



June 23, 2023

Courtney Tyler, Clerk to the Board
 State Water Resources Control Board
 1001 I Street, 24th Floor
 Sacramento, CA 95814

Re: Comment Letter – July 18, 2023, Board Meeting – DWSRF IUP

Dear Ms. Tyler:

Thank you for the opportunity to provide comment on the draft 2023-24 DWSRF Lead Service Line Replacement Supplemental Intended Use Plan (“LSLR IUP”). On behalf of the undersigned organizations, we are writing to urge the State Water Resource Control Board (the “Board”) to ensure the safe and timely identification and removal of lead service lines; lead goosenecks, pigtails, and other fittings (“connectors”); and galvanized lines that are, were, may be, or may have been at one time, downstream from lead service lines or lead connectors, including the portion under private property. Over the past year, just three applications have been submitted for federal Bipartisan Infrastructure Law (“BIL”) funds to pay for lead service line replacement (“LSLR”) projects, none of the LSLR principal forgiveness funds have been allocated to disadvantaged communities, and little progress has been made in identifying and addressing California’s lead plumbing problem, leaving millions of dollars on the table. In addition, California’s woefully incomplete understanding of where the lead is in its plumbing system has caused the state to lose hundreds of millions of federal dollars available now for lead service line

replacement. In this second year of BIL funding, we urge the Board to make the following revisions to the draft LSLR IUP in order to ensure that California receives sufficient BIL funding, uses these funds effectively, prioritizes the public health, and protects our most vulnerable communities.

- 1. We urge the Board to require that funded projects conduct complete inventories of all lead service lines, lead connectors, and galvanized lines that are, were, or likely were downstream of lead pipes or connectors, including lines and connectors located under private property.**

California lacks an adequate inventory of all lead service lines, lead connectors, and galvanized lines, especially those located under private property. The draft LSLR IUP states that California has 9 lead service lines, 10,969 lead connectors, 95,914 service lines of unknown materials, and 45,931 connectors of unknown materials. However, California's 2022 submission to the Environmental Protection Agency ("EPA") for the recent Drinking Water Infrastructure Needs Survey and Assessment states that there are 10 lead service lines, 2,823 service lines downstream from lead connectors, 1,015 galvanized lines downstream from lead service lines, lead connectors, or plumbing of unknown materials, and 114,810 service lines and connectors of unknown material. This data is based on a survey of only 150 large water systems and 30 out of 540 medium water systems. The discrepancy in numbers is concerning for many reasons. First, it indicates that California does not have a clear idea of the magnitude of the state's lead plumbing problem. Second, this data does not appear to include lead service lines, lead connectors, and galvanized lines (especially galvanized lines that were or likely were downstream of lead connectors and pipes already removed on the utility side) located under private property, further skewing the data and leaving Californians at risk of drinking lead-contaminated water. Finally, the state's inability to collect complete inventory data has led to the drastic reduction in California's allotment of funding from the BIL lead service line replacement funds. Last fiscal year, California received over \$250M for lead service line replacements and this year, the state's 2023 allotment is just over \$28M – an 89% reduction. This is a clear sign that the Board is failing in its duty to protect Californians' right to safe, clean water. The Board should proactively use BIL funds, including set-asides, to ensure that complete inventories are conducted statewide. Complete inventories will protect California residents and can be used to provide updated data to EPA to reassess future DWSRF grant allotments.

Given the dearth in complete lead service line data and the sheer number of the unknown service lines and connectors, we urge the Board to require all lead service line investigations conducted using SRF funds result in complete inventories, meaning inventories that identify all lead service lines, lead connectors, and galvanized lines that are, were, or likely were, downstream of any lead or unknown parts, on both the utility-side and the side located under private property. It is in the Board's best interest to ensure that these inventories are done correctly and garner as much information on California's lead problem as possible. Failure to collect complete data continues to jeopardize the health of Californians and may waste resources. To ensure California's inventories are complete, the Board must set clear guidelines and methodologies for conducting inventories, such as requiring all water systems to identify and count all galvanized lines that are,

were, or likely were, downstream from any lead connector or unknown, in addition to EPA's inventory requirements. When a water system uses SRF funds to inspect lines for the inventory and finds service lines or other connectors needing replacement, the system should be required to use SRF funds to replace the service lines or connectors at that time and provide adequate health protections for customers who may be exposed to lead spikes when leaded infrastructure is tampered with (see section 4).

2. The Board should dedicate sufficient funds to properly tally, disclose and replace all galvanized lines that are, were, or likely were downstream of any connectors made of lead or unknown materials.

Many states across the country, including Michigan, Illinois, and New Jersey, recognize the significant harm that galvanized lines downstream from any lead plumbing, including connectors like goosenecks and pigtails, have on human health and have proactively mandated their complete removal. Galvanized lines can capture lead released from upstream lead sources and then release the lead into the home.¹ The release can vary in concentration and can happen over a long period of time. Galvanized lines themselves can also be a source of lead.² Consequently, removing lead from drinking water requires removing *all* lead sources, which include service lines and connectors made of lead or unknown materials, as well as galvanized lines that are, were, or likely were downstream of lead service lines, or connectors made of lead or unknown materials, including the portion located under private property. Removing some but not all of these portions of the service line is dangerous, poses serious public health risks, and would constitute a partial replacement.

U.S. EPA has recognized that lead-tainted galvanized lines pose a significant harm to human health and thus made BIL funds eligible for the replacement of these lines. We appreciate that the draft LSLR IUP highlights this *eligibility*, but California must take a step further for the safety of its residents and require the identification and removal of these galvanized lines. We urge the Board to revise the draft LSLR IUP to define full lead service line replacement to include galvanized lines that are, were, or likely were downstream of lead connectors; require that SRF-funded inventories tally these lines; require that funded projects perform only full replacements; prohibit the use of SRF funds for partial replacements that would leave these lines in the ground; and disclose the existence of these lines to residents. If California does not obtain

¹ Galvanized service lines are a problematic source of lead because the galvanized coating of zinc on newer galvanized pipe can contain up to 2% lead and hence it can be itself a source of lead. In addition, after the zinc coating corrodes, the underlying iron rusts and those layers of rust are very good at adsorbing the lead coming from the lead source upstream and release the lead into the home. The release can vary in concentration and can happen over a long period of time. See Tang M., et al, The Relationship Between Discolored Water from Corrosion of Old Iron Pipe and Source Water Conditions, Environmental Engineering Science 2018 35:9, 943-952 (copy attached to this letter); McFadden M., et al., Contributions to drinking water lead from galvanized iron corrosion scales, Journal AWWA 103:4, April 2011 (copy attached to this letter); HDR, An Analysis of the Correlation between Lead Released from Galvanized Iron Piping and the Contents of Lead in Drinking Water, Summary Report, prepared for District of Columbia Water and Sewer Authority, September 1, 2009, <https://archive.epa.gov/region03/dclead/web/pdf/galvanized%20project%20report.pdf> (copy attached to this letter).

² Michigan Department of Environment, Great Lakes, and Energy, "Galvanized Service Lines: Guidance," <https://www.michigan.gov/-/media/Project/Websites/egle/Documents/Programs/DWEHD/Community-Water-Supply/Lead-Copper/Galvanized-Service-Lines.pdf?rev=9b5327f922a243259cfb2b1bb4ba023c>

a clear total number of all galvanized lines that are, were, or likely were downstream of lead connectors, including lines on the utility-side and located under private property, the state will not only be putting Californians at risk of drinking lead-contaminated water but also leaving millions of federal dollars dedicated to lead service line replacement on the table.

The Board has stated that being “overly prescriptive” in the first year of BIL funding would reduce demand from prospective applicants, and therefore the Board issued, in our opinion, a vague LSLR IUP for fiscal year 2022. Interestingly, the result was that the Board received only three applications for LSLR in the past year, demonstrating that the Board’s thinking was faulty. Instead, the Board should send a strong message that lead inventories and replacements must be thorough and complete to ensure that Californians are as informed of and protected from lead-contaminated drinking water as possible. In the end, requiring SRF-funded projects to remove all galvanized lines that are, were, or likely were, downstream from lead connectors would not necessarily be “overly prescriptive,” and would ensure that use of such public funds is resulting in full and safe lead service line replacements.

3. The LSLR IUP must require funded projects to fully pay for necessary work under private property, without charging individual property owners.

To avoid additional financial burden to individual property owners and exacerbating existing inequities, the Board should ensure that there is consistent language in the LSLR IUP that requires recipient utilities to fully pay for any replacements of lines located under private property, and necessary health protection measures.

In the last sentence of Section III, paragraph two, replace “encouraged” with “required”, to read as follows: “To address household affordability concerns and to minimize adverse public health effects, water systems are required to fund the private portion of service line replacements for disadvantaged communities at no additional cost to the homeowner.” This revision would be consistent with the preceding two sentences of the paragraph, which state that “Any project funded under this appropriation involving the replacement of a lead service line must replace the entire lead service line...As a condition of receiving LSLR funding the State Water Board will require water systems to fund the identification and replacement of the portion of service line that is not owned by the water system as well as the portion owned by the water systems.”

4. The Board should set clear requirements for funding recipients to provide basic health protections for households affected by lead service line replacement activities, including notice, filters, and sampling.

While we appreciate the Board setting some requirements for public health safeguards as a condition of this fiscal year’s LSLR funding, we believe the conditions can be more specific to ensure residents are protected from lead-contaminated drinking water during replacement activities. To further ensure that we are protecting Californians, we recommend revising the first paragraph on page 7 of the “Eligible Projects and Activities” section to set minimum time requirements for the provision of public health safeguards, require the provision of public health safeguards during lead service line investigation and inventory activities, and require follow-up sampling. The paragraph should read as follows: “Water systems will be required as a condition

of funding to provide public health safeguards to their customers during lead service line inventory and replacement activities and for a minimum of 6 months after the replacement of the service lines. Public health safeguards shall include, among other protections, public outreach materials informing them of lead replacements and how to avoid exposure, temporary pitcher filters or certified point of use devices, and effective follow-up sampling, and must meet any applicable state and federal requirements. Follow-up sampling includes sampling the first and fifth liter one week, and 3 to 6 months after replacement to ensure drinking water is safe.”

Natural Resources Defense Council, along with many other public health, environmental, and environmental justice organizations proposed several basic principles for replacing lead service lines, based on experience with efforts to replace these lead pipes in communities across the country, ranging from Flint and Benton Harbor Michigan to Newark, Pittsburgh, Washington, D.C. and many other locations.³ These principles include several points addressing the provision of point-of-use water filters and timely filter replacements certified for lead removal for homes served by known or possible lead service lines, the placement of water buffaloes for the community, the provision of accessible notices that are language and literacy rate appropriate to both renters and owners of the potential existence of lead plumbing, and more. We urge the Board to incorporate these principles into the LSLR IUP.

5. The Board should use set-aside funds to develop and implement a robust technical assistance program to help increase demand from prospective applicants for LSLR funds and prioritize and meet the needs of the disadvantaged communities in need of LSLR.

As mentioned earlier, just three water systems have applied for LSLR funding in the last fiscal year, leaving millions of dollars dedicated to lead service line replacement activities behind and ensuring the unlikelihood of California to receive future federal funds needed for proper lead service line replacement. And to date, the Board has not given out any LSLR principal forgiveness funding to disadvantaged communities. The Board should ensure that the LSLR IUP set-asides are used effectively to help identify, recruit, and provide technical assistance to water systems to develop LSLR projects and complete inventories – particularly in underserved communities that lack the capacity to develop shovel-ready projects and funding proposals. Without proactive efforts and targeted outreach, the neediest communities – with limited capacity to even bring their needs to the table – will be left out. Developing and implementing a robust technical assistance (TA) program can prepare a larger number of underserved communities to be ready to seek LSLR funds over the remaining years of the BIL funding. The Board should develop a TA program that assists communities and water systems at every phase of the SRF process, from gathering community input to planning and designing to receiving and managing awards. To help expedite the identification and outreach process, the Board could explore options to contract with grassroots and community groups and consultants to support the proactive identification and submission of projects. This in turn can also support community education and engagement in LSLR projects. In developing a robust TA program like this, the Board may be able to increase the demand from potential applicants for LSLR funding.

³ “Principles for Lead Service Line Replacement,” Natural Resources Defense Council, <https://www.nrdc.org/sites/default/files/principles-for-lead-service-line-replacements-20220228.pdf>.

We also encourage the Board to consider additional recommendations regarding the use of BIL funds for TA that were presented in a Feb. 23, 2022 letter to EPA, which was joined by dozens of organizations nationwide.⁴

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Thank you for your consideration of these comments. We look forward to working with the Board to get the lead out of California's drinking water and ensure that BIL funds are distributed equitably to communities who need it the most.

Sincerely,

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⁴ Ltr. from J. West, at al., to R. Fox, Re: Technical Assistance for Accessing SRF Funding Provided by the Infrastructure Investment and Jobs Act of 2021, dated Feb. 23, 2022, <https://www.nrdc.org/sites/default/files/technical-assistance-ijja-srf-implementation-20220223.pdf>.

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