

# A CLEAN WATER AGENDA FOR GOVERNOR NEWSOM



## SWIMMABLE, FISHABLE, DRINKABLE WATERS FOR ALL

Governor Newsom should be committed to achieving swimmable, fishable, drinkable waters for all communities and ecosystems; to ensure safe and affordable drinking water for all Californians; to protect the health of our coastal, surface, and groundwater resources; to enforce clean water laws so that our beaches and bays are safe to enjoy; and to restore our river flows to sustain native fish, ecosystems, and local economies.



# 1.

## ENSURE SAFE AND AFFORDABLE DRINKING WATER.

California is facing a substantial public health crisis with hundreds of thousands of Californians lacking reliable access to safe, affordable drinking water. We must invest in sustainable local water supplies, repair decaying infrastructure, support water affordability programs for low-income households, and create an ongoing sustainable funding source to address gaps that cannot be met with existing resources. Additionally, we must limit nitrate contamination of drinking water due to agricultural pollution, remediate already contaminated groundwater basins, and invest in water treatment and delivery systems for communities of all sizes.



### ACTION ITEMS

- Establish an ongoing, sustainable Safe Drinking Water program that is funded through a public goods tax, water use fee, concentrated animal feeding operation (CAFO) waste disposal fee, fertilizer fee, and shifting Underground Storage Tank funds. The Safe Drinking Water program should not be funded by a “pay to pollute” scheme with agricultural growers.
- Order the State Water Board to set enforceable groundwater nutrient loading performance standards based on accurate, up-to-date models for different ecosystems and basins.

## 2.

### **MAKE ENFORCEMENT OF CLEAN WATER LAWS A MISSION PRIORITY AND A SENSE OF PRIDE FOR THE WATER BOARDS.**

California has some of the strongest clean water laws in the country. However, these laws are only effective if they are fully and consistently enforced and have penalties that deter violations. This has not been the case to date. The State Water Board's 2013-2014 Annual Performance Report revealed that 99 percent of stormwater violations were handled with informal warnings. With the federal government actively taking measures to defund and deprioritize enforcement, we must improve state-level enforcement of water quality and water supply laws.



#### **ACTION ITEMS**

- Increase Budget allocations to the State Water Board's enforcement program and create an incentive program for Regional Boards to take a "race to the top" approach to enforcing clean water laws.
- Require Regional Boards to establish a water quality enforcement strategy with numeric goals, benchmarks, and enforcement priorities (including prioritizing substantive pollution violations over procedural or reporting violations) that are annually reviewed and regularly disclosed to the public.
- Direct the State and Regional Boards to issue permits and waivers that require full compliance with Water Quality Standards, Total Maximum Daily Loads, Inland Surface Water Plans, Basin Plans, Ocean Plan, and Non-Point Source Plans.
- Direct the State and Regional Boards to issue simple and concise permits and waivers with objective standards and limitations, and monitoring sufficient to demonstrate compliance with those standards and limitations
- Empower the State Water Board's Office of Enforcement with independent review and comment to State Board Members on the enforceability of Permits and Policies.
- Support legislation to align the State's enforcement authority under California Water Code section 13350 with federal clean water enforcement authority.

## 3.

### **TAKE MEANINGFUL STEPS TO CURTAIL AGRICULTURAL POLLUTION.**

Agriculture is and will remain an important part of California's economy and culture. However, current regulation of agricultural pollution is not on par with the magnitude or severity of the threat it poses to our environment and drinking water supplies. Governor Newsom should direct the State Water Board to strengthen surface water monitoring and reporting requirements; adopt, implement, and enforce nitrate standards; and collect and disseminate publicly accessible water quality data.



## ACTION ITEMS

- Direct the Water Boards to issue new Agricultural Waivers or Waste Discharge Requirements (WDRs) that strictly comply with the requirements and deadlines set forth in the Non-Point Source Plan, Basin Plans, Inland Surface Water Plan, and Ocean Plan.
- Direct Water Boards to update pesticide monitoring protocols using best available science to allow for detection of toxicity violations.
- Direct Water Boards to require riparian setbacks to enhance natural ecological and hydrological function.
- Prohibit livestock grazing in waterways and within riparian setbacks.
- Direct the Water Boards to issue or reissue CAFO permits for Dairies, Cattle Feed Lots, or Chicken CAFOs that prohibit the discharge of pollutants, including nitrates, to surface of groundwater, and include monitoring sufficient to demonstrate compliance.
- Direct the State Water Board to adopt a Non-Dairy CAFO General Order to regulate animal operations that are not currently addressed, such as equestrian facilities.

# 4.

## SEEK A CONSTITUTIONAL AMENDMENT TO REFORM PROPOSITION 218 TO EMPOWER LOCAL COMMUNITIES TO MODERNIZE WATER MANAGEMENT.

Proposition 218 is prohibiting communities from preparing for California's next drought. Communities need to better use water efficiently, reuse stormwater, and recycle water. California has a Human Right to Water law, but our current water management system encourages rate structures that leave low-income ratepayers (including "lifeline" rate programs to ensure users can afford a basic amount) vulnerable to legal challenges. Properly managing runoff and water supply is a critical responsibility of local government, but the state constitution currently prevents local governments from managing runoff in the same way as utilities like water, electricity, and garbage collection. The state constitution also contains barriers for local governments to promote tiered water pricing that would incentivize water conservation and penalize residents and businesses that waste water. A constitutional amendment would empower municipalities to manage water more holistically, resulting in improved water reliability, public health, and environmental protection.



## ACTION ITEMS

- Support a constitutional amendment to allow water agencies to voluntarily set rate structures that provide low-income ratepayer programs and/or "lifeline rates" to qualified customers.
- Support a constitutional amendment to allow water agencies to effectively and fairly set water conservation pricing.

- Support a constitutional amendment to move stormwater into the utility exception category in Proposition 218, which would allow for a notice and protest hearing on stormwater fees, treating stormwater as a utility.

## 5.

### **RECYCLE ALL OCEAN WASTEWATER DISCHARGES BEFORE PERMITTING THE EXPENSIVE AND HARMFUL PRACTICE OF OCEAN DESALINATION.**

Most California communities use water once then dispose of it like waste, at tremendous environmental and economic cost. Today's water recycling technology allows us to treat and reuse those wasteful discharges, which helps reduce energy consumption, increase water security, and meet California's constitutional obligations. California should work toward eliminating treated ocean wastewater discharges and instead reuse them and put them to a beneficial use as water supply.



#### **ACTION ITEMS**

- Support legislation that would require the elimination of ocean wastewater discharges by a certain date.
- Delegate authority and funding and direct the Regional Water Boards to conduct Reasonable Use and Waste analysis during National Pollutant Discharge Elimination System/WDR reissuance for publicly owned treatment works (POTWs), and to impose permit limitations and compliance schedules to eliminate unreasonable use and waste at POTWs.
- Direct the State Water Board to prohibit ocean desalination in regions that are still discharging ocean wastewater instead of putting it to a beneficial use through potable reuse.
- Direct the State Water Board to revise its Desalination Ocean Plan Amendment to center around "Best Available Technology" (BAT), consistent with the Once-Through Cooling Policy. BAT should be defined as subsurface intakes, either slant wells, infiltration galleries, or other technology-forcing subsurface intakes designed in the future.

## 6.

### **BREAK DOWN BUREAUCRATIC BARRIERS TO INTEGRATED WATER MANAGEMENT.**

California should develop a water-energy nexus policy to sparingly use energy-intensive water supply options that undercut our emissions reduction goals and exacerbate hotter, drier conditions. We should also work to ensure that California communities are prepared for future droughts with water supply contingency plans. We must deploy new technologies and regulatory drivers to substantially reduce agricultural and municipal water use throughout the state. Our agencies must also utilize legal mechanisms, such as Section 1707 of the California Water Code, to ensure that water conservation

translates into ecosystem recovery and water for essential human needs, consistent with the Human Right to Water. California must increasingly rely on improved efficiency and local supply options, such as rainwater harvesting and reuse, which are cheaper and more reliable than available alternatives.



## ACTION ITEMS

- Direct the State Water Board and Department of Water Resources to develop a recommended water loading order that prioritizes water options by carbon footprint, safety/reliability, overall environmental impact, life-cycle costs (using environmental full-cost accounting principles), and other factors as deemed necessary and appropriate.
- Convene a blue ribbon taskforce to evaluate how the current water rights and water governance structure (including the massive number of water agencies in the state) impacts sustainable and equitable water policies for the state, and develop recommendations to address any shortcomings.
- Integrate water rights with water quality permitting by requiring the prevention of waste and unreasonable use and the protection of the public trust in both programs and in driving integrated water management.

# 7.

## ENFORCE EXISTING LAWS SO CALIFORNIA RIVERS FLOW.

Excessive diversions and extraction of water have left many California rivers and creeks without enough water year-round to sustain the flows and fish that our communities and economy depend upon. Further, climate change is intensifying hot, dry conditions and extreme weather events, threatening the survival of native salmon species and other essential elements of California’s way of life. California has under-utilized legal tools at its disposal to protect healthy instream flows. Our state urgently needs to develop legally-enforceable flow standards for many rivers and streams consistent with those tools, including the public trust doctrine, clean water laws, endangered species protections, the prevention of the waste and unreasonable use of water, and the forthcoming cannabis regulatory program.



## ACTION ITEMS

- Direct the California Department of Fish and Wildlife (CDFW) to develop and maintain a priority list of dam removal projects within the State of California.
- Direct CDFW to develop and maintain an “endangered” rivers list impaired by low flows.
- Develop final flow standards for “endangered” rivers consistent with the public trust doctrine, clean water laws, endangered species protections, the prevention of the waste and unreasonable use of water, and the forthcoming cannabis regulatory program, during this administration’s term.
- Review the water rights of “endangered” rivers listed by CDFW for waste, unreasonable use, and protection of public trust, using interim flow standards within 4 years.

- Digitize all water rights documents (licenses, permits, or other records) within 4 years.
- Direct the State Water Board to adopt policies and regulations that address biological/ecological impacts of hydromodification (including channelization/concretization) of rivers, and direct funding towards daylighting/deconcretization of such rivers.

## 8.

### PROTECT OUR GROUNDWATER SUPPLIES.

California was the last western state to manage groundwater with its landmark legislation, the Sustainable Groundwater Management Act (SGMA). Our groundwater resources serve as our water supplies savings accounts, providing additional supply when surface water is not available. Too many groundwater basins in California, however, are either seriously over-drafted or contaminated – sometimes both.



#### ACTION ITEMS

- Accelerate SGMA implementation to decrease the over-withdrawal of critical groundwater basins.
- Enforce SGMA’s measurement and management criteria.
- Ensure small water systems and disadvantaged communities have a meaningful seat at the table within the new Groundwater Sustainability Agencies.
- Ensure sufficient funding is provided to remediate and recharge existing groundwater supplies.

## 9.

### TAKE A NO REGRETS OCEAN ACIDIFICATION STRATEGY BY MINIMIZING NUTRIENT RUNOFF TO PREVENT HARMFUL ALGAL BLOOMS AND OCEAN ACIDIFICATION HOT SPOTS.

Polluted sea water poses a significant health risk to the tens of thousands of ocean users in California and exacerbates nearshore ocean acidification and harmful algal blooms. Our state must do a better job of capturing runoff, before it becomes polluted and hits shorelines, and reusing that water directly or to replenish our aquifers. California should support public funding measures and investments in nature-based projects that capture, cleanse, and reuse runoff.



#### ACTION ITEMS

- Direct the State Water Board to set Water Quality Objectives to protect beneficial uses in the Ocean Plan from ocean acidification and hypoxia.
- Transfer ballast water permitting authority to the State Water Board to better protect sea grass and kelp forests.

- Direct continuous appropriations to California’s new beneficial reuse program being developed by the California Coastal Conservancy to improve resilience of industries and communities vulnerable to ocean acidification while reducing greenhouse gas (GHG) emissions or improving carbon storage.
- Direct the California Coastal Conservancy to adopt a Coastal Wetland Policy to restore habitats that sequester GHGs and to achieve a net gain of ecologically functioning wetlands.
- Direct the State Water Board to require coastal infrastructure upgrades – including denitrification for all ocean POTWs – that simultaneously eliminate nutrient- and carbon-laden ocean discharges that exacerbate local acidification.
- Re-institute statewide prohibition of stormwater discharge into Areas of Special Biological Significance by eliminating all waivers to this prohibition.
- Require State Water Quality Protection Areas to overlay all Marine Protected Areas to prevent the discharge of contaminants into these critical marine areas.

# 10.

## **APPOINT ENVIRONMENTAL LEADERS WHO WILL PRIORITIZE PROTECTING CALIFORNIA’S WATERWAYS AND COMMUNITIES.**

California has emerged as a world leader on climate change mitigation, however, California water governance is falling behind, putting the state’s water quality and water supplies at risk. With federal action threatening to remove environmental protections, it has never been more critical to ensure that the California Water Boards and other key agencies whose decisions affect California’s water resources are working effectively to implement and enforce state water laws and policies.



### **ACTION ITEMS**

- Ensure appointments made within the Governor’s staff and at key agencies (State Water Board, Regional Water Boards, California Coastal Commission, etc.) share the vision and values enumerated throughout this document and represent the full diversity of the state.
- Maintain a constructive, ongoing dialogue with water leaders (and other environmental leaders) while developing and implementing water policies for California to ensure that dialogue includes individuals that represent the full diversity of the state.