

10 Years *of the* Human Right *to* Water



COMMUNITY
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EL CENTRO COMUNITARIO
POR EL AGUA

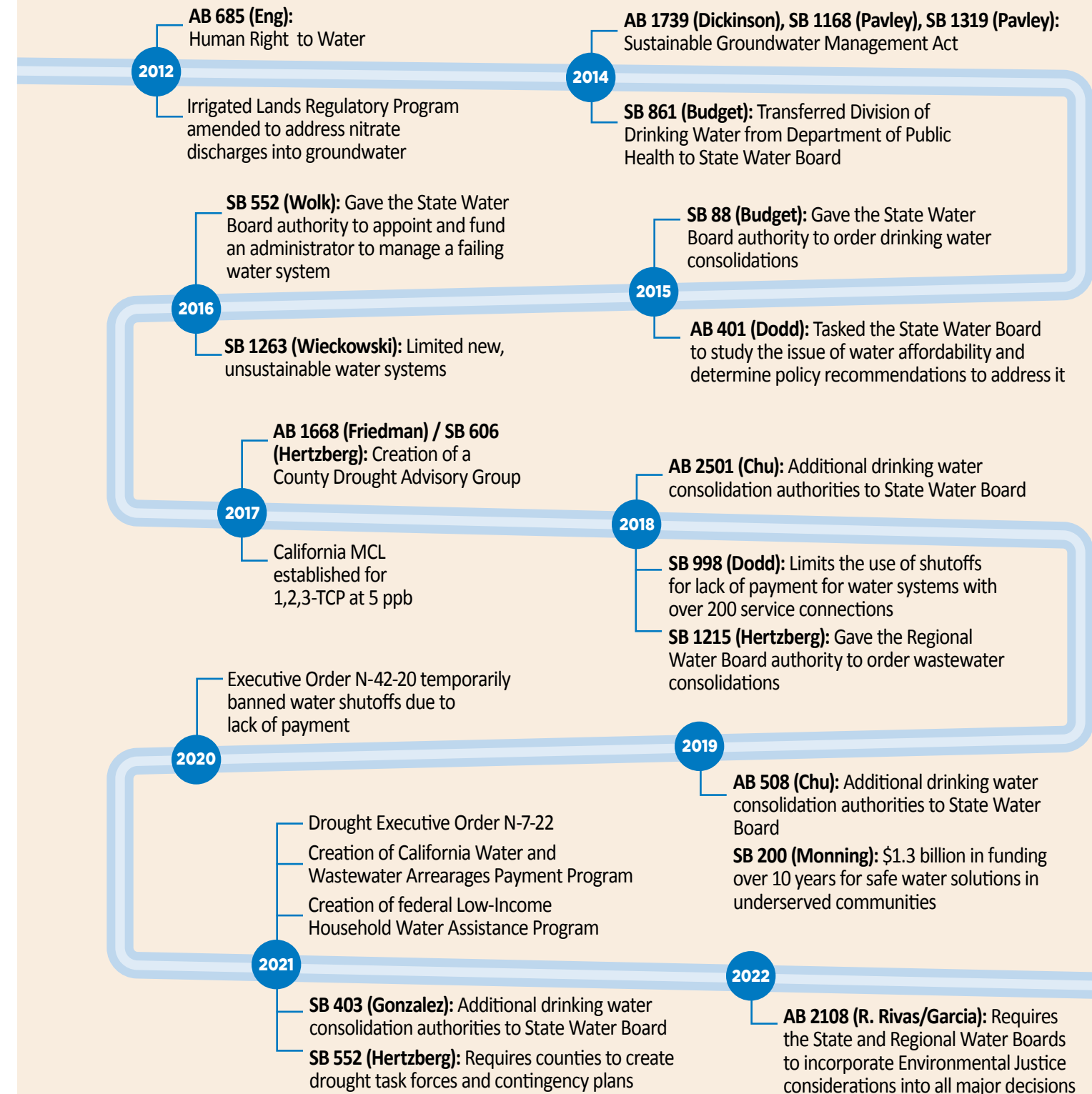


**CALIFORNIA'S
PATH TO WATER
JUSTICE FOR ALL**

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Key Drinking Water and Wastewater Legislation



Introduction

California has the opportunity to be the first state in the nation to provide safe water for all. This was not always the case. For decades, California disinvested in communities of color and failed to protect access to drinking water and sanitation, particularly for the many people living in rural parts of the state. In 2011, a fact finder from the United Nations toured Tulare County and concluded that water quality challenges were a stark problem and the United States as a whole needed a plan to address water inequity based on the framework of the Human Right to Water.¹

And yet just two years earlier, then Governor Schwarzenegger vetoed AB 1242 (Ruskin), which would have enacted the Human Right to Water in California. While the second attempt to pass this law (AB 685, Eng) was eventually successful in 2012, California has a long way to go to fulfill this right. Over one million people across the state still lack access to safe and affordable water. This report will outline important past pieces of legislation which have helped to move the state towards the Human Right to Water, as well as lingering policy gaps which, when addressed, can ensure that “every human being has safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.”²

The Human Right to Water Law

While the Human Right to Water was formally adopted by the United Nations (UN) on July 28th, 2010, it took until 2012 for California to recognize this right by passing Assembly Bill 685 (Eng). At that time, communities living with contaminated water were raising issues to their local water districts and government officials, only to hear excuses: “This is the way it is.” “You shouldn’t expect safe water.” “Stop complaining.” Other Californians who did not experience unsafe water along with decision makers in Sacramento had no idea how bad the drinking water crisis was in rural California.

Community leaders and activists wanted to change this narrative and enshrine in California law the recognition that unsafe water is a problem plaguing communities and it is the state’s job to fix it. To achieve this, activists from the Central Valley, Southeast Los Angeles, and the faith-based community campaigned in Sacramento



United Nations Rapporteur Catarina de Albuquerque visits Seville, CA in 2011 and determines communities are forced to live in third world conditions due to lack of access to safe water.



Community partners celebrate the passage of AB 685 in 2012

for almost four years, from the introduction of AB 1242 in February 2009, until Governor Brown signed AB 685 (Eng) in September 2012.

AB 685 requires all state agencies, specifically the State Water Resources Control Board (State Water Board) and Department of Water Resources (DWR), to consider how new or revised policies, regulations, and grant criteria will affect fulfillment of the Human Right to Water. It was placed in the beginning of the California Water Code, rather than the Safe Drinking Water Act contained in the Health and Safety Code, as a way of recognizing this right fulfillment of the Human Right to Water is not only about drinking water. AB 685, and its requirements to ensure the Human Right of Water, should be applied in all key decisions concerning the state’s water resources.

The Human Right to Water was focused on influencing agency actions.³ However, AB 685 also proved to be foundational in shifting the Legislature to enact more bills to combat the drinking water crisis over the next decade.

The Sustainable Groundwater Management Act

Groundwater has gathered under our feet over thousands of years and supplies many of our communities with water they rely on to drink, bathe, grow food, and more. About 85% of Californians depend on groundwater for some portion of their water supply.⁴ Without proper care, our groundwater can run out or become contaminated. For over one hundred years, groundwater extraction was largely unregulated in the state and overpumping became a serious problem in the Central Valley and Central Coast, causing a loss of drinking water supplies, water quality contamination, seawater intrusion, and subsidence that damages critical infrastructure.

In 2014, during severe drought conditions, the Legislature introduced three bills that became the Sustainable Groundwater Management Act (SGMA) marking a fundamental shift in the management of water resources in California. Once the idea of regulating groundwater was on the table, community residents and advocates joined the campaign, and their experience was critical in drafting the language of SGMA. Residents invited journalists into their homes to share their experience living without secure water supplies due to a lack of groundwater management. For residents relying on groundwater, passing SGMA was essential to ensuring a source of drinking water for the future, and they worked hard to see it passed that year. For the first time, groundwater in the state is required to be managed in a way that protects the long-term reliability of this critical resource.



Simona Magaña (Tulare County) filling buckets of water when her family’s private well went dry during a period of intense drought.

SGMA requires local Groundwater Sustainability Agencies (GSA) to form and establish Groundwater Sustainability Plans (GSP) detailing how they will balance groundwater extraction and recharge by 2040 or

2042, while avoiding undesirable results such as exacerbated water quality issues.⁵ DWR has reviewed the GSPs and will either accept or reject them in consultation with the State Water Board. If plans are rejected, the State Water Board will consider putting the basin on probation, which could cause the State to take over planning for the basin.

Despite the passage of SGMA, groundwater levels and water quality both are declining drastically as agricultural well drilling and overpumping continues mostly unchecked. In 2022 alone, about 1,500 wells went dry, causing families to lose their only source of running water.⁶ If existing GSPs are approved by DWR, over 127,000 people, mostly domestic well owners, would lose access to water and there is no guarantee that the state will intervene in all cases. Advocates are continuing to fight for community needs through the SGMA process and created numerous tools to ensure GSAs and DWR can protect drinking water needs in the most vulnerable communities.⁷

Other Issues in Groundwater Access

While communities wait for SGMA to go into effect, there are other challenges facing domestic well owners and groundwater-dependent communities. Ducor is a community of just over 600 people in Tulare County, which in the past has struggled with arsenic and nitrate contamination causing their water to be unsafe. After years of advocacy from community leaders, Ducor received a grant from the state in 2016 to drill a new well 2,000 feet deep, which should have provided a permanent solution to their drinking water challenges.

However, in 2021, Tulare County approved the permit for an agricultural well just across the street.⁸ The community now faces loss of water pressure in their homes when this well is running and is vulnerable to losing access to water all together. Their hopes of sustainable access to water were crushed due to Tulare County's rubber stamp approval process for agricultural wells. This lack of oversight is too common across most counties in California.

In 2022, Assemblymember Bennett introduced AB 2201 to add more requirements for well permitting and ensure consistency between new permits and SGMA plans. The Newsom Administration implemented a similar, though not permanent, effort through Executive Order N-7-22 (EO). The EO and AB 2201 both required counties to find that new wells would not harm other water users, especially domestic well owners,



Ducor Community Services District member Ruth Martinez (left) outside of her community's well. Their well is at risk of critical water pressure loss and going dry completely due to a deeper agriculture well drilled directly across the street (above).

or cause land subsidence before approving a well drilling permit. Additionally, GSAs must find the well could be operated consistently with any enacted GSP for that basin. Both AB 2201 and the EO exempted permits for drinking water wells for communities. While AB 2201 did not have a final vote, the EO is in place until the current drought emergency is ended by the Administration.

Another challenge domestic well owners face is replacing a dry well. Costs for well replacements have skyrocketed to over \$60,000 — far too expensive for most Californians to afford. Further, a home without water no longer has equity, meaning homeowners cannot borrow the needed money for a new well based on their home's value and cannot sell their home without access to water. While state funding is available for some of these projects, domestic well owners must compete with agricultural well drilling needs, which are much more profitable for well drillers. As a result, there is a backlog of domestic well replacements that will take over a decade to fulfill, all while residents are forced to rely on hauled and bottled water for their needs.

Reforming Land Use Planning

Too often, communities across California were established without proper access to water supplies or sustainable water systems. Many small communities began as labor camps for farmworkers, while others were established outside of incorporated communities due to redlining practices.

Due to historical inequity in land use, many communities in California are unable to incorporate and thrive. Without secure water supplies, no community is able to grow or establish any businesses. In Tulare County, as recently as 2006, the County's General Plan identified some of these communities as "nonviable" and declared them ineligible for infrastructure investment. While language like this has been removed from general plans, the backlog of deferred maintenance remains. We can and must do the work to ensure all communities have stable water supplies to grow sustainably.

Small progress has been made to undo harmful and racist land use decisions in the past. In 2016, SB 1263, by Senator Wieckowski, was passed to limit new, unsustainable water systems from being established. Now, new water systems cannot be created without first getting approval from the State Water Board, which can order proposed new systems to enter into negotiations to join nearby systems instead. This law also prohibits the issuance of building permits for new homes that would have to rely on hauled or bottled water.

Proactive Drought Planning

In 2018, AB 1668 and SB 606, conjoined bills by Assemblymember Friedman and Senator Hertzberg, required the creation of a County Drought Advisory Group (CDAG), which was tasked to propose recommendations to the Legislature on how to improve drought preparedness of small water suppliers and rural communities. In 2021, the CDAG released their report, SB 552 (Hertzberg) was passed to require implementation of their



Open field in Seville which has not been developed due to lack of sustainable water access for the community

recommendations.⁹ SB 552 provides Counties the authority to establish drought task forces with community input and requires the development of a drought plan that includes:

- Provisions for how emergency water supplies, like bottled and hauled water, can be provided during emergencies;
- Drinking water mitigation programs to require those who over pump groundwater to provide water to domestic well owners when they lose access from declining water levels;
- Consolidations of existing water systems and domestic wells to limit systems at risk of losing access to water supplies; and
- Potential local, state, and federal funding available to implement the plan.

SB 552 also defined minimum resiliency measures for water systems, such as back up water supplies and energy generation, to make them adaptable to climate change. DWR is currently working on developing guidance to Counties for implementing SB 552, which should be out early in 2023.¹⁰ Ideally, robust county drought plans can be a road map to undoing the errors of past decision making and guiding investment to ensure water access for all is a reality.

Safe Water Access through Consolidation

For many communities and domestic well owners, consolidation into a larger, more stable water system is the most efficient way to access safe and affordable drinking and wastewater. While simple-sounding in nature, many of these projects are complicated due to numerous issues, including undoing past development trends rooted in systemic racism through redlining practices. This results in complex negotiations whereby sufficient incentives are needed for larger systems to take on smaller, underserved neighbors.¹¹

Consolidation of water systems became a stronger tool to address failing systems in 2015, when California passed SB 88. This trailer bill, which was opposed by water and wastewater systems and local governments, provided the State Water Board the authority to order a drinking water system to physically or operationally consolidate with a disadvantaged community.

Following SB 88, numerous bills subsequently expanded mandatory consolidation authorities. In 2016, SB 552, by Senator Wolk, was passed to allow the State Water Board to appoint and fund an administrator to manage a failing water system. This was recently used by the State Water Board to appoint Tulare County to take over the management of East Oroshi's drinking water services while a physical consolidation with the adjacent community of Oroshi is pending. In 2018 and 2019, Assemblymember Chu's bills, AB 2501 and AB 508 expanded mandatory consolidation authority to absorb communities reliant on domestic wells and created a process by which communities could petition the State Water Board to order a consolidation, thereby empowering community residents to organize a consolidation for themselves. In 2021, AB 403, by Senator Gonzalez authorized the State Water Board to issue mandatory consolidation orders when systems are designated as "at-risk" rather than waiting for the system to fail. This allows the State Water Board to be proactive, rather than forcing residents to experience a loss of drinking water before a consolidation can be ordered.

Mandatory consolidation authority has also been created for wastewater services. In 2018, SB 1215, by Senator Hertzberg, authorized the Regional Water Quality Control Boards to order mandatory provision of sewer services to communities relying on septic systems or other systems that could lead to pollution. These projects would be funded by the State Water Board. To date, this tool has yet to be used.

Addressing Contaminants in Drinking Water

An important component of the Human Right to Water is to ensure drinking water is safe for consumption. Unfortunately, the process to establish Maximum Contaminant Levels (MCLs) for drinking water at the state and federal levels is too slow to keep pace with the discovery of contaminants that impact human health. In California, the Division of Drinking Water (DDW) is the authority on establishing MCLs. DDW was originally part of the Department of Public Health (DPH) and was transferred to the State Water Board by SB 861, a budget bill in 2014. This was a long-needed effort. Advocates were very concerned about DPH's performance for years, and even had the United States Environmental Protection Agency cite California for failing to move fast enough to regulate contaminants and fund solutions. This move was also important to ensure the State Water Board had full control over drinking water, from protection of source waters to protection of tap water, rather than siloing water regulation. However, while the Division's performance has improved under the State Water Board, the work to protect Californians from harmful contaminants continues to be too slow.

Nitrates

Californians face a variety of contaminants with a range of negative health effects. Some contaminants are naturally occurring, such as arsenic and uranium. The main contaminant impacting rural California is nitrates contamination, which end up in groundwater by overapplication of artificial fertilizers, animal waste from large industrial dairies, and to a lesser extent, septic systems. Nitrates cannot be detected by sight or odor, and can cause serious and life-threatening health impacts, particularly in infants. While nitrate has had an MCL for years, not enough has been done to further limit contamination or provide solutions to the Californians at risk.

The Irrigated Lands Regulatory Program (ILRP), overseen by the Regional Water Boards, was created in response to 1999 legislation that eliminated agriculture's long-standing unconditional waiver of pollution standards in their discharges.¹² Initially, the program only sought to reduce nitrate contamination in surface water. In 2012, the ILRPs in the Central Valley and Central Coast were amended to address discharges to groundwater as well. In the Central Valley, individual dischargers largely comply by enrolling in one of 13 coalitions. These coalitions provide education, data collection and guidance to help individual dischargers comply with discharge requirements. Coalitions also set targets for the level of nitrates discharged to groundwater and collect and disseminate information about best management practices to meet these targets. This polluter-driven process is slow-moving and a cause for concern. We are not confident the ILRP will reduce nitrate contamination quickly enough to meet the needs of impacted residents. One benefit of the ILRP is that all on-farm wells must be tested for nitrate; the data provided from those tests tell us that over a third of on-farm wells are, unsurprisingly, contaminated.



Bottles show nitrate contaminated drinking water (left) vs water that is safe to drink but has secondary contamination (middle). Photo Credit: Rudy Meyers, 2016.

While the ILRP tries to limit pollution sources, there is a need to look at the overall health of the basin and take action to protect and restore water quality. This is done through the triennial basin planning processes conducted by the Regional Water Boards. In the Central Valley, a 14-year effort through CV-SALTS — a Central Valley coalition of dischargers and regulators — is overseen by the Central Valley Regional Water Board and aims to address the immediate need of providing nitrate impacted residents with clean drinking water, as well as the long-term restoration of heavily nitrate polluted groundwater basins.¹³ Dischargers of nitrates are supposed to test potential nitrate-impacted wells, provide replacement water to residents whose wells test above the MCL for nitrate, and eventually provide long-term drinking water solutions. However, over two years since the inception of the program only about 10% of potential nitrate-impacted wells have been tested — leaving as many as 13,000 households vulnerable to drinking nitrate contaminated water.¹⁴

1,2,3-TCP

Another contaminant of concern California recently established an MCL for is 1,2,3-trichloropropane (1,2,3-TCP), which can cause liver and kidney damage or cancer. 1,2,3-TCP was a byproduct included in pesticides produced by Shell and Dow that was able to travel from application in fields in the Central Valley and Central Coast into the groundwater used by communities for their drinking water. People can be exposed to 1,2,3-TCP through drinking or even inhaling steam from taking a hot shower with contaminated water. Despite the MCL being established, many communities and domestic well owners are still relying on bottled water for cooking and drinking while they wait for cost-effective treatment options to be installed.

Hexavalent Chromium

In 2023, the State Water Board is expected to release and finalize an MCL for hexavalent chromium, a carcinogen made famous from the movie Erin Brockovich. In 2004, the Legislature demanded that DPH establish an MCL by 2006, a task not completed until 2014.¹⁵ Even with extra time, the economic analysis by DPH was faulty, challenged by polluters in court, the MCL was thrown out. While the slow MCL process and legal challenges have occurred, communities have been forced to continue drinking carcinogenic water and face immeasurable health impacts.

PFAS

Californians are also impacted by PFAS contamination in their drinking water. PFAS are a class of chemicals intentionally added to industrial and consumer products like non-stick cookware, firefighting foam, and personal care products. PFAS are manmade, long-lasting chemicals that do not break down in the environment. They can cause a range of significant health complications, such as reproductive issues, developmental delays in children, cancer, decreased immune response, hormonal impacts, and obesity. PFAS enters into water supplies as contaminant plumes and are largely attributed to discharges from landfills, industrial sites, or wastewater treatment plants.

Currently, there are no established drinking water standards for PFAS in California, but there is work being done at the state and federal levels to fund monitoring efforts of water systems. This data will be used to develop standardized methods to treat PFAS in drinking water, hold companies accountable for PFAS contamination, and establish drinking water standards for individual PFAS.^{16 17}

Whether addressing known constituents and their health risks or discovering new harmful substances, human health must be prioritized when making policy decisions for long-term mitigation and treatment of drinking water contaminants.



Community members traveled to Sacramento multiple times over three years to push for the creation of the Safe and Affordable Drinking Water Fund!

The Safe and Affordable Drinking Water Fund

The Safe and Affordable Fund for Equity and Resilience (SAFER) program was enacted in 2019 in light of over one million Californians living with unsafe and unaffordable drinking water. While various funding sources exist to provide support to failing water systems, the SAFER program prioritizes funding to underserved communities, often in rural California, with a focus on meeting the distinct needs of these communities.

Traditional sources of infrastructure funding, like the Drinking Water State Revolving Fund, often fail to deliver projects in rural and underserved communities. Often, infrastructure programs like this have significant barriers to access their funding, with application requirements that small water systems lack the capacity to complete. While these programs have some funding for technical assistance to help systems apply, these resources are insufficient and do not fund all required components of outreach and community engagement needed for successful projects. Even if projects can be funded, ongoing operations and maintenance costs are not. This has led to rate increases communities cannot afford, as happened with an arsenic treatment plant built in Lanare.¹⁸

The passage of SAFER took an extraordinary effort from community members, safe drinking water advocates, and stakeholders to guarantee additional funding is now prioritized to help realize the Human Right to Water in California. Community members and advocates rallied in Sacramento for over three years (sometimes even 2-3 times in a week), supporting Senator Monning's SB 623 in 2017, which failed due to a lack of support for the funding proposals for the program. Finally, in 2019, the determination and resilience of community members paid off as SB 200 successfully passed. SB 200 created the Safe and Affordable Drinking Water Fund and funded this program for ten years with an appropriation from the Greenhouse Gas Reduction Fund.

SAFER provides critical resources to disadvantaged communities with unsafe drinking water to meet needs other sources of infrastructure funding do not address, including:

- Technical assistance to water systems
- Community capacity building to allow for the community to organize and advocate for drinking water solutions that work for them
- Infrastructure investment and operations and maintenance to ensure solutions remain affordable long-term



Governor Gavin Newsom traveled to the Central Valley to sign SB 200 alongside community residents facing drinking water issues, Community Water Center Executive Director Susana De Anda and long-time farmworker activist Dolores Huerta.

SAFER also has a community-led Advisory Group, which provides critical feedback to staff running the program on how to best outreach to communities and what types of funding and projects are most helpful.¹⁹ To date, the SAFER program has successfully provided more than \$700 million in funding towards drinking water solutions, including 80 consolidations and 300 drinking water projects accelerated, helping almost 10,000 households.²⁰

In addition to SAFER, recent California state budget surpluses allowed for historic investments in drinking water infrastructure; meanwhile Congress passed the Infrastructure Investment and Jobs Act in 2021 to provide similarly historic federal investment.²¹ Coupled with SAFER, these resources could make significant progress in ensuring all Californians have access to their Human Right to Water permanently.

Addressing Unaffordable Water

Water rates continue to rise faster than inflation due to replacement of aging infrastructure, new treatment standards and supply challenges — leaving low-income families increasingly unable to afford their water bills. An estimated 500,000 Californians lost drinking water access in 2019 because of water shutoffs due to failure to pay their water bills. Despite these challenges, most water utilities do not offer rate assistance programs, unlike energy, gas, and telephone utilities in California.²²

The first step in addressing the water affordability crisis was to pass AB 401, by then Assemblymember Dodd, in 2015. This bill tasked the State Water Board to study the issue of affordability and determine policy recommendations to address it. While the AB 401 Report was being prepared, the focus of advocacy on water affordability was to limit the practice of utilizing shutoffs as a means to compel payment.²³ Shutoffs of a vital utility are a cruel practice that does not compel greater payment rates from low-income families and is ineffective in the long run.²⁴ In 2018, Senator Dodd worked with advocates to pass SB 998, which limits the use of shutoffs for water systems with over 200 service connections. SB 998 requires ample notice, in languages spoken by those customers, and for water systems to offer a payment plan before their water is shut off.²⁵ The bill is being proposed to be expanded to all water systems this year, by SB 3, also by Senator Dodd.

Previously, advocates worked with Senator Dodd to create SB 222, which would have finally established a statewide low-income rate assistance (LIRA) program for water and limit the need for crisis assistance by making water affordable for all. SB 222 envisioned a program for all Californians who pay a water bill. This



Community leaders rallying for affordable water.

program would rely on automatic enrollment and credits so individual families would be able to participate with limited burden. Residents from the Central Valley, Central Coast, and Coachella Valley rallied in support, coming to Sacramento twice to lobby the Legislature to pass SB 222 and provide funding for implementation. SB 222 passed the legislature in 2022 with bipartisan support, but was vetoed by Governor Newsom as the bill did not have an identified funding source.

COVID-19 Debt Relief

Water affordability and shutoffs reached a crisis level during the COVID-19 pandemic and related recession. While water for hygiene was a basic form of protection from COVID-19, many Californians were falling behind on their bills and facing looming shutoffs. To address this issue, the state and federal government acted quickly, placing a moratorium on utility shutoffs for nonpayment and setting up programs to pay down rising utility debt. California set up the Water and Wastewater Arrearages Payment Program (WWAPP) at the State Water Board. This program allowed water systems to sign up and automatically credit customer accounts, erasing over \$350 million of debt in just six months. WWAPP was not as successful as it could have been as it was not mandatory for all water systems to participate. Additionally some debts had already been paid, transferred to property tax rolls, or sent to collection agencies. However, the program's design and ease of access for customers made it easier to implement.

A federal program was also created during the pandemic — the Low-Income Household Water Assistance Program (LIHWAP) at the Department of Community Services and Development (CSD).²⁶ LIHWAP, which is based on the LIHEAP crisis assistance program for energy bills, requires local water agencies to enroll in the program and customers to individually apply for aid through local service providers on the ground. At this time, LIHWAP rollout has been far too slow, reaching only 6,172 families by the end of 2022. Californians once again face water shutoffs as they cannot access this aid.²⁷ CSD has not been able to get smaller water systems enrolled in the program in a timely manner. Even after systems are enrolled, outreach to customers takes significant time to be successful, leaving funding that could be helping families across the state unused.

Necessary Steps to Fulfill the Human Right to Water in California

Low-Income Water Rate Assistance

As mentioned, California has taken small steps towards preventing a family from losing access to water due to an inability to pay. However, the state has not made sufficient progress towards truly making water affordable for all as is promised in the Human Right to Water.

The first step in addressing this problem is to create a statewide LIRA program, as envisioned by SB 222. This program would have to be universal in nature, so all eligible Californians could easily enroll and receive assistance. The program must have sustained and dedicated funding as there is always a need to assist Californians with their water bills. Further, this program must be recession proof — the need for aid will increase if California goes through an economic downturn.

With a LIRA program in place, California can begin to deliver more affordable water, but challenges will still remain. For example, monthly affordability programs do not address emergency crisis assistance, such as when a household loses their source of income, cannot pay their water bills, and then faces a shutoff. The LIHWAP program exists to fill this gap, but implementation has been slow to start. The state is struggling to enroll small water systems, leaving thousands of at-risk households without protection. Federal restrictions on some funding leave out undocumented families, and the program lacks stable funding entirely.

Both LIRA, as envisioned in SB 222, and LIHWAP are only accessible for Californians who pay a water bill. This leaves renters who pay water bills through their rent unable to receive assistance. Continued policy development is needed to develop an equitable approach to reducing the portion of rent paid as a result of high water bills in a way that does not enrich landlords.

Finally, the use of shutoffs to compel payment for past due water bills should be prohibited in California. Shutoffs do not increase collection for past due bills and actually cost water systems in the long run. With sufficient aid in place, California should be able to follow the lead of systems like the Los Angeles Department of Water and Power and end shutoffs for good.²⁸ Passing SB 3 in 2023 will help move towards more equity, by expanding protections from shutoffs to all water systems in California, regardless of size.

Continuing Groundwater Reform

Families cannot wait until SGMA's sustainability targets are met in 2040 and 2042. For immediate SGMA implementation, we need DWR and the State Water Board to be aggressive in having the state take over plans that do not adequately protect drinking water. For many plans, this will require robust mitigation programs to replace water supplies for domestic wells that go dry. The legislature must ensure DWR and the State Water Board have sufficient resources to protect vulnerable communities while avoiding further attempts to delay SGMA implementation on the ground.

Continued efforts must be made to ensure that land use approvals are done in a manner that is consistent with SGMA planning and not harming domestic well users through well interference. Well interference happens when a public water supply or domestic well owner loses access to water because a high-volume

water appropriation is taking place nearby and water levels recede below the pump of the affected well. While the drought Executive Order is still in place to address well permitting issues, a long-term fix, like AB 2201 is needed to ensure new wells are appropriately sited and approved in a way without harming other well owners or impeding the progress of SGMA.

Addressing the Well Backlog

The state must also determine a way to eliminate the backlog of replacement domestic wells and restore drinking water to those who have lost it. As of publication, nearly 1,200 households in the San Joaquin Valley alone are on a waiting list for a new well and 1,800 homes in the San Joaquin Valley are dependent on tanks and hauled water, which is draining state resources. We cannot continue allowing unsustainable agriculture to be able to drill massive wells and overpump the aquifers while neighboring families are unable to get a driller to work on their property.

Preparing for Potential Adjudications

SGMA implementation is already facing challenges due to litigation from overpumpers of groundwater. One challenge is the use of groundwater adjudication litigation to attempt to have the courts determine water rights for all users in a groundwater basin, potentially allowing for certain pumpers to continue to use more than their fair share. When an entity with rights to groundwater files for an adjudication, the courts must determine the rights to all users in the basin and determine a physical solution to end overdraft in the basin. This process can easily take two decades, leading to massive legal fees for all those who are forced to defend their access to water. Adjudication is especially difficult for domestic well owners and groundwater-dependent disadvantaged communities who lack the resources to litigate for a lengthy period of time. We cannot allow the courts to allow overpumpers to continue to avoid regulation under SGMA and harm community water access.

Multi-Benefit Land Repurposing and Conservation

As groundwater management moves towards sustainability, and climate change increases volatility of precipitation, we need to tackle living with less water in California. Recently, state and federal investments, like the Multi-Benefit Land Repurposing Program, are funding transitions from more water-intensive agriculture to land uses with a public benefit — like open space and habitat — to reduce groundwater usage. California should plan for transitioning to a new water future while still allowing for areas like the San Joaquin Valley to have economic opportunity and protecting agricultural workers.

Funding conservation programs for small communities is another option to help decrease water use in California. While many larger water systems run conservation and efficiency programs, smaller communities often do not. The state could help families use less groundwater by directly investing in conservation measures and water-efficient appliances, particularly in low-income and multi-family rental properties.

Moving Faster on Contamination

Many contaminants in drinking water are unregulated or unaddressed for decades after identifying the harms they cause. Californians should not be drinking water with known carcinogens for almost two decades before the state intervenes. Furthermore, pollution from industrial agriculture must be addressed as soon as possible to make groundwater safe for use.

MCLs are enforceable standards for contaminants in drinking water. Currently, the MCL process in California involves two agencies: the Office of Environmental Health Hazard Assessment (OEHHA) and DDW. DDW first identifies contaminants which can cause cancer and other health concerns in drinking water and refers these to OEHHA to set public health goals (PHGs). A PHG is the level of a chemical contaminant in drinking water which does not pose a significant health risk. Once a PHG is established, DDW can set an MCL, which must be as close to the public health goal as is economically and technologically feasible.

The process to regulate contaminants in drinking water is slow, taking in some cases up to a decade or more. While this is partially due to the scientific analysis California requires to set PHGs and MCLs, the primary problem is the lack of required timelines to ensure both OEHHA and DDW act with expediency. This is particularly true for DDW, which often delays action even after a PHG has been established or lacks the resources to implement their regulatory process. The Legislature can take steps to improve this process by establishing timelines by which DDW must develop MCLs upon receipt of a final PHG for a contaminant and ensuring DDW has adequate staff to develop MCLs and protect the public.

Another factor that can delay cleanup of water sources or treatment of drinking water is the burdensome cost associated with remediation for local water systems, especially small systems and those serving disadvantaged communities. Consequently, polluters who have profited by their activities should be held accountable to pay for water cleanup of nitrate and other water contaminants such as 1,2,3-TCP and PFAS instead of the cost falling on impacted communities who can least afford it. Further, water systems often lack the resources to take necessary legal action against polluters. The state should explore ways to accelerate clean up and ensure polluters are held accountable.

Roberto Ramirez next to his newly installed 1,2,3-TCP treatment system which addresses high levels of this cancer-causing contaminant in his private well.



Closing the Needs Gap with SAFER

California must ensure SAFER and infrastructure dollars are utilized to pay down the water and wastewater needs of communities across the state. While currently over \$10 billion dollars is needed to fund safe drinking water solutions for existing systems, that number will likely increase as costs increase, water systems continue to fall behind on needed infrastructure investments, new contaminants are identified and regulated and climate change puts more water systems at risk.

There must be a continued partnership between communities and local state government to ensure drinking water needs are being addressed. This means continued coordination to address water outages and ensure emergency resources are available to all those at risk of losing their water supplies due to drought or overpumping of groundwater. We also need a refinement of existing processes, such as the State Water Board's annual needs assessment and the SB 552 county drought plans, to identify paths to safe and affordable drinking water for all.

The SAFER program will also need to continue. While initial investments are focusing on projects and community capacity building, funds will likely shift towards providing long-term assistance to community water systems through operations and maintenance investments. Without subsidizing solutions over their lifetimes, communities will be saddled with costs they cannot bear, forcing them to choose between safe water or affordable bills. We need SAFER to continue to provide meaningful solutions for these communities. This means finding a stable and permanent funding source for SAFER, beyond the Greenhouse Gas Reduction Fund, before the existing 10 year appropriation runs out in 2030. Additionally, SAFER only covers solutions for drinking water in homes. SAFER must be expanded to cover wastewater service and could be a source of aid towards Californians experiencing homelessness as well.

Conclusion

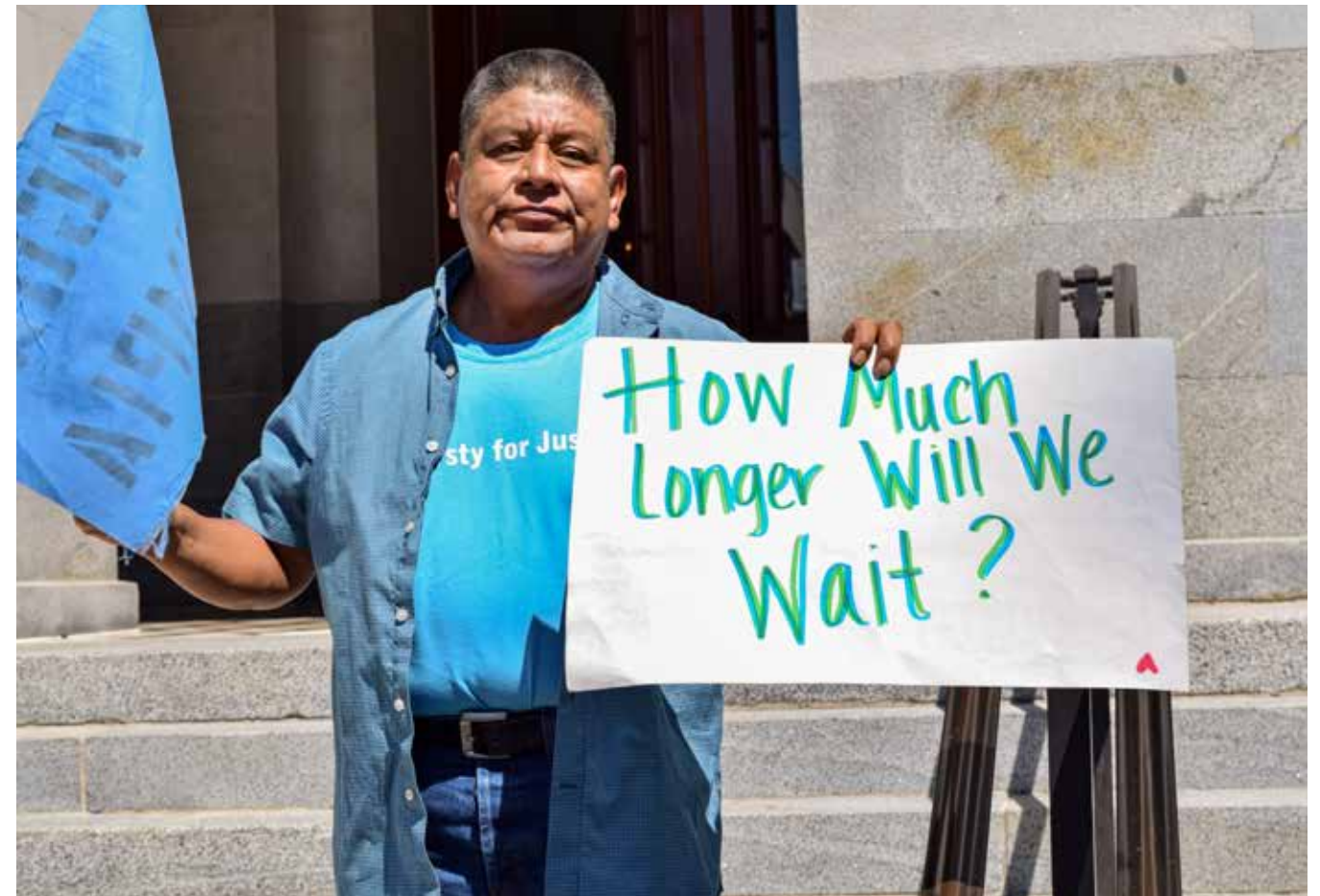
Significant progress on drinking water issues in California can be seen over the past ten years since the passing of the Human Right to Water. From an initial campaign to recognize the state's drinking water crisis and acknowledging communities deserved better, the California Legislature has regulated groundwater, provided tools to address failing water systems and contaminants, and provided funding to allow for community-driven solutions — all of which should be applauded.

But this work is far from done. Water continues to be too expensive and solutions to bring safe water permanently to communities remain too slow. SGMA implementation is controversial and it is not certain whether it will succeed, and climate change will only make all of these issues more difficult to solve. Despite these challenges, the dream of the Human Right to Water remains a guiding light. Advocates and community partners will continue to fight for their needs and with a willing partner in the Legislature, we can finally achieve water justice for all Californians.



Notes

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Bartolo Chavez from the community of Arvin in Kern County at a rally to pass the Safe and Affordable Drinking Water Fund. Bartolo and his family were impacted by unsafe levels of 1,2,3-TCP in their water – they provided testimony multiple times to push for a health-protective MCL for this cancer-causing contaminant.



**COMMUNITY
WATER CENTER**
EL CENTRO COMUNITARIO
POR EL AGUA

About the Community Water Center: Community Water Center works towards realizing the Human Right to Water for all communities in California through education, organizing, and advocacy. Our main office is located at the heart of San Joaquin Valley in Visalia, with additional offices in Sacramento and Watsonville.

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