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Submitted ELECTRONICALLY via Human Right to Water Portal

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Subject: Comment Letter – A Framework and Tool for Evaluating California's Progress in Achieving the Human Right to Water

Dear Dr. Balazs,

The California Municipal Utilities Association (CMUA), representing 42 public water utilities, appreciates the opportunity to comment on the Office of Environmental Health Hazard Assessment's (OEHHA) A Framework and Tool for Evaluating California's Progress in Achieving the Human Right to Water (Framework). CMUA's member agencies provide water to millions of Californians that is safe, affordable and accessible. It is our hope that these comments represent a starting point from which CMUA, other stakeholders and OEHHA can work together to develop a Framework and Tool that accurately represents water systems in California.

Water Quality Indicator Inputs Should Be Carefully Considered

CMUA appreciates the Framework's attempt to determine a list of set contaminants for water quality by utilizing the availability of testing data. However, given the complex structure of how and when agencies test for contaminants, CMUA recommends the list of contaminants utilized in the Framework and Tool be determined by the State Water Board in conjunction with water agencies' input. Additionally, CMUA is concerned that the Framework equates contamination data with potential exposure without consideration of the impacts of premise plumbing on water quality. CMUA recommends OEHHA consider adding premise plumbing in the future indicators listed in Appendix A.

CMUA would suggest scoring for Water Quality Indicator 1 decrease for single violations over time. For example, a violation in 2010 would not be weighted the same as a violation that occurred in 2018. As OEHHA is aware, concentrations of contaminants can be measured at one-point in time, in rolling averages or annually. For the purposes of the tool, CMUA recommends utilization of the annual average water concentration for contaminants.

Additionally, the Framework and Tool could differentiate between newly established MCLs and those which have been in place for a longer time period. For example, newly established MCLs (those adopted in the last five years) could be weighted differently than ones established over five years ago. Given varying capabilities for water systems to adopt new technologies to treat contaminants, assigning different weights to MCLs based on a five-year timeframe will ensure the Framework and Tool are more reflective of on the ground realities.

Affordability Indicator Highlights Important Aspects of Water System Rates

CMUA appreciates the Framework's acknowledgement of the difficulty in addressing affordability challenges through water rates, noting "that a decrease in water rates could compromise the system's high-water quality."

For publicly owned water utilities securing a reliable supply, treating to protect public health and distributing water to customers at lowest cost possible is paramount. For some utilities, acquisition of water can be as simple as pumping from a local source near treatment and distribution facilities resulting in low operating expenses. Due to geography, other agencies must choose between more expensive ways to acquire water such as desalination, water transfers, and/or importing water from wholesale agencies. Oftentimes water quality, accessibility and affordability do not move in a linear path and it is CMUA's hope that the Tool takes into consideration the cost of acquisition of water in scoring affordability. One possible way to contextualize these costs could be to look at affordability regionally versus on a per agency basis.

Additionally, agencies are constantly adjusting their rates to balance increased regulatory burdens, ensuring fiscal solvency and providing the most affordable water possible. It is CMUA's hope that the Framework and similar documents, such as the State Water Board's AB 401 report: *Options for Implementation of a Statewide Low-Income Water Rate Assistance Program* consider expanding on language discussing impacts to affordability when presented to a larger audience.

CMUA would like to commend OEHHA for the usage of six Hundred Cubic Feet as a realistic figure for the basic indoor needs of Californians. Six HCF strikes the important balance between necessity while signaling the importance of conservation. It is important that state agencies seeking to measure affordability do so at a standardized amount that recognizes conservation as a necessary component.

CMUA recommends in the future, OEHHA consider incorporating additional subcomponents that impact disposable/discretionary income such as water and electric agencies with low-income rate assistance and lifeline programs.

Water utility shutoffs as a future water affordability indicator could be problematic given the recent passage of SB 998 which prohibits shutoffs if certain conditions are met, including inability to pay. CMUA suggests that OEHHA, the State Water Board and water agencies continue to discuss if shutoffs are an appropriate metric for future inclusion in the Framework and Tool.

Contextualizing water affordability by considering the costs of other essential services like housing, food, fuel and healthcare will be important to audiences utilizing the tool. As noted by

Senate President pro Tempore Toni Atkins at a recent PPIC event: "housing is the highest cost for people to deal with poverty".[1]

Accessibility Indicator Must Consider Water Management Practices

CMUA appreciates page 19 of the Framework, which indicates future versions of the Framework and Tool could include additional measures such as supply capacity compared to daily demands. It is CMUA's hope the next draft of the Framework does not favor surface water over groundwater, as water sources, regardless of being surface or groundwater can be reliable when managed sustainably.

CMUA recommends the Framework and Tool include other inputs when considering scoring for the Accessibility Indicator, such as water transfers and existing interties between systems. Other ways to strengthen the Indicator would be to include consideration of near and long-term planning documents water agencies must submit such as Urban Water Management Plans and Water Supply and Demand Assessments. CMUA member agencies would gladly meet with OEHHA staff to go over these documents to find valuable information for informing the Framework and Tool.

The Physical Vulnerability to Water Outages Indicator poses an interesting question regarding how systems will be assessed based on a supply outage, or shortage. CMUA recommends OEHHA further define outages as it relates to water system operations. Outages can be a result of planned system maintenance or unplanned events such as an extended loss of power. Additionally, the Indicator should reflect if a water system has backup measures in place, such as backup generators.

CMUA would also request that future inputs to the Indicator include scoring for agencies that have or will receive funding from the Drinking Water State Revolving Fund or the Clean Water State Revolving Fund. Additional inputs could also include technical or managerial assistance from state agencies, third parties and/or nonprofits. The inclusion of this information would give a more complete picture of water systems current and future accessibility, particularly for smaller systems.

Mixed Messaging Could Confuse Intended Audiences

The Safe Drinking Water Act requires community water systems to provide a Consumer Confidence Report (CCR) to its customers on an annual basis. CCRs[2] list the regulated contaminants found in customers' drinking water as well as potential health effects related to violations of drinking water standards. CMUA is concerned that the Framework and Tool could present a mixed message to the public who may utilize both to be better informed regarding their drinking water. For example, a CCR may demonstrate the water is safe to drink, however, the Tool may give negative marks for secondary contaminants or for reasons not related to impacts on public health. This concern is important when considering how the Tool will visualize and frame data. For example, Figure 10 on page 35 indicates light blue boxes could be used to indicate "little to no concern", however, to a potential policy maker or customer of the system,

[1] https://www.ppic.org/event/a-conversation-with-californias-legislative-leadership-2019/
[2] Health & Safety Code §116470

little concern is significantly different than no concern. It is CMUA's hope that OEHHA staff work with water agencies to develop language in the Framework and Tool to avoid confusion.

Stakeholder Input Regarding Low, Medium, High Scores is Necessary

CMUA understands the Framework and Tool are still under development and would appreciate the opportunity to meet with OEHHA and stakeholders to better inform how low, medium and high scores are determined. It is CMUA's hope that scoring will result in quantifiable actions that can be taken by public water system and state agencies to lead to certifiable results.

Transparency Is Key in the Development and Updating of the Framework and Tool

CMUA appreciates OEHHA's commitment to host future workshops and meetings with stakeholders to aid in the development of the Framework and Tool. It is CMUA's sincere hope that future iterations of the Framework and Tool will consider how audiences may utilize OEHHA's work to establish policies that could impact water agencies.

Conclusion

Thank you for the opportunity to provide feedback on the Framework and Tool and CMUA looks forward to working further with OEHHA on this important issue. If you have questions, please contact me at 916-326-5806 or jyoung@cmua.org.

Sincerely,

Jonathan Young
Regulatory Advocate
California Municipal Utilities Association

CC: John Faust, Ph. D., Branch Chief, OEHHA
Yana Garcia, Assistant Secretary of Environmental Justice and Tribal Affairs, CalEPA
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