

MEETING OF THE
BOARD OF DIRECTORS OF THE
MUNICIPAL WATER DISTRICT OF ORANGE COUNTY
Jointly with the
PUBLIC AFFAIRS AND LEGISLATION COMMITTEE
March 23, 2016, 8:30 a.m.
Conference Room 101

Committee:

Director S. Tamaribuchi, Chairman
Director B. Barbre
Director Hinman

Staff: R. Hunter, K. Seckel, J. Volzke,
P. Meszaros, H. Baez

Ex Officio Member: W. Osborne

MWDOC Committee meetings are noticed and held as joint meetings of the Committee and the entire Board of Directors and all members of the Board of Directors may attend and participate in the discussion. Each Committee has designated Committee members, and other members of the Board are designated alternate committee members. If less than a quorum of the full Board is in attendance, the Board meeting will be adjourned for lack of a quorum and the meeting will proceed as a meeting of the Committee with those Committee members and alternate members in attendance acting as the Committee.

PUBLIC PARTICIPATION

Public comments on agenda items and items under the jurisdiction of the Committee should be made at this time.

ITEMS RECEIVED TOO LATE TO BE AGENDIZED - Determine there is a need to take immediate action on item(s) and that the need for action came to the attention of the District subsequent to the posting of the Agenda. (Requires a unanimous vote of the Committee)

ITEMS DISTRIBUTED TO THE BOARD LESS THAN 72 HOURS PRIOR TO MEETING --

Pursuant to Government Code section 54957.5, non-exempt public records that relate to open session agenda items and are distributed to a majority of the Board less than seventy-two (72) hours prior to the meeting will be available for public inspection in the lobby of the District's business office located at 18700 Ward Street, Fountain Valley, California 92708, during regular business hours. When practical, these public records will also be made available on the District's Internet Web site, accessible at <http://www.mwdoc.com>.

CONVENE AS BOARD

BOARD ACTION ITEMS

(The MWDOC Board will convene as a full Board and may take action as a Board on the following items):

1. ELECTION OF REGULAR SPECIAL DISTRICT MEMBER OF THE LOCAL AGENCY FORMATION COMMISSION (LAFCO)

Recommendation: (1) Review and discuss potential nominations to LAFCO; or (2) endorse candidate(s); (3) authorize President Wayne Osborne and an alternate to cast the District's ballot for LAFCO Regular Special District Member; and (4) direct staff to submit the appropriate forms to LAFCO by the deadlines outlined.

2. REQUEST BY YORBA LINDA WATER DISTRICT FOR ASSISTANCE WITH AMICUS BRIEF ON RATE LAWSUIT

Recommendation: Authorize Best, Best & Krieger to provide assistance to Yorba Linda Water District (YLWD) in preparing and filing an Amicus Brief regarding YLWD's rate litigation.

RECONVENE AS PUBLIC AFFAIRS & LEGISLATION COMMITTEE

DISCUSSION ITEMS

3. LEGISLATIVE ACTIVITIES
 - a. Federal Legislative Report (Barker)
 - b. State Legislative Report and Legislative Positions (BBK)
 - c. County Legislative Report (Lewis)
 - d. Legal and Regulatory Report (Ackerman)
 - e. Metropolitan Legislative Matrix
4. RECAP OF SOUTHERN CALIFORNIA WATER ISSUES CONGRESSIONAL DELEGATION BRIEFING LUNCHEON (DC)
5. PROPOSED BALLOT MEASURE TO AMEND ARTICLE X OF THE CALIFORNIA CONSTITUTION

ACTION ITEMS

6. PUBLISHING THE OC CITIES & WATER AGENCIES DIRECTORIES
7. ADOPT LEGISLATIVE POSITIONS
 - a. AB 2022 (OCWD; Bottling of GWR Water)
 - b. AB 2488 (Foothill Feeder)
 - c. SB 885 (CSDA Call to Action)

INFORMATION ITEMS (THE FOLLOWING ITEMS ARE FOR INFORMATIONAL PURPOSES ONLY – BACKGROUND INFORMATION IS INCLUDED IN THE PACKET. DISCUSSION IS NOT NECESSARY UNLESS REQUESTED BY A DIRECTOR.)

8. SOLE SOURCE CONTRACTOR FOR PUBLIC RELATIONS SEMINAR FOR MEMBER AGENCIES AT PUBLIC AFFAIRS WORKGROUP MEETING
9. UPDATE ON THE TRANSFER OF ORANGE COUNTY SANITATION DISTRICT AREA 7
10. UPDATE ON POTENTIAL CONSOLIDATION OF SAN JUAN CAPISTRANO UTILITIES
11. UPDATE ON WATER SUMMIT (MAY 20, 2016)
12. PUBLIC AFFAIRS ACTIVITIES REPORT

13. SCHOOL PROGRAM PARTICIPATION REPORT

OTHER ITEMS

14. REVIEW ISSUES RELATED TO LEGISLATION, OUTREACH, PUBLIC INFORMATION ISSUES, AND MET

ADJOURNMENT

NOTE: At the discretion of the Committee, all items appearing on this agenda, whether or not expressly listed for action, may be deliberated, and may be subject to action by the Committee. On those items designated for Board action, the Committee reviews the items and makes a recommendation for final action to the full Board of Directors; final action will be taken by the Board of Directors. Agendas for Committee and Board meetings may be obtained from the District Secretary. Members of the public are advised that the Board consideration process includes consideration of each agenda item by one or more Committees indicated on the Board Action Sheet. Attendance at Committee meetings and the Board meeting considering an item consequently is advised.

Accommodations for the Disabled. Any person may make a request for a disability-related modification or accommodation needed for that person to be able to participate in the public meeting by telephoning Maribeth Goldsby, District Secretary, at (714) 963-3058, or writing to Municipal Water District of Orange County at P.O. Box 20895, Fountain Valley, CA 92728. Requests must specify the nature of the disability and the type of accommodation requested. A telephone number or other contact information should be included so that District staff may discuss appropriate arrangements. Persons requesting a disability-related accommodation should make the request with adequate time before the meeting for the District to provide the requested accommodation.



ACTION ITEM

March 23, 2016

TO: Board of Directors

FROM: Executive Committee
(Directors Osborne, Barbre, Dick)

Robert Hunter, General Manager

SUBJECT: ELECTION OF REGULAR SPECIAL DISTRICT MEMBER OF THE LOCAL AGENCY FORMATION COMMISSION (LAFCO)

STAFF RECOMMENDATION

Staff recommends the Board of Directors: Review and discuss potential nominations to LAFCO, or (2) endorse candidate(s), (3) authorize President Osborne, and an alternate, to cast the District's ballot; and (4) and direct staff to submit the appropriate forms to LAFCO by the deadlines outlined.

COMMITTEE RECOMMENDATION

The Executive Committee discussed this item on March 17, indicating no desire to nominate a member of the MWDOC Board to this position.

SUMMARY

The terms of office for OC LAFCO's Regular Special District member (currently Charley Wilson) will expire on June 30, 2016.

LAFCO is seeking nominations for this position, and any nominations must be submitted by 3:00 pm on April 11th.

In the event MWDOC does not nominate a Board member, there is no urgency in taking action on this item, however the Board will need to appoint Director Osborne and an alternate director to cast the District's ballot when they are issued (late April). Currently, the incumbent is Charley Wilson; the District has not received information of any other candidates.

Budgeted (Y/N):	Budgeted amount:
Action item amount:	Line item:
Fiscal Impact (explain if unbudgeted):	



March 7, 2016

Via email: mgoldsby@mwdoc.com

CHAIR
DEREK J. MCGREGOR
Representative of
General Public

VICE CHAIR
DR. ALLAN BERNSTEIN
Councilmember
City of Tustin

LISA BARTLETT
Supervisor
5th District

CHERYL BROTHERS
Councilmember
City of Fountain Valley

TODD SPITZER
Supervisor
3rd District

CHARLEY WILSON
Director
Santa Margarita Water District

JOHN WITHERS
Director
Irvine Ranch Water District

ALTERNATE
WENDY BUCKNUM
Councilmember
City of Mission Viejo

ALTERNATE
ANDREW DO
Supervisor
1st District

ALTERNATE
JAMES FISLER
Director
Mesa Water District

ALTERNATE
KATHRYN FRESHLEY
Representative of
General Public

CAROLYN EMERY
Executive Officer

Wayne Osborne, Presiding Officer
Municipal Water District of Orange County
18700 Ward Street
Fountain Valley, CA 92708-6930

**RE: Nomination Period for Orange County LAFCO Special District
Seats Election**

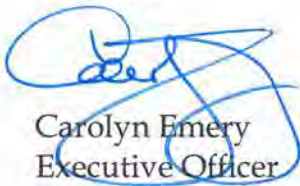
Dear Mr. Osborne,

The term of office for OC LAFCO's Regular Special District Member (currently held by Commissioner Charley Wilson, President of Santa Margarita Water District) expires on June 30, 2016. The election process for special district seats are governed by Government Code Section 56332 and the Independent Special Districts Selection Committee By-Laws. A timeline of key election events and responsibilities is outline in the Table below:

DATE	EVENT
March 7, 2016	LAFCO Executive Officer emails notification letters with nomination form and Declaration of Qualification to Vote to independent special district presiding officers, special district general managers, and LAFCO chair.
April 11, 2016 (3 PM)	Deadline for submitting nominations and Declaration of Qualification to Vote for regular special district member to LAFCO by 3:00 p.m.*
April 11 - 18, 2016	LAFCO develops ballot form.
April 19, 2016	Ballots emailed to all special district presiding officers/designees.
May 27, 2016 (3 PM)	Ballots due to LAFCO by 3:00 p.m.
June 6, 2016	LAFCO staff (or designee) tabulates ballots and announces results.
July 13, 2016	Oath of office administered (Commission Hearing).
* Pursuant to Government Code §56332 (c)(1), if only one candidate is nominated for a vacant seat, that candidate shall be deemed selected, with no further proceedings.	

In accordance with Government Code Section 56332 and the Special District Selection Committee By-Laws, the nomination period for the upcoming expired terms is **March 7 through April 11, 2016**. If your district choses to nominate a candidate, the presiding officer must complete the enclosed nomination form and return to the LAFCO Executive Officer by **3:00 p.m. on Monday, April 11, 2016**. Nomination forms may be returned by email to cemery@oclafo.org or mailed to the LAFCO offices at 2677 North Main Street, Suite 1050, Santa Ana, CA 92705. Should you have any questions regarding the election process, please contact me or our Commission Clerk, Cheryl-Carter Benjamin at (714) 640-5100.

Sincerely,



Carolyn Emery
Executive Officer

Attachments:

- A. 2016 Nomination Form - Regular Special District Member
- B. Declaration of Qualification to Vote

cc: Chair, OC LAFCO
Special District General Managers

2016 NOMINATION FORM

Candidate for the Local Agency Formation Commission (LAFCO)

CANDIDATE INFORMATION FOR REGULAR SPECIAL DISTRICT MEMBER:

NAME: _____

TITLE: _____

DISTRICT: _____

☐ Check box if resume or statement of qualifications is attached.

SPECIAL DISTRICT SELECTION COMMITTEE MEMBER SUBMITTING NOMINATION

(Must be the presiding officer or a designated alternate board member.)

NAME: _____ DATE: _____

SIGNATURE: _____

TITLE: _____

DISTRICT: _____

A resume or other supplemental information about the candidate may be included and will be distributed with the election ballots. All completed nomination forms and any supplemental information must be returned to Orange County LAFCO by:

1. Email at: cemery@oclafco.org or
2. Mail at: Orange County LAFCO
2677 North Main Street, Suite 1050
Santa Ana, CA 92705; or
3. Fax at: (714) 640-5139, Attn: Carolyn Emery

All forms and supplemental information must be received by LAFCO prior to 3:00 p.m. on Monday, April 11, 2016. Nomination forms or candidate information received after that deadline will not be considered.

DECLARATION OF QUALIFICATION TO VOTE

Wayne Osborne, Presiding Officer
Municipal Water District of Orange County
18700 Ward Street
Fountain Valley, CA 92708-6930
mgoldsby@mwdoc.com

I, _____, * hereby attest that
_____ **has been authorized by the Board of
_____ to vote in the Orange County Special
District Selection Committee election.

The Board also designated _____ ***as the alternate
voting member.

Name and Title*: _____

Signature*: _____

Date: _____

**Must be signed by either Board President or Board Secretary*

*** Must be a member of the Board*

****Must be a member of the Board*

Completed forms must be received by LAFCO prior to 3 PM, Monday, April 11, 2016.
Forms must be delivered to Orange County LAFCO by:

- (1) Email at: cemery@oclafco.org, or
- (2) Mail at: Orange County LAFCO
2677 North Main Street, Suite 1050
Santa Ana, CA 92705
Attn: Carolyn Emery, or
- (3) FAX at: (714) 640-5139, Attn: Carolyn Emery



ACTION ITEM
March 23, 2016

TO: Board of Directors

FROM: **Executive Committee**
(Directors Osborne, Barbre, Dick)

Robert J. Hunter, General Manager

**SUBJECT: REQUEST BY YORBA LINDA WATER DISTRICT FOR ASSISTANCE
WITH AMICUS BRIEF ON RATE LAWSUIT**

STAFF RECOMMENDATION

It is recommended that the Board of Directors: Authorize Best, Best & Krieger to provide assistance to Yorba Linda Water District (YLWD) in preparing and filing an Amicus Brief regarding YLWD's rate litigation.

COMMITTEE RECOMMENDATION

Committee recommended the Board authorize this matter.

DETAILED REPORT

Yorba Linda Water District (YLWD) is facing a legal challenge to their Prop 218 approved rates via a Referendum petition and is requesting MWDOC's assistance (through Best, Best & Krieger) to prepare and file an Amicus Brief.

Although the written request from YLWD is attached (and provides a summary of the issues involved), YLWD General Manager Marcantonio will be present at the meeting to provide detailed information.

Budgeted (Y/N): N	Budgeted amount: NA	Core ____	Choice ____
Action item amount:		Line item:	
Fiscal Impact (explain if unbudgeted): General Manager Hunter will provide the cost of this assistance at the Committee meeting.			

INFORMATION FOR AMICUS CURIAE SUPPORTING YORBA LINDA WATER DISTRICT

I. YORBA LINDA WATER DISTRICT (“District”) HAS BEEN SUED in Orange County Superior Court by a local political interest group seeking a court order to force the District to honor a referendum petition targeting the District’s September 2015 water rate resolution. (**Ebinger v. Yorba Linda Water District, Orange County Superior Court Case No. 30-2016-00829548**)

II. CURRENT STATUS: Petition for Writ of Mandate has been filed and is pending. Petitioner’s application for issuance of an alternative writ of mandate and expedited briefing and hearing schedule has been denied. The hearing (trial) on the Petition is June 13, 2016 at 9:00 a.m. in Department C14 of the Orange County Superior Court.

III. COURT OPEN TO AMICUS BRIEFS: In denying the Petitioners’ application for expedited court handling of their challenge to the District’s rates, the trial judge recognized the importance of his ruling on this case of first impression, the possible interest of non-parties in the outcome of the case, the possible desire of non-parties to file amicus curiae papers with the court, and the need for the court to proceed with care in deliberating the case. These indications from the judge seem to invite amici to assist the court in reaching a proper outcome. **Amicus letters must be submitted to the Court by May 16, 2016.** See section VIII below for further instructions.

IV. WHY THE CASE IS IMPORTANT:

- A. Issues presented: Are water rates established by a county water district subject to referendum under Proposition 218 (Prop 218) or under other applicable law?
- B. Issues NOT presented: The Petition neither alleges facts nor seeks relief related to YLWD compliance with the procedural (notice, protest hearing) or substantive (cost of service apportionment) provisions of Prop 218.
- C. Possible impact of adverse ruling:
 - 1. Superior court rulings are not “precedential.” Such rulings are binding only on the parties to the case. However, cases of first impression, like this one, are likely to be appealed. Published appellate cases decisions ARE precedential and binding on non-parties. Fewer than 20% of appeals are successful in overturning trial court rulings. Therefore, a win in this case at the superior court level is important to all water agencies which set water rates.
 - 2. A ruling adverse to the District at the appellate level would mean that the very low referendum petition threshold (5% of voters casting ballots within the local jurisdiction in the last gubernatorial election) versus the Prop 218 *majority protest of all landowners* will apply to efforts to overturn water rates set by a local

INFORMATION FOR AMICUS CURIAE SUPPORTING YORBA LINDA WATER DISTRICT

water agency. Water sales revenue stability would be threatened along with water agency ability to cover costs: (1) to provide water services essential to public health and safety; (2) to comply with debt service covenants; and (3) to issue new debt to fund future capital improvements.

V. ROLE OF AMICI: The purpose of amici curiae is not to argue or reargue the facts and law applicable to the specific case before the court; that is the role of the actual parties to the case. The role of amici is to enlighten the court as to the implications and importance of the case to non-parties. Remember, the court is not likely to know anything about the workings or costs of a water utility. An amicus does not become bound (as a party does) by the outcome of the case merely by filing amicus papers with the court. Court rules prohibit parties to the case from underwriting the cost of amici participation in the case.

VI. USEFUL POINTS FOR THE COURT TO HEAR FROM AMICI:
(Remember: The court knows next to nothing about water utility operations.)

- A.** Water service is essential to community health and safety.
 - 1. The costs to provide water which is safe to drink are not entirely discretionary.
 - 2. The costs to provide adequate and reliable capital infrastructure for water delivery, including for fire suppression purposes, are not entirely discretionary.
- B.** Need for revenue stability vis-à-vis recent state imposed mandatory reduction in volumetric water sales. Costs to provide water service are not reduced in proportion to reduced sales volume. Examples:
 - 1. Capital costs and debt service
 - 2. Licensed/certified operating staff
 - 3. Water system operations and maintenance, aside from water acquisition, treatment and pumping.
- C.** Impact of lost revenue on capital financing and capital improvement programs.
- D.** Impact on water sales revenue from mandatory statewide water conservation regulations. Need to change water rates and/or structures in response.
- E.** Importance of holding in *Mission Springs vs. Verjil* to rate stability

INFORMATION FOR AMICUS CURIAE SUPPORTING YORBA LINDA WATER DISTRICT

VII. BACKGROUND OF YLWD CASE:

- A. Allegations stated, and relief requested, in the Petition are limited to compelling the District to comply with the referendum petition.
- B. There are no allegations stated or relief requested in regard to the procedural or substantive propriety of District's rate setting process under Prop 218.
- C. Referendum petition timely filed with the District after the District adopted its rate resolution.
- D. The District submitted petition to O.C. Registrar of Voters for validation and count. Number of signatures determined to be sufficient to constitute a referendum.
- E. District conducted a public hearing conducted concerning whether to repeal the rate resolution or submit the rate resolution for voter approval.
- F. Referendum petition rejected by Board of Directors as invalid as applied to the rate resolution.
 - 1. Prop 218 (Article XIII C, sec 3) expressly guarantees voters' right of initiative in regard to property related fees. Prop 218 does not mention referendum.
 - 2. According to California Constitution Article II, §9 and court cases decided thereunder, referendum not available for "urgency statutes, . . . and statutes providing for tax levies or appropriations"
 - 3. According to Water Code §31007 and *Mission Springs* case, neither the Board of Directors nor the voters of a County Water District may adopt rates insufficient to cover the costs of the District. The Board of Directors determined, based upon an extensive rate study prepared by an outside independent consultant, that the District's prior water rates and water rate structure did not generate sufficient revenue to cover costs. Therefore, the voters have no authority, by way of referendum, to repeal the new rate resolution and return the District to a system of water rates insufficient to cover District costs.
 - 4. The referendum process is inconsistent with the Prop 218 invocation of initiative because an initiative would require submission of a new or substitute rate structure sufficient to cover District costs whereas a referendum would, if voters disapprove the new rates, return the District to rates already determined to be insufficient.
 - 5. The referendum process is inconsistent with the Prop 218 requirement that a majority protest of property owners is required to stop an increase in water rates.

**INFORMATION FOR AMICUS CURIAE SUPPORTING
YORBA LINDA WATER DISTRICT**

VIII. INSTRUCTIONS TO FILE AMICUS CURIAE LETTER:

Please prepare your agency's Amicus Curiae letter to the court on either agency or legal counsel letterhead. You may address your letter as follows:

Hon. Robert Moss
Department C-14
Orange County Superior Court
700 Civic Center Dr.
Santa Ana, CA 92701

RE: Ebinger v. Yorba Linda Water District (Case No. 30-2016-00829548)

Below is a caption page on pleading paper that is stylized as a "notice" to both the court and the parties in the lawsuit that your agency filed and served an amicus letter in support of Respondents, Yorba Linda Water District and Yorba Linda Water District Board of Directors. The caption contains highlighted language that needs to be tailored to your agency and counsel. Your letter and caption should be coordinated through your counsel.

For your convenience, and due to Orange Court Superior Court e-filing requirements, your legal counsel should attach the letter to the caption page and transmit it to the District's legal counsel (Kidman Law LLP). Kidman Law will attach a proof of service and facilitate the e-filing and service of the Notice with your attached letter. Counsel may contact either Andrew Gagen or Art Kidman at akidman@kidmanlaw.com and agagen@kidmanlaw.com with any questions; otherwise, please submit your letter to these same two email addresses by **May 16, 2016**. Thank you for your time and support.

1 **[FIRM NAME]**
2 **[ATTORNEYS' NAME AND BAR NUMBER]**
3 **[ADDRESS]**
4 **[TELEPHONE NUMBER]**
5 **[FACSIMILE NUMBER]**
6 **[EMAIL ADDRESS]**

Fee Exempt Per Gov. Code § 6103

Attorneys for Amicus Curiae, **[AGENCY NAME]**.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

KENT EBINGER, an individual; and YORBA LINDA TAXPAYERS ASSOCIATION, a California mutual benefit corporation,)	Case No. 30-2016-00829548
)	Assigned For All Purposes to:
)	Hon. Robert Moss
)	Department: C-14
Petitioners,)	
vs.)	NOTICE OF FILING AMICUS
)	CURIAE LETTER IN SUPPORT OF
)	RESPONDENTS
YORBA LINDA WATER DISTRICT, a public entity; YORBA LINDA WATER DISTRICT BOARD OF DIRECTORS in their respective official capacities; and DOES I -X, inclusive,)	Petition Filed: January 12, 2016
)	Hearing Date: June 13, 2016
Respondents.)	

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT **[agency name]** hereby files and serves the attached Amicus Curiae letter in support of Respondents, Yorba Linda Water District and Yorba Linda Water District Board of Directors. Amicus Curiae respectfully requests that this Court review and consider the attached letter.

Dated: March 17, 2016

[FIRM NAME]

By:

[Attorney Name]
Attorneys for Amicus Curiae,
[Agency Name]

1 4821-0619-5730, v. 2

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JAMES C. BARKER, PC
ATTORNEY AND COUNSELOR AT LAW
FIFTH FLOOR
1050 THOMAS JEFFERSON STREET, NW
WASHINGTON, DC 20007
(202) 293-4064
jimbarker@jcbdc.com

Nicholas Crockett
Alia Cardwell

Municipal Water District of Orange County, California
Washington Update
March 15, 2016

The Budget:

The Congress is moving through its annual budgeting process. Each year the President submits his “budget” and then the House and Senate Committees review the Budget Proposal and set funding targets that are then given to the respective Appropriations Committees.

The spending targets are referred to as the Budget Resolution, and the House and the Senate try and pass such a resolution each year to guide the appropriators through the spending process. Admittedly, this has been very difficult to do in recent years due to the “gridlock” in Congress.

While the House Speaker, Paul Ryan, started the month hoping to secure House consensus to support the FY17 Budget Agreement of last fall, that hope faded as the House Freedom Caucus, a group of some 50 or so ultra conservative Republicans, announced that it is seeking \$30 Billion in federal spending reductions in entitlement spending, \$15 Billion in reduced Defense spending and another \$15 Billion in reduced domestic spending. As this is all unfolding, House Leadership and the House Budget Committee are trying to structure a Budget Agreement that may appease the House Freedom Caucus.

You will remember it was this very group that caused Speaker John Boehner to step down, because he felt like he could not govern the Republican Caucus, if this group constantly blocked the House Leader on the House Floor. When Speaker Boehner ultimately stepped down this past fall, there was a grand bargain reached on spending for this year and the FY17 bill — except now the ultra-right wing conservatives in the House are asking to revisit the deal they agreed to last fall.

The Senate has stated that they intend to fully honor the spending limits agreed to last fall. The “effect” of the Freedom Caucus threat is that House Republicans may need to have a significant number of House Democrats cross over and pass the Republican Budget proposal and appropriations measures for this coming year. The actions from the Freedom Caucus may also be a predictive of the behavior we may see from this group on other key policy issues this legislative session.

Update on the Rebate Program and tax ramifications:

While thousands of Southern Californians received checks to replace their lawns with more drought-friendly landscapes this past year, there is still no legal authority in place to make sure that such programs are not taxable.

We are advised that Senator Feinstein is working on legislation in this area and two House Members, Congressman Rohrabacher and Congressman Huffman have introduced legislation that will provide the necessary legal relief for this income tax glitch. That said, there has been no movement on the bill to date.

The Obama Administration's FY2017 Budget did propose that individuals who participate in water efficiency improvements or stormwater management activities should be exempt from taxes.

The House bill sponsors have written the IRS and have asked the IRS to clarify if home water conservation improvements were taxable. We will be monitoring this.

Bonding Measures:

A coalition of state and local officials has urged tax writers to not tamper with the tax exemption for municipal bonds. MWDOC signed a letter along with some 600 officials to the House and Senate Tax Writing Committees asking them not to change the current laws regarding tax exempt bonds. Last year MWDOC representatives met with key Senate Finance Committee staff and were advised that the Senate was not intending or likely to legislate in this area. And as recently as today, this was confirmed again to MWDOC for this year.

Drought:

Senator Feinstein introduced her drought bill in early February and that bill was discussed at length in last month's report. On the House side, Congressman Garamendi introduced a companion measure to her Senate Bill this past month. The House has already reported out a drought bill sponsored by Congressman Valadao (R-Ca, Central Valley) and the House has been waiting for Senator Feinstein to pass her bill through the Senate so that the two bills may be conferenced. While there has been a hearing on the issue in the Senate, there is still no committee markup for her legislation at press time. The clock is ticking on the legislative calendar this year. There is a shortened legislative session due to the Presidential Nominating Conventions and the general election period this fall.

On February 24th, the House Natural Resources Committee conducted a hearing on the California Drought. Director Barbre was invited to participate as a witness and testified at this hearing and his statement is included at the end of this Report for your review. Of significance at the hearing, Mr. David Murillo, the Regional Director of the Mid Pacific Region of the Bureau of Reclamation, was asked if the Drought Bill sponsored by Senator Feinstein would provide more flexibility in moving water through the Delta—and the Regional Director responded: "No".

Meanwhile it was generally acknowledged that the Valadao Bill would provide more flexibility. Interested individuals can go to the House Natural Resources Committee Web Site and go to the

Water, Power and Oceans Subcommittee and watch a recording of the hearing.

Washington Regional Water Luncheon:

There was a very successful luncheon held on Wednesday, Feb. 24th in the House Rayburn Building which MWDOC helped organize. There were eight Congressmen who attended the event: Representatives Royce, Walters, Lowenthal, Rohrabacher, Issa, Calvert, Chu, and Cook. In addition, there were many legislative staffers and California Water Leaders who were present at the luncheon.

Grant Scorecard: Please see the attached Grant Scorecard that will highlight grants that are available through federal agencies. This “Scorecard” needs to be seen and clicked electronically to function. Each of the grant titles can be clicked and you will see a more detailed explanation of the grant opportunity.

Statement of

The Honorable Brett R. Barbre

Director, Municipal Water District of Orange County (MWDOC)

&

Director, Metropolitan Water District of Southern California (MWD) representing

Municipal Water District of Orange County

February 24, 2016

Chairman Fleming, Ranking Member Huffman, distinguished Members of the Committee, my name is Brett Barbre and I am an elected Director of the Municipal Water District of Orange County (MWDOC) and am an appointed Director of the Metropolitan Water District of Southern California (MET) as one of four representatives from MWDOC. I appreciate the opportunity to be here this morning to share a few thoughts regarding the impact on the Southern California water supply due to the lack of resolution with the Sacramento-San Joaquin Bay Delta.

We have a water system in California that is broken under the weight of environmental problems and regulations, lack of investment and outright political obstructionism. When the rains finally returned to California this winter and the rivers began to rise in Northern California, our water system in the Bay Delta had to decrease pumping rather than take advantage of the opportunity to store as much as possible for future use. In years past we started to face these kinds of restrictions after the projects began taking

delta smelt. However, this year the restrictions kicked in before the projects took a single smelt as the regulations this year say we could face even greater restrictions if we take 56 fish. That is right, 56 smelt. And bear in mind that more than 3,000 smelt are routinely taken for research and sampling purposes.

The California water system has been living off the investments of past generations, and the bill of inaction is coming due.

There have been significant investments over the past generation at the local level, most notably in Southern California within the Metropolitan Water District service area. But statewide the system is largely the same one we had more than a generation ago even though the state population has more than doubled. Keep in mind that the planning for the State Water Project began in 1956 and the first deliveries to Southern California occurred in 1971 – nearly 45 years ago.

As a representative of an agency that receives water from both the Colorado River and the California State Water Project, it is fair to compare and contrast the experience on both systems.

While the California system has four times the flows of the Colorado River, it has less than half the storage. This disparity has significant and demonstrable impacts. The Colorado system has essentially been in drought conditions this entire century yet the system has gone for more than 15 years without any shortage conditions because its storage system can hold four times the average runoff of the basin. When big storms have occurred this century on the Colorado, the system can capture every drop. However, when big storms happen in Northern California, we have seen up to 80 to 90 percent of the water coming into the Delta going out to the ocean – not exactly a “beneficial use” of fresh water.

What we need in California is a new generation in investment and a new management ethic that doesn’t look for reasons to deny water for the economy.

The design of the water system in the Delta needs to be improved so that water can be captured in the northern Delta and transported to the aqueduct system in the southern Delta. We must remember that this supply is vital for the economies of the Silicon Valley, the Central Valley and \$1 trillion Southern California economy.

Versions of this improvement have been around for decades, and it is beyond time to make this system investment. As far back as 1973 when the Delta Environmental Advisory Committee was formed, it was determined that a properly designed facility that eliminates the need to use the Delta as a conveyance facility would guarantee that

the affected environments would be adequately protected.

Governor Jerry Brown's current administration is moving forward with this project, known as California WaterFix and while it is part of a solution, it is not THE solution. We simply need to regain our ability to capture water when it is wet so the economy has supplies when it is dry. We have lost that ability for various environmental and regulatory reasons and strangling the economy's water supply is not good for the environment; it is not good for anyone; it puts at risk our nation's food security.

The basic reason for California WaterFix is straightforward. We need intakes in two different places in the Delta, north and south, in order to reliably divert water and avoid conflicts with endangered species; we need a flexible, modern system.

The California WaterFix would build three new intakes in the northern Delta and a tunnel pipeline system to move the water to the aqueducts. The California WaterFix does not solve all of the state's water problems but it would eliminate a bottleneck in the heart of the statewide system. California will need to continue to develop more local supplies such as what we have done in Southern California.

In 1977, which was the driest year on record, the State Water Project was able to deliver 400,000 af of water to MWD; in 2014 we received 100,000. We seem to be going backwards. Just since January 1, 2016, over 200,000 af of water has been allowed to flow out to the Pacific Ocean which ordinarily would be stored for later use. This is simply unacceptable.

Across the state we need more storage, north of the Delta and south of the Delta. Storing water away in the wet years means more for both the economy and the environment in dry years. We have long tried to run this water system with inadequate storage and the problem reveals itself every time it stops raining. We need to stop fooling ourselves that we can be the 7th largest economy in the world without a world class water system that is up to today's challenges.

The Municipal Water District of Orange County supports both Mr. Valadao's HR 2898 and Senator Feinstein's S 2533 in hopes that a FORMAL conference committee will be convened so an equitable solution to the benefit of all Californian's can be reached.

This concludes my statement and will be happy to respond to any questions.

Thank you.

General News Items and Political Updates of Interest

Since our last report, here are the latest polling numbers per “*Real Clear Politics Media*”* *on the eve of the Florida and Ohio primaries, March 15th:*

Nationally amongst Democrats:

Clinton 51%

Sanders 40

Nationally amongst Republicans:

Trump 36%

Cruz 22

Rubio 18

Kasich 12

Head to Head in a General:

Clinton 47.3%

Trump 41.0

Cruz 46.2%

Clinton 45.4

Rubio 48%

Clinton 44

**Real Clear Politics takes polling averages from different respected polling organizations over a common period of time in recent days/weeks, these are the numbers as of March 15, 2016.*

JCB 3-15-16

FY 2016/2017 FUNDING OPPORTUNITIES for MWDOC (last updated 03-14-16)						
No.	Program No./ SolicitationNo.	OPPORTUNITY TITLE*	AGENCY	Applic. Available	Deadline	STATUS
1	R16-FOA-DO-006	Drought Resiliency Project Grants for Fiscal Year 2016	Bureau of Rec	Yes	04/11/16	Open
2	R16-FOA-DO-011	Water Reclamation Research under the Title XVI Water Reclamation and Reuse Program for Fiscal Year 2016	Bureau of Rec	Yes	04/20/16	Open
3	BOR-MP-16-0003	Agricultural Water Conservation and Efficiency Grants Fostering District/Farmer Partnerships	Bureau of Rec	Yes	04/26/16	Open
4	R16-FOA-DO-008	WaterSMART: Cooperative Watershed Management Program (CWMP) for fiscal year (FY) 2016	Bureau of Rec	Yes	05/04/16	Open
5	R16-FOA-DO-005	Drought Contingency Planning Frants for Fiscal Year 2016	Bureau of Rec	Yes	04/11/16	Open
6	F16AS00006	Coastal Program	Bureau of Rec	Yes	09/30/16	Open
7	EPA-HQ-OPPT-2016-002	FY 2016 and FY 2017 Pollution Prevention Grant Program	EPA	Yes	05/09/16	Open
8	EPA-G2016-STAR-A1	Integrating Human Health and Well-Being with Ecosystem Services	EPA	Yes	04/21/16	Open
9	EPA-EE-16-01	Environmental Education Local Grants Program -- Solicitation Notice for 2016	EPA	Yes	04/08/16	Open
10	EPA-G2016-ORD-B1	National Priorities: Impacts of Water Conservation on Water Quality in Premise Plumbing and Water Distribution Systems	EPA	Yes	03/17/16	Open
11	G16AS00024	2017 Earthquake Hazards External Grants Program	Geological Survey	Yes	05/25/16	Open
12	G16AS00016	Water Resources Research National Competitive Grants Program	Geological Survey	Yes	03/17/16	Open
13	NOAA-OAR-SG-2016-2004807	NOAA Sea Grant Aquaculture Research Program 2016	NOAA	Yes	05/12/16	Open
14	NOAA-NMFS-HCPO-2016-2004800	Community-based Restoration Program Coastal and Marine Habitat Restoration Grants	NOAA	Yes	04/16/16	Open
15	RDRUS-16-01-HWWWS	Household Water Well Grant Program	USDA	Yes	05/09/16	Open
16	USDA-NRCS-NHQ-CIG-16-01	Conservation Innovation Grants	USDA	Yes	05/10/16	Open
17	P16AS00015	Land and Water Conservation Fund State and Local Assistance Program	Nat'l Park Service	Yes	04/29/16	Open
18	P16AS00065	Land and Water Conservation Fund Outdoor Recreation Legacy Partnership Program	Nat'l Park Service	Yes	05/20/16	Open
19	DHS-16-GPD-042-09-01	Fiscal Year (FY) 2016 Emergency Management Performance Grant Program - Region 9	DHS, FEMA	Yes	03/18/16	Open
20	NSF 16-524	Innovations at the Nexus of Food, Energy and Water Systems	NSF	Yes	3/2//16	Closed
21	R16-FOA-DO-010	FY16 Desalination & Water Purification Research & Dev (DWPR) Pilot Projects	Bureau of Rec	Yes	02/08/16	Closed
22	R16-FOA-DO-009	FY16 Desalination & Water Purification Research & Dev (DWPR) Research	Bureau of Rec	Yes	02/08/16	Closed
23	R16-FOA-DO-004	WaterSMART: Water and Energy Efficiency Grants for FY 2016	Bureau of Rec	Yes	01/20/16	Closed
24	R16-FOA-DO-003	WaterSMART: Title XVI Water Reclamation and Reuse Program Funding for Fiscal Year 2016	Bureau of Rec	Yes	12/10/15	Closed

*Please "click" on a particular "Opportunity Title" to access the corresponding solicitation and application, if available, and other relevant information.

NOTICE: The above list of federal funding opportunities may not represent a complete or exhaustive list of the grants that your organization may be eligible for and/or interested in pursuing. This list is periodically updated and is not intended to be exclusively relied on. This list is intended to be a helpful tool. Federal grants are continually released and reported across many different platforms. Potential grantees should themselves continually monitor for federal funding opportunities. We have continued to list "closed" grants so that the grantee can see what grants may available for the grantee in the next cycle.



Memorandum

To: Municipal Water District of Orange County
From: Best Best & Krieger
Date: March 23, 2016
Re: Monthly State Political Report

LEGISLATIVE UPDATE

Legislation:

AB 1713 (Eggman) which would require voter approval for the delta tunnels. A large group of lobbyists met on March 11th at the MWD office to plan opposition. BB&K is taking the lead in setting meetings for the group with two of the Assembly committee members.

Legislature:

February 23rd: SGMA: The Senate and Assembly water policy committees held a joint informational hearing on the progress under the SGMA legislation. The only real point of information concerned the release of the draft regulations. All other significant deadlines are yet to come so the bulk of the hearing was walking the members through SGMA milestones and objectives.

March 2nd: Cortopassi Initiative: The Senate held the first ever informational hearing on a ballot initiative. Significant criticism was leveled at the initiative including possible delays to disaster response, injecting uncertainty into existing storage projects that are approaching the final stages of approval, and ill-defined terms in the initiative itself that could have unintended consequences. Senator Hertzberg chaired the hearing and made no secret of his strong opposition to the initiative. The Chair was well-informed and often contributed as much as the panelists making presentations. Mr. Cortopassi declined a personal invitation from Sen. Hertzberg to attend. Nonetheless, proponents have simple talking points that, while inaccurate, will play well in the press.

March 8th: Under the title of, "Assessing California's Chronically Under Funded Water Needs: Options for Moving Forward," the Senate Natural Resources Committee held an informational hearing on SB 20 and alternative funding mechanisms for water projects. Public goods charge was discussed several times. ACWA presented on the Art. X amendment initiative and indicated it would not likely support a public goods charge. Senator Hertzberg opined critically that MWD should focus on regional projects that creates jobs as opposed to incentive programs.

Panelist included :

Tim Quinn (ACWA), who discussed ACWA's initiative to amend Art. X relating to tiered pricing.

Newsha Ajami (Urban Water Policy In the West)

Laurie Wayburn (Pacific Forest Trust)

Deven Upadhyay (MWD) discussed the breadth of MWD's initiatives and successes over the years, and highlighted how water demand in MWD's territory has remained relatively flat over 20 years despite adding 5 million residents to its service area.

March 8th-9th: ACWA held its annual Legislative Symposium on March 8th which focused on the ACWA effort to amend Art. X related to tiered pricing, and a panel on pending water transfer legislation. For attendees familiar with the issues there was little new information. That said, a presentation by Paul Bartkiewicz, who has been a fixture of water policy in CA for over 30 years and a leading expert on water transfers, gave an informed and persuasive argument for advancing water transfers and the CA Water Fix by explaining that water transfers saved the economy of CA in the 80's.

The coalition behind the effort to amend Art. X has indicated that it will pursue the legislative route to a ballot initiative. Assm. Rich Gordon will carry the bill but has not introduced the legislation yet. There are no deadlines for legislation to put an initiative on the ballot amending the constitution other than the Secretary of State's deadline for printing the ballot.

The evening prior to the conference there was a legislative reception hosted by several So. California water agencies that was very well attended by water lobbyists, as well as some legislators. Most of the legislators were representatives of the water districts, but the Chairman of the Assembly Water, Parks & Wildlife Committee did make an appearance. Syrus Devers attended the reception on behalf of MWDOC.

March 10th: Assm. Anthony Rendon assumed the office of Speaker and announced his leadership team, new committee chairs, and changes to committee membership. Few, if any, of the changes to leadership or committee chairs will have a significant impact on water issues. The Water, Parks & Wildlife committee did see minor changes with the addition of a Northern California member (James Gallagher (R-Chico)) and the replacement of two Northern California members (Brian Dahle (R-Redding) and Beth Gaines (R-Roseville)) with Assm. Kristen Olsen, who represents part of the Delta and is a coauthor of AB 1713. The confirmation that Assm. Marc Levine will continue to chair the Water, Parks, & Wildlife Committee also lead to the confirmation of Ryan Ojakian as the new water policy consultant for the Assembly. Governmental Affairs Manager Baez had previously had a meet/greet opportunity with Ryan several weeks ago where she briefed him on MWDOC priorities.

March 11th: Senator Lois Wolk used her position as chair of the Select Committee on the Sacramento-San Joaquin Delta to hold a 3.5 hour informational hearing in San Francisco on

pending Delta projects, which was mainly concerned with the proposed tunnels under the Delta. Sen. Wolf was the only legislator in attendance. Secretary John Laird spoke first and gave the administration's case for the California Water Fix and Senator Wolk made her opposition known. Laird's best point was making clear that Silicon Valley is highly dependent on moving through the Delta, and not just Southern California and ag interests in the Central Valley.

The Legislature will be out on recess from March 17th to March 28th. Immediately after the recess the policy committees will begin in earnest. The second week of April will likely be one of the busiest weeks of the year, and particularly important for several pieces of water policy legislation.

Lobbyist activities: In addition to the above mentioned activities, MWDOC's lobbyist also participated in the following activities since the last PAL Committee meeting:

- Conference call hosted by CalDesal to discuss legislation affecting desalinization projects.
- Lobbyist meetings at ACWA.
- Working group hosted by ACWA to discuss position on SB 814 (Hill).

MWDOC

PAL Committee

Prepared by Best Best & Krieger

3/23/2016

A. Priority Support/Oppose

[AB 1713](#)

([Eggman D](#)) Sacramento-San Joaquin Delta: peripheral canal.

Current Text: Introduced: 1/26/2016 [pdf](#) [html](#)

Status: 2/18/2016-Referred to Com. on W., P., & W.

Is Urgency: N

Summary: Current law requires various state agencies to administer programs relating to water supply, water quality, and flood management in the Sacramento-San Joaquin Delta. The bill would prohibit the construction of a peripheral canal, as defined, unless expressly authorized by an initiative voted on by the voters of California on or after January 1, 2017, and would require the Legislative Analyst's Office to complete a prescribed economic feasibility analysis prior to a vote authorizing the construction of a peripheral canal.

Laws: An act to add Chapter 1.5 (commencing with Section 115) to Division 1 of the Water Code, relating to the Sacramento-San Joaquin Delta.

Priority

A. Priority

Support/Oppose

[AB 1925](#)

([Chang R](#)) Desalination: statewide goal.

Current Text: Introduced: 2/12/2016 [pdf](#) [html](#)

Status: 2/25/2016-Referred to Com. on W., P., & W.

Is Urgency: N

Summary: Would establish a goal to desalinate ____ acre-feet of drinking water per year by the year 2025 and ____ acre-feet of drinking water per year by the year 2030.

Laws: An act to add Section 12946.5 to the Water Code, relating to water resources.

Priority

A. Priority

Support/Oppose

[AB 2022](#)

([Gordon D](#)) Advanced purified demonstration water.

Current Text: Introduced: 2/16/2016 [pdf](#) [html](#)

Status: 2/29/2016-Referred to Com. on E.S. & T.M.

Is Urgency: N

Summary: Would authorize the operator of a facility producing advanced purified demonstration water, as defined, to cause that water to be bottled and distributed as samples for educational purposes and to promote water recycling. The bill would prohibit the advanced purified demonstration water from being distributed unless the water meets or is superior to all federal and state drinking water standards. The bill would authorize advanced purified demonstration water to be bottled at a licensed water-bottling plant in compliance with specified provisions.

Laws: An act to add Section 13570 to the Water Code, relating to water.

Priority

A. Priority

[AB 2304](#)

([Levine D](#)) California Water Market Exchange.

Current Text: Introduced: 2/18/2016 [pdf](#) [html](#)

Status: 3/3/2016-Referred to Com. on W., P., & W.

Is Urgency: N

Summary: Would establish the California Water Market Exchange, governed by a 5-member board, in the Natural Resources Agency. This bill would require the market exchange, on or before December 31, 2017, to create a centralized water market platform on its Internet Web site that provides ready access to information about water available for transfer or exchange.

Laws: An act to add Chapter 7.5 (commencing with Section 485) to Division 1 of the Water Code, relating to water.

Priority

A. Priority

Support/Oppose

[AB 2583](#)

([Frazier D](#)) Sacramento-San Joaquin Delta Reform Act of 2009.

Current Text: Introduced: 2/19/2016 [pdf](#) [html](#)

Status: 3/10/2016-Referred to Com. on W., P., & W.

Is Urgency: N

Summary: Current law, the Sacramento-San Joaquin Delta Reform Act of 2009, establishes the Delta Stewardship Council and requires the council to develop, adopt, and commence implementation of a comprehensive management plan for the Delta, known as the Delta Plan. This bill would add a definition of the California Water Fix to the act. This bill contains other related provisions and other current laws.

Laws: An act to amend Section 85057.5 of, to add Section 85053.5 to, and to repeal Section 85085 of, the Water Code, relating to the Sacramento-San Joaquin Delta.

Priority

A. Priority

Support/Oppose

[ACA 8](#)

([Bloom D](#)) Local government financing: water facilities and infrastructure: voter approval.

Current Text: Introduced: 2/18/2016 [pdf](#) [html](#)

Status: 2/19/2016-From printer. May be heard in committee March 20.

Is Urgency: N

Summary: Would create an additional exception to the 1% limit for a rate imposed by a city, county, city and county, or special district to service bonded indebtedness incurred to fund the construction, reconstruction, rehabilitation, or replacement of wastewater treatment facilities and related infrastructure, potable water producing facilities and related infrastructure, nonpotable water producing facilities and related infrastructure, and stormwater treatment facilities and related infrastructure, that is approved by 55% of the voters of the city, county, city and county, or special district, as applicable, if the proposition meets specified requirements, and would authorize a city, county, city and county, or special district to levy a 55% vote ad valorem tax. This bill contains other related provisions and other existing laws.

Laws: A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Sections 1 and 4 of, and by adding Section 4.5 to, Article XIII A thereof, by amending Section 2 of Article XIII C thereof, by amending Section 3 of Article XIII D thereof, and by amending Section 18 of Article XVI thereof, relating to water facilities and infrastructure.

Priority

A. Priority

Support/Oppose

[SB 163](#)

([Hertzberg D](#)) Wastewater treatment: recycled water.

Current Text: Amended: 9/3/2015 [pdf](#) [html](#)

Current Analysis: 06/02/2015 [Senate Floor Analyses \(text 6/2/2015\)](#)

Last Amend: 9/3/2015

Status: 9/11/2015-Failed Deadline pursuant to Rule 61(a)(14). (Last location was RLS. on 9/8/2015)

Is Urgency: N

Summary: Would declare that the discharge of treated wastewater from ocean outfalls, except in compliance with the bill's provisions, is a waste and unreasonable use of water in light of the cost-effective opportunities to recycle this water for further beneficial use. This bill, on or before January 1, 2026, would require a wastewater treatment facility discharging through an ocean outfall to achieve at least 50% reuse of the facility's actual annual flow, as defined, for beneficial purposes.

Laws: An act to add Section 13557.5 to the Water Code, relating to water.

Priority
A. Priority
Support/Oppose

Notes 2: Not specifically relevant to MWDOC, but, could have far reaching impacts on all water agencies. May want to consider "(support/oppose) if amended."

SB 814

(Hill D) Drought: excessive water use: urban retail water suppliers.

Current Text: Introduced: 1/4/2016 [pdf](#) [html](#)

Status: 3/9/2016-Set for hearing March 29.

Is Urgency: N

Summary: Would declare that excessive water use, as defined by each urban retail water supplier, is a waste or unreasonable use of water. This bill would prohibit excessive water use by a residential customer and would make a violation of this prohibition an infraction punishable by a fine of at least \$500 per 100 cubic feet of water used above the excessive water use definition in a billing cycle. By creating a new infraction, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Laws: An act to amend Section 6254.16 of the Government Code, and to add Chapter 3.3 (commencing with Section 365) to Division 1 of the Water Code, relating to water.

Priority
A. Priority
Support/Oppose

Notes 2: May be relevant as it affects member agencies. Possible "(support/oppose) if amended."

SB 919

(Hertzberg D) Water supply: creation or augmentation of local water supplies.

Current Text: Amended: 3/7/2016 [pdf](#) [html](#)

Last Amend: 3/7/2016

Status: 3/9/2016-Set for hearing March 29.

Is Urgency: N

Summary: Would require the Public Utilities Commission, before July 1, 2017, in consultation with the Independent System Operator, to address the oversupply of renewable energy resources through a tariff or other economic incentive for electricity purchased by customers operating "facilities that create or augment local water supplies," as defined, to reduce the cost of electricity to those facilities. This bill contains other related provisions and other existing laws.

Laws: An act to add Section 711 to the Public Utilities Code, relating to water supply.

Priority
A. Priority
Support/Oppose

B. Watch

AB 647

(Eggman D) Beneficial use: storing of water underground.

Current Text: Amended: 6/30/2015 [pdf](#) [html](#)

Current Analysis: 05/06/2015 [Assembly Floor Analysis \(text 5/5/2015\)](#)

Last Amend: 6/30/2015

Status: 7/17/2015-Failed Deadline pursuant to Rule 61(a)(10). (Last location was N.R. & W. on 6/30/2015)

Is Urgency: N

Summary: Current law declares that the storing of water underground, and related diversions for that purpose, constitute a beneficial use of water if the stored water is thereafter applied to the beneficial purposes for which the appropriation for storage was made. This bill would repeal that declaration and instead declare that the diversion of water to underground storage constitutes a beneficial use of water if the water so stored is thereafter applied to the beneficial purposes for which the appropriation for storage was made, or if the water is so stored consistent with a sustainable groundwater management plan, statutory authority to conduct groundwater recharge, or a judicial decree and is for specified purposes.

Laws: An act to repeal and add Section 1242 of the Water Code, relating to water.

Priority
B. Watch

Notes 2: May affect member agencies.

[AB 935](#)

([Salas](#) D) Water projects.

Current Text: Amended: 9/4/2015 [pdf](#) [html](#)

Current Analysis: 09/08/2015 [Senate Floor Analyses \(text 9/4/2015\)](#)

Last Amend: 9/4/2015

Status: 9/11/2015-Failed Deadline pursuant to Rule 61(a)(14). (Last location was INACTIVE FILE on 9/10/2015)

Is Urgency: N

Summary: Current law establishes in the Natural Resources Agency the Department of Water Resources, which manages and undertakes planning with regard to water resources in the state. This bill would require, upon appropriation by the Legislature, the department to provide funding for certain projects, provided that certain conditions are met.

Laws: An act to add Section 140 to the Water Code, relating to water.

Priority
B. Watch

[AB 936](#)

([Salas](#) D) Groundwater monitoring.

Current Text: Amended: 4/15/2015 [pdf](#) [html](#)

Current Analysis: 04/20/2015 [Assembly Appropriations \(text 4/15/2015\)](#)

Last Amend: 4/15/2015

Status: 1/22/2016-Failed Deadline pursuant to Rule 61(b)(2). (Last location was 2 YEAR on 5/29/2015)

Is Urgency: N

Summary: Existing law establishes a groundwater monitoring program pursuant to which specified entities may propose to be designated by the Department of Water Resources as groundwater monitoring entities, as defined, for the purposes of monitoring and reporting with regard to groundwater elevations in all or part of a groundwater basin or subbasin. This bill would authorize the department to exempt an entity from this eligibility restriction if the entity submits to the department for approval documentation demonstrating that there are special circumstances justifying the entity's noncompliance, including, but not limited to, that a significant portion of the entity's service area qualifies as a disadvantaged community and that the water grant or loan project includes those actions needed to comply with groundwater monitoring functions.

Laws: An act to amend Section 10933.7 of the Water Code, relating to groundwater.

Priority
B. Watch

[AB 938](#)

([Rodriguez](#) D) Sustainable Groundwater Management Act: adjudicated basins.

Current Text: Amended: 3/9/2016 [pdf](#) [html](#)

Current Analysis: 04/13/2015 [Assembly Water, Parks And Wildlife \(text 2/26/2015\)](#)

Last Amend: 3/9/2016

Status: 3/9/2016-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on N.R. & W.

Is Urgency: Y

Summary: Would authorize the watermaster or local agency administering an adjudicated basin to elect that the adjudicated basin be subject to the provisions of the Sustainable Groundwater Management Act. The bill would authorize the court with jurisdiction over the adjudicated basin to issue an order setting a hearing to determine whether the adjudicated basin shall be subject to the act, as prescribed. This bill contains other related provisions and other existing laws.

Laws: An act to amend Section 10720.8 of the Water Code, relating to groundwater, and declaring the urgency thereof, to take effect immediately.

Priority
B. Watch

Notes 2: Maybe relevant as it could affect member agencies.

[AB 1242](#)

([Gray](#) D) Water quality and storage.

Current Text: Amended: 9/1/2015 [pdf](#) [html](#)

Current Analysis: 08/19/2015 [Senate Floor Analyses \(text 8/19/2015\)](#)

Last Amend: 9/1/2015

Status: 9/11/2015-Failed Deadline pursuant to Rule 61(a)(14). (Last location was THIRD READING on 9/2/2015)

Is Urgency: N

Summary: Would require the Department of Water Resources to increase statewide water storage capacity by 25% by January 1, 2025, and 50% by January 1, 2050, as specified. The bill would require the department, on or before January 1, 2017, to identify the current statewide water storage capacity and prepare a strategy and implementation plan to achieve those expansions in statewide water storage capacity, and would require the department to update the strategy and implementation plan on January 1, 2018, and every 2 years thereafter, until January 1, 2050.

Laws: An act to amend Section 39719 of the Health and Safety Code, and to add Section 13145.5 to, and to add Chapter 4.5 (commencing with Section 430) to Division 1 of, the Water Code, relating to water, and making an appropriation therefor.

*Priority
B. Watch*

AB 1463

([Gatto](#) D) Onsite treated water.

Current Text: Amended: 9/4/2015 [pdf](#) [html](#)

Current Analysis: 05/29/2015 [Assembly Floor Analysis \(text 2/27/2015\)](#)

Last Amend: 9/4/2015

Status: 9/11/2015-Failed Deadline pursuant to Rule 61(a)(14). (Last location was E.Q. on 9/4/2015)

Is Urgency: N

Summary: Would require the State Water Resources Control Board, in consultation with the State Department of Public Health, the California Building Standards Commission, and stakeholders, to establish water quality standards and distribution, monitoring, and reporting requirements for onsite water recycling systems prior to authorizing the use of onsite treated water in internal plumbing of residential and commercial buildings. This bill would require onsite treated water to be considered the same as recycled water that is produced on site.

Laws: An act to add Article 8 (commencing with Section 13558) to Chapter 7 of Division 7 of the Water Code, relating to recycled water.

*Priority
B. Watch*

AB 1585

([Alejo](#) D) Monterey County Water Resources Agency: Lake Nacimiento and Lake San Antonio.

Current Text: Amended: 2/8/2016 [pdf](#) [html](#)

Last Amend: 2/8/2016

Status: 2/9/2016-Re-referred to Com. on W., P., & W.

Is Urgency: Y

Summary: Current law authorizes the Monterey County Water Resources Agency to award a design-build contract for the combined design and construction of a project to connect Lake San Antonio, located in the County of Monterey, and Lake Nacimiento, located in the County of San Luis Obispo, with an underground tunnel or pipeline for the purpose of maximizing water storage, supply, and groundwater recharge. This bill would appropriate \$25,000,000 from an unspecified source to the agency for the purpose of constructing a water conveyance tunnel between Lake Nacimiento and Lake San Antonio and spillway modifications at Lake San Antonio, as specified. This bill contains other related provisions.

Laws: An act relating to water resources, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

*Priority
B. Watch*

AB 1586

([Mathis](#) R) California Environmental Quality Act: Temperance Flat Reservoir.

Current Text: Amended: 3/14/2016 [pdf](#) [html](#)

Last Amend: 3/14/2016

Status: 3/15/2016-Re-referred to Com. on NAT. RES.

Is Urgency: N

Summary: The California Environmental Quality Act establishes a procedure by which a person may seek judicial review of the decision of the lead agency made pursuant to the act. This bill would prohibit the court, in an action or proceeding alleging a violation of the act, from staying or enjoining the construction or operation of the Temperance Flat Reservoir unless the court makes certain findings. This bill contains other related provisions.

Laws: An act to add Section 21168.10 to the Public Resources Code, relating to environmental quality.

*Priority
B. Watch*

AB 1587

([Mathis](#) R) Groundwater.

Current Text: Amended: 3/15/2016 [pdf](#) [html](#)

Last Amend: 3/15/2016

Status: 3/15/2016-From committee chair, with author's amendments: Amend, and re-refer to Com. on W., P., & W. Read second time and amended.

Is Urgency: N

Summary: Would, during a period for which the Governor has issued a proclamation of a state of emergency based on drought or flood conditions, prohibit the State Water Resources Control Board from requiring a permit to recharge groundwater if the water may be diverted and used without injury to a lawful user of water, and the water may be diverted and used without unreasonable effect on other beneficial uses.

Laws: An act to add Article 2.12 (commencing with Section 65899.5) to Chapter 4 of Division 1 of Title 7 of the Government Code, and to add Sections 1242.1 and 79776 to the Water Code, relating to groundwater, and making an appropriation therefor.

Priority
B. Watch

[AB 1588](#)

([Mathis](#) R) Water and Wastewater Loan and Grant Program.

Current Text: Amended: 3/9/2016 [pdf](#) [html](#)

Last Amend: 3/9/2016

Status: 3/10/2016-Re-referred to Com. on W., P., & W.

Is Urgency: Y

Summary: Would require the State Water Resources Control Board to establish a program to provide funding to counties to award low-interest loans and grants to eligible applicants for specified purposes relating to drinking water and wastewater treatment. This bill would authorize a county to apply to the board for a grant to award loans or grants, or both, to residents of the county, as prescribed. This bill would create the Water and Wastewater Loan and Grant Fund and provide that the moneys in this fund are available, upon appropriation by the Legislature, to the board to administer and implement the program.

Laws: An act to add Chapter 6.6 (commencing with Section 13486) to Division 7 of the Water Code, relating to water, and declaring the urgency thereof, to take effect immediately.

Priority
B. Watch

[AB 1590](#)

([Mathis](#) R) State Water Resources Control Board: appointments.

Current Text: Amended: 3/10/2016 [pdf](#) [html](#)

Last Amend: 3/10/2016

Status: 3/14/2016-Re-referred to Com. on W., P., & W.

Is Urgency: N

Summary: Would require that an additional 4 members be appointed to the State Water Resources Control Board by the Legislature. The bill would require that one member each be appointed by the Speaker of the Assembly, the Assembly Minority Leader, the President pro Tempore of the Senate, and the Senate Minority Leader. The bill would require that vacancies be immediately filled by the appointing power.

Laws: An act to amend Sections 175 and 177 of the Water Code, relating to water.

Priority
B. Watch

[AB 1749](#)

([Mathis](#) R) California Environmental Quality Act: exemption: recycled water pipelines.

Current Text: Introduced: 2/2/2016 [pdf](#) [html](#)

Current Analysis: 03/11/2016 [Assembly Natural Resources \(text 2/2/2016\)](#)

Status: 3/14/2016-In committee: Set, first hearing. Hearing canceled at the request of author.

Is Urgency: N

Summary: CEQA exempts from its requirements projects consisting of the construction or expansion of recycled water pipeline and directly related infrastructure within existing rights of way, and directly related groundwater replenishment, if the project does not affect wetlands or sensitive habitat, and where the construction impacts are fully mitigated, and undertaken for the purpose of mitigating drought conditions for which a state of emergency was proclaimed by the Governor on a certain date. CEQA provides that this exemption remains operative until the state of emergency has expired or until January 1, 2017, whichever occurs first. This bill would extend that date to January 1, 2022.

Laws: An act to amend Section 21080.08 of the Public Resources Code, relating to environmental quality.

Priority
B. Watch

[AB 1755](#)

([Dodd](#) D) The Open and Transparent Water Data Act.

Current Text: Amended: 3/1/2016 [pdf](#) [html](#)

Last Amend: 3/1/2016

Status: 3/2/2016-Re-referred to Com. on W., P., & W.

Is Urgency: N

Summary: Would enact the Open and Transparent Water Data Act. The act would require the Department of Water Resources to establish a public benefit corporation that would create and manage (1) a statewide water information system to improve the ability of the state to meet the growing demand for water supply reliability and healthy ecosystems, that, among things, would integrate existing water data information from multiple databases and (2) an online water transfer information clearinghouse for water transfer information that would include a database of historic water transfers and transfers pending responsible agency approval and a public forum to exchange information on water market issues.

Laws: An act to add Part 4.9 (commencing with Section 12400) to Division 6 of the Water Code, relating to water data.

Priority
B. Watch

AB 2198

([Brough R](#)) Coastal development permits: desalinization facilities.

Current Text: Introduced: 2/18/2016 [pdf](#) [html](#)

Status: 3/3/2016-Referred to Com. on NAT. RES.

Is Urgency: N

Summary: The California Coastal Act of 1976 requires any person wishing to perform or undertake any development in the coastal zone, as defined, to obtain a coastal development permit, except as specified, from the California Coastal Commission or from a local government. This bill would require an application for a coastal development permit for a desalinization project, as described, to be given priority for review, and would require the issuing agency to expedite the processing of any such permit application.

Laws: An act to add Section 30616 to the Public Resources Code, relating to coastal resources.

Priority
B. Watch

SB 20

([Pavley D](#)) California Water Resiliency Investment Act.

Current Text: Amended: 8/26/2015 [pdf](#) [html](#)

Current Analysis: 05/31/2015 [Senate Floor Analyses \(text 12/1/2014\)](#)

Last Amend: 8/26/2015

Status: 8/28/2015-Failed Deadline pursuant to Rule 61(a)(11). (Last location was W.,P. & W. on 8/26/2015)

Is Urgency: N

Summary: Under current law, various measures provide funding for water resources projects, facilities, and programs. This bill would create the California Water Resiliency Investment Fund in the State Treasury and provide that moneys in the fund are available, upon appropriation by the Legislature, for the purpose of providing a more dependable water supply for California. This bill would create various accounts within the fund for prescribed purposes.

Laws: An act to add Division 36 (commencing with Section 86000) to the Water Code, relating to water.

Priority
B. Watch

Notes 2: Could affect potential funding sources for water infrastructure projects.
ACWA is opposed.

Total Measures: 24

Total Tracking Forms: 24

The County of Orange Report

March 15, 2016
by Lewis Consulting Group

Political Filing Deadline - Surprises and Clarity



Friday, March 11, 2016 brought with it the “usual every two years of drama” unfolding at the Orange County Registrar of Voters. Once the deadline passed and the smoked cleared, late breaking developments brought both surprises and clarity.

For the major surprises . . .

At the last minute, after paying a filing fee and gathering signatures, Assemblyman Don Wagner opted out of his expected primary challenge to current State Senator John Moorloch in the 37th State Senate District.

In the First Supervisor District, Supervisor Andrew Do drew three opponents, two of them credible threats.

Entering the fray are Santa Ana Councilwoman Michele Martinez and Garden Grove Councilman Phat Bui. Also filing is Orange County gadfly and former Orange Unified School Trustee Steve Rocco. There is much speculation about who may have recruited Bui to run after he seemed poised for a Congressional bid.

In the Third Supervisor District, incumbent Todd Spitzer was a beneficiary of an apparent lack of interest in challenging the popular incumbent with a million dollars in the bank. Todd Spitzer runs UNOPPOSED.

It was a judicial race that brought both a surprise and clarity. At the last minute, after months of planning, Supervisor Shawn Nelson opted not to run for judge. The surprise decision means Supervisor Nelson will remain on the Board until his term expires in 2018.

In other key filings. . . a contest with statewide significance is underway as former Assemblywoman Sharon Quirk Silva challenges incumbent Assemblywoman Young Kim. There are no other candidates competing in the 65th Assembly District.

Seven candidates have filed for the 68th Assembly District, which is currently held by termed out Assemblyman Don Wagner. It is widely believed the frontrunners are Irvine Mayor Steven Choi; former Anaheim Councilman Harry Sidhu and former Villa Park Councilwoman Deborah Pauley.

The 69th Assembly District had a last minute filing from Republican Ofilia Velarde-Garcia preventing incumbent Tom Daly from running unopposed.

In the 73rd Assembly District, doing his best Todd Spitzer imitation, Assemblyman Bill Brough is also running unopposed.

In another legislative race with statewide significance, the 29th Senate District, a knock down drag out race is promised as both Assemblywoman Ling Ling Chang and former Irvine Mayor Sukhee Kang vie to replace termed out State Senator Bob Huff.

The race to succeed Democrat Congresswoman Loretta Sanchez has a total of eight candidates filing; three democrats, four republicans and one independent. One of the three democrats; former County Supervisor Lou Correa, former State Senator Joe Dunn and current Garden Grove Mayor Bao Nguyen should prove to be the ultimate winner for the 46th Congressional District.

East Orange County Water District Preferred for Area 7 Sewer Service

Presumably, LAFCO Directors will make their decision at the April 13, 2016 meeting of LAFCO and finally decide which of the two suitors, the Irvine Ranch Water District or the East Orange County Water District, will be selected to provide sewer services to Sewer District #7. The sewer district, which is made up of the City of Tustin, unincorporated North Tustin and parts of East Orange, has been served by the Orange County Sanitation District.

A recently conducted poll, by Lewis Consulting Group, shows overwhelming support in the community for East Orange County Water District's application to provide sewer service. The poll was conducted February 23-25, 2016. The telephone survey of 300 registered voters who are also sewer customers in Area 7, yields a margin of error of +/- 5.62% with a confidence level of 95%.

Initial awareness questions of IRWD and EOCWD resulted in a favorable rating of 18% for IRWD with a 14% unfavorable rating. In contrast, EOCWD was viewed favorably by 21% of respondents and unfavorably by only 6%. The initial preference question elicited an overwhelming landslide of preference 64% to 8% in favor of East Orange County Water District.

The Lewis Consulting Group poll; commissioned by East Orange County Water District, yields wildly different results than a poll taken previously by IRWD. The IRWD poll showed a preference for IRWD. So, why the huge discrepancy?

Some of it is due to the time differential . . . the IRWD survey was conducted in December 2015. However, the biggest factor deals with the rate charged to consumers. The IRWD poll was based on customers receiving a 50% cut in rates by IRWD vs. only a 10% cut in rates by EOCWD. These percentages were applicable at the time of the December 2015 survey, but in early 2016 EOCWD amended their proposal, mirroring the IRWD 50% cut in rates. The EOCWD poll reflects that new reality.

The questions and poll results follow here, but for more detailed information, including cross tabulations and analysis, visit www.eocwd.com.

Frequencies – Orange County Sewer Services

Q.1 AS YOU KNOW THE DROUGHT IN CALIFORNIA HAS BEEN A MAJOR TOPIC OF CONVERSATION. DO YOU BELIEVE THE DROUGHT IS A MAJOR PROBLEM, MINOR PROBLEM, OR ISN'T REALLY A PROBLEM?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 Major Problem	240	80.0	80.0	80.0
	2 Minor Problem	42	14.0	14.0	94.0
	3 Not Really a Problem	9	3.0	3.0	97.0
	4 Unsure/ Don't Know	9	3.0	3.0	100.0
	Total	300	100.0	100.0	

Q. 2 DO YOU HAVE A FAVORABLE OR UNFAVORABLE OPINION OF IRVINE RANCH WATER DISTRICT?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 Favorable Opinion	54	18.0	18.0	18.0
	2 Unfavorable Opinion	41	13.7	13.7	31.7
	3 No Opinion/ Don't Know	159	53.0	53.0	84.7
	4 Never Heard	46	15.3	15.3	100.0
	Total	300	100.0	100.0	

Q. 3 DO YOU HAVE A FAVORABLE OR UNFAVORABLE OPINION OF EAST ORANGE COUNTY WATER DISTRICT?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 Favorable Opinion	64	21.3	21.3	21.3
	2 Unfavorable Opinion	19	6.3	6.3	27.7
	3 No Opinion/ Don't Know	148	49.3	49.3	77.0
	4 Never Heard	69	23.0	23.0	100.0
	Total	300	100.0	100.0	

Q. 4 DO YOU HAVE A FAVORABLE OR UNFAVORABLE OPINION OF THE GOLDEN STATE WATER COMPANY?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 Favorable Opinion	13	4.3	4.3	4.3
	2 Unfavorable Opinion	70	23.3	23.3	27.7
	3 No Opinion/ Don't Know	117	39.0	39.0	66.7
	4 Never Heard	100	33.3	33.3	100.0
	Total	300	100.0	100.0	

Q. 5 HAVE YOU READ OR HEARD ANYTHING ABOUT THE POSSIBLE TRANSFER OF SEWER SERVICES IN OUR PART OF ORANGE COUNTY?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 Yes	141	47.0	47.0	47.0
	2 No	153	51.0	51.0	98.0
	3 Unsure/ Don't Know	6	2.0	2.0	100.0
	Total	300	100.0	100.0	

Q. 6 SEWER SERVICE, WHICH IS CURRENTLY PROVIDED BY THE ORANGE COUNTY SANITATION DISTRICT, WILL BE TURNED OVER TO EITHER THE EAST ORANGE COUNTY WATER DISTRICT OR THE IRVINE RANCH WATER DISTRICT. BOTH DISTRICTS HAVE PLEDGED TO CUT SEWER RATES BY 50%. BUT, BECAUSE OF LOWER COSTS, SUCH AS LABOR, THE EAST ORANGE COUNTY WATER DISTRICT WILL BE ABLE TO INSPECT AND CLEAN THE SEWER LINES TWICE AS OFTEN AS IRVINE RANCH WATER DISTRICT, WHILE CHARGING THE SAME AMOUNT AS IRVINE RANCH WATER DISTRICT.

BASED ON WHAT YOU KNOW RIGHT NOW, WHO DO YOU FAVOR ASSUMING RESPONSIBILITY FOR OUR LOCAL SEWER SYSTEM?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 Irvine Ranch Water District	25	8.3	8.3	8.3
	2 East Orange County Water District	193	64.3	64.3	72.7
	3 Undecided/ No Preference	82	27.3	27.3	100.0
	Total	300	100.0	100.0	

Q. 7 CURRENTLY, THE IRVINE RANCH WATER DISTRICT CARRIES OVER \$500 MILLION IN DEBT. EAST ORANGE COUNTY WATER DISTRICT IS DEBT FREE.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 Extremely Important	188	62.7	62.7	62.7
	2 Somewhat Important	68	22.7	22.7	85.3
	3 Not That Important	12	4.0	4.0	89.3
	4 Not Important at All	20	6.7	6.7	96.0
	5 Unsure/ Need More Info	12	4.0	4.0	100.0
	Total	300	100.0	100.0	

Q. 8 ELECTED EAST ORANGE COUNTY WATER DISTRICT BOARD MEMBERS LIVE IN NORTH TUSTIN OR EAST ORANGE. IRVINE RANCH WATER DISTRICT BOARD MEMBERS ALL LIVE IN IRVINE OR NEWPORT COAST.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 Extremely Important	134	44.7	44.7	44.7
	2 Somewhat Important	72	24.0	24.0	68.7
	3 Not That Important	38	12.7	12.7	81.3
	4 Not Important at All	45	15.0	15.0	96.3
	5 Unsure/ Need More Info	11	3.7	3.7	100.0
	Total	300	100.0	100.0	

Q. 9 IRVINE RANCH WATER DISTRICT POINTS OUT THAT THEY HAVE PROVIDED SEWER SERVICE FOR 50 YEARS. THEY NOTE THAT THE EAST ORANGE COUNTY WATER DISTRICT HAS NEVER PROVIDED SEWER SERVICES.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 Extremely Important	93	31.0	31.0	31.0
	2 Somewhat Important	116	38.7	38.7	69.7
	3 Not That Important	40	13.3	13.3	83.0
	4 Not Important at All	31	10.3	10.3	93.3
	5 Unsure/ Need More Info	20	6.7	6.7	100.0
	Total	300	100.0	100.0	

Q. 10 THE GENERAL MANAGER OF THE EAST ORANGE COUNTY WATER DISTRICT HAS OVER 30 YEARS OF EXPERIENCE WORKING IN SEVERAL SEWER AGENCIES. EAST ORANGE COUNTY WATER DISTRICT WILL RETAIN THE SAME EXPERIENCED SEWER CREWS CURRENTLY HIRED BY THE ORANGE COUNTY SANITATION DISTRICT TO INSPECT, CLEAN AND REPAIR OUR LOCAL SEWERS.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 Extremely Important	159	53.0	53.0	53.0
	2 Somewhat Important	97	32.3	32.3	85.3
	3 Not That Important	12	4.0	4.0	89.3
	4 Not Important at All	19	6.3	6.3	95.7
	5 Unsure/ Need More Info	13	4.3	4.3	100.0
	Total	300	100.0	100.0	

Q. 11 EAST ORANGE COUNTY WATER DISTRICT RESPONSE TIME TO SEWER SPILLS WILL BE FASTER. IRVINE RANCH WATER DISTRICT IS LOCATED CLOSE TO UC IRVINE, SOUTH OF THE 405 FREEWAY.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 Extremely Important	138	46.0	46.0	46.0
	2 Somewhat Important	84	28.0	28.0	74.0
	3 Not That Important	35	11.7	11.7	85.7
	4 Not Important at All	30	10.0	10.0	95.7
	5 Unsure/ Need More Info	13	4.3	4.3	100.0
	Total	300	100.0	100.0	

Q. 12 SEWER BILLS TO CONSUMERS WOULD BE REDUCED BY THE SAME AMOUNT UNDER EITHER TRANSITION PLAN. HOWEVER DUE TO LOWER COSTS, SUCH AS LABOR, EAST ORANGE COUNTY WATER DISTRICT WILL INSPECT AND CLEAN THE SEWER PIPES TWICE AS OFTEN AS IRVINE RANCH WATER DISTRICT.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 Extremely Important	186	62.0	62.0	62.0
	2 Somewhat Important	69	23.0	23.0	85.0
	3 Not That Important	14	4.7	4.7	89.7
	4 Not Important at All	13	4.3	4.3	94.0
	5 Unsure/ Need More Info	18	6.0	6.0	100.0
	Total	300	100.0	100.0	

Q. 13 WHEN CONSIDERING WHICH AGENCY SHOULD BE CHOSEN TO PROVIDE OUR LOCAL SEWER SERVICE, THE FOOTHILL COMMUNITY ASSOCIATION, SERRANO WATER DISTRICT, THE CITIES OF ORANGE, TUSTIN AND VILLA PARK HAVE ALL TAKEN ACTION TO SUPPORT THE APPLICATION OF THE EAST ORANGE COUNTY WATER DISTRICT TO PROVIDE SEWER SERVICES.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 Extremely Important	173	57.7	57.7	57.7
	2 Somewhat Important	81	27.0	27.0	84.7
	3 Not That Important	18	6.0	6.0	90.7
	4 Not Important at All	16	5.3	5.3	96.0
	5 Unsure/ Need More Info	12	4.0	4.0	100.0
	Total	300	100.0	100.0	

Q. 14 WITH ALL OF THIS ADDITIONAL INFORMATION, WHO DO YOU BELIEVE SHOULD BE CHOSEN TO PROVIDE SEWER SERVICES TO OUR LOCAL COMMUNITY?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 Irvine Ranch Water District	15	5.0	5.0	5.0
	2 East Orange County Water District	232	77.3	77.3	82.3
	3 Undecided/ No Preference	53	17.7	17.7	100.0
	Total	300	100.0	100.0	

Q. 15 THE IRVINE RANCH WATER DISTRICT IS INTERESTED IN ANNEXING OTHER WATER AGENCIES. IF THEY DO SO, THEY WILL HAVE ACCESS TO A GREATER SHARE OF OUR LOCAL SUPPLY OF WATER. THEY WILL NEED TO SEND MORE WATER TO IRVINE TO ACCOMMODATE THE THOUSANDS OF NEW HOMES DEVELOPERS PLAN TO BUILD THERE.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 Extremely Important	192	64.0	64.0	64.0
	2 Somewhat Important	66	22.0	22.0	86.0
	3 Not That Important	11	3.7	3.7	89.7
	4 Not Important at All	19	6.3	6.3	96.0
	5 Unsure/ Need More Info	12	4.0	4.0	100.0
	Total	300	100.0	100.0	

Q. 16 GENDER

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 Male	146	48.7	48.7	48.7
	2 Female	154	51.3	51.3	100.0
	Total	300	100.0	100.0	

Q. 17 ARE YOU A REGISTERED VOTER? (IF YES, PARTY AFFILIATION FROM VOTER FILE ENTERED)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 Republican	167	55.7	55.7	55.7
	2 Democrat	72	24.0	24.0	79.7
	3 Decline to State	45	15.0	15.0	94.7
	4 Other	10	3.3	3.3	98.0
	5 Not Registered to Vote	6	2.0	2.0	100.0
	Total	300	100.0	100.0	

Q. 18 AGE GROUP

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 18 to 29	30	10.0	10.0	10.0
	2 30 to 44	37	12.3	12.3	22.3
	3 45 to 54	42	14.0	14.0	36.3
	4 55 to 64	61	20.3	20.3	56.7
	5 65 to 74	65	21.7	21.7	78.3
	6 75 or Older	65	21.7	21.7	100.0
	Total	300	100.0	100.0	

Q. 19 ETHNICITY

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 White	250	83.3	83.3	83.3
	2 Hispanic	19	6.3	6.3	89.7
	4 Asian	15	5.0	5.0	94.7
	5 Native-American	1	.3	.3	95.0
	6 Other	4	1.3	1.3	96.3
	7 Refused	11	3.7	3.7	100.0
	Total	300	100.0	100.0	

Q. 20 WATER SERVICE PROVIDER

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 East Orange County Water District	25	8.3	8.3	8.3
	2 Irvine Ranch Water District	17	5.7	5.7	14.0
	3 City of Orange Water Service	9	3.0	3.0	17.0
	4 City of Tustin Water Department	199	66.3	66.3	83.3
	5 Southern California Water Company	50	16.7	16.7	100.0
	Total	300	100.0	100.0	

Q. 21 GEOGRAPHY BY CITY

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 Tustin	86	28.7	28.7	28.7
	2 Unincorporated	211	70.3	70.3	99.0
	3 Other	3	1.0	1.0	100.0
	Total	300	100.0	100.0	

Q. 22 VOTER PROPENSITY

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 4 out of 4	109	36.3	36.3	36.3
	2 3 out of 4	44	14.7	14.7	51.0
	3 2 out of 4	60	20.0	20.0	71.0
	4 1 out of 4	60	20.0	20.0	91.0
	5 None	27	9.0	9.0	100.0
	Total	300	100.0	100.0	

Q. 23 TYPE OF VOTER

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 Permanent Absentee	160	53.3	53.3	53.3
	2 Election Day Voter	140	46.7	46.7	100.0
	Total	300	100.0	100.0	

County Adopts Model Landscape / Irrigation Ordinance with a Big Assist from MWDOC

At the March 15th Board of Supervisors meeting, the Board adopted by a 5-0 vote an updated "County of Orange landscape Irrigation Code".

By doing so, the county will now have a more consumer friendly landscaping law instead of utilizing the State of California's Model Ordinance.

Representatives of numerous local governments, the Building Industry Association, Joe Berg of MWDOC, and other stakeholders worked collaboratively to bring improvements to the local ordinance.

At first, Supervisor Shawn Nelson raised concerns about new requirements potentially burdensome to long time homeowners with large lots. However, after hearing testimony from

MWDOC's Joe Berg, Nelson switched his position; noting the ordinance was a big improvement, yet at the same time admonished staff to make sure it was not interpreted in a fashion to bring undue hardship to homeowners.

March Miracle Replenishes California Reservoirs

A dip in the jet stream steered rains south from Oregon and Washington and instead brought voluminous rain and snow totals to northern California and the Sierras. Dubbed a "March Miracle" by some, the March rains helped people forget about the extraordinarily disappointing month of February.

Lake Shasta in particular was a beneficiary of increased run-off inflows. Shasta, north of Redding, is the largest and most important component of the California system of reservoirs. Because of California's five year drought, Shasta came close to an all-time low level of water in late 2014. However, now Lake Shasta could be headed towards 100% capacity.



Below is a list of major California reservoir water levels over a two year period. The first column is the absolute percentage of capacity. The second column represents the historical average of water level on the date chosen. The reservoirs are listed in order of total capacity.

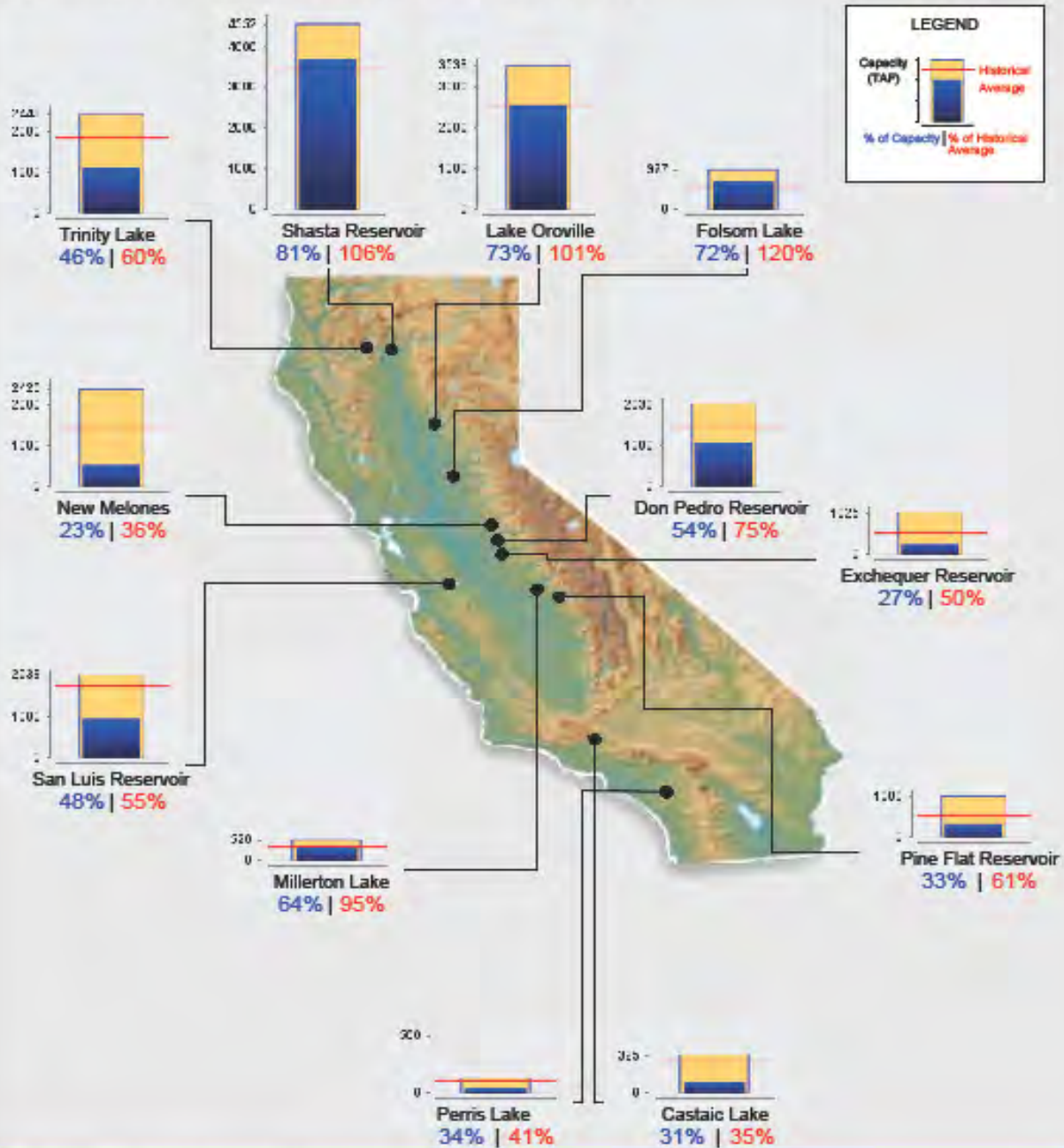
AS OF:	MARCH 14, 2014		MARCH 14, 2015		MARCH 14, 2016	
	TOTAL CAPACITY %	HISTORICAL AVERAGE %	TOTAL CAPACITY %	HISTORICAL AVERAGE %	TOTAL CAPACITY %	HISTORICAL AVERAGE %
LAKE SHASTA	45	58	58	76	81	106
LAKE OROVILLE	45	62	50	69	73	101
TRINITY LAKE	52	69	48	62	46	60
NEW MELONES LAKE	45	72	25	40	23	36
SAN LUIS RES.	39	44	67	77	48	55
DON PEDRO RES.	53	74	43	60	54	75
EXCHEQUER DAM	22	41	9	16	27	50
PINE FLAT LAKE	20	38	17	31	33	50
FOLSOM LAKE	40	68	59	99	72	120
MILLERTON LAKE	33	48	39	57	64	95
CASTAIC LAKE	89	101	29	44	31	35
LAKE PERRIS	55	65	37	44	34	41



Reservoir Conditions

Ending At Midnight - March 14, 2016

CURRENT RESERVOIR CONDITIONS



Graph Updated 03/15/2016 02:45 PM

ACKERMAN CONSULTING

Legal and Regulatory

March 23, 2016

1. **El Nino- March Madness:** As you may have noticed, El Nino reports and its impact on the drought change almost daily. In January, some were thinking about calling the drought over. Then came February and it was doomsday again. And now the March Miracle and things are looking up again. Scientists continue to debate. El Nino was originally supposed to hit southern California the hardest but now it has been seen to hit northern California, Washington and Oregon with its major force. The experts are also debating the length of the episode but many are projecting El Nino to be a late bloomer which may continue through April. Our large reservoirs are filling up (Shasta and Oroville). Even Felicia Marcus is admitting that the emergency regulations in place may have to be lifted or changed in April. The snowpack is again returning to higher levels but the experts are still not predicting that it will be enough to carry us through the year. Drought restrictions have been lifted in the Russian River area and Marin County and some other parts of northern California. Even San Diego County is being optimistic about its current condition. However, other experts caution that if El Nino fades early, La Nina could come sooner and drive temperatures up and make the drought condition worse. Now you have it. Austin Peay University wins the Final Four in NCAA basketball. Any questions??
2. **PUC Ratifies Stiff Regulations:** The San Jose Water Company, a privately owned water company whose rates and actions are controlled by the State Public Utilities Commissions, supplies water to about one half of the City of San Jose and surrounding area. The Company had implemented conservation measures that exceeded those set by the State Water Board. The measures included individual quotas on residents, higher conservation thresholds, surcharges for over use and others that went further than the State standards. Many residents complained and the matter ended up in front of the PUC Board for a hearing. The Board voted 5-0 to uphold the Company's restrictions.
3. **Folsom Lake Part 2:** Folsom Lake continues to release large amounts of water based on their formula for preventing future floods in the Sacramento area. The amount of water being released could have filled up 2 or 3 reservoirs but instead it is filling up the Pacific Ocean. As previously discussed, the formula being used for Folsom and about 54 other such facilities in the State was last visited seriously in 1980. Modern weather prediction and analysis has vastly improved in the intervening 35 years but is not being taken into account by the Feds. Even Senator Diane Feinstein has raised concerns about the current practice.
4. **Varied Water Prices:** A recent survey in the Sacramento area of their 19 local agencies showed monthly water rates for the same family and home size varied from \$23 to \$97. There were many

different causes for the variations including the following: size of agency, number of customers, mix of residential and commercial, age of system, source of water, amount of treatment required, complexity of system, other services provided by the agency. The study concluded that it is very difficult to compare rates, even of adjacent agencies, because of the weighing of these various factors. We have seen this same debate in Orange County when this issue arises.

5. **Better Weather Forecasts:** Have you noticed lately that the weather forecasts seem to be more accurate especially in regional and local forecasts. Radar usage continues to improve thanks in part to research at Colorado State University, Fort Collins, Colorado. In the past, the weather services have depended on S Band units generally mounted in higher locations. The new technology employs X Band and C Band. These new bands are set at lower elevations and use more rapid sequencing, updating every minute instead of every five minutes. They are also better able to find the atmospheric rivers. This development allows for more accurate predictions of when and how much water will be involved. This information is also being used for better flood control and notification. It does not however help with the “chaos theory” in weather. This theory tries to predict what minor changes in atmospheric condition or other natural causes impact the predicted weather pattern.

6. **Ocean Rising Slower:** Climate experts have predicted that the oceans are rising at a very slow rate based on ice melting and increase weather temperatures. NASAs Jet Propulsion Laboratory has been studying the movement of 6 trillion tons of snow, water (above and below surface) for some time. This is the amount of water the Earth recycles on a yearly basis. Two satellites are used to measure the gravitational pull of water around the globe. (The satellites are called Tom and Jerry) NASA has discovered that the Earth is absorbing about 3.2 trillion tons of water yearly which means this water is not going into the oceans. The ocean level rise has been significantly reduced as a result. No one knows how long this will continue but all acknowledge that the Earth can only take so much.

7. **Levee Repair in Fed Budget:** President Obama proposed budget contains \$32 million for Sacramento levee repair. This amount is needed to improve the levees to the 200 year flood protection level. This is just a down payment as the total cost is closer to \$500,000. The remaining monies are expected to come from the Federal Government.

8. **Drought Raising Electric Costs:** The shortage of hydro power is costing California residents over \$2 billion. This estimate is from the Pacific Institute. Part of this cost is being recouped by various utilities and districts adding a surcharge to their bill to cover the increased electricity costs. The typical surcharge is 1.5% of the total bill. In a normal year, hydro provides about 18% of the state’s power. This figure is now around 10% as a result of the drought. A few days ago, one of the major utilities has rescinded the surcharge because of the heavy rains in Washington and Oregon.

9. **LA Cloud Seeding:** Los Angeles County has been cloud seeding in earnest since 2002 although it has been in the business since 1950. The county has 10 locations between Sylmar and Pacoima which are all land based. They have been used extensively during our last few storms. They estimate that seeded clouds produce about 15% more rain.

10. **Caution-Superbugs:** You may have read about the mysterious outbreaks at UCLA and other LA hospitals recently. The cause, a lethal superbug, is a bacteria that seems to be immune from normal treatment, chlorine or antibiotics. It gets into the sewage system and ultimately into the ocean or treatment facility and has been causing increased concern and illness and even death. The bacteria named CRE at this time is impossible to kill and thrives in water. It has the ability to kill humans and is becoming more widespread in our beach communities. A 2010 study estimated that between 700,000 and 1,000,000 people are impacted on southern California beaches each year. This issue is being explored by both state and Federal agencies to determine a course of action.

11. **Delta Smelt Dying:** The Delta Smelt population is continuing to decline for the second straight year. The drought and uneven water flow through the Delta are the main causes. Experts are divided as to whether the smelt can rebound if we return to normal water patterns. The problem is even noticed at the pumping stations as very few of them are being captured.

12. **Unintended Consequences:** Many folks are questioning the unintended consequences of the drought measures adopted by the State. Reduced watering and turf removal have had the consequence of killing or weakening the tree population. This in turn negatively impacts air quality, animal habitat and ground temperature. The US Forest Service has estimated the demise of 12.5 million wild trees in addition to millions of urban trees. Water agencies have lost billions of dollars in revenue while at the same time having to raise rates on their customers just to maintain their systems. We have noted in the past, the increase in sewer system problems based on less fluid going through the pipes. Foul smells are increasing in the same systems. And now, many folks will be taxed on the rebates they received for turf removal. Of all these issues, the tree loss is most significant because of their great environmental impact and slow growing cycle.

**Metropolitan Water District of Southern California
State Legislation Matrix 3/7/2016**

Bill Number Author	Amended Date; Location	Title-Summary	MWD Position	Effects on Metropolitan
AB 291 Medina (D) Sponsor: ACWA and McGeorge Law School Policy and Legislative Clinic	Amended 6/10/15 Senate Environmental Quality Committee	CEQA: Local Agencies: Notice of Determination: Amends CEQA to authorize local agency for multi-county water transfers to file notice of determination with county clerk in county of local agency's principal office and with Office of Planning and Research.	SUPPORT (based upon April 2013 board-adopted CEQA policy principles)	Would streamline filing of CEQA notices of determination for multi-county water transfers and improve public access to those notices. Notice of multi-county water transfers would be made available on CEQAnet for broader public access. Seeks to foster communication and transparency among Delta researchers and provide open access to research data. It is unclear how enforcement measures would be implemented when data is not released within six months after entity has completed work under a state grant.
AB 501 Levine (D) Sponsor: Author	Amended 1/25/16 Senate Natural Resources and Water Committee	Resources: Delta Research: Requires that state-funded environmental research in San Francisco Bay/Sacramento-San Joaquin Delta Estuary be shareable and made available to Delta Science Program.	WATCH	

Item 3e

**Metropolitan Water District of Southern California
State Legislation Matrix 3/7/2016**

Bill Number Author	Amended Date; Location	Title-Summary	MWD Position	Effects on Metropolitan
AB 647 Eggman (D) Sponsor: Author	Amended 6/30/15 Senate Natural Resources and Water Committee	Beneficial Use: Storing of Water Underground: Would amend California Water Code to state that diversion of water underground to protect water quality, prevent land subsidence or prevent or remediate chronic lowering of groundwater levels is a beneficial use. Also states that existing forfeiture provisions for non-use of water for period of longer than five years would not apply to water being beneficially used for these specific purposes.	SUPPORT (PENDING)	Recent amendment includes safeguards to ensure that permanent underground storage is implemented in reasonable manner. Amendments provide that SWRCB must confirm that flows are not already appropriated or diverted at times when federal Central Valley Project, State Water Project or other permitted reservoir releases are required to release supplemental project water to meet water quality objectives in Delta watershed.
AB 935 Salas (D) Sponsor: Author	Amended 9/4/15 Senate Inactive File	Water Projects: Requires DWR to fund two specified projects on Friant-Kern Canal and San Joaquin River, under certain conditions. Funding shall not exceed \$75 million and is subject to future appropriation by Legislature.	OPPOSE UNLESS AMENDED (based upon June 2007 board-adopted Delta Action Plan)	Projects named in bill have potential to negatively impact State Water Project's ability to deliver water supply through Delta due to potential effects on hydrology, hydrodynamics, water quality, fisheries and other aquatic resources in the Delta. Measure contains no best available science requirement or any public hearing prerequisite to give potentially impacted parties a chance to weigh in before projects move forward.

**Metropolitan Water District of Southern California
State Legislation Matrix 3/7/2016**

Bill Number Author	Amended Date; Location	Title-Summary	MWD Position	Effects on Metropolitan
AB 1201 Salas (D) Sponsor: Author	Amended 8/17/15 Senate Appropriations Committee	Delta: Predation: Directs Department of Fish and Wildlife to develop science-based approach that addresses predation in the Delta.	SUPPORT (based upon June 2007 board-adopted Delta Action Plan)	Aligns with Metropolitan's broader efforts to base management decisions in Delta on science. Places responsibility on appropriate state agency to manage statewide problem.
AB 1713 Eggman (D) Sponsor: Author	Introduced 1/26/16 Assembly Water, Parks and Wildlife Committee	Delta: Peripheral Canal: Prohibits construction of a Peripheral Canal unless authorized by initiative vote of all California voters on or after January 1, 2017. "Peripheral Canal," as defined in bill, only pertains to new conveyance improvements envisioned under CA Water Fix.	OPPOSE (based upon June 2007 board-adopted Delta Action Plan)	Creates dangerous precedent for major infrastructure investments that are critical to supporting state's economy. Would subvert historic agreement and progress of 2009 Delta Reform Act to achieve co-equal goals of providing reliable water supplies for California and restoration of Delta ecosystem.

**Metropolitan Water District of Southern California
State Legislation Matrix 3/7/2016**

Bill Number Author	Amended Date; Location	Title-Summary	MWD Position	Effects on Metropolitan
AB 1749 Mathis (R) Sponsor: Author	Amended 2/2/15 Assembly Natural Resources Committee Date of Hearing: 3/14/16	CEQA: Recycled Water Pipelines: CEQA exempts from its requirements projects consisting of construction or expansion of recycled water pipelines and directly-related infrastructure within existing rights of way, and directly-related groundwater replenishment, if project does not affect wetlands or sensitive habitat, and where construction impacts are fully mitigated and undertaken for purpose of mitigating drought conditions during gubernatorial-declared drought emergency. Exemption remains operative until state of emergency has expired or until January 1, 2017, whichever occurs first. This bill extends date to January 1, 2022.	SUPPORT AND SEEK AMENDMENTS [based upon sponsorship of AB 2417 (Nazarian) from 2014)	Metropolitan and LA County Sanitation Districts may avail themselves of exemption in existing law for joint recycled water pilot project pipeline; however, joint project may not reach project approval stage before expiration of deadline. To extent any member agencies are proposing projects to extend recycled water pipelines in existing rights of way, projects may benefit from extension as well. Clarification of terms within existing law would also be helpful to project proponents.

**Metropolitan Water District of Southern California
State Legislation Matrix 3/7/2016**

Bill Number Author	Amended Date; Location	Title-Summary	MWD Position	Effects on Metropolitan
SB 20 Pavley (D) Sponsor: California Water Foundation	Amended 8/26/15 Assembly Water, Parks and Wildlife Committee	California Water Resiliency Investment Act: Would create California Water Resiliency Investment Fund for funding “orphan” water infrastructure investments, including: 1) emergency drought response to protect vulnerable populations; 2) matching grants to local and regional agencies to increase regional self-reliance; 3) planning, construction, operation and maintenance of drinking water systems for disadvantaged communities; 4) restoration and protection of fish and wildlife to avoid or reduce conflicts with water management systems; and 5) to support improved data and information systems.	WATCH (based upon board-adopted Legislative Priorities for 2016)	Contains no specific funding source. Creates only a policy “framework” for initiating dialogue on sustainable funding options to fill gaps that reportedly exist for state and local water infrastructure financing and operations.
SB 471 Pavley (D) Sponsor: Author	Amended 8/17/15 Assembly Appropriations Committee	Water, Energy and Reduction of Greenhouse Gas Emissions (GHG): Would authorize SWRCB, in cooperation with the CEC, CARB, PUC and DWR to establish grant and loan program for water projects that result in net reduction of water-related GHGs. Also directs CEC, in cooperation with SWRCB, CARB, PUC and DWR, to conduct study of water-related energy use in California.	SUPPORT AND SEEK AMENDMENTS (based upon August 2008 board-adopted energy policy principles)	While energy use has always been key factor in water resource planning, measure would provide new opportunities for accessing funding for projects that reduce water-related GHG emissions.

**Metropolitan Water District of Southern California
State Legislation Matrix 3/7/2016**

Bill Number Author	Amended Date; Location	Title-Summary	MWD Position	Effects on Metropolitan
SB 554 Wolk (D) Sponsor: Author	Amended 1/4/16 Assembly Desk	Delta Levee Maintenance: Current law establishes Delta levee maintenance program for reimbursement of costs incurred in connection with maintenance or improvement of projects or non-project levees in the Sacramento-San Joaquin Delta. This bill would declare legislative intent and authorize Central Valley Flood Protection Board to reimburse up to 75% of those costs incurred in any year for maintenance or improvement of levees in excess of \$1,000 per mile of levee.	<p align="center">OPPOSE UNLESS AMENDED</p> (based upon June 2007 board-adopted Delta Action Plan)	SB 554 is contrary to “beneficiaries pay” principle as it seeks to permanently encumber state General Fund for levee maintenance responsibilities on private lands in Sacramento-San Joaquin Delta absent financial justification for such level of state investment. Amendments are necessary to direct Dept. of Water Resources to enlist outside entity to conduct affordability/beneficiaries assessment for Delta levee subventions program.



DISCUSSION ITEM

March 23, 2016

TO: Board of Directors

FROM: **Public Affairs & Legislation Committee**
(Directors Barbre, Hinman, and Tamaribuchi)

Robert Hunter
General Manager

Staff Contact: Heather Baez

**SUBJECT: RECAP OF SOUTHERN CALIFORNIA WATER ISSUES
CONGRESSIONAL DELEGATION BRIEFING LUNCHEON**

STAFF RECOMMENDATION

Staff recommends the Board of Directors receives and files the report.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

DETAILED REPORT

CONGRESSIONAL BRIEFING

On Wednesday, February 24, MWDOC co-hosted a luncheon during the ACWA conference in Washington D.C. and partnered with regional neighbors, Eastern Municipal Water District, Inland Empire Utilities Agency, and Western Municipal Water District

The luncheon had roughly 50 attendees from the sponsoring and member agencies, members of congress and their staff. It was emceed by Eastern Municipal Water District Board President and Chairman of the Metropolitan Water District of Southern California, Randy Record. MWDOC's representatives were Director Barbre, Rob Hunter, Heather Baez and MWDOC's Washington D.C. advocate, Jim Barker.

Budgeted (Y/N): Yes	MWDOC's cost: \$873.22	Core <u>X</u>	Choice __
Action item amount:	Line item: 31-7670		
Fiscal Impact (explain if unbudgeted):			

Members of Congress who attended and spoke include: Congressman Darrell Issa, Congressman Ken Calvert, Congressman Dana Rohrabacher, Congresswoman Judy Chu, Congressman Alan Lowenthal, and Congressman Ed Royce. Congresswoman Mimi Walters attended but unfortunately did not have time to stay and speak. Staff from all of these offices attended and many stayed for the presentations.

Staff, whose member was not present, from the following offices was also in attendance: Congresswoman Norma Torres, Congressman Mark Takano, Congresswoman Loretta Sanchez, and Congresswoman Grace Napolitano.

LUNCH PRESENTATIONS

The following agencies made presentations to the group:

Inland Empire Utilities Agency
 Eastern Municipal Water District
 Municipal Water District of Orange County
 Western Municipal Water District
 Irvine Ranch Water District
 Santa Margarita Water District
 Elsinore Valley Municipal Water District

The preliminary direct expenses for the luncheon are estimated to be as follows:

Catering	\$2,541.83
Printing	\$189.87
Materials (USB Drives)	\$761.18
Total	\$3,492.88

This is a total savings of \$2,661.88 over last year. Staff was able to cut costs by reducing the amount of food, number of USB drives, not printing posters, and not shipping anything. Some items were printed and picked up in Washington D.C. and others (including the name tags) were printed in-house and carried in luggage.

The total final expense will be shared between the four presenting agencies; MWDOC, EMWD, IEUA and WMWD – making the cost for each agency \$873.22.

**DISCUSSION ITEM**

March 23, 2016

TO: Board of Directors**FROM:** **Public Affairs & Legislation Committee**
(Directors Barbre, Hinman, and Tamaribuchi)Robert Hunter
General Manager

Staff Contact: Heather Baez

SUBJECT: PROPOSED BALLOT MEASURE TO AMEND ARTICLE X OF THE CALIFORNIA CONSTITUTION**STAFF RECOMMENDATION**

Staff recommends the Board of Directors receives and files the report.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

DETAILED REPORT

At the December 21, 2015 PAL meeting, the Board briefly discussed the proposed ballot measure that would amend Article X of the California Constitution.

Since mid-2015, a coalition including ACWA, California State Association of Counties and the League of Cities has been discussing a possible amendment to Proposition 218 passed by the voters in 1996. Early in the year, the discussion revolved around infrastructure financing for stormwater runoff and “lifeline” rates for low-income customers.

In April 2015, the 4th District Court of Appeal ruled that tiered rates must correspond to the cost of delivering the service. That was the premise of Proposition 218, stating a water provider cannot impose service fees that exceed the true cost of the service and the discussion shifted.

Budgeted (Y/N): n./a		Core <u>X</u>	Choice <u> </u>
Action item amount:	Line item:		
Fiscal Impact (explain if unbudgeted):			

On December 14th, the coalition submitted a proposed ballot measure to the Attorney General for title and summary. The ballot measure proponents had 30 days to tweak the language. The coalition is taking a two-pronged approach to the Prop 218 amendment proposal – ballot measure AND the legislative route. The proposal amends Article X of the California Constitution, not Article XIII which Prop 218 amended. The purpose of the ballot measure route is to use the title and summary written by the Attorney General for polling purposes. They will then use the results to shape the language and to help argue their position to the legislature.

On January 15, 2016 the same coalition submitted amendments to the text of the initiative for an updated title and summary from the California Attorney General which was then received on February 18, 2016 (see attachment). In addition, a report from the Legislative Analyst's Office has also been received. These two items are being used to form polling questions to gauge public opinion on the issue should it end up on the November 2016 ballot.

The plan remains to have this measure go the legislative route rather than a ballot initiative. The coalition does not have the funds to finance a signature gathering effort. The coalition has been in discussions with Assemblymember Gordon who has agreed to be the bill author, however no bill has yet been introduced. As this measure would be a constitutional amendment, it is not bound by the same deadlines as standard legislation.

OTHER INFORMATION

Attachments:

Ballot Initiative Amendment to Attorney General (includes full text of initiative)
Attorney General Title and Summary
Legislative Analyst background and fiscal analysis

LAO

February 2, 2016

RECEIVED

FEB 03 2016

Hon. Kamala D. Harris
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Attention: Ms. Ashley Johansson
Initiative Coordinator

Dear Attorney General Harris:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative (A.G. File No. 15-0116, Amendment No. 1) that would amend the state Constitution to create an alternative process for local governments to assess fees for flood control, stormwater management, water, and sewer services.

BACKGROUND

Local Government Agencies Provide Most Water-Related Services. Most spending on water programs in the state is done at the local level by local government agencies such as special districts, cities, and counties. These local government agencies provide four major water-related services:

- **Water Service.** Local agencies utilize infrastructure—such as pipes, reservoirs, and water treatment plants—to provide drinking water to households and businesses, as well as to supply water for agricultural purposes—such as irrigation.
- **Sewer Service.** Local governments are responsible for providing sewer services, which include infrastructure and programs to dispose of and treat dry weather runoff, sewage, or wastewater.
- **Flood Control.** Flood control activities include the construction and maintenance of levies and other structures to manage floodwater in order to reduce the risk of flooding of public or private property.
- **Stormwater Management.** Stormwater runoff is generated by rain and snowmelt that flows over land, paved streets, and parking lots, and does not soak into the ground. This runoff picks up pollutants, such as chemicals and oils, that can harm rivers, streams, lakes, and coastal waters. Stormwater management includes infrastructure, projects, and services designed to treat stormwater in order to protect public health and safety and conserve water.

Legislative Analyst's Office
California Legislature
Mac Taylor • Legislative Analyst
925 L Street, Suite 1000 • Sacramento CA 95814
(916) 445-4656 • FAX 324-4281

Local Governments Rely on Various Funding Options for Water-Related Services. Local governments pay for water-related projects and services using several revenue sources, including state funds; federal funds; and local taxes, fees, and assessments. We discuss a few of these local funding sources below.

- ***Property-Related Fees.*** A fee is a charge imposed on an individual or business for a service provided directly to that individual or business. The amount of the fee may not exceed the cost to government to provide the service. Under Proposition 218 (1996), property-related fees, such as for water and sewer services, are limited and cannot exceed the *proportional* cost of providing the service to the specific parcel being charged. About 80 percent of local costs for water and sewer services is paid for as fees by individuals as ratepayers of water and sewer bills.
- ***Property Assessments.*** Local governments levy assessments in order to fund improvements that benefit property. Under Proposition 218, improvements funded with assessments must provide a direct benefit to property owners, and the amount each property owner pays must (1) reflect the cost incurred by the local government to provide the benefit and (2) be allocated to each property in proportion to the benefit it receives from the improvement. Flood control services are sometimes funded in part through property assessments.
- ***Special Taxes.*** A tax is called a “special” tax if its revenues are used for specific purposes. Special taxes are sometimes used to fund water-related services.

Processes for Approving Local Property-Related Fees, Assessments, and Special Taxes. Property-related fee increases generally must be approved by a majority vote of the property owners subject to the fee or by a two-thirds vote of the electorate living in the affected area. However, fee increases for sewer and water services are not subject to a public vote. Instead, fee increases for sewer and water services are subject to a public hearing, and if a majority of the affected parcel owners protest, then the fee increase is rejected. Fee increases for flood control and stormwater services are subject to the same vote requirement as most property-related fees, as they are not included in the sewer and water service exemption. To impose a new property assessment, a local government must secure the approval of a weighted majority of affected property owners, with each property owner’s vote weighted in proportion to the amount of the assessment he or she would pay. A special tax requires a two-thirds vote of the electorate for approval.

Recent Court Decision Regarding Tiered Rates. There are various rate structures that are used by the roughly 430 local government agencies that provide an estimated 90 percent of the water delivered in California. One of the most common is a tiered rate. Under a tiered rate, the price for a unit of water changes according to the level of use and tiers can be structured to promote water conservation. In a recent court decision, an appellate court ruled that one city’s tiered rate violated the proportionality requirements for property-related fees. In this case, the city failed to demonstrate that its rate tiers corresponded to the actual cost of providing service on a parcel basis at a given level of usage.

Lifeline Programs. Lifeline programs are programs that reduce the water and sewer service rates charged to low-income households in order to provide them with more affordable services. In order to backfill the revenue decreases from the lower lifeline rates, local government agencies generally either charge higher rates to other households or use other sources of funding.

PROPOSAL

This measure makes several changes to the state Constitution related to how local governments can charge for providing water, stormwater, flood control, and sewer services.

Establishes an Alternative Process for Increasing Water-Related Fees. This measure establishes an alternative process to impose, increase, or extend fees (or certain other charges) for water-related services. The measure prohibits this process from being used for an ad valorem tax (based on property value), a special tax, or an assessment. Under the new process, a local government agency would have to mail notices to all fee payers with information on the amount of the fee and how the fee increase would be calculated, as well as a description of the services, facilities, and improvements that would be funded with the increased revenues. Local government agencies would be required to conduct a public hearing on the proposed fee at least 45 days after mailing the notice. If written protests against the fee are given to the agency by a majority of fee payers, then the agency cannot impose the fee. While this process is largely similar to what currently is required for water and sewer fees, the measure would allow stormwater and flood control fees to follow this process as well. Currently local governments must receive voter approval to levy property-related fees for stormwater and flood control.

Requires Use of Fair or Reasonable Relationship to Costs. The measure requires that the manner in which the increased costs to provide a water-related service are allocated to a fee payer must bear a *fair or reasonable* relationship—a change from the *proportional* requirement under existing law—to the fee payer's burden or the benefit the payer receives from these services. The local agency would bear the burden of proof in demonstrating that this standard has been met.

Provides Greater Rate-Setting Flexibility. Under the measure, local government agencies could utilize the new fee-setting process to establish rate structures—such as tiered rates—for allocating the cost of water-related services in ways designed to encourage water conservation and discourage excessive use. (As noted earlier, a recent appellate court decision has created uncertainty about how tiered rates must be structured in order to meet the proportionality requirement under existing law.) Local government agencies could also use the new process to establish lifeline programs to reduce fees for lower-income ratepayers, provided that the fee increases are reasonable.

Establishes Requirements for Fiscal Accountability. Any local government agency that uses the measure's alternative funding method for water-related services would be required to have an independent audit of the receipt and expenditure of the revenues derived from the fee or charge.

FISCAL EFFECTS

Increased Stormwater and Flood Control Revenues and Costs. The measure provides a new process for raising fee revenues to fund flood control and stormwater projects. For these types of projects, the new process would make it easier for local governments to raise revenues, compared to the approval threshold for assessments, special taxes, and property-related fees.

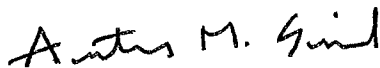
The amount of additional local revenues generated would depend on future actions by local governing boards and voters. Given the estimated statewide need for flood control and stormwater management projects—estimated to be between \$1.3 billion and \$1.8 billion annually—the effect of lower approval threshold for funding for projects could be major. To the extent local agencies utilize the new process, over time, we estimate that it could increase local government revenues and spending by the low hundreds of millions of dollars up to more than \$1 billion annually compared with what otherwise would have occurred. These increased revenues would be used for increased flood control and stormwater services.

Other Potential Fiscal Impacts. The measure changes the requirement for a property-related fee or charge from one where it shall not exceed the *proportional* costs of the service to one where the fee or charge shall bear a *fair or reasonable* relationship to the benefits the fee payer receives. It also allows for the use of greater rate-setting flexibility, including the use of alternative rate structures to promote water conservation. To the extent local government agencies use the flexibility—particularly those providing water and sewer services—it could result in changes in how payers use these services. To the extent this occurs, it would affect local government agencies' costs and revenues.

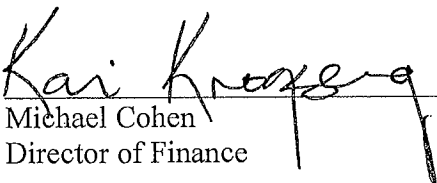
Summary of Fiscal Effect. The measure would have the following fiscal effect:

- Increased local government revenues and spending for flood control services and stormwater management in the range of low hundreds of millions of dollars up to more than \$1 billion annually, depending on future actions by local governing boards and voters.

Sincerely,



for Mac Taylor
Legislative Analyst



for Michael Cohen
Director of Finance

Law Offices of

OLSON**HAGEL &****FISHBURN****LLP**

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January 19, 2016

VIA MESSENGER

Office of the Attorney General
 Attention: Ashley Johansson, Initiative Coordinator
 1300 "I" Street
 Sacramento, CA 95814

RECEIVED**JAN 19 2016**

INITIATIVE COORDINATOR
 ATTORNEY GENERAL'S OFFICE

**RE: Submission of Amendment to Statewide Initiative Measure -
 The California Water Conservation, Flood and Stormwater
 Management Act of 2016, No. 15-0116**

Dear Ms. Johansson:

As you know, we serve as counsel for the proponents of the proposed statewide initiative, "The California Water Conservation, Flood Control and Stormwater Management Act of 2016." The proponents of the proposed initiative are Christopher McKenzie, Tim Quinn, and Matthew Cate. On their behalf, we are enclosing the following documents:

- The amended text of "The California Water Conservation, Flood Control and Stormwater Management Act of 2016"
- A red-line version showing the changes made in the amended text
- Signed authorizations from each of the proponents for the submission of the amended text together with their requests that the Attorney General's Office prepare a circulating title and summary using the amended text.

Please continue to direct all inquiries or correspondence relative to this proposed initiative to us at the address listed below:

Lance H. Olson & Richard Miadich
 Olson, Hagel & Fishburn LLP
 555 Capitol Mall, Suite 1425
 Sacramento, CA 95814

Very truly yours,

OLSON HAGEL & FISHBURN LLP

RICHARD MIADICH

RCM:LHO:EAA

VIA MESSENGER

January 15, 2016

Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814

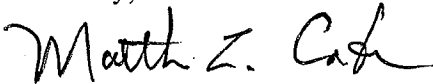
Attention: Ashley Johansson, Initiative Coordinator

Re: Submission of Amendment to The California Water Conservation, Flood Control and Stormwater Management Act of 2016 (15-0116)

Dear Ms. Johansson:

On December 14, 2015 I submitted a proposed statewide initiative titled "The California Water Conservation, Flood Control and Stormwater Management Act of 2016" ("Initiative") and a request that the Attorney General prepare a circulating title and summary pursuant to section 10(d) of Article II of the California Constitution. Pursuant to Elections Code section 9002(b), I hereby submit timely amendments to the text of the Initiative. As a proponent of the Initiative, I approve the submission of the amended text to the Initiative and I declare that the amendment is reasonably germane to the theme, purpose, and subject of the Initiative. I request that the Attorney General prepare a circulating title and summary using the amended Initiative.

Sincerely,

A handwritten signature in black ink that reads "Matthew Z. Cate". The signature is written in a cursive, flowing style.

Matthew Cate

Executive Director, California State Association of Counties

VIA MESSENGER

January 15, 2016

Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814

Attention: Ashley Johansson, Initiative Coordinator

Re: Submission of Amendment to The California Water Conservation, Flood Control and Stormwater Management Act of 2016 (15-0116)

Dear Ms. Johansson:

On December 14, 2015 I submitted a proposed statewide initiative titled "The California Water Conservation, Flood Control and Stormwater Management Act of 2016" ("Initiative") and a request that the Attorney General prepare a circulating title and summary pursuant to section 10(d) of Article II of the California Constitution. Pursuant to Elections Code section 9002(b), I hereby submit timely amendments to the text of the Initiative. As a proponent of the Initiative, I approve the submission of the amended text to the Initiative and I declare that the amendment is reasonably germane to the theme, purpose, and subject of the Initiative. I request that the Attorney General prepare a circulating title and summary using the amended Initiative.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy H. Quinn", followed by a horizontal line.

Timothy H. Quinn

Executive Director, Association of California Water Agencies

VIA MESSENGER

January 15, 2016

Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814

Attention: Ashley Johansson, Initiative Coordinator

Re: Submission of Amendment to The California Water Conservation, Flood Control and Stormwater Management Act of 2016 (15-0116)

Dear Ms. Johansson:

On December 14, 2015 I submitted a proposed statewide initiative titled "The California Water Conservation, Flood Control and Stormwater Management Act of 2016" ("Initiative") and a request that the Attorney General prepare a circulating title and summary pursuant to section 10(d) of Article II of the California Constitution. Pursuant to Elections Code section 9002(b), I hereby submit timely amendments to the text of the Initiative. As a proponent of the Initiative, I approve the submission of the amended text to the Initiative and I declare that the amendment is reasonably germane to the theme, purpose, and subject of the Initiative. I request that the Attorney General prepare a circulating title and summary using the amended Initiative.

Sincerely,



Christopher McKenzie

Executive Director, League of California Cities

**The California Water Conservation, Flood Control
And Stormwater Management Act of 2016**

SECTION 1. Title

This measure shall be known as the California Water Conservation, Flood Control and Stormwater Management Act 2016

SECTION 2. Findings, Declarations and Purposes

- A. California's historic drought and the extensive heavy floods and property damage that often accompany heavy rains require that California local communities have the tools needed to further encourage conservation and discourage excessive use of water; to effectively manage and increase water supplies; to capture, clean and eliminate pollution from local water sources; and to better protect people and property from the dangers of floods.
- B. Effective local management of water supplies includes authorizing local agencies to design rates to encourage water conservation and discourage excessive use of water.
- C. Local agencies should also invest in infrastructure to capture and clean water polluted by toxic chemicals and trash; recycle and reuse rainwater and stormwater runoff; and to prevent toxic stormwater and urban runoff from contaminating sources of drinking water, including rivers, lakes, streams, and groundwater, and polluting beaches, coastal waters, and wetlands.
- D. California must also improve local flood control by better capturing and managing storm and flood waters and upgrading storm drains, sewer and drainage systems to protect properties from floods and increase local supplies of water available for public use.
- E. Existing state laws governing the funding of local water supplies, clean water, water conservation and flood water protection were not developed with California's current water realities in mind.
- F. Furthermore, local governments face thousands of dollars in fines per day from the state and federal governments if they cannot meet obligations under the federal Clean Water Act and state laws and regulations to adequately capture and treat toxic stormwater and urban runoff.

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- G. An alternative method for funding critical local water supplies, water quality, water conservation and flood protection projects is needed.
- H. This measure establishes an alternative funding method that authorizes local agencies to:
 - i. Set rates for customers to encourage water conservation, prevent waste, and discourage excessive use of water.
 - ii. Levy fees or charges, subject to ratepayer protest, for flood control, and for management of stormwater to protect coastal waters, rivers, lakes, streams, groundwater and other sources of drinking water from contamination and to comply with the federal Clean Water Act and state laws and regulations.
 - iii. Use fees or charges to reduce water, and sewer fees or charges for low-income customers.
- I. Any local agency that utilizes this alternative funding method for water, flood control, stormwater, or sewer service should be required to adhere to strict accountability, transparency and ratepayer protections. This includes:
 - i. Providing local ratepayers with a description of the need for the proposed fee or charge and a list of the projects and purposes projected to be funded by any proposed fee or charge in advance of any public hearing or consideration of the fee or charge;
 - ii. Posting the description of the proposal on the agency's Internet website with all applicable exhibits;
 - iii. Providing local ratepayers a notice of the date and time of the public hearing the local agency will hold on the proposed fee or charge;
 - iv. If written protests against the fee or charge are presented by a majority of persons to whom the local agency sent the notice about the proposal then the local agency shall not impose, increase or extend the fee or charge;
 - v. All money must be spent for the local purpose for which the fee or charge was imposed and cannot be taken by state government;
 - vi. Revenues derived from the fee or charge shall not exceed the reasonable cost to the local agency of providing the water, flood control, stormwater, or sewer service or be used for any purpose other than that for which it was imposed;
 - vii. The manner in which the costs are allocated to a fee payor shall bear a fair or reasonable relationship to the fee payor's burden on or benefits received from the water, flood control, stormwater, or sewer service;
 - viii. The initiative power of voters may be used to repeal or reduce the fee or charge in the future with the filing of a petition calling for an election on the question;
 - ix. Independent annual audits shall be made available to the public showing how all funds are spent.

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- J. This new funding method will allow local agencies to invest in the water supplies, water quality, flood protection and water management and conservation programs we need, while guaranteeing a high level of accountability and ratepayer protections.

SECTION 3. Section 8 is hereby added to Article X of the California Constitution to read as follows:

SEC. 8 Water, Flood Control, Stormwater, and Sewer Service

(a) Alternative funding method. This section provides alternative procedures and requirements for funding water service, flood control service, stormwater service, and sewer service independent of any other procedures and requirements in this Constitution for funding these services.

(1) A local agency that adheres to the procedures and requirements of this section, including the strict accountability requirements to protect local ratepayers, may use at its discretion, the provisions of this section instead of any other procedures or requirements in this Constitution for funding the cost of providing water service, flood control service, stormwater service, and sewer service only if undertaken voluntarily and at the sole discretion of the local agency.

(2) The revenues derived from the fees or charges imposed in accordance with this section may only be used by the local agency that imposed, increased or extended the fee or charge, and like other fees or charges imposed, increased or extended by local agencies, the Legislature is prohibited from reallocating, transferring, borrowing, appropriating, restricting the use of, or otherwise using the proceeds of such fees or charges.

(b) Definitions. As used in this section:

(1) "Fee" or "charge" means any levy other than an ad valorem tax, a special tax, or an assessment, imposed by a local agency upon a parcel or upon a person as an incident of property ownership, including a user fee or charge for water service, flood control service, stormwater service, or sewer service having a direct relationship to property ownership.

(2) "Flood control service" means any system of public improvements, facilities, projects, or services for the collection, conveyance, drainage, control, conservation, or management, of flood water to: (A) reduce the risk of flooding of public or private property; or (B) comply with federal or state laws, rules and regulations.

(3) "Local agency" means any city, county, city and county, including a charter city or county, special district, or any other local or regional governmental entity.

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(4) "Property ownership" shall be deemed to include tenancies of real property where tenants are directly liable to pay the fee or charge.

(5) "Sewer service" means any system of public improvements, facilities, projects, or services for the collection, conveyance, conservation, drainage, disposal, recycling or treatment of dry weather runoff, sewage or waste to: (A) conserve and protect sources of drinking water, such as rivers, lakes, streams and groundwater, or the environment, such as beaches, coastal waters, and wetlands, from toxic chemicals, biological contaminants, and other pollutants; (B) protect public health and safety; or (C) comply with federal or state laws, rules, and regulations.

(6) "Stormwater service" means any system of public improvements, facilities, projects or services for the collection, conveyance, conservation, drainage, disposal, recycling or treatment of stormwater and dry weather runoff to: (A) protect sources of drinking water, such as rivers, lakes, streams and groundwater, or the environment, such as beaches, coastal waters, and wetlands from toxic chemicals, biological contaminants, and other pollutants; (B) protect public health and safety; (C) conserve water; or (D) comply with federal or state laws, rules and regulations.

(7) "Water service" means any system of public improvements, facilities, projects or services intended to provide for the production, management, storage, supply, treatment, recycling, conservation or distribution of water from any source.

(c) Requirements for new, increased or extended fees or charges. A fee or charge for water service, flood control service, stormwater service, or sewer service shall not be imposed, increased, or extended by a local agency pursuant to this section unless it meets all of the following requirements:

(1) Revenues derived from the fee or charge shall not exceed the reasonable cost to the local agency of providing the water service, flood control service, stormwater service, or sewer service.

(2) Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.

(3) The manner in which the costs of the water service, flood control service, stormwater service, or sewer service are allocated to a fee payor shall bear a fair or reasonable relationship to the fee payor's burdens on or benefits received from the water service, flood control service, stormwater service, or sewer service.

(d) Conservation fee or charge; low-income households. A local agency that imposes, extends, or increases a fee or charge pursuant to this section may do either or both of the following:

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(1) Allocate the cost of water service, flood control service, stormwater service or sewer service by increasing or decreasing the amount of a fee or charge as part of a rate structure reasonably designed to encourage water conservation and resource management in furtherance of the policy established in section 2;

(2) Increase the amount of a fee or charge to derive revenues that do not exceed the reasonable cost of reducing such fee or charge for lower-income households.

(e) Notice, public hearing and majority protest. A local agency shall comply with the procedures of this subdivision in imposing, increasing, or extending a fee or charge for water service, flood control service, stormwater service, or sewer service pursuant to this section:

(1) The local agency shall provide written notice by mail of the new fee or charge or the proposed increase in or extension of an existing fee or charge to the fee payor listed in the local agency's billing, or customer service records or other appropriate records. If the fee or charge is or will be imposed on a parcel, the local agency shall provide written notice to the record owner as provided in paragraph (4). The local agency may include the notice in the agency's regular billing statement for the fee or charge to the person at the address to which the agency customarily mails the billing statement for water service, flood control service, stormwater service, or sewer service. If the customer is billed only electronically, the agency shall provide notice by mail.

(2) The notice required by paragraph (1) shall include the amount of the fee or charge proposed to be imposed on the recipient of the notice or the basis upon which the amount of the fee or charge will be calculated, together with the date, time and location of the public hearing on the fee or charge. The notice also shall state that if written protests against the fee or charge are presented by a majority of persons to whom the local agency sent the notice required by paragraph (1), then the local agency shall not impose, increase or extend the fee or charge.

(3) The notice required by paragraph (1) shall include a general description of the services, facilities and improvements projected to be funded with the proceeds derived from the new fee or charge or proposed increase in, or extension of the fee or charge. A more complete description of the projected services, facilities and improvements, including any applicable exhibits, shall be made available at an accessible location and on the local agency's Internet website.

(4) If the local agency desires to preserve any authority it may have to record or enforce a lien on the parcel to which service is provided, the local agency shall also mail notice to the record owner's address shown on the last equalized assessment roll if that address is different than the billing address.

(5) The local agency shall conduct a public hearing upon the proposed fee or charge not less than 45 days after mailing the notice required by paragraph (1). At the

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public hearing, the local agency shall consider all oral and written protests against the fee or charge. If written protests against the fee or charge are presented by a majority of persons to whom the local agency sent the notice required by paragraph (1), then the local agency shall not impose, increase or extend the fee or charge. One written protest per service address shall be counted in calculating a majority protest pursuant to this paragraph.

(f) Burden of proof. The local agency bears the burden of proving by a preponderance of the evidence that the amount of a fee or charge is no more than necessary to cover the reasonable costs of the water service, flood control service, stormwater service, or sewer service, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the water service, flood control service, stormwater service, or sewer service. A fee or charge levied pursuant to and in compliance with this section is not a tax

(g) Initiative power for fees or charges. Notwithstanding any other provision of this Constitution, including, but not limited to Sections 8 and 9 of Article II, the initiative power shall not be prohibited or otherwise limited in matters of reducing or repealing any fee or charge for water service, flood control service, stormwater service, or sewer service adopted, increased or extended pursuant to this section. The power of the initiative to affect such fees or charges shall be applicable to all local agencies and neither the Legislature nor any local government charter shall impose a signature requirement higher than that applicable to statewide statutory initiatives.

(h) Mandatory audit. Any local agency that approves a fee or charge for water service, flood control service, stormwater service, or sewer service in accordance with this section shall cause to be prepared an independent financial audit of the receipt and expenditure of the revenues derived from the fee or charge. Such an audit may be part of a comprehensive audit of the agency's finances, but the audit shall identify the revenues received and expended in accordance with this section with sufficient clarity to help ratepayers compare the use of the funds to the description provided in paragraph (3) of subdivision (e).

SECTION 4. Severability

If the provisions of this act, or part thereof, are for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect and to this end the provisions of this act are severable.

SECTION 5. Conflicting Measures

It is the intent of the people that in the event that this measure and another measure relating to the establishment of an alternative method of imposing, increasing, or extending fees or charges to fund water service, flood control service, stormwater

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service, or sewer service appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure, and if approved by the voters, this measure shall take effect notwithstanding.

SECTION 6. Liberal Construction

The provisions of this act shall be liberally construed in order to effectuate its purposes and the intent of the voters to provide local agencies alternative procedural and substantive requirements for imposing fees and charges for water service, flood control service, stormwater service, and sewer service from those otherwise found in the Constitution.

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

LOCAL GOVERNMENT. WATER, SEWER, STORMWATER, AND FLOOD

CONTROL SERVICES. FEE STRUCTURES. INITIATIVE CONSTITUTIONAL

AMENDMENT. Establishes alternative process for local government to impose fees for water, sewer, stormwater, and flood control services, as defined, without voter approval. Authorizes fee structures that recover reasonable costs of providing service, encourage water conservation and resource management, and provide fee reductions for low-income households. Requires notice of and public hearing on proposed fees. Allows fee payers to prevent proposed fee by majority filing written protests. Prohibits use of fee revenues for other purposes. Requires independent audit of revenues and expenditures. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: **Increased local government revenues and spending for flood control services and stormwater management in the range of low hundreds of millions of dollars up to more than \$1 billion annually, depending on future actions by local governing boards and voters. (15-0116.)**

**ACTION ITEM**

Of 1/2, 2016

TO: Board of Directors

FROM: **Public Affairs & Legislation Committee**
(Directors Barbre, Hinman, and Tamaribuchi)

Robert Hunter
General Manager

Staff Contact: Jonathan Volzke

**SUBJECT: PUBLISHING COSTS FOR THE OC CITIES & WATER AGENCIES
DIRECTORY**

STAFF RECOMMENDATION

Staff recommends the Board of Directors receives and files the report and provide staff direction whether to print copies of the OC Cities & Water Agencies directory.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

DETAILED REPORT

Each year MWDOC staff updates the Orange County Cities & Water Agencies Directory, which typically is more than 95 pages.

After last month's discussion, three bids were sought from known commercial printers. The cost for printing 500 copies are:

Westamerica Communications, Lake Forest: \$8,618

Autumn Print Group, Mission Viejo: \$6,000

Bryton Printing, Anaheim: \$6,074

Note that Autumn Print Group and Bryon Printing requested to submit a bid for perfect binding like a book.

Budgeted (Y/N): Y		Core x	Choice
Action item amount:	Line item: Reproduction 7360		
Fiscal Impact (explain if unbudgeted): Sufficient funding exists in the Public Affairs budget for reproduction cost.			

**ACTION ITEM**

April 20, 2016

TO: Board of Directors**FROM:** **Public Affairs & Legislation Committee**
(Directors Barbre, Hinman, Tamaribuchi)Robert Hunter
General Manager

Staff Contact: Heather Baez

SUBJECT: AB 2022 (Gordon) – Advanced Purification Demonstration Water**STAFF RECOMMENDATION**

Staff recommends the Board of Directors vote to support AB 2022 (Gordon) and send a separate letter to the author and members of the Orange County delegation indicating our support.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

SUMMARY

AB 2022 would authorize the operator of a facility producing advanced purified demonstration water, as defined, to allow that water to be bottled and distributed as samples for educational purposes and to promote water recycling. The bill would prohibit the advanced purified demonstration water from being distributed unless the water meets or is superior to all federal and state drinking water standards. The bill would authorize advanced purified demonstration water to be bottled at a licensed water-bottling plant in compliance with specified provisions. The bill would further establish bottling and labeling requirements for advanced purified demonstration water and would prohibit a facility from bottling more than 2,500 gallons of the water in a calendar year.

Budgeted (Y/N): n/a	Budgeted amount:	Core x	Choice __
Fiscal Impact (explain if unbudgeted):			

ARGUMENTS IN SUPPORT

According to the author's office, "California's five-year drought has highlighted the fact that we must diversify our water portfolio to ensure water security for our growing population. "Californians are just one sip away from getting comfortable with drinking purified reused water. I tasted purified reused water from the Santa Clara Valley Water District; it was clear, delicious and surpassed health and safety standards," said Gordon, who is Chairman of the Assembly's Select Committee on Water Consumption and Alternative Sources. "This legislation will allow Californians to get a small taste of one of our main water sources of the future."

"Drinking this water is one of the most effective ways to educate the public about the advanced purification process that turns wastewater into water that exceeds all drinking water standards," said Jennifer West, Managing Director of WateReuse California, another co-sponsor of the bill. "By allowing the bottling of this water for educational purposes only, AB 2022 will provide an opportunity for the public to learn more about the treatment process and this new and growing source of drinking water supply for California."

ARGUMENTS IN OPPOSITION

None. The water bottled at these facilities is for educational purposes only and will not be for sale. It will help raise awareness of this safe source of drinking water.

COMMENTS

This bill is co-sponsored by the Orange County Water District and the Orange County Sanitation District. WateReuse is another co-sponsor of the measure. California Coastkeeper Alliance is also supporting.

DETAILED REPORT

The full text of AB 2022 is attached.

AB 2022 (Gordon)

Advanced Purified Demonstration Water

CURRENT ISSUE

By using advanced water purification technology, billions of gallons of water that would otherwise be wasted to the ocean can be reused as a safe and reliable source of new drought-proof water to help fulfill California's ever-growing demand. For years, this water has been safely and sustainably mixed into groundwater basins and thus our drinking water supply, but the public could only directly sample this purified water at a water purification facility. New legislation to allow the bottling of small amounts of advanced purified water is an excellent way to expand that educational opportunity to Californians who don't have the opportunity or means to visit these advanced purification facilities. This water will not be sold; instead, it will be used to demonstrate to a broader audience the cutting-edge technology that is being used to purify wastewater to near-distilled water quality.

BACKGROUND

Advanced purified water is becoming a more common tool for water agencies as they diversify their water portfolios to improve reliability through drought. Advanced purified water has been proven to meet or exceed all drinking water standards and has been included for years in the water supply of several communities indirectly through groundwater mixing. Reservoir augmentation and direct potability of this water is seen as an important next step for water supply in California, and is currently available to sample at a few purification facilities. The sampling of advanced purified water is seen as one of the most effective ways of educating members of the community about the treatment process for this growing source of supply. Public understanding of the purity of this water is seen as a key requirement for more widespread acceptance of potable reuse in California. Today, agencies are not allowed to bottle small amounts of potable reuse water, even for educational purposes. Bottling water for educational purposes will provide an opportunity to educate a larger swath of the general public regarding the benefits of advanced purified water, including its quality and safety.

An example of such a facility is the Orange County Water District (OCWD) and Orange County Sanitation

District's (OCSD) Groundwater Replenishment System (GWRS). Brought online in January 2008, GWRS is the largest water purification project of its kind in the world. The GWRS takes highly treated wastewater from OCSD and treats it to beyond drinking water standards using advanced membrane purification technologies. GWRS water exceeds all state and federal drinking water standards and has water quality similar to or better than bottled water. Roughly half of the purified water from the GWRS is percolated into groundwater aquifers. There, the water blends with the existing groundwater before it is used as drinking water for northern and central Orange County residents. Furthermore, this water has been available for sampling directly at the OCWD's facility since the facility opened in 2008.

The State Water Resources Control Board's Division of Drinking Water is responsible for evaluating the treatment, production, distribution and use of recycled water as related to its public health safety. Uniform water recycling criteria for direct potable reuse, as well as criteria for the bottling of direct potable reuse, has not yet been developed by the State Water Resources Control Board, though a study on its feasibility is forthcoming.

THIS BILL

This proposal would authorize the bottling of up to 2,500 gallons of advanced purified demonstration drinking water for educational purposes to promote water recycling. This bottled water may not be sold. The proposal establishes bottling, labeling, handling, quality and treatment requirements for bottled advanced purified water.

SUPPORT

WaterReuse California (Co-Sponsor)
Orange County Water District (Co-Sponsor)
Orange County Sanitation District (Co-Sponsor)

FOR MORE INFORMATION

Nuriel Moghavem
Office of Assemblymember Rich Gordon
(916) 319-2024 | (916) 319-2124 (fax)
Nuriel.Moghavem@asm.ca.gov

Office of Assemblymember Rich Gordon - Potable Reuse Demonstration Water Fact Sheet

ASSEMBLY BILL

No. 2022

Introduced by Assembly Member Gordon

February 16, 2016

An act to add Section 13570 to the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 2022, as introduced, Gordon. Advanced purified demonstration water.

Existing law requires the State Department of Public Health to, on or before December 31, 2013, adopt uniform water recycling criteria for indirect potable reuse for groundwater recharge and to investigate and, on or before December 31, 2016, report to the Legislature on the feasibility of developing uniform water recycling criteria for direct potable reuse. Existing law transferred these powers and responsibilities to the State Water Resources Control Board on July 1, 2014.

Under existing law, the State Department of Public Health licenses and regulates water bottlers, distributors, and vendors. Existing law prescribes various quality and labeling standards for bottled water and limits the levels of certain contaminants that may be contained in those water products. Violation of these provisions is a crime.

This bill would authorize the operator of a facility producing advanced purified demonstration water, as defined, to cause that water to be bottled and distributed as samples for educational purposes and to promote water recycling. The bill would prohibit the advanced purified demonstration water from being distributed unless the water meets or is superior to all federal and state drinking water standards. The bill would authorize advanced purified demonstration water to be bottled at a licensed water-bottling plant in compliance with specified

provisions. The bill would further establish bottling and labeling requirements for advanced purified demonstration water and would prohibit a facility from bottling more than 2,500 gallons of the water in a calendar year. The bill would specify that a violation of these provisions does not constitute a crime.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 13570 is added to the Water Code, to
2 read:

3 13570. (a) As used in this section, “advanced purified
4 demonstration water” means product water from an advanced water
5 purification facility that satisfies both of the following
6 requirements:

7 (1) The product water is treated by means of all of the following
8 treatment processes:

9 (A) Microfiltration, ultrafiltration, or other filtration processes
10 to remove particulates before reverse osmosis.

11 (B) Reverse osmosis.

12 (C) Advanced oxidation.

13 (2) The product water meets or is superior to all federal and
14 state drinking water standards.

15 (b) An advanced water purification facility may use an
16 alternative treatment process in lieu of a process specified in
17 subdivision (a) if the facility demonstrates to the Division of
18 Drinking Water of the State Water Resources Control Board that
19 the proposed alternative ensures at least the same level of protection
20 to public health.

21 (c) Except as expressly set forth in this section, the operator of
22 a facility producing advanced purified demonstration water may
23 cause that water to be bottled and distributed as samples for
24 educational purposes and to promote water recycling, without
25 complying with the requirements of Article 12 (commencing with
26 Section 111070) of Chapter 5 of Part 5 of Division 104 of the
27 Health and Safety Code.

28 (d) Any operator seeking to bottle advanced purified
29 demonstration water shall collect water samples prior to the
30 commencement of the bottling process, and test that water in

1 accordance with Section 111165 of the Health and Safety Code.
2 Advanced purified demonstration water shall not be distributed
3 unless that water meets or is superior to all federal and state
4 drinking water standards, all maximum contaminant levels
5 established by the Division of Drinking Water of the State Water
6 Resources Control Board for public drinking water, and all water
7 purification requirements imposed by regulatory agencies on the
8 water reclamation facility that produces the product water being
9 used as advanced purified demonstration water.

10 (e) Advanced purified demonstration water may be bottled only
11 at a licensed water-bottling plant in compliance with Sections
12 111080, 111120, 111145, and 111155 of the Health and Safety
13 Code.

14 (f) Advanced purified demonstration water shall be handled
15 from the point of production to the completion of bottling in
16 accordance with all regulations governing the transportation,
17 bottling, and handling of bottled water, as defined in subdivision
18 (a) of Section 111070 of the Health and Safety Code, including,
19 but not limited to, subdivisions (b), (f), and (h) of Section 111075
20 of the Health and Safety Code. A water bottling plant that bottles
21 advanced purified demonstration water in accordance with this
22 section may also bottle other potable water, subject to compliance
23 with Article 12(commencing with Section 111070)of Chapter 5
24 of Part 5 of Division 104 of the Health and Safety Code.

25 (g) Advanced purified demonstration water shall be bottled in
26 nonreturnable (one-way) bottles or packages with labels containing
27 the following information in an easily readable format that
28 complies with all of the following:

29 (1) The label shall state "sample water--not for sale" and
30 "advanced purified water meeting all federal and state drinking
31 water standards."

32 (2) The label shall set forth the name, address, telephone
33 number, and Internet Web site of the operator of the facility
34 producing the advanced purified demonstration water.

35 (3) The label shall include a brief description of the advanced
36 purified demonstration water, including its source and the treatment
37 processes to which the water is subjected.

38 (h) A single water purification facility may not bottle more than
39 2,500 gallons of advanced purified demonstration water in a
40 calendar year.

- 1 (i) Advanced purified demonstration water shall not be sold or
- 2 otherwise distributed in exchange for financial consideration.
- 3 (j) A violation of this section shall not be subject to Section
- 4 111825 of the Health and Safety Code.

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**ACTION ITEM**

April 20, 2016

TO: Board of Directors**FROM:** **Public Affairs & Legislation Committee**
(Directors Barbre, Hinman, Tamaribuchi)Robert Hunter
General Manager

Staff Contact: Heather Baez

SUBJECT: AB 2488 (Dababneh) – Fish: Fully Protected Species, Taking or Possession**STAFF RECOMMENDATION**

Staff recommends the Board of Directors vote to Support AB 2488 (Dababneh) and send a separate letter to the author and members of the Orange County delegation indicating our support.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

SUMMARY

Assembly Bill 2488, under specific circumstances, will allow for the incidental take of the unarmored threespine stickleback (UTS), a two-to-three inch long fish. This fish is listed as endangered under both federal and state Endangered Species Acts (ESA) and is also designated as a California fully protected species. Authorization is necessary for the periodic dewatering of a primary water conveyance pipeline owned by The Metropolitan Water District of Southern California (Metropolitan).

ARGUMENTS IN SUPPORT

Metropolitan's Foothill Feeder is one of the primary conveyance pipelines for State Water Project supplies to Metropolitan's customers primarily in Ventura and Los Angeles counties.

Budgeted (Y/N): n/a	Budgeted amount:	Core x	Choice __
Fiscal Impact (explain if unbudgeted):			

Inspection, maintenance, and repairs require dewatering the pipeline approximately every five years. Several of the drainage areas along the pipeline route may contain populations of UTS.

A recent California Supreme Court decision held that relocating any stranded UTS back into a stream to avoid a project's impact constitutes incidental take. Left unaddressed, the prohibition on live relocation of UTS to avoid a taking could preclude important pipeline repairs necessary to protect a reliable water supply and ensure the public's health and safety.

ARGUMENTS IN OPPOSITION

None on record.

COMMENTS

AB 2488, under specific circumstances, will grant Metropolitan long-term authorization for incidental take of UTS to allow periodic dewatering of the Foothill Feeder pipeline for scheduled inspections, maintenance, and repairs as well as for unplanned circumstances. It will also allow incidental take in the form of rescue and relocation of the fish out of harm's way or from other precautions to minimize and mitigate incidental take of UTS.

Under AB 2488, Metropolitan must still comply separately with both federal and state ESAs and mitigate to the extent required and feasible.

DETAILED REPORT

AB 2488 was introduced as a spot bill. Metropolitan's proposed amendments are attached.

AMENDMENTS TO ASSEMBLY BILL NO. 2488

Amendment 1

In the title, in line 1, strike out "of" and insert:

of, and to add Section 2081.10 to,

Amendment 2

On page 1, before line 1, insert:

SECTION 1. The Legislature finds and declares all of the following:

(a) The Foothill Feeder below Castaic Dam in the County of Los Angeles is the primary conduit for water from the State Water Project for the Southern California region served by the Metropolitan Water District of Southern California. The Metropolitan Water District of Southern California is a public agency comprised of 26 member public agencies – 14 cities, 11 municipal water districts, and one county water authority – and provides water to more than 19 million people in the Counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura.

(b) Water supplies from the State Water Project are a critical part of Southern California's water supply portfolio, and any interruption of that supply must be minimized to ensure delivery of clean and reliable water supplies for municipal and industrial uses, including health and human safety, and to water agencies and cities that rely upon water supply deliveries from the Metropolitan Water District of Southern California.

(c) Periodic dewatering, inspection, maintenance, modification, or repair, including emergency repairs, require that all or a portion of the Foothill Feeder be dewatered into the Santa Clara River and certain of its tributaries where unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*) may be present during these activities. Thus, the incidental take of unarmored threespine stickleback must be permitted for the periodic dewatering, inspection, maintenance, modification, or repair of the Foothill Feeder to protect Southern California water supplies.

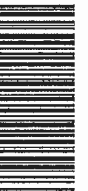
SEC. 2. Section 2081.10 is added to the Fish and Game Code, to read:

2081.10. (a) The department may authorize, under this chapter, the incidental take of unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*) attributable to the periodic dewatering, inspection, maintenance, modification, or repair of the Metropolitan Water District of Southern California's Foothill Feeder water supply facility from Castaic Dam to the Joseph Jensen Treatment Plant in the County of Los Angeles, contingent upon the fulfillment of the following conditions:

(1) The department has determined that the requirements of subdivisions (b) and (c) of Section 2081 are satisfied for the take of the unarmored threespine stickleback.

(2) The department ensures that all further measures necessary to contribute to conservation as defined in subdivision (d) of Section 2805 are incorporated into the project.

(3) The take authorization provides for the development and implementation, in cooperation with the department, of an adaptive management process for monitoring



the effectiveness of, and adjusting as necessary, the measures to minimize and fully mitigate the impacts of the authorized take. The adjusted measures are subject to Section 2052.1.

(b) The take authorization shall cover any incidental take of unarmored threespine stickleback attributable to the periodic dewatering, inspection, maintenance, modification, or repair of the Foothill Feeder that may occur in the following locations:

(1) _____.

(2) _____.

(c) This section shall not be construed to exempt from any other law the periodic dewatering, inspection, maintenance, modification, or repair of the Foothill Feeder.

Amendment 3

On page 1, in line 1, strike out "SECTION 1." and insert:

SEC. 3.

Amendment 4

On page 1, in line 4, after the second comma insert:

Section 2081.10,

- 0 -

ASSEMBLY BILL

No. 2488

Introduced by Assembly Member Dababneh

February 19, 2016

An act to amend Section 5515 of the Fish and Game Code, relating to fish.

LEGISLATIVE COUNSEL'S DIGEST

AB 2488, as introduced, Dababneh. Fish: fully protected species: taking or possession.

Existing law prohibits the taking or possession of a fully protected fish, except as provided.

This bill would make a nonsubstantive change to this provision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5515 of the Fish and Game Code is
2 amended to read:
3 5515. (a) (1) Except as provided in this section, Section
4 2081.6, Section 2081.7, or Section 2835, a fully protected fish ~~may~~
5 shall not be taken or possessed at any time. No provision of this
6 code or any other law shall be construed to authorize the issuance
7 of a permit or license to take a fully protected fish, and no permit
8 or license previously issued shall have force or effect for that
9 purpose. However, the department may authorize the taking of a
10 fully protected fish for necessary scientific research, including
11 efforts to recover fully protected, threatened, or endangered species.

1 Before authorizing the take of a fully protected fish, the department
 2 shall make an effort to notify all affected and interested parties to
 3 solicit information and comments on the proposed authorization.
 4 The notification shall be published in the California Regulatory
 5 Notice Register and be made available to each person who has
 6 notified the department, in writing, of his or her interest in fully
 7 protected species and who has provided an email address, if
 8 available, or postal address to the department. Affected and
 9 interested parties shall have 30 days after notification is published
 10 in the California Regulatory Notice Register to provide relevant
 11 information and comments on the proposed authorization.

12 (2) As used in this subdivision, "scientific research" does not
 13 include an action taken as part of specified mitigation for a project,
 14 as defined in Section 21065 of the Public Resources Code.

15 (3) A legally imported fully protected fish may be possessed
 16 under a permit issued by the department.

17 (b) The following are fully protected fish:

- 18 (1) Colorado River squawfish (*Ptychocheilus lucius*).
- 19 (2) Thicktail chub (*Gila crassicauda*).
- 20 (3) Mohave chub (*Gila mohavensis*).
- 21 (4) Lost River sucker (*Catostomus luxatus*).
- 22 (5) Modoc sucker (*Catostomus microps*).
- 23 (6) Shortnose sucker (*Chasmistes brevirostris*).
- 24 (7) Humpback sucker (*Xyrauchen texanus*).
- 25 (8) Owens River pupfish (*Cyprinodon radiosus*).
- 26 (9) Unarmored threespine stickleback (*Gasterosteus aculeatus*
 27 *williamsoni*).
- 28 (10) Rough sculpin (*Cottus asperimus*).

**ACTION ITEM**

April 20, 2016

TO: Board of Directors**FROM:** **Public Affairs & Legislation Committee**
(Directors Barbre, Hinman, Tamaribuchi)Robert Hunter
General Manager

Staff Contact: Heather Baez

SUBJECT: SB 885 (Wolk) – Construction Contracts, Indemnity**STAFF RECOMMENDATION**

Staff recommends the Board of Directors vote to oppose SB 885 (Wolk), sign on to the California Special Districts Association (CSAC) coalition letter, and send a separate letter to the author and members of the Orange County delegation indicating our opposition.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

SUMMARY

SB 885 would specify, for construction contracts entered into on or after January 1, 2017, that a design professional, as defined, only has the duty to defend claims that arise out of, or pertain or relate to negligence, recklessness, or willful misconduct of the design professional. Under the bill, a design professional would not have a duty to defend claims against any other person or entity arising from a construction project, except that person or entity's reasonable defense costs arising out of the design professional's degree of fault, as specified.

The bill would prohibit waiver of these provisions and would provide that any clause in a contract that requires a design professional to defend claims against other persons or

Budgeted (Y/N): n/a	Budgeted amount:	Core x	Choice __
Fiscal Impact (explain if unbudgeted):			

entities is void and unenforceable. The bill would provide Legislative findings and declarations in support of these provisions.

ARGUMENTS IN SUPPORT

According to the author's office, the purpose of SB 885 is to address uninsurable risk shifting in indemnity agreements, in the context of construction contracts.

A design professional's Errors & Omissions professional liability insurance does not provide coverage for the defense of claims against other persons and entities involved in construction projects. It only covers claims related to the negligent acts of the design professional. A first-dollar expense obligation essentially converts the design professional's firm into the functional equivalent of an unlicensed insurance company.

It is in the public's best interest for all persons and entities in projects to defend themselves against claims of negligence or error. Design professionals will pay their proportional share of defense costs. However, when insurance coverage is not available, it is unfair to obligate them to defend lawsuits against other persons or entities

ARGUMENTS IN OPPOSITION

In 2010, CSDA opposed Senate Bill 972 by the same author and, thanks to strong coalition efforts and your grassroots action, Senator Wolk and the bill's sponsors agreed to a compromise that removed CSDA's opposition.

However, SB 885 moves beyond the compromise of 2010. This measure would greatly limit special districts' freedom to contract and place undue burden on all local agencies who contract with design professionals for public works projects.

Specifically, SB 885 would eliminate the right of a public agency to contract with architects and engineers for up-front legal defense against claims related to these design professionals' work. Instead, public agencies could only ask for reimbursement from the design professionals if the claim is fully litigated and a decision is rendered by a court. As a result:

- SB 885 favors litigation over negotiation – SB 885 actually encourages new litigation and manufactures unnecessary conflict in public works projects.
- SB 885 forces taxpayers and ratepayers to front the costs to defend the private sector even for claims that allege the negligence, recklessness, or willful misconduct on the part of a private business.
- Every dollar spent on litigation spawned by SB 885 will be one less dollar to support vital public services and infrastructure (water, fire protection, police, parks, libraries, etc.). Infrastructure funding that employs hard-working Californians will go toward high-paid attorneys.

- SB 885 circumvents market conditions and the freedom to contract, and simply forces taxpayers to insure the defense of private entities, even when they are 100 percent liable to the claim.

In summary, SB 885 would shift responsibility and risk from design professionals to the public and result in taxpayer dollars funding new unnecessary litigation. Once more, CSDA is asking our members to take notice of this proposed measure and join the effort to stop this bill from impacting local agencies throughout the state.

COMMENTS

Support for this legislation so far includes: American Council of Engineering Companies of California (sponsor), Structural Engineers Association of California, American Institute of Architects California Council, and the California Geotechnical Engineering Association.

Opposition so far: Public Works Coalition including - CSAC, California League of Cities, California's for Adequate School Housing (CASH), and California State Universities.

DETAILED REPORT

The full text of SB 885 is attached.



**California Special
Districts Association**

Districts Stronger Together

March 9, 2016

The Honorable Hannah-Beth Jackson
Chair, Senate Judiciary Committee
State Capitol
Sacramento, CA 95814

Re: Senate Bill 885 (Wolk) – Oppose [As Introduced]

Dear Senator Jackson:

The California Special Districts Association (CSDA), representing over 1,000 special districts and affiliate organizations throughout the state, must respectfully oppose SB 885 related to contract indemnity. CSDA represents all types of special districts, which provide millions of Californians with essential local services such as fire protection, water, health care, sanitation, and parks and recreation.

SB 885 eliminates the ability of a public agency to contract with engineers and architects, known as design professionals, for upfront legal defense costs against claims related to a project's design work. When contracting with a design professional, public agencies often place a clause in the agreement requiring the design professional to legally defend the public agency if a claim or lawsuit directly related to the design services work is filed against the agency. This current practice fosters an environment of collaboration between the public agency and the design professional who both have the same incentive to resolve the lawsuit or claim.

This bill instead imposes a "one size fits all" constraint on contractual negotiations by prohibiting a public agency from requiring the design professional to defend a claim directly connected to the work of the design professional. Requiring the public agency to defend the actions of the design professional creates a "reimbursement only" process that results in the public agency defending the actions of the design professional and shouldering upfront all of the associated costs. The public agency would then have to seek reimbursement from the design professional, to the extent the design professional is found negligent, once the claim is fully litigated and a court or arbitrator renders a final decision. This process not only requires a public entity to front the costs for a private entity, it also creates conflict within the public-private partnership, effectually eliminating the incentive to work together towards a settlement, rather than the more costly process of litigation.

Requires Taxpayers to Defend Private Companies

SB 885 forces taxpayers and ratepayers to front the legal costs to defend the private sector, even for claims where the design professional is 100 percent at fault. The bill is currently crafted in a manner that would result in special districts and other local agencies covering the upfront legal costs of a dispute where the design professional has liability exposure and/or the design professional has some responsibility to defend. Instead of receiving an upfront defense, public agencies will have to first wait for a judgement by the court and then ask for reimbursement for the defense costs from the design professional. In these circumstances, which we fear will arise more often than not, the burden will be placed on the local agency to substantiate that the design professional must reimburse the local agency for their share of the legal costs, even when there is clearly a shared duty to defend.

The new process proposed by this bill will tie-up public dollars in the legal system until an official judgement is made. This will further increase the enormous backlog of deferred maintenance public agencies face and restrict investment in new infrastructure projects. It is well documented that California is in dire need of hundreds of billions of dollars in infrastructure investment, whether it be for water, roads, hospitals, or

California Special Districts Association

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A proud California Special Districts Alliance partner

Special District Risk Management Authority
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toll-free: 800.537.7790
f: 916.231.4111

CSDA Finance Corporation
1112 I Street, Suite 200
Sacramento, CA 95814
toll-free: 877.924.2732
f: 916.442.7889

schools. This bill will have a major chilling effect on public improvements as state and local agencies become more vulnerable to litigation and are forced to devote scarce public resources to defending private entities.

Favors Litigation Over Negotiation

SB 885 *encourages* new litigation, rather than the current focus on resolution, and manufactures unnecessary conflict in public works project. Because this bill would create a reimbursement only system that hinges upon an official adjudication, settling a lawsuit or claim would become an unviable option in most cases. Currently, it is common practice for all affected parties to come to the table and enter into a settlement, avoiding a long, drawn-out lawsuit that could cost all parties significant legal fees. This bill removes the incentive for settlement because design professionals would only be liable for defense costs after a full trial or arbitration process. In effect, this bill will force the public agency to side with the claimant against the design professional, rather than working with the design professional to disprove or settle the claim.

Restricts Contract Flexibility

Local agencies include indemnity agreements in contracts because they ultimately protect the taxpayer against expensive litigation costs, oftentimes litigation arising from circumstances in which the agency was not at fault. Parties to a contract should have the flexibility to tailor the requirements to meet the needs of the specific project, including the ability to allocate responsibilities as most appropriate. Long-standing practice when negotiating contract terms is to include indemnification provisions. SB 885 would stifle the flexibility inherent in current law and require public agencies to shoulder the burden of legal fees to protect private sector design professionals against claims that may result from inadequate plans and specifications.

Reverses Course on Previous Compromise

SB 885 seeks to reverse a unanimous 2008 California Supreme Court decision, *Crawford v Weathershield*, on an indemnification statute that has changed very little since 1872. The decision confirmed the ability of public agencies to place indemnification clauses in public works contracts that require the design professional to defend the public agency when a lawsuit directly related to the design services is filed. In 2010, SB 972 (Wolk) originally sought to overturn the court's decision, similar to SB 885. Ultimately, public agencies and the design professional community agreed to a compromise on this issue, creating Civil Code Section 2782.8. This code section protects design professionals from unreasonable liability requirements placed upon them by public agencies, while protecting taxpayers from defending lawsuits related to the work of design professionals. SB 885 moves well beyond 2010's compromise and would undo all previous negotiations.

In conclusion, SB 885 removes contract flexibility from special districts, while, in effect, transferring responsibility and risk for a project's design work from design professionals to the public. This will result in taxpayer dollars funding litigation related to the negligence of the design professionals, increasing the costs of public works projects, and limiting available resources for services and other infrastructure. For these reasons, CSDA respectfully opposes SB 885. Please do not hesitate to contact me if you have any questions regarding our position.

Sincerely,



Jimmy MacDonald
Legislative Representative

cc: The Honorable Lois Wolk
Honorable Members, Senate Judiciary Committee
Tobias Halverson, Counsel, Senate Judiciary Committee
Mike Petersen, Consultant, Senate Republican Caucus

Introduced by Senator Wolk

January 19, 2016

An act to amend Section 2782 of the Civil Code, relating to contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 885, as introduced, Wolk. Construction contracts: indemnity.

Existing law makes specified provisions in construction contracts void and unenforceable, including provisions that purport to indemnify the promisee against liability for damages for death or bodily injury to persons, injury to property, or any other loss arising from the sole negligence or willful misconduct of the promisee or the promisee's agents who are directly responsible to the promisee, or for defects in design furnished by those persons.

This bill would specify, for construction contracts entered into on or after January 1, 2017, that a design professional, as defined, only has the duty to defend claims that arise out of, or pertain or relate to, negligence, recklessness, or willful misconduct of the design professional. Under the bill, a design professional would not have a duty to defend claims against any other person or entity arising from a construction project, except that person or entity's reasonable defense costs arising out of the design professional's degree of fault, as specified. The bill would prohibit waiver of these provisions and would provide that any clause in a contract that requires a design professional to defend claims against other persons or entities is void and unenforceable. The bill would provide Legislative findings and declarations in support of these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Errors and omissions insurance for design professionals does
4 not provide coverage for the defense of claims against other persons
5 and other entities involved in construction projects.

6 (b) Requiring design professionals to defend claims against
7 other persons or other entities involved in construction projects
8 when insurance coverage is not available is unfair and contrary to
9 sound public policy.

10 (c) It is sound public policy for all persons and entities in
11 projects to defend themselves against claims of negligence or error.

12 (d) It is the intent of the Legislature in enacting this act to
13 prohibit indemnity agreements that require design professionals
14 to defend claims made against other persons or other entities
15 involved in construction projects.

16 SEC. 2. Section 2782 of the Civil Code is amended to read:

17 2782. (a) Except as provided in Sections 2782.1, 2782.2,
18 2782.5, and 2782.6, provisions, clauses, covenants, or agreements
19 contained in, collateral to, or affecting any construction contract
20 and that purport to indemnify the promisee against liability for
21 damages for death or bodily injury to persons, injury to property,
22 or any other loss, damage or expense arising from the sole
23 negligence or willful misconduct of the promisee or the promisee's
24 agents, servants, or independent contractors who are directly
25 responsible to the promisee, or for defects in design furnished by
26 those persons, are against public policy and are void and
27 unenforceable; provided, however, that this section shall not affect
28 the validity of any insurance contract, workers' compensation, or
29 agreement issued by an admitted insurer as defined by the
30 Insurance Code.

31 (b) (1) Except as provided in Sections 2782.1, 2782.2, and
32 2782.5, provisions, clauses, covenants, or agreements contained
33 in, collateral to, or affecting any construction contract with a public
34 agency entered into before January 1, 2013, that purport to impose
35 on the contractor, or relieve the public agency from, liability for
36 the active negligence of the public agency are void and
37 unenforceable.

(2) Except as provided in Sections 2782.1, 2782.2, and 2782.5, provisions, clauses, covenants, or agreements contained in, collateral to, or affecting any construction contract with a public agency entered into on or after January 1, 2013, that purport to impose on any contractor, subcontractor, or supplier of goods or services, or relieve the public agency from, liability for the active negligence of the public agency are void and unenforceable.

(c) (1) Except as provided in subdivision (d) and Sections 2782.1, 2782.2, and 2782.5, provisions, clauses, covenants, or agreements contained in, collateral to, or affecting any construction contract entered into on or after January 1, 2013, with the owner of privately owned real property to be improved and as to which the owner is not acting as a contractor or supplier of materials or equipment to the work, that purport to impose on any contractor, subcontractor, or supplier of goods or services, or relieve the owner from, liability are unenforceable to the extent of the active negligence of the owner, including that of its employees.

(2) For purposes of this subdivision, an owner of privately owned real property to be improved includes the owner of any interest therein, other than a mortgage or other interest that is held solely as security for performance of an obligation.

(3) This subdivision shall not apply to a homeowner performing a home improvement project on his or her own single family dwelling.

(d) For all construction contracts, and amendments thereto, entered into after January 1, 2009, for residential construction, as used in Title 7 (commencing with Section 895) of Part 2 of Division 2, all provisions, clauses, covenants, and agreements contained in, collateral to, or affecting any construction contract, and amendments thereto, that purport to insure or indemnify, including the cost to defend, the builder, as defined in Section 911, or the general contractor or contractor not affiliated with the builder, as described in subdivision (b) of Section 911, by a subcontractor against liability for claims of construction defects are unenforceable to the extent the claims arise out of, pertain to, or relate to the negligence of the builder or contractor or the builder's or contractor's other agents, other servants, or other independent contractors who are directly responsible to the builder, or for defects in design furnished by those persons, or to the extent the claims do not arise out of, pertain to, or relate to the scope of

1 work in the written agreement between the parties. This section
2 shall not be waived or modified by contractual agreement, act, or
3 omission of the parties. Contractual provisions, clauses, covenants,
4 or agreements not expressly prohibited herein are reserved to the
5 agreement of the parties. Nothing in this subdivision shall prevent
6 any party from exercising its rights under subdivision (a) of Section
7 910. This subdivision shall not affect the obligations of an
8 insurance carrier under the holding of *Presley Homes, Inc. v.*
9 *American States Insurance Company* (2001) 90 Cal.App.4th 571.
10 Nor shall this subdivision affect the obligations of a builder or
11 subcontractor pursuant to Title 7 (commencing with Section 895)
12 of Part 2 of Division 2.

13 (e) Subdivision (d) does not prohibit a subcontractor and builder
14 or general contractor from mutually agreeing to the timing or
15 immediacy of the defense and provisions for reimbursement of
16 defense fees and costs, so long as that agreement does not waive
17 or modify the provisions of subdivision (d) subject, however, to
18 paragraphs (1) and (2). A subcontractor shall owe no defense or
19 indemnity obligation to a builder or general contractor for a
20 construction defect claim unless and until the builder or general
21 contractor provides a written tender of the claim, or portion thereof,
22 to the subcontractor which includes all of the information provided
23 to the builder or general contractor by the claimant or claimants,
24 including, but not limited to, information provided pursuant to
25 subdivision (a) of Section 910, relating to claims caused by that
26 subcontractor's scope of work. This written tender shall have the
27 same force and effect as a notice of commencement of a legal
28 proceeding. If a builder or general contractor tenders a claim for
29 construction defects, or a portion thereof, to a subcontractor in the
30 manner specified by this provision, the subcontractor shall elect
31 to perform either of the following, the performance of which shall
32 be deemed to satisfy the subcontractor's defense obligation to the
33 builder or general contractor:

34 (1) Defend the claim with counsel of its choice, and the
35 subcontractor shall maintain control of the defense for any claim
36 or portion of claim to which the defense obligation applies. If a
37 subcontractor elects to defend under this paragraph, the
38 subcontractor shall provide written notice of the election to the
39 builder or general contractor within a reasonable time period
40 following receipt of the written tender, and in no event later than

1 90 days following that receipt. Consistent with subdivision (d),
2 the defense by the subcontractor shall be a complete defense of
3 the builder or general contractor of all claims or portions thereof
4 to the extent alleged to be caused by the subcontractor, including
5 any vicarious liability claims against the builder or general
6 contractor resulting from the subcontractor's scope of work, but
7 not including claims resulting from the scope of work, actions, or
8 omissions of the builder, general contractor, or any other party.
9 Any vicarious liability imposed upon a builder or general contractor
10 for claims caused by the subcontractor electing to defend under
11 this paragraph shall be directly enforceable against the
12 subcontractor by the builder, general contractor, or claimant.

13 (2) Pay, within 30 days of receipt of an invoice from the builder
14 or general contractor, no more than a reasonable allocated share
15 of the builder's or general contractor's defense fees and costs, on
16 an ongoing basis during the pendency of the claim, subject to
17 reallocation consistent with subdivision (d), and including any
18 amounts reallocated upon final resolution of the claim, either by
19 settlement or judgment. The builder or general contractor shall
20 allocate a share to itself to the extent a claim or claims are alleged
21 to be caused by its work, actions, or omissions, and a share to each
22 subcontractor to the extent a claim or claims are alleged to be
23 caused by the subcontractor's work, actions, or omissions,
24 regardless of whether the builder or general contractor actually
25 tenders the claim to any particular subcontractor, and regardless
26 of whether that subcontractor is participating in the defense. Any
27 amounts not collected from any particular subcontractor may not
28 be collected from any other subcontractor.

29 (f) Notwithstanding any other provision of law, if a
30 subcontractor fails to timely and adequately perform its obligations
31 under paragraph (1) of subdivision (e), the builder or general
32 contractor shall have the right to pursue a claim against the
33 subcontractor for any resulting compensatory damages,
34 consequential damages, and reasonable attorney's fees. If a
35 subcontractor fails to timely perform its obligations under
36 paragraph (2) of subdivision (e), the builder or general contractor
37 shall have the right to pursue a claim against the subcontractor for
38 any resulting compensatory and consequential damages, as well
39 as for interest on defense and indemnity costs, from the date
40 incurred, at the rate set forth in subdivision (g) of Section 3260,

1 and for the builder's or general contractor's reasonable attorney's
2 fees incurred to recover these amounts. The builder or general
3 contractor shall bear the burden of proof to establish both the
4 subcontractor's failure to perform under either paragraph (1) or
5 (2) of subdivision (e) and any resulting damages. If, upon request
6 by a subcontractor, a builder or general contractor does not
7 reallocate defense fees to subcontractors within 30 days following
8 final resolution of the claim as described above, the subcontractor
9 shall have the right to pursue a claim against the builder or general
10 contractor for any resulting compensatory and consequential
11 damages, as well as for interest on the fees, from the date of final
12 resolution of the claim, at the rate set forth in subdivision (g) of
13 Section 3260, and the subcontractor's reasonable attorney's fees
14 incurred in connection therewith. The subcontractor shall bear the
15 burden of proof to establish both the failure to reallocate the fees
16 and any resulting damages. Nothing in this section shall prohibit
17 the parties from mutually agreeing to reasonable contractual
18 provisions for damages if any party fails to elect for or perform
19 its obligations as stated in this section.

20 (g) A builder, general contractor, or subcontractor shall have
21 the right to seek equitable indemnity for any claim governed by
22 this section.

23 (h) Nothing in this section limits, restricts, or prohibits the right
24 of a builder, general contractor, or subcontractor to seek equitable
25 indemnity against any supplier, design professional, or product
26 manufacturer.

27 (i) As used in this section, "construction defect" means a
28 violation of the standards set forth in Sections 896 and 897.

29 (j) (1) *Commencing with contracts entered into on or after*
30 *January 1, 2017, a design professional, as defined in paragraph*
31 *(2) of subdivision (c) of Section 2782.8, shall only have the duty*
32 *to defend claims that arise out of, pertain to, or relate to, the*
33 *negligence, recklessness, or willful misconduct of the design*
34 *professional. A design professional shall have no duty to defend*
35 *claims against other persons or entities. A design professional*
36 *shall be obligated to reimburse reasonable defense costs incurred*
37 *by other persons or entities, limited to the design professional's*
38 *degree of fault, as determined by a court or arbitration.*

39 (2) *The provisions of this subdivision shall not be waived or*
40 *modified by contract. Contract provisions in violation of this*

- 1 *subdivision are void and unenforceable. The duty of a design*
- 2 *professional to defend is limited as provided in this subdivision.*

MUNICIPAL WATER DISTRICT OF ORANGE COUNTY

Fiscal Year **2015-16**

Sole Source Procurement Justification for Projects under \$25,000*



- A. Supplier Information/Name of Company and Prime Contact at the Supplier and at MWDOC: **Crocker & Crocker**
- B. Contract awards to Supplier over prior 36-months: **None**
- C. Product(s) or Service(s) to be provided and Deliverables:
Ninety-minute presentation to member agency representatives at February 18 Public Affairs workshop. Workshop will cover message fatigue, messaging for rate increases and effective new channels for messaging.
- D. Justification Definition**
Special technical expertise by consultant for tasks desired
- E. Narrative Explanation:
Crocker & Crocker is a leading outreach firm serving water clients throughout Northern California and Orange County. The firm is active in ACWA and unique communications tools used by the firm were spoken of highly during an ACWA communications seminar. They were selected for the PAW presentation because of their expertise and use of that unique tool, a “tele-town hall.” “Tele-town hall” allows the District to call thousands of customers at once to present information in a live discussion.
- F. Budget Line Item Reference & Amount: **Public Affairs budget 32, line item 7040 (professional services). Amount: \$3,900.**
- G. Core or Choice designation: **CORE**
- H. Signature/Approvals:

Requestor Date

General Manager Date

* Projects over \$25,000 must go to a Committee of the Board.

** Possible justifications include but are not limited to: Only qualified bidder; Proprietary item; Urgent necessity; Bid process did not produce competitors; Governmental agency, association or Utility; Prior phase of professional services contract completed successfully by same Consultant; and Special technical expertise by Consultant for tasks desired.



INFORMATION ITEM

March 23, 2016

TO: Board of Directors

FROM: **Public Affairs & Legislation Committee**
(Directors Barbre, Hinman & Tamaribuchi)

Robert Hunter
General Manager

Staff Contact: Heather Baez

SUBJECT: **Update on the transfer of Orange County Sanitation District Area 7**

STAFF RECOMMENDATION

Staff recommends the Board of Directors receive and file report.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

DETAILED REPORT

For the past several months, the proposed EOCWD and IRWD applications to take over local sewer service for OCSD Service Area 7 have been discussed in great length by the OCLAFCO (Commission).

The Commission met on February 10, 2016, where, according to the LAFCO minutes:

Executive Officer Carolyn Emery noted receipt of supplemental correspondence received after agenda distribution related to potential conflicts of interest for certain Commissioners in regards to the competing applications for the transfer of sewer service in OCSD Service Area 7.

Commissioner Spitzer asked Legal Counsel Scott Smith to describe the Commission's process for responding to the public on written inquiries regarding potential conflicts of

Budgeted (Y/N): n/a	Budgeted amount:	Core x	Choice __
Fiscal Impact (explain if unbudgeted):			

interest. Mr. Smith replied that public inquiries are forwarded to legal counsel for review and that responses are based on the direction of the individual Commissioner. Commissioner Spitzer recommended that a formal and consistent process be established for responding to any written inquiries regarding potential conflicts of interest involving Commissioners.

Chair McGregor stated his support for Commissioner Spitzer's recommendation and directed staff to bring a process for responding to reported conflicts of interest for Commission consideration at a future LAFCO meeting.

Commissioner Bucknum asked Mr. Smith to describe Government Code 1090 mentioned in his comments. Mr. Smith replied that the law prohibits the Commission from entering into a contract if one of the Commissioners has a financial interest.

Commissioner Spitzer stated the California Fair Political Practices Commission (FPPC) has adopted rigorous rules regarding transparency and the Commission needs to have a process that addresses and quickly disposes of an allegation, discloses responses to the entire Commission, and makes the information available to the public.

Commissioner Freshley noted the importance of transparency in the Commission's decision-making process.

Commissioner Fidler asked Legal Counsel about prior examples of Commissioners recusing themselves from reported conflicts of interest. Mr. Smith replied that certain FPPC rules apply to the Commission, but that the Commission was unique among public agencies and that he would provide additional information for the Commission.

LAFCO's next meeting scheduled for Friday, March 18, 2016 is devoted to strategic planning. It is anticipated that this item addressing OCSD Area 7 will be on the April 13, 2016 agenda.



INFORMATION ITEM

March 23, 2016

TO: Board of Directors

FROM: **Public Affairs Legislative Committee**
(Directors Barbre, Tamaribuchi and Hinman)

Robert Hunter
General Manager

Staff Contact: Jonathan Volzke

SUBJECT: Update on Potential SJC Utilities Consolidation

STAFF RECOMMENDATION

Staff recommends the Board of Directors receive and file report.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

DETAILED REPORT

The City of San Juan Capistrano continues its consideration on whether to divest from its utility services. Thus far, the City has spent \$511,540 on legal, engineering and public relations consultants to study the issue.

The last action, an increase of \$95,750 for the consulting firm of Brownstein Hyatt Farber Schreck, was February 16. The issue is tentatively scheduled to next come before the City Council on April 6. The vast majority of the funding for the study has come from the City's Water Enterprise Fund, which has a deficit of \$5.347 million. Annual revenue for the fund are just more than \$10 million.

The City is studying whether to contract with another public agency to provide water, wastewater and storm drain services, or whether to sell those operations outright. The consultant team has met with Irvine Ranch Water District, Moulton Niguel Water District and Santa Margarita Water District.

The City Council is expected to hear an update on the issue at its April 6 meeting.

Budgeted (Y/N):	Budgeted amount:	Core	Choice _
Action item amount:	Line item:		
Fiscal Impact (explain if unbudgeted):			

In related developments, the City continues to round out its management staff.

The City Manager is Ben Siegel, formerly the assistant city manager/director of Laguna Beach public works. He worked in Lake Forest prior to Laguna Beach.

On May 14, Siegel announced that Steve May was hired as Director of Public Works and Utilities. He starts April 4.

May is a licensed civil engineer, traffic engineer, and land surveyor with over 35 years of experience in civil engineering design, construction and public works operations in Orange County. After 10 years working with private consulting firms on a variety of land development and public works projects, Steve transitioned to the public sector, where he has worked for the cities of Huntington Beach and Laguna Beach. For the past 15 years, May has served as the Director of Public Works/City Engineer in Laguna Beach.

May is a graduate of California State University, Long Beach, with a bachelor's degree in engineering and a master's of public administration.

See staff for detailed report.



INFORMATION ITEM

March 23, 2016

TO: Board of Directors

FROM: **Public Affairs Legislative Committee**
(Directors Barbre, Tamaribuchi and Hinman)

Robert Hunter, General Manager

Staff Contacts: J. Volzke, T. Baca

SUBJECT: 2016 Water Summit Update

STAFF RECOMMENDATION

Staff recommends the Board of Directors receive and file report.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

DETAILED REPORT

The theme of the 2016 OC Water Summit is "Turbulent Times," symbolizing the challenges in the water industry: drought, rate pressures, seismic threats and the atmosphere of local politics.

The event is May 20 at the Westin South Coast Plaza.

The day's panels will lay out the issues in story form: starting with where OC gets its water, to the challenges water providers face, the potential solutions, finishing with how to avoid political pitfalls.

The program is balanced to provide information about water and water service, but also to attract and inform OC business and civic leaders.

Sponsorships are now running ahead of last year's event at this same time. Mesa Water and Irvine Ranch Water have increased their sponsorships, and a contractor for OCWD has also purchased a table.

Please see the attached brochure, which was distributed at the March General Managers meeting for information on the panelists, moderators and sponsorship opportunities.

Budgeted (Y/N):	Budgeted amount:	Core X	Choice _
Action item amount:	Line item:		
Fiscal Impact (explain if unbudgeted):			



SPONSORSHIP OPPORTUNITIES

Whether El Niño delivers on its promise of a wet winter, water agencies across Orange County face a perfect storm of challenges in delivering reliable water that serves as the lifeblood for **3 million** residents and business communities that produce a gross county product of **\$223.2 billion**. The system of reservoirs and aqueducts that carry water hundreds of miles to reach our county are aging and susceptible to earthquakes and political tremors. Agencies have been ordered to cut their water use or face fines and ever-changing laws make developing fair and accurate rates more and more complex.

Join us for the **9th Annual OC Water Summit** to learn about the Orange County projects that will provide shelter from the storms, and lessons learned from businesses that are harvesting profits despite the clouds.

HOSTED BY



MAY 20, 2016

7:30 a.m. - 1:30 p.m.

The Westin, South Coast Plaza Hotel

INDIVIDUAL TICKET - \$130*

(*TICKET PRICE WILL INCREASE TO \$150 BEGINNING MAY 6, 2016)

Ticket includes continental breakfast, lunch, self-parking and Summit materials

www.OCWaterSummit.com

About the O.C. Water Summit

Currently in its ninth year, the O.C. Water Summit is an innovative, interactive forum that brings together hundreds of business professionals, elected officials, water industry stakeholders, and community leaders from throughout Southern California and beyond. Co-hosted by the Municipal Water District of Orange County (MWDOC) and the Orange County Water District (OCWD), this one-of-a-kind event engages participants in discussion on new and ongoing water supply challenges, water policy issues, and other important topics that impact our economy and public health.

Prominent authors, world-renowned experts, and distinguished speakers will deliver presentations and engage in dialogue with participants on these critical issues.

By sponsoring the O.C. Water Summit, you are investing in water reliability for Southern California. A variety of sponsorship opportunities are available to meet your organization's strategic goals.

Please visit www.ocwatersummit.com to view the 2016 program.



Sponsorship Information

We are currently seeking sponsorships from organizations like yours for our 2016 event.

For your convenience, you may complete the Sponsorship Commitment Form online at:
www.OCWaterSummit.com.

Please complete your sponsorship commitment form no later than **Thursday, April 14, 2016** to guarantee inclusion in all of the sponsorship benefits.

Payments may be made via credit card or check. Please make checks payable to
"MWDOC for O.C. Water Summit" and mail to:

Municipal Water District of Orange County
Attention: Public Affairs
PO Box 20895
Fountain Valley, CA 92728

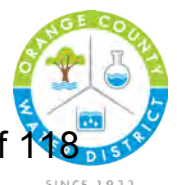
Send a high resolution electronic version of your logo to Tiffany Baca at **tbaca@mwdoc.com**. EPS, PDF or AI file formats are preferred for best image quality.

Questions? Contact:

Jonathan Volzke or Tiffany Baca (MWDOC)
jvolzke@mwdoc.com / tbaca@mwdoc.com
714) 593-5029 or 714) 593-5013

Eleanor Torres (OCWD)
etorres@ocwd.com
714) 378-3268

www.OCWaterSummit.com





- Logo exclusively featured alongside Presenting Sponsors
 - On event invitations, program cover, and on transitional slides
 - On the Summit registration website and on event signage
 - On advertising, marketing, and other promotional materials
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- Opportunity to host an exhibit table at the Summit and/or distribute a promotional item to attendees



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 - On Summit lunch tickets
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**LUNCHEON
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- Opportunity to host an exhibit table at the Summit
- Logo featured:
 - On the Summit website
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 - In transitional slides during the program
- Full page, full color, back cover ad on the program
(This is the only ad space in the program)



**PROGRAM
SPONSOR**
\$6,000



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 - On the Summit website
 - In the printed program
- Two (2) complimentary tickets to the O.C. Water Summit
- Marketing piece distributed in the exhibit area



**OC CITIES
SPONSOR**
\$4,000



- Logo featured:
 - On the Summit website
 - In the printed program
 - On transitional slides during the program
- Independent sponsorship slide at the beginning of the session
- Two (2) complimentary tickets to the O.C. Water Summit



**SESSION
SPONSOR**
\$3,500



- Logo featured:
 - On the Summit website
 - In the printed program
 - On transitional slides during the program
- Two (2) complimentary tickets to the O.C. Water Summit



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SPONSOR**
\$2,000



- Table for (8) at the Summit with your logo
- Name featured:
 - On the Summit website
 - In the Summit program



**TABLE
SPONSOR**
\$1,600



- Logo featured:
 - On the Summit website
 - On the breakfast signage



**BREAKFAST
SPONSOR**
\$1,000



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Lewis Consulting Group; **Mesa Water District**; Moulton Niguel
Water District; Metropolitan Water District of Southern California;
Orange County Sanitation District; Raymond James; **RBF
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Systems; Southern California Edison; **Townsend Public
Affairs, Inc.**; Yorba Linda Water District

2016 REGISTRATION

INDIVIDUAL TICKET - \$130*

(*TICKET PRICE WILL INCREASE TO \$150 BEGINNING MAY 6, 2016)

Ticket includes continental breakfast, lunch, self-parking and Summit materials

www.OCWaterSummit.com

2016 PRESENTING SPONSORS





TURBULENT TIMES

Whether El Niño delivers on its promise of a wet winter, water agencies across Orange County face a perfect storm of challenges in delivering reliable water that serves as the lifeblood for **3 million** residents and business communities that produce a gross county product of **\$223.2 billion**. The system of reservoirs and aqueducts that carries water hundreds of miles to reach our county are aging and susceptible to earthquakes and political tremors. Agencies have been ordered to cut their water use or face fines and ever-changing laws make developing fair and accurate rates more and more complex.

Join us for the **9th Annual OC Water Summit** to learn about the Orange County projects that will provide shelter from the storms, and lessons learned from businesses that are harvesting profits despite the clouds.

HOSTED BY



MAY 20, 2016

7:30 a.m. - 1:30 p.m.

The Westin, South Coast Plaza Hotel

INDIVIDUAL TICKET - \$130*

(*TICKET PRICE WILL INCREASE TO \$150 BEGINNING MAY 6, 2016)

Ticket includes continental breakfast, lunch, self-parking and Summit materials

www.OCWaterSummit.com



FRIDAY
MAY 20, 2016
 7:30 AM - 1:30 PM

THE WESTIN
 SOUTH COAST PLAZA HOTEL

GRAND BALLROOM
 686 Anton Blvd.
 Costa Mesa, CA 92626



REGISTER TODAY!

Please Join Us!

Whether El Niño delivers on its promise of a wet winter, water agencies across Orange County face a perfect storm of challenges in delivering reliable water that serves as the lifeblood for **3 million** residents and business communities that produce a gross county product of **\$223.2 billion**. The system of reservoirs and aqueducts that carries water hundreds of miles to reach our county are aging and susceptible to earthquakes and political tremors. Agencies have been ordered to cut their water use or face fines and ever-changing laws make developing fair and accurate rates more and more complex.

Join us for the **9th Annual OC Water Summit** to learn about the Orange County projects that will provide shelter from the storms, and lessons learned from businesses that are harvesting profits despite the clouds.



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 and print the Sponsorship Brochure*

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HOSTED BY

Westcoast E1 Water delivers on its promise of a next water worthy agency across Orange County that a perfect storm of challenges in different reliable water that serves as the foundation for 3 million residents and business communities that involve a gross regional product of \$223.2 billion. The system of reservoirs and infrastructure that carry water hundreds of miles to reach our county is aging and susceptible to earthquakes and political tensions. Agencies have been ordered to cut their water use in face faces and re-inventing lives make developing far and accurate rates more and more complex.

Join us for the 9th Annual OC Water Summit to learn about the Orange County projects that will provide a better future for the citizens and become leaders from businesses that are harnessing profits through the climate.

MAY 20, 2016
 7:30 a.m. - 1:30 p.m.
 The Westin, South Coast Plaza Hotel

INDIVIDUAL TICKET - \$150*
 *Includes parking fee, lunch, and access to all sessions May 6, 2016
 Ticket includes complimentary breakfast, lunch, self parking and Summit materials

www.OCWaterSummit.com

For More Information:
www.OCWaterSummit.com

Jonathan Volzke or Tiffany Baca (MWDOC)
jvolzke@mwdoc.com / tbaca@mwdoc.com
 714) 593-5029 or 714) 593-5013

Eleanor Torres (OCWD)
etorres@ocwd.com
714) 378-3268



**Public Affairs Activities Report
February 18, 2016 – March 16, 2016**

<p>Member Agency Relations</p>	<p>Bryce, Jonathan and Laura organized and attended the Public Affairs Workshop, which attracted more than 15 member agencies. The meeting included a presentation from a Northern California public relations firm that specializes in water-related outreach. The MWDOC team received positive feedback for organizing and hosting the presentation.</p> <p>Jonathan and Laura attended a presentation by a Cal State San Marcos professor who is studying effective means of encouraging the public to make long term reductions in water use. The event was held at Santa Margarita Water District.</p> <p>Laura attended a public education subcommittee meeting at the County of Orange for the National Pollutant Discharge Elimination Standard (NPDES)</p> <p>Jonathan and Laura attended a WEROC training session at the South County EOC.</p> <p>Laura coordinate the printing of 45,000 water-efficiency bill inserts for member agencies.</p> <p>PA staff mailed and emailed the general manager's letter, requesting input on the MWDOC rate study, to all the elected officials, and their general managers.</p> <p>Tiffany and Bryce are currently working on trip logistics, guest and Director needs for the following inspection trips:</p> <ol style="list-style-type: none"> 1. March 11-13, Director Barbre CRA/Hoover trip 2. April 15-16, Director Ackerman CRA 3. April 22, Director McKenney Infrastructure <p>Bryce updated Residential and Commercial rebates flyers for El Toro Water District.</p> <p>Jonathan and Tiffany attended the MET PIO meeting on March 10. A report of the meeting was sent to member agencies.</p> <p>Tiffany prepared two magazine cover mockups for a proposed Choice Communications Plan item.</p>
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	<p>Tiffany has been working with the Wyland Foundation on logistics for their annual Mayor's Challenge for Water Conservation, April 1-30. She has prepared two flyers for distribution, one for residents and businesses, and one for Orange County Mayor's. The challenge is a friendly competition between cities across the U.S. to see which city nationwide can be the most water and energy efficient. Cities with the highest percentage of residents who take the challenge in their population category can win a variety of prizes from the Foundation including a Toyota Prius. In addition to individual agency reductions in water consumption, residents can save money and help their city meet conservation goals.</p>
Community Relations	<p>Jonathan published the March edition of the eCurrents newsletter, which was sent to more than 7,000 OC water officials and residents.</p> <p>Laura attended the Water Use Efficiency coordinators meeting to ensure water-conservation messages and programs are consistent.</p> <p>Laura staffed a March 5 Garden Friendly water-use efficiency event at Home Depot in Santa Ana. It was the first of several Garden Friendly events MWDOC will staff.</p> <p>Tiffany and Bryce attended the Great Wolf Lodge VIP reception on March 3, 2016.</p> <p>Bryce crafted the social media messaging for Fix-A-Leak Week, March 14-20, 2016.</p>
Education	<p>Jonathan and Laura attended the Feb. 22 high school water expo at Capistrano Valley High School. It was the first high school expo under MWDOC's high school program. Director Hinman and representatives from the MET education team also attended.</p> <p>Laura attended an elementary school program under the MWDOC education program in Laguna Beach with Director Hinman.</p> <p>Jonathan met with Director Hinman to discuss opportunities for improvement for the high school expos. Jonathan recorded the suggestions in a memo that was shared with the high</p>

	<p>school contractors. Suggestions were immediately incorporated into the next event.</p> <p>Jonathan attended the Anaheim High School water expo.</p> <p>Bryce attended a Children's Water Education Festival planning meeting and finalized the MWDOC activity which will be presented to approximately 600 Orange County students and teachers. Bryce also prepared a display item for this event and others to promote the 2016 Water Awareness Contests.</p>
Media Relations	<p>Jonathan worked with the Orange County Register to ensure the story on the county's progress on the statewide conservation mandate was accurate.</p> <p>Jonathan worked with a Los Angeles Times reporter to determine the scope of her turf removal story.</p> <p>Laura issued a news release for Fix a Leak week.</p>
Special Projects	<p>Heather staffed Director Barbre on his 3-day trip of the State Water Project hosted with Director Stephen Faessel from the City of Anaheim. Three congressional staff members were in attendance: Jacqueline Gonzalez from Congresswoman Loretta Sanchez's office, Jessica Roxburgh from Congressman Dana Rohrabacher's office and Kristina Dunklin from Congressman David Valadao's office.</p> <p>Heather attended ACWA's Washington D.C. conference. We heard presentations from Andy Fecko from Placer County Water Agency, Senator Dianne Feinstein spoke extensively on her reintroduced drought bill, and Esteven Lopez from the Bureau of Reclamation. The afternoon session brought in speakers such as: Majority Leader Kevin McCarthy, Congressmen Calvert, LaMalfa, Huffman, Garamendi, McClintock, Costa, and Ruiz.</p> <p>MWDOC, along with partnering agencies Eastern Municipal Water District, Western Municipal Water District & Inland Empire Utilities Agency hosted our Southern California Water Issues Congressional Delegation Briefing Luncheon. Further details can be found in the March 23, 2016 PAL Committee item. Tiffany and Bryce assisted in developing a variety of</p>

	<p>materials for the event including the program, signage, and more.</p> <p>MWDOC hosted a dinner in Washington D.C. for our member agencies who were there for the ACWA conference. Attendees included: Directors Barbre & Ackerman, Heather Baez, Rob Hunter, MWDOC's D.C. advocate Jim Barker, MWD Director Steve Blois, Bryson Wong from the House Subcommittee on Water Power & Oceans, Chris Tudor from Congressman Tom McClintock's office, Director Mary Aileen Mathais from IRWD, Joone Lopez from MNWD, and Alicia Dunkin from OCWD.</p> <p>Heather attended ACC-OC/OCBC's Sacramento Advocacy trip from Feb. 29-Mar. 1. We heard presentations from OCBC's lobbyist Moira Topp, Transportation Secretary Brian Kelly, Assemblyman Jim Frazier, CalEPA Director Matt Rodriguez, Senate President Pro Tem Kevin DeLeon, Senator Cathleen Galgiani, Senator Jim Beall, and Senate Republican Leader Jean Fuller. They hosted a dinner for the Orange County delegation and all members attended with the exception of Senator Janet Nguyen. The morning presentation was from State Controller Betty Yee, and the afternoon session we heard from Senator Andy Vidak, Assemblyman Chris Holden, Assemblywoman Kristin Olsen, Assemblyman Dababneh & Assembly Republican Leader Chad Mayes.</p> <p>Heather met with MWD's Albert Napoli to finalize details on the Community Leaders Briefing with Assemblyman Matt Harper. The breakfast is scheduled for Friday, April 8 at the Muth Interpretive Center in Newport Beach. Heather secured the location and Jonathan & Laura compiled and invitation list including all elected officials within Assemblyman Harper's district.</p> <p>Heather secured the March ISDOC Quarterly Luncheon speaker, Paul Walters, and sent out the invitation. The luncheon is scheduled for March 31st, where we will be highlighting member agency Trabuco Canyon Water District.</p> <p>Jonathan and Laura met with Chapman media professor Pete Weitzner to discuss a potential partnership and including MWDOC and water-related stories in Chapman projects.</p> <p>Jonathan addressed a Chapman class about water conservation in OC.</p>
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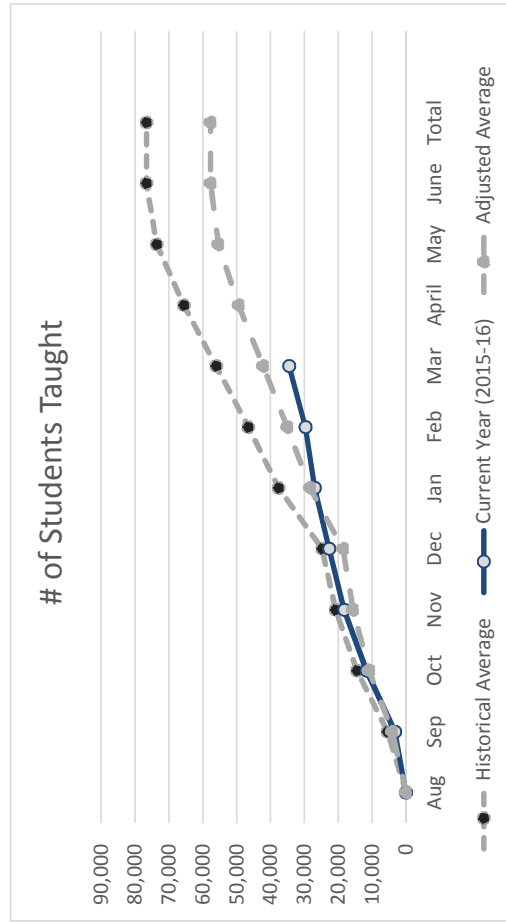
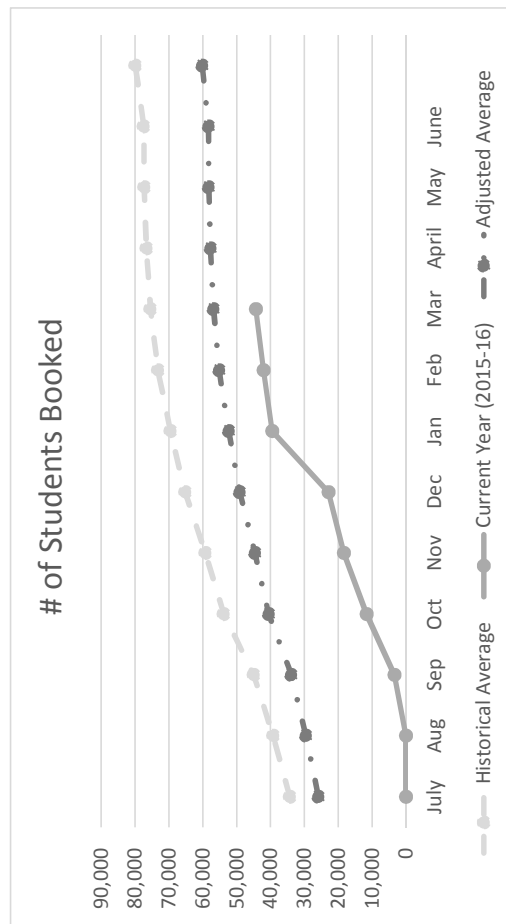
	<p>Jonathan attended a “local government” seminar at Chapman to meet potential participants in the water summit.</p> <p>Jonathan and Tiffany met to discuss the 2016-17 PA work plan and potential projects for the countywide water communications plan.</p> <p>Laura assembled the invitation list for the Community Leaders Briefing with Assemblyman Matt Harper.</p> <p>Laura assembled the invitation list for the April 7 elected officials dinner at MWDOC.</p> <p>Tiffany and Bryce updated several pages on the MWDOC website.</p> <p>Bryce updated WEROC graphic of water trailer locations in Orange County.</p> <p>Bryce prepared a reconstructed logo image for the shared Boardroom doors.</p> <p>Tiffany and Bryce attended the March 15th, WEROC Tabletop Exercises at El Toro Water District.</p> <p>Tiffany and Bryce are developing options and pricing materials for a new hallway display.</p> <p>Bryce worked with a mascot designer to develop a new/modern Ricki the Rambunctious Raindrop mascot.</p>
Legislative Affairs	<p>Heather participated in Met’s Member Agency Legislative Coordinators’ conference calls.</p> <p>Heather attended ACWA’s State Legislative Committee meeting in Sacramento.</p> <p>Heather met with Assembly Republican Caucus Policy Director, Steve McCarthy, regarding AB 1713 (Eggman).</p> <p>Heather met with Senate Republican Caucus Policy Director Greg Maw to discuss their caucus’s water issues.</p> <p>Heather participated in the Southern California Water Committee Legislative Task Force conference call meeting.</p>

<p>Water Summit</p>	<p>Jonathan and Tiffany met repeatedly with OCWD staff and with the Summit directors committee to organize the OC Water Summit, which will be held on May 20 in Costa Mesa.</p> <p>Tiffany has been working with the South Coast Westin and Tony Wayne Entertainment to finalize hotel/food and AV logistics for the 2016 OC Water Summit.</p> <p>Kelly Salt of BBK has confirmed as a speaker, as has Dr. Grant-Ludwig from UCI, who is an expert on earthquakes. Dr. Feldman from Water:UCI will moderate a panel and the BIA has also been invited as a moderator. Rancho Mission Viejo has expressed willingness to participate, and Richard Wilson, author of “Death of a Water District,” has agreed to be the lunch/keynote panelist.</p> <p>Tiffany has designed the cover art, which the committee enthusiastically accepted, as well as the sponsorship package and other collateral materials. She has also prepared the registration form for paid registrants, staff and speakers, and individual sponsorships.</p>
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2015-16 Water Education School Program

# of Students Booked	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	Target
Historical Average	34,405	39,319	45,070	53,900	59,337	65,269	69,616	73,332	75,563	76,726	77,411	77,523	80,000
Adjusted Average	25,921	29,624	33,957	40,610	44,706	49,175	52,451	55,250	56,931	57,807	58,323	58,407	60,274
Current Year (2015-16)	0	0	3,446	11,640	18,417	22,873	39,556	42,137	44,405				60,274

# of Students Taught	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June	Total
Historical Average	0	5,526	14,522	20,838	24,823	37,676	46,625	56,093	65,692	73,691	76,705	80,000
Adjusted Average	0	4,163	10,941	15,700	18,702	28,386	35,128	42,262	49,494	55,521	57,791	57,791
Current Year (2015-16)	0	3,304	11,641	18,247	22,703	26,990	29,725	34,583				60,274



* Total is reduced from 80,000 because all participants receiving keypad program.