

Untapped Opportunity:

Local Water Boards and the Fight for Water Justice

*By Charlotte Weiner
March 2018*



**COMMUNITY
WATER CENTER**

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POR EL AGUA

ABOUT THE COMMUNITY WATER CENTER

The Community Water Center (CWC) is a non-profit environmental justice organization based in California's San Joaquin Valley, whose mission is to act as a catalyst for community-driven water solutions through organizing, education, and advocacy. CWC's fundamental goal is to ensure that all communities have access to safe, clean, and affordable water. CWC employs three primary strategies in order to accomplish this goal: 1) educate, organize, and provide assistance to low-income communities of color facing local water challenges, 2) advocate for systemic change to address the root causes of unsafe drinking water in the San Joaquin Valley, and 3) serve as a resource for information and expertise on community water challenges. CWC helps build strategic grassroots capacity to address water challenges in small, rural, low-income communities and communities of color. Since opening its doors in 2006, CWC has worked with local residents from 82 California communities (69 in the southern San Joaquin Valley) to improve access to safe, clean, and affordable water. For more information, visit CWC's website at www.communitywatercenter.org.



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Untapped Opportunity:

Local Water Boards and the Fight for Water Justice

Executive Summary

Six years ago, Governor Jerry Brown signed the Human Right to Water into law. Today in California, more than one million residents still lack access to safe, clean, and affordable drinking water.

But an untapped opportunity exists at the epicenter of California's drinking water crisis. Across the state, local water boards shape drinking water access and regional water management. These public, democratically-elected institutions provide critical representation in the rural, unincorporated communities most vulnerable to the impacts of water inequity. In the southern San Joaquin Valley, 142 local water boards hold the potential to form the very roots of local democracy in California — and to translate the Human Right to Water from aspiration to reality.

As a closer look reveals, these boards are falling short of their democratic ideal. With no candidates filing for open seats or running against incumbents, in the last four years three-quarters of local water boards simply did not hold elections. Of the 565 local water board seats studied, 491 seats were uncontested. Together with research that details these boards' lack of demographic representation, our findings constitute a call to action — to leaders and allies of the water justice movement, to educators and researchers, and most importantly, to residents themselves.

To actualize this critical opportunity, we must: 1) Advance public understanding of local water boards' roles and responsibilities; 2) Create local water board leadership pathways and invest in trainings for potential and current water board leaders; and 3) Continue research on representation and accountability in elected seats that shape the Human Right to Water.

Section I: California's Drinking Water Crisis

In 2012, Governor Jerry Brown signed the Human Right to Water into law. California became the first state in the nation to recognize that access to safe, clean, and affordable drinking water is a human right.¹

Six years later, in Alpaugh, families drive 40 miles to buy clean water. The water that runs through their community's pipes is laced with arsenic.² An hour north of Alpaugh, in Lanare, an arsenic treatment plant has gone unused for a decade. The community fought for grant funding to construct the plant; when

construction finished, residents could not afford to finance the operation and maintenance expenses to keep the plant running.³ Sixty miles east, in the foothills of the Sierra Nevadas, 300 residents of Lemon Cove pay monthly bills for nitrate-contaminated water. Many families cannot afford to pay their bill and to purchase bottled water, too. They drink the toxic water.⁴

Across California, more than one million residents are exposed to unsafe drinking water each year.⁵ Every month, over 530,000 Californians pay a bill for water

that does not meet state and federal drinking water standards.⁶ The cost of water is rising at an unprecedented pace; in many places, the quality of this water remains unchanged.⁷ Though the Human Right to Water is law, access to safe drinking water falls along lines of race, class, and place. Nowhere are the contours of this inequity more evident than in the southern San Joaquin Valley, where many low-income, Latino residents live in small, rural communities — in Alpaugh and in Lanare, in Lemon Cove and in the estimated 350 unincorporated communities like them.⁸

In unincorporated communities, outside of city boundaries, residents are uniquely vulnerable to the impacts of unsafe and unaffordable water. Past research has documented the history of intentional exclusion and underinvestment that has shaped the challenges that these communities face.⁹ Studies indicate that the majority of the southern San Joaquin Valley’s unincorporated communities rely exclusively on groundwater.¹⁰ In many cases, this groundwater is disappearing, and the land itself is sinking with it. In some

regions of the southern San Joaquin Valley, the land has sunk by more than half a foot each year for the last ten years.¹¹ California’s historic drought only worsened groundwater overdraft and increased the strain of subsidence throughout the region.¹² Pesticides and fertilizers, runoff from dairies, leaks from septic tanks, and naturally-occurring carcinogens contaminate the groundwater that remains.¹³ Many water systems that serve small communities lack the economies of scale, technical capacity, and requisite tax base to build, operate, and maintain infrastructure to treat contaminated water.¹⁴ Most fundamentally, all unincorporated communities lack the layer of political representation that city governments afford. As Stanford Law School’s Michelle Wilde Anderson wrote, unincorporated communities have been “mapped out of local democracy.”¹⁵

Our intent is to take a closer look at this map. In so doing, we locate the democratic institutions that shape water access in unincorporated communities and water management in the region. These



On Sundays, Raquel Lemus drives 40 miles to buy bottled water. The water that flows from her kitchen tap is contaminated with arsenic (Alpaugh, CA).

democratically-elected water boards, we argue, should not exist apart from our understanding of local democracy. Instead, they hold the potential to form the very roots of local democracy — and to translate the Human Right to Water from aspiration to action.

Section II: Local Water Boards

In hundreds of unincorporated communities, local democratic institutions shape residents' lives. These local governments, called special districts, meet specific local needs which the state government or counties, municipalities, and other local governing bodies have not fulfilled.¹⁶ In the four counties that comprise the southern San Joaquin Valley — Fresno, Kern, Kings, and Tulare counties — 142 special districts hold authorities and responsibilities related to water management.

In this report, we study each of these 142 special districts (“local water boards”): the 75 that serve drinking water to residents (“drinking water boards”) and the 67 that deliver non-drinking water to farms, dairies, and other entities (“non-drinking water boards”).¹⁷ Water is a shared resource, and access at the local level hinges on management at the regional level. The decisions of non-drinking water boards directly impact the quality and quantity of water that

their drinking-water counterparts provide. Together, these 142 boards serve water to residents, fund infrastructure projects and capital investments, set water rates and collect fees, and shape plans for long-term local and regional sustainability.

They also hold a unique, and understudied, place in our understanding of democracy in California. On most boards, any resident is eligible to run for a seat on the board of directors, which is generally a five-member board on which each director serves a four-year term.¹⁸ Typically, all district residents are eligible to vote — though, in some districts, only landowners hold voting rights.¹⁹ These public, regulated, and democratically-elected institutions provide critical representation in unincorporated land. They offer an opportunity for accountability in the fight for water justice.

But research has raised questions about a disconnect between this representative potential and the boards' current reality. The majority of southern San Joaquin Valley residents are Latino, and a 2013 PolicyLink study found that 65% of the San Joaquin Valley's low-income unincorporated community residents were people of color.²⁰ Yet according to a forthcoming California Civic Engagement Project report on local water



Bill Pensar, a local water board director in Lemon Cove, points out a proposed location for a new well. The community's residents currently pay water bills for carcinogenic water (Lemon Cove, CA).

boards in the southern San Joaquin Valley, in early 2018 fewer than 15% of board members were Latino. The disparities deepen in non-drinking water boards, where only 3% of board members were Latino — and no board members were Latina.²¹

In this report, we turn from board members to the electoral process itself. In local water board elections, if only one candidate runs for an open seat, or if no one runs against an incumbent, the race does not appear on a ballot. The election does not take place. As a closer look makes clear, across the southern San Joaquin Valley voters are not choosing among candidates for their local water boards. In many cases, local water board elections are simply not happening at all.

Section III: Research Questions

The intent of this study is to:

1. Identify the frequency of uncontested local water board elections in the southern San Joaquin Valley, and to
2. Compare trends in contestedness between drinking water and non-drinking water boards

Section IV: Methods

Data collection for this report was based on a preliminary list of 154 local water boards compiled by staff at Community Water Center in 2014.²² In conducting research for this report, we identified 12 boards that, in the intervening four years, became inactive or no longer exist. Ultimately, our study sample included the 142 local water boards — 75 drinking-water and 67 non-drinking water boards — in Fresno, Kings, Kern, and Tulare counties.

For each board studied, we intended to gather three pieces of information: the first and last name of each board member, the number of current vacancies on the board, and whether each board member ran uncontested when his/her seat most recently came up for re-election.²³ Typically, water board members serve four-year terms; elections are staggered, and take place every two years. Therefore, in order to study the most recent election for all current board members, we collected information on elections from 2014 to present. Due to inconsistencies and gaps in county



At the Sequoia Union Elementary School in Lemon Cove, the water is contaminated with nitrate (Lemon Cove, CA).

records, to ensure the accuracy of our dataset we decided to collect our data directly from the boards themselves. From October 2017 to March 2018, we contacted each of the 142 local water boards over the phone to request the information noted above.

We were unable to obtain information for 33 of the 142 boards. For 14 boards, the phone number on file at the State Water Resources Control Board (SWRCB) was disconnected, and subsequent efforts to find the working number by contacting county election offices and by conducting online searches were unsuccessful. For 19 boards, we called no fewer than three times, spaced these calls at least one week apart, timed the calls during normal business hours, and left at least two voicemails. If the SWRCB or county had the board's contact email on file, or if we were able to locate an email through an online search, we sent an email request for the information. We recorded responses for 109 local water boards — 64 drinking water and 45 non-drinking water boards — in the four counties studied (Figure 1).

This data collection process had two primary limitations. First, at times, data collection relied on the

	Drinking Water Boards	Non-Drinking Water Boards	Local Water Boards
Southern San Joaquin Valley (Fresno, Kern, Kings, and Tulare counties)	75	67	142
Included in Results	64	45	109

Figure 1. In the southern San Joaquin Valley, 142 special districts hold authorities related to water management. We gathered data on 109 of these local water boards: 64 that serve drinking water to residents (“drinking water boards”) and 45 that deliver non-drinking water to farms, dairies, and other entities (“non-drinking water boards”).

memory of board staff. While this approach limited our ability to verify the information that staff provided, it allowed us to gather data that was complete, up-to-date, and consistent across counties and boards. A second source of error stems from the period of time over which we gathered our results. It is possible that, over the six months during which we collected data, vacancies opened or were filled. Despite these shortcomings, our dataset represents the first comprehensive study of local water board elections in the region. It provides an unprecedented opportunity to analyze local water board elections in an area of the state where the Human Right to Water remains an aspiration.

Section V: Results

In local water board elections, when no more than one candidate runs for a seat, the seat does not appear on the ballot. The election simply does not take place. As our data reveal, in the southern San Joaquin Valley, 75 of 109 local water boards studied have not held a single election in the last four years (Figure 2). Only five boards were run entirely by directors who voters elected. These five boards accounted for nearly half of all contested seats in our dataset (25 of 57 seats).

Of the 565 local water board seats studied, 491 seats were uncontested. Sixteen seats — 3% of seats studied — were vacant. Figure 3 displays the rates of uncontested, contested, and vacant seats across the four counties

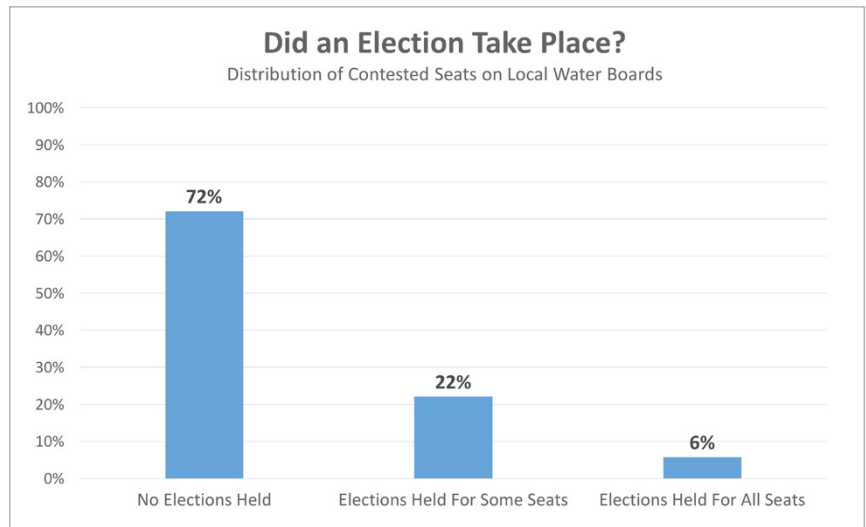


Figure 2. Percentage of the 109 boards studied that held no elections, elections for some seats, and elections for all seats, 2014 – present. If no more than one candidate runs for a seat, the seat does not appear on the ballot, and the election does not take place.

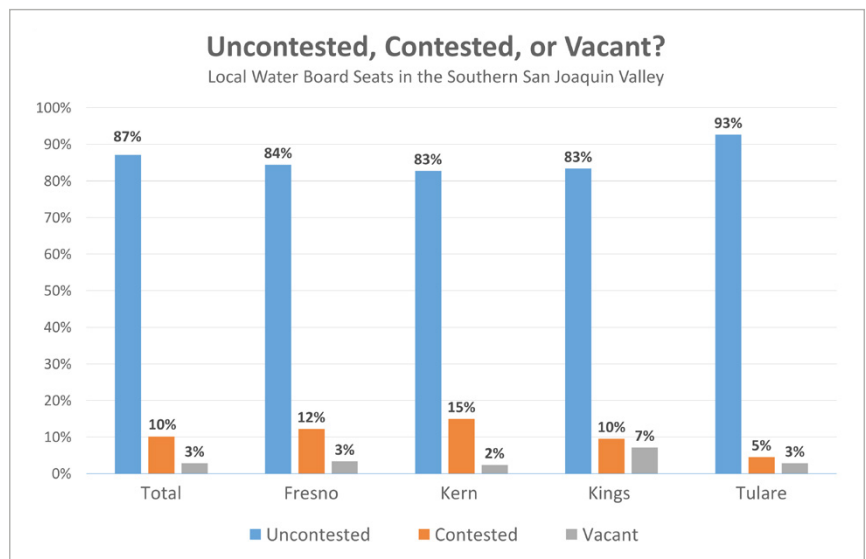


Figure 3. Percentage of seats that were uncontested, contested, and vacant, by county (565 total seats).

studied. In Tulare County, only 5% of current directors ran in a contested race. In Kings County, 7% of local water board seats were vacant.

Uncontested seats were disproportionately concentrated in non-drinking water boards. **Figure 4** compares contestedness across drinking water and non-drinking water boards. While 82% of drinking water board seats were uncontested (262 of 321 seats), in non-drinking water boards a full 94% of seats were uncontested (230 of 244 seats).

The numbers are striking at the individual county level. **Figure 5** examines non-drinking water board results by county. In Kern County, over the last four years, 99% of non-drinking water board seats were uncontested (71 of 72 seats). More shockingly still, in Kings County over the last four years, not a single non-drinking water board member ran in a contested race (22 of 22 seats).

As in non-drinking water boards, in drinking water boards we found notable variation across counties (**Figure 6**). While voters elected 22% of Kern County drinking water board members in contested races (31 of 142 seats), in Tulare County this number fell to 4% (4 of 96 seats).

Section VI: Conclusion

In the local water boards of the southern San Joaquin Valley, contested elections are the exception, not the rule. Nearly 500 local water board directors hold uncontested seats. In the last four years, a majority of boards studied simply did not hold elections at all. In the most recent elections for the seats studied, residents of the southern San Joaquin Valley held the opportunity to vote for fewer than 15% of their current drinking water board directors and fewer than 6% of non-drinking water board directors.

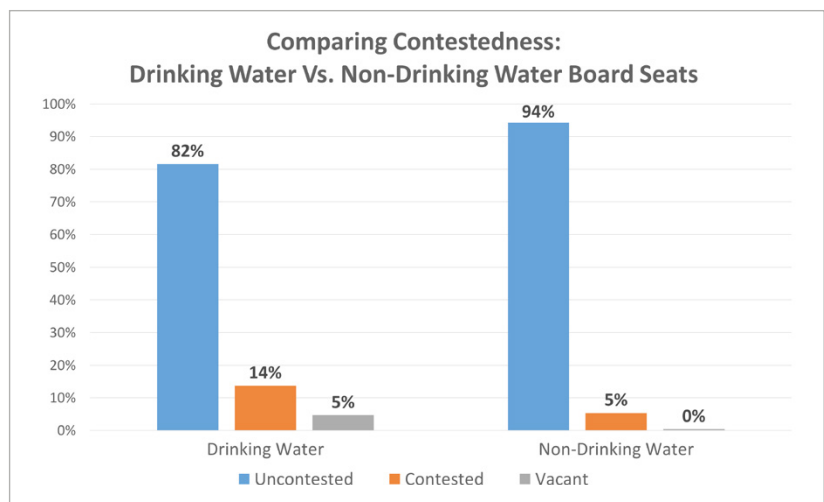


Figure 4. Percentage of seats that were uncontested, contested, and vacant in drinking water boards (321 seats) and non-drinking water boards (244 seats).

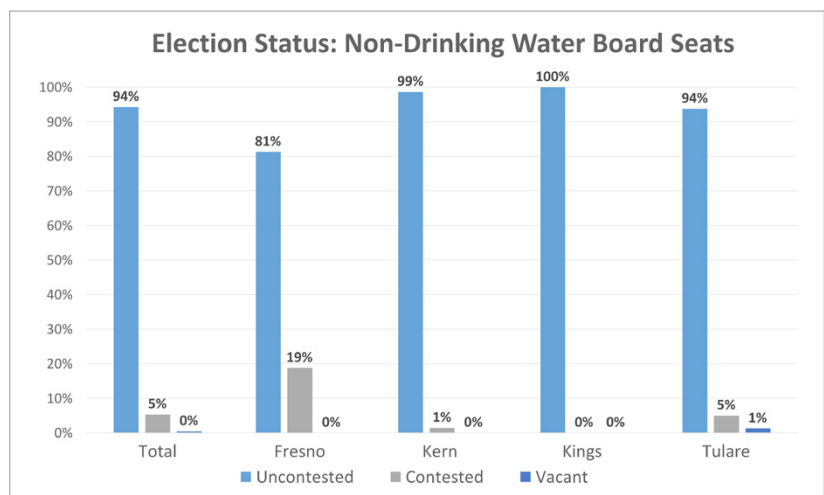


Figure 5. Percentage of seats that were uncontested, contested, and vacant of the 244 southern San Joaquin Valley non-drinking water board seats studied.

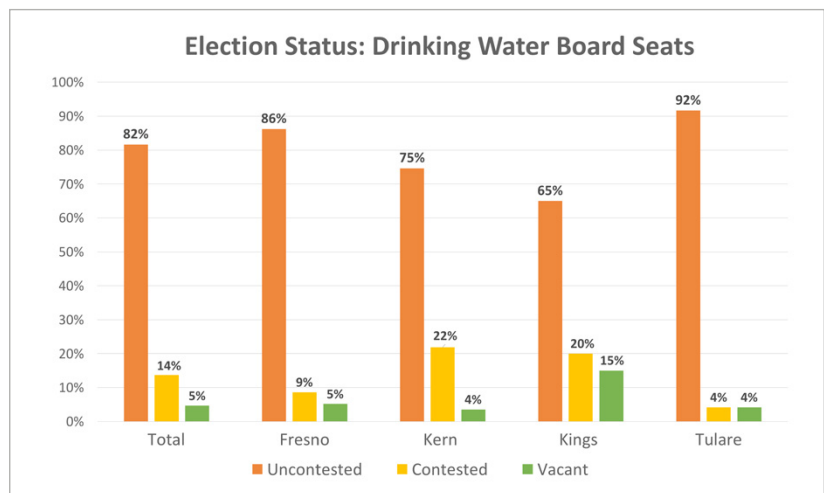


Figure 6. Percentage of seats that were uncontested, contested, and vacant of the 321 southern San Joaquin Valley drinking water board seats studied.

Our results paint a picture of a striking lack of both representation and accountability in local water boards. Taken together with research that details the disconnect between board members' demographics and the demographics of the residents they represent, our findings draw the need for renewed civic engagement into sharp relief.

In late November 2003, California's Senate Local Government Committee convened a hearing on special districts. Near the meeting's close, six speakers, and the committee itself, affirmed a shared sentiment. "Special districts," the record stated, "are ultimately accountable to the voters who elect their governing boards."²⁴

But as our research reveals, the accountability that the Senate Committee assumed is one that cannot be taken for granted. Accountability — and the opportunity for robust community representation — rests not only with the residents who vote on Election Day. It also relies on the residents who choose, months before Election Day, to file for candidacy themselves. In a region where the Human Right to Water remains out of reach, we can no longer afford to overlook the critical role that local water boards hold in the fight for water justice. Our data constitute a call to action — to leaders and allies of the water justice movement, to educators and researchers, and most importantly, to residents themselves.

Section VII: Recommendations

1. Create local water board leadership pathways and invest in trainings for potential and current water board leaders

The predominance of uncontested board elections points to a reality: there are simply not enough residents running for their local water boards in the southern San Joaquin Valley. To address this, training programs and leadership pathways are needed to motivate and support a diverse group of potential water board candidates. Local water boards' capacity to



Maria Jassi and her daughter Yalitzza on Lindsay's main street. Maria has advocated for safe water for her community and in her daughter's school (Lindsay, CA).

catalyze meaningful change depends on informed and engaged board directors. Targeted trainings can provide the forum for community organizers, service providers, and experienced water board members to share essential knowledge and expertise with future and current water board members alike. These leadership pathways hold the potential to foster political leadership not only in local water boards, but also in other elected and appointed seats at the regional, state, and national levels.

2. *Advance public understanding of local water boards' roles and responsibilities*

Local water boards shape communities' access to safe, affordable, and reliable water. They are among the most powerful potential drivers of local impact and regional change in the fight for water equity. The districts they lead are also among the least-understood and least monitored forms of local government. From this paradox stems opportunity. Realizing this opportunity depends, first, on broadening and deepening our collective understanding of local water boards' roles and responsibilities.

3. *Continue research on representation and accountability in elected seats that shape the Human Right to Water*

Further research to build understanding of electoral representation and accountability across a broader diversity of districts and regions is key. A dataset that includes demographics not only of current board members but also of candidates who lost would provide crucial insight into the relationship between demographic representation and contested elections. An exploration of the political, social, and environmental factors that shape contestedness and local water boards would provide further context for our findings. Though the work to understand local water board elections is far from complete, our research constitutes a meaningful first step. It points towards the power that local water boards hold to advance the fight for water justice — and to form the foundation of accountable and representative local democracy in California.



Inside the office of El Quinto Sol de America, a grassroots organization in Tulare County that advocates for civic engagement and environmental justice (Lindsay, CA).

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