

Will Human Right to Water Resolution Really Help?

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California is the first state to have a law declaring the human right to water, and now it also has a resolution from the Water Board prioritizing it. But the legislation lacks enforcement and financing, even as nearly a million people in the state are without access to safe drinking water

In Poplar, California, an unincorporated Central Valley town of low-income, largely Hispanic residents, two of three community wells are contaminated with nitrates. The other one is going

dry. For Sandra Garcia and her neighbors in Poplar, that means hauling water from nearby wells or buying it in bottles for the most basic of human needs: cooking and drinking water.

It is that ongoing burden with no solution in sight that found Garcia, 50, in Sacramento on February 16 facing the State Water Resources Control Board. A farm worker who has been picking fruits and vegetables for 40 years, Garcia's testimony of human hardship witnessed the crisis borne by the nearly 1 million Californians without access to safe, reliable and affordable water.

"It is very difficult to live with this concern of drinking unsafe water," Garcia told the Water Board. "And it's not just my community. Many communities are just like mine."

By the end of the day the board had adopted a resolution aimed at reversing the deprivations suffered by Garcia and water-stressed communities beyond Poplar. It is a small step – bureaucratic and incremental – but it is part of implementing California's bold commitment to the right of every human to clean, affordable and accessible water for consumption, cooking and sanitary purposes.

[AB 685](#), signed into law by Governor Jerry Brown in 2012, made California the first state to enact legislation declaring water as a human right. California's legislation came two years after the [United Nations General Assembly](#) recognized the human right to water, but outside of California the issue has been slow to gain support in the U.S. Garcia was part of an aggressive grassroots campaign to connect California legislators with the realities of scarce and contaminated water. As a member of AQUA, a group composed of local representatives from towns with contaminated water, she worked with the Community Water Center, Environmental Justice Coalition for Water and others to enact the landmark legislation.

It was opposed by the Western Growers Association, a trade group that represents California farmers, the California Chamber of Commerce and the Association of Water Agencies, the largest statewide coalition of public water agencies. All have enjoyed decades of political dominance and reaped the benefits of enormous government water projects, including the State and Central Valley Water Projects. The associations argued that making water a human right would upset decades of legal precedent and could cost the State of California untold amounts of money.



A private property sign hangs on the fence of a shut down injection well located next to an almond orchard owned by Palla Farms, Thursday, Jan. 15, 2015, in Bakersfield, Calif. Palla Farms filed suit blaming several oil companies for contaminating the local groundwater and killing cherry trees. (Jae C. Hong. Associated Press)

In fact, however, AB 685 required nothing: no obligation to provide water, no resources to develop water infrastructures and no enforcement. After four years of the worst drought in the state's recorded history, communities like Poplar are arguably worse off than they were before California's celebrated commitment to the human right to water.

"Communities are continuing to pay with their health – and their water rates. They are having to buy water from alternative sources," Community Water Center co-founder Laurel Firestone told the Water Board last month.

Felicia Marcus, chair of the State Water Board, acknowledged that the Human Right to Water legislation did not give state agencies many tools to work with. But, she said, "It wasn't sending a Hallmark card to communities who are out of clean, safe and affordable water. It was supposed to give them hope."

The Water Board's resolution, Marcus continued, "is a modest way of saying, 'keep this front of mind in all we do.'"

The recent resolution, adopted unanimously, makes the human right to water the top priority of the Water Board, which regulates the use of water throughout California. And although it does little to change anything for thirsty communities in the short run, it sets an important process in motion – “a guiding principle for years to come,” said Colin Bailey, executive director of the Environmental Justice Coalition for Water.

The resolution directs Water Board staff to include communities in planning for changes involving water and implementing solutions at the local level, he said. The state Water Board cannot direct the actions of the nine Regional Water Quality Control Boards, but it can encourage them. The resolution does that.

All of the Regional Water Boards should now consider the human right to water in any action that involves sources of drinking water, said Andrew DiLuccia, a State Water Board spokesperson. If the Central Valley Regional Water Board is revising a water quality control plan or permitting a water source involving Poplar, for example, how that affects Garcia and her neighbors has become a top priority.

“As the state agency with water in its name, we are now looking at everything we do through the lens of the human right to water,” said Gita Kapahi, the Water Board’s director of the office of public participation and environmental justice ombudsman.

The resolution also launches the conversations with communities that are a significant step toward instituting a cultural change over the allocation and use of water, said Bailey. Water consumers at the local level can now petition their Regional Water Boards to adopt enforceable measures that provide for their basic needs.

“Where the State Board says ‘encourage,’ the regional boards should say ‘resolve,’” Bailey said.

Still, he admitted the “arc of change” is months, even years away. Despite praising the Water Board's action, Firestone noted that the resolution does not establish an obvious framework of standards with timelines to achieve its goals – “the who, what and where of implementation... We still have a long way to go to figure out whether we have a clear implementation plan,” Firestone said.

That is a high priority task for the Water Board, said Kapahi. The resolution directs it to develop performance measures to evaluate the progress at both the state and regional levels over the next year. Over the long term, some community water systems may be consolidated, and some may receive technical assistance to decide what solution is best for that particular community. “Each case is individual. No one size fits all,” said DiLuccia.

California's resolve to meet its residents' basic water needs is getting a financial boost from Proposition 1, overwhelmingly approved by voters in 2014. Known as the Water Bond, it authorizes \$7.54 billion to fund ecosystems and watershed protections. Around \$520 million is allocated for water supply infrastructure projects that result in clean, safe and affordable drinking water. The funding should help small disadvantaged communities find access to water, said Firestone.

Meanwhile, as the resolution slowly works its way through the bureaucracy, many people will continue to struggle to meet the most basic of necessities: clean, safe, reliable water. That should be a clarion call to communities, both the grassroots activists who took responsibility to make the human right to water a legal right in California, and their neighbors still waiting for safe drinking water.

“It’s time for those impacted to take power, raise their voice and make this issue more visible. It’s time to shift the conversation from providing water for just agricultural purposes to actually providing the most basic of human necessities,” said Firestone.

No matter how agricultural industry and water agencies react to the increased activism, strengthening the involvement of water-stressed communities is one of the primary goals of the State Water Board, said Kapahi, who has served as a board member for 27 years.

"We're trying to help those that need the most help," she said.

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Top image: Israel Aguila gets a drink from a water dispenser at Lovell High School after playing basketball in Cutler, Calif. School administrators in the farmworker town of Cutler cannot fix chronic water problems. Human Right to Water legislation aims to address access to safe drinking water in California's Central Valley. (Gary Kazanjian, Associated Press)