

MEETING OF THE
BOARD OF DIRECTORS OF THE
MUNICIPAL WATER DISTRICT OF ORANGE COUNTY
Jointly with the
PUBLIC AFFAIRS AND LEGISLATION COMMITTEE
October 17, 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>.

DISCUSSION ITEMS

1. LEGISLATIVE ACTIVITIES
 - a. Federal Legislative Report (Barker)
 - b. State Legislative Report (BBK)
 - c. County Legislative Report (Lewis)
 - d. Legal and Regulatory Report (Ackerman)
 - e. Metropolitan Legislative Matrix
2. MWDOC'S POLICY PRINCIPLES

ACTION ITEMS

3. DISCUSSION REGARDING ADOPTING AN OPPOSE POSITION ON PROPOSITIONS, INCLUDING PROP. 53
4. DISCUSSION REGARDING ADOPTING SUPPORT POSITION ON THE CALIFORNIA WATER FIX

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.)

5. SCHOOL PROGRAM PARTICIPATION REPORT
6. UPDATE ON POTENTIAL SAN JUAN CAPISTRANO UTILITIES CONSOLIDATION
7. UPDATE ON WATER POLICY DINNER
8. PUBLIC AFFAIRS ACTIVITIES REPORT

OTHER ITEMS

9. 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.

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Nicholas Crockett
Alia Cardwell

Municipal Water District of Orange County, California
Washington Update
October 11, 2016

This report was prepared two days after the second Presidential Debate with Washington still reeling in a “buzz” over the release of the Trump—Access Hollywood Video Tape and the fallout from so many incumbent GOP Senators and Representatives withdrawing their support for the Republican Presidential Nominee.

There is now a six to eleven point spread nationally in the polls between Hillary Clinton and Donald Trump and Senate and House Leaders are very concerned about whether Trump’s electoral decline will have serious impacts on their ability to hold or garner new seats in the Senate and the House of Representatives.

Only two and half weeks ago, Donald Trump was leading or tied in all of the key battleground states. He is now tied or behind in every battleground state. Because we elect our Presidents through the Electoral College system, his ability to regain momentum and carry a combination of battleground states is the key to his possible victory—and on the Congressional front, the key to many Republican Members staying in Congress.

On the Appropriations Front:

Before Congress adjourned for the general election period. They passed a Continuing Funding Resolution to keep the federal government running until December 9th.

After the election, Congress will come back into “session” and seek to pass a long term spending bill(s). There is a chance that depending upon the outcome of the election, the funding bill may run from December 10th -September 30, 2017, or the Congress may decide to pass a short term bill that would run until sometime during the first quarter of 2017—so that the new Administration and the new Congress can have some impact on

the spending decisions.

In the case of California, there are several legislative strategies in play so that “Drought Relief Legislation” can be placed into one of the final spending bills. Certainly, the House Leadership would like to accomplish this and it remains uncertain if the Senate will go along with this path. Meanwhile, there is a National Energy Policy Bill that may also include the California Drought Relief Legislation. Key Republican House Leaders are pressing for the inclusion of drought relief language.

On the Authorizations Front:

The most significant water bill to be considered in the Congress nationally this year is the Water Resources Development Act (also known as WRDA or the WRDA Bill) legislation which provides authorities to the Army Corps of Engineers. The most contentious issue in the WRDA bill has been dealing with is the Flint, Michigan water crisis—and other communities that have similar aging infrastructure issues.

Just before the House recessed for the fall elections, it passed HR 5303, a \$5 Billion WRDA Bill, roughly half of the Senate’s \$10.6 Billion WRDA version, S. 2848.

The House version contained a provision for \$170 Million to go to communities where the President has declared a state of emergency pursuant to the Stafford Act. This was intended as the trigger to get funds to Flint, Michigan and perhaps other similarly situated communities. The Congress will need to “Conference” the two versions of the bill during the lame duck session and it is believed that there will be a number of grant programs authorized to assist communities with aging infrastructure. Before the October break, there was an agreement reached between key House and Senate Leaders that the final Conferenced Bill will contain a funding mechanism for the people of Flint, Michigan.

Here is a summary of the House passed WRDA Bill passed at the end of September:

The Water Resources Development Act of 2016, HR 5303

This bill revises or authorizes various U.S. Army Corps of Engineers water resources development projects, feasibility studies, and relationships with nonfederal project sponsors. It sets forth a process to deauthorize projects with an aggregate estimated federal cost to complete of at least \$5 billion.

For harbor operation and maintenance, the bill requires:

Utilization of priority funding for emerging harbors, an increase in funding for commercial navigation costs beginning in FY2027, and expansion of eligibility for donor port funding.

The bill reauthorizes estuary habitat restoration projects through FY2021.

To assist states, the bill allows:

Water conservation measures for drought emergencies;
Assistance to regional districts for flood damage reduction projects; and
Combined funding for drainage basins, watersheds, or ecosystems in groups of states.

For flood management, the bill:

Allows credits or reimbursements for discrete segments of a project before final completion,

Authorizes the Corps of Engineers to accept nonfederal funds to revise reservoir operations and storage allocations for flood-risk and navigation, and extends the period for nonfederal interests to receive a credit in lieu of a reimbursement for the estimated federal share of a flood damage reduction project under repealed provisions the Water Resources Development Act of 1996.

The bill establishes conditions to release nonfederal interests from obligations to operate and maintain the nonstructural and nonmechanical components of projects for environmental protection and restoration or aquatic ecosystem restoration.

The Corps of Engineers' authority to accept funds to expedite permits is expanded to railroad carriers, and made permanent for public utilities or natural gas companies.

The Corps must designate a principal approving official to coordinate development of unmanned aircraft systems to support civil works and emergency response missions.

The bill authorizes various navigation, flood risk management, hurricane and storm damage, ecosystem restoration, recreation, or river shoreline projects in Arkansas, California, Florida, Illinois, Kansas, Kentucky, Louisiana, Maine, Missouri, New Hampshire, New Jersey, North Carolina, Oregon, South Carolina, Tennessee, Texas,

Washington, and Wisconsin.

The bill does not de-authorize the California Environmental Infrastructure \$40 Million Authorization-- known as Section 5039.

Update on Wildfire Funding Issues:

Congress has been unable to pass a long term fix associated with the budgeting and funding for “wildfires”. This is particularly topical due to the multi-year drought the State of California is experiencing. The Forest Service routinely has to “raid” other accounts to pay for emergency wildfire expenses.

On October 4th, the White House renewed its call on Congress to increase funding for fighting wildfires, saying a recent cash infusion was "simply a Band-Aid approach." Note that the Congress had just adjourned for the fall elections at the time of this announcement, so in essence it was a public relations release and the Administration will likely make additional comments when the Congress returns to session after the election.

The Office of Management and Budget (OMB) Director Shaun Donovan said the Forest Service is facing the impossible task of fighting increasingly frequent and severe wildfires while lacking the funds necessary to prevent them in the first place.

Administration officials from the OMB and the Forest Service have noted that the wildfire season appears to be getting longer and more dangerous. Currently, the fire season is about 78 days longer than past averages.

In six of the last 10 years, the cost of fighting those fires has exceeded the amount provided by congressional appropriations.

The Forest Service has announced that wildfires this year have burned 650,000 acres in California alone, and the state still faces a potentially dangerous fall due to dying trees and low moisture levels.

The OMB has acknowledged that Congress provided \$622 million in additional funding for fighting wildfires for the last fiscal year. *But the OMB has stated that was only a one-time payment and does not provide the "predictability" the Forest Service needs to plan its fire prevention and other programs.*

In most years, when firefighting costs exceed what's in its budget, the Forest Service

has had to take money from other programs — such as those aimed at fire prevention, like fuel removal and forest thinning.

The White House's main concern, according to the OMB, is that current funding levels are approximately flat for the last several fiscal years. But the 10-year average cost of firefighting since 1995 has risen by \$700 million.

The OMB Director did express some optimism indicating that he believed a compromise could be worked out in the lame-duck session following the elections in November. We are tracking these issues.

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General News Items and Political Updates of Interest

Since our last report, here are the latest polling numbers per “*Real Clear Politics Media*”*.

June 2016

Clinton: 49%

Trump: 42%

July 2016

Clinton: 45%

Trump: 41%

August 2, 2016

Clinton 46.4%

Trump 42.0%

September 13, 2016

Clinton 45.8%

Trump 43.4%

October 11, 2016* (the numbers below reflect a split polling sample—some of the polling was done before and some polling after the release of the Trump Access Hollywood Video Tape)

Clinton 48%

Trump 42%

**Real Clear Politics takes polling averages from different respected polling organizations over a common period of time in recent days/weeks. These are the most recent figures at press time.*

Notes—1. Due to the make up the Electoral College, a Presidential Candidate may lose the popular vote and still be elected President—as was recently seen in the year 2000 with the Bush v. Gore election. 2. The key polling numbers to watch will be from the “battleground states” which due to recent voting trends are considered the “toss up states”.

JCB 10-11-16



Memorandum

To: Municipal Water District of Orange County
From: Syrus Devers, Best Best & Krieger
Date: October 17, 2016
Re: Monthly State Political Report

Legislative Update

Governor Brown vetoed SB 554 (Wolk) which would have extended the sunset for two years on the 75% state match for Delta levee maintenance. The veto message downplayed the significance by stating that the bill is premature since the sunset does not expire until 2018, but such bills have been signed on a regular basis in the past. The veto received no mention in the press, including water related publications, but water industry observers perceived the veto as significant to Delta politics.

Here are the final dispositions of four other bills on which MWDOC had taken a position but had not been acted on by the date of the September PAL Committee hearing:

AB 1755 (Water transfers-support): signed

AB 2022 (OCWD recycled water demonstration project-support): signed

AB 2348 (Priorities for PERS investment in infrastructure-soft oppose): vetoed

AB 2488 (MWD ESA permit for unarmored threespine stickleback-support): signed

The Legislature remains in recess until December 5th.

Administration Update

On October 5th, SWRCB held a hearing on Executive Order B-37-16 calling for permanent conservation regulations, and discussed the existing drought regulations. The drought regulations will likely be extended through 2017 absent an exceptionally wet winter. The hearing could best be described as a scoping exercise on the challenges of implementing the permanent conservation regulations; gaps in data and implementation dates were discussed. The water supply community urged caution given that water agencies have been highly successful at conservation already, and failing to acknowledge current success could discourage future investments in conservation.

BB&K prepared an extensive summary of the hearing which is available for interested Board members and staff.

The County of Orange Report

October 11, 2016
by Lewis Consulting Group

Polls, Polls, and More Polls

Because this is the final PAL meeting prior to the 2016 November election, it seems appropriate to share the latest polling information for both the Presidency and the California U.S. Senate race.

Presidential Race

| | | <u>Trump</u> | <u>Clinton</u> |
|------------|-------------------------|--------------|----------------|
| October 11 | LA Times | 45% | 43% |
| October 10 | Wall Street Journal/NBC | 35% | 46% |
| | Rasmussen | 38% | 45% |
| | NBC/SM | 41% | 46% |
| October 9 | Economist/You Gov | 43% | 48% |
| | Quinnipiac | 44% | 50% |
| October 7 | Fox News | 44% | 48% |
| October 6 | The Atlantic/PRRI | 41% | 47% |
| October 5 | Gravis | 44% | 44% |
| | Reuters/Ipsos | 36% | 42% |
| October 3 | CBS | 43% | 49% |

Through the preparation of this report, the trend-line looks very bad for Donald Trump. His taped comments have taken a toll. Trump's better than expected debate performance is not fully baked into the numbers. Beware of the LA Times poll. Its methodology is different than the other polls and their sample appears to contain a bias towards Trump. However, even their daily results indicate a 5 point decline in Trump's strength.



California U.S. Senate Race

| | | <u>Harris</u> | <u>Sanchez</u> |
|--------------|------------|---------------|----------------|
| September 28 | Survey USA | 40% | 29% |
| September 18 | PPIC | 32% | 25% |
| September 13 | Field Poll | 42% | 20% |

We have been suffering from a dearth of polls in our California U.S. Senate race. There has been a modicum of race tightening, but we need to see new polls to tell whether the candidates' recent debate has had any meaningful effect on this race.

LAFCO Discusses San Juan Capistrano Divestiture of Water and Sewers



At the October 12th meeting of Orange County LAFCO, a preliminary discussion was held regarding San Juan Capistrano's recent application for a Municipal Service Review of its plans to divest itself of the city's water and sewer service.

LAFCO reviewed the application on August 22, 2016 and that "starts the clock" on what should be a six to twelve month process. The first LAFCO working group meeting on this issue is expected to take place in November.

In its application, the city listed as possible divestiture options as the sale, lease or transfer of its infrastructure and operations. The city also identified three possible agencies as "agencies of interest"; the Irvine Ranch Water District, Santa Margarita Water District and the Moulton-Niguel Water District. Subsequently, the South Coast Water District has expressed an interest in participating in the MSR process as well.

At Long Last, Justice in Costa Mesa: Union Private Investigator Pleads Guilty

It has taken four years since we first reported on this, but at long last private investigator Christopher Lanzillo, has pled guilty to felonies for his conduct in the 2012 election.

As you may recall, Lanzillo was one of two investigators indicted for the scheme of harassment and political framing of Costa Mesa Councilmembers Steve Mensinger and Jim Righeimer.

Lanzillo and the second investigator Scott Impola were employed by the now defunct law firm of Lackie, Dammeier, McGill & Ethir, who were retained by the Costa Mesa Police Association. Impola is presently electing to go to trial, which is scheduled for March 2017.

Lanzillo has plead guilty to felonies for conspiracy to commit a crime of unlawful use of a tracking device; false imprisonment by deceit and engaging in a conspiracy of falsely reporting a crime to an agency.

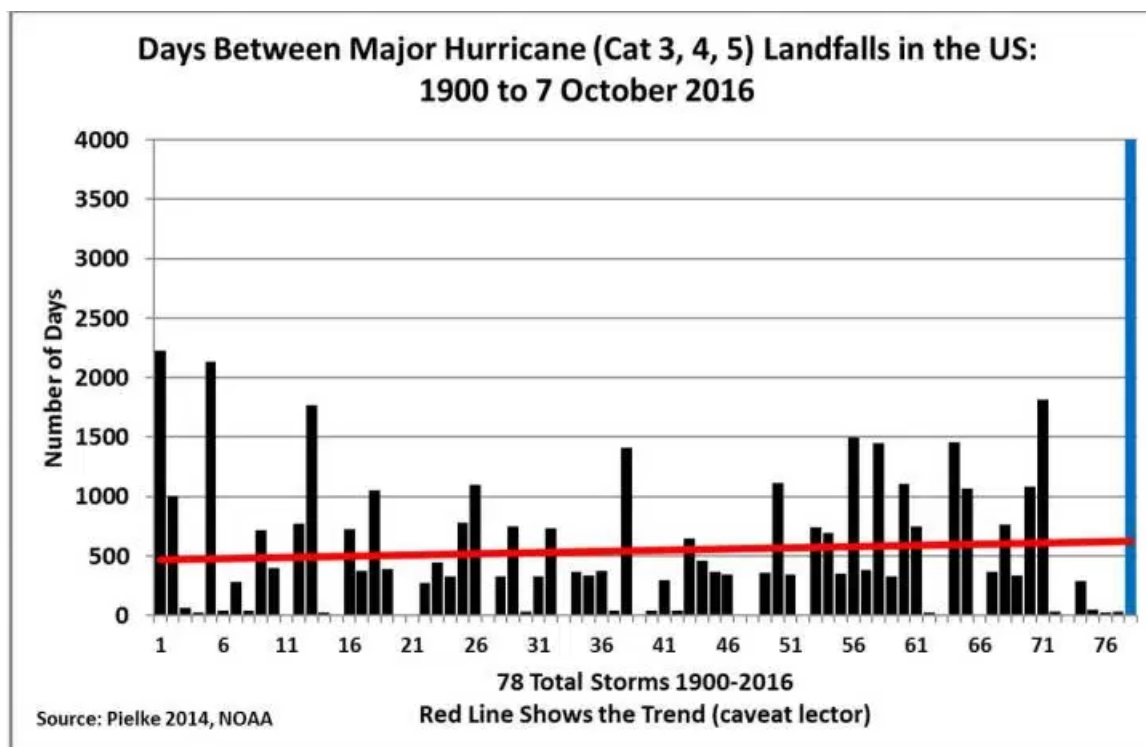
Both Mensinger and Righeimer have filed civil lawsuits in this matter.



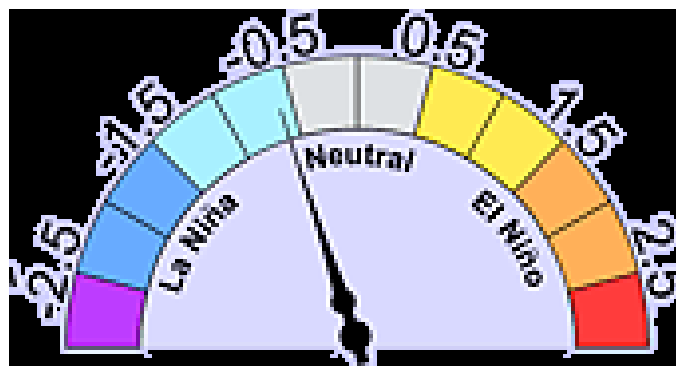
Hurricane Matthew - Thank Goodness a One @ Landfall

After paralleling the U.S. Southeast coast and bringing various levels of misery to the residents of Florida, Georgia and South Carolina; hurricane Matthew finally made landfall as a Category One hurricane near McClellanville, South Carolina. As the storm squeezed out its final rainfall, the state of North Carolina got the worst of it as the deluge brought massive flooding of inland streams and rivers with numerous water rescues.

Even with this nasty hurricane, put in historical perspective, we are in the midst of a long stretch of days and years without a major hurricane (category 3-5) making landfall in the U.S.



The chart below, compiled by Dr. Roger Pielke, shows how we have now gone over 4,000 days without a major hurricane landfall; by far the longest stretch of time since 1900. Perhaps we have found a beneficial aspect of climate change?



The chart to the right, ENSO - *El Niño Southern Oscillation*, indicates that we now have a very minor La Niña condition. The previous predictions of going quickly into a strong La Niña were overblown.

ACKERMAN CONSULTING

Legal and Regulatory

October 17, 2016

1. **Plan for Sea Level Rise:** A State agency, the San Francisco Bay Conservation and Development Commission, has recently started action to develop a plan to identify vulnerable shoreline areas and prepare for sea level rising. The 27 member board will complete the plan in three years. Their estimates and modeling show sea levels increasing between 17 and 66 inches by 2100 primarily due to climate change. They are also working with Caltrans and the Metropolitan Transportation Commission to address roads and trains. They will develop regional solutions and plans. Stay tuned to this Commission as it could have far reaching impact on the entire state and water world.
2. **State Water Use:** State water users continue to use more water this year than they did under the Governors Executive Order. Over all, statewide, water use is up about 11% from last year. The State Water Board is concerned but not panicked by the results. The NRDC is appalled and thinks the relaxation of the order is a disaster. However, water users, including ACWA, think that the resulting situation is much better allowing each district and area to develop their plan to fit their particular situation and get away from the “one size fits all” approach. Most of the heavy users of water are in the Sacramento region where they had a lot of rainfall. Forecasters also predict a 50-50 chance as to normal rainfall this winter versus continued drought.
3. **Timber Company vs Town:** The water battle continues to play out in Weed, California. Weed, population 2700, is an old logging town near Mt Shasta. Historically, water has been piped directly from the springs to individual homes. However, that may be changing soon. Roseburg Forest Products claims it owns the spring and may decide to use all of it for commercial purposes and cut the town off. Roseburg intends to sell the water to Crystal Geyser for shipment worldwide. They also claim the city has its own wells which it can use for drinking water. A recent case in Montana allowed a city to use eminent domain to take water from a private company for municipal use. Weed is planning a

ballot measure and a lawsuit. The city may also drill a new well (Cost \$2 million) to solve the problem. Add in a Native American tribe, Winnemem Wintu, who is contemplating filing a claim based on the area considered a sacred site and you have the making of a long and involved proceeding.

4. **San Bernardino Lakes Shrinking:** The drought is finally catching up with Big Bear Lake and Lake Arrowhead. Arrowhead is down 11 feet, Big Bear 16 feet. Half the water in Big Bear is gone since 2011 and its area has gone from 3000 acres to 2200 acres. That difference is roughly the size of Lake Arrowhead. Usually one good rain fall would refill either lake, but that has not happened recently. Experts are still hopeful. The anticipated La Nina is not looking likely which means we should get a more normal winter in the mountain areas. If you want to buy lake front property in Big Bear, this is a good time to do it. Prices are low but unfortunately there is no lake in front of the property.
5. **Klamath Update:** The Klamath River Renewal Corp has applied to remove 4 of the 5 dams on the Klamath River. The total cost is around \$290 million which would be paid for by ratepayers in the area and Prop 1 Bond proceeds. The project requires FERC approval due to energy concerns. Many other groups are weighing in: Karuk Tribe, county officials, farmers, Congress, NRDC to name a few. This battle is far from over.
6. **San Joaquin Farmers Drilling:** Since most farmers in the San Joaquin valley have been cut off or severely reduced in their federal and state water allocations, they are trying to solve their own problems. These farmers drilled over 2500 wells last year which is the highest number on record. Since the new groundwater law does not take effect until 2020, they are certainly within current law. Since aquifers do not recognize property lines, all farmers are drilling deeper to make sure they maintain the supply they need. These wells average between \$200,000 and \$300,000 each. UC Davis estimates total costs for expanded drilling this year will be over \$300 million. Increased drilling means falling water tables which now impacts surrounding towns, schools and water districts. Deeper drilling also means more risk of contamination of water for drinking purposes. Many schools now have undrinkable water and many residents have to tank in water to survive. Farmers continue to emphasize that this would not be necessary if federal officials were not releasing water for fish and ignoring needs of farmers.

7. **Nestle Wins:** We have previously reported the continuing battle between the Nestle water plant in the nearby San Bernardino Mountains and various environmental groups seeking to stop their operation. A Federal judge recently ruled that the permit issued by the US Forest Service was valid and Nestle can continue to operate.
8. **Beverly Hills Guzzlers:** The search for the biggest water users continues and is apparently narrowed down. The identity of water users is currently protected from disclosure in most circumstances. Investigative reporters are still hot on the trail and think they have narrowed it down to either Robert Daly, former Warner Bros Chairman or Beny Alagem, owner of Beverly Hilton Hotel. Both have claimed that they have taken steps to dramatically cut down their usage which only time will tell. Their homes prior usage was 32,000 gallons per day with the average Californian using between 58 and 160 gallons per day.
9. **Santa Barbara Water Ban:** The city of Santa Barbara is considering a complete ban on outdoor watering. Their main water supply, Lake Cachuma, is a 7% capacity. The status of their desal project is uncertain but they believe the time to act is now. According to ACWA, no other agency or city has proposed that drastic a measure even during this drought period. Their projections do not show increased inflow for the Lake, which could be dry by the end of this year.

Metropolitan Water District of Southern California
Federal Legislative Matrix –October 10, 2016 114th Congress

| Bill Author | Location | Title - Summary | MWD Position | Effects on Metropolitan |
|---|---|---|---|---|
| H.R. 211 Calvert (R-CA) | 1/8/15: Referred to the House Committee on Natural Resources. | Reducing Environmental Barriers to Unified Infrastructure and Land Development Act of 2015 Act or the “REBUILD Act” - The goals of the program are to simplify the NEPA implementation practices, reduce the time and cost involved in preparing NEPA reviews, and improve the effectiveness of public engagement. | SUPPORT, and seek amendments, pursuant to Board action, April, 2012; based on same action on H.R.2538, introduced in the 112th Congress. | HR 211 would extend provisions of a pilot program that authorizes states to utilize a streamlined environmental review process for transportation projects to other infrastructure projects. Staff recommendation: support and seek amendments to expand this authority to other municipal agencies, among other changes. |
| H.R.291 Napolitano (D-CA) Companion Measure: S.176 Boxer (D-CA) | 1/13/15: Referred to the House Committees on Transportation and Infrastructure, Energy and Commerce, Science, Space and Technology. 3/2/15: Referred to the House Natural Resources Subcommittee on Water, Power and Oceans. | Water in the 21st Century Act, or “W21” – This bill establishes within the Environmental Protection Agency (EPA) a WaterSense program to identify, label, and promote water efficient products, buildings, landscapes, facilities, processes, and services. | SUPPORT, pursuant to Board-adopted 2015 federal legislative strategy, and support of H.R.5363 introduced in 113th Congress. | Metropolitan’s Integrated Resources Plan calls for increased conservation and water use efficiency. By authorizing the WaterSense program, HR 291 would advance conservation programs and provide increased review and labeling of water conservation products and services for commercial, institutional and residential use. In addition, the residential water efficiency incentive programs could provide a funding source for Metropolitan’s conservation rebate programs. Metropolitan sought amendments to H.R. .5363 in the 13th Congress to broaden eligibility for the Water Infrastructure Financing and Innovation Act (WIFIA), and those amendments were included in H.R. 291. |

Metropolitan Water District of Southern California
Federal Legislative Matrix –October 10, 2016 114th Congress

| Bill Author | Location | Title - Summary | MWD Position | Effects on Metropolitan |
|--|---|---|---|--|
| H.R.1208 Garamendi (D-CA) Companion Measure: S.630 Feinstein (D-CA) | 3/23/15: Referred to the House Natural Resources Subcommittee on Federal Lands. | Sacramento-San Joaquin Delta National Heritage Area Establishment Act - Establishes the Sacramento-San Joaquin Delta National Heritage Area in California. | SUPPORT, pursuant to Board action to support S.29 / H.R. 486, March 2011. | This bill establishes the "Sacramento-San Joaquin Delta Heritage Area" and designates the Delta Protection Commission (DPC) as the management entity for the Heritage Area. The bill authorizes funding for the DPC to develop a management plan for the Heritage Area that must be consistent with the Delta Plan adopted by the Delta Stewardship Council. |
| H.R. 1278 Capps (D-CA) | 3/23/15: Referred to House Natural Resources Subcommittee on Water and Power. | Water Infrastructure Resiliency and Sustainability Act of 2015 – Authorizes the Administrator of the U.S. Environmental Protection Agency to establish a program of awarding grants to owners or operators of water systems to increase resiliency or adaptability of the systems to any forecasted changes related to hydrologic conditions. | SUPPORT, pursuant to Board Action June, 2015. | This bill, if passed, may offer benefits to Metropolitan through potential opportunities to participate in grant programs authorized through the law. The program would offer grant funding of \$50 million for five fiscal years for a total of \$250 million. |
| H.R.1296 Hunter (R-CA) | 9/22/16: Passed out of the House, awaiting Senate action. | This bill amends the San Luis Rey Indian Water Rights Settlement Act to approve and ratify all provisions of the settlement agreement dated January 30, 2015, and approved by the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians (California), the San Luis Rey River Indian Water Authority, the City of Escondido, California, the Vista Irrigation District, and the United States. | SUPPORT, pursuant to Board-adopted 2016 federal legislative strategy. | This bill would bring closure to San Luis Rey Indian Water Rights litigation and support local water supply certainty in northern San Diego County. |

Metropolitan Water District of Southern California
Federal Legislative Matrix –October 10, 2016 114th Congress

| Bill Author | Location | Title - Summary | MWD Position | Effects on Metropolitan |
|--------------------------------|--|--|--|--|
| H.R.1485 Amodei (R-NV) | 4/8/15: Referred to the House Natural Resources Subcommittee on Water and Power. | Federal Lands Invasive Species Control, Prevention, and Management Act – legislation to improve the control and management of invasive species that threaten and harm Federal lands under the jurisdiction of the Secretary of Agriculture and the Secretary of the Interior. | SUPPORT , pursuant to Board action to support H.R.3994, introduced in the 113 th Congress. | This law would require the Secretaries of Agriculture and the Interior to manage federal lands under their respective jurisdictions to control invasive species. The bill specifically provides that it does not authorize either Secretary to suspend water deliveries or diversions or otherwise prevent the operation of a public water supply system as a means of controlling invasive species. |
| H.R. 2689 Walters (R-CA) | 6/10/15: Referred to the House Transportation and Infrastructure Subcommittee on Water, Resources and Environment. | Clarification of Scope of Eligible Water Resources Projects – legislation to clarify the scope of eligible water resources projects under the Water Resources Development Act of 1986 and the Water Resources Reform and Development Act of 2014. | SUPPORT , pursuant to Board-adopted legislative 2015 strategy; and Board action on S. 601 (Boxer) and H.R. 3080 (Shuster) in the 113 th Congress; and Water Recycling Policy Principles (Jan. 1997). | This law would expand the scope of eligible water resources projects authorized by the Water Resources Development Act to include water supply projects designed to reclaim or reuse municipal wastewater or impaired surface groundwater. |
| H.R.2993 Matsui (D-CA) | 4/20/16: Hearing held before the House Natural Resources Subcommittee on Water, Power and Oceans. | Water Recycling Acceleration Act of 2015 - To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize funding for water recycling projects in areas experiencing severe, extreme, or exceptional drought. | SUPPORT , pursuant to Board-adopted 2016 legislative priorities. | Could directly benefit Metropolitan and member agencies by allowing Title XVI projects that have not previously received congressional authorization to be authorized to compete for Title XVI funding. |

Metropolitan Water District of Southern California
Federal Legislative Matrix –October 10, 2016 114th Congress

| Bill Author | Location | Title - Summary | MWD Position | Effects on Metropolitan |
|--|---|---|--|---|
| H.R.4582 Denham (R-CA) | 7/5/16: Passed the House. 7/6/16: Referred to the Senate Committee on Energy and Natural Resources. | Save Our Salmon Act or the “SOS Act” – legislation to exclude striped bass from the anadromous fish doubling requirement in section 3406(b)(1) of the Central Valley Project Improvement Act. | SUPPORT , pursuant to Board-adopted 2016 legislative priorities; and Board action on AB 2336 (Fuller) in 2010. | Metropolitan has long advocated for legislative policies to reduce predation among the many stressors harming California's native and endangered species, including helping to advance state legislation, AB 2336, in 2010 by then Assembly Member Jean Fuller. |
| H.R. 4615 Huffman (D-CA) | 2/25/16: Introduced and referred to the House Ways and Means Committee. | “Water Conservation Rebate Tax Parity Act” . To amend the Internal Revenue Code of 1986 to exclude from gross income amounts received from a water department for water conservation efficiency measures and water runoff management improvements. | SUPPORT , pursuant to Board-adopted 2016 legislative priorities. | There is uncertainty about whether rebates for water conservation measures are taxable. This legislation would clarify that gross income does not include the value of a subsidy provided by a public water utility for the purchase or installation of water conservation measures. |
| H.R.4954 Defazio (D-OR) | 4/18/16: Referred to House Transportation and Infrastructure Water, Resources and Environment Subcommittee. | Water Quality Protection and Job Creation Act of 2016 – authorizes funds for wastewater infrastructure projects for fiscal years 2017 through 2021. | SUPPORT, and seek amendments , pursuant to Board-adopted 2016 legislative priorities. | The bill provides federal funding to address water quality issues from wastewater and stormwater discharges through State Revolving Fund loans. Staff recommends increasing funding for recycled water projects within the bill. |
| H.R. 5303 Shuster (R-PA) To accompany Measure: S.2848 of Inhofe (R-OK) | 9/28/16: Passed out of the House with a vote of 399-25. Awaiting Senate Conference with S.2848. | Water Resources Development Act of 2016 – legislation to provide for improvements to the rivers and harbors of the United States, to provide for conservation and development of water and related resources. | Support, if amended , pursuant to Board-adopted 2016 legislative priorities and support of H.R. 3080 (Shuster) in 2014. | In addition to authorizing funds to construct various projects, the bill and its Senate counterpart (S. 2848, Inhofe) contain differing provisions related to reservoir operations that Metropolitan supports amending to ensure optimizing storage without compromising flood control. |

Metropolitan Water District of Southern California
Federal Legislative Matrix –October 10, 2016 114th Congress

| Bill Author | Location | Title - Summary | MWD Position | Effects on Metropolitan |
|---|---|---|---|---|
| H.R.5984 Calvert (R-CA) Companion Measure: S.1983 Boxer (D-CA) | 9/22/16: Reported out favorably from the House Natural Resources Committee. | Pechanga Band of Luiseno Mission Indians Water Rights Settlement Act - authorizes the Pechanga Band of Luiseno Mission Indians Water Rights Settlement. | SUPPORT, pursuant to Board- adopted action on legislative settlement. | The Act seeks to achieve a final settlement of the Pechanga's claims to water rights in the Santa Margarita River Watershed that includes the Pechanga, Rancho California Water District, Eastern Municipal Water District (EMWD), and the United States. |
| S.176 Boxer (D-CA) Companion Measure: H.R.291 Napolitano (D-CA) | 1/13/15: Referred to the Senate Committee on Environment and Public Works. | Water in the 21st Century Act, or “W21” – This bill establishes within the Environmental Protection Agency (EPA) a WaterSense program to identify, label, and promote water efficient products, buildings, landscapes, facilities, processes, and services. | SUPPORT, pursuant to Board- adopted 2015 federal legislative strategy, and support of S. 2771 introduced in 113th Congress. | Metropolitan's Integrated Resources Plan calls for increased conservation and water use efficiency. By authorizing the WaterSense program, HR 291 would advance conservation programs and provide increased review and labeling of water conservation products and services for commercial, institutional and residential use. In addition, the residential water efficiency incentive programs could provide a funding source for Metropolitan's conservation rebate programs. Metropolitan sought amendments to S. 2771 in the 113th Congress to broaden eligibility for the Water Infrastructure Financing and Innovation Act (WIFIA), and those amendments were included in S. 176. |

Metropolitan Water District of Southern California
Federal Legislative Matrix –October 10, 2016 114th Congress

| Bill Author | Location | Title - Summary | MWD Position | Effects on Metropolitan |
|--|---|--|--|--|
| S. 414 Feinstein (D-CA) | 10/8/15: Hearing held before the Senate Energy and Natural Resources Subcommittee on Public Lands, Forests, and Mining. | California Desert Conservation and Recreation Act of 2015 – this bill would provide for both wilderness preservation and recreational activity in desert portions of Southern California, while also setting forth the terms and conditions for renewable energy development in the area. | SUPPORT , pursuant to Board action, June 2011, and based on same action on S.138 in the 112th Congress. | Metropolitan sought amendments that were added to the bill to explicitly provide protections for the continued use, operation, maintenance, replacement and reconstruction of existing Metropolitan facilities and rights of way within the protected desert areas. |
| S. 460 Portman (R-OH) Companion Measure: H.R.212 Latta (R-OH) | 2/11/15: Referred to the Senate Committee on Environment and Public Works | Drinking Water Protection Act - legislation to amend the Safe Drinking Water Act to develop a strategic plan for the assessment and management of the risk of algal toxins in drinking water. | SUPPORT , pursuant to Board action, May 2015. | Currently, there is no federal or state strategic plan for managing algal toxins in drinking water. A federal strategic plan would provide guidance to the drinking water industry regarding assessment and management of the risk of algal blooms in drinking water. |
| S. 630 Feinstein (D-CA) Companion Measure: H.R.1208 Garamendi (D-CA) | 6/15/16: Hearing held before the Senate Energy and Natural Resources Subcommittee on National Parks. | Sacramento-San Joaquin Delta National Heritage Area Establishment Act - Establishes the Sacramento-San Joaquin Delta National Heritage Area in California. | SUPPORT , pursuant to Board action to support S.29/H.R. 486, March 2011. | This bill establishes the "Sacramento-San Joaquin Delta Heritage Area" and designates the Delta Protection Commission (DPC) as the management entity for the Heritage Area. The bill authorizes funding for the DPC to develop a management plan for the Heritage Area that must be consistent with the Delta Plan adopted by the Delta Stewardship Council. |

Metropolitan Water District of Southern California
Federal Legislative Matrix –October 10, 2016 114th Congress

| Bill Author | Location | Title - Summary | MWD Position | Effects on Metropolitan |
|--|--|--|---|--|
| S.1894 Feinstein (D-CA) | 10/8/15: Hearing held before the Senate Committee on Energy and Natural Resources. | California Emergency Drought Relief Act of 2015 - seeks to alleviate the impacts of the drought in California by: (1) directing federal agencies to use their authority and discretion under existing laws and regulations to improve water supply conditions through operational flexibility measures; (2) providing direction and funding for actions to benefit fish and refuges; (3) providing financial assistance for water supply, water conservation, and drought-alleviation projects; and (4) authorizing new programs and creating new financing and funding programs. | SUPPORT, and seek amendments, pursuant to Board action, September, 2015. | The operational flexibility measures of this bill could provide water supply and water quality benefits to Metropolitan. Actions to benefit species in the bill could improve information about listed species. Funding for water supply projects within the bill may provide short-term relief to areas of the state at risk of facing an inadequate supply of water. |
| S.1983 Boxer (D-CA) Companion Measure: H.R.5984 Calvert (R-CA) | 2/3/16: Markup held before the Senate Indian Affairs Committee. Reported out without amendments or objections. | Pechanga Band of Luiseno Mission Indians Water Rights Settlement Act - authorizes the Pechanga Band of Luiseno Mission Indians Water Rights Settlement. | SUPPORT, pursuant to Board-adopted action on legislative settlement. | The Act seeks to achieve a final settlement of the Pechanga's claims to water rights in the Santa Margarita River Watershed that includes the Pechanga, Rancho California Water District, Eastern Municipal Water District (EMWD), and the United States. |
| S.2533 Feinstein (D-CA) | 5/17/16: Hearing held before the Senate Energy and Natural Resources Subcommittee on Water and Power. | California Long-Term Provisions for Water Supply and Short-Term Provisions for Emergency Drought Relief Act – legislation to provide short-term water supplies to drought-stricken California and to provide long-term investments in drought resiliency throughout the Western United States. | SUPPORT, and seek amendments, pursuant to Board-adopted federal priorities on drought, August, 2015. | The bill authorizes funding and provides regulatory assistance to regions affected by drought for immediate and long term projects and could help ensure greater reliability for the State Water Project, Colorado River Aqueduct and local water supplies. |

Metropolitan Water District of Southern California
Federal Legislative Matrix –October 10, 2016 114th Congress

| Bill Author | Location | Title - Summary | MWD Position | Effects on Metropolitan |
|---|---|--|--|--|
| S.2673 Baldwin (D-WI) | 3/14/16: Introduced and referred to the Senate Committee on Environment and Public Works. | Water Technology Acceleration Act of 2016 – legislation to amend the Federal Water Pollution Control Act and the Safe Drinking Water Act to accelerate the development and deployment of innovative water technologies. | SUPPORT , pursuant to Board-adopted federal legislative priorities. | \$100,000,000 would be appropriated in funding for water technologies through this act. The bill also requires technical assistance be made available to deploy State water revolving funds available for water technologies. |
| S.2848 Inhofe (R-OK) Companion Measure: H.R.5303 Shuster (R-PA) | 9/15/16: Passed the Senate, awaiting conference with House on H.R.5303. | Water Resources Development Act of 2016 – legislation to provide for improvements to the rivers and harbors of the United States, to provide for conservation and development of water and related resources. | Support, if amended , pursuant to Board-adopted 2016 legislative priorities and support of H.R. 3080 (Shuster) in 2014. | In addition to authorizing funds to construct various projects, the bill and its House counterpart (H.R. 5303, Shuster) contain differing provisions related to reservoir operations that Metropolitan supports amending to ensure optimizing storage without compromising flood control. |
| S. 2902 Flake (R-AZ) | 9/15/16: Reported out of the Senate Energy and Resources Committee. | Western Water Supply and Planning Act of 2016 – legislation to provide for long-term water supplies, optimal use of existing water supply infrastructure, and protection of existing water rights. | OPPOSE, unless amended , pursuant to Board-adopted 2016 legislative priorities. | Despite favorable provisions related to invasive species, reservoir operations and infrastructure development, Section 104 of the bill would prohibit the Secretary from releasing water that was voluntarily contributed to the active storage of Lake Mead and in conflict with Metropolitan's water rights. |

Metropolitan is actively tracking numerous other federal bills, including, but not limited to, the following: H.R.2898 (Valadao, R-CA) Western Water and American Food Security Act of 2015; H.R.2983 (Huffman, D-CA) Drought Recovery and Resilience Act of 2015; S.1837 (Boxer, D-CA) Drought Recovery and Resilience Act of 2015

**Metropolitan Water District of Southern California
State Legislation Matrix 10/7/2016**

| 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; dead bill | Beneficial Use: Storing of Water Underground: Would have provided that diversion of water underground to protect water quality, prevent land subsidence or to prevent or remediate chronic lowering of groundwater levels is a beneficial use. Existing forfeiture provisions for non-use of water for periods longer than five years would not have applied to water being beneficially used for these specific purposes. | SUPPORT (PENDING) | Included safeguards to ensure that permanent underground storage was implemented in reasonable manner. Required SWRCB to confirm that flows are not already appropriated or diverted at times when federal and state water projects or other permitted reservoir releases are required to release supplemental flows to meet water quality objectives in Delta watershed. |
| AB 935 Salas (D) Sponsor: Author | Amended 8/17/16 Signed by Governor; Chapter 601, Statutes of 2016 | Water Projects: Authorizes, but does not appropriate, up to \$7 million in funding for the Reverse Flow Pump-Back Facilities on the Friant-Kern Canal Restoration Project. | WATCH based upon June 2007 Board-adopted Delta Action Plan | Final version of bill only authorizes funding for pump-back project which has no negative impact to State Water Project's ability to deliver water supply through the Delta. |
| AB 1201 Salas (D) Sponsor: Author | Amended 8/17/15 Senate Appropriations Committee; dead bill | Delta: Predation: Directed Department of Fish and Wildlife to develop science-based approach to address 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. |

**Metropolitan Water District of Southern California
State Legislation Matrix 10/7/2016**

| Bill Number Author | Amended Date; Location | Title-Summary | MWD Position | Effects on Metropolitan |
|---|--|---|---|---|
| AB 1613 Committee on Budget Sponsor: Senate, Assembly and Governor compromise | Amended 8/30/16 Signed by Governor; Chapter 370, Statutes of 2016 | Budget Act of 2016: Represents compromise agreement between Senate, Assembly and Governor for expenditure of cap-and-trade auction revenues. Appropriates \$900 million from Greenhouse Gas Emission Reduction Fund for fiscal year 2016/17, in addition to the continuously appropriated funds. Proposal leaves roughly \$500 million in reserve. | <p style="text-align: center;">WATCH</p> based upon June 2007 Board-adopted Delta Action Plan | August 22 amendment disqualified any watershed or wetland funding for CA EcoRestore program. CA EcoRestore, advanced by Brown Administration in April 2015, represents much-needed effort to accelerate environmental restoration in the Delta and encompasses both projects that are required as mitigation as well as unrelated projects with broader public benefits. Final version of bill deletes all watershed and wetland funding, along with the prohibitive CA EcoRestore language. |
| AB 1713 Eggman (D) Sponsor: Author | Introduced 1/26/16 Held on Assembly Appropriations Committee suspense file; dead bill | Delta: Peripheral Canal: Would have prohibited construction of CA Water Fix unless authorized by statewide vote on or after January 1, 2017. | <p style="text-align: center;">OPPOSE</p> based upon June 2007 Board-adopted Delta Action Plan | Established dangerous precedent for major infrastructure investments and jeopardized only viable solution to secure water supplies for two-thirds of state while improving health of Delta ecosystem. |

**Metropolitan Water District of Southern California
State Legislation Matrix 10/7/2016**

| Bill Number Author | Amended Date; Location | Title-Summary | MWD Position | Effects on Metropolitan |
|---|--|---|--|---|
| AB 1755 Dodd (D) Sponsor: California Water Foundation and Bay Area Council | Amended 8/1/16 Signed by Governor; Chapter 506, Statutes of 2016 | Open and Transparent Water Data Act: Requires Department of Water Resources, in consultation with State Water Resources Control Board, Department of Fish and Wildlife and California Water Quality Monitoring Council to create and maintain statewide integrated water data platform by August 1, 2020, for the coordination and integration of existing water and ecological data to improve water resource management and transparency. | SUPPORT pursuant to Board action on April 12, 2016 | Greater information sharing and transparency is a positive. |
| AB 2022 Gordon (D) Sponsors: Orange County Water District; Orange County Sanitation District; and WateReuse California | Amended 8/15/16 Signed by Governor; Chapter 408, Statutes of 2016 | Advanced Purified Demonstration Water: Authorizes bottling of advanced purified demonstration water, as defined, for educational purposes to promote water recycling. | SUPPORT based upon Board- adopted policy principles on water recycling (1998) and water use efficiency (2009) | Would authorize use of important outreach tool to increase public awareness and acceptance of recycled water. |

**Metropolitan Water District of Southern California
State Legislation Matrix 10/7/2016**

| Bill Number Author | Amended Date; Location | Title-Summary | MWD Position | Effects on Metropolitan |
|--|--|---|--|--|
| AB 2304 Levine (D) Sponsor: Environmental Defense Fund | Amended 5/11/16 Held in Assembly Appropriations Committee; dead bill | California Water Market Exchange: Would have created CA Water Market Exchange Clearinghouse within Natural Resources Agency, managed by five-member board appointed by Governor. Required Clearinghouse to create centralized water market platform by December 31, 2018. Authorized unspecified administrative fee to cover costs. Exchange would have power to require submission of details regarding water transfers and exchanges before they occur, including price, quantity and potential third-party impacts. | OPPOSE UNLESS AMENDED pursuant to Board action on April 12, 2016 | Amendments were necessary to ensure no additional approvals would be imposed by Clearinghouse and to eliminate imposition of new costs on such water transfers. |
| AB 2348 Levine (D) Sponsor: Author | Amended 5/27/16 Vetoed by Governor on 9/27/16 | Department of Finance: Infrastructure Investment: Would have authorized Department of Finance (DOF) to identify infrastructure projects in California where DOF could guarantee rate of return for investments in large infrastructure projects by the California Public Employees Retirement System. | WATCH pursuant to Board action on June 14, 2016 | Measure would have made State of California a guarantor of PERS investments. Governor Brown vetoed the bill as he felt it was not prudent to force the General Fund to make up the difference if any such investment failed to meet the expected return. |
| AB 2470 Gonzalez (D) Sponsor: Sycuan Band of the Kumeyaay Nation | Amended 4/26/16 Signed by Governor; Chapter 301, Statutes of 2016 | Municipal Water Service: Indian Tribes: Requires municipal water district, upon request of tribe, to provide water service to tribe's lands that are not within water district. Only applies if tribe's land meets specified requirements. Water district must provide water service at same terms available to current customers. | WATCH pursuant to Board action on April 12, 2016 | Extension of service does not require formal annexation or LAFCO approval. Tribal land is deemed included in water district's service area if tribe makes all service payments and complies with agreement entered into with water agencies. |

**Metropolitan Water District of Southern California
State Legislation Matrix 10/7/2016**

| Bill Number Author | Amended Date; Location | Title-Summary | MWD Position | Effects on Metropolitan |
|--|---|--|---|--|
| AB 2488 Dababneh (D) Sponsor: Metropolitan Water District of Southern California | Amended 8/19/16 Signed by Governor; Chapter 387, Statutes of 2016 | Protected Species: Unarmored Threespine Stickleback (UTS): Allows Metropolitan to perform important maintenance and repairs on Foothill Feeder, under certain conditions, by authorizing Department of Fish and Wildlife to issue incidental take permit for potential take of UTS, a California fully protected species. | SUPPORT pursuant to Board action on February 9, 2016 | Authorizes Metropolitan to move forward with periodic dewatering of Foothill Feeder, provided specified steps are taken to contribute to conservation of UTS. Foothill Feeder is one of the primary conveyance pipelines for State Water Project water supplies to service area. |
| AB 2583 Frazier (D) Sponsor: Author | Amended 3/17/16 Assembly Water, Parks and Wildlife Committee; dead bill | Sacramento-San Joaquin Delta Reform Act of 2009: Would have created new requirements to delay or halt progress on California WaterFix. | OPPOSE based upon June 2007 Board-adopted Delta Action Plan | Created unnecessary and double standard for advancing projects to modernize statewide water system. Represented step backward in meeting California's co-equal goals of a reliable water supply and restored Delta ecosystem. |
| AB 2909 Levine (D) Sponsor: Author | Amended 8/1/16 Held on Senate Appropriations Committee suspense file; dead bill | Water Transfer or Exchange: Expedited Review: Required SWRCB to develop and implement expedited 30-day review process for change petitions for reoccurring or environmentally beneficial transfers. Required DWR to develop 30- day review process for reoccurring water transfers between State Water Project (SWP) contractors and reoccurring water transfers utilizing SWP facilities. | SUPPORT IF AMENDED pursuant to Board action on April 12, 2016 | Was intended to help expedite and increase efficiency of water transfers to address critical needs throughout state. |

**Metropolitan Water District of Southern California
State Legislation Matrix 10/7/2016**

| Bill Number Author | Amended Date; Location | Title-Summary | MWD Position | Effects on Metropolitan |
|---|---|--|---|--|
| ACA 8 Bloom (D) Sponsor: West Basin Municipal Water District | As Introduced Assembly Local Government Committee; dead bill | Local Government Financing: Would have placed constitutional amendment on November 2016 ballot to create exception under Article XIII A, Article XIII C and Article XVI of the CA Constitution for special districts, municipalities and counties. Created new exemption to 1% Prop. 13 ad valorem property tax cap so long as taxes were imposed for funding water, stormwater or wastewater-related infrastructure and was approved by 55% of voters. Would have also lowered vote threshold for adopting special taxes and to incur bonded indebtedness to 55% majority vote, so long as funding or financing is for purposes of water, stormwater or wastewater related infrastructure. Did not affect existing exemptions to Props. 13, 218 or 26. | SUPPORT pursuant to Board action on April 12, 2016 | Capital improvement needs for California's water, stormwater and wastewater infrastructure have been estimated in billions of dollars over coming decades. ACA 8 was designed to improve opportunities for funding critical water infrastructure throughout California. |
| SB 163 Hertzberg (D) Sponsor: Author | As Amended 8/18/2016 Assembly Environmental Safety and Toxics Materials Committee; dead bill | Bail: Pretrial Release: Final version of bill was completely rewritten to address criminal hearings on the release of persons on his/her own recognizance. June 8 amendment would have required NPDES permit holders to submit plans to SWRCB for achieving beneficial use of treated wastewater by January 1, 2023, and to reduce treated wastewater discharges to ocean by 50% by January 1, 2033. | OPPOSE UNLESS AMENDED (on 6/8/16 amendment) pursuant to Board action on June 14, 2016 | Author completely rewrote bill to amend Penal Code and, as such, is no longer of interest to Metropolitan. June 8 amendment would have encouraged use of recycled water; however, it failed to take into account relevant environmental, economic and technological factors that water and wastewater agencies must consider related to the development and reuse of treated wastewater. |

**Metropolitan Water District of Southern California
State Legislation Matrix 10/7/2016**

| Bill Number Author | Amended Date; Location | Title-Summary | MWD Position | Effects on Metropolitan |
|--|--|--|--|--|
| SB 471 Pavley (D) Sponsor: Author | Amended 8/17/15 Assembly Appropriations Committee; dead bill | Water, Energy and Reduction of Greenhouse Gas Emissions (GHG): Would have authorized grant and loan program for water projects that result in net reduction of water-related GHGs. | 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 have provided access to funding for projects that reduce water-related GHG emissions. |
| SB 552 Wolk (D) Sponsor: SWRCB | Amended 8/19/16 Signed by Governor; Chapter 773, Statutes of 2016 | Public Water Systems: Disadvantaged Communities: Consolidation or Extension of Service: Authorizes SWRCB to contract with third-party administrator to provide administrative and managerial services to designated public water system that fails to provide adequate, affordable and safe drinking water. | WATCH pursuant to Board-adopted policy principles on June 14, 2016 | Will ensure that new areas to be served by water suppliers in the chain of distribution are consulted prior to ordering consolidation or extension of service. Measure excludes counties as well as charter cities and counties from application of bill. |
| SB 554 Wolk (D) Sponsor: Author | Amended 8/17/16 Vetoed by Governor on 9/30/16 | Delta Levee Maintenance: Would have authorized Central Valley Flood Protection Board, until July 1, 2020, to provide reimbursement of funds for costs that do not exceed 75% of state share for Delta levee maintenance or improvements. | OPPOSE based upon June 2007 Board-adopted Delta Action Plan | Levee improvements in Delta are important to protect public health and safety, critical infrastructure and fragile ecosystem. It is also important, however, to ensure the best use of limited state resources. Governor Brown vetoed bill in light of ongoing efforts by Delta Stewardship Council, the Department of Water Resources and Delta Protection Commission to determine levee protection needs. In light of the fact the existing 75 percent state cost share does not sunset until July 2018, Governor Brown felt the bill was premature. |

**Metropolitan Water District of Southern California
State Legislation Matrix 10/7/2016**

| Bill Number Author | Amended Date; Location | Title-Summary | MWD Position | Effects on Metropolitan |
|---|--|--|---|--|
| SB 1318 Wolk (D) Sponsor: Leadership Council for Justice and Accountability | Amended 6/1/2016 Assembly Local Government Committee; dead bill | Local Government: Drinking Water Infrastructure or Services: Wastewater Infrastructure or Services: Required LAFCOs to identify disadvantaged unincorporated areas that lack adequate drinking and wastewater services and directed them to develop plans to address deficiencies. Measure sought to give LAFCOs authority to initiate annexation proceedings for disadvantaged unincorporated areas for accessing services of existing water or wastewater systems. | <p style="text-align: center;">OPPOSE</p> pursuant to Board-adopted policy principles on 6/14/2016 | Provides unprecedented expansion of LAFCOs scope of authority. Fundamentally fails to provide thorough process to annex, consolidate or extend services by all water agencies within chain of distribution, including wholesalers. |
| SB 1386 Wolk (D) Sponsor: Defenders of Wildlife | Amended 8/1/2016 Signed by Governor; Chapter 545, Statutes of 2016, | Resource Conservation: Working and Natural Lands: Declares the protection and management of natural and working lands as state policy and an important strategy in meeting state's greenhouse gas reduction goals. Requires all state agencies, departments, boards, and commissions to consider policy when revising, adopting or establishing policies, regulations, expenditures or grant criteria relating to the protection and management of natural and working lands, as well to ensure efforts are consistent with the state's greenhouse gas emission reduction goals | <p style="text-align: center;">WATCH</p> pursuant to June 2007 Board-adopted Delta Action Plan | Could result in prioritizing protection of farmland, irrespective of identified benefits resulting from changing management and use. |



DISCUSSION ITEM

October 17, 2016

TO: Board of Directors

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

Robert Hunter
General Manager

Staff Contact: Heather Baez

SUBJECT: MWDOC Legislative Policy Principles for 2017

STAFF RECOMMENDATION

Staff recommends the Board of Directors receive and file report.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

DETAILED REPORT

MWDOC maintains a set of legislative policy principles that serve as guidelines for staff and our legislative advocates on issues that are of importance to the District. The policy principles here are a culmination of current policies and initial changes recommended by staff.

Staff will solicit input from the member agencies through the general managers and other participating city staff via the MWDOC Member Agencies Managers group on October 20. Staff will coordinate feedback from the Board and any input received from the member agencies and bring the proposed Policy Principles to the Board for consideration of approval and adoption at the November PAL committee meeting.

Staff requests that the Board provide suggested modifications to these Policy Principles on or before November 4, 2016 to have them ready for the PAL meeting in November.

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

Municipal Water District of Orange County **Legislative and Regulatory Policy Principles**

Priorities for 2017:

- 1. Promote voluntary water transfers as a means of making the most efficient use possible of all available water supplies.*
- 2. Advocate for long-term water conservation legislation and regulations that preserve local agency discretion in meeting conservation goals.*
- 3. Increase public awareness of the environmental and water supply benefits of the California WaterFix.*

IMPORTED WATER SUPPLY

It is MWDOC's policy to support legislation *and regulation* that:

- 1) Ensures the implementation of a state water plan that balances California's competing water needs and results in a reliable supply of high- quality water for Orange County.
- 2) Facilitates the implementation of the California WaterFix, the co- equal goals of reliable water supply and ecosystem restoration, and related policies that provide long term, comprehensive solutions for the San Francisco Bay/Sacramento-San Joaquin River Delta that:
 - a) Provides reliable water supplies to meet California's short- and long- term needs;
 - b) Improves the ability to transport water across the Delta either for, or in supplement to, State Water Project deliveries;
 - c) Improves the quality of water delivered from the Delta;
 - d) Enhances the Bay-Delta's ecological health in a balanced manner that takes into account all factors that have contributed to its degradation;
 - e) Employs sound scientific research and evaluation to advance the co-equal goals of improved water supply and ecosystem sustainability.
- 3) Funds a comprehensive Bay-Delta solution in a manner that equitably apportions costs to all beneficiaries.
- 4) Seeks to expedite the California WaterFix to improve water reliability and security.

- 5) Provides funding for Colorado River water quality and supply management efforts.
- 6) Provides conveyance and storage facilities that are cost-effective for MWDOC and its member agencies, while improving the reliability and quality of the water supply.
- 7) Authorizes and appropriates the federal share of funding for the California WaterFix *and EcoRestore Bay-Delta solution*.
- 8) Authorizes and appropriates the ongoing state share of funding for the California WaterFix *and EcoRestore Bay-Delta solution*.

It is MWDOC's policy to oppose legislation or regulation that:

- 1) Would make urban water supplies less reliable, or would substantially increase the cost of imported water without also improving the reliability and/ or quality of such water.
- 2) Imposes water user fees to fund ~~Bay-Delta ecosystem restoration and other public purposes~~, non-water supply improvements in the Delta region.
- 3) *Delays implementation of the California WaterFix.*
- 4) *Would impose conservation mandates that do not account for the unique local water-supply circumstances of each water district.*

LOCAL WATER RESOURCES

It is MWDOC's policy to support legislation and regulation that:

- 1) Supports the development of, provides funding for, and authorizes and/or facilitates the expanded use of, water recycling, potable reuse, conservation, groundwater recovery and recharge, storage, brackish and ocean water desalination and surface water development projects.
- 2) Recognizes that recycled water is a valuable resource that should be evaluated for economic justification, permitted and managed as such.
- 3) Authorizes local governmental agencies to regulate the discharge of contaminants to the sewer collection system that may adversely affect water recycling and reuse.
- 4) Reduces and/or streamlines regulatory burdens on water recycling projects and brackish and ocean water desalination projects.
- 5) Supports ecosystem restoration, increased stormwater capture and sediment management activities ~~at Prado Dam~~.
- 6) Authorizes, promotes, and provides incentives for indirect and direct potable reuse projects.
- 7) Recognizes that the reliability of supplies to the end user is the primary goal of water suppliers.

8) Ensures that decision-making with regard to stormwater management and recapture is kept at the local or regional level through local water agencies, stormwater districts, cities, counties, and regional water management groups.

9) Recognizes that stormwater management and recapture are important tools in a diversified water portfolio that can help to achieve improved water quality in local surface and groundwater supplies, and augment surface and groundwater supplies for local water agencies.

10) Reduces or removes regulatory hurdles that hinder the use of stormwater.

11) Provides incentives for the local or regional use of stormwater management and recapture.

It is MWDOC's policy to oppose legislation *or regulation* that:

1) Restricts a local governmental agency's ability to develop their local resources in a manner that is cost-effective, environmentally sensitive, and protective of public health.

2) Imposes barriers to the safe application of recycled water and continues to define recycled water as a waste.

3) Would make urban water supplies less reliable, or would substantially increase the cost of imported water without also improving the reliability and/ or quality of such water.

4) Restricts or limits a local governmental agency's ability to establish local priorities for water resources planning decisions.

WATER USE EFFICIENCY

It is MWDOC's policy to support legislation *and regulation* that:

1) Furthers the statewide goal of a 20% reduction in per capita water use by 2020 as set forth in SBx7-7, enacted in November 2009.

2) Would allow flexibility and options for compliance in achieving statewide water reduction goals.

3) Seeks to cost-effectively improve water efficiency standards for water-using devices.

4) Provides loans and grants to fund incentives for water conserving devices or practices.

5) Advances and ensures accurate reporting of the implementation of water efficiency measures of the Best Management Practices (BMPs) for the California Urban Water Conservation Council's Memorandum of Understanding.

6) Improves landscape water use efficiency and Commercial, Institutional and Industrial (CII) water use efficiency programs.

~~7) Requires individual or sub-metering to be built in new construction of multiple unit residential buildings.~~

8) Encourages stakeholders to investigate and develop regionally appropriate statewide landscape water conservation standards and regulations that incorporate local land use and climate factors.

9) Provides incentives, funding, and other assistance where needed to facilitate market transformation and gain wider implementation of water-efficient indoor and outdoor technologies and practices.

10) Provides incentives, funding, and other assistance where needed to facilitate water use efficiency partnerships with the energy efficiency sector.

11) Recognizes past investments in water use efficiency measures, especially from the demand hardening perspective.

It is MWDOC's policy to oppose legislation or regulations that:

1) Fails to ensure balance in the implementation of water efficiency practices and requirements for both urban and agricultural use.

2) Would repeal cost-effective efficiency standards for water-using devices.

3) *Diminishes local agency control or flexibility in implementing water efficiency practices or standards.*

WATER QUALITY

It is MWDOC's policy to support:

1) Legislation that protects the quality of surface water and groundwater including the reduction of salt loading to groundwater basins.

2) Funding that helps agencies meet state and federal water quality standards.

3) The establishment and/ or implementation of standards for water-borne contaminants based on sound science and with consideration for cost-effectiveness.

It is MWDOC's policy to oppose:

1) Legislation that could compromise the quality of surface water and groundwater supplies.

2) Legislation that establishes and/ or implements standards for water-borne contaminants without regard for sound science or consideration for cost effectiveness.

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

It is MWDOC's policy to oppose legislation that:

- 1) Compromises the existing governance structure and the representation of member agencies on the Metropolitan Water District Board of Directors.
- 2) Would restrict MET's rate-making ability.

WATER TRANSFERS

It is MWDOC's policy to support legislation *and regulation* that:

- 1) Encourages and facilitates voluntary water transfers.
- 2) Provides appropriate protection or mitigation for impacts on the environment, aquifers, water-rights holders and third-parties to the transfer including those with interests in the facilities being used.
- 3) Legislation that encourages transfers which augment existing water supplies, especially in dry years.

It is MWDOC's policy to oppose legislation *or regulation* that:

- 1) Undermines the operations and maintenance of the conveyance system conveying the water.
- 2) Interferes with the financial integrity of a water utility and compromises water quality.
- 3) Increases regulatory or procedural barriers to water transfers at the local or state level.

WATER INFRASTRUCTURE FINANCING

It is MWDOC's policy to support legislation *and regulation* that:

- 1) Employs a "beneficiary pays" principle that establishes a clear nexus between the cost paid to the direct benefit received. Likewise, those who do not benefit from a particular project or program should not be required to pay for them.
- 2) Establishes grants or other funding opportunities for local and regional water infrastructure projects.
- 3) Considers local investments made in infrastructure, programs, mitigation and restoration in determining appropriate cost shares for water infrastructure investments.
- 4) Would reduce the cost of financing water infrastructure planning and construction, such as tax-credit financing, tax-exempt municipal bonds, Water Resources Development Act (WRDA), Water Infrastructure Finance Innovation Act (WIFIA), the Environmental Infrastructure Accounts and other funding mechanisms.

It is MWDOC's policy to oppose legislation *or regulation* that:

- 1) Establishes a fee or tax that does not result in a clear benefit to the District, its member agencies, and their customers.

2) Would reduce the total available water infrastructure financing measures such as WIFIA, state-revolving funds, and others.

ENERGY

It is MWDOC's policy to support legislation *or regulation* that:

- 1) Facilitates the development and expansion of clean, renewable energy in California, including hydropower.
- 2) Supports water supply reliability as the primary focus of water agencies and energy intensity of water supplies as a secondary factor.
- 3) Recognizes the role and value of the water industry investment in water use efficiency and therefore recognizes WUE efforts towards greenhouse gas reduction, including funding such activities.
- 4) Recognizes hydroelectric power as a clean, renewable energy source and that its generation and use meets the greenhouse gas emission reduction compliance requirements called for in the Global Warming Solutions Act of 2006 (AB 32).

FISCAL POLICY

It is MWDOC's policy to support legislation *or regulation* that:

- 1) Requires the federal and state governments to provide a subvention to reimburse local governments for all mandated costs or regulatory actions.

It is MWDOC's policy to oppose legislation *or regulation* that:

- 1) Is inconsistent with the District's current investment policies and practices.
- 2) Pre-empts the District's ability to impose or change water rates, fees, or assessments.
- 3) Impairs the District's ability to maintain levels of reserve funds that it deems necessary and appropriate.
- 4) Impairs the District's ability to provide services to its member agencies and ensure full cost recovery.
- 5) Makes any unilateral reallocation of District revenues, or those of its member agencies, by the state unless the state takes compensatory measures to restore those funds.
- 6) Would impose mandated costs or regulatory constraints on the District or its member agencies without reimbursement.
- 7) Mandates a specific rate structure for retail water agencies.
- 8) Imposes a "public goods charge" or "water tax" on public water agencies or their ratepayers.

GOVERNANCE

It is MWDOC's policy to support legislation *or regulation* that:

1) Advances good government practices and public transparency measures in a manner that does not take a "one-size fits all" approach, respects local government control, and facilitates technological efficiencies to meet state reporting and disclosure requirements.

It is MWDOC's policy to oppose legislation *or regulation* that:

1) Advances local government reform measures by imposing unnecessarily broad burdens upon all local governments, particularly when there is no demonstration of rampant and wide-spread violations of the public trust.

2) Shifts state programs, responsibilities and costs to local governments without first considering funding to support the shift.

3) Seeks to limit or rescind local control.

4) Reduces or diminishes the authority of the District to govern its affairs.

5) Imposes new costs on the District and the ratepayers absent a clear and necessary benefit.

6) Resolves state budget shortfalls through shifts in the allocation of property tax revenue or through fees for which there is no direct nexus to benefits received.

PUBLIC EMPLOYEE PENSION REFORM

It is MWDOC's policy to support legislation that:

1) Seeks to contain or reform public employee pension and other post-employment benefit (OPEB) cost obligations that are borne by public agencies via taxpayers and ratepayers.



ACTION ITEM
October 19, 2016

TO: Board of Directors

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

Robert Hunter, General Manager

Staff Contact: Karl Seckel

SUBJECT: DISCUSSION REGARDING ADOPTING AN OPPOSE POSITION ON PROPOSITIONS, INCLUDING PROP. 53

STAFF RECOMMENDATION

Staff recommends the Board of Directors take an oppose position on Proposition 53.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

SUMMARY

The Board recently discussed the issue of taking a position on Proposition 53 Revenue Bonds, Statewide Voter Approval, Initiative Constitutional Amendment and recommended the Board convene during the PAL meeting to consider a position. Legal Counsel has confirmed that the Board can take a position on a Proposition, but we are not allowed to “advocate” on the position taken. We are to participate in educational discussions on such issues.

With respect to the Proposition, A YES vote on Prop 53 means that the use of State revenue bonds totaling more than \$2 billion for a project that is funded, owned, or managed by the state would require statewide voter approval. A NO vote on this measure means: State revenue bonds could continue to be used without voter approval.

Attached is the Legislative Analyst Discussion of Proposition 53 and arguments for and against and rebuttals to the Proposition.

It is recommended that the Board take an oppose position on Proposition 53.

| | | | |
|---|----------------------|------------|-----------|
| Budgeted (Y/N): N/A | Budgeted amount: N/A | Core __ | Choice __ |
| Action item amount: | | Line item: | |
| Fiscal Impact (explain if unbudgeted): | | | |

Proposition 53
Revenue Bonds. Statewide Voter Approval.
Initiative Constitutional Amendment.

Yes/No Statement

A **YES** vote on this measure means: State revenue bonds totaling more than \$2 billion for a project that is funded, owned, or managed by the state would require statewide voter approval.

A **NO** vote on this measure means: State revenue bonds could continue to be used without voter approval.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact

- Fiscal impact on state and local governments is unknown and would depend on which projects are affected by the measure, whether they are approved by voters, and whether any alternative projects or activities implemented by government agencies have higher or lower costs than the original project proposal.

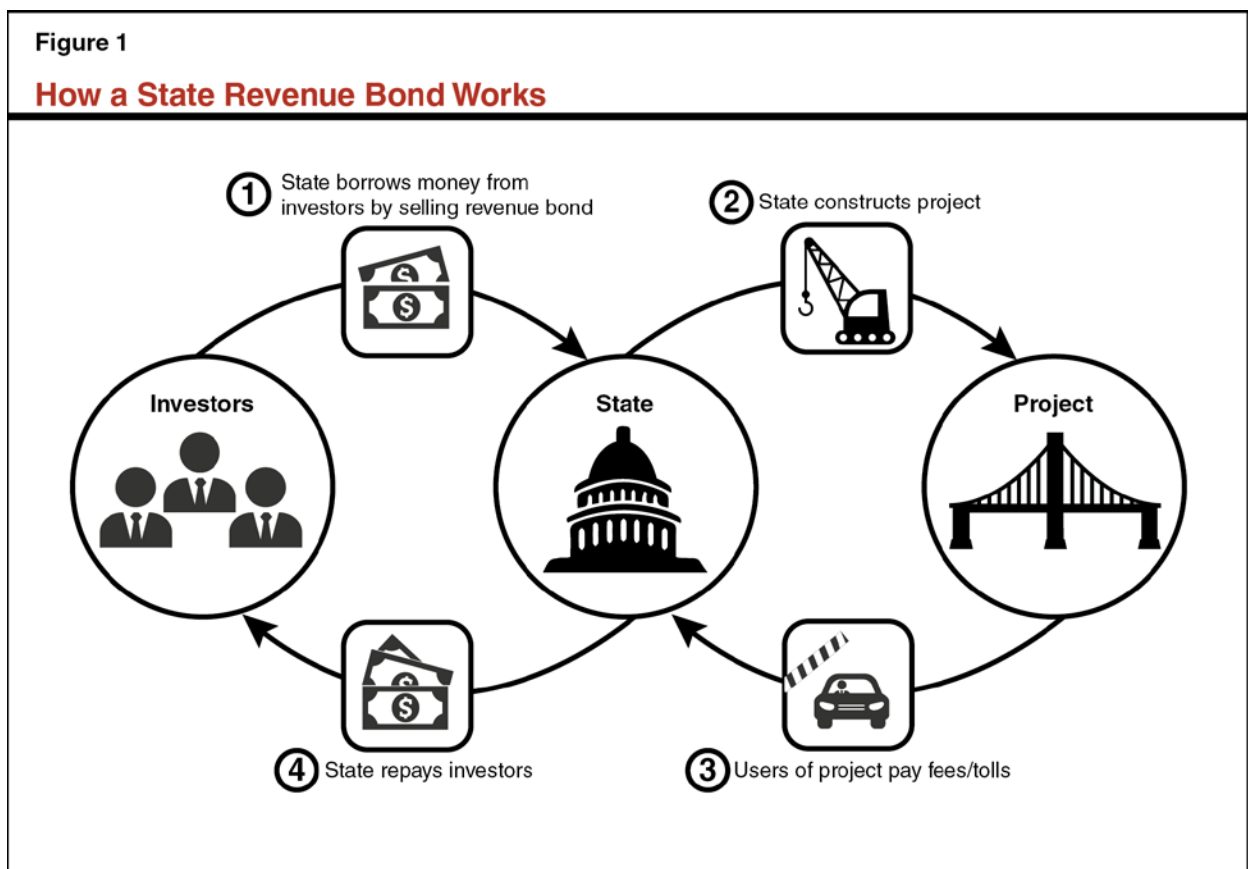
Ballot Label

Fiscal Impact: State and local fiscal effects are unknown and would depend on which projects are affected by the measure and what actions government agencies and voters take in response to the measure's voting requirement.

BACKGROUND

State Pays for Infrastructure Projects Using Cash and Borrowing. The state builds various types of infrastructure projects like bridges, dams, prisons, and office buildings. In some cases, the state pays for projects on a pay-as-you-go basis using tax revenues received each year. In other cases, the state borrows money to pay for projects, especially for larger projects.

State Borrows Money Using Bonds. The main way the state borrows money is by selling bonds to investors. Over time, the state pays back these investors with interest. The state sells two main types of bonds: general obligation bonds and revenue bonds. The state repays general obligation bonds using the state General Fund, which is funded primarily by income and sales taxes. In contrast, the state usually repays revenue bonds using revenue from fees or other charges paid by the users of the project (such as from bridge tolls). Figure 1 shows how a state revenue bond generally works. (For more information on the state's use of bonds, see the "Overview of State Bond Debt" later in this voter guide.)



Voter Approval Not Required for State Revenue Bonds. Under the California Constitution, state general obligation bonds need voter approval before the state can use them to pay for a project. State revenue bonds do not need voter approval under existing state law.

PROPOSAL

Requires Voter Approval of Certain State Revenue Bonds. The measure requires statewide voter approval of revenue bonds that meet all of the following conditions:

- ***State Sells the Revenue Bonds.*** Revenue bonds are sold by the state, as well as certain associations that the state creates or in which the state is a member. The statewide voting requirement does not apply to bonds sold by cities, counties, schools, community colleges, and special districts.
- ***Bonds Sold for State Project.*** The revenue bonds are sold for a project that is funded, owned, operated, or managed by the state. The measure also contains provisions to prevent a single project from being separated into multiple projects to avoid voter approval.
- ***Bonds for the Project Exceed \$2 Billion.*** The revenue bonds sold for a project total more than \$2 billion. Under the measure, this amount would be adjusted every year for inflation.

FISCAL EFFECTS

The measure's fiscal effects on state and local governments are unknown. It is unlikely there would be very many projects large enough to be affected by the measure's requirement for voter approval. However, for those projects that are affected, the fiscal effects would depend on what

actions the state, local governments, and voters take in response to this measure's voting requirement.

Measure Likely to Cover Relatively Few Projects

Few Projects Cost Over \$2 Billion. Relatively few state projects are likely to be large enough to meet the measure's \$2 billion requirement for voter approval. Two state projects that are over \$2 billion and might use revenue bonds are (1) the California "WaterFix" project, which would build two tunnels to move water through the Sacramento-San Joaquin River Delta; and (2) the California High-Speed Rail project. It is possible other large projects could be affected in the future, such as new bridges, dams, or highway toll roads.

Uncertain Which Projects Would Be Affected. While it is unlikely that very many projects would be large enough to be affected by the measure, there is some uncertainty regarding which projects would be affected. This is because the measure does not define a "project." As a result, the courts and the state would have to make decisions about what they consider to be a single project. For example, in some cases a project could be narrowly defined as a single building (like a hospital). In other cases, a project could be more broadly defined as including multiple buildings in a larger complex (like a medical center). A broader definition could result in more projects meeting the \$2 billion requirement, thus requiring voter approval.

How Government Agencies and Voters Respond Would Affect Costs

Government and Voters Could Take Different Actions. When a proposed project meets this measure's requirements for voter approval, governments and voters could respond in different ways. These responses, in turn, would determine the fiscal effects, if any, of this measure:

- On the one hand, if the state held an election and voters approved the project, the state could proceed with the project as planned using revenue bonds. As a result, there would be little fiscal effect from this measure.
- On the other hand, if voters rejected the project or the state chose not to hold an election as required by this measure, the state would not be able to use revenue bonds for the project. Without access to revenue bonds, the state and/or local governments might take other actions to meet the concerns the project was intended to address. They might (1) replace the large project with other smaller projects, (2) perform other activities that would reduce the need for the project, or (3) find other ways to pay for the project instead of using revenue bonds. These actions could result in either higher or lower net costs depending on the specific alternatives that governments pursued and how they compared to the original project proposal.

Some Actions Could Result in Higher Costs. Some types of government and voter response to this measure could result in higher costs for the state and local governments. For example, it could be more expensive in some cases for state and local governments to complete several smaller projects than it would have been for the state to build the original large project. This could happen if the large project was a more efficient way to meet the concerns that the project addressed.

The state also could fund a project in a different way than revenue bonds that might be more expensive. For example, the state could partner with a private company that would sell bonds to fund the project. The state would then have to pay back the private company. This could result in higher costs for the state because the private company would need to make a profit on the

project. Also, the private company would probably pay higher interest rates than the state. The private company would likely pass these higher borrowing costs on to the state.

Some Actions Could Result in Lower Costs. Other types of responses could result in lower state and local costs. For example, state and local governments might find ways to make better use of existing infrastructure. For instance, local water agencies might implement water conservation measures, which could reduce the need to build new dams or other projects to provide more water. If existing infrastructure could meet the state's needs adequately with these types of actions, there would be savings from not having to spend the money to build a new project.

The state also could fund a project in a way that might be cheaper than using revenue bonds. For example, the state could borrow money using general obligation bonds. While state general obligation bonds require voter approval, there would be some savings because they have lower interest rates than revenue bonds.

Official Voter Information Guide

PROP REVENUE BONDS. STATEWIDE VOTER APPROVAL. 53 INITIATIVE CONSTITUTIONAL AMENDMENT.

ARGUMENT IN FAVOR OF PROPOSITION 53

Proposition 53, the Stop Blank Checks initiative, is simple. It only does two things:

- 1) It requires California voter approval for STATE projects that would use over \$2 billion in state revenue bonds.
- 2) BEFORE THAT VOTE, it ensures full disclosure of the TOTAL COST of any state revenue bond project greater than \$2 billion.

Currently, other state bonds for water, school and transportation projects require voter approval. But a loophole in state law allows politicians and unaccountable state agencies to circumvent a public vote and borrow BILLIONS in state revenue bond debt for massive state projects WITHOUT VOTER APPROVAL.

Proposition 53 will STOP POLITICIANS FROM ISSUING BLANK CHECK DEBT to complete billion dollar state boondoggles. Take California's bullet train. They told us it would cost California taxpayers \$10 billion. Now we know it's going to cost more than \$60 billion! Yet, you don't have a right to vote on that huge increase!

Right now, there is NO VOTE BY THE LEGISLATURE OR THE PEOPLE required to issue these massive state mega-bonds. Unelected and unaccountable state bureaucrats have

ARGUMENT AGAINST PROPOSITION 53

PROP. 53 ERODES LOCAL CONTROL AND CONTAINS NO EXEMPTION FOR EMERGENCIES/NATURAL DISASTERS

Prop. 53 is opposed by a broad, bipartisan coalition of organizations including California Professional Firefighters, California Chamber of Commerce, California Hospital Association, firefighters, paramedics, family farmers, environmentalists, nurses, law enforcement, and local governments because it would erode local control and jeopardize vital infrastructure improvements in communities across California.

ERODES LOCAL CONTROL BY REQUIRING STATEWIDE VOTE FOR SOME LOCAL PROJECTS

Groups representing California's cities, counties and local water agencies, including League of California Cities and Association of California Water Agencies, all oppose Prop. 53. Under this measure, cities and towns that come together to form a joint powers agency or similar body with the state to build needed infrastructure could have to put their local project on a statewide ballot. That means voters in faraway regions could veto some local projects your community needs and supports—like water storage or bridge safety repairs—even though those voters don't use or care about your local improvements.

all the power and you have to pay through higher water rates or increased fees!

Proposition 53 says IF YOU HAVE TO PAY, YOU SHOULD HAVE A SAY.

Proposition 53 just GIVES YOU A VOICE, A VOTE, added TRANSPARENCY, and it HOLDS POLITICIANS ACCOUNTABLE. That's it! Read the initiative for yourself.

Proposition 53 STOPS POLITICIANS FROM LYING about the real cost of state mega-projects. Willie Brown, once the state's most powerful politician, wrote that lowballing initial budgets is commonplace with public projects. He said, "The idea is to get going. Start digging a hole and make it so big, there's no alternative to coming up with the money to fill it in."

Despite the scare tactics of the politicians, bureaucrats and corporations that feed off of the state's public debt, Proposition 53 DOES NOT IMPACT LOCAL PROJECTS, the University of California, freeway construction or needed response after a natural disaster.

Proposition 53 SIMPLY APPLIES THE LONG-STANDING CONSTITUTIONAL PROTECTION against politicians imposing higher debt without voter approval to MASSIVE STATE REVENUE BONDS.

Proposition 53 just ENSURES FULL BUDGET DISCLOSURE AND VOTER APPROVAL of state revenue bonds for California's mega-bucks projects that will affect future generations.

Join California's leading state and local taxpayer organizations, small businesses, working families and nearly one million Californians who put Proposition 53 on the ballot. Vote YES on 53!

NO EXEMPTION FOR EMERGENCIES OR NATURAL DISASTERS

California Professional Firefighters, representing 30,000 firefighters and paramedics, warns: *"Prop. 53 irresponsibly fails to contain an exemption for natural disasters or major emergencies. That flaw could delay our state's ability to rebuild critical infrastructure following earthquakes, wildfires, floods or other natural or man-made disasters."*

THREATENS WATER SUPPLY AND DROUGHT PREPAREDNESS

The Association of California Water Agencies says: *"Prop. 53 could threaten a wide range of local water projects including storage, desalination, recycling and other vital projects to protect our water supply and access to clean, safe drinking water. Prop. 53 will definitely impede our ability to prepare for future droughts."*

JEOPARDIZES ABILITY TO REPAIR OUTDATED INFRASTRUCTURE

Our communities already suffer from a massive backlog of local infrastructure needs, including improving water supply and delivery, making safety repairs to bridges, overpasses and freeways, and renovating community hospitals to make them earthquake safe. Prop. 53 will jeopardize local communities' ability to repair aging infrastructure. The California State Sheriffs' Association says: *"Reliable infrastructure is critical to public safety. This measure erodes local control and creates new hurdles that could block communities from upgrading critical infrastructure such as bridges, water systems and hospitals."*

DINO CORTOPASSI, Retired farmer

JON COUPAL, President

Howard Jarvis Taxpayers Association

JOHN MCGINNESS, Elected Sheriff
(Retired)

REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 53

Prop. 53 doesn't give you a say. Quite the opposite. Prop. 53 erodes your voice and the voice of your community. Please read it for yourself.

PROP. 53 ERODES LOCAL CONTROL BY FORCING STATEWIDE VOTES ON SOME LOCAL PROJECTS

Local government groups representing California's cities, counties and local water districts, including the League of California Cities and Association of California Water Agencies, oppose this measure, warning it could give voters in faraway regions the power to deny local projects your community needs.

PROP. 53 DOES NOT INCLUDE AN EXEMPTION FOR EMERGENCIES/DISASTERS

California Professional Firefighters warns Prop. 53's failure to contain an exemption for emergencies *"could delay our state's ability to rebuild critical infrastructure following earthquakes, wildfires, floods or other natural disasters."*

PROP. 53 WOULD JEOPARDIZE MUCH NEEDED REPAIRS TO WATER SUPPLY, BRIDGES, AND OTHER CRITICAL INFRASTRUCTURE

Prop. 53 will jeopardize your community's ability to fix aging infrastructure, including improving water supply, making bridge and

FINANCED AND PROMOTED BY MULTI-MILLIONAIRE WITH A PERSONAL AGENDA

This measure is financed entirely by one multi-millionaire and his family, who are spending millions in an attempt to disrupt a single water infrastructure project. Irrespective of one's position on that single project, his initiative has far-reaching, negative implications for other infrastructure projects throughout California. We cannot allow one multi-millionaire to abuse the initiative system to push his narrow personal agenda.

OPPOSED BY A BROAD BIPARTISAN COALITION:

- California Professional Firefighters •
- California State Sheriffs' Association •
- Association of California Water Agencies •
- League of California Cities •
- California Hospital Association •
- California Chamber of Commerce

Prop. 53 is a misguided measure that:

- Erodes local control by requiring a statewide vote on some local projects.
- Disrupts our ability to build critically needed water storage and supply.
- Contains no exemptions for emergencies/natural disasters.

[www.NoProp53.com](http://www.noprop53.com)

(<http://www.noprop53.com>)

LOU PAULSON, President

California Professional Firefighters

TIM QUINN, Executive Director

Association of California Water
Agencies

MARK GHILARDUCCI, Director

California Office of Emergency
Services

REBUTTAL TO ARGUMENT AGAINST PROPOSITION 53

freeway safety repairs, and renovating hospitals to make them earthquake safe.

PROP. 53 IS A SELF-INTEREST ABUSE OF THE INITIATIVE PROCESS

Prop. 53 is a multi-million dollar attempt to stop one single project. We cannot allow one well-financed individual to abuse the initiative process and jeopardize vital infrastructure and safety projects around the state.

PROP. 53 IS OPPOSED BY A BROAD, BIPARTISAN COALITION OF ORGANIZATIONS INCLUDING:

- California Professional Firefighters •
- California State Sheriffs' Association •
- Association of California Water Agencies • California Hospital Association • League of California Cities • Firefighters, paramedics, family farmers, environmentalists, nurses, cities, counties, local water districts, and law enforcement.

www.NoProp53.com

(<http://www.noprop53.com>)

LOU PAULSON, President

California Professional Firefighters

KEITH DUNN, Executive Director

Self-Help Counties Coalition

SHERIFF DONNY YOUNGBLOOD, President

California State Sheriffs' Association

Proposition 53 trusts voters.

Proposition 53's opponents are afraid of voters.

OPPONENTS INCLUDE SPECIAL INTERESTS WHO HAVE FOUGHT TAX REFORM FOR DECADES, EVEN PROPOSITION 13. They include insiders who profit from massive state revenue bond projects, and politicians and bureaucrats who don't trust you to decide whether to approve boondoggles like the \$64 billion bullet train and the \$6 billion Bay Bridge fiasco that now requires \$6 tolls.

IF TAXPAYERS HAVE TO PAY, THEY SHOULD HAVE A SAY! Prop. 53 holds politicians accountable by giving you a vote on state mega-projects paid for by state revenue bonds over \$2 billion. Voters will have the right to decide, just as we do with all other kinds of state bonds. And Prop. 53 finally unmasks the true cost of all multibillion dollar state bonds.

PROP. 53 TRUSTS VOTERS to decide whether to approve the massive multibillion dollar increase in the bullet train's price tag.

PROP. 53 TRUSTS

VOTERS—California taxpayers—to decide by a simple majority whether to spend \$17 billion to tunnel water under the Delta to Southern California.

PROP. 53 WOULD HAVE TRUSTED VOTERS to decide whether extravagant design changes on the Bay Bridge were worth \$5 billion in cost overruns and outrageous tolls that working families can't afford.

Prop. 53 clearly exempts local projects. Read it yourself at

www.YESon53.com

(<http://yeson53.com>).

The Sacramento Bee said Prop. 53 won't hurt disaster relief because " . . . *emergency repairs are traditionally paid for by the federal government or other sources—not revenue bonds.*"

IF YOU TRUST TAXPAYERS AND VOTERS more than lobbyists, politicians and bureaucrats, VOTE YES ON PROPOSITION 53!

JON COUPAL, President

Howard Jarvis Taxpayers Association

KAREN MITCHOFF, Contra Costa
County Supervisor

MAURY HANNIGAN, California
Highway Patrol Commissioner
(Retired)

Arguments printed on this page are the opinions of the authors, and have not been checked for accuracy by any official agency.



ACTION ITEM
October 19, 2016

TO: Board of Directors

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

Robert Hunter, General Manager

Staff Contact: Karl Seckel

SUBJECT: DISCUSSION REGARDING ADOPTING SUPPORT POSITION ON THE CALIFORNIA WATER FIX

STAFF RECOMMENDATION

Staff recommends the Board of Directors adopt a general support position for the California WaterFix, but that we also note that changes in the project costs or supply development could result in changes to this position as additional information becomes available.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

SUMMARY

The Board recently discussed the issue of taking a position on the California WaterFix and recommended the Board convene during the PAL meeting to consider a position. During the recent discussions, the following comments were provided:

- Much is known about the design and intent of the California WaterFix, but much remains to be determined, especially with respect to the financing.
- The modeling study from the OC Water Reliability Study quantified the impact the California WaterFix has on future water reliability for MET and Orange County and concluded that:
 - Orange County should continue to support and strongly advocate for the implementation of the California WaterFix, as it represents the most cost-effective large-scale reliability solution to improving regional water supply reliability and hence the reliability for Orange County. The supply analyses herein assumed that the California WaterFix results in “recovery” of historical supplies in the amount of 440,000 afy on average. Changes in the project costs or supply development could result in changes to this recommendation.

| | | | |
|--|----------------------|---------|-----------|
| Budgeted (Y/N): N/A | Budgeted amount: N/A | Core __ | Choice __ |
| Action item amount: | Line item: | | |
| Fiscal Impact (explain if unbudgeted): | | | |

- Although the California WaterFix is the lowest-cost solution to improving regional supply reliability, there are multiple other paths to achieve reliability if this project is not implemented as planned.
- MWDOC has been using the information from the OC Water Reliability Study to urge general “support” for the California WaterFix, especially given that there is a lot at risk in the overall delta area that needs “fixing”, besides the water management. There is quite a large consensus that the delta is in an unsustainable position and needs to be “fixed” to deal with the many competing interests for the future, especially with regards to ensuring the area is sustainable for the long run and that the fisheries declines are dealt with via restoration of habitat areas to improve the future health.
- It was noted that the Metropolitan Water District of Southern California Board has not yet taken a position on the California WaterFix although both the MET Board and the MWDOC Board supported the preferred alternative 4 under the Bay-Delta Conservation Plan EIR in 2013 and both Boards supported alternative 4A under the partially Recirculated Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement (RDEIR/SDEIS) for the Bay Delta Conservation Plan/ California WaterFix released on July 10, 2015 (see attached). Please also note that on July 24, 2014 MWDOC submitted its formal comments on the BDCP Draft EIR/EIS and attached that document to our comment letter on the California WaterFix comments as part of the official CEQA/NEPA record (attached).
- The Board could take an outright support position or a “conditioned” support position. A “conditioned” support would provide qualifiers or conditions on the Board’s ultimate approval or support for the project and could include conditions on the yield or costs. The conditions could be specific or general. Examples of conditions could include:
 - We have typically looked at the combined exports by the CVP and the SWP as being the yield of the project and we have typically looked at restoring exports to the pre-Biops levels of being in the range of 4.7 to 5.3 MAF or above. We have also noted that without needed investments, the total exports could decline to 3.5 MAF or even less. A condition could be placed on the total exports being at a particular level or above. Typically, we have not conditioned our support on a specific quantity of yield.
 - The cost of yield from the project has been analyzed in many ways. A general condition could be that the cost of yield from the SWP shall not be more than _____ (to be defined). The condition would have to be written in a manner to define both the numerator and denominator in the calculation of the cost of the yield from the project. Typically, we have not conditioned our support based on a specific cost of the yield.
 - Some would view that pre-defining the yield or costs could expose our negotiating position and/or it could hamper future discussions.

It is recommended that the Board take a general support position for the California WaterFix, but that we also note that changes in the project costs or supply development could result in changes to this position as additional information becomes available.



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City of Buena Park
East Orange County Water District
El Toro Water District
Emerald Bay Service District
City of Fountain Valley
City of Garden Grove
Golden State Water Co.
City of Huntington Beach
Irvine Ranch Water District
Laguna Beach County Water District
City of La Habra
City of La Palma
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City of Newport Beach
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Santa Margarita Water District
City of Seal Beach
Serrano Water District
South Coast Water District
Trabuco Canyon Water District
City of Tustin
City of Westminster
Yorba Linda Water District

October 21, 2015

BDCP/California WaterFix
Comments
P.O. Box 1919
Sacramento, CA 95812

Dear BDCP/California WaterFix:

**Subject: Recirculated Draft Environmental Impact Report/
Supplemental Draft Environmental Impact Statement (RDEIR/SDEIS)**

The Municipal Water District of Orange County (MWDOC) is pleased to submit comments on the partially Recirculated Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement (RDEIR/SDEIS) for the Bay Delta Conservation Plan/California WaterFix released on July 10, 2015. Please note that on July 24, 2014, MWDOC submitted its formal comments on the BDCP Draft EIR/EIS and has attached that document to this letter as part of the official CEQA/NEPA record.

The Municipal Water District of Orange County (MWDOC) is a wholesale water supplier and resource-planning agency governed by a publicly elected seven-member Board of Directors. MWDOC is the third largest member agency of the Metropolitan Water District of Southern California (Metropolitan). Its service area covers all of Orange County with the exception of the three original Metropolitan member cities of Anaheim, Fullerton, and Santa Ana. MWDOC and the "Three Cities" coordinate water management planning. MWDOC serves Orange County through 27 cities and water agencies and one investor owned utility, including the Orange County Water District who manages the Lower Santa Ana River Groundwater Basin.

Orange County has a population of 3.1 million people, approximately eight percent of California's entire population, and an economy with a gross domestic product of over \$200 billion or 10 percent of the state's overall economy of \$2 trillion. Orange County's share of California's non-farm businesses was about 10 percent in 2011. In addition, Orange County is a major regional employment, higher education and tourism center.

MWDOC's mission is "to provide reliable, high-quality water supplies from Metropolitan and other sources to meet the present and future needs [of Orange County] at an equitable and economical cost, and to promote water use efficiency for all of Orange County." This mission is implemented through coordinated water management and planning with appropriate investments in water use efficiency, water supply development, system reliability improvements and emergency preparedness. Our mission is supported by collaboration with our member agencies and through public outreach, water education, and legislative advocacy. MWDOC strongly supports the state and federal effort under the BDCP/California WaterFix to enhance the reliability of State Water Project (SWP) supplies and bring stability to Delta exports over the long term. Orange County remains dependent on imported water to meet approximately 45 percent of our average annual demand, with the SWP deliveries from the Delta meeting approximately half of those needs. Orange County is an acknowledged national leader in water recycling and reuse and leads the Metropolitan service area in the development of highly reliable drought proof supplies and has a long history of aggressive implementation of water conservation. Despite the extensive diversification of Orange County's water supply portfolio, we specifically rely on the SWP to meet demands as well as to support groundwater conjunctive use programs and large scale water recycling programs - it is an essential part of our regional and local water reliability strategy. We have seen very clearly the vital role storage reserves and reliable local water supplies have played in this current unprecedented four-year drought. It will be even more important in the future as California copes with climate change and the potential for seismic and other emergencies.

General Comments

1. MWDOC supports the water supply facilities as described in the Modified Proposed Alternative 4A.

- New intakes in the northern Delta on the Sacramento River would provide the ability to capture increased flow in wet and normal years and address reverse-flow conditions in the southern Delta that are a result of relying solely on the operation of the existing south delta pumping.
- The proposed twin-tunnel conveyance system would not only enhance water supply reliability and provide much needed stability to State Water Project deliveries it would also protect the people and economy of California from long-term catastrophic threats such as seismic events and adapt the state's backbone water supply system to deal with the anticipated effects of climate change and sea level rise.
- Expected water quality improvements in SWP supplies from the new water facilities described in Alternative 4A will result in reduced salinity, total organic carbon and bromide providing water quality benefits to consumers and promoting water recycling and reuse in Orange County and Southern California and improving the salinity balance in groundwater basins accessing this water. The latter issues are key to the successful implementation of the Governor's Water Action Plan.
- Proposed project modifications identified in the RDEIR/SEIS to consolidate intake

pumping into a single facility in the southern Delta on SWP property near Clifton Court Forebay further reduces the physical footprint of the Project and is responsive to concerns expressed by Delta communities and compatible with existing land use activities.

2. **MWDOC continues to support sound science and adaptive management as key strategies in enhancing the reliability of State Water Project operations and also supports efforts to improve real-time monitoring to protect both threatened natural fisheries and water supply reliability.**
3. **Implementation of Alternative 4A requires a significant investment by water supply agencies and their ratepayers. That investment continues to require greater certainty in regulatory assurances and participative management inclusive of the water supply contractors.**
 - The RDEIR/SEIS proposes a significant change in the approach to permitting and achievement of the legislatively mandated co-equal goals of eco system restoration and water supply reliability. MWDOC still believes its ratepayers' investment requires that the Final Plan address the issues of regulatory assurances and greater certainty of SWP deliveries.
4. **The MWDOC Board of Directors has specifically raised a concern with the project schedule for the California WaterFix, which currently appears headed towards an operational date of 2031, thereby leaving 16 years and \$15 billion of uncertainty for a water system underpinning a \$2 trillion dollar state economy.**
 - While the Board realizes a project of this magnitude cannot be implemented immediately, every effort should be made to initiate early actions and to approach contracting in a manner that provides incentives for early completion; procurement of long lead time specialty items, including the Tunnel Boring Machines, should be pursued. If DWR has limitations on its contracting flexibility, these should be resolved via administrative or legislative methods or the contracting should be delegated to others, with the overall goal of advancing the completion date. Furthermore, once the funding commitment has been made for the construction phase, regulatory flexibility should be implemented to improve reliability of supplies until such time as the construction has been completed and the operations of the WaterFix begins.

MWDOC offers the following additional, more specific, comments on the RDEIR/SEIS:

Water Supply Reliability. The primary reliability benefit of a north delta diversion is the ability to capture increased flow in wet and normal years when compared to the existing south delta pumps only. Capturing this increased flow in those years is critical to the foundation of Southern California's dry year strategy, reliable local supplies and storage. The current four year drought and the previous 2008-2010 drought clearly demonstrated the importance of investments made by Metropolitan in storage. It also highlighted the value of groundwater basins in Orange County and elsewhere in the Metropolitan service area as a storage asset that could reduce the demand for imported supplies in dry years. Being able to maintain high levels of storage in Metropolitan's system and in conjunctive use groundwater

basins of its member agencies is dependent on maximizing SWP supplies during those wet and normal years when the system is much less stressed. The Final EIR/EIS should provide additional information on yield, operating criteria and the benefits of real-time operations in contributing to increasing the amount of water supply yield. This is critical information needed in planning to optimize all storage assets in southern California and enhance reliability during the inevitable prolonged dry periods that will occur. The Final EIR/EIS should also include a discussion in the No Action Alternative of the likelihood and future effects on SWP operations of further fish protection restrictions, i.e., high outflow operating criteria, and its effect on water supply yield and water quality in the absence of implementation of the Preferred Alternative.

Change in Regulatory Approach. An important factor in the BDCP and its achievement of the co-equal goals was that it sought to provide more stable and reliable SWP supplies through obtaining a 50 year permit for water supply operations under Section 10 of the ESA and the Natural Communities Conservation Planning Act (NCCPA) under CESA. The change in permitting approach through ESA Section 7 and CESA Section 2081(b) is a more standard permitting path but one that contains less certainty and assurances on future requirements. A final plan should include formalized agreements between the permitting agencies and the permit holders that provides a participatory role for the involvement of the permit holders and water contractors in operational decisions. This formal agreement can take the form of an MOU identified in RDEIR/SEIS and include the Adaptive Management approach of the BDCP and the reliance on collaborative science to adjust to actual conditions and make operational decisions jointly with the permit holders. The final plan should include an MOU or other form of agreement that seeks to incorporate the "No Surprises" rule and regulatory assurances that are similar to those contained in *Safe Harbor Agreements* for listed species and *Candidate Conservation Agreements with Assurances* for currently unlisted species. These arrangements are regularly used with landowners as a means to better manage lands for habitat conservation and species protection. MWDOC strongly believes that the final plan should include these formal mechanisms that provide assurances, guarantees and participative management that reflect the intent of the BDCP and can be obtained under ESA Section 7 and CESA Section 2081(b).

Habitat and Mitigation. Under the BDCP, water conveyance facilities and habitat enhancement and restoration were linked in the same permitting process. Under the modifications of the permitting process contained in the RDEIR/SEIS, they have been delinked and the total amount of habitat acreage has been significantly reduced. While overall habitat acreage has been reduced, the amount of habitat and mitigation related to construction of the water conveyance facilities under the modified Preferred Alternative 4A has substantially increased from the amount identified under the BDCP. Under the BDCP, mitigation for direct impacts of the water conveyance facilities was significantly less than the 16,000 acres identified in Alternative 4A. Under the BDCP, water conveyance facilities (CM1) had cost responsibility for a share of habitat mitigation occurring under several of the other conservation measures (CMs 2-22). It was understood that the basis of the quantification of acreage for habitat enhancement assigned to the water suppliers was linked to the physical impacts resulting from the construction of the water conveyance facilities under CM1. Preferred Alternative 4A has a smaller construction footprint than was contemplated in the BDCP DEIR/EIS yet the amount of mitigation acreage has substantially increased. The final EIR/EIS should provide a clear explanation of how the 16,000 acres was arrived at, specifically detailing in easily understood table(s), the direct and indirect

October 21, 2015

impacts associated with water conveyance facilities and how the total mitigation acreage was derived. If the mitigation acreage is in excess of the physical impacts of the Project, then the Final Plan should indicate the rationale as to why it is the financial responsibility of the water supply contractors.

Thank you for your time and consideration of these comments. MWDOC looks forward to a Final Plan and Final EIR/EIS being released by the Lead Agencies that addresses our comments. If you should have any questions, please do not hesitate to call me at (714) 593-5026.

Sincerely,



Robert J. Hunter
General Manager

enclosure



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July 24, 2014

Via Email: BDCP.comments@noaa.gov

BDCP Comments
Ryan Wulff, National Marine Fisheries Services
650 Capitol Mall, Suite 5-100
Sacramento, CA 95814

Dear Mr. Wulff,

Subject: Comments of the Municipal Water District of Orange County on the Draft Public Review Bay-Delta Conservation Plan (BDCP), Draft Environmental Impact Report/Environmental Impact Statement, and Draft Implementing Agreement

SUMMARY OVERVIEW

The main points covered in this comment letter are:

1. MWDOC strongly supports the BDCP Preferred Alternative (No. 4) and opposes the No Action Alternative: It is critical to the state's economy and environment that both the State and federal government expeditiously follow through with the decision for adopting and implementing the BDCP.
2. Co-Equal Goals: The BDCP must be implemented in a manner consistent with the co-equal goals adopted by the State. Preferred Alternative (No. 4) is consistent with the Delta Reform Act of 2009's co-equal goals.
3. New Facilities and In-Delta Operational Flexibility: The modernization of the Delta conveyance system is essential in order for habitat restoration and conservation to have its intended effect; Preferred Alternative (No. 4), which incorporates the 9,000 cubic feet per second (cfs) three intake, twin tunnel conveyance system, provides the best balance between operational flexibility and modernizing the conveyance system for environmental benefit and water supply reliability.

4. Reduced Future Reliance: The 2009 Delta legislation called for water agencies to reduce future reliance on the Delta, not to become 100 percent "self-reliant". While efforts in these areas will continue, it is important to note that "reduced reliance" does not equate to and was never intended to require a move to 100 percent "self-reliance" and the notion of co-equal goals was never intended to result in a future with significant reduction in exports from levels achieved before the 2008 bio-opinions.
5. Plan Implementation and Regulatory Assurance: The BDCP must provide the needed implementation and regulatory structure and assurances to help achieve the co-equal goals.
 - a. To us, this means that it is virtually impossible to predict the outcome of the BDCP habitat restoration efforts and endangered species population dynamics, and such a standard should not be required in the DEIR/DEIS.
 - b. Furthermore, this means that changed circumstances under the operation of the BDCP, including the potential for new species listing, be incorporated in such a manner to result in a minimum impact on future water supply exports.
 - c. At this time, the Implementing Agreement, whose purpose is to establish the obligations of the parties toward implementation of the plan, has not been advanced for public review. We would request that the agreement be circulated for public comment.
6. Cost Allocation: MWDOC supports the "beneficiary pays principle" in cost allocation for all responsible parties and beneficiaries.
7. Economy, Environment and Water Management: The State Water Project (SWP) is critically important to the Orange County economy, environment and water management. Implementation of the BDCP is critical to Orange County's future.
 - a. Orange County has invested heavily to diversify our water portfolio but the SWP remains a critical source of low salinity water supply that is currently unacceptably jeopardized by the unsustainability of the current Bay-Delta system.
 - b. Orange County relies on the SWP to support groundwater conjunctive use programs and water recycling programs - it is an essential part of our water reliability strategy that sustains our citizens and businesses.

- c. We support the 9,000 cfs twin tunnel Preferred Alternative (No. 4) provided reasonable assurances are included regarding governance and future decision-making in the process. We strongly advocate for a seat at the table for the water Permittees in the various oversight groups. The investment and decision-making must be structured to achieve a positive outcome for both the SWP and Permittees and the ecosystem restoration in a collaborative, partnership manner.

Detailed comments follow:

INTRODUCTION OF FULL COMMENTS

The Municipal Water District of Orange County (MWDOC) is pleased to submit comments on the Draft Bay Delta Conservation Plan (BDCP) and Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS).

Please note that our comments on the BDCP and Draft EIR/EIS interchangeably use the terminology "BDCP", "BDCP process", "the Bay-Delta Fix" and the "decision-making process" to reflect the entire suite of efforts and decisions in a comprehensive manner.

The Municipal Water District of Orange County (MWDOC) is a wholesale water supplier and resource-planning agency governed by a publicly elected seven-member Board of Directors. MWDOC is the third largest member agency of Metropolitan Water District of Southern California (MET). Its service area covers all of Orange County with the exception of the three original MET member cities of Anaheim, Fullerton, and Santa Ana. MWDOC and the "Three Cities" coordinate water management planning. MWDOC serves Orange County through 27 cities and water agencies and one investor owned utility, including the Orange County Water District who manages the Lower Santa Ana River Groundwater Basin.

MWDOC's mission is "to provide reliable, high-quality supplies [of water] from Metropolitan and other sources to meet the present and future needs [of Orange County] at an equitable and economical cost, and to promote water use efficiency for all of Orange County." This mission is implemented through coordinated water management and planning with appropriate investments in water use efficiency, water supply development, system reliability improvements and emergency preparedness. Our mission is supported by collaboration with our member agencies and through public outreach, water education, and legislative advocacy.

MWDOC strongly supports the BDCP Preferred Alternative (No. 4) and opposes the No Action Alternative; It is critical to the state's economy and environment that both the State and federal Government expeditiously follow through with the decision for adopting and implementing the BDCP.

MWDOC strongly supports the BDCP Preferred Alternative (No. 4) with the expectation that the State and federal government will move steadily forward with its adoption by issuing the Record of Decision and Notice of Determination by the end of this year, and by implementing the Preferred Alternative in accordance with the BDCP schedule.

We compliment the State and federal agencies and stakeholders in developing a thorough, comprehensive and balanced BDCP Preferred Alternative that will help achieve the co-equal goals of ecosystem restoration and water supply reliability. It is vital that the State of California and Federal Government follow through with this tremendous effort in collaborative planning as it is a once in a lifetime opportunity to resolve the long-standing Delta problems, and the cost of no action is too high. Our expectations are that the approximate \$25 billion investment to implement and carry out the BDCP will result in greater certainty in California's water supply reliability, will make measurable improvements in water quality, and will restore significant environmental values in the Delta. The Preferred Alternative appropriately achieves the proper balance between the environmental needs of the Delta watershed with the water supply reliability needs of the entire State of California.

In spite of the world-class efforts of Orange County to provide greater water supply certainty for eight percent of California's population and the \$200 billion economy they represent, Orange County remains dependent on imported water to meet approximately 45 percent of our average annual demand, with the SWP deliveries from the Delta meeting approximately half of those needs. The Delta ecosystem and water supply conveyance problems have long been recognized, and have remained in a continuing state of degradation, conflict, and stalemate. Many years and hundreds of millions of dollars have been spent on study efforts while the delta system continues to be used for water conveyance in a manner for which it was not intended. The longer it takes to begin the resolution, the more expensive it will become. This stalemate has been punctuated by droughts, floods, economic losses, environmental degradation and litigation every decade since the construction of the SWP in the 1960's. We can no longer delay action in the Delta, and urge the State and federal government to quickly move forward with the Preferred Alternative. Failing to act and move forward is not an acceptable alternative.

MWDOC also supports the proposed governance and implementation structure for the BDCP, as the large-scale Habitat Conservation Plan and Natural Community Conservation Plan (HCP/NCCP) to be formed under federal and state Endangered Species Act (ESA). Using the HCP/NCCP governance structure proposal will ensure that

all of the project's environmental and water supply reliability goals and objectives are realized.

The bottom line is that the BDCP Preferred Alternative (No. 4) offers the best solution to achieve greater supply certainty and the governance structure to provide necessary regulatory assurances. Moreover, it provides for a sustainable and balanced solution to achieve the State's policy of co-equal goals.

COMMENTS ON THE DRAFT BDCP AND DEIR/DEIS

Co-Equal Goals: The BDCP must be implemented in a manner consistent with the State policy of co-equal goals. Preferred Alternative (No. 4) is consistent with the Delta Reform Act of 2009's co-equal goals.

The BDCP and Preferred Alternative (No. 4) should be adopted and implemented because they comply with State law and the Sacramento-San Joaquin Delta Reform Act of 2009. The Delta Reform Act establishes one of the basic state goals for the Delta as seeking to:

“Achieve the two coequal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.” Ref: California Public Resources Code Section 29702(a).

The BDCP and the Preferred Alternative balance the co-equal goals established by the Legislature in the Delta Reform Act by proposing to improve 145,000 acres of Delta habitat and permitting new conveyance facilities which will provide operational flexibility and will improve water supply reliability from the Delta.

While some critics of the BDCP have claimed that the plan unduly favors water supply interests and will permit State Water Contractors to export more water than is currently allowed, the BDCP and the Preferred Alternative do not provide a greater amount of water for export. The BDCP estimates that the average water supplies available for export will be 4.7 million acre-feet (MAF) to 5.6 MAF per year. This is the same average currently permitted for export through the Delta today.

The Delta Reform Act of 2009 established the State policy of co-equal goals to provide a more reliable water supply and to protect, restore and enhance the Delta ecosystem. Orange County's primary interests in the successful implementation of the BDCP are:

1. Restoration of SWP supply to pre-2008 capabilities before imposition of the 2008 Delta smelt and salmon/steelhead biological opinions,
2. Assurances that the BDCP will provide greater supply certainty into the future without further significant mandated reductions in exports due to endangered species issues without a fair and balanced procedure, and
3. Protection of the export supply from both catastrophic outages to the Delta levee system from earthquakes and floods and from long-term sea level rise.

While the project will not expand average annual exports, it will provide certainty in the water supply, protect export supplies from catastrophic outages, and allow for a "big gulp, little sip" approach to beneficiaries. Construction of a new north Delta intake for the SWP and Central Valley Project (CVP), a significant investment for beneficiaries, would protect this critical supply from earthquake, flood and seawater intrusion risks. It also would restore a greater level of export supply certainty and reliability by providing operational flexibility that will minimize environmentally damaging south Delta diversions and reverse flows. The "big gulp, little sip" approach will allow for greater exports when excess river flows would normally discharge to the ocean and smaller, but consistent and predetermined export levels when Delta flows at normal or lower than normal levels. This approach makes sense and helps mitigate the impact of the 2008 opinions, but not at the expense of the environment.

New Facilities and In-Delta Operational Flexibility: *The modernization of the Delta conveyance system is essential in order for habitat restoration and conservation to have its intended effect; Preferred Alternative (No. 4), which incorporates the 9,000 cfs three intake, twin tunnel conveyance system, provides the best balance between operational flexibility and modernizing the conveyance system for environmental benefit and water supply reliability.*

The 9,000 cfs three intake, twin tunnel conveyance system will add a new point of diversion in the north Delta area which will provide operational flexibility in how water is conveyed across the Delta. This will mitigate entrainment of fish under the current south Delta operations and will significantly curtail reverse flows. In addition, an improved conveyance system will allow the Delta to operate more naturally by minimizing conflicts between fish and water operations. This will better enable conveyance of high flows while minimizing fishery impacts. The project would substantially reduce the take of endangered species and would protect exports from earthquake, flood and sea level rise into the future. We strongly support this foundational conservation element of the BDCP, and believe that the Proposed Alternative (No. 4) proposes the best option for modernization of the conveyance system.

Proposed Alternative (No. 4) provides the best option for operational flexibility, and will allow for the "big gulp, little sip" approach. Southern California has made significant investment in water storage and conveyance facilities, such as the Diamond Valley Reservoir, Inland Feeder and groundwater storage facilities, to allow conjunctive use storage during periods of high flows in the system. Implementation of the Preferred Alternative (No. 4) will enable a more efficient and protective location for diversion of high flows for downstream storage and subsequent dry period use than the current system can provide.

The three proposed screened intakes in the northern Delta and proposed twin tunnels, combined with the enlarged and improved SWP Clifton Court forebay intake in the southern Delta, will provide the necessary flexibility to greatly reduce conflicts between fish and water operations. Reliance solely on the existing system is not sustainable and would cause significant long-term harm to the fishery as well as adverse impacts on SWP deliveries, as has occurred since 2008. The screened intakes proposed by BDCP in the northern Delta will significantly mitigate reverse flows and south Delta diversion impacts. The Preferred Alternative (No. 4) will enable a more natural flow pattern through the Delta estuary.

The existing system is vulnerable to future sea level rise. Salinity intrusion, especially during extended dry periods, will worsen with sea level rise. With sea level rise, the ability of the existing system to meet the co-equal goals will be increasingly difficult. The Preferred Alternative (No. 4) system will help mitigate future salinity risks to water supply. In addition, the projected change in precipitation patterns to increasing rain and decreasing snow will limit the time availability windows for diversion and capture of available river flows. This change will require increased diversion rates and storage during periods when higher flows occur. This should be a recognized benefit of the BDCP and placed within its climate adaption strategy.

The Preferred Alternative (No. 4) should also provide facility protection from major flood events, up to a 200-year storm event. This will require establishing protective elevations at the Clifton Court Forebay as well as providing similar levels of protection at the recommended new north Delta diversion facilities. 200-year storm protection should be included in the BDCP.

The 9,000 cfs three intake, twin tunnel conveyance system would also protect the critical SWP and CVP supplies if massive Delta island levee failures should occur in the future from a major earthquake. The body of independent scientific evidence of the seismic risks in the Delta is growing. The best available science and engineering analysis of the Delta levee system has found that a major earthquake in the region would likely cause massive soil liquefaction, and failure of numerous levees resulting in relatively rapid seawater intrusion into Delta waterways and saltwater flooding of many islands. Under this scenario, SWP and CVP deliveries would be interrupted and

significantly curtailed for up to three years resulting in severe economic damage to the state. The best available temporary solution would be a patchwork levee “pathway” that could only deliver a fraction of traditional supplies in the best-case scenario.

Seismic preparedness is crucial for this vulnerable segment of the statewide water delivery system, especially in the intervening years prior to completion of the tunnel system. The new northern Delta intakes and twin tunnels will protect future SWP deliveries and the economy of the state— providing a valuable insurance policy to improve the reliability of the system from natural disasters. Delays in implementation of the BDCP should be avoided and the project implementation should be expedited. Approvals should not be unreasonably withheld.

Reduced Future Reliance: *The 2009 Delta Legislation called for water agencies to reduce future reliance on the Delta, not to become 100 percent “self-reliant”. The 2009 water package called for both reduced reliance and construction of improvements in the Delta.*

As part of the 2009 Delta legislation, water agencies are required to reduce their future dependence on the Delta. Over the past several years, agencies have worked to improve water use efficiency, develop alternative local supplies, and reduce their dependence on the Delta by changing the timing of water exports. These efforts are in compliance with California’s policy “to reduce reliance on the Delta in meeting California’s future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency.” Ref: California Water Code Section 85021.

While efforts in these areas will continue, it is important to note that “reduced reliance” does not equate to and was never intended to require a move to 100 percent “self reliance.” The 2009 Delta legislation did not intend or envision reduction or elimination in water exports from the Delta, but balanced the need for all of California to use its water resources wisely, and to reduce future pressures on the Delta ecosystem from future population and economic growth in the State.

We have grown concerned over references to “self-reliance” as this is markedly different than “reduced future reliance,” which was the intent of the law. The concept of “self-reliance” is troubling as the notion of co-equal goals was never intended to result in a future with significant reduction in exports from levels achieved before the 2008 bio-opinions. We would question whether this line of reasoning seeks to establish the pretext for ever-declining yields out of the SWP and ever increasing unit costs, further stranding imported supply investments onto our ratepayers and fundamentally damaging our ability to continue to optimize our local resources (i.e. salt management in recycled water and groundwater basins).

It is our considered opinion that both improvement in supply that should be expected from the BDCP implementation and new local resource developments are necessary, as well as other longer-term federal/multi-state supply and conservation projects if we are to secure and improve our water and economic future for the benefit of a growing population.

The recently released California Water Action Plan promotes increasing self-reliance through several measures, including providing a more reliable water supply that protects export supplies from catastrophic outages from earthquakes, major floods and rising sea levels. The California Water Action Plan focus highlights the importance of the BDCP to improve operational flexibility, protect water supplies and water quality, and restore the Delta ecosystem within a stable regulatory framework. It also goes on to state that as the Delta ecosystem improves in response to the implementation of the BDCP conservation measures, water operations would become more reliable, offering more secure water supplies. These are laudable goals of the BDCP, including restoration of export water supplies to levels that were realized before the 2008 biological opinions.

It is now time for the State and federal government to achieve the 2009 legislation's co-equal goals of improving water supply reliability and ecosystem function by implementing the BDCP.

Plan Implementation and Regulatory Assurance: *The BDCP must provide the needed implementation and regulatory structure and assurances to achieve the co-equal goals as established by the State. MWDOC submits the following comments related to plan implementation, governance and assurances.*

Regulatory Assurances

It is important to establish a more stable regulatory environment, which is one of the key goals of the BDCP. The BDCP offers a clear choice between a stable future and today's ineffective and adversarial species-by-species approach to regulation and ESA enforcement under Section 7 of the ESA. Under the BDCP, ESA regulations and provisions of the HCP/NCCP would provide for regulatory and economic assurances, and greater certainty for public water supply and fish and wildlife agencies. The core Adaptive Management and Monitoring program is encouraged and should help to realize achievement of the co-equal goals. It is virtually impossible to ascertain and predict with any precision the outcome of the BDCP habitat restoration efforts and endangered species population dynamics, and such a standard should not be required in the DEIR/DEIS.

The BDCP must provide regulatory assurances commensurate with the significant investment to be made in both improved habitat and facilities. We generally concur

with BDCP Chapter 6 Plan Implementation structure and process. It is important that under the operation of the BDCP the identified changed circumstances, including the potential for new species listing, be incorporated within the BDCP with minimum impact on future water supply exports.

Further, it is likely that unforeseen circumstances will be caused by factors other than water diversions. The plan recognizes this under Section 6.4.1 which states "... if unforeseen circumstances occur that adversely affect species covered by an HCP or NCCP, the fish and wildlife agencies will not require additional land, water or financial compensation or impose additional restrictions on the use of land, water or other natural resources." These provisions must be retained to assure fairness in the process.

Balancing and Proportionality

In the discussion of Alternatives 4, 7 and 8 in DEIR/EIS Chapter 31 (starting at line 42, pg 31-7 and ending at line 32 on pg 31-8), the rationale for the Preferred Alternative (No. 4) is provided in terms of its balancing and proportionality between upstream salmonids, in-Delta species, and export area economy and environmental needs. In addition, the incidental take limits (ITL) should be set in some proportion to the population size of the listed species and should be adjusted accordingly based on population dynamics.

This section further indicates that Preferred Alternative (No. 4) would be subject to the "scientific decision tree" mechanism to "...ensure minimization of adverse environmental effects to water exports in response to changing conditions and evolving scientific information." It is our understanding that the scientific decision tree analysis process would apply only to the Delta smelt (fall outflow issue from 2008 USFWS Biological Opinion "Reasonable and Prudent Alternative") and Longfin smelt (spring outflow operations effects) (CM1). We would hope that improved data collection of the presence and abundance of these fish be monitored over a reasonable habitat range rather than be limited to historical sampling points and procedures. We also recommend that flow changes must also be based on balancing and proportionality to the maximum extent practicable between upstream salmonids, in-Delta, and export area economy and environmental needs.

Sound Science

Sound science is critical to the success of the BDCP. We strongly support the inclusion of independent scientific investigation and research to be included in the BDCP process. The current process of reliance on agency staffs and consultants, the Delta Science Program, and independent science review panels, is very good, but it can further benefit from the inclusion of scientific investigations by researchers not part of these groups. We are also concerned that the models being used for the effects analyses may not fully consider all elements of the BDCP, as the models have recognized limitations and would

likely underestimate the benefits of the BDCP. Outside expert opinions and independent research can only help the process and the process should be open to the inclusion of new scientific data and findings.

We note on page pg 31-8 the statement "Although Alternatives 7 and 8 do not include operations based on the (scientific) decision tree concept, these two alternatives would include greater levels of guaranteed spring and fall Delta outflows, which have demonstrated strong correlations with increased abundances of Delta and Longfin smelt." We disagree with this assertion and do not believe this has been supported at an accepted scientific level. This statement should be clarified for each species where it occurs in the BDCP and DEIR/EIS. Only necessary outflows for migrating fish should be required.

***Habitat Conservation Plan (HCP)/Natural Community Conservation Plan (NCCP)
Structure and Governance***

Establishing an HCP/NCCP in the Delta is the best vehicle for achieving the Delta's co-equal goals, and providing assurances that both environmental protection and water supply reliability will be achieved.

It is important that the BDCP is being developed as a 50-year habitat conservation plan with the co-equal goals of restoring the Delta ecosystem and securing California water supplies. A habitat conservation plan is a proper vehicle for reaching these co-equal goals because it will bring the interested parties to the same table, and establish clear operating rules and conservation measures for the 50-year term proposed in the BDCP and its associated EIR/EIS. It is also important to note that the 50-year term proposed meets the objective declared by the Legislature in Water Code Section 85020, which requires that the water and environmental resources of the Delta be managed over the long term.

There must be a strong voice for participating public water agencies in the BDCP process. There are good examples of multiple Permittee interests working collaboratively with resource agencies in southern California on Federal HCPs and State NCCP implementation. For example, the Metropolitan Water District of Southern California (MET) has Permittee status as part of a multi-state, multi-species HCP on the Colorado River because southern California's water supply reliability is tied to the success of the plan.

In Orange County, agencies have successfully implemented HCP/NCCPs incorporating assurances and representation for all participants. For example, in Orange County both the Santa Margarita Water District and Irvine Ranch Water District are participants in HCP/NCCP processes.

As one of the first communities in California to implement a HCP/NCCP, Orange County and the Central/Coastal HCP/NCCP demonstrated how the private and public sectors, including water agencies, can successfully partner with the resource agencies to allow for a holistic and broad-based ecosystem approach to habitat conservation and ecological protection while allowing for appropriate development and urban planning. The Central/Coastal HCP/NCCP in Orange County has demonstrated how substantial amounts of habitat can be conserved and restored based on an ecosystem approach, which better protects biological diversity and improves habitat for species of concern. Ultimately, the use of a similar HCP/NCCP, as proposed in the BDCP, will provide better ecosystem protection and restoration outcomes in the Delta.

Orange County's Central/Coastal HCP/NCCP is also a prime example of how HCP/NCCPs ensure that the habitat protection and other operating parameters agreed to in an HCP/NCCP are binding on all of the parties involved. Like the process proposed in the BDCP and the long-term 50-year permit discussed in its associated documents, the Central/Coastal HCP/NCCP is a long-term agreement with a permit in effect until 2071.

As the coordinating entity for the management of the 37,000-acre reserve system under the Central/Coastal HCP/NCCP, the Nature Reserve of Orange County serves the important role of working to implement the HCP/NCCP on behalf of its signatories. Its role is to ensure that the agreed upon natural communities and species are protected, and that the permit requirements for the reserve are met. After more than a decade, the Nature Reserve of Orange County has continued to bring all of the interested parties to the same table to ensure that the agreement reached in the HCP/NCCP is respected. We believe that the BDCP HCP/NCCP can do the same for the interests in the Delta.

Authorized Entity Group

Permittees, such as water providers, must have a strong voice in the governance of the BDCP because water providers have a huge vested interest in the success of the effort as they are directly affected by the risk to water supply by its failure. Permittees are currently envisioned as key members of the "Authorized Entity Group" which, according to the BDCP documents, "will provide input and guidance on general policy and program-related matters, monitor and assess the effectiveness of the Implementation Office in implementing the Plan and foster and maintain collaborative and constructive relationships with fish and wildlife agencies, other public agencies, stakeholders, local governments and interested parties." This is good and effective governance and these provisions must be retained in the final plan.

Permit Oversight Group

Our understanding is that the Permit Oversight Group, consisting of representatives of state and federal fish and wildlife agencies, will ensure "that the BDCP is being properly implemented." This group has "final decision-making about real-time operations." The

Permit Oversight Group is apparently empowered to shut down the water exports and change the permits without Permittee recourse. We believe this is flawed and inconsistent with meeting the co-equal goals.

In early administrative draft versions of the plan that were available to the public, there was an appeals process that would enable decisions to be reviewed by the Secretary of the Interior and Secretary of Commerce. We believe this appeals step is critical, as Orange County and others across the state substantially depend on the SWP for their water supply. This change from earlier drafts would impose an unacceptable veto power without adequate recourse. The appeals process must be provided as before. Our concern is best alleviated via a balanced process including the ability for appeals. The process must avoid the more rigid and case-by-case Section 7 consultation approach that we have experienced and the uncertainty it can create.

The investment is too great to be vulnerable to unilateral actions driven solely by regulators without allowing the functioning of the BDCP plan to achieve the co-equal goals. As currently written, this provision appears to undermine the BDCP, and it needs to be revised along the lines as described.

Salinity Control

Before the construction of the CVP and SWP reservoirs, salinity intrusion far into the Delta was a common occurrence during very dry years. Since the construction of Shasta and Oroville Reservoirs and with the 1978 SWRCB D-1485 water quality control decision, the CVP and SWP have provided broad salinity control benefits to the Delta that have helped to protect in-Delta agriculture and domestic uses as well as export water quality, even as San Joaquin River flows were depleted by upstream diversion. We concur that salinity control is an important component of the BDCP. We also note that natural variability must be recognized within the BDCP and some relaxation of salinity control objectives must be allowed during severe droughts.

In addition, with future sea level rise, the BDCP needs to provide for a gradual relaxation of the X2 salinity control point, as releasing more and more stored water, which is made possible by both the CVP and SWP, will cause increasingly greater shortages in water supply at increasingly greater economic impact to the state. The estuary would be expected to shift upstream with sea level rise and this should be accounted for in the 50-year permit period. The BDCP must recognize that the existing Delta agricultural areas may require some form of land use conversion into the future.

Recognize Need for Additional Upstream Storage

While not part of the BDCP plan, additional storage north and south of the Delta will be critical concurrent with improvements in conveyance to enable the capture of high flows during wet periods for subsequent use. Additional storage will be especially important during periods of prolonged drought. Such facilities would be of statewide and national benefit, and both the State and federal government should financially contribute to their development. The BDCP should recognize the need for additional upstream and downstream surface storage to realize the full benefits of Preferred Alternative (No. 4). We support the development of future storage projects as stand-alone projects outside of the BDCP Plan to help with meeting the co-equal goals.

Scientific Decision Tree and Project Yield

The BDCP holds the potential to stabilize SWP and CVP annual deliveries to between a range of 4.7 to 5.6 MAF (Prior 20-year average deliveries were 5.2 MAF) and to stabilize them within this range over the 50-year permit period, but this depends upon the future outcome of "Scientific Decision Tree" studies that will refine future spring and fall outflows. The BDCP indicates that without the BDCP the Delta will continue in ecosystem decline, future deliveries would be reduced between 3.4 to 3.9 MAF as the result of new listings, higher requirements for outflows during wet and above-normal precipitation years would be required, and using fixed limits on take rather than proportionate take based on actual population size and dynamics would be likely.

The Decision Tree process is critical; water agencies require a seat at the table to represent the water supply and economic interests of the public that we, as public agencies, serve. Further, the water agencies have a high level of interest in ensuring that adaptability will result in regulatory agencies working collaboratively with the Permittees as provided for under the state and federal ESA laws for habitat and natural community conservation plans. It is important to ensure that the process is not skewed and has not established pre-determined outflows and compliance locations.

Plan Implementation and Regulatory Assurance: *The BDCP must provide the needed implementation and regulatory structure and assurances to help achieve the co-equal goals. MWDOC submits the following comments related to plan implementation, governance and assurances.*

The BDCP and the 9,000 cfs three intake, twin tunnel conveyance system would significantly improve export water quality by reducing total dissolved solids (TDS), bromide, dissolved organic carbon (DOC) and other contaminants that currently impact the south Delta. This is especially important for Orange County for a broad range of water management purposes. It is our understanding, that future SWP deliveries under the Preferred Alternative (No. 4) would realize a reduction in concentrations, on average, of approximately 20 percent from existing conditions. Reductions in TDS,

bromide and DOC will help to sustain Orange County's groundwater basins, enhance recycling usage, and reduce treatment and consumer costs. Improving source water quality is an important value of the BDCP.

Reductions in DOC and bromide in SWP water will lower disinfection by-product formation in public water systems. Compliance with these U.S. Environmental Protection Agency and California Department of Public Health regulated compounds requires expensive water treatment to meet public health requirements. Reducing DOC levels will also reduce chemical and energy usage in ozone or chlorine based disinfection processes saving the ratepayer money and reducing environmental impact.

Further, given the high TDS and hardness levels in Colorado River water, lower TDS and softer SWP water is essential to help manage the long-term salt balance in southern California and Orange County groundwater basins, thereby, minimizing treatment costs, reducing penalty costs to consumers, and lowering the cost of recycled water projects. Lower TDS source water helps many of the elements of our Southern California reliability strategy, as well as achieving compliance with Regional Water Quality Control Board Basin Plan objectives and discharge limitations.

Water Quality Improvements and Regional Compliance with Section 85021

The Water Code directs that "Each region that depends on water from the Delta watershed shall improve its regional self-reliance for water through investment in water use efficiency, water recycling, advanced water technologies, local and regional water supply projects, and improved regional coordination of local and regional water supply efforts", reference California Water Code Section 85021. Orange County and Southern California have complied with the California Water Code by taking great strides to improve its regional self-reliance, but the BDCP and a reliable supply of imported water is still needed.

Many of the opponents of the proposed BDCP process state that development of local supplies, water reuse, conservation and water use efficiency can take the place of the supply and reliability projects proposed in the BDCP. The reality is that the solution to California's water problems requires action on all of these fronts in addition to the BDCP. While California should continue to develop local supplies, improve water reuse, and move towards greater water use efficiency and conservation, those efforts would be hampered without the BDCP Preferred Alternative (No. 4) and the water quality improvements which will be obtained as a result of those projects and changes in operations.

Expected water quality improvements in SWP supplies from the BDCP in reduced salinity, total organic carbon and bromide would result in water quality benefits and would promote water recycling and reuse. A reduction at the source means that these water quality challenges are less of a problem once the water is recycled, and would

allow for better quality in the recycled water produced in Orange County and Southern California. A better quality recycled water will allow water to be used for a greater number of cycles.

Orange County's future depends on high quality, reliable and affordable imported water supplies. If we do not have the expected high quality and reliable supply from the SWP that would be made possible by the BDCP, it would seriously jeopardize groundwater basin management and expanded local recycling projects, many of which may not be economically feasible without the high quality water received from the SWP. Moreover, a high quality SWP supply also supports long-term economic management and protection of groundwater basins from salinization and reduces overall consumer penalty costs from corrosion and scaling.

Cost Allocation: *MWDOC supports the "beneficiary pays principle" in cost allocation for all responsible parties and beneficiaries*

All beneficiaries and responsible parties of the BDCP must contribute to the solution, including any diverter of water from the system (north or south of the Delta). Moreover, in-Delta interests have been significant contributors to the modification of habitat, continue to discharge pollutants into the waterways, have caused the subsidence of the Delta islands and need for ever higher and unstable levees that risk both habitat and exports, and have benefited from operations of the projects. Accordingly, these interests have a moral and financial responsibility to directly participate in any solutions as do other responsible parties. Where habitat is to be created by modifying or restoring Delta islands to a more natural state, the in-Delta interests should work collaboratively to facilitate such actions.

Further, any recipient of water should pay the cost of water conveyance improvements in line with the proportion of overall water supplies they receive. Economic values associated with end uses of the water should have no bearing on the cost allocation of the BDCP; it is solely a matter of paying one's share of the cost of development of the water supply.

Furthermore, all Californians will benefit from a solution in the Delta through the improved habitat and reliable water supply that will be created; a stronger overall economy benefits everyone. Consequently, the State and federal government should step up to fund the costs of environmental and habitat improvements as well as providing funding support for flood control, levee improvements, fisheries, invasive species control and other programs within their jurisdictions.

Economy, Environment and Water Management: *The State Water Project is critically important to the Orange County economy, environment and water management.*

Economic Impacts

The BDCP and DEIR/DEIS "No Project Alternative" analysis should include an evaluation of the economic impact of not strengthening California's water supply and the impact that "no action" has on the state's economic hubs as part of its overall evaluation. The BDCP evaluates the economic impact of the project's potential for growth inducement; however, it does not adequately take into account the economic impact of failing to secure water reliability for the state's economic centers. MWDOC urges inclusion of these impacts.

The economy of California is largely driven by economic activity in the San Francisco Bay Area and Southern California. To put the economic contributions of these areas in perspective it is important to note that Los Angeles and Orange counties contribute roughly \$766 billion to California's gross state product (GSP). The Bay Area contributes \$534 billion, and San Diego County contributes \$177 billion. These three areas alone comprise nearly 75% of the state's \$2 trillion GSP.

Orange County has a population of 3.1 million people, approximately eight percent of California's entire population, and an economy with a gross domestic product of about \$200 billion or 10 percent of the state's overall economy of \$2 trillion. Orange County's share of California's non-farm businesses was about 10 percent in 2011, and in 2007 Orange County accounted for \$49 billion (10 percent) of California's manufacturer's shipments and \$98 billion (16 percent) of California's merchant wholesaler sales. In addition, Orange County is a major regional employment, higher education and tourism center.

Orange County is an economic powerhouse for the state; the lifeblood of any economy is a reliable and secure water supply. MWDOC's 2010 Urban Water Management Plan indicates water demand for municipal and industrial use is expected to increase from approximately 485,000 acre-feet per year (AFY) to nearly 568,000 AFY by 2035. For all of Orange County, the total demand of 627,000 AFY is expected to increase to 726,000 AFY by 2035. Regional and local innovative programs and investments in water use efficiency have saved an estimated 75,000 AFY to date in the county.

The San Francisco Bay Area and Southern California depend heavily on the Bay-Delta with nearly one third of their water supplies coming from Delta exports, and the economic vitality of these areas is dependent upon a secure and reliable water supply. The bottom line is that a dependable water supply is essential to business operations and expansion that will continue to strengthen our state's economy and increase employment. The BDCP should take into account the economic cost of not providing a secure and dependable water supply in its economic impacts analysis. Given the importance of Southern California and the Bay Area to California's economy, the cost of

no BDCP, without the Preferred Alternative (No. 4), would be extremely large and would greatly exceed any economic benefits of other alternatives that were considered.

It is also noteworthy that the Delta is a key water supply for 25 million California residents, largely located in the economic centers discussed above. The risk of a large earthquake in Northern California causing severe damage to the Delta grows greater with each day a comprehensive Delta solution is not implemented. If the State and federal government do not move forward on the BDCP, we are risking great environmental damage, a loss of substantial water supply to more than two-thirds of California's residents and businesses, and associated economic losses into the future.

We also risk severe and possibly permanent damage to our State's agricultural economy. The water from the Delta supports more than 5 million acres of California agriculture. These 5 million acres represents more than 80 percent of the United States' food production and more than 500,000 jobs. Loss of water as a result of failure in the Delta will mean California's agriculture will lose an essential water supply.

That loss of water will result in millions of acres of unproductive land and a loss of jobs in communities which have already suffered great losses as a result of our most recent economic downturn and during the current severe drought. Without implementing the comprehensive environmental and conveyance solution proposed by the BDCP, we risk permanent damage to California's \$44.7 billion agriculture industry.

The development of a secure and reliable water supply for the citizens of California is important to the economic vitality of our state. The BDCP will provide stability in California's water infrastructure by providing a process that can result in a more dependable, high quality SWP water supply.

Orange County Environment and Water Management

The recent droughts of 1977-78, 1987-92, 1999-00, 2007-08 and the current drought demonstrate the precarious nature of the federal, state, regional and local water supply systems serving California. Throughout the state, the current acute drought, natural climate variability and climate change, agricultural cutbacks due to lack of water and continuing groundwater overdraft, increasing population and need for an ever growing economy, have brought to the light that water supply solutions and challenges are looming larger and more complex. This has led many to an increasing recognition that we have entered an era of uncertainty and potential era of water scarcity if we do not plan for the future.

Recent droughts and a greater understanding of climate change impacts have demonstrated that supply uncertainty and variability pose great risks to our economy and the natural environment. We remain confident that we have the combined ability

to help solve these long-term problems. One key part of this solution is to fix the "broken Delta" through the program developed and recommended in the BDCP.

MWDOC and its member agencies have made significant investments in local resources and water management. Orange County water agencies are recognized leaders in water use efficiency, storm water conservation, groundwater basin management, wastewater management, water recycling and reuse, and advanced water treatment technologies. In north Orange County, the Orange County Water District is recognized as a world leader in indirect water recycling through their award winning Groundwater Replenishment System, a project that now recycles 72,000 AFY, is under construction to be expanded to recycle 100,000 AFY with plans to recycle up to 130,000 AFY in the near future. These programs with imported water enable OCWD groundwater producers to meet about 70% of their water supply needs from the groundwater production. Conjunctive use of the basin with imported water and its utilization remains dependent on the availability of high quality imported water that can be replenished during wet periods.

Through innovative, multi-agency approaches, MWDOC and its agencies develop, implement, and evaluate water use efficiency programs that provide multiple benefits, including improved irrigation efficiency, increased utilization of California Friendly landscapes, and pollution prevention through programs that help to reduce dry weather urban runoff. Our programs include educational classes on water-wise landscaping, irrigation performance reporting, water use surveys for hotels and industrial customers, and consumer incentives for water-efficient devices. To evaluate the effectiveness of such devices, MWDOC conducts studies to monitor water savings and urban runoff reduction.

Through these efforts, Orange County's water use today is less than it was in 1990 even with population growth of 683,000 and jobs growth of 204,000 respectively. Overall, MWDOC has documented conservation of about 75,000 AF per year (active and passive). Despite these efforts, Orange County is still reliant on purchases of imported water from MET to meet about 45 percent of our current needs. About one-half this need is met from the SWP.

South Orange County is much more reliant on imported water, having few local resources other than water recycling and a few small groundwater basins that are nearly fully developed. Regional recycling planning is underway to evaluate how best to maximize the use of recycled water in South Orange County. In addition, studies are underway for evaluating the feasibility of augmenting the groundwater supply from the San Juan Creek alluvial basin through replenishment with recycled water. The southern portion of Orange County despite its best efforts remains heavily dependent upon the Delta.

A number of retail agencies in south Orange County are recognized leaders in water use efficiency and conservation based rate structures, water recycling, and water reliability projects. For example, Irvine Ranch Water District, Moulton Niguel Water District, El Toro Water District, Santa Margarita Water District, Trabuco Canyon Water District and the cities of San Juan Capistrano and San Clemente are recognized leaders in water recycling and management through the use of dual distribution systems and community planning.

Orange County ratepayers have invested heavily in local resources in past years both directly and through MET. These investments through MET water supply purchases helped fund the \$2 billion Diamond Valley Reservoir and \$1 billion Inland Feeder that allow SWP deliveries during wet periods to be delivered into storage Southern California reservoirs. In addition, at least \$1 billion in local recycling and groundwater recovery projects have been made, including water use efficiency and conjunctive use since 1991. Combined, these investments provide the ability to efficiently use existing supplies, develop additional local supplies, and to store water in wet years for subsequent dry year use.

Orange County is also exploring ocean desalination, another potential local supply. It is also a key feature of planning in Orange County with the innovative subsurface intake system being examined for the planned 15 million gallon per day Doheny Ocean Desalination Project in Dana Point and permitting of the 50 million gallon per day Poseidon Resources desalination plant in Huntington Beach.

Despite all of these efforts and investments, Orange County will continue to be dependent upon imported water. Completion and successful implementation of the BDCP is paramount to achieving the reliability that supports water management in Southern California. These local investments have helped meet the water needs of a growing productive population and reduced the otherwise growing pressure on water imports - our agencies should not be "penalized" by additional mandated investments that do not recognize and account for investments that have already been made.

COMMENTS ON THE DRAFT IMPLEMENTING AGREEMENT

The "Implementing Agreement" is necessary to provide a contractual, legally-binding agreement that spells out the commitments and assurances as well as the terms and conditions for on-going implementation of the BDCP. Given the high level of BDCP investment, the water community needs reasonable certainty regarding the expected amount of water supply to be restored that was lost as a result of the 2008 biological opinions.

It should be clearly recognized in the implementation structure and agreement decision-making process that the new, screened North Delta intake system will not only

greatly improve salinity control and water supply reliability from catastrophic levee failure and future sea level rise, but will avoid entrainment losses of fish as well as minimizing impingement losses from current south Delta diversions. In addition, the new intake system will provide much needed operational flexibility that will enable significant protections to endangered species as well as maintaining environmental and water quality benefits to the south Delta that are provided by the SWP and CVP. These benefits will be made possible through the ability to curtail south Delta endangered species take by changing the timing and diversion rate by use of the new North Delta intake system.

Currently, endangered species take by the existing south Delta unscreened forebay diversion operations are controlled by reducing exports. The BDCP will provide a physical means to minimize south Delta diversions. In addition, the added operational flexibility will result in greatly reduced reverse flows and related, improved south Delta water quality, and improved export water quality. The implementing agreement needs to recognize these benefits to allow export diversions to be restored.

Following are our specific comments on the Draft Implementing Agreement.

Comments In Support of Current Language (Areas where we agree with current Implementing Agreement provisions that should not be changed in ways that would weaken protections to water exports)

- **Permit Oversight Group Members.** It is appropriate that the state and federal fish and wildlife agency members of the Permit Oversight Group be either the named directors or administrators or designees that are duly authorized to exercise their authority. Delegation to staff members without such authority would lead to inefficiencies and decision-making gridlock.
- **Real Time Operations Purpose.** The stated purpose of Real Time Operations of “maximizing conservation benefits to covered fish species and maximizing water supplies” is appropriate. This reflects a fundamental purpose of the BDCP of restoring and protecting water supplies, and acknowledges that real time operations is a tool that can benefit water supply as well as fish species.
- **Real Time Operations Ultimate Decision.** In the event of disagreement among agency directors over a proposed Real Time Operations adjustment, it is appropriate that the adjustment will not be made.
- **Adaptive Management Team Membership.** Given the SWP and CVP Contractors’ extensive responsibility in funding and implementing the Plan, it is fully appropriate that one SWP Contractor and one CVP Contractor be designated as voting members of the Adaptive Management Team.

- Funding from the State of California and the United States. Consistent with the Planning Agreement and in recognition that the BDCP is a comprehensive and ambitious plan that provides significant benefits to the public generally, the Implementing Agreement appropriately provides that the State of California and the United States will be responsible for funding the Plan where not otherwise funded by the Authorized Entities.
- Regulatory Assurances. The Implementing Agreement appropriately includes provisions that provide the Permittees with No Surprises and other assurances and protections, consistent with Endangered Species Act (ESA) and Natural Communities Conservation Planning Act (NCCPA) law and regulation.
- Assurances Provided to Reclamation. Given Reclamation's integral role in the BDCP and in coordinated CVP/SWP operations, the assurances provided to Reclamation against additional expenditures of resources, to the maximum extent possible, are appropriate.

Comments Seeking Changes

- Ultimate Decision Making Authority and Signatories to the Implementing Agreement (Page 1). It is not clear who will be obligating the commitments of the United States and the State of California that are beyond those of the Authorized Entities. It is recommended that the Secretary of the Interior and the Governor sign the agreement to help ensure that those commitments will be met. As stated in Section 1.0 of the Implementing Agreement, the level of agency signatory has not been determined and will be considered further. Staff suggests that the Governor, Secretary of the Interior, and the Secretary of Commerce should be the signatories for the California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, and the National Marine Fisheries Service, respectively. By having the Governor and the Secretaries sign on behalf these state and federal agencies, it helps ensure that the United States government and the State of California live up to their obligations under the Implementing Agreement. As for the Authorized Entities (Department of Water Resources and State Water Project/Central Valley Project Contractors), it is more clear as to who has the ability to legally bind these entities. At minimum, when conflicts arise, decision-making must be moved to the highest levels possible.
- Covered Species (Page 7). Sections 3.20 and 8.5.1 of the Implementing Agreement define "Covered Species" listed in Exhibit "A". Since those species listed in Exhibit "A" link directly to the species for which the Permittees have been given "no surprises" protection, Exhibit "A" is important to understand the risk being undertaken by the Permittees. Exhibit "A" was not attached to the

Implementing Agreement and should be released for review before the parties enter into the agreement. Listing of all known species is critically important to provide broad coverage.

Furthermore, amended language is needed to allow incorporation of currently unknown native species as "Covered Species" where restoration activities are shown to provide a benefit without going through the full amendment process. It is critical that the listing of "Covered Species" is as broad as possible based on current science and is sufficiently flexible to assure an efficient process.

- Unforeseen Circumstances (Page 10). Section 3.51 of the Implementing Agreement defines "Unforeseen Circumstances" as those "changes in circumstances affecting a Covered Species or geographic area covered by the BDCP that could not reasonably have been anticipated by the Permittees, USFWS, or NMFS at the time of the BDCP's negotiation and development, and that result in a substantial and adverse change in the status of a Covered Species."

Since the reasonably foreseeable changes in circumstance have been included in the BDCP, the definition should be modified to state that unforeseen circumstances are those "changes in circumstances affecting a Covered Species or geographic area covered by the BDCP that could not reasonably have been anticipated by the Permittees, USFWS, or NMFS at the time of the BDCP's negotiation and development, and were therefore not included in the BDCP, and that result in a substantial and adverse change in the status of a Covered Species."

- Bureau of Reclamation's Role (Page 15). The Bureau of Reclamation is not a party to the Implementing Agreement. Section 5.0 of the outlines the role of the Bureau of Reclamation. It states that the Bureau will enter into a Memorandum, or similar agreement, with the Parties of the Implementing Agreement outlining the Bureau's roles and responsibilities. This memorandum or similar agreement should be attached to the Implementing Agreement as an exhibit and incorporated by reference into the Implementing Agreement, and this section should be changed to reference that exhibit.
- Take Authorizations (Page 19). Section 8.2: Other Authorized Entities - Section 8.2 recognizes that certain third parties may seek take authorizations under the BDCP for ongoing operation of water diversions that are not associated with the SWP or CVP. These parties will be considered Other Authorized Entities. A sentence should be added clarifying that SWP/CVP Contractors shall not be held liable or be asked to take actions by USFWS, NMFS or CDFW as a result of Other Authorized Entities violating the terms and conditions of any take authorization issued by the Department of Water Resources. Also, the section references

Exhibit C. Exhibit C has not been released, and should be released prior for review to finalization of the Implementing Agreement.

Implementation and Conservation Measures Definitions - The definition of "Implementation" is not provided under the Definition section. It should be noted that it includes construction and operation/maintenance over the 50 year term of the permit. The definition of "Conservation Measures" should be more clearly defined that their implementation means that they meet the "maximum extent practicable" test.

- Neutrality of Permitting and Decision Tree Outcomes (Page 24). The provision related to Decision Tree Outcomes includes a reference to permit terms and conditions including the operational and flow criteria related to the high-outflow scenario. All Decision Tree outcomes should be described at an equal level of detail and fully evaluated with sound science before a decision is made. The high outflow scenarios should not be predisposed as being the permitted outcomes to be included as permit terms and conditions. Refer to MWDOC's BDCP comment letter which raises this issue under "Balancing and Proportionality" and its importance with regard to the issue of outflows and an expanded monitoring program over a reasonable habitat range compared to the historical narrow and limited monitoring program that in all likelihood has understated the Delta and Longfin Smelt populations as well as the effect of other stressors. Improved scientific understanding of the stressors impacting the smelt population is needed.
- Real-Time Operations Adjustments (Page 27-29). Real time operations decisions should not compromise the discretion of the Project Operators to maximize water supply benefits provided the requirements of BDCP are being met. Where exports are reduced due to real time adjustments, they should be made up later in the year through additional exports, so as to remain neutral. Given the SWP and CVP Contractors' vested interest and expertise in water operations, one SWP Contractor and one CVP Contractor should serve as voting (not non-voting) members on the Real Time Operations Team.
- Adaptive Management (Page 29-30). It is not clear how the limits for non-flow actions of Adaptive Management will be defined. A monetary cap for non-flow Adaptive Management Actions needs to be established. For water operations, the Implementing Agreement lists four resources sources and their priority of use. These sources are not defined and specifics on how they would be used and managed are not provided.

- Reserve System Lands and Funding (Page 42). The maintenance requirements/costs for the tunnels have not yet been finalized. Before implementation is begun, the cost and cost allocation for the Preferred Alternative (Alt. No. 4) should be fully understood. The final costs and performance objectives of the conveyance system must be reflected in contractual agreements to provide certainty that investments in the conveyance facilities result in adequate returns for State and Federal water contractors. This comment should also be addressed as it relates to the amount and who funds the non-wasting endowment required in Section 11.4.1.
- Changed Circumstances (Page 44). As the Implementing Agreement states, "Ecological conditions in the Delta are likely to change as the result of future events and circumstances that may occur during the course of the implementation of the BDCP." Section 12.0 should include a "no surprises" statement guaranteeing Permittees that the Fish and Wildlife Agencies will not require the permit holder to provide any additional land, water, or financial compensation nor impose additional restrictions on the use of land, water or other natural resource without the Permittee consent provided the Implementation Office acts as required in Section 12.1.

Also there does not appear to be a division of responsibility between the Authorized Entities and the State and federal governments for implementing responses to Changed Circumstances. This should be addressed.

Contributions for a changed circumstance action for any particular Conservation Measure should be on a pro-rata basis according to the overall funding for that measure.

- Inadequate Funding and Rough Proportionality (Page 47). Section 13.2 Inadequate Funding references the requirement for rough proportionality and permit suspension and revocation. This section needs to be revised as discussed below.
 - Timing - The Implementing Agreement provides only 45 days to regain rough proportionality or develop an acceptable plan to do so. Given the scope and complexity of the BDCP, this timeframe is unreasonably short and unrealistic.
 - Suspension and Revocation Standard - No metric is provided for when a failure of rough proportionality would trigger a partial suspension or revocation of the Permits. Consistent with the shortfall in funding provision, a failure to maintain rough proportionality due to a shortfall in state or federal funding should not be a basis for partial suspension or

revocation of the permits provided the Permittees are fully meeting their obligations.

- Minimal Effect – Consistent with “no surprises” assurances, the Implementing Agreement should provide that as long as the Permittees are fully meeting their obligations, the permits may not be revoked or suspended. At a minimum, the meaning of “more than a minimal effect” needs to be defined in order to protect the Permittees’ from backstopping the obligations of the state and federal government.
- Funding Shortfalls - Section 13.2 states that “In the event of a shortfall in State or federal funding, a Fish and Wildlife Agency(ies) shall not suspend or revoke the State and/or Federal Permits or invalidate Reclamation’s take statement if the shortfall in funding is determined to be likely to have no more than a minimal effect on the capacity of the Plan to advance the biological goals and objectives.” This language allows the Permittee’s permits to be revoked as a result of something outside of their control – this needs to be changed to protect the Permittees. Also the funding obligations of California and the United States are lumped together. The funding split between California and the United States needs to be identified.
- Authority of the Fish and Wildlife Agencies (Page 74-78). The Fish and Wildlife Agencies maintain too much authority in decision-making with respect to Plan implementation based on their defined roles in the Permit Oversight Group and Adaptive Management Team. The proper role for the Fish and Wildlife Agencies with respect to Plan Implementation is advisory and to insure overall compliance with permit requirements.
- Miscellaneous Provisions (Page 88 -93). The following provisions should be included in this section.
 - Provision Needed Regarding Inconsistent Permits by State Board/Others - An “off-ramp” provision should be provided in the event permits inconsistent with the BDCP are ultimately issued by the State Water Board or others (e.g., USACOE).
 - Provision Needed Regarding Consistent Positions in Other Regulatory Proceedings - A provision is needed wherein the Parties agree not take positions inconsistent with the BDCP in other documents and proceedings such as under NEPA, CEQA, Clean Water Act, Porter-Cologne Water Quality Control Act, and California Water Code.

- Miscellaneous Comments

On page 45, the second paragraph under Section 13.0 indicates that the Permittees agree to provide such funds as may be necessary to carry out their obligations under the BDCP. This indicates an unlimited funding commitment and this is incorrect and should be clarified as noted under Section 13.1 of the Implementing Agreement.

On page 64, Stakeholders Council should also include at least one representative from southern California in addition to Metropolitan Water District of Southern California.

Summary: Implementation of the BDCP is critical to Orange County's future

- Orange County has invested heavily to diversify our water portfolio but the SWP is a critical source of low salinity water supply that is currently unacceptably jeopardized by the unsustainability of the current Bay-Delta system.
- Orange County relies on the SWP to support groundwater conjunctive use programs and water recycling programs - it is an essential part of our water reliability strategy that sustains our citizens and businesses.
- It is time to adopt and move the BDCP to implementation in order that we can achieve the co-equal goals of a reliable water supply for California and ecosystem restoration for the Delta.
- The 9,000 cfs twin tunnel BDCP Preferred Alternative (No. 4) will improve export water supply operations, reliability and water quality from the Delta in a manner that is protective of endangered species in the Delta.
- We support the 9,000 cfs twin tunnel Preferred Alternative (No. 4) provided reasonable assurances are included regarding governance and future decision-making in the process. We strongly advocate for a seat at the table for the water Permittees in the various oversight groups. The investment and decision-making must be structured to achieve a positive outcome for both the SWP and Permittees and the ecosystem restoration in a collaborative, partnership manner.

Mr. Ryan Wulff
Page 28
July 24, 2014

Thank you for your time and consideration of these comments. If you should have any questions please do not hesitate to call me at (714) 593-5026.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Hunter", with a stylized flourish at the end.

Robert J. Hunter
General Manager

**INFORMATION ITEM**

October 17, 2016

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

Staff Contact: Jonathan Volzke

SUBJECT: School Program Participation Report**STAFF RECOMMENDATION**

Staff recommends the Board of Directors receive and file report.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

DETAILED REPORT

Contractors for MWDOC's education programs are booking classes and students for the current school year. Both Discovery Science Center (DSC) and Inside the Outdoors (ITO) are confident they will reach their contracted student totals this year.

DSC has begun administering this year's elementary school program keypad assemblies in schools across Orange County. Our member agencies have funded to reach 67,361 students this year. This is an increase over last years' target goal of 64,392.

To date, DSC has booked 24,401 students for this school year. They have reassured us that they will meet our goal. October is looking like a strong month and they anticipate our trend of staying on pace to hold. If DSC maintains their current pace and trends, they should be done booking the program by the end of February or Early March.

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

ITO has seven high schools booked and is actively negotiating dates for 11 more. The goal is 12 high schools and two middle schools.

High school program representatives are confident they will have all of the schools scheduled by the end of October. The program traditionally focused on AP classes; while ITO believes those classes are the best fit for the MWDOC program, traditional biology teachers are also being engaged for more flexibility in schedules. ITO is also reaching out to Political Science classes to gauge interest as well.

MWDOC staff is working with ITO staff to schedule a meeting between ITO and Director Tamaribuchi to further develop California Water Fix information.

WHAT ABOUT WATER?

Monthly Report
Presented by



September 2016

Monthly Report September 2016



| What About Water? - Inside the Outdoors School Visits | | | | | | | | | |
|---|-------------------------------|---------------------|----------------------|---------------------|----------------------|-------------|------------------------|----------------|--|
| Year 2 - 2016/2017 | | | | | | | | | |
| Agency | High School | 1st Visit - student | 1st Visit Enrollment | 2nd Visit - student | 2nd Visit Enrollment | School Expo | Expo School Enrollment | Total Students | Notes |
| Anaheim | Anaheim High School | 1/9/17 | | 2/6/17 | | 3/8/17 | | | Confirmed |
| City of Brea | Brea Olinda High School | 5/15/17 | | 5/22/17 | | 6/6/17 | | | Confirmed |
| City of Buena Park | Buena Park High School | | | | | | | | Working with Mike Grisco |
| City of Fountain Valley | Harbor Learning Center | | | | | | | | Working with Principal for dates |
| City of Huntington Beach | Talbert Middle School | | | | | | | | Working with Principal for dates |
| City of San Clemente | San Clemente High School | | | | | | | | |
| City of San Juan Capistrano | San Juan Hills High School | | | | | | | | Dates have been sent, waiting for confir |
| City of Tustin | Columbus Middle School | | | | | | | | Dates have been sent, waiting for confir |
| East Orange WD | Tustin High School | | | | | | | | |
| East Orange WD | Foothill High School | 10/20/16 | | 2/9/17 | | 4/5/17 | | | Confirmed |
| El Toro | El Toro High School | 2/24/17 | | 3/17/17 | | 4/6/17 | | | Confirmed |
| El Toro | Los Alisos Junior High | | | | | | | | New administration, Sherri is assisting |
| Garden Grove | Pacifica High School | | | | | | | | |
| Golden State | Valencia High School | | | | | | | | Meeting with teacher on 10/7 |
| Golden State | Los Alamitos High School | 1/31/17 | | 3/22/17 | | tbd | | | Expos will be scheduled with their STEM fair |
| Mesa Water | Costa Mesa High School | 11/9/16 | | 11/18/2016 | | 4/24/17 | | | Confirmed |
| Moulton Niguel | Aliso Niguel High School | | | | | | | | |
| Moulton Niguel | Laguna Hills High School | | | | | | | | |
| Moulton Niguel | Capistrano Valley High School | | | | | | | | Waiting for a new teacher contact |
| Moulton Niguel /Santa Margarita WD | Mission Viejo High School | | | | | | | | Waiting for teacher meeting |
| Santa Ana | Rio Contiguo School | | | | | | | | Working with Principal for dates |
| Santa Margarita WD | Tesoro High School | 4/18/17 | | 5/2/17 | | 5/16/17 | | | Confirmed |
| South Coast WD | Dana Hills High School | | | | | | | | Meeting with teacher on 10/14 |
| Total | | 0 | | 0 | | 0 | | 0 | |
| Teacher Workshops | | | | | | | | Total | |
| | MET | 12/3 or 12/10 | | | | | | 0 | |
| Student Summits | | | | | | | | Total | |
| | | | | | | | | 0 | |
| tbd = verbal confirmation, pending calendar dates ion, pending calendar dates | | | | | | | | | |

| Agency | School Name | Presentation Date |
|---------------------------|---------------------------------------|--------------------------|
| Yorba Linda | Melrose Elementary School | 10/3/2016 |
| Moulton Niguel | Canyon Vista Elementary School | 10/3/2016 |
| El Toro | San Joaquin Elementary School | 10/5/2016 |
| Brea, City of | Mariposa Elementary School | 10/11/2016, 10/18/2016 |
| Buena Park, City of | Emery (Charles G) Elementary School | 10/11/2016 |
| Huntington Beach, City of | Sun View Elementary School | 10/11/2016 |
| Anaheim, City of | Marshall (John) Elementary School | 10/12/2016, 10/19/2016 |
| Santa Ana, City of | Garfield Elementary School | 10/13/2016, 10/14/2016 |
| Anaheim, City of | Jefferson (Thomas) Elementary School | 10/13/2016 |
| Westminster, City of | Star View Elementary School | 10/14/2016 |
| Huntington Beach, City of | Huntington Seacliff Elementary School | 10/14/2016 |
| Yorba Linda | Lakeview Elementary School | 10/17/2016 |
| El Toro | Del Cerro Elementary School | 10/17/2016 |
| Tustin, City of | Red Hill Elementary School | 10/24/2016 |
| Santa Ana, City of | Russell Elementary School | 10/24/2016 |
| Anaheim, City of | Danbrook Elementary School | 10/25/2016, 10/26/2016 |
| Orange, City of | McPherson Magnet Elementary School | 10/27/2016 |

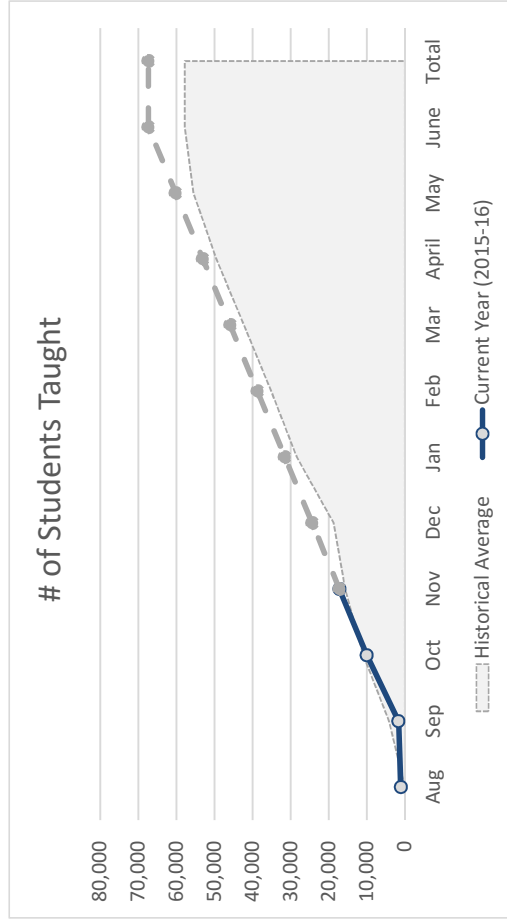
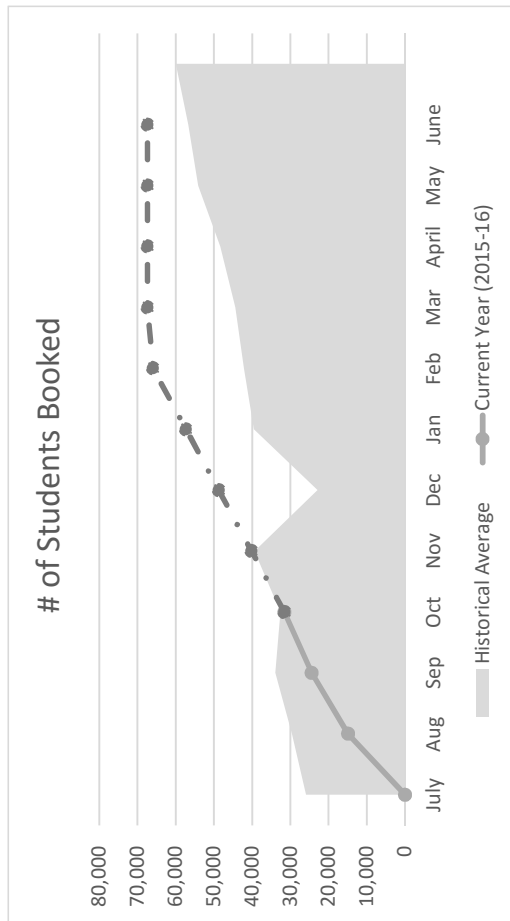
2016-17 Water Education School Program

of Students Booked

| | July | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | April | May | June | Target |
|------------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| Historical Average | 25,921 | 29,624 | 33,957 | 32,595 | 39,372 | 22,873 | 39,556 | 42,137 | 44,405 | 48,304 | 54,149 | 56,674 | 60,000 |
| Current Year (2015-16) | 0 | 14,904 | 24,401 | 31,561 | 40,153 | 48,745 | 57,337 | 65,929 | 67,361 | 67,361 | 67,361 | 67,361 | 67,361 |

of Students Taught

| | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | April | May | June | Total |
|------------------------|-------|-------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| Historical 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) | 1,080 | 1,681 | 10,018 | 17,186 | 24,354 | 31,522 | 38,690 | 45,858 | 53,026 | 60,194 | 67,361 | 67,361 |





INFORMATION ITEM

October 17, 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 Local Agency Formation is working to schedule stakeholder meetings in the wake a request from the San Juan Capistrano City Council for a focused municipal services review. The LAFCO study will determine which agency should secure operations or ownership of the City's utilities.

Dates for those meetings have not been finalized.

The City has a web page on the potential consolidation, at <http://waterstudy.sanjuancapistrano.org> but the last update was posted at the end of August.

The public agencies that have expressed interest in the City's utilities operations thus far are Irvine Ranch Water District, Moulton Niguel Water District and Santa Margarita Water District.

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



INFORMATION ITEM

October 17, 2016

TO: Board of Directors

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

Robert Hunter
General Manager

Staff Contact: Tiffany Baca

SUBJECT: **Update on Water Policy Dinner**

STAFF RECOMMENDATION

Staff recommends the Board of Directors receive and file report and provide input on alternative events.

COMMITTEE RECOMMENDATION

Committee recommends (To be determined at Committee Meeting)

DETAILED REPORT

Staff was working on securing Congresswoman Loretta Sanchez for a November 3rd Water Policy Dinner however, due to scheduling conflicts and time constraints, this plan has not come to fruition.

Staff continues to work on securing an event speaker for the next MWDOC Water Policy Dinner, which will be held after the first of the year.

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

Public Affairs Activities Report
September 14, 2016 – October 11, 2016

| | |
|---------------------------------------|--|
| <p>Member Agency Relations</p> | <p>Heather provided a 2016 State Legislative Recap to the MWDOC Member Agencies Managers group.</p> <p>Heather and Melissa met with Nathan Purkiss of Metropolitan to get an update from him, and coordinate how we can continue to work together.</p> <p>Heather went on a tour of Santa Margarita Water District's (SMWD) facilities to learn more about what they do locally and how MWDOC can be of assistance with their future projects.</p> <p>Heather met with the new Governmental Affairs Manager at Western Municipal Water District, Michael Hadley.</p> <p>Laura attended the Water Use Efficiency Workgroup Meeting and provided an update MWDOC activities.</p> <p>Laura coordinated a bill insert order for our member agencies.</p> <p>Jonathan, Karl, Kevin and Charles attended the Santa Margarita Water District ceremony marking the addition of Advanced Purified Water to Lake Mission Viejo. Director Thomas also attended.</p> |
| <p>Community Relations</p> | <p>Heather attended the Orange County Public Affairs Association meeting featuring guest speaker OC Registrar, Neal Kelly.</p> <p>Heather, Rob, and Karl attended ACC-OC's Water Committee hosted by Mesa Water District. The topic was "Desalination in Orange County" with panelists Andy Brunhart, Scott Meloni of Poseidon and CalDesal Executive Director Paul Kelley. Director Hinman also attended.</p> <p>Heather attended the ACC-OC Ballot Breakfast which provided information on various propositions.</p> <p>Ivan, Jonathan and Laura attended the San Gabriel Valley Water Forum.</p> <p>Jonathan represented MWDOC at the opening of the Saddleback College Sciences Building.</p> |

| | |
|-------------------------|---|
| | |
| Education | <p>Laura attended the Metropolitan Education Coordinators meeting.</p> <p>Laura attended elementary school assemblies at Grace Christian Elementary School and San Joaquin Elementary School with Sherri Seitz, El Toro Water District, and Tony Solorzano, Discovery Science Foundation.</p> <p>Jonathan and Laura held a phone conference with OCDE representatives to increase the presence of the Cal WaterFix in the high school program.</p> |
| Media Relations | <p>Jonathan worked with the Los Angeles Times to include GM Hunter's quote in the article about water usage statewide.</p> <p>Jonathan wrote a news release about OC water savings. The release was posted on MWDOC's website, social media and was posted to a local news website.</p> <p>Jonathan wrote a news release about the South County Water Expo, which was picked up in the OC Register.</p> <p>Jonathan wrote a news release about MWDOC's transparency award. The release was distributed to local media, posted on the MWDOC website, promoted in social media and posted on the ACWA homepage.</p> |
| Special Projects | <p>Ivan and Jonathan staffed the South OC Water Expo organized by Supervisor Lisa Bartlett's office. Director Thomas also attended.</p> <p>Jonathan hosted a meeting with local agencies participating in the Boy Scout merit badge program. He completed required training to work with the Scouts.</p> <p>Tiffany and Bryce are currently working on trip logistics, guest and Director requirements for the following inspection trips:</p> <ol style="list-style-type: none"> 1. October 14-15, Director Dick/Director Galleano (WMWD) SWP/Central Valley Agriculture 2. October 21-22, Director Ackerman, SWP 3. November 18, Director Dick, JPL/Weymouth |

| | |
|--|--|
| | <p>4. Coordinating TBD dates for Infrastructure one-day, CRA/Hoover, and DVL one-day.</p> <p>Tiffany and Bryce are preparing graphic materials for WEROC and the agency water trailers.</p> <p>Tiffany, Jonathan and Bryce participated in a WEROC county-wide functional exercise with several other MWD OC employees. Director Hinman also attended.</p> <p>Tiffany participated in a discussion about inspection trips at the MET Directors Luncheon with Rob Hunter and Directors Ackerman, Barbre, Dick and McKenney.</p> <p>Tiffany finalized and posted the RFP for redesign of the agency's website www.mwdoc.com. She has been tracking responses and responding to requests for clarification from potential vendors. The RFP closes October 31.</p> <p>Tiffany has been preparing a community events action plan which will determine criteria for MWD OC participation by identifying purpose, strategy, goals and ROI.</p> <p>Heather staffed the WACO Planning meeting where the next couple of meetings were outlined.</p> <p>Heather and Laura sent out a reminder invitation for the ISDOC Quarterly Luncheon and registered guests.</p> <p>Tiffany & Heather staffed Director McKenney's State Water Project Trip with board members and staff from ACC-OC. Director Thomas was also on the trip.</p> <p>Heather and Laura, with the help of Crystal Nettles from OCWD, counted the ballots and tallied the votes for the 2016 ISDOC Executive Committee election.</p> <p>Heather, Laura, and Ivan staffed the ISDOC Quarterly Luncheon featuring guest speakers John Seiler and Teri Sforza. Laura and Ivan handled check-in and registration. Heather provided an overview of the Executive Committee Election process and the election results.</p> <p>Heather researched the WACO bylaws for Director Dick.</p> <p>Heather and Laura staffed the ISDOC Executive Committee meeting.</p> |
|--|--|

| | |
|----------------------------|--|
| | <p>Heather staffed the WACO meeting featuring speakers from OCLAFCO and CSDA who provided an update and overview of the Little Hoover Commission's hearings on special districts.</p> <p>Laura attended the National Pollutant Discharge Elimination System Public Education Sub-Committee meeting at the County of Orange.</p> <p>Laura distributed 85,000 conservation door hangers to participating REALTORS.</p> <p>Jonathan coordinated Andrew Kanzler's presentation to AP students at Brea-Olinda High School and prepared a PowerPoint for the morning.</p> <p>Jonathan coordinated Andrew Kanzler's presentation to the California prison operators at a meeting in Dana Point.</p> <p>Jonathan coordinated a presentation by Karl Seckel at the SMPS Orange County luncheon.</p> |
| Legislative Affairs | <p>Heather attended the Orange County Producers meeting to hear the group's feedback on the Orange County Flood Control District's (OCFCD) proposed license fee. Karl, Kevin and Keith also attended.</p> <p>Heather scheduled a meet & greet meeting with Supervisor Steel for Director Tamaribuchi and Rob.</p> <p>Heather met with Christine Compton of Irvine Ranch Water District (IRWD) to discuss the OCFCD's proposed license fee.</p> <p>Heather and Karl coordinated MWDOC's response letter to the County of Orange on the OCFCD's proposed license fee. The current coalition includes IRWD, Anaheim Public Works and SMWD. Comments were due October 12, 2016.</p> |
| Water Summit | <p>Jonathan is working to secure Fritz Coleman or Jonathan Goldsmith (The former Most Interesting Man in the World) as emcee for 2017 event.</p> |