Their Use Of Project Water, To Help Fund Water Infrastructure Projects For Tribal, Small And Otherwise Disadvantaged Communities Located Near The Projects.

The publicly funded State Water Project and Central Valley Project should provide benefits for the largest possible number of taxpayers. Currently, most tribal, small and economically disadvantaged communities located near the projects receive no direct benefits, including access to project water. Many of these communities lack access to safe and affordable drinking water, while high-quality surface water destined for irrigation flows all around them.

Public Health Goals (PHGs) And Maximum Contaminant Levels (MCLs) For Contaminants In Drinking Water Should Be Established Using Health Data Relevant To Women And Children. The Office of Environmental Health Hazard Assessment and the Department of Health Services Must Consider The Cumulative Impacts Of Exposure To Multiple Contaminants From Multiple Sources When Setting PHGs And MCLs.

The regulatory process that establishes drinking water standards is inherently flawed in several ways. First, standards are based on both public health and economic considerations, and therefore standards often allow a contaminant to be present in excess of what constitutes a health protective level. Second, the regulatory process does not take into account the wide range of contaminants that environmental justice communities are exposed to on a regular basis, nor the related cumulative health effects that such contaminants cause. Finally, drinking water standards are largely based on health studies performed on healthy white men, not women and children of color, or other vulnerable populations.

The State Of California Should Commission An Independent Study To Recommend Strategies For Phasing Out Pesticides And Other Chemicals That Are Known To Be Highly Toxic To Humans And That Pollute Water Supplies. In The Interim, The State Should Require Pesticide And Other Chemical Manufacturers To Pay Into A Special Fund That Would Be Used To Clean-Up Water Contamination.

Pesticides are a virtually unregulated but highly dangerous class of drinking water contaminants. About one-third of the more than 600 pesticides used in California are known to be toxic to humans and other living organisms; many pesticides have been found to contaminate groundwater. Pesticides have polluted more than 500 miles of the state's waterways, which as a result have been designated as unsafe for drinking, swimming, and fishing.

The California Department of Health Services (DHS) Must Ensure The Quality of Vended Water By Increasing Regulation of Water Vending Machines and Retail Water Facilities.

Harmful levels of bacteria and contaminants have been detected in vended water, yet DHS does not perform regular inspections of vended water machines and retail water facilities in order to guarantee the quality of water dispensed. Low-income and immigrant communities are especially reliant on vended water because they believe it is cleaner than tap water. Yet most consumers do not know that vended water is simply tap water that is run through a filtration process on site inside the machine. DHS currently collects over \$440,000 per year from vending machine licenses, yet this funding is not applied toward vending machine inspections

All Regional Water Quality Control Boards Must Stop Exempting Agricultural And Dairy Runoff From Meeting Federal And State Clean Water Laws.

As of 2002, 685 water bodies in California were listed as “impaired waters” by the Environmental Protection Agency because they exceeded pollutant limits. Many of these pollutants originate on farms and dairies and end up in streams, rivers, bays, and in groundwater supplies. Polluters should be required to clean up this pollution, and prevented from further polluting water resources. Regional Water Quality Control Boards must revoke any current exemptions, and must vigorously monitor and enforce compliance with the federal Clean Water Act, the state Porter-Cologne Act, and other water quality laws and regulations. Finally, the Regional Boards should provide incentives for farmers to adopt and use better management practices that prevent the contamination of groundwater and surface water.

The State Water Resources Control Board Must Take Immediate Action To Prevent The Continued Pollution Of And Clean Up Water Bodies Upon Which Low-Income, People Of Color Communities Rely On For Fish.

Low-income, people of color, more than affluent whites, rely on contaminated, locally caught fish to supplement their diets. While it is important to post signs that warn of the dangers of eating contaminated fish, the State Board must require industrial, agricultural, and municipal polluters to clean up existing pollution in water bodies. The State Board must also enforce federal and state laws designed to prevent further pollution. Finally, state and federal authorities must take immediate action to clean-up abandoned mercury mines and other legacy pollution sites that continue to contaminate California’s waters.

The State Water Resources Control Board Must Require Local Governments To Adopt Wastewater And Stormwater Treatment Strategies That Put Them In Compliance With The Clean Water Act, In Order To Prevent Sewage Treatment And Combined Sewer Overflows In Environmental Justice Communities.

Stormwater runoff and combined sewer overflows pollute beaches and coastal waters throughout California but particularly affect urban low-income, communities of color. Municipalities must investigate and prioritize wastewater treatment strategies that provide tertiary treatment or higher; eliminate combined sewer overflows through watershed-scale stormwater infiltration; integrate water recycling; prioritize the use of constructed wetlands and other living systems that improve the ecological health of local watersheds; and enhance the communities in which wastewater treatment facilities are located.

Local And State Governments Must Require The Use Of Best Management Practices To Prevent Flooding In Environmental Justice Communities.

Examples of best management practices include banning new development in floodplains prone to catastrophic flooding, or in areas such as wetlands that store floodwaters and prevent flooding downstream. Local governments should use brownfield redevelopment processes to increase the hydrological integrity of urban watersheds by restoring riparian and waterfront land to greenways and natural retention basins. They should also train and employ residents of disadvantaged communities to implement flood control and habitat restoration projects.

California Law Must Require That All State Agencies Collect Public Health Data That Includes Race And Income Information. Additionally, The U.S. Census And The California Department Of Finance Should Collect Information On Residential Water Infrastructure In Census Questionnaires And Other Surveys Of The State's Residents.

Currently, agencies and the public do not have enough information available to adequately assess community water needs. In order to ensure the availability of data to characterize risk across populations, it is critical that public health data include race and income. Such data will enable agencies to determine which communities are most threatened by contaminated drinking water.