

WORKSHOP MEETING OF THE
BOARD OF DIRECTORS WITH MET DIRECTORS
MUNICIPAL WATER DISTRICT OF ORANGE COUNTY
18700 Ward Street, Fountain Valley, California
March 3, 2021, 8:30 a.m.

Due to the spread of COVID-19 and as authorized by the Governor's Executive Order, MWDOC will be holding all upcoming Board and Committee meetings by Zoom Webinar and will be available by either computer or telephone audio as follows:

Computer Audio: You can join the Zoom meeting by clicking on the following link:

<https://zoom.us/j/8828665300>

Telephone Audio: (669) 900 9128 fees may apply
(877) 853 5247 Toll-free

Webinar ID: 882 866 5300#

AGENDA

ROLL CALL

PUBLIC PARTICIPATION/COMMENTS

At this time members of the public will be given an opportunity to address the Board concerning items within the subject matter jurisdiction of the Board. Members of the public may also address the Board about a particular Agenda item at the time it is considered by the Board and before action is taken.

The Board requests, but does not require, that members of the public who want to address the Board complete a voluntary "Request to be Heard" form available from the Board Secretary prior to the meeting.

ITEMS RECEIVED TOO LATE TO BE AGENDIZED

Determine need and take action to agendize item(s), which arose subsequent to the posting of the Agenda. (ROLL CALL VOTE: Adoption of this recommendation requires a two-thirds vote of the Board members present or, if less than two-thirds of the Board members are present a unanimous vote.)

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>.

NEXT RESOLUTION NO. 2108

ACTION ITEMS

1. AB 361 (RIVAS) – BROWN ACT: REMOTE MEETINGS DURING EMERGENCIES

Recommendation: Adopt a support position on AB 361 (Rivas), and send a letter in support to the Orange County delegation, and the California Special Districts Association (CSDA).

2. AB 703 (RUBIO) – BROWN ACT: PUBLIC MEETINGS VIA TELECONFERENCING

Recommendation: Adopt a support position on AB 703 (Rubio), and send a letter in support to the author's office and Orange County delegation.

3. AB 442 (MAYES) – SURFACE MINING AND RECLAMATION ACT OF 1975: EXEMPTION: METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Recommendation: Adopt a support position on AB 442 (Mayes), and authorize staff to sign onto the Metropolitan Water District of Southern California's coalition letter.

4. H.R. 535 (GARAMENDI) & S. 91 (SINEMA) - SPECIAL DISTRICTS PROVIDE ESSENTIAL SERVICES ACT

Recommendation: Adopt a support position on H.R. 535 (Garamendi, D-CA) and S. 91 (Sinema, D-AZ), and send a letter in support to the Orange County delegation, and the California Special Districts Association (CSDA).

5. SB 323 (CABALLERO) – WATER/SEWER RATES

Recommendation: Adopt a support position on SB 323 (Caballero), and send a letter in support to the Orange County delegation, and the Association of California Water Agencies (ACWA).

6. SB 351 (CABALLERO) – WATER INNOVATION ACT OF 2021

Recommendation: Adopt a support position on SB 351 (Caballero), and send a letter in support to the Orange County delegation, and the California Municipal Utilities Association (CMUA).

PRESENTATION/DISCUSSION ITEMS**7. LEGISLATIVE ACTIVITIES**

- a. Federal Legislative Report (NRR)
- b. State Legislative Report (BBK)
- c. MWDOC Legislative Matrix
- d. Metropolitan Legislative Matrix

Recommendation: Review and discuss the information presented.

8. INPUT OR QUESTIONS ON MET ISSUES FROM THE MEMBER AGENCIES/MET DIRECTOR REPORTS REGARDING MET COMMITTEE PARTICIPATION

Recommendation: Receive input and discuss the information presented.

9. STATUS UPDATE BY MWDOC STAFF REGARDING METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA RATE REFINEMENT PROCESS

Recommendation: Review and discuss the information presented.

INFORMATION ITEMS

10. MET ITEMS CRITICAL TO ORANGE COUNTY (The following items are for informational purposes only – a write up on each item is included in the packet. Discussion is not necessary unless requested by a Director)

- a. MET's Finance and Rate Issues
- b. MET's General Manager Recruitment Process
- c. MET's Water Supply Conditions
- d. Colorado River Issues
- e. Delta Conveyance Activities and State Water Project Issues

Recommendation: Review and discuss the information presented.

11. METROPOLITAN (MET) BOARD AND COMMITTEE AGENDA DISCUSSION ITEMS

- a. Summary regarding February MET Board Meeting
- b. Review items of significance for MET Board and Committee Agendas

Recommendation: Review and discuss the information presented.

ADJOURNMENT

Note: 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 accommodations should make the request with adequate time before the meeting for the District to provide the requested accommodations.



Item No. 1

ACTION ITEM

March 3, 2021

TO: Board of Directors

FROM: Robert Hunter
General Manager

Staff Contact: Heather Baez

SUBJECT: AB 361 (RIVAS) – BROWN ACT: REMOTE MEETINGS DURING EMERGENCIES

STAFF RECOMMENDATION

Staff recommends the Board of Directors vote to adopt a support position on AB 361 (Rivas), and send a letter in support to the Orange County delegation, and the California Special Districts Association (CSDA).

BILL SUMMARY

Assembly Bill 361 will provide additional flexibility for local city councils, boards, commissions, and other public agencies to meet remotely via video and teleconference during a local emergency that makes meeting in person unsafe, while still maintaining high levels of public access and transparency.

BACKGROUND

In 1953, the Ralph M. Brown Act, known simply as the “Brown Act”, guaranteed the public's right to attend and participate in meetings of local legislative bodies. To meet this objective, the Brown Act drew up requirements regarding the public notice of meetings, the posting of agendas, and physical access to those meetings.

In 1988, AB 3191 (Frazee) updated the Brown Act by authorizing local legislative bodies to use video teleconferencing in connection with any meeting or proceeding authorized by law, for the benefit of the public. However, AB 3191 also required that the public had to have

Budgeted (Y/N): n/a	Budgeted amount: n/a	Core X	Choice ____
Action item amount: None	Line item:		
Fiscal Impact (explain if unbudgeted):			

physical access to each remote meeting location. Subsequently, in 1998, SB 138 (Kopp) expanded the allowable uses of teleconferencing even further.

When the COVID-19 pandemic started, local agency boards struggled to conduct their meetings in compliance with the Brown Act's public accessibility requirements, while still abiding by stay-at-home orders. As a result, Governor Newsom signed Orders [N-25-20](#), [N-29-20](#), and [N-35-20](#) to grant local agencies the flexibility to meet remotely during the COVID-19 pandemic.

ARGUMENTS IN SUPPORT

AB 361 will allow public agencies to meet remotely to continue providing services to the public without jeopardizing the safety of the public, local agency personnel, or board members. Local agencies will accommodate both internet video conferencing platforms and phone lines to ensure that the public can access these meetings with or without an internet connection.

This means that if a specified state or local agency declares an emergency, they would be allowed to meet via a videoconferencing platform and/or phone without waiting for an Executive Order to specifically authorize it. The public would be able to participate through such online and telephonic platforms, too.

ARGUMENTS IN OPPOSITION

None on file.

BOARD OPTIONS

Option #1

- Adopt a support position on AB 361 (Rivas) and send a support letter to the Orange County delegation and CSDA, the bill's sponsor.

Fiscal Impact: None identified

Business Analysis: The provisions in this measure will provide local agencies with the flexibility necessary to meet remotely while preserving public access during a specified emergency.

Option #2

- Take no action

Fiscal Impact: Same as Option #1

STAFF RECOMMENDATION

Option #1

ATTACHED:

- AB 361 Full Text

ASSEMBLY BILL

No. 361

Introduced by Assembly Member Robert Rivas

February 1, 2021

An act to amend Section 54953 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 361, as introduced, Robert Rivas. Open meetings: local agencies: teleconferences.

Existing law, the Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to directly address the legislative body on any item of interest to the public. The act generally requires all regular and special meetings of the legislative body be held within the boundaries of the territory over which the local agency exercises jurisdiction, subject to certain exceptions. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The

act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, the California Emergency Services Act, authorizes the Governor, or the Director of Emergency Services when the governor is inaccessible, to proclaim a state of emergency under specified circumstances, and authorizes a specified legislative body or an official designated to proclaim a local emergency. Existing law allows a local health officer to declare a local public health emergency, which, after 7 days, must be ratified by the county board of supervisors, or city council, as applicable, in order to remain in place.

Executive Order No. N-29-20 suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic provided that notice and accessibility requirements are met, the public members are allowed to observe and address the legislative body at the meeting, and that a legislative body of a local agency has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting for the purpose of declaring or ratifying a local emergency, during a declared state or local emergency, as those terms are defined, when state or local health officials have imposed or recommended measures to promote social distancing, and during a declared local emergency provided the legislative body makes certain determinations by majority vote. The bill would require legislative bodies that hold teleconferenced meetings under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, as provided, to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body.

This bill would declare the Legislature's intent, consistent with the Governor's Executive Order No. N-29-20, to improve and enhance public access to local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

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

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

1 SECTION 1. Section 54953 of the Government Code is
2 amended to read:
3 54953. (a) All meetings of the legislative body of a local
4 agency shall be open and public, and all persons shall be permitted
5 to attend any meeting of the legislative body of a local agency,
6 except as otherwise provided in this chapter.
7 (b) (1) Notwithstanding any other provision of law, the
8 legislative body of a local agency may use teleconferencing for
9 the benefit of the public and the legislative body of a local agency
10 in connection with any meeting or proceeding authorized by law.
11 The teleconferenced meeting or proceeding shall comply with all
12 *otherwise applicable* requirements of this chapter and all otherwise
13 applicable provisions of law relating to a specific type of meeting
14 or proceeding.
15 (2) Teleconferencing, as authorized by this section, may be used
16 for all purposes in connection with any meeting within the subject
17 matter jurisdiction of the legislative body. All votes taken during
18 a teleconferenced meeting shall be by rollcall.
19 (3) If the legislative body of a local agency elects to use
20 teleconferencing, it shall post agendas at all teleconference
21 locations and conduct teleconference meetings in a manner that
22 protects the statutory and constitutional rights of the parties or the
23 public appearing before the legislative body of a local agency.
24 Each teleconference location shall be identified in the notice and
25 agenda of the meeting or proceeding, and each teleconference
26 location shall be accessible to the public. During the teleconference,
27 at least a quorum of the members of the legislative body shall
28 participate from locations within the boundaries of the territory

1 over which the local agency exercises jurisdiction, except as
2 provided in ~~subdivision (d)~~. *subdivisions (d) and (e)*. The agenda
3 shall provide an opportunity for members of the public to address
4 the legislative body directly pursuant to Section 54954.3 at each
5 teleconference location.

6 (4) For the purposes of this section, “teleconference” means a
7 meeting of a legislative body, the members of which are in different
8 locations, connected by electronic means, through either audio or
9 video, or both. Nothing in this section shall prohibit a local agency
10 from providing the public with additional teleconference locations.

11 (c) (1) No legislative body shall take action by secret ballot,
12 whether preliminary or final.

13 (2) The legislative body of a local agency shall publicly report
14 any action taken and the vote or abstention on that action of each
15 member present for the action.

16 (3) Prior to taking final action, the legislative body shall orally
17 report a summary of a recommendation for a final action on the
18 salaries, salary schedules, or compensation paid in the form of
19 fringe benefits of a local agency executive, as defined in
20 subdivision (d) of Section 3511.1, during the open meeting in
21 which the final action is to be taken. This paragraph shall not affect
22 the public’s right under the California Public Records Act (Chapter
23 3.5 (commencing with Section 6250) of Division 7 of Title 1) to
24 inspect or copy records created or received in the process of
25 developing the recommendation.

26 (d) (1) Notwithstanding the provisions relating to a quorum in
27 paragraph (3) of subdivision (b), if a health authority conducts a
28 teleconference meeting, members who are outside the jurisdiction
29 of the authority may be counted toward the establishment of a
30 quorum when participating in the teleconference if at least 50
31 percent of the number of members that would establish a quorum
32 are present within the boundaries of the territory over which the
33 authority exercises jurisdiction, and the health authority provides
34 a teleconference number, and associated access codes, if any, that
35 allows any person to call in to participate in the meeting and the
36 number and access codes are identified in the notice and agenda
37 of the meeting.

38 (2) Nothing in this subdivision shall be construed as
39 discouraging health authority members from regularly meeting at
40 a common physical site within the jurisdiction of the authority or

1 from using teleconference locations within or near the jurisdiction
2 of the authority. A teleconference meeting for which a quorum is
3 established pursuant to this subdivision shall be subject to all other
4 requirements of this section.

5 (3) For purposes of this subdivision, a health authority means
6 any entity created pursuant to Sections 14018.7, 14087.31,
7 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare
8 and Institutions Code, any joint powers authority created pursuant
9 to Article 1 (commencing with Section 6500) of Chapter 5 of
10 Division 7 for the purpose of contracting pursuant to Section
11 14087.3 of the Welfare and Institutions Code, and any advisory
12 committee to a county sponsored health plan licensed pursuant to
13 Chapter 2.2 (commencing with Section 1340) of Division 2 of the
14 Health and Safety Code if the advisory committee has 12 or more
15 members.

16 (e) (1) *A local agency may use teleconferencing without*
17 *complying with the requirements of paragraph (3) of subdivision*
18 *(b) if the legislative body complies with the requirements of*
19 *paragraph (2) of this subdivision in any of the following*
20 *circumstances:*

21 (A) *The legislative body holds a meeting for the purpose of*
22 *proclaiming or ratifying a local emergency.*

23 (B) *The legislative body holds a meeting during a proclaimed*
24 *state of emergency or declared local emergency, and state or local*
25 *officials have imposed or recommended measures to promote*
26 *social distancing.*

27 (C) *The legislative body holds a meeting during a declared local*
28 *emergency and the legislative body determines by majority vote*
29 *that, as a result of the emergency, the attendance of one or more*
30 *members of the legislative body in person is hindered, or meeting*
31 *in person would present risks to the health or safety of attendees.*

32 (2) *A legislative body that holds a meeting pursuant to this*
33 *subdivision shall do all of the following:*

34 (A) *The legislative body shall give notice of the meeting and*
35 *post agendas as otherwise required by this chapter.*

36 (B) *The legislative body shall allow members of the public to*
37 *access the meeting and the agenda shall provide an opportunity*
38 *for members of the public to address the legislative body directly*
39 *pursuant to Section 54954.3. In each instance in which notice of*
40 *the time of the teleconferenced meeting is otherwise given or the*

1 *agenda for the meeting is otherwise posted, the legislative body*
2 *shall also give notice of the means by which members of the public*
3 *may access the meeting and offer public comment. This*
4 *subparagraph shall not be construed to require the legislative*
5 *body to provide a physical location from which the public may*
6 *attend or comment.*

7 *(C) The legislative body shall conduct teleconference meetings*
8 *in a manner that protects the statutory and constitutional rights*
9 *of the parties and the public appearing before the legislative body*
10 *of a local agency.*

11 *(3) For the purposes of this subdivision, the following definitions*
12 *shall apply:*

13 *(A) “State of emergency” means a state of emergency*
14 *proclaimed pursuant to Section 8625 of the California Emergency*
15 *Services Act (Article 14 (commencing with Section 8550) of*
16 *Chapter 7 of Division of Title 2.*

17 *(B) “Local emergency” means an emergency proclaimed*
18 *pursuant to Section 8630 of the California Emergency Services*
19 *Act (Article 14 (commencing with Section 8550) of Chapter 7 of*
20 *Division 1 of Title 2 as a result of conditions existing in all or a*
21 *portion of the jurisdiction of the local agency. Local emergency*
22 *refers only to local emergencies in the jurisdiction in which the*
23 *legislative body is located.*

24 SEC. 2. It is the intent of the Legislature in enacting this act
25 to improve and enhance public access to local agency meetings
26 during the COVID-19 pandemic and future applicable emergencies,
27 by allowing broader access through teleconferencing options
28 consistent with the Governor’s Executive Order No. N-29-20 dated
29 March 17, 2020, permitting expanded use of teleconferencing
30 during the COVID-19 pandemic.

31 SEC. 3. The Legislature finds and declares that Section 1 of
32 this act, which amends Section 54953 of the Government Code,
33 furthers, within the meaning of paragraph (7) of subdivision (b)
34 of Section 3 of Article I of the California Constitution, the purposes
35 of that constitutional section as it relates to the right of public
36 access to the meetings of local public bodies or the writings of
37 local public officials and local agencies. Pursuant to paragraph (7)
38 of subdivision (b) of Section 3 of Article I of the California
39 Constitution, the Legislature makes the following findings:

1 This act is necessary to ensure minimum standards for public
2 participation and notice requirements allowing for greater public
3 participation in teleconference meetings during applicable
4 emergencies.

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ACTION ITEM

March 3, 2021

TO: Board of Directors

FROM: Robert Hunter
General Manager

Staff Contact: Heather Baez

**SUBJECT: AB 703 (RUBIO) – BROWN ACT: PUBLIC MEETINGS VIA
TELECONFERENCING**

STAFF RECOMMENDATION

Staff recommends the Board of Directors vote to adopt a support position on AB 703 (Rubio), and send a letter in support to the author's office and Orange County delegation.

BILL SUMMARY

Assembly Bill 703 will allow for additional flexibility for local city councils, boards, commissions, and other public agencies to hold public meetings remotely via video and teleconference.

This bill would declare the Legislature's intent, consistent with the Governor's Executive Order [N-29-20](#), to improve and enhance public access to local agency meetings into the future by allowing broader access through teleconferencing options.

BACKGROUND

As part of his response to the COVID-19 pandemic, Governor Newsom issued Executive Order [N-29-20](#) in March 2020 to expand public access to meetings of local agencies by suspending some of the restrictions on teleconferencing. Allowing local agencies to utilize teleconferencing for meetings of the legislative body has enhanced public access and increased participation by the public.

Budgeted (Y/N): n/a	Budgeted amount: n/a	Core X	Choice ____
Action item amount: None	Line item:		
Fiscal Impact (explain if unbudgeted):			

Current law refers to “teleconference locations” and requires various actions taken at what was typically remote or alternative locations, by local governments wishing to have teleconference meetings. Current law does not recognize that a teleconference location can now be wherever there is a person with a computer, a tablet, or a mobile phone.

ARGUMENTS IN SUPPORT

AB 703 will eliminate the previously existing concept of “teleconference locations”; will revise existing law to ensure minimum standards for public participation; and will revise notice requirements to allow for greater public participation in teleconference meetings of local agencies. The bill does not require teleconferencing, but modernizes existing law to ensure greater public participation in meetings of the legislative bodies of local agencies that choose to utilize teleconferencing.

AB 703 also expresses legislative intent to improve and enhance public access to local agency meetings, consistent with the digital age, by allowing broader access through teleconferencing options consistent with the Governors Executive Order [N-29-20](#), permitting expanded use of teleconferencing during the COVID-19 pandemic.

This measure is sponsored by Three Valleys Municipal Water District.

ARGUMENTS IN OPPOSITION

None on file.

BOARD OPTIONS

Option #1

- Adopt a support position on AB 703 (Rubio) and send a support letter to the author and the Orange County delegation.

Fiscal Impact: None identified

Business Analysis: AB 703 will provide MWDOC and other public agencies the flexibility to hold open meetings in person or via teleconference, while allowing for increased opportunities for public participation.

Option #2

- Take no action

Fiscal Impact: Same as Option #1

STAFF RECOMMENDATION

Option #1

ATTACHED:

- AB 703 Full Text

ASSEMBLY BILL

No. 703

Introduced by Assembly Member Blanca Rubio

February 16, 2021

An act to amend Section 54953 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 703, as introduced, Blanca Rubio. Open meetings: local agencies: teleconferences.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to observe and provide comment. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, Executive Order N-29-20, suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic, provided that notice requirements are met, the ability of the

public to observe and comment is preserved, as specified, and that a local agency permitting teleconferencing have a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill would remove the requirements of the act particular to teleconferencing and allow for teleconferencing subject to existing provisions regarding the posting of notice of an agenda and the ability of the public to observe the meeting and provide public comment. The bill would require that, in each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the local agency also give notice of the means by which members of the public may observe the meeting and offer public comment and that the legislative body have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act, as provided.

This bill would declare the Legislature's intent, consistent with the Governor's Executive Order N-29-20, to improve and enhance public access to local agency meetings into the future, and considering the digital age, by allowing broader access through teleconferencing options.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

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

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

- 1 SECTION 1. Section 54953 of the Government Code is
- 2 amended to read:
- 3 54953. (a) All meetings of the legislative body of a local
- 4 agency shall be open and public, and all persons shall be permitted
- 5 to attend any meeting of the legislative body of a local agency,
- 6 except as otherwise provided in this chapter.
- 7 (b) (1) Notwithstanding any other provision of law, the
- 8 legislative body of a local agency may use teleconferencing for

1 the benefit of the public and the legislative body of a local agency
2 in connection with any meeting or proceeding authorized by law.
3 The teleconferenced meeting or proceeding shall comply with all
4 *otherwise applicable* requirements of this chapter and all otherwise
5 applicable provisions of law relating to a specific type of meeting
6 or proceeding.

7 (2) Teleconferencing, as authorized by this section, may be used
8 for all purposes in connection with any meeting within the subject
9 matter jurisdiction of the legislative body. All votes taken during
10 a teleconferenced meeting shall be by rollcall.

11 (3) If the legislative body of a local agency elects to use
12 teleconferencing, it shall ~~post agendas at all teleconference~~
13 ~~locations and allow members of the public to observe the meeting~~
14 ~~and address the legislative body, and it shall give notice of the~~
15 ~~meeting and post agendas as otherwise required by this chapter.~~
16 *The agenda shall provide an opportunity for members of the public*
17 *to address the legislative body directly pursuant to Section 54954.3.*
18 *In each instance in which notice of the time of the teleconferenced*
19 *meeting is otherwise given or the agenda for the meeting is*
20 *otherwise posted, the local agency must also give notice of the*
21 *means by which members of the public may observe the meeting*
22 *and offer public comment. The legislative body shall conduct*
23 *teleconference meetings in a manner that protects the statutory*
24 *and constitutional rights of the parties or the public appearing*
25 *before the legislative body of a local agency. Each teleconference*
26 *location shall be identified in the notice and agenda of the meeting*
27 *or proceeding, and each teleconference location shall be accessible*
28 *to the public. During the teleconference, at least a quorum of the*
29 *members of the legislative body shall participate from locations*
30 *within the boundaries of the territory over which the local agency*
31 *exercises jurisdiction, except as provided in subdivision (d). The*
32 *agenda shall provide an opportunity for members of the public to*
33 *address the legislative body directly pursuant to Section 54954.3*
34 *at each teleconference location. If the legislative body uses*
35 *teleconferencing to hold a meeting, the legislative body must have*
36 *and implement a procedure for receiving and swiftly resolving*
37 *requests for reasonable accommodation for individuals with*
38 *disabilities, consistent with the federal Americans with Disabilities*
39 *Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in*
40 *favor of accessibility. The procedure for receiving and resolving*

1 *requests for accommodation must be noticed each time notice of*
2 *the means by which members of the public may observe the*
3 *teleconference meeting and offer public comment is made.*

4 (4) For the purposes of this section, “teleconference” means a
5 meeting of a legislative body, the members of which are in different
6 locations, connected by electronic means, through either audio or
7 video, or both. Nothing in this section shall prohibit a local agency
8 from providing the public with additional teleconference locations.

9 (c) (1) No legislative body shall take action by secret ballot,
10 whether preliminary or final.

11 (2) The legislative body of a local agency shall publicly report
12 any action taken and the vote or abstention on that action of each
13 member present for the action.

14 (3) Prior to taking final action, the legislative body shall orally
15 report a summary of a recommendation for a final action on the
16 salaries, salary schedules, or compensation paid in the form of
17 fringe benefits of a local agency executive, as defined in
18 subdivision (d) of Section 3511.1, during the open meeting in
19 which the final action is to be taken. This paragraph shall not affect
20 the public’s right under the California Public Records Act (Chapter
21 3.5 (commencing with Section 6250) of Division 7 of Title 1) to
22 inspect or copy records created or received in the process of
23 developing the recommendation.

24 ~~(d) (1) Notwithstanding the provisions relating to a quorum in~~
25 ~~paragraph (3) of subdivision (b), if a health authority conducts a~~
26 ~~teleconference meeting, members who are outside the jurisdiction~~
27 ~~of the authority may be counted toward the establishment of a~~
28 ~~quorum when participating in the teleconference if at least 50~~
29 ~~percent of the number of members that would establish a quorum~~
30 ~~are present within the boundaries of the territory over which the~~
31 ~~authority exercises jurisdiction, and the health authority provides~~
32 ~~a teleconference number, and associated access codes, if any, that~~
33 ~~allows any person to call in to participate in the meeting and the~~
34 ~~number and access codes are identified in the notice and agenda~~
35 ~~of the meeting. (2) Nothing in this subdivision shall be construed~~
36 ~~as discouraging health authority members of a legislative body~~
37 ~~from regularly meeting at a common physical site within the~~
38 ~~jurisdiction of the authority local agency or from using~~
39 ~~teleconference locations within or near the jurisdiction of the~~
40 ~~authority. A teleconference meeting for which a quorum is~~

1 established pursuant to this subdivision shall be subject to all other
2 requirements of this section: *local agency*.

3 (3) ~~For purposes of this subdivision, a health authority means~~
4 ~~any entity created pursuant to Sections 14018.7, 14087.31,~~
5 ~~14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare~~
6 ~~and Institutions Code, any joint powers authority created pursuant~~
7 ~~to Article 1 (commencing with Section 6500) of Chapter 5 of~~
8 ~~Division 7 for the purpose of contracting pursuant to Section~~
9 ~~14087.3 of the Welfare and Institutions Code, and any advisory~~
10 ~~committee to a county sponsored health plan licensed pursuant to~~
11 ~~Chapter 2.2 (commencing with Section 1340) of Division 2 of the~~
12 ~~Health and Safety Code if the advisory committee has 12 or more~~
13 ~~members.~~

14 SEC. 2. It is the intent of the Legislature in enacting this
15 measure to improve and enhance public access to local agency
16 meetings into the future, and considering the digital age, by
17 allowing broader access through teleconferencing options
18 consistent with the Governor's Executive Order 29-20 dated March
19 17, 2020, permitting expanded use of teleconferencing during the
20 COVID-19 pandemic.

21 SEC. 3. The Legislature finds and declares that Section 1 of
22 this act, which amends Section 54953 of the Government Code,
23 furthers, within the meaning of paragraph (7) of subdivision (b)
24 of Section 3 of Article I of the California Constitution, the purposes
25 of that constitutional section as it relates to the right of public
26 access to the meetings of local public bodies or the writings of
27 local public officials and local agencies. Pursuant to paragraph (7)
28 of subdivision (b) of Section 3 of Article I of the California
29 Constitution, the Legislature makes the following findings:

30 This act is necessary to ensure minimum standards for public
31 participation and notice requirements allowing for greater public
32 participation in teleconference meetings.

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ACTION ITEM

March 3, 2021

TO: Board of Directors

FROM: Robert Hunter
General Manager

Staff Contact: Heather Baez

SUBJECT: AB 442 (MAYES) – SURFACE MINING AND RECLAMATION ACT OF 1975: EXEMPTION: METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

STAFF RECOMMENDATION

Staff recommends the Board of Directors vote to adopt a support position on AB 442 (Mayes), and authorize staff to sign onto the Metropolitan Water District of Southern California's coalition letter.

BILL SUMMARY

AB 442 would authorize the Metropolitan Water District of Southern California (Metropolitan) to prepare a single reclamation plan for earth-moving operations on lands owned, leased, or with easements, for repairs or maintenance to its water infrastructure systems that cross multiple counties in Southern California for the delivery of water to homes, businesses, farms, and the environment.

BACKGROUND

When Metropolitan completed construction of the Colorado River Aqueduct (CRA) and began operation in 1941, it retained ownership of the land beneath and adjacent to the CRA, including the excess stone, gravel, and sand used to construct the project. To this day, Metropolitan uses those materials to restore CRA facilities from storm and flood damage, and make repairs to the CRA, adjacent roads, and related infrastructure.

Enacted in 1975, SMARA provides for the regulation of surface mining operations to encourage mineral production and conservation and to ensure mined lands are reclaimed to a usable condition to prevent environmental effects and ensure public health and safety.

In 2017, the County of San Bernardino notified Metropolitan that it needed to comply with SMARA for its use of materials obtained from land owned by Metropolitan for repair and

Budgeted (Y/N): n/a	Budgeted amount: n/a	Core X	Choice ___
Action item amount: None		Line item:	
Fiscal Impact (explain if unbudgeted):			

maintenance activities on its conveyance and distribution system in the County. Riverside County followed suit.

Metropolitan's distribution system crosses six counties with differing regulations and processes. Therefore, compliance with SMARA for each county would be both costly and inefficient, requiring the preparation of separate reclamation plans, associated CEQA documents, regulatory permits, and annual inspections.

ARGUMENTS IN SUPPORT

Maintaining critical water infrastructure requires coordinated regulatory compliance. AB 2246 proposes special status under SMARA, so Metropolitan can consistently administer and enforce SMARA compliance for the purpose of responding to emergencies, repairing, maintaining, or replacing any pipelines, infrastructure, or related transmission systems used for the distribution of water located in Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura counties.

Metropolitan must work quickly and efficiently to protect, maintain, and operate critical infrastructure across a vast area to ensure the delivery of reliable and safe water to nearly 19 million people in its service area – or one in every two Californians.

AB 442 would not exempt Metropolitan from SMARA compliance. In fact, Metropolitan would still complete a reclamation plan and comply with CEQA. What would be different is Metropolitan staff would perform the annual inspections and submit the annual report directly to the California Department of Conservation rather than going through individual counties. This approach would make compliance with SMARA more efficient and generate cost savings for ratepayers.

ARGUMENTS IN OPPOSITION

None on file.

BOARD OPTIONS

Option #1 (Staff Recommendation)

- Adopt a support position on AB 442 (Mayes) and authorize MWDOC staff to sign on to Metropolitan's coalition letter

Fiscal Impact: Cost savings to ratepayers via reduced staff time for filing permits in multiple counties

Business Analysis: Metropolitan is asking its member agencies to support AB 442 and join their coalition letter. Orange County purchases Colorado River water from MWD and keeping costs down through increasing staff efficiency benefits the region's ratepayers.

Option #2

- Take no action

Fiscal Impact: Same as Option #1

ATTACHED:

- AB 442 Full Text

ASSEMBLY BILL

No. 442

Introduced by Assembly Member Mayes

February 4, 2021

An act to amend Section 2714 of, and to add and repeal Section 2715.6 of, the Public Resources Code, relating to surface mining.

LEGISLATIVE COUNSEL'S DIGEST

AB 442, as introduced, Mayes. Surface Mining and Reclamation Act of 1975: exemption: Metropolitan Water District of Southern California: single master reclamation plan.

(1) The Surface Mining and Reclamation Act of 1975 prohibits a person, with exceptions, from conducting surface mining operations unless, among other things, a permit is obtained from, a specified reclamation plan is submitted to and approved by, and financial assurances for reclamation have been approved by the lead agency for the operation of the surface mining operation. The act exempts certain activities from the provisions of the act, including, among others, emergency excavations or grading conducted by the Department of Water Resources or the Central Valley Flood Protection Board for the specified purposes; surface mining operations conducted on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources for the purpose of the State Water Resources Development System or flood control; and surface mining operations on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Central Valley Flood Protection Board for the purpose of flood control.

This bill would additionally exempt from the provisions of the act emergency excavations or grading conducted by the Metropolitan Water

District of Southern California (MWD) for its own operations and infrastructure for specified purposes.

The bill would authorize MWD to prepare a single master reclamation plan, as provided, for its earth moving operations conducted on lands owned or leased by, or upon which easements or rights-of-way have been granted to, MWD for the purpose of operating, repairing, maintaining, or replacing pipelines, infrastructure, or related transmission systems used for the conveyance and distribution of water in specified counties. The bill would require the State Mining and Geology Board to act as the lead agency in approving the single master reclamation plan. The bill would exempt MWD from having to secure approval of a reclamation plan from any city or county or obtain a permit under the act to conduct these operations. The bill would require MWD to provide an annual report to the State Mining and Geology Board and any affected county on these surface mining operations. The bill would exempt MWD from the payment of a specified annual reporting fee. To the extent this bill adds to the duties of local governments acting as a lead agency, the bill would impose a state-mandated local program. The bill would repeal the provisions authorizing the preparation and approval of the single master reclamation plan for MWD on January 1, 2026.

(2) This bill would make legislative findings and declarations as to the necessity of a special statute for the Metropolitan Water District of Southern California.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

- 1 SECTION 1. Section 2714 of the Public Resources Code is
- 2 amended to read:
- 3 2714. This chapter does not apply to any of the following
- 4 activities:
- 5 (a) Excavations or grading of lands conducted for farming.

(b) Onsite excavation and onsite earthmoving activities that are integral and necessary for the construction of structures and that are undertaken to prepare a site for the construction of those structures, including landscaping or other land improvements associated with those structures, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:

(1) All required permits for the construction and any associated landscaping or related land improvements have been approved by a public agency in accordance with applicable provisions of state law and locally adopted plans and ordinances, including, but not limited to, the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(2) The lead agency's approval of the construction project included consideration of the onsite excavation and onsite earthmoving activities pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(3) The approved construction project is consistent with the general plan or zoning of the site.

(4) Surplus materials shall not be exported from the site unless and until actual construction work has commenced and shall cease if it is determined that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.

(c) Operation of a plant site used for mineral processing, including associated onsite structures, equipment, machines, tools, or other materials, including the onsite stockpiling and onsite recovery of mined materials, subject to all of the following conditions:

(1) The plant site is located on lands designated for industrial or commercial uses in the applicable county or city general plan.

(2) The plant site is located on lands zoned as industrial or commercial or are contained within a zoning category intended exclusively for industrial activities by the applicable city or county.

(3) None of the minerals being processed are being extracted onsite.

(4) All reclamation work has been completed pursuant to the approved reclamation plan for any mineral extraction activities that occurred onsite after January 1, 1976.

(d) Prospecting for or the extraction of minerals for commercial purposes where the removal of overburden or mineral product totals less than 1,000 cubic yards in any one location and the total surface area disturbed is less than one acre.

(e) Surface mining operations that are required by federal law in order to protect a mining claim, if those operations are conducted solely for that purpose.

(f) Any other surface mining operations that the board determines to be of an infrequent nature and that involve only minor surface disturbances.

(g) The solar evaporation of sea water or bay water for the production of salt and related minerals.

(h) Emergency excavations or grading conducted by the Department of Water Resources or the Central Valley Flood Protection Board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters, or other emergencies.

(i) (1) Surface mining operations conducted on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources for the purpose of the State Water Resources Development System or flood control, and surface mining operations on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Central Valley Flood Protection Board for the purpose of flood control, if the Department of Water Resources adopts, after submission to and consultation with, the Division of Mine Reclamation, a reclamation plan for lands affected by these activities, and those lands are reclaimed in conformance with the standards specified in regulations of the board adopted pursuant to this chapter. The Department of Water Resources shall provide an annual report to the department by the date specified by the department on these *surface mining activities*. ~~operations.~~

(2) Nothing in this subdivision shall require the Department of Water Resources or the Central Valley Flood Protection Board to obtain a permit or secure approval of a reclamation plan from any city or county in order to conduct surface mining operations specified in paragraph (1). Nothing in this subdivision shall preclude the bringing of an enforcement action pursuant to Section 2774.1, if it is determined that ~~a surface mine~~ *an operator*, acting under contract with the Department of Water Resources or the

1 Central Valley Flood Protection Board on lands other than those
2 owned or leased, or upon which easements or rights-of-way have
3 been obtained, by the Department of Water Resources or the
4 Central Valley Flood Protection Board, is otherwise not in
5 compliance with this chapter.

6 *(j) Emergency excavations or grading conducted by the*
7 *Metropolitan Water District of Southern California for its own*
8 *operations and infrastructure for the purpose of averting,*
9 *alleviating, repairing, or restoring damage to property due to*
10 *imminent or recent floods, disasters, or other emergencies.*

11 ~~(j)~~

12 *(k) (1) Excavations or grading for the exclusive purpose of*
13 *obtaining materials for roadbed construction and maintenance*
14 *conducted in connection with timber operations or forest*
15 *management on land owned by the same person or entity. This*
16 *exemption is limited to excavation and grading that is conducted*
17 *adjacent to timber operation or forest management roads and shall*
18 *not apply to onsite excavation or grading that occurs within 100*
19 *feet of a Class One watercourse or 75 feet of a Class Two*
20 *watercourse, or to excavation for materials that are, or have been,*
21 *sold for commercial purposes.*

22 *(2) This exemption shall be available only if slope stability and*
23 *erosion are controlled in accordance with subdivision (f) of Section*
24 *3704 and subdivision (d) of Section 3706 of Title 14 of the*
25 *California Code of Regulations and, upon closure of the site, the*
26 *person closing the site implements, where necessary, revegetation*
27 *measures and postclosure uses in consultation with the Department*
28 *of Forestry and Fire Protection.*

29 ~~(k)~~

30 *(l) Excavations, grading, or other earthmoving activities in an*
31 *oil or gas field that are integral to and necessary for ongoing*
32 *operations for the extraction of oil or gas that comply with all of*
33 *the following conditions:*

34 *(1) The operations are being conducted in accordance with*
35 *Division 3 (commencing with Section 3000).*

36 *(2) The operations are consistent with any general plan or zoning*
37 *applicable to the site.*

38 *(3) The earthmoving activities are within oil or gas field*
39 *properties under a common owner or operator.*

40 *(4) No excavated materials are sold for commercial purposes.*

1 ~~(f)~~

2 ~~(m)~~ (1) The immediate excavation or grading of lands affected
3 by a natural disaster for the purpose of restoring those lands to
4 their prior condition.

5 (2) The immediate removal of material deposited by a flood
6 onto lands being farmed for the purpose of restoring those lands
7 to their prior condition.

8 SEC. 2. Section 2715.6 is added to the Public Resources Code,
9 to read:

10 2715.6. (a) For purposes of this section, the following
11 definitions apply:

12 (1) “Metropolitan Water District” means the Metropolitan Water
13 District of Southern California.

14 (2) “Metropolitan Reclamation Plan” means a single master
15 reclamation plan that may be prepared and approved pursuant to
16 this section in lieu of any other reclamation plan that would
17 otherwise be required to be prepared and approved in accordance
18 with this chapter.

19 (b) (1) The Metropolitan Water District may prepare a single
20 master reclamation plan, known as the Metropolitan Reclamation
21 Plan, for its earth moving operations conducted on lands it owns
22 or leases, or upon which easements or rights-of-way were granted
23 to the Metropolitan Water District, for the purpose of operating,
24 repairing, maintaining, or replacing any pipelines, infrastructure,
25 or related transmission systems located in the Counties of Los
26 Angeles, Orange, Riverside, San Bernardino, San Diego, or
27 Ventura and used for the conveyance and distribution of water.
28 This section shall only apply to operations conducted by the
29 Metropolitan Water District within the Counties of Los Angeles,
30 Orange, Riverside, San Bernardino, San Diego, or Ventura.

31 (2) The board shall act as the lead agency for purposes of this
32 chapter in approving the Metropolitan Reclamation Plan and any
33 future amendments to the Metropolitan Reclamation Plan.

34 (c) The Metropolitan Reclamation Plan shall do, at a minimum,
35 both of the following:

36 (1) Include information required pursuant to subdivision (c) of
37 Section 2772.

38 (2) Comply with the requirements of Article 9 (commencing
39 with Section 3700) of Subchapter 1 of Chapter 8 of Division 2 of
40 Title 14 of the California Code of Regulations.

1 (d) The Metropolitan Water District shall provide the
2 Metropolitan Reclamation Plan and a financial assurance cost
3 estimate to the board for review and comment pursuant to Section
4 2772.1 or 2773.4, as applicable. The Metropolitan Water District
5 may satisfy any financial assurance requirements with evidence
6 of surety bonds, irrevocable letters of credit, trust funds, pledges
7 of revenue, budget set aside, or other financial mechanisms as may
8 be allowed by law.

9 (e) After the Metropolitan Reclamation Plan is approved, the
10 Metropolitan Water District shall prepare any amendment to the
11 Metropolitan Reclamation Plan in accordance with Section 2777,
12 including for any emergency excavations or grading conducted
13 pursuant to subdivision (j) of Section 2714.

14 (f) For the purposes of this section, the Metropolitan Water
15 District shall prepare and file an annual report required to be
16 prepared pursuant to Section 2207 with the board and with any
17 affected county indicating the quantity of material used for repair
18 and maintenance of any of its pipelines, infrastructure, or related
19 transmission systems described in subdivision (b). Notwithstanding
20 Section 2719 or any other law, the Metropolitan Water District
21 shall be exempt from the payment of annual reporting fees imposed
22 pursuant to paragraph (1) of subdivision (d) of Section 2207.

23 (g) After the Metropolitan Reclamation Plan is approved, the
24 board shall conduct inspections of the sites used under the
25 Metropolitan Reclamation Plan at least once every three years.

26 (h) Notwithstanding any other law, the Metropolitan Water
27 District shall not be required to secure approval of a reclamation
28 plan from any city or county or obtain a permit under this chapter
29 to conduct the operations described in subdivision (b) under the
30 approved Metropolitan Reclamation Plan.

31 (i) The Metropolitan Water District's operations under the
32 approved Metropolitan Reclamation Plan are exempt from the
33 provisions of this chapter regarding idle mines.

34 (j) Nothing in this section precludes an enforcement action by
35 the board brought in accordance with this chapter if the
36 Metropolitan Water District is not in compliance with the
37 requirements of this section.

38 (k) The Metropolitan Water District shall not sell or allow any
39 materials produced by operations described in subdivision (b)
40 under the approved Metropolitan Reclamation Plan from its lands

1 or rights-of-way to be sold or used for the benefit of any other
2 party.

3 (l) For purposes of the California Environmental Quality Act
4 (Division 13 (commencing with Section 21000)), the Metropolitan
5 Water District shall be the lead agency for any environmental
6 review of the Metropolitan Reclamation Plan.

7 (m) This section shall remain in effect only until January 1,
8 2026, and as of that date is repealed.

9 SEC. 3. The Legislature finds and declares that a special statute
10 is necessary and that a general statute cannot be made applicable
11 within the meaning of Section 16 of Article IV of the California
12 Constitution because of the service area of the Metropolitan Water
13 District of Southern California covers six counties, providing water
14 to 26 member agencies that serve approximately 19,000,000 people
15 across the Counties of Los Angeles, Orange, Riverside, San
16 Bernardino, San Diego, and Ventura; the district's Colorado River
17 Aqueduct and other critical drinking water infrastructure are unique
18 in that it crosses multiple counties and it is essential to the district's
19 mission to provide its service area with adequate and reliable
20 supplies of high-quality water to meet present and future needs in
21 an environmentally and economically responsible way; it is
22 necessary for the district to use stone, gravel, and sand to operate
23 and maintain its critical infrastructure, including the use of
24 materials to repair storm and flood damage, and repairs to the
25 rights-of-way and appurtenant facilities necessary to ensure the
26 safe operation of its critical drinking water infrastructure and, thus,
27 ensure delivery of water to approximately 19,000,000 people in
28 southern California; the implementation of the Surface Mining
29 and Reclamation Act of 1975 (Chapter 9 (commencing with
30 Section 2710) of Division 2 of the Public Resources Code) by
31 multiple counties as to the district may lead to the conflicting
32 application of the law to a single special district; and the
33 implementation of the Surface Mining and Reclamation Act of
34 1975 by the district with the oversight of the Department of
35 Conservation will ensure more uniform and efficient application
36 of the law.

37 SEC. 4. No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 a local agency or school district has the authority to levy service
40 charges, fees, or assessments sufficient to pay for the program or

- 1 level of service mandated by this act, within the meaning of Section
- 2 17556 of the Government Code.

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ACTION ITEM

March 3, 2021

TO: Board of Directors

FROM: Robert Hunter
General Manager

Staff Contact: Heather Baez

**SUBJECT: H.R. 535 (GARAMENDI) & S. 91 (SINEMA) - SPECIAL DISTRICTS
PROVIDE ESSENTIAL SERVICES ACT**

STAFF RECOMMENDATION

Staff recommends the Board of Directors vote to adopt a support position on H.R. 535 (Garamendi, D-CA) and S. 91 (Sinema, D-AZ), and send a letter in support to the Orange County delegation, and the California Special Districts Association (CSDA).

BILL SUMMARY

H.R. 535 and S. 91 (identical measures), the “Special Districts Provide Essential Services Act,” would give special districts access to key resources available to local governments under the CARES Act, including the Coronavirus Relief Fund and the Federal Reserve’s Municipal Liquidity Facilities program. It would include special districts in the coronavirus relief fund, and define “special districts” in statute.

BACKGROUND

In 2020, Congress passed four COVID-19 emergency response packages. One - The Coronavirus Aid, Relief, and Economic Security (CARES) Act – included \$150 billion for state, territorial, tribal and local governments; however, special districts’ access to the fund came with great obstacles.

In response, Congressman Garamendi introduced H.R. 7073, which would have allowed special districts to use the Federal Reserve’s Municipal Liquidity Facility program as a tool to access capital during an economic downturn / period of revenue loss – a tool that other local governments, such as cities and counties, have access. H.R. 7073 did not move last Congress; however, Congressman Garamendi remains committed to the issue and reintroduced the bill, which is now H.R. 535. The MWD OC Board adopted a support position on H.R. 7073 on August 18, 2020.

Budgeted (Y/N): n/a	Budgeted amount: n/a	Core X	Choice ___
Action item amount: None		Line item:	
Fiscal Impact (explain if unbudgeted):			

ARGUMENTS IN SUPPORT

Special districts are local governments created by a community to deliver specialized services – such as critical infrastructure, first response and community enrichment services – that are essential to residents’ health, safety, economic livelihood, and well-being. Approximately 30,000 special districts across the country continue to serve millions of Americans and respond to needs within their communities while facing the constraints of the pandemic.

H.R. 535 and S. 91 would require a state to distribute no less than five percent of any future Coronavirus Relief Fund monies received by the state to special districts within 60 days of receiving the resources. The bill would also authorize the Federal Reserve to consider special districts as “eligible issuers” for its Municipal Liquidity Facilities program to purchase suitable municipal bond and revenue anticipation notes.

Additionally, the bill establishes a definition of “special district”, which currently does not exist in federal statute: “The term ‘special district’ means a political subdivision, formed pursuant to general law or special act of a state, for the purpose of performing one or more governmental or proprietary functions.”

This legislation does not ask for a new appropriation, rather, it authorizes a mechanism for special district to access appropriations Congress makes in the future under Section 601 of the Social Security Act (CARES Act / Coronavirus Relief Fund).

ARGUMENTS IN OPPOSITION

None on file.

BOARD OPTIONS

Option #1 (Staff Recommendation)

- Adopt a support position on H.R. 535 (Garamendi) & S. 91 (Sinema) and send a letter of support to the Orange County delegation and CSDA.

Fiscal Impact: The Congressional Budget Office has not yet provided a financial impact, however, the bill’s passage would direct 5% of future coronavirus funding to special districts.

Business Analysis: As members of CSDA, it is important for MWDOC to be an active participant in the association. This is one of their priority bills this year and CSDA is asking all of their members to send letters of support.

Option #2

- Take no action

Fiscal Impact: Same as Option #1

ATTACHED:

- H.R. 535 & S.91 Full Text

117TH CONGRESS
1ST SESSION

H. R. 535

To amend the Social Security Act to include special districts in the coronavirus relief fund, to direct the Secretary to include special districts as an eligible issuer under the Municipal Liquidity Facility, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 28, 2021

Mr. GARAMENDI (for himself, Mrs. DEMINGS, Mr. KILMER, Ms. LEE of California, Mrs. NAPOLITANO, Mr. RUSH, Mr. PANETTA, Ms. BROWNLEY, Mr. BERA, Ms. KELLY of Illinois, Mr. DEFazio, Mr. CRIST, Mr. DOGGETT, Ms. ESHOO, Mr. COSTA, Mr. TAKANO, Mr. CARBAJAL, Mr. PETERS, Mr. DESAULNIER, Mr. MCNERNEY, Mr. LOWENTHAL, and Mr. THOMPSON of California) introduced the following bill; which was referred to the Committee on Oversight and Reform, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Social Security Act to include special districts in the coronavirus relief fund, to direct the Secretary to include special districts as an eligible issuer under the Municipal Liquidity Facility, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Special Districts Pro-
3 vide Essential Services Act”.

4 **SEC. 2. INCLUSION OF SPECIAL DISTRICTS IN THE**
5 **CORONAVIRUS RELIEF FUND.**

6 (a) IN GENERAL.—Section 601(a) of the Social Secu-
7 rity Act (42 U.S.C. 801(a)) is amended by adding at the
8 end the following new paragraph:

9 “(3) FUNDS FOR SPECIAL DISTRICTS.—If an
10 amount in excess of \$150,000,000,000 is appro-
11 priated for payments made under this section, spe-
12 cial districts shall be eligible for payments from the
13 portion of such excess amount paid to States in ac-
14 cordance with subsection (c)(6).”.

15 (b) AMOUNT FOR SPECIAL DISTRICTS.—Section
16 601(c) of the Social Security Act (42 U.S.C. 801(c)) is
17 amended—

18 (1) by redesignating paragraphs (6) through
19 (8) as paragraphs (8) through (10), respectively;
20 and

21 (2) by inserting after paragraph (5) the fol-
22 lowing new paragraphs:

23 “(6) SPECIAL DISTRICTS.—

24 “(A) IN GENERAL.—If a portion of any ex-
25 cess amount described in subsection (a)(3) is
26 paid to a State, the State shall allocate at least

1 5 percent of such portion for distributing pay-
2 ments to special districts in the State that sub-
3 mit to the Governor of the State or the entity
4 designated by the Governor to distribute such
5 payments (referred to in this paragraph as the
6 ‘designated payment entity’) a request for a
7 payment during the COVID–19 emergency and
8 information described in subparagraph (B)
9 demonstrating the need for the payment, which
10 the Governor of the State or the designated
11 payment entity has determined, on the basis of
12 a good faith effort, is accurate.

13 “(B) INFORMATION DESCRIBED.—Infor-
14 mation described in this subparagraph is writ-
15 ten documentation demonstrating with respect
16 to a comparable period before the COVID–19
17 emergency that the special district has experi-
18 enced or is likely to experience during the
19 COVID–19 emergency—

20 “(i) reduced revenue or operational
21 funding derived from provided services,
22 taxes, fees, or other sources of revenue;

23 “(ii) reduced indirect funding from
24 the Federal Government, the State, or a

1 unit of general government below the State
2 level; or

3 “(iii) as a result of the COVID–19
4 emergency, increased expenditures nec-
5 essary to continue operations.

6 “(C) AMOUNT OF PAYMENT.—

7 “(i) IN GENERAL.—Subject to clauses
8 (ii) and (iii), the amount of the payment
9 for a special district shall be determined by
10 the Governor or the State or the des-
11 ignated payment entity, taking into consid-
12 eration the extent of a projected budget
13 shortfall for the special district during the
14 COVID–19 emergency and the need of the
15 special district to supplement projected
16 revenue.

17 “(ii) LIMITATION.—Except as pro-
18 vided in clause (iii), the amount paid to a
19 special district shall not exceed the amount
20 of expenditures made by the special district
21 for any quarter of calendar year 2019.

22 “(iii) EXCEPTION FOR PROVIDERS OF
23 ESSENTIAL CRITICAL INFRASTRUCTURE
24 SECTOR SERVICES.—If a special district
25 provides essential critical infrastructure

1 sector services (as defined by the Cyberse-
2 curity and Infrastructure Security Agency
3 of the Department of Homeland Security),
4 the amount paid to the special district may
5 exceed the limit applicable under clause
6 (ii).

7 “(iv) RULE OF CONSTRUCTION.—
8 Nothing in the preceding clauses of this
9 subparagraph shall be construed as requir-
10 ing payment of an amount sufficient to
11 provide a special district with full oper-
12 ational funding during the COVID-19
13 emergency.

14 “(D) RESPONSIBLE AUTHORITY FOR
15 RECOUPMENT.—If it is determined that a pay-
16 ment made to a special district did not comply
17 with the requirements of the preceding subpara-
18 graphs, or was otherwise fraudulent or im-
19 proper, the special district shall be liable for the
20 debt owed to the Federal Government under
21 subsection (f), unless all or a part of the basis
22 for such determination is that the determina-
23 tion required under subparagraph (A) regarding
24 the accuracy of the information demonstrating
25 the need for the payment was not made in good

1 faith, in which case the State shall be liable for
2 all or a part of such debt, as the Secretary de-
3 termines appropriate.

4 “(E) DEADLINE FOR DISTRIBUTION OF
5 FUNDS.—Payments to special districts in a
6 State shall be distributed not later than 60
7 days after the State receives a payment from
8 any excess amount described in subsection
9 (a)(3).

10 “(F) COVID–19 EMERGENCY.—For pur-
11 poses of this paragraph, the term ‘COVID–19
12 emergency’ means the public health emergency
13 declared by the Secretary of Health and
14 Human Services pursuant to section 319 of the
15 Public Health Service Act on January 31,
16 2020, entitled ‘Determination that a Public
17 Health Emergency Exists Nationwide as the
18 Result of the 2019 Novel Coronavirus’ and in-
19 cludes any renewal of such declaration pursuant
20 to such section 319.

21 “(7) EXCESS FUNDS WAIVER.—

22 “(A) IN GENERAL.—If a State has allo-
23 cated funds from a payment to the State de-
24 scribed in paragraph (6) to special districts in
25 that State, but has not met the 5 percent allo-

1 cation requirement of that paragraph, the Gov-
2 ernor of the State may submit to the Secretary,
3 in writing, a request for an excess funds waiver
4 to exempt the State from having to make addi-
5 tional allocations from such funds to make up
6 the remainder of such 5 percent requirement,
7 and to allow the State to use the funds remain-
8 ing in accordance with this section.

9 “(B) REQUIREMENTS.—A waiver request
10 submitted under subparagraph (A) shall pro-
11 vide—

12 “(i) information regarding how funds
13 from the payment to the State described in
14 paragraph (6) were allocated to special dis-
15 tricts in the State and otherwise used; and

16 “(ii) an explanation why the require-
17 ment for the State to meet the 5 percent
18 allocation requirement of paragraph (6)
19 should be waived.

20 “(C) DEADLINES.—

21 “(i) WAIVER REQUEST.—A request
22 for an excess funds waiver shall be sub-
23 mitted to the Secretary not later than 60
24 days after the State receives a payment de-
25 scribed in paragraph (6).

1 “(ii) APPROVAL OR DISAPPROVAL.—
 2 The Secretary shall approve or disapprove
 3 a waiver request submitted under subpara-
 4 graph (A), in writing, not later than 14
 5 days after the Secretary receives the re-
 6 quest.”.

7 (c) DEFINITION OF SPECIAL DISTRICT.—Section
 8 601(g) of the Social Security Act (42 U.S.C. 801(g)) is
 9 amended—

10 (1) by redesignating paragraphs (4) through
 11 (5) as paragraphs (5) through (6), respectively; and
 12 (2) by inserting after paragraph (3) the fol-
 13 lowing new paragraph:

14 “(4) SPECIAL DISTRICT.—The term ‘special dis-
 15 trict’ means a political subdivision of a State,
 16 formed pursuant to general law or special act of the
 17 State, for the purpose of performing one or more
 18 governmental or proprietary functions.”.

19 (d) TREASURY IG OVERSIGHT AUTHORITY.—Section
 20 601(f)(2) of such Act (42 U.S.C. 801(f)(2)) is amended—

21 (1) by inserting “or that a special district or
 22 State has not complied with the requirements of
 23 paragraph (6) or (7) of subsection (c) (as applica-
 24 ble),” after “subsection (d),”; and

1 (2) by striking “such subsection” and inserting
 2 “subsection (d) or paragraph (6) or (7) of sub-
 3 section (c) (as applicable)”.

4 (e) UPDATE TO GUIDANCE.—The Secretary of the
 5 Treasury shall update any guidance issued with respect
 6 to the Coronavirus Relief Fund established under section
 7 601 of the Social Security Act (42 U.S.C. 801) to reflect
 8 the inclusion of special districts as eligible for payments
 9 from amounts appropriated under such section, to the ex-
 10 tent such amounts exceed \$150,000,000,000.

11 **SEC. 3. INCLUDING SPECIAL DISTRICTS IN THE MUNICIPAL**
 12 **LIQUIDITY FACILITY.**

13 The Board of Governors of the Federal Reserve Sys-
 14 tem shall include special districts, as defined in section
 15 601(g)(4) of the Social Security Act (42 U.S.C. 801(g)(4))
 16 (as added by section 2(c)), as eligible issuers in the Munic-
 17 ipal Liquidity Facility program authorized under section
 18 13(3) of the Federal Reserve Act (12 U.S.C. 343(3)).

○

117TH CONGRESS
1ST SESSION

S. 91

To amend the Social Security Act to include special districts in the coronavirus relief fund, to direct the Secretary to include special districts as an eligible issuer under the Municipal Liquidity Facility, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 28, 2021

Ms. SINEMA (for herself, Mr. CORNYN, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Social Security Act to include special districts in the coronavirus relief fund, to direct the Secretary to include special districts as an eligible issuer under the Municipal Liquidity Facility, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Special Districts Pro-
5 vide Essential Services Act”.

1 **SEC. 2. INCLUSION OF SPECIAL DISTRICTS IN THE**
 2 **CORONAVIRUS RELIEF FUND.**

3 (a) IN GENERAL.—Section 601(a) of the Social Secu-
 4 rity Act (42 U.S.C. 801(a)) is amended by adding at the
 5 end the following new paragraph:

6 “(3) FUNDS FOR SPECIAL DISTRICTS.—If an
 7 amount in excess of \$150,000,000,000 is appro-
 8 priated for payments made under this section, spe-
 9 cial districts shall be eligible for payments from the
 10 portion of such excess amount paid to States in ac-
 11 cordance with subsection (c)(6).”.

12 (b) AMOUNT FOR SPECIAL DISTRICTS.—Section
 13 601(c) of the Social Security Act (42 U.S.C. 801(c)) is
 14 amended—

15 (1) by redesignating paragraphs (6) through
 16 (8) as paragraphs (8) through (10), respectively;
 17 and

18 (2) by inserting after paragraph (5) the fol-
 19 lowing new paragraphs:

20 “(6) SPECIAL DISTRICTS.—

21 “(A) IN GENERAL.—If a portion of any ex-
 22 cess amount described in subsection (a)(3) is
 23 paid to a State, the State shall allocate at least
 24 5 percent of such portion for distributing pay-
 25 ments to special districts in the State that sub-
 26 mit to the Governor of the State or the entity

1 designated by the Governor to distribute such
2 payments (referred to in this paragraph as the
3 ‘designated payment entity’) a request for a
4 payment during the COVID–19 emergency and
5 information described in subparagraph (B)
6 demonstrating the need for the payment, which
7 the Governor of the State or the designated
8 payment entity has determined, on the basis of
9 a good faith effort, is accurate.

10 “(B) INFORMATION DESCRIBED.—Infor-
11 mation described in this subparagraph is writ-
12 ten documentation demonstrating with respect
13 to a comparable period before the COVID–19
14 emergency that the special district has experi-
15 enced or is likely to experience during the
16 COVID–19 emergency—

17 “(i) reduced revenue or operational
18 funding derived from provided services,
19 taxes, fees, or other sources of revenue;

20 “(ii) reduced indirect funding from
21 the Federal Government, the State, or a
22 unit of general government below the State
23 level; or

1 “(iii) as a result of the COVID–19
2 emergency, increased expenditures nec-
3 essary to continue operations.

4 “(C) AMOUNT OF PAYMENT.—

5 “(i) IN GENERAL.—Subject to clauses
6 (ii) and (iii), the amount of the payment
7 for a special district shall be determined by
8 the Governor or the State or the des-
9 ignated payment entity, taking into consid-
10 eration the extent of a projected budget
11 shortfall for the special district during the
12 COVID–19 emergency and the need of the
13 special district to supplement projected
14 revenue.

15 “(ii) LIMITATION.—Except as pro-
16 vided in clause (iii), the amount paid to a
17 special district shall not exceed the amount
18 of expenditures made by the special district
19 for any quarter of calendar year 2019.

20 “(iii) EXCEPTION FOR PROVIDERS OF
21 ESSENTIAL CRITICAL INFRASTRUCTURE
22 SECTOR SERVICES.—If a special district
23 provides essential critical infrastructure
24 sector services (as defined by the Cyberse-
25 curity and Infrastructure Security Agency

1 of the Department of Homeland Security),
2 the amount paid to the special district may
3 exceed the limit applicable under clause
4 (ii).

5 “(iv) RULE OF CONSTRUCTION.—
6 Nothing in the preceding clauses of this
7 subparagraph shall be construed as requir-
8 ing payment of an amount sufficient to
9 provide a special district with full oper-
10 ational funding during the COVID-19
11 emergency.

12 “(D) RESPONSIBLE AUTHORITY FOR
13 RECOUPMENT.—If it is determined that a pay-
14 ment made to a special district did not comply
15 with the requirements of the preceding subpara-
16 graphs, or was otherwise fraudulent or im-
17 proper, the special district shall be liable for the
18 debt owed to the Federal Government under
19 subsection (f), unless all or a part of the basis
20 for such determination is that the determina-
21 tion required under subparagraph (A) regarding
22 the accuracy of the information demonstrating
23 the need for the payment was not made in good
24 faith, in which case the State shall be liable for

all or a part of such debt, as the Secretary determines appropriate.

“(E) DEADLINE FOR DISTRIBUTION OF FUNDS.—Payments to special districts in a State shall be distributed not later than 60 days after the State receives a payment from any excess amount described in subsection (a)(3).

“(F) COVID-19 EMERGENCY.—For purposes of this paragraph, the term ‘COVID-19 emergency’ means the public health emergency declared by the Secretary of Health and Human Services pursuant to section 319 of the Public Health Service Act on January 31, 2020, entitled ‘Determination that a Public Health Emergency Exists Nationwide as the Result of the 2019 Novel Coronavirus’ and includes any renewal of such declaration pursuant to such section 319.

“(7) EXCESS FUNDS WAIVER.—

“(A) IN GENERAL.—If a State has allocated funds from a payment to the State described in paragraph (6) to special districts in that State, but has not met the 5 percent allocation requirement of that paragraph, the Gov-

ernor of the State may submit to the Secretary, in writing, a request for an excess funds waiver to exempt the State from having to make additional allocations from such funds to make up the remainder of such 5 percent requirement, and to allow the State to use the funds remaining in accordance with this section.

“(B) REQUIREMENTS.—A waiver request submitted under subparagraph (A) shall provide—

“(i) information regarding how funds from the payment to the State described in paragraph (6) were allocated to special districts in the State and otherwise used; and

“(ii) an explanation why the requirement for the State to meet the 5 percent allocation requirement of paragraph (6) should be waived.

“(C) DEADLINES.—

“(i) WAIVER REQUEST.—A request for an excess funds waiver shall be submitted to the Secretary not later than 60 days after the State receives a payment described in paragraph (6).

1 “(ii) APPROVAL OR DISAPPROVAL.—
 2 The Secretary shall approve or disapprove
 3 a waiver request submitted under subpara-
 4 graph (A), in writing, not later than 14
 5 days after the Secretary receives the re-
 6 quest.”.

7 (c) DEFINITION OF SPECIAL DISTRICT.—Section
 8 601(g) of the Social Security Act (42 U.S.C. 801(g)) is
 9 amended—

10 (1) by redesignating paragraphs (4) through
 11 (5) as paragraphs (5) through (6), respectively; and
 12 (2) by inserting after paragraph (3) the fol-
 13 lowing new paragraph:

14 “(4) SPECIAL DISTRICT.—The term ‘special dis-
 15 trict’ means a political subdivision of a State,
 16 formed pursuant to general law or special act of the
 17 State, for the purpose of performing one or more
 18 governmental or proprietary functions.”.

19 (d) TREASURY IG OVERSIGHT AUTHORITY.—Section
 20 601(f)(2) of such Act (42 U.S.C. 801(f)(2)) is amended—

21 (1) by inserting “or that a special district or
 22 State has not complied with the requirements of
 23 paragraph (6) or (7) of subsection (c) (as applica-
 24 ble),” after “subsection (d),”; and

1 (2) by striking “such subsection” and inserting
 2 “subsection (d) or paragraph (6) or (7) of sub-
 3 section (c) (as applicable)”.

4 (e) UPDATE TO GUIDANCE.—The Secretary of the
 5 Treasury shall update any guidance issued with respect
 6 to the Coronavirus Relief Fund established under section
 7 601 of the Social Security Act (42 U.S.C. 801) to reflect
 8 the inclusion of special districts as eligible for payments
 9 from amounts appropriated under such section, to the ex-
 10 tent such amounts exceed \$150,000,000,000.

11 **SEC. 3. INCLUDING SPECIAL DISTRICTS IN THE MUNICIPAL**
 12 **LIQUIDITY FACILITY.**

13 The Board of Governors of the Federal Reserve Sys-
 14 tem shall include special districts, as defined in section
 15 601(g)(4) of the Social Security Act (42 U.S.C. 801(g)(4))
 16 (as added by section 2(c)), as eligible issuers in the Munic-
 17 ipal Liquidity Facility program authorized under section
 18 13(3) of the Federal Reserve Act (12 U.S.C. 343(3)).

○



ACTION ITEM

March 3, 2021

TO: Board of Directors

FROM: Robert Hunter
General Manager

Staff Contact: Heather Baez

SUBJECT: SB 323 (CABALLERO) – WATER/SEWER RATES

STAFF RECOMMENDATION

Staff recommends the Board of Directors vote to adopt a support position on SB 323 (Caballero), and send a letter in support to the Orange County delegation, and the Association of California Water Agencies (ACWA).

BILL SUMMARY

Senate Bill (SB) 323 would authorize a local agency or interested person to bring a validation action in a superior court to determine the validity of a fee or charge for water or sewer service. The proposal would require an interested party to bring an action within 120 days after the local agency adopts the fee or charge.

BACKGROUND

Existing law allows a public agency or any interested person to file a judicial action in a local superior court to determine the validity of a public agency action. Lawsuits brought by the public entity are called “validation actions”, and lawsuits brought by the public are called “reverse validation actions.” Validation actions are often available for matters related to public financing, such as the issuance of public debt.

Validation actions provide agencies with an expedited, conclusive, and binding determination about the validity of the agency’s action. By obtaining a speedy resolution, the agency can act in reliance on the action, without the threat of lawsuits years later.

Parties typically have 60 days after the agency takes the action to file a validation action with a court. Once a party files a validation action, a judge must determine whether the agency action complies with existing law, and is thus valid. If the public agency or interested person does not bring an action within the 60-day timeframe, the agency’s action cannot be challenged in court.

Budgeted (Y/N): n/a	Budgeted amount: n/a	Core X	Choice ____
Action item amount: None		Line item:	
Fiscal Impact (explain if unbudgeted):			

Existing law already provides statutes of limitations for a variety of local taxes, assessments, fees, and charges. After the statute of limitations has expired, ratepayers can no longer challenge the rates.

ARGUMENTS IN SUPPORT

This proposal adds consistency to existing law by authorizing a local agency or interested person to bring a validation action in a superior court to determine the validity of a fee or charge for water or sewer service. If a validation action is not brought within 120 days, parties would be barred from challenging the validity of the fee or charge.

Existing law recognizes the need to minimize fiscal uncertainty for public agencies providing essential services by establishing a reasonable period of time beyond which agencies will not face exposure to lawsuits challenging the validity of various local taxes, assessments, fees, and charges. However, existing law provides a piecemeal statutory landscape, where a statute of limitations is afforded to fees and charges that fund some essential government services but not others.

By allowing challenges within a reasonable — but limited — period of time, this proposal would balance the interests of ratepayers with those of public water and sewer agencies, and thereby end the piecemeal character of existing law.

ARGUMENTS IN OPPOSITION

None on file.

BOARD OPTIONS

Option #1 (Staff Recommendation)

- Adopt a support position on SB 323 (Caballero) and send a support letter to the Orange County delegation and ACWA, the bill's sponsor.

Fiscal Impact: None identified

Business Analysis: This bill is sponsored by ACWA and is one of their priority bills for 2021. As an active member of ACWA, it is important to engage on their priority issues. SB 323 will give certainty to wholesale and retail water providers by allowing them to have their rates validated by the court, avoiding costly, and at times, frivolous lawsuits.

Option #2

- Take no action

Fiscal Impact: Same as Option #1

ATTACHED:

- SB 323 Full Text

**Introduced by Senator Caballero
(Coauthor: Senator Hurtado)**

February 5, 2021

An act to add Article 4.7 (commencing with Section 53759) to Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 323, as introduced, Caballero. Local government: water or sewer service: legal actions.

The Mitigation Fee Act authorizes a local agency to establish, increase, or impose a variety of fees, dedications, reservations, or other exactions for services, and in connection with the approval of a development project, as defined. Existing law prohibits a local agency from imposing fees for specified purposes, including fees for water or sewer connections, as defined, that exceed the estimated reasonable cost of providing the service for which the fee is charged, unless voter approval is obtained. Existing law provides that a local agency levying a new a water or sewer connection fee or increasing a fee must do so by ordinance or resolution.

Existing law requires, for specified fees, including water or sewer connection fees, any judicial action or proceeding to attack, review, set aside, void, or annul an ordinance, resolution, or motion adopting a new fee or service charge or modifying an existing fee or service charge to be commenced within 120 days of the effective date of the ordinance, resolution, or motion according to specified procedures for validation proceedings.

This bill would apply the same judicial action procedure and timelines, as stated above, to ordinances, resolutions, or motions adopting,

modifying, or amending water or sewer service fees or charges, except as provided.

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

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

1 SECTION 1. Article 4.7 (commencing with Section 53759) is
2 added to Chapter 4 of Part 1 of Division 2 of Title 5 of the
3 Government Code, to read:

4
5 Article 4.7. Legal Actions Challenging Revenue Measures for
6 Water or Sewer Service
7

8 53759. (a) Any judicial action or proceeding to attack, review,
9 set aside, void, or annul an ordinance, resolution, or motion
10 adopting a fee or charge for water or sewer service, or modifying
11 or amending an existing fee or charge for water or sewer service,
12 shall be commenced within 120 days of the effective date of the
13 ordinance, resolution, or motion.

14 (b) Any action under this section by a local agency or interested
15 person shall be brought pursuant to Chapter 9 (commencing with
16 Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

17 (c) This section does not apply to any fee or charge for water
18 or sewer service for which another statute establishes a specific
19 time and procedure for bringing a judicial action or proceeding to
20 attack, review, set aside, void or annul a fee or charge of that type.

O



ACTION ITEM

March 3, 2021

TO: Board of Directors

FROM: Robert Hunter
General Manager

Staff Contact: Heather Baez

SUBJECT: SB 351 (CABALLERO) – WATER INNOVATION ACT OF 2021

STAFF RECOMMENDATION

Staff recommends the Board of Directors vote to adopt a support position on SB 351 (Caballero), and send a letter in support to the Orange County delegation, and the California Municipal Utilities Association (CMUA).

BILL SUMMARY

Senate Bill (SB) 351 would establish the Water Innovation Act of 2021. This bill would create the Office of Water Innovation, and the Water Innovation Fund as part of the Act.

The Office of Water Innovation would be under the California Water Commission for the furtherance of new technologies and other innovative approaches in the water sector. The bill would require the office, by December 31, 2023, to take specified measures to advance innovation in the water sector.

The Water Innovation Fund would require the Department of Finance to develop a standardized agreement to allow for *voluntary donations* to the fund by any person, educational institution, government entity, corporation or other business entity, or organization. There is no appropriation or funding mechanism attached to or mandated by this measure.

ARGUMENTS IN SUPPORT

SB 351 would create the Office of Water Innovation at the California Water Commission. Among other things, this office would increase collaboration among state agencies on innovative approaches, engage stakeholders, review regulations that may limit or inhibit innovation or the adoption of new technologies and make recommendations for streamlining

Budgeted (Y/N): n/a	Budgeted amount: n/a	Core X	Choice ____
Action item amount: None	Line item:		
Fiscal Impact (explain if unbudgeted):			

or revising those regulations. It would establish the state as a partner in the development and deployment of new technologies that can help advance sustainability and achieve the state's goal of a Human Right to Water for all Californians.

ARGUMENTS IN OPPOSITION

None on file.

BOARD OPTIONS

Option #1 (Staff Recommendation)

- Adopt a support position on SB 351 (Caballero) and send a support letter to the Orange County delegation and CMUA, the bill's sponsor.

Fiscal Impact: Unknown at this time

Business Analysis: This bill is sponsored by CMUA and is one of their priority bills for 2021. CMUA is asking their members to adopt a support position on this measure to assist in their advocacy efforts.

Option #2

- Take no action

Fiscal Impact: Same as Option #1

ATTACHED:

- SB 351 Full Text

**Introduced by Senator Caballero
(Coauthors: Senators Dodd, Hertzberg, and Hurtado)**

February 9, 2021

An act to add Part 10 (commencing with Section 12996) to Division 6 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 351, as introduced, Caballero. Water Innovation Act of 2021.

Existing law declares that the protection of the public interest in the development of the water resources of the state is of vital concern to the people of the state and that the state shall determine in what way the water of the state, both surface and underground, should be developed for the greatest public benefit. Existing law establishes the Department of Water Resources, and within the department, the California Water Commission. Existing law establishes the State Water Resources Control Board for the purposes of providing for the orderly and efficient administration of the water resources of the state.

This bill, the Water Innovation Act of 2021, would create the Office of Water Innovation at the California Water Commission for the furtherance of new technologies and other innovative approaches in the water sector. The bill would require the office, by December 31, 2023, to take specified measures to advance innovation in the water sector. The bill would make findings and declarations regarding the need for water innovation.

The bill would further create the Water Innovation Fund, with all moneys available, upon appropriation, to the department, the state board, or other state agencies for the furtherance of water innovation. The bill would require the Department of Finance to develop a standardized agreement to allow for voluntary donations to the fund by any person,

educational institution, government entity, corporation or other business entity, or organization.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Part 10 (commencing with Section 12996) is
2 added to Division 6 of the Water Code, to read:

3
4 PART 10. WATER INNOVATION ACT OF 2021

5
6 CHAPTER 1. GENERAL PROVISIONS

7
8 12996. This part shall be known, and may be cited, as the Water
9 Innovation Act of 2021.

10 12996.1. The Legislature finds and declares all of the following:

11 (a) Climate change is having a profound impact on California's
12 water systems, which the state is trying to address through the
13 Water Resilience Portfolio, among other efforts.

14 (b) California's water systems face challenges in addition to
15 climate change, such as aging infrastructure, groundwater
16 contamination, subsidence, and an aging workforce.

17 (c) State agencies and departments are engaged in efforts to
18 help water systems address specific challenges within their separate
19 jurisdictions.

20 (d) Accordingly, solutions are offered to address those specific
21 agency-focused issues in silos without regard to the role of
22 technological innovation necessary to meet those statewide needs.

23 (e) Today, California lacks a robust strategy to encourage the
24 development and adoption of innovative water technologies.

25 (f) Other utility-based markets, like energy, benefit from the
26 state's innovation and entrepreneurial ecosystem.

27 (g) Similarly, water utilities, ratepayers, and ecosystems stand
28 to benefit from faster development and broader adoption of water
29 innovation and technology.

30 (h) California's water technology adoption remains nascent,
31 creating the potential for a growth industry as water users
32 increasingly turn to technology to meet their needs.

12996.2. Unless the context otherwise requires, the definitions below govern the construction of this part:

- (a) “Commission” means California Water Commission.
- (b) “Department” means Department of Water Resources.
- (c) “Office” means Office of Water Innovation.
- (d) “State board” means State Water Resources Control Board.

CHAPTER 2. OFFICE OF WATER INNOVATION

12997. In partnership with the state board and other relevant agencies, an Office of Water Innovation is established at the California Water Commission for the furtherance of new technologies and other innovative approaches in the water sector.

12997.1. (a) The office, by December 31, 2023, shall do all of the following to advance innovation in the water sector:

(1) Establish an interagency team to increase collaboration among state agencies on innovative approaches.

(2) Engage affected stakeholders including water agencies, academia, vendors, commercial and agriculture users, and environmental organizations.

(3) Review regulations that may limit or inhibit innovation or the adoption of new technologies and make recommendations for streamlining or revising those regulations.

(4) Develop a list of new technologies and publish that information on a public internet website.

(5) Review opportunities for a pilot program that would issue grants to water agencies for evaluating new technologies in their water systems.

(6) Review investment trends for innovation and make recommendations for increasing investment.

(b) The commission may partner with an existing nonprofit organization, with a new nonprofit organization that the department creates, organized under paragraph (3) of subsection (c) of Section 501 of Title 26 of the United States Code, or with another state agency to review, develop, or publish, or any combination thereof, any responsibilities of the office outlined in subdivision (a).

(c) A state agency may disseminate, manage, or publish information separately from the office.

CHAPTER 3. WATER INNOVATION FUND

1
2
3 12998. (a) The Water Innovation Fund is hereby created. All
4 moneys in the fund are available, upon appropriation by the
5 Legislature, to the department, the state board, or other state
6 agencies for the furtherance of water innovation as outlined in this
7 part.
8 (b) The Department of Finance shall develop a standardized
9 agreement to allow for voluntary donations to the fund by any
10 person, educational institution, government entity, corporation or
11 other business entity, or organization.

O



To: Board of Directors, *Municipal Water District of Orange County*

From: Natural Resource Results

RE: Monthly Board Report – March 2021

MWDOC Congressional Delegation Meetings

NRR, along with MWDOC staff, recently met with staff for new members of the MWDOC congressional delegation – Rep. Kim and Rep. Steel. The meetings provided an opportunity to put MWDOC in front of these offices and provide background on what MWDOC does and its priority issues which included a discussion on:

- The importance of the Colorado River as a water supply
- Federal assistance to support low-income ratepayers who are behind on their drinking water and wastewater utility bills
- The importance of a working Delta for Southern California water supply reliability

We also offered MWDOC as a resource for each of these offices as they begin to a deeper dive into western water policy – this was very much appreciated.

Cabinet Nominations

Congresswoman Deb Halaand, nominee to be the Secretary of the Interior, finished her confirmations hearings in the Senate Energy and Natural Resources Committee last week. Senator Manchin came out in support of her nomination immediately after her hearing was over which is a strong signal that she will likely be confirmed. A vote on her confirmation by the full Senate has not been set at this time.

We are still awaiting a vote on confirmation of Michael Regan as Administrator at EPA.

FEMA Disaster Assistance Criteria

Near the end of the previous Administration, FEMA posted a notice in the Federal Register announcing that the agency would revisit the disaster damage thresholds that states must hit in order to be eligible for a Major Disaster Declaration under the Stafford Act, which makes FEMA funding available to states following natural disasters. In California, the disaster threshold that the state would have to sustain in order to be eligible for FEMA funding would jump from \$58 million to \$108 million under the new proposal.

While FEMA is statutorily required to reassess the disaster damage threshold, the proposed adjustment would make it more difficult for states to obtain FEMA assistance following a natural disaster. MWDOC recently submitted a comment letter into the Federal Register

highlighting the undue burden that this proposal would put on public agencies, especially in states like California that are seeing a growing number of natural disasters.

Cal OES has also come out against the proposal.

Senator Feinstein Western Water Legislation

Senator Feinstein is currently drafting a new western water bill that she plans to release in discussion draft form for reaction and comment sometime in March. The bill will be a modified version of her legislation from last Congress, S. 1932, and will increase funding for Reclamation's existing water infrastructure programs and also create a new funding source and eligibility guidelines for water storage projects. There are also ongoing discussions about including funding in the bill for Colorado River Basin infrastructure projects. The State of Arizona is requesting \$250 million for Drought Contingency Plan implementation but it's unclear if that number will be the final landing point.

While we have not seen text at this point, we know that the bill will not extend the WIIN Act operational provisions based on conversations with Feinstein's staff.

McCarthy Letter on CVP BiOps

Congressman McCarthy, along with the entire California Republican delegation, recently sent a letter (attached) to the acting heads of the Department of the Interior and the Department of Commerce urging them to maintain the current 2019 biops as currently written.

Salton Sea Cleanup Legislation

Congressman Raul Ruiz and Congressman Juan Vargas reintroduced a bill, the California New River Restoration Act, that is aimed at cleaning up the New River, a highly polluted waterway originating near Mexicali, Mexico that flows north, emptying into the Salton Sea. The bill, H.R. 491, would direct the U.S. Environmental Protection Agency to create an organization to be called the California New River Restoration Program, which would coordinate funding and cleanup projects. The proposed legislation was referred to the Committee on Natural Resources and the Committee on Transportation and Infrastructure in the U.S. House of Representatives.

President's Budget and Appropriations

As mentioned in February's report, we expect President Biden to submit his Fiscal Year 2022 budget request to Congress sometime in late March or early April, slightly behind the typical early February timeframe. President Biden's climate advisors, former EPA Administrator Gina McCarthy and Former Secretary of State John Kerry, have made it clear that climate change will touch every aspect of the President's budget request to Congress.

In Congress, the appropriations process will kick off in earnest once the President's budget request has been transmitted to Congress. The appropriations process will look different this year as House Democrats plan to revive earmarks, with the Senate expected to follow suit, even though Senators have been less vocal about supporting the effort.

House Democrats have stated that earmarks, or Congressionally Directed Spending, will be done through a transparent and open manner and will be prohibited from going to private individuals or for-profit companies. This means that public agencies like MWDOC will have an opportunity to receive earmarks, along with certain types of NGOs. While the House Appropriations Committee has not yet outlined a process for requesting earmarks, we expect there to be some hiccups in the beginning as many members and congressional staff have never experienced earmarks before.

COVID Legislation

Last week, the House passed President Biden's \$1.9 trillion COVID relief package on a party line vote. While this is one of President Biden's first major legislative accomplishments, the package must still make it through the Senate where we expect moderate Democratic Senators like Joe Manchin (D-WV) and Krysten Sinema (D-AZ) to push back on some of the House passed provisions such as raising the federal minimum wage to \$15, causing potential procedural headaches for Majority Leader Schumer.

Included in the House passed bill is a \$19 billion pot of funding for emergency rental and utility assistance. *These funds will be distributed to states and local governments and then on to renters to help cover housing expenses, including utility costs and utility cost arrears.*

Infrastructure Legislation

Following the passage of a COVID relief bill, Congress is expected to turn to infrastructure. Senate Majority Leader Schumer and House Majority Leader Hoyer have both commented recently that they are waiting for the White House to put forward an infrastructure proposal but that hasn't stopped the House T&I and Senate EPW Committee from holding infrastructure related hearings. Similar to COVID relief legislation, Democrats have the option of moving the bill through the budget reconciliation process should they put forward a bill that fails to garner Republican support.

In the House, H.R. 2, the broad infrastructure bill that passed out of the lower chamber during the last Congress, will be the foundation for an infrastructure proposal. While the shape of the bill is not yet entirely clear, it will certainly focus on addressing climate change through federal investment in various infrastructure programs and projects.



To:	Municipal Water District of Orange County
From:	Syrus Devers, Best Best & Krieger
Date:	February 25, 2021
Re:	March - State Legislative Report

Legislature:

The Legislature is nearing full speed. The budget process is well underway with budget subcommittees meeting every week. The COVID relief package totalling \$7.6 billion was sent to Newsom on the 22nd, which he quickly signed. School reopening continues to be a contentious issue between the Governor and legislators. The California Municipal Utilities Association is spearheading a group effort to persuade the Governor and the Legislature to direct at least \$1 billion for assistance to customers who are behind on water, wastewater, and electric utility bill payments.

Bills are starting to get hearing dates. Senate Natural Resources and Water will hear the first resource bond bill, SB 45 (Portantino), on March 16th. BB&K will report on additional bill hearing dates (if any) at the Workshop meeting. Spring Recess begins on March 25th which means that the last two weeks of March will be packed with hearings.

Bill Matrix: The bill introduction deadline has passed so the universe of bills is largely known, but there are several spot bills so expect to see more bills added to the list in the coming weeks. The total number of bills introduced is lower than previous years, but the number of water policy bills being tracked by BB&K is up. The pandemic has heightened interest in low-income rate assistance programs and changes to the Brown Act for remote hearings by public agencies. Bills on the “Watch” list are significant but not expected to call for an advocacy effort in the near future. Priority bills that are “Out for analysis” are the ones to look at first and there are several. Staff will continue to bring bills up for consideration based on the adopted Policy Principles, but please communicate with staff if you have an interest in a particular bill.

Administration:

The Water Board staff continues to make progress on developing the Safe and Affordable Drinking Water Program and is working with ACWA on criteria for Low Income Rate Assistance (LIRA) programs. ACWA’s primary focus is on preserving existing LIRA programs and is in the process of crafting a response to Senator Dodd on SB 222.



Recall Effort:

The recall effort against Newsom is making national news. Proponents have until March 17th to turn in 1.5 million signatures to qualify the recall. They claim to have 1.7 million.

Activities:

As indicated last month, there are several new members on the water policy committees. BB&K and MWDOC staff are in the process of setting meetings with each office to acquaint them with MWDOC. By the date of the Workshop, meetings (by Zoom) with each new staff member covering the water policy committees will be complete. These will then be followed with meet/greet meetings with the new members.

Bill Matrix

Prepared by Syrus Devers, February 25, 2021

A. Priority Support/Oppose

Measure	Author	Topic	Status	Location	Brief Summary	Position	Priority	Notes 1
AB 339	Lee D	State and local government: open meetings.	1/29/2021-From printer. May be heard in committee February 28.	1/28/2021-A. P RINT	Current law requires all meetings, as defined, of a house of the Legislature or a committee thereof to be open and public, and requires all persons to be permitted to attend the meetings, except as specified. This bill would require all meetings, including gatherings using teleconference technology, to include an opportunity for all persons to attend via a call-in option or an internet-based service option that provides closed captioning services and requires both a call-in and an internet-based service option to be provided to the public.	Out for Analysis	A. Priority Support/ Oppose	On the agenda for April 7th
AB 361	Rivas, Robert D	Open meetings: local agencies: teleconferences.	2/12/2021-Refer red to Com. on L. GOV.	2/12/2021-A. L . GOV.	Would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting for the purpose of declaring or ratifying a local emergency, during a declared state or local emergency, as those terms are defined, when state or local health officials have imposed or recommended measures to promote social distancing, and during a declared local emergency provided the legislative body makes certain determinations by majority vote.	Out for Analysis	A. Priority Support/ Oppose	On the agenda for March 3rd

AB 377	Rivas, Robert D	Water quality: impaired waters.	2/12/2021-Referred to Com. on E.S. & T.M.	2/12/2021-A. E .S. & T.M.	Would require all California surface waters to be fishable, swimmable, and drinkable by January 1, 2050, as prescribed. The bill would prohibit the state board and regional boards from authorizing an NPDES discharge, waste discharge requirement, or waiver of a waste discharge requirement that causes or contributes to an exceedance of a water quality standard, or from authorizing a best management practice permit term to authorize a discharge that causes or contributes to an exceedance of a water quality standard in receiving waters. The bill would prohibit, on or after January 1, 2030, a regional water quality control plan from including a schedule for implementation for achieving a water quality standard that was adopted as of January 1, 2021, and would prohibit a regional water quality control plan from including a schedule for implementation of a water quality standard that is adopted after January 1, 2021, unless specified conditions are met.	Out for Analysis	A. Priority Support/ Oppose	On the agenda for April 7th.
AB 442	Mayes I	Surface Mining and Reclamation Act of 1975: exemption: Metropolitan Water District of Southern California: single master reclamation plan.	2/12/2021-Referred to Coms. on NAT. RES. and W.,P., & W.	2/12/2021-A. N AT. RES.	The Surface Mining and Reclamation Act of 1975 exempts certain activities from the provisions of the act, including, among others, emergency excavations or grading conducted by the Department of Water Resources or the Central Valley Flood Protection Board for the specified purposes; surface mining operations conducted on lands owned or leased, or upon which easements or	Out for Analysis	A. Priority Support/ Oppose	On the agenda for March 3rd.

					rights-of-way have been obtained, by the Department of Water Resources for the purpose of the State Water Resources Development System or flood control; and surface mining operations on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Central Valley Flood Protection Board for the purpose of flood control. This bill would additionally exempt from the provisions of the act emergency excavations or grading conducted by the Metropolitan Water District of Southern California (MWD) for its own operations and infrastructure for specified purposes.			
AB 703	Rubio, Blanca D	Open meetings: local agencies: teleconferences.	2/17/2021-From printer. May be heard in committee March 19.	2/16/2021-A. P RINT	Current law, by Executive Order N-29-20, suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic, provided that notice requirements are met, the ability of the public to observe and comment is preserved, as specified, and that a local agency permitting teleconferencing have a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified. This bill would remove the requirements of the act particular to teleconferencing and allow for teleconferencing subject to existing provisions regarding the posting of notice of an agenda and the ability of the public to observe the meeting and provide public comment. The bill would require that, in	Out for Analysis	A. Priority Support/ Oppose	On the agenda for March 3rd.

					each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the local agency also give notice of the means by which members of the public may observe the meeting and offer public comment and that the legislative body have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act, as provided.			
AB 1434	Friedman D	Urban water use objectives: indoor residential water use.	2/22/2021-Read first time.	2/19/2021-A. P RINT	Would establish, beginning January 1, 2023, until January 1, 2025, the standard for indoor residential water use as 48 gallons per capita daily. The bill would establish, beginning January 1, 2025, the standard as 44 gallons per capita daily and, beginning January 1, 2030, 40 gallons per capita daily. The bill would eliminate the requirement that the department, in coordination with the state board, conduct necessary studies and investigations and jointly recommend to the Legislature a standard for indoor residential water use.	Out for Analysis	A. Priority Support/ Oppose	On the agenda for April 7th.
AB 1500	Garcia, Eduardo D	Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2022.	2/22/2021-Read first time.	2/19/2021-A. P RINT	Would enact the Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2022, which, if approved by the voters, would authorize the issuance of bonds in the amount of	Out for Analysis	A. Priority Support/ Oppose	

					\$6,700,000,000 pursuant to the State General Obligation Bond Law to finance projects for safe drinking water, wildfire prevention, drought preparation, flood protection, extreme heat mitigation, and workforce development programs.			
SB 45	Portantino D	Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2022.	2/17/2021-Set for hearing March 16.	1/28/2021-S. N.R. & W.	Would enact the Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2022, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$5,510,000,000 pursuant to the State General Obligation Bond Law to finance projects for a wildfire prevention, safe drinking water, drought preparation, and flood protection program.	Out for Analysis	A. Priority Support/ Oppose	
SB 222	Dodd D	Water Affordability Assistance Program.	2/8/2021-Withdrawn from committee. Re-referred to Coms. on E., U. & C. and E.Q.	2/8/2021-S. E. U., & C.	Would establish the Water Affordability Assistance Fund in the State Treasury to help provide water affordability assistance, for both drinking water and wastewater services, to low-income ratepayers and ratepayers experiencing economic hardship in California. The bill would make moneys in the fund available upon appropriation by the Legislature to the state board to provide, as part of the Water Affordability Assistance Program established by the bill, direct water bill assistance, water bill credits, water crisis assistance, affordability assistance, and short-term assistance to public water systems to administer program components.	Watch	A. Priority Support/ Oppose	Position adopted 2/3/2021
SB 223	Dodd D	Discontinuation of residential	1/28/2021-Referred to Coms. on	1/28/2021-S. E. U., & C.	Current law prohibits an urban and community	Opposition	A. Priority	Oppose position

		water service.	E., U. & C., EQ., and JUD. Referral to Com. on JUD. rescinded because of the limitations placed on committee hearings due to ongoing health and safety risks of the COVID-19 virus.		water system, defined as a public water system that supplies water to more than 200 service connections, from discontinuing residential water service for nonpayment until a payment by a customer has been delinquent for at least 60 days. Current law requires an urban and community water system to have a written policy on discontinuation of residential service for nonpayment, including, among other things, specified options for addressing the nonpayment. Current law requires an urban and community water system to provide notice of that policy to customers, as provided. This bill would apply those provisions, on and after July 1, 2022, to a very small community water system, defined as a public water system that supplies water to 200 or fewer service connections used by year-long residents.		Support/ Oppose	taken on 2/3/2021
SB 230	Portantino D	State Water Resources Control Board: Constituents of Emerging Concern Program.	1/28/2021-Referral to Com. on EQ.	1/28/2021-S. E. Q.	Would require the State Water Resources Control Board to establish, maintain, and direct an ongoing, dedicated program called the Constituents of Emerging Concern Program to assess the state of information and recommend areas for further study on, among other things, the occurrence of constituents of emerging concern (CEC) in drinking water sources and treated drinking water. The bill would require the state board to convene, by an unspecified date, the Science Advisory Panel to review and provide recommendations to the state board on CEC for further action, among	Out for Analysis	A. Priority Support/ Oppose	On the agenda for April 7th.

					other duties. The bill would require the state board to provide an annual report to the Legislature on the ongoing work conducted by the panel.			
SB 323	Caballero D	Local government: water or sewer service: legal actions.	2/22/2021-Art. IV. Sec. 8(a) of the Constitution dispensed with. (Ayes 32. Noes 4.) Joint Rule 55 suspended. (Ayes 32. Noes 4.)	2/17/2021-S. G OV. & F.	Current law prohibits a local agency from imposing fees for specified purposes, including fees for water or sewer connections, as defined, that exceed the estimated reasonable cost of providing the service for which the fee is charged, unless voter approval is obtained. Current law provides that a local agency levying a new a water or sewer connection fee or increasing a fee must do so by ordinance or resolution. Current law requires, for specified fees, including water or sewer connection fees, any judicial action or proceeding to attack, review, set aside, void, or annul an ordinance, resolution, or motion adopting a new fee or service charge or modifying an existing fee or service charge to be commenced within 120 days of the effective date of the ordinance, resolution, or motion according to specified procedures for validation proceedings. This bill would apply the same judicial action procedure and timelines, as stated above, to ordinances, resolutions, or motions adopting, modifying, or amending water or sewer service fees or charges, except as provided.	Out for Analysis	A. Priority Support/ Oppose	On the agenda for March 3rd.
SB 351	Caballero D	Water Innovation Act of 2021.	2/22/2021-Art. IV. Sec. 8(a) of the Constitution dispensed with. (Ayes 32. Noes 4.) Joint Rule 55 suspended.	2/17/2021-S. N .R. & W.	Current law establishes the State Water Resources Control Board for the purposes of providing for the orderly and efficient administration of the	Out for Analysis	A. Priority Support/ Oppose	On the agenda for March 3rd.

			(Ayes 32. Noes 4.)		water resources of the state. This bill, the Water Innovation Act of 2021, would create the Office of Water Innovation at the California Water Commission for the furtherance of new technologies and other innovative approaches in the water sector. The bill would require the office, by December 31, 2023, to take specified measures to advance innovation in the water sector. The bill would make findings and declarations regarding the need for water innovation.			
SB 403	Gonzalez D	Drinking water: consolidation.	2/22/2021-Art. IV. Sec. 8(a) of the Constitution dispensed with. (Ayes 32. Noes 4.) Joint Rule 55 suspended. (Ayes 32. Noes 4.)	2/12/2021-S. R LS.	The California Safe Drinking Water Act authorizes the State Water Resources Control Board to order consolidation with a receiving water system where a public water system or a state small water system, serving a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water or where a disadvantaged community is substantially reliant on domestic wells that consistently fail to provide an adequate supply of safe drinking water. This bill would authorize the state board to also order consolidation where a water system serving a disadvantaged community is at risk of failing to provide an adequate supply of safe drinking water or where a disadvantaged community is substantially reliant on domestic wells that are at risk of failing to provide an adequate supply of safe drinking water.	Out for Analysis	A. Priority Support/ Oppose	

B. Watch

Measure	Author	Topic	Status	Location	Brief Summary	Position	Priority	Notes 1
AB 11	Ward D	Climate change: regional climate change authorities.	1/25/2021-Re-referred to Com. on NAT. RES.	1/11/2021-A. N AT. RES.	Would require the Strategic Growth Council, by January 1, 2023, to establish up to 12 regional climate change authorities to coordinate climate adaptation and mitigation activities in their regions, and coordinate with other regional climate adaptation authorities, state agencies, and other relevant stakeholders.	Watch	B. Watch	
AB 50	Boerner Horvath D	Climate change: Climate Adaptation Center and Regional Support Network: sea level rise.	1/11/2021-Referred to Com. on NAT. RES.	1/11/2021-A. N AT. RES.	Current law requires the Natural Resources Agency, in collaboration with the Ocean Protection Council, to create, and update biannually, a Planning for Sea Level Rise Database describing steps being taken throughout the state to prepare for, and adapt to, sea level rise. This bill would establish the Climate Adaptation Center and Regional Support Network in the Ocean Protection Council to provide local governments facing sea level rise challenges with information and scientific expertise necessary to proceed with sea level rise mitigation.	Watch	B. Watch	
AB 51	Quirk D	Climate change: adaptation: regional climate adaptation planning groups: regional climate adaptation plans.	1/11/2021-Referred to Com. on NAT. RES.	1/11/2021-A. N AT. RES.	Would require the Strategic Growth Council, by July 1, 2022, to establish guidelines for the formation of regional climate adaptation planning groups. The bill would require the council, by July 1, 2023, and in consultation with certain state entities, to develop criteria for the development of regional climate adaptation plans.	Watch	B. Watch	

AB 59	Gabriel D	Mitigation Fee Act: fees: notice and timelines.	1/11/2021-Referred to Coms. on L. GOV. and H. & C.D.	1/11/2021-A. L. GOV.	Current law authorizes any party to protest the imposition of a fee, dedication, reservation, or other exactions imposed on a development project within 90 or 120 days of the imposition of the fee, as applicable, and specifies procedures for those protests and actions. The Mitigation Fee Act imposes the same requirements on a local agency for a new or increased fee for public facilities. Current law, for specified fees, requires any judicial action or proceeding to attack, review, set aside, void, or annul an ordinance, resolution, or motion adopting a new fee or service charge or modifying an existing fee or service charge to be commenced within 120 days of the effective date of the ordinance, resolution, or motion. Current law also provides that, if an ordinance, resolution, or motion provides for an automatic adjustment in a fee or service charge and the adjustment results in an increase in the fee or service charge, that any action to attack, review, set aside, void, or annul the increase to be commenced within 120 days of the increase. This bill would increase, for fees and service charges and for fees for specified public facilities, the time for mailing the notice of the time and place of the meeting to at least 45 days before the meeting.	Watch	B. Watch	
AB 100	Holden D	Drinking water: pipes and fittings: lead content.	1/11/2021-Read first time. Referred to Com. on E.S. & T.M.	1/11/2021-A. E.S. & T.M.	The California Safe Drinking Water Act prohibits, with certain exceptions, the use of any pipe, pipe or plumbing fitting or fixture, solder, or flux	Watch	B. Watch	

					that is not lead free in the installation or repair of any public water system or any plumbing in a facility providing water for human consumption. The act defines “lead free” for purposes of conveying or dispensing water for human consumption to mean not more than 0.2% lead when used with respect to solder and flux and not more than a weighted average of 0.25% lead when used with respect to the wetted surfaces of pipes and pipe fittings, plumbing fittings, and fixtures. This bill would additionally define “lead free,” with respect to endpoint devices, as defined, to mean that the devices do not leach more than one microgram of lead under certain tests and meeting a specified certification.			
SB 1	Atkins D	Coastal resources: sea level rise.	2/17/2021-Set for hearing March 16.	1/28/2021-S. N .R. & W.	The California Coastal Act of 1976 establishes the California Coastal Commission and provides for planning and regulation of development in the coastal zone, as defined. The act requires the commission, within 90 days after January 1, 1977, to adopt, after public hearing, procedures for the preparation, submission, approval, appeal, certification, and amendment of a local coastal program, including a common methodology for the preparation of, and the determination of the scope of, the local coastal programs, as provided. This bill would also include, as part of the procedures the commission is required to adopt, recommendations and guidelines for the	Watch	B. Watch	

					identification, assessment, minimization, and mitigation of sea level rise within each local coastal program, as provided. The bill would delete the timeframe specified above by which the commission is required to adopt these procedures.			
SB 273	Hertzberg D	Water quality: municipal wastewater agencies.	2/22/2021-Art. IV. Sec. 8(a) of the Constitution dispensed with. (Ayes 32. Noes 4.) Joint Rule 55 suspended. (Ayes 32. Noes 4.)	2/10/2021-S. G OV. & F.	Would authorize a municipal wastewater agency, as defined, to enter into agreements with entities responsible for stormwater management for the purpose of managing stormwater and dry weather runoff, to acquire, construct, expand, operate, maintain, and provide facilities for specified purposes relating to managing stormwater and dry weather runoff, and to levy taxes, fees, and charges consistent with the municipal wastewater agency's existing authority in order to fund projects undertaken pursuant to the bill. The bill would require the exercise of any new authority granted under the bill to comply with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. To the extent this requirement would impose new duties on local agency formation commissions, the bill would impose a state-mandated local program.	Watch	B. Watch	
SB 274	Wieckowski D	Local government meetings: agenda and documents.	2/22/2021-Art. IV. Sec. 8(a) of the Constitution dispensed with. (Ayes 32. Noes 4.) Joint Rule 55 suspended. (Ayes 32. Noes 4.)	2/10/2021-S. G OV. & F.	The Ralph M. Brown Act, requires meetings of the legislative body of a local agency to be open and public and also requires regular and special meetings of the legislative body to be held within the boundaries of the territory over which the	Watch	B. Watch	

					<p>local agency exercises jurisdiction, with specified exceptions. Current law authorizes a person to request that a copy of an agenda, or a copy of all the documents constituting the agenda packet, of any meeting of a legislative body be mailed to that person. This bill would require a local agency with an internet website, or its designee, to email a copy of, or website link to, the agenda or a copy of all the documents constituting the agenda packet if the person requests that the items be delivered by email. If a local agency determines it to be technologically infeasible to send a copy of the documents or a link to a website that contains the documents by mail or by other electronic means, the bill would require the legislative body or its designee to send by mail a copy of the agenda or a website link to the agenda and to mail a copy of all other documents constituting the agenda packet, as specified.</p>			
SB 526	Min D	Community water systems: lead user service lines.	2/22/2021-Art. IV. Sec. 8(a) of the Constitution dispensed with. (Ayes 32. Noes 4.) Joint Rule 55 suspended. (Ayes 32. Noes 4.)	2/17/2021-S. R LS.	Current law requires, by July 1, 2020, a community water system with known lead user service lines in use in its distribution system to provide a timeline for replacement of those lines to the State Water Resources Control Board. Current law requires the state board to review and approve an established timeline, and requires, if the state board fails to act within 30 days of the submission of the timeline, the timeline to be deemed approved. Current law authorizes	Watch	B. Watch	

					the state board to enforce these requirements, as specified, and a violation is considered a violation of the California Safe Drinking Water Act, subjecting the violator to specified civil and criminal penalties. This bill would, until January 1, 2025, require a community water system to remove or replace the full lead user service line, if the community water system disturbs, removes, or replaces a portion thereof. The bill would apply the above-described enforcement provisions to a violation of the requirements of the bill, thereby creating a state-mandated local program by expanding the scope of crimes under the California Safe Drinking Water Act.			
SB 552	Hertzberg D	Drought planning: small water suppliers: nontransient noncommunity water systems.	2/22/2021-Art. IV. Sec. 8(a) of the Constitution dispensed with. (Ayes 32. Noes 4.) Joint Rule 55 suspended. (Ayes 32. Noes 4.)	2/18/2021-S. R LS.	Would require small water suppliers, as defined, and nontransient noncommunity water systems that are schools, no later than December 31, 2022, to develop and submit to the Division of Drinking Water for the State Water Resources Control Board an Emergency Response Plan that includes specified drought-planning elements. The bill would require these water systems to report specified water supply condition information to the state board through the state board's Electronic Annual Reporting System, and to include water system risk and water shortage information in the water systems' Consumer Confidence Reports, as	Watch	B. Watch	

					provided.			
SB 559	Hurtado D	Department of Water Resources: water conveyance systems: Canal Conveyance Capacity Restoration Fund.	2/22/2021-Art. IV. Sec. 8(a) of the Constitution dispensed with. (Ayes 32. Noes 4.) Joint Rule 55 suspended. (Ayes 32. Noes 4.)	2/18/2021-S. R LS.	Would establish the Canal Conveyance Capacity Restoration Fund in the State Treasury to be administered by the Department of Water Resources. The bill would require all moneys deposited in the fund to be expended, upon appropriation by the Legislature, in support of subsidence repair costs, including environmental planning, permitting, design, and construction and necessary road and bridge upgrades required to accommodate capacity improvements. The bill would require the department to expend from the fund, upon appropriation by the Legislature, specified monetary amounts to restore the capacity of 4 specified water conveyance systems, as prescribed, with 2 of those 4 expenditures being in the form of a grant to the Friant Water Authority and to the San Luis and Delta-Mendota Water Authority. The bill would make these provisions inoperative on July 1, 2030, and would repeal the provisions as of January 1, 2031.	Watch	B. Watch	
Total Measures: 25 Total Tracking Forms: 25								

Metropolitan Water District of Southern California
State Legislative Matrix
February 4, 2021 – First Year of Legislative Session

Topic	Bill Number Author	Status	Title – Summary	MWD Position	Effects on Metropolitan
Metropolitan-sponsored bills	SB 230 Portantino (D) Sponsors: Metropolitan and the California Municipal Utilities Association	Introduced 1/19/2021	State Water Resources Control Board: Constituents of Emerging Concern Program Seeks to create a statewide program to identify and evaluate Constituents of Emerging Concern (CECs) in drinking water sources.	CO-SPONSOR	Metropolitan and the California Municipal Utilities Association are co-sponsoring legislation in response to growing public concern about CECs in drinking water. The bill would establish a CEC Drinking Water Program at the State Water Resources Control Board. The program would set up a consistent and science-based approach for assessing the public health and drinking water consequences of CECs, with the intent to improve knowledge and future regulatory determinations.
Water Bond Infrastructure Funding	SB 45 Portantino (D) Sponsor: Author	Introduced 12/7/2020 Senate Natural Resources & Water Committee	Wildfire, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2022 Places a \$5.51 billion wildfire and water bond on the 2022 ballot for voter approval.	SUPPORT AND AMEND Based upon Board adopted 2021 State Legislative Priorities and Principles and Board action on SB 45 (Allen, 2018) 6/11/19	Would provide funding to restore areas damaged by wildfires, mitigate future wildfires, create healthy forests and watersheds, protect water supplies and water quality, and protect and restore rivers, streams and lakes. Metropolitan is seeking amendments to ensure adequate funding for recycled water projects, habitat restoration for threatened and endangered species, water quality monitoring and treatment, and subsidence repairs to conveyance infrastructure projects.



DISCUSSION ITEM

March 3, 2021

TO: Board of Directors
FROM: Robert Hunter, General Manager

Staff Contact: Harvey De La Torre
Melissa Baum-Haley

**SUBJECT: STATUS UPDATE BY MWD OC STAFF REGARDING METROPOLITAN
WATER DISTRICT OF SOUTHERN CALIFORNIA RATE REFINEMENT
PROCESS**

STAFF RECOMMENDATION

Staff recommends the Board of Directors discuss and file this information.

REPORT

Status Update

In the fall of 2020, Metropolitan staff commenced a rate refinement process to adopt a new Demand Management funding mechanism, as the immediate action, by the close of CY 2021. This can be accomplished either independently or as part of a complete rate refinement review, as some have suggested the current rate structure should be evaluated based on current and future conditions, considering if the needs of the member agencies have changed, and if the pricing structure responds accordingly.

This process is led by Metropolitan's Chief Financial Officer, Katano Kasaine, and facilitated by Dr. Tom Chesnutt, President of A&N Technical Services, Inc.. As a principal step, the Member Agency Rate Refinement Workgroup began discussion with the existing rate structure framework. As a follow-on, Dr. Chesnutt and Metropolitan staff suggested the Member Agencies submit potential rate structure guiding principles for group discussion. A consensus-based process will be utilized to work together to develop a mutually acceptable list.

Budgeted (Y/N): N/A	Budgeted amount: None	Core <u>X</u>	Choice <u> </u>
Action item amount: N/A	Line item:		
Fiscal Impact (explain if unbudgeted):			

Fourteen Member Agencies, including MWDOC, collectively offered a list of suggested rate refinement guiding principles for the greater group to discuss. These draft principles were foundationally based on the Metropolitan's Rate Refinement Process Policy Guidance from the late-1990's as well as the existing rate structure framework. The draft principles focused on the development of a rate structure that would:

- Comply with statutory cost of service requirements in a manner that is fair, equitable, and transparent.
- Be logically structured and easy to understand.
- Ensure a rational nexus between the allocation of costs and the benefits received.
- Provide equitable cost recovery for Metropolitan's current and future operations, infrastructure investments, programs and services.
- Protect the long-term fiscal integrity of Metropolitan and maintain its strong bond ratings.
- Support revenue stability for Metropolitan under variable demand scenarios and purchasing patterns.
- Support stable and predictable rates and charges for member agencies.
- Encourage prudent water management actions that recognize both local and regional benefits.
- Complement the Integrated Resources Plan.
- Avoid potential abrupt financial impacts on Member Agencies.

Additionally, the staff representatives for the Los Angeles Department of Water and Power (LADWP), San Diego County Water Authority (SDCWA), and the City of Beverly Hills provided independent guiding principle feedback, with a number of general commonalities to the list above.

To achieve the recommendation for a data driven process, it was further suggested that the rate structure components could be reviewed through the development of a retrospective to evaluate the historical context, methodology, and performance of the current structure.

Metropolitan staff is currently combining the feedback received at the February 16 Member Agency Rate Refinement Workgroup for continued discussion at the next Rate Refinement Workgroup meeting. To the extent possible, the guiding principles will be inclusive of all feedback and collectively agreed upon.

Background

Metropolitan's water rates and charges are adopted every two years by its Board of Directors. Periodically the Metropolitan Board requests a rate structure refinement process to review and implement any required changes and improvements to its rates and charges.

Since 2003, the Water Stewardship Rate (WSR) has funded Metropolitan's Demand Management programs, including incentive payments for Local Resources Program projects,

conservation device rebates, turf removal, customized member agency administered programs, advertising to promote conservation, new programs within disadvantaged communities, pilot programs for stormwater capture, and future supply actions program. These programs help to increase regional water supply reliability, reduce demands for imported water supplies, decrease the burden on Metropolitan's infrastructure and reduce system costs, and free up conveyance capacity to the benefit of all system users.

In December 2019, the Metropolitan Board voted to discontinue the collection of the WSR as part of the calendar year (CY) 2021 and 2022 rates and charges ([December 2019 Board Letter](#); [Presentation](#)). During this two-year period, a rate refinement process will be undertaken to establish a new revenue collection mechanism to recover Demand Management costs.

In October 2020, the Metropolitan Board commenced the rate refinement process by reviewing the status of Water Stewardship Fund and establishing a process to develop a new funding mechanism for Metropolitan's Demand Management Programs. This can be accomplished either independently or as part of a complete rate refinement review. Through the facilitated rate refinement process, Metropolitan staff is engaging with their Board and Member Agency staff in the months to come to bring forward options for consideration, with the goal of adopting a new funding approach by the close of CY 2021 ([October 2020 Board Letter](#)).

The Demand Management revenue requirements are currently funded by the Water Stewardship Fund. Revenues for this fund were generated by the WSR, which was collected on water sales through December 31, 2020, excluding SDCWA exchange agreement transactions. The CY 2020 WSR was set at \$65 per acre-foot. In CYs 2021 and 2022, the WSR will not be collected from any member agencies on any water transactions.

To meet the CY 2021 year-end deadline for establishing a method to recover Demand Management costs, Metropolitan staff will continue to hold meetings with the Metropolitan Member Agencies and provide monthly updates to the Metropolitan Board during the Finance and Insurance Committee. The initial rate refinement process is expected to last at least through June 2021. The extent of additional rate refinement considerations will be prioritized through feedback from Metropolitan Board and Member Agency managers.

Attachments: 1) Status Update on the Rate Refinement Process



Metropolitan Issues Update



Member Agency Rate Refinement Workgroup

- Process led by Katano Kasaine
Metropolitan's Chief Financial Officer
- Facilitated by Dr. Tom Chesnutt
President of A&N Technical Services, Inc.



Member Agency Rate Refinement Workgroup

- The Member Agency Rate Refinement Workgroup has been meeting to collaboratively analyze, discuss, and recommend:
 - Demand Management costs recovery method
 - Other rate structure change(s)
 - Rate Structure Guiding Principles
- Updates are being presented to the Metropolitan Board through the Finance and Insurance Committee



Demand Management Cost Recovery Review

IRP will determine the policy goals for demand management

Budget funds demand management to meet those goals

COS/Rate Refinement will determine the method to recover the cost



Demand Management Cost Recovery Review

- December 2019** - Metropolitan Board Action
 Approved the option to use the Water Stewardship Fund to fund demand management costs in the FY 2021 & FY 2022 biennial period to allow the Board to consider demand management funding in relation to the upcoming 2020 IRP update and to undergo a rate structure refinement process.
- April 2020** - Metropolitan Board approved rates and charges for CY 2021 and 2022 without the WSR. Instead, the WSF balance will fund the Demand Management costs over the biennium.



Rate Structure Framework



Member Agency Submitted Principles for Discussion



Guiding Principles – Group Submission

Submitted by:

- City of Burbank
- Calleguas Municipal Water District
- Central Basin Municipal Water District
- Eastern Municipal Water District
- Foothill Municipal Water District
- City of Fullerton
- Inland Empire Utilities Agency
- Las Virgenes Municipal Water District
- City of Long Beach
- Municipal Water District of Orange County
- Upper San Gabriel Valley Municipal Water District
- Three Valleys Municipal Water District
- West Basin Municipal Water District
- Western Municipal Water District of Riverside County

Guiding Principles – Contd.

Develop a Rate Structure that will:

1. Comply with statutory cost of service requirements in a manner that is fair, equitable, and transparent.
2. Be logically structured and easy to understand.
3. Ensure a rational nexus between the allocation of costs and the benefits received.
4. Provide equitable cost recovery for MWD's current and future operations, infrastructure investments, programs and services.
5. Protect the long-term fiscal integrity of MWD and maintain its strong bond ratings.
6. Support revenue stability for MWD under variable demand scenarios and purchasing patterns.
7. Support stable and predictable rates and charges for member agencies.
8. Encourage prudent water management actions that recognize both local and regional benefits.
9. Complement the Integrated Resources Plan.
10. Avoid potential abrupt financial impacts on member agencies.

Guiding Principles – LADWP Submission

Additions to Existing Principles (Slide 3):

- If "Equity" is being considered as part of any rate refinement discussion, then all member agency's historical total capital contributions shall be evaluated and included in any discussion of equity.
- Retrospective - Take into consideration historical context, methodology, and understanding of current rate structure development, including recent litigation outcome on WSR, and legality. Show supporting data / analyses on how current structure has performed and to identify problem areas for discussion. May include assessment of current and future investments (2020 IRP update) in supplies and infrastructure.
- No Significant Disadvantage and Fair: supports local resources development and not disincentivize member agency's investment in local projects that have regional benefits.
- The rate structure should support Member Agency choice in how they meet their demands.

Clarify "Any dry year allocation should be based on need"

- What was context?
- WSAP allocation plan, preferential rights and rate structure?

Guiding Principles – SDCWA Submission

- Process be open, transparent and data driven
- Consider a transition period if necessary to minimize impacts to individual agencies
- To safeguard MWD's fiscal sustainability, right size planned investments to match services member agencies want to pay for
- Recovery of full revenue requirement in a fair and equitable manner with the following objectives:
 - Effectiveness in yielding total revenue requirements (full cost recovery)
 - Revenue stability and predictability
 - Stability and predictability of the rates themselves from unexpected or adverse changes
 - Promotion of efficient resource use (conservation and efficient use)
 - Fairness in the apportionment of total costs of service among the different ratepayers
 - Avoidance of undue discrimination (subsidies) within the rates
 - Dynamic efficiency in responding to changing supply-and-demand patterns
 - Freedom from controversies as to proper interpretation of the rates
 - Simple and easy to understand
 - Simple to administer
 - Legal and defensible

Guiding Principles – Beverly Hills Submission

Considerations as we move forward with the rate discussions:

- Fairness
- Reserve policy
- Revenue stability versus rate stability
- True cost of service

Next Steps

- Metropolitan staff will be combining the feedback received for continued group discussion.
- To the extent possible, the guiding principles will be inclusive of all feedback.
- Utilizing a consensus-based process seeking collective agreement in develop of Rate Structure Guiding Principles.



Discussion on Rate Structure Guiding Principles





INFORMATION ITEM

March 3, 2021

TO: Board of Directors

**FROM: Robert Hunter,
General Manager**

Staff Contact: Melissa Baum-Haley

**SUBJECT: METROPOLITAN WATER DISTRICT (MET) ITEMS CRITICAL TO ORANGE
COUNTY**

STAFF RECOMMENDATION

Staff recommends the Board of Directors to review and discuss this information.

DETAILED REPORT

This report provides a brief update on the current status of the following key MET issues that may affect Orange County:

- a) MET's Finance and Rate Issues
- b) MET's General Manager Recruitment Process
- c) MET's Water Supply Conditions
- d) Colorado River Issues
- e) Delta Conveyance Activities and State Water Project Issues

ISSUE BRIEF #A

SUBJECT: MET's Finance and Rate Issues

RECENT ACTIVITY

Current Update

Water Transactions for December 2020 totaled 167.0 thousand acre-feet (TAF), which were 44.9 TAF higher than the budget of 122.1 TAF. This translates to \$137.7 million in revenues for December 2020, which were \$34.7 million higher than budget.

Year-to-date (YTD) water transactions through December 2020 totaled 852.1 TAF, which were 7.5 TAF lower than the budget. YTD water revenues through December 2020 were \$745.9 million, which were \$14.4 million lower than the budget of \$760.3 million.

Rate Refinement Process

For information and background on Metropolitan's current rate refinement process, please refer to the *Discussion Item: Status Update by MWDOC Staff on MET's Rate Refinement Process*.

ISSUE BRIEF #B**SUBJECT: MET's General Manager Recruitment Process****RECENT ACTIVITY**

The current steps in the General Manager Recruitment process are as follows:

- At the January 11 OP&T committee, the Hawkins Company presented the Job Description, Recruitment Brochure, and the Outreach Plan to the Metropolitan Board for review and approval.
- Nominations and submittals from interested candidates were accepted up to February 26. While the recruitment is open until the position is filled, candidates are encouraged to apply early; evaluations of all potential candidates will be done throughout the recruitment process.
- At the February 23 Executive Committee meeting, within closed session, the screening criteria, interview process, and interview questions was developed.
- Throughout the month of March, the Hawkins Company will review the submitted candidate applications. Only a select number of highly qualified candidates will be invited to participate in the interview process.
- On March 23, the Hawkins Company will present a short list of candidates to the Executive Committee within closed session.
- Executive Committee will conduct initial interviews, date to be determined.
- Board will conduct interviews of the top candidates, potentially on April 13.
- Board to approve selection of the new General Manager, potentially on May 11.

The MET General Manager Recruitment brochure can be found at the link:

https://thehawkinscompany.com/wp-content/uploads/2021/01/metro_water_district_v6.pdf

ISSUE BRIEF # C

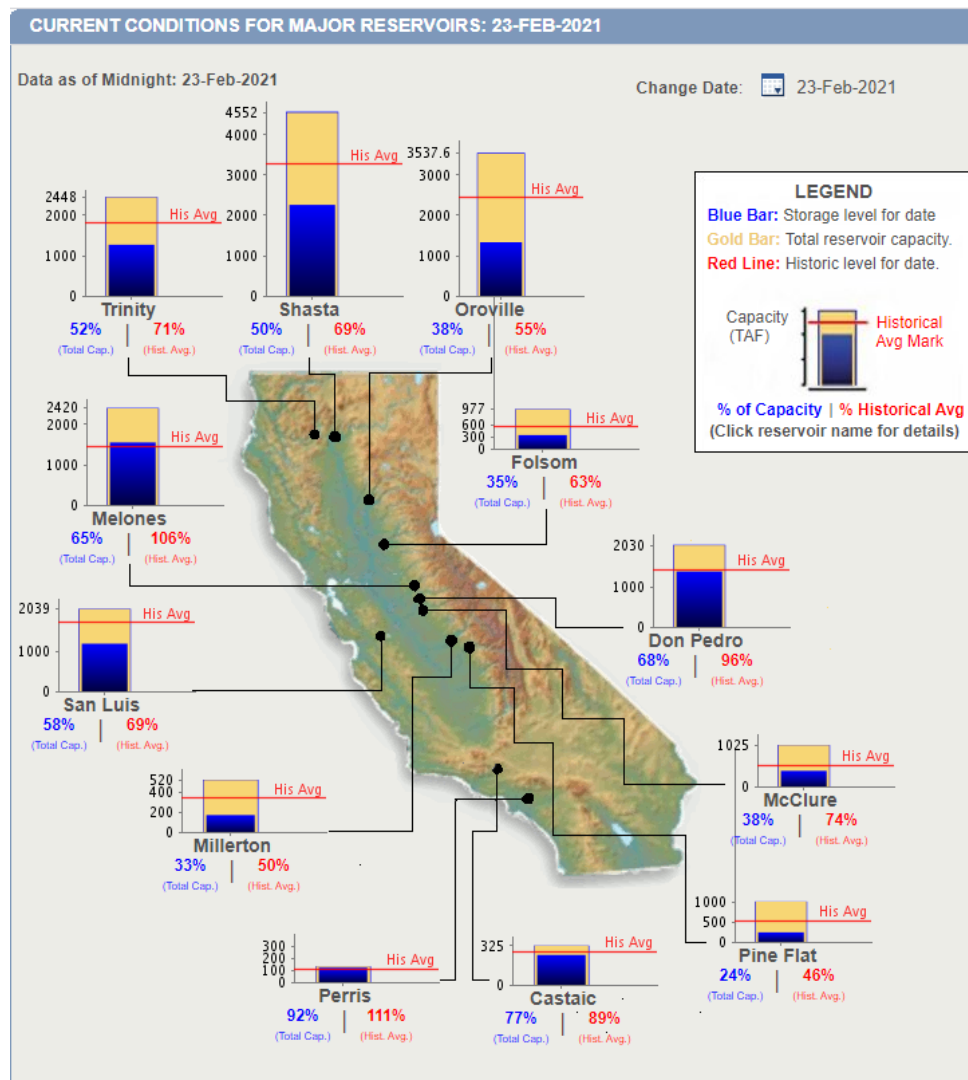
SUBJECT: MET's Water Supply Conditions

RECENT ACTIVITY

The 2020-21 Water Year (2019-20 WY) officially started on October 1, 2020. Thus far, the Northern California accumulated precipitation (8-Station Index) is reporting **18.04 inches or 53% of normal** as of February 24th. For 2020-21 WY, the Northern Sierra Snow Water Equivalent is reporting **16.3 inches on February 24th**, which is **68% of normal** for that day. Due to the below average precipitation/snowfall, the Department of Water Resources (DWR) has set the initial State Water Project (SWP) **"Table A" allocation at 10%**. This allocation provides Metropolitan with approximately **191,150 AF in SWP deliveries this water year**. DWR's approval considered several factors including existing storage in SWP, conservation reservoirs, SWP operational regulatory constraints, and the 2021 contractor demands. If the Table A allocation remains at 10%, it would be the second lowest allocation dating back to 1968.

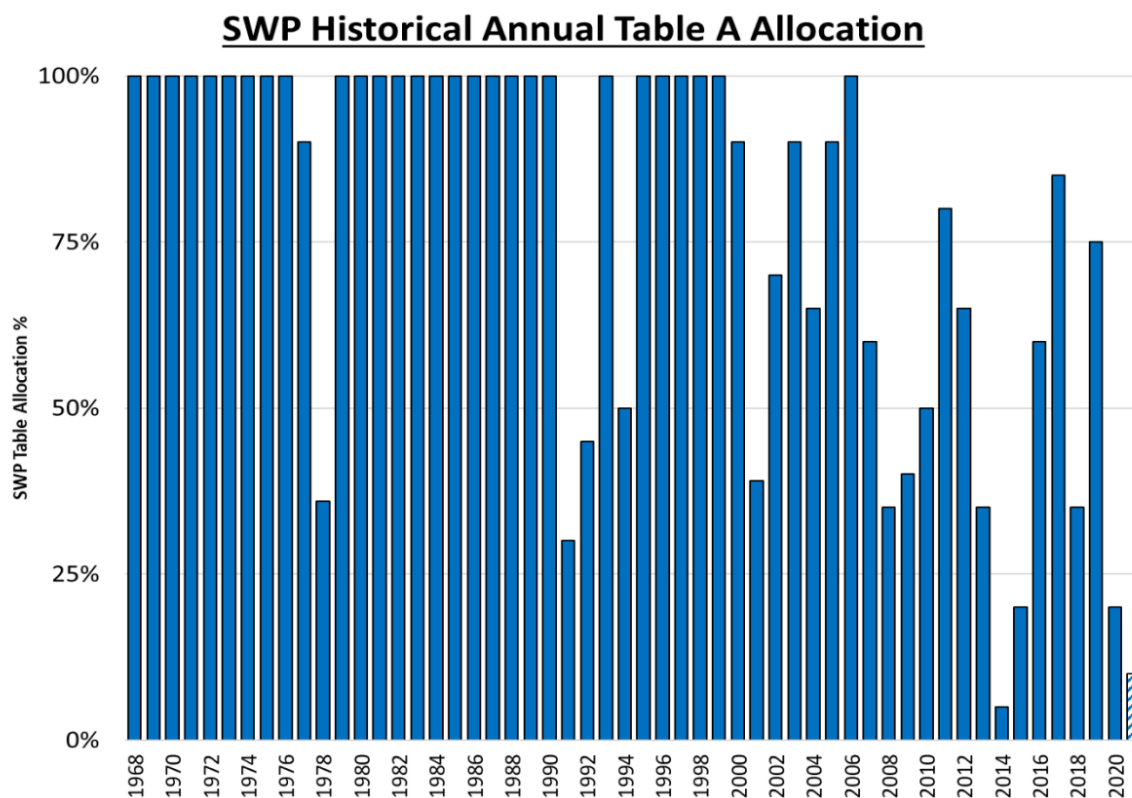
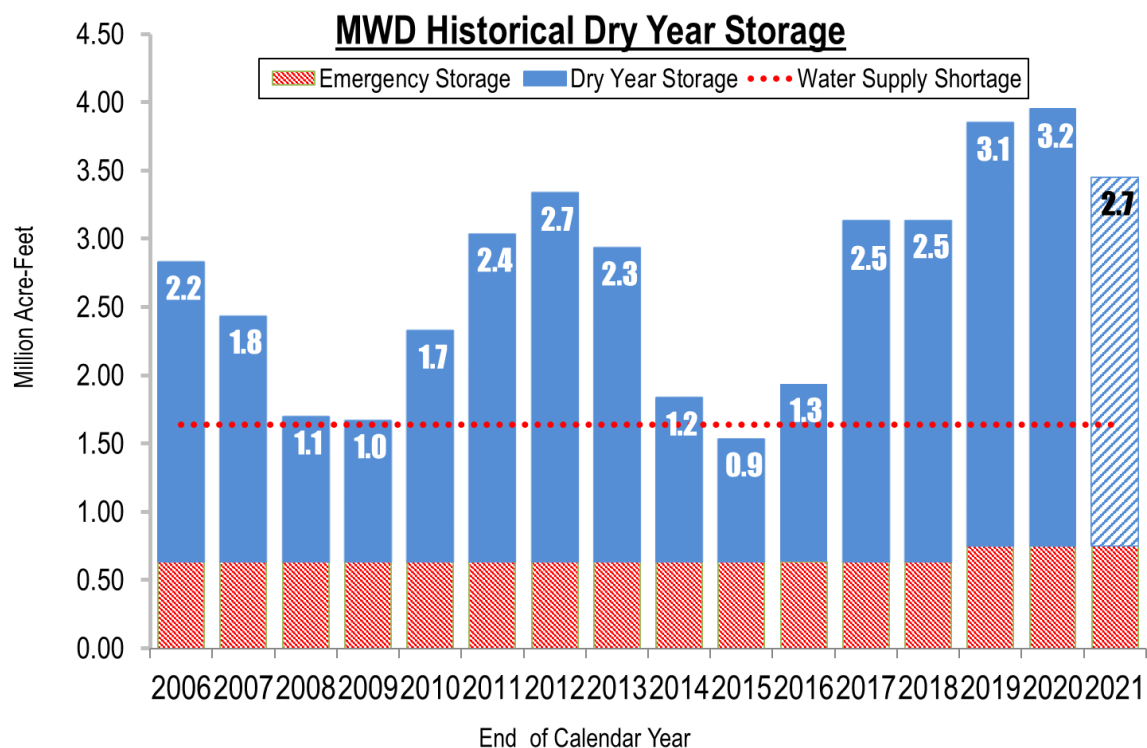
The Upper Colorado River Basin accumulated precipitation is reporting **10.7 inches or 66% of normal as of February 24th**. On the Colorado River system, snowpack is measured across four states in the Upper Colorado River Basin. The Upper Colorado River Basin Snow Water Equivalent was reporting **12.5 inches as of February 24th**, which is **86% of normal** for that day. Due to the below average precipitation/snowfall in 2020-21 WY there is now a 60% chance of a shortage at Lake Mead in 2022 and a 82% chance of shortage in 2023.

As of February 23rd Lake Oroville storage is at **38% of total capacity and 55% of normal**. As of February 23rd San Luis Reservoir has a current volume of **58% of the reservoir's total capacity and is 69% of normal**.

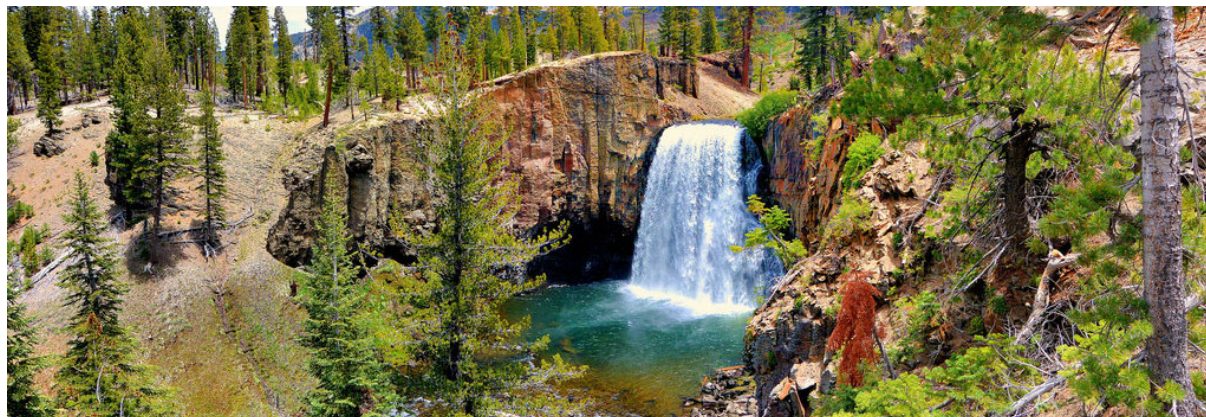


With estimated total demands and losses of 1.629 million acre-feet (MAF) and with a 10% SWP Table A Allocation, Metropolitan is projecting that demands will exceed supply levels in Calendar Year (CY) 2021. Based on this, estimated total dry-year storage for Metropolitan at the end of **CY 2020 will go down to approximately 2.7 MAF.**

A projected dry-year storage supply of **2.7 MAF will be the third highest amount for Metropolitan.** A large factor in the maintaining high water storage level is because **water demands regionally have been at approximately 38-year lows.**



Attachment: Water Supply Conditions Presentation (3/3/2021)



Water Supply Conditions

Kevin Hostert, Water Resources Analyst
Municipal Water District of Orange County

March 3rd 2021

California Drought Monitor

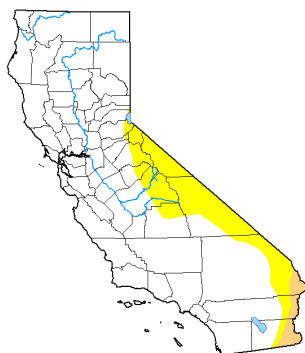
October 2019 = 2% Moderate Drought (D1) in California

October 2019 = 0% Severe to Extreme Drought (D2 to D3) in California

March 2021 = 85% Moderate Drought (D1) in California

March 2021 = 58% Severe to Exceptional Drought (D2 to D4) in California

U.S. Drought Monitor California



October 22, 2019
(Released Thursday, Oct. 24, 2019)
Valid 8 a.m. EDT

	None	D0-D4	D1-D4	D2-D4	D3-D4	D4
Current	82.26	17.74	2.06	0.00	0.00	0.00
Last Week (10-15-2019)	85.40	14.60	2.06	0.00	0.00	0.00
3 Months Ago (8-13-2019)	96.68	4.32	0.00	0.00	0.00	0.00
Start of Calendar Year (1-1-2019)	7.77	92.23	75.17	14.12	2.10	0.00
Start of Water Year (10-1-2018)	95.29	4.71	2.06	0.00	0.00	0.00
One Year Ago (10-23-2018)	15.16	84.84	47.84	19.30	2.73	0.00

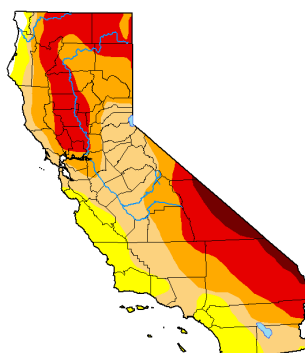
Intensity:
None D0 Abnormally Dry D1 Moderate Drought D2 Severe Drought D3 Extreme Drought D4 Exceptional Drought

Author:
Richard Heim
NCEI/NOAA



droughtmonitor.unl.edu

U.S. Drought Monitor California



February 16, 2021
(Released Thursday, Feb. 18, 2021)
Valid 7 a.m. EST

	None	D0-D4	D1-D4	D2-D4	D3-D4	D4
Current	0.70	99.30	84.88	57.58	30.99	3.75
Last Week (02-09-2021)	0.64	99.36	85.10	57.87	31.41	3.75
3 Months Ago (11-17-2020)	15.61	84.39	70.91	41.25	15.83	0.00
Start of Calendar Year (1-1-2021)	0.00	100.00	95.17	74.34	33.75	1.19
Start of Water Year (09-16-2020)	15.35	84.65	67.66	35.62	12.74	0.00
One Year Ago (02-16-2020)	40.02	59.98	9.54	0.00	0.00	0.00

Intensity:
None D0 Abnormally Dry D1 Moderate Drought D2 Severe Drought D3 Extreme Drought D4 Exceptional Drought

The Drought Monitor focuses on broad-scale conditions. Local conditions may vary. For more information on the Drought Monitor, go to <https://droughtmonitor.unl.edu/about.aspx>

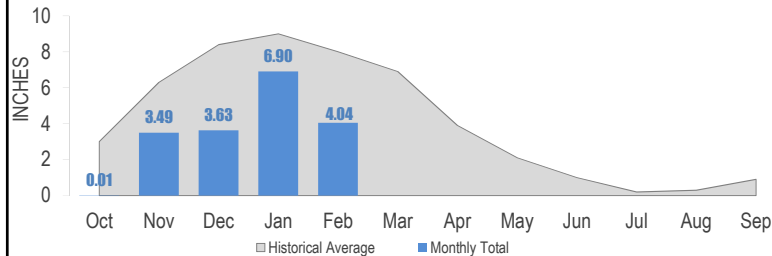
Author:
David Miskus
NOAA/NWS/NCEI/CPIC



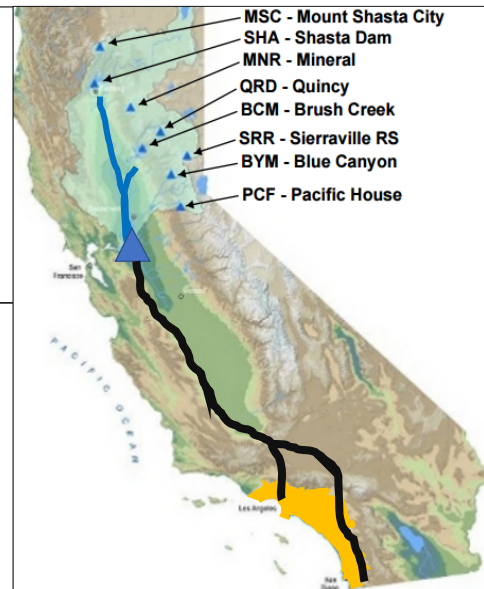
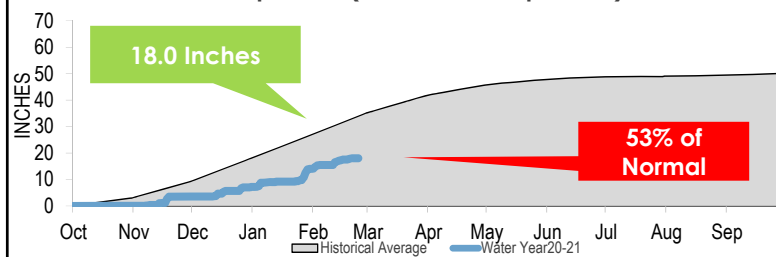
droughtmonitor.unl.edu

Northern California Accumulated Precipitation WY 2021

Monthly Precipitation (8 Station Precip Index)



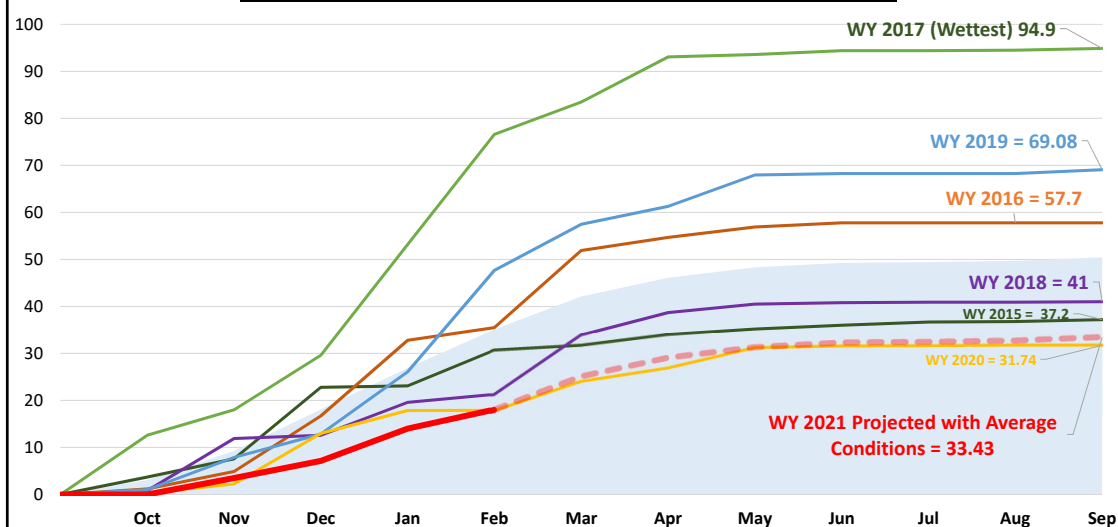
Accumulated Precipitation (8-Station Precip Index)

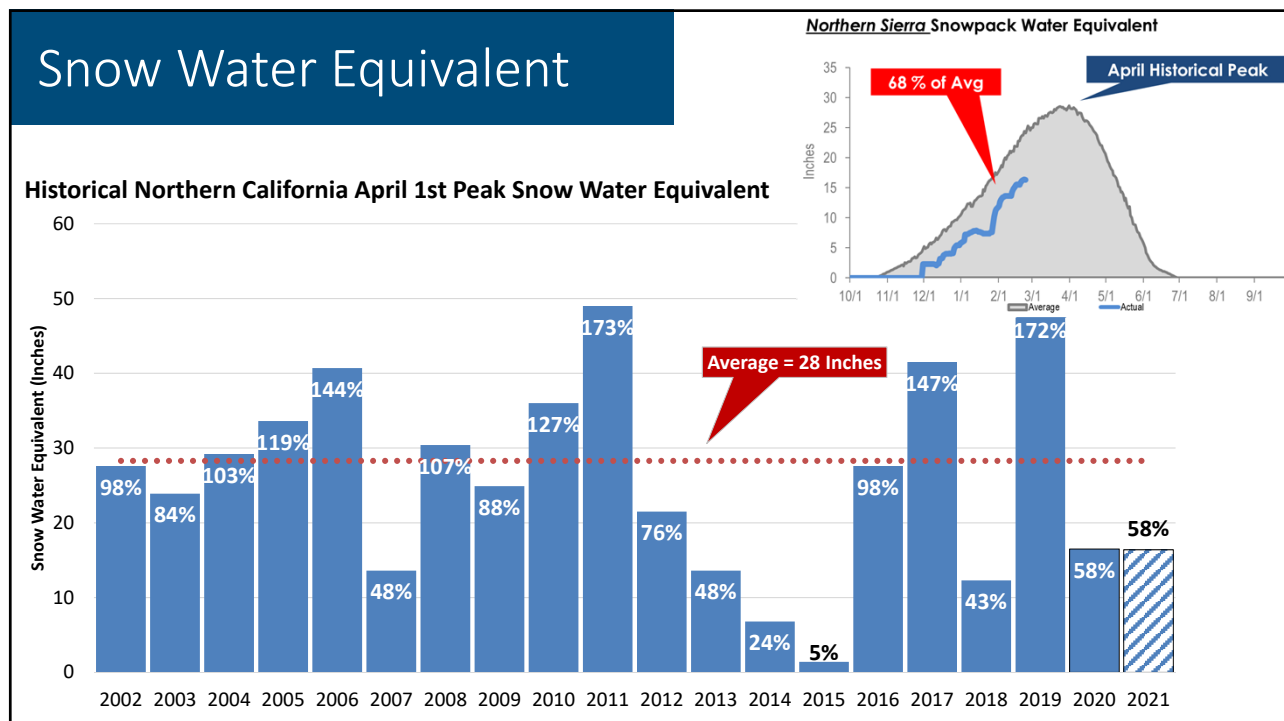
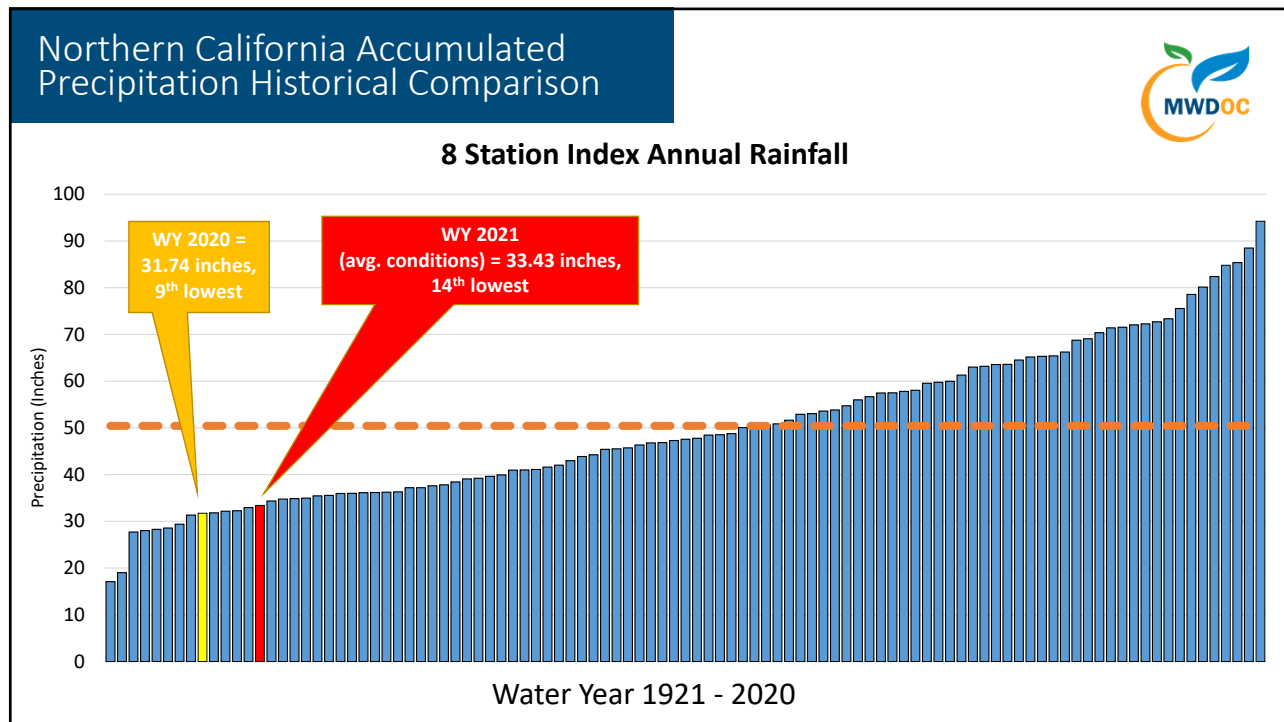


Northern California Accumulated Precipitation Historical Comparison



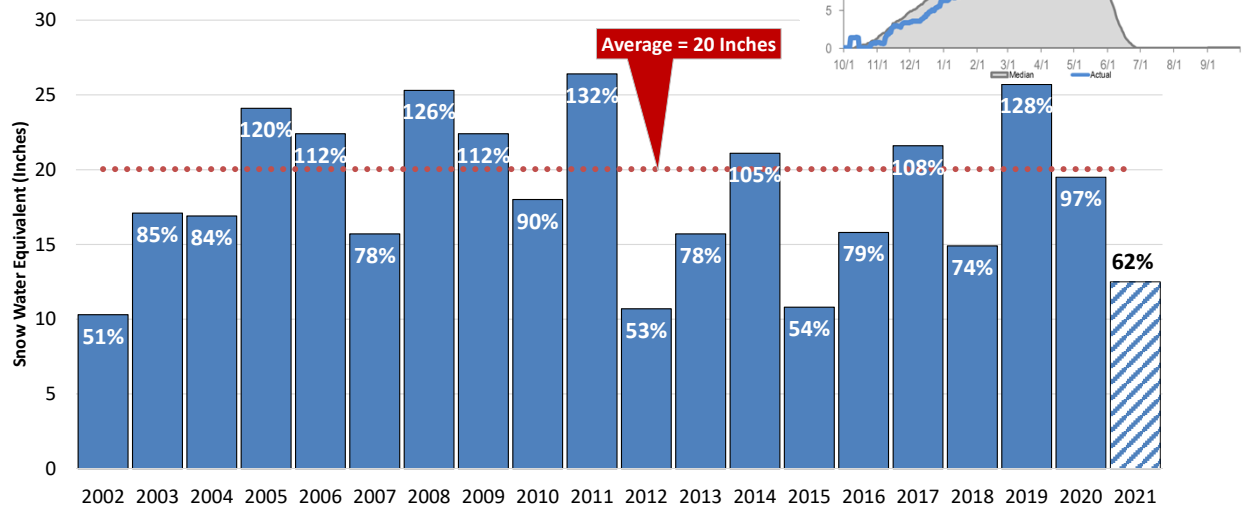
8 Station Index all Time Month by Month Cumulative Totals





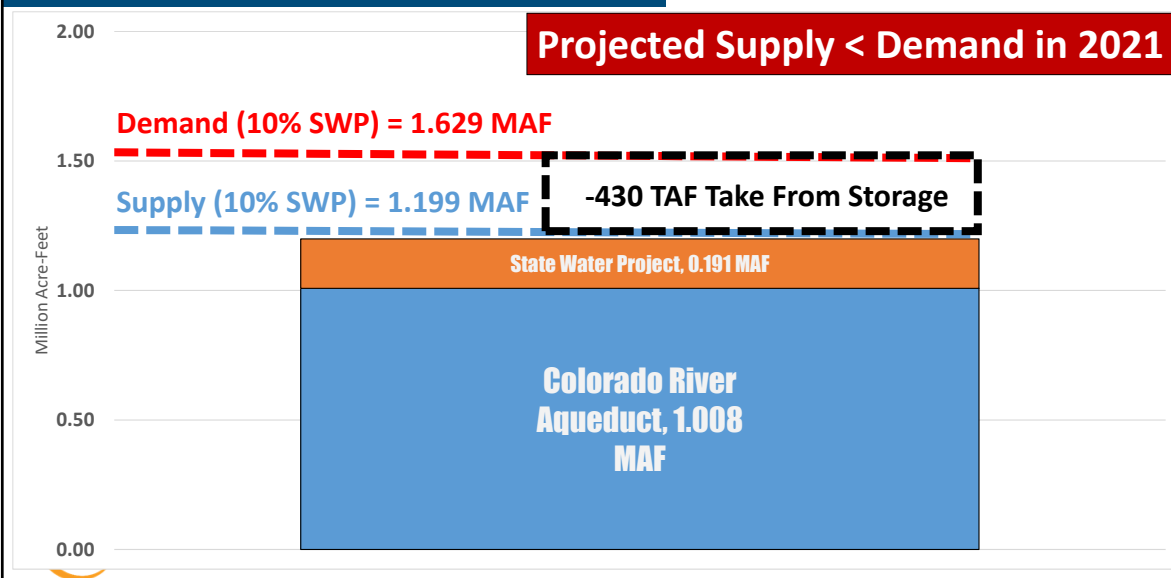
Snow Water Equivalent

Historical Colorado Basin April 15th Peak Snow Water Equivalent

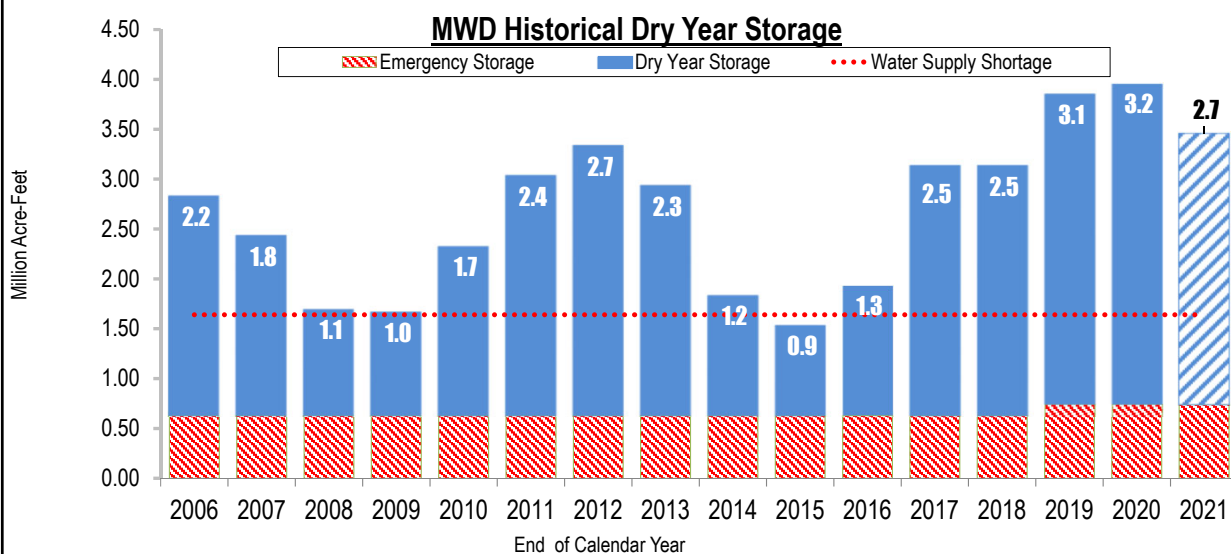


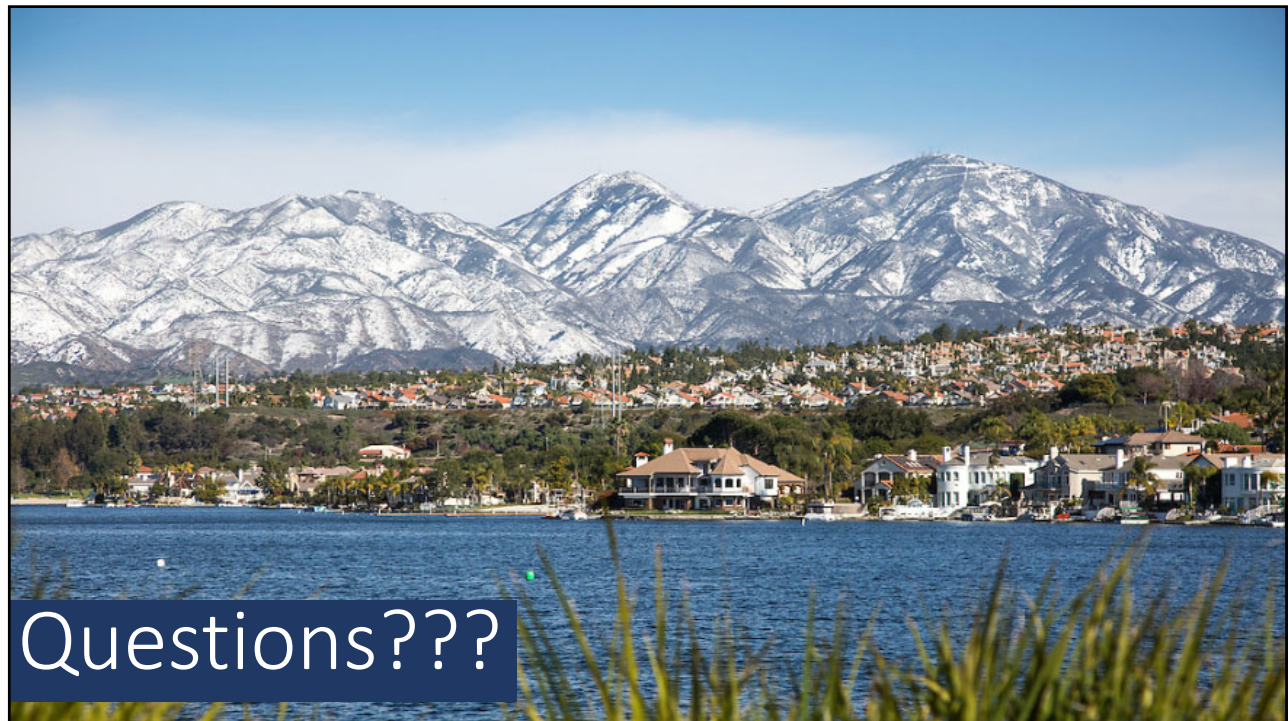
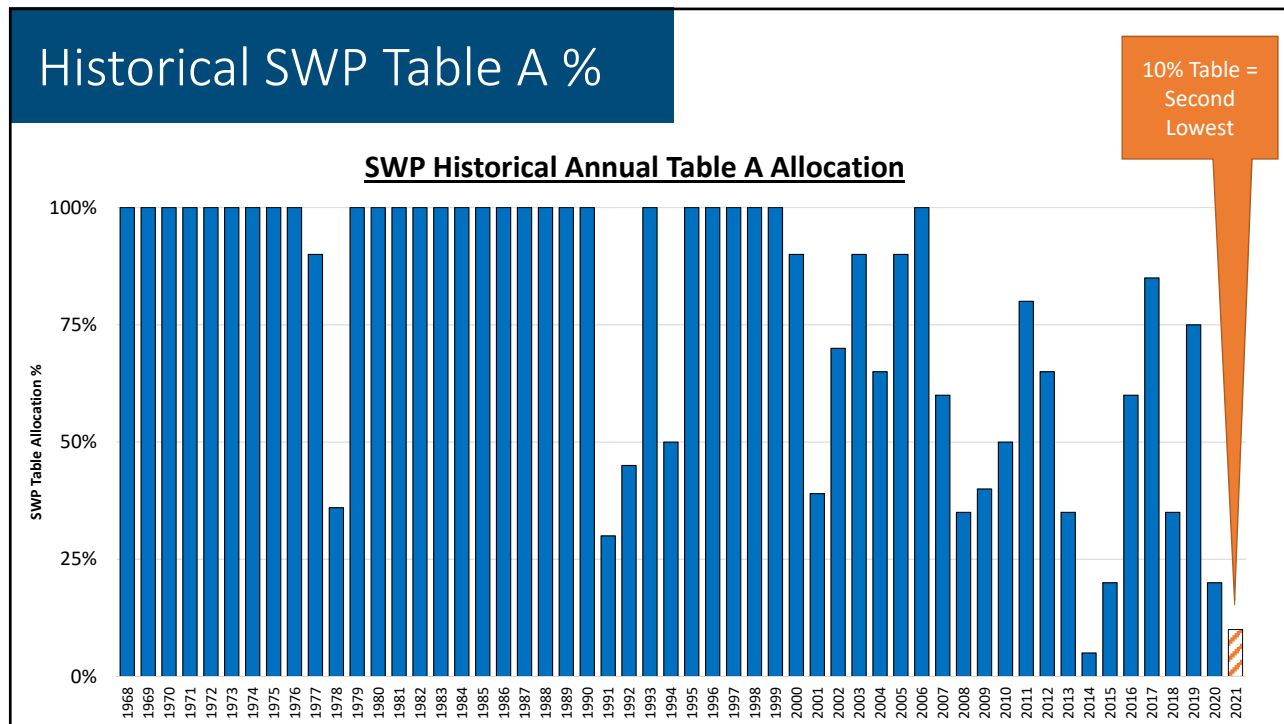
MWD 2021 Water Storage

MWD 2021 Estimated Water Storage



MWD 2021 Estimated Water Storage





ISSUE BRIEF # D

SUBJECT: Colorado River Issues

RECENT ACTIVITY

Reclamation to Terminate NEPA Process for Paradox Valley Unit without Issuing a Record of Decision

In December 2020, the Bureau of Reclamation (Reclamation) issued the Final Environmental Impact Statement (EIS) for the Paradox Valley Unit and determined that no action was the preferred alternative in the document that evaluated long-term options to control salt in the Paradox Valley. Metropolitan, along with more than a dozen other agencies in California and other states, sent letters to Commissioner Burman urging Reclamation to not issue a Record of Decision (ROD) for the EIS and instead work with the seven Colorado River Basin States (Basin States) to find a long-term salt control alternative that is acceptable to Reclamation and Colorado River water users.

In response to the letters received, in January, Reclamation determined that it would not issue a ROD for the EIS and would work collaboratively with the Basin States in furthering the objectives of the salinity control program. With the EIS process completed, the Salinity Control Forum, which has representatives from each Basin State, will urge Reclamation to restart the existing brine injection well in the Paradox Valley at some level and develop a long-term salt control solution for the Paradox Valley.

Reclamation Letter to Upper Division States Regarding Drought Contingency Plan

With a second year of very dry conditions forecasted for the Upper Colorado River Basin, Reclamation sent a letter to the Upper Colorado River Commission and the Upper Division States to initiate enhanced monitoring and coordination under the Drought Response Operations Agreement (DROA) of the Upper Basin Drought Contingency Plan. The DROA requires the Secretary of the Department of Interior (Secretary) to notify both the Upper and Lower Basin States whenever the 24-Month Study shows that Lake Powell will fall below the elevation of 3,525 feet, using the Minimum Probable hydrology, which occurred in the January study. When that happens, the agreement requires the Secretary to begin monthly modeling meetings with the Upper Division States until the Minimum Probable 24-Study projects that Lake Powell will consistently stay above the elevation of 3,525 feet for a full 24-Month period. The modeling meetings will include discussion of hydrology, system conditions, and status of the Colorado River Storage Project Act initial units.

Basin States Letter of Support - Commissioner of International Boundary and Water Commission (IBWC)

The governor's representatives of the Basin States sent a letter to the Biden administration indicating support for retaining the current IBWC Commissioner Jayne Harkins.

Commissioner Harkins was appointed to the position by President Trump in 2018. In this letter, the Basin States noted the importance of the United States' relationship with Mexico in the upcoming process to establish new guidelines for river operations, and that retaining Ms. Harkins would provide valuable continuity in this important role.

Bard Farmers Respond to Metropolitan's Following Call

Last fall, Metropolitan issued a following call requesting that up to 3,000 acres of land in Bard Water District be followed from April through July of 2021. The farmers responded to that following call for the full amount sought by Metropolitan. This year will be the second year of the program, and it is anticipated to provide 6,000 acre-feet to Metropolitan's available supplies this year. If Metropolitan doesn't need the water to meet demands this year, it can be stored in Lake Mead for delivery in a future year.

Water Managers, Farmers, and NGOs Respond to New York Times Article regarding Private Investment in the Colorado River

In response to a January 3, [New York Times Article](#) that described how private investors from Wall Street could redefine century-old rules for who controls the Colorado River, a conglomeration of water managers, the Family Farm Alliance, and conservation organizations responded with editorials providing a different viewpoint for how the Colorado River should best be managed.

The first article, [Lasting Colorado River solutions come from Main Street](#), not Wall Street, appeared in the Grand Junction Daily Sentinel on January 17 and was written by the executive director of the Family Farm Alliance and conservation agencies in the Upper Colorado Basin.

The second article, [Opinion: On this one thing, 9 Colorado water managers agree. Venture capital has circled Colorado water before. This time, investors are posturing as the only solution to a climate change driven reduction in the flows of our rivers](#), appeared in the Colorado Sun on January 29 and was written by several agricultural and municipal water agency general managers in the state of Colorado.

ISSUE BRIEF # E

SUBJECT: Delta Conveyance Activities and State Water Project Issues

RECENT ACTIVITY

Delta Conveyance Project

The California Department of Water Resources (DWR) is developing an Environmental Impact Report (EIR) under the California Environmental Quality Act. Current work is focused on formulation of alternatives to be analyzed in the EIR, descriptions of the existing conditions, and development of methods to analyze potential impacts on environmental resources. The U.S. Army Corps of Engineers has started preparation of an Environmental Impact Statement (EIS) to comply with the National Environmental Policy Act.

Joint Powers Authorities

The January regular meetings of the Delta Conveyance Design and Construction Authority (DCA) Board of Directors and the DCA Stakeholder Engagement Committee were cancelled.

The January 21 regular meeting of the Delta Conveyance Finance Authority (DCFA) Board of Directors included the election of officers, appointments to the Executive Committee, and an AB 992 presentation regarding the changes to the Brown Act concerning open meetings, local agencies, and social media.

Regulatory Activities

Metropolitan staff continued to participate in the collaborative groups called for in the 2019 Biological Opinions (BiOp) for the State Water Project (SWP) and Central Valley Project, and in the 2020 Incidental Take Permit for Long-term Operation of the SWP. The role of the group is to address science development needs and help to support the process to inform management and operation of the water projects.

Metropolitan staff is participating in the Delta Coordination Group and providing input to the Delta smelt summer and fall habitat actions. Metropolitan staff is also working with state and federal agencies to plan a science workshop focused on monitoring steelhead populations in the San Joaquin Basin. The workshop is scheduled for February 17–19, 2021 and will address requirements in the National Marine Fisheries Service 2019 BiOp.

Delta Stewardship Council

The Delta Stewardship Council (DSC) is conducting a climate change study for the Delta and Suisun Marsh. Delta Adapts: Creating a Climate Resilient Future will help the DSC assess specific climate risks and vulnerabilities in the Delta and, in coordination with stakeholders, develop adaptation strategies to address those vulnerabilities. The Draft Vulnerability Assessment report was released January 15. Metropolitan staff is reviewing the report and

coordinating with the State Water Contractors to review and provide comments on the public draft.

Sites Reservoir

The Sites Reservoir Project was allocated \$13.7 million in the 2021 federal spending bill, which was authorized through the Water Infrastructure Improvements for the Nation (WIIN) Act and signed into law on December 27, 2020 by President Donald Trump. With the passage of this legislation, Congress has now appropriated roughly \$23.7 million in WIIN Act funding to the Bureau of Reclamation for Sites Reservoir. Sites Authority staff continues to work on the revised Draft EIR/Supplemental Draft EIS, which includes a revised project description for the Sites Reservoir Project.

The Site's Reservoir Project key milestones for 2021 include release of a revised Draft EIR/Supplemental Draft EIS in July, completion of a biological assessment, submittal of regulatory permit applications, development of terms for coordinating Sites operations with the state and federal water projects, development of financing alternatives, and ongoing engagement with NGOs, tribes, and non-English speaking communities.

Update on Land Use strategies for the Delta Islands

In December 2020, the State Water Resources Control Board approved Metropolitan's 2021 research and implementation work plan for compliance with the water diversion measurement regulations under Senate Bill 88. Over the last couple of years, Metropolitan in coordination with Delta Reclamation Districts and the Delta Watermaster, has been conducting water measurement research and experimentation of water measurement devices on siphon diversions in the Delta. This research has included testing 22 water flow meters, water level and internal pressure sensors, data loggers, and telemetry communication equipment of varying technologies/manufacturers.

Science Activities

Metropolitan staff continued participating in the Collaborative Science and Adaptive Management Program (CSAMP), including participation on the Collaborative Adaptive Management Team (CAMT). At the January 19 meeting, CAMT received an update from an expert workgroup developing recommendations for improved decision-support tools for evaluating Delta smelt management actions. Metropolitan staff is participating on the expert workgroup and is coauthor on the workgroup white paper.

Metropolitan staff is collaborating with a team of water contractors and NGO participants in CSAMP to address salmon recovery needs that consider the abundance, timing, and condition of salmon throughout their range, including the ocean, Delta, and upstream of the Delta. Metropolitan staff is working with this team to develop a proposal to submit to the DSC Delta Science.

**Summary Report for
The Metropolitan Water District of Southern California
Board Meeting
February 9, 2021**

CONSENT CALENDAR ITEMS – ACTION

The Board:

Awarded \$2,418,149 contract to Metro Builders & Engineers Group, Ltd. for sodium hypochlorite feed system upgrades at Garvey Reservoir. **(Agenda Item 7-1)**

Reviewed and considered the Lead Agency's approved and adopted Final MND and Addendum and take related CEQA actions and authorized the General Manager to enter into a Stormwater for Recharge Pilot Program Agreement with Western Municipal Water District of Riverside County for the Enhanced Monitoring of the Victoria Basin Recharge Project. **(Agenda Item 7-2)**

Reviewed and considered the Lead Agency's approved Final MND and Addendum and take related CEQA actions, and authorized the General Manager to enter into a Stormwater for Recharge Pilot Program Agreement with Central Basin Municipal Water District and the city of Bell Gardens for the John Anson Ford Park Infiltration Cistern Project. **(Agenda Item 7-3)**

Reviewed and considered the certified Final EIR and take related CEQA actions, and authorized the General Manager to sign the proposed amendment to Metropolitan's State Water Project contract with the California Department of Water Resources. **(Agenda Item 7-4)**

Authorized the General Manager to enter into an agreement with the State Water Contractors, Inc. to pursue 2021 Sacramento Valley water transfer supplies, in a form approved by the General Counsel; and authorized making a \$5 per acre-foot initial administrative deposit and disbursements from that deposit consistent with the agreement not-to-exceed \$500,000. **(Agenda Item 7-5)**

OTHER BOARD ITEMS – ACTION

Authorized the General Counsel to amend the existing agreement for legal services with Horvitz & Levy, LLP in the *SDCWA v. Metropolitan* rate litigation to increase the maximum amount payable by \$300,000 to a total amount not-to-exceed \$900,000. **(Agenda Item 8-1)**

CONSENT CALENDAR OTHER ITEMS – ACTION

Approved Commendatory Resolution for Director Jose Solorio representing the city of Santa Ana. **(Agenda Item 6B)**

Approved Commendatory Resolution for Director Charles Treviño representing Upper San Gabriel Valley Municipal Water District. **(Agenda Item 6C)**

Approved committee assignments. Director Phan was assigned as a member of the Legal and Claims Committee. Director Fellow was assigned as a member of the Conservation and Local Resources Committee, the Legal and Claims Committee, and the Organization, Personnel and Technology Committee. Director Jung was assigned as a member of the Audit and Ethics Committee, the Finance and Insurance Committee, and the Organization, Personnel and Technology Committee. **(Agenda Item 6D)**

OTHER MATTERS AND REPORTS

Induction of new Director Thai Phan from the city of Santa Ana. **(Agenda Item 5C)**

Induction of new Director Anthony Fellow from Upper San Gabriel Valley Municipal Water District. **(Agenda Item 5D)**

Induction of new Director Fred Jung from the city of Fullerton.
(Director sworn in February 8, 2021)

THIS INFORMATION SHOULD NOT BE CONSIDERED THE OFFICIAL MINUTES OF THE MEETING.

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