WORKSHOP MEETING OF THE BOARD OF DIRECTORS WITH MET DIRECTORS MUNICIPAL WATER DISTRICT OF ORANGE COUNTY 18700 Ward Street, Board Room, Fountain Valley, California April 6, 2022, 8:30 a.m.

Due to the current state of emergency related to the spread of COVID-19 and pursuant to Government Code Section 54953(e), MWDOC will be holding this Board and Committee meeting 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

PLEDGE OF ALLEGIANCE

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. 2125

ACTION ITEMS

1. APPROVE CONTINUATION OF REMOTE MEETINGS PURSUANT TO AB 361 AND MAKE REQUIRED FINDINGS

Recommendation: Vote to continue virtual meetings pursuant to AB 361 for an

additional 30 days based on the findings that (1) it has

reconsidered the circumstances of the state of emergency for

COVID-19, and (2) state and local officials continue to impose or recommend measures to promote social distancing.

2. AB 2449 (RUBIO) – OPEN MEETINGS: LOCAL AGENCIES: TELECONFERENCES

Recommendation: Vote to adopt a Support position on AB 2449 (Rubio) and send a

letter to the author's office and Orange County delegation.

3. SB 991 (NEWMAN) – PUBLIC CONTRACTS: PROGRESSIVE DESIGN BUILD: PUBLIC AGENCIES

Recommendation: Vote to adopt a Support position on SB 991 (Newman) and send a

letter to the author's office and the Orange County delegation

PRESENTATION/DISCUSSION ITEMS

4. LEGISLATIVE ACTIVITIES

- a. Federal Legislative Report (NRR)
- b. State Legislative Report (BBK)
- c. Legal and Regulatory Report (Ackerman)
- d. MWDOC Legislative Matrix
- e. Metropolitan Legislative Matrix

Recommendation: Review and discuss the information presented.

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

Recommendation: Receive input and discuss the information presented.

6. DISCUSSION REGARDING MET'S BIENNIAL BUDGET

- a. Presentation by MET Chief Financial Officer regarding MET's Biennial Budget
- b. MWDOC Member Agency Budget Letters

Recommendation: Review and discuss the information presented.

INFORMATION ITEMS

7. WATER SUPPLY CONDITIONS UPDATE

Recommendation: Review and discuss the information presented.

- **8. 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 Integrated Resources Plan Update
 - 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.

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

- a. Summaries regarding March MET Board Meetings
- b. MET 4-Month Outlook on Upcoming Issues
- c. 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.



ACTION ITEM April 6, 2022

TO: Board of Directors

FROM: Joe Byrne, General Counsel

SUBJECT: APPROVE CONTINUATION OF REMOTE MEETINGS PURSUANT TO AB

361 AND MAKE REQUIRED FINDINGS

STAFF RECOMMENDATION

That the Board of Directors vote to continue virtual meetings pursuant to AB 361 for an additional 30 days based on the findings that (1) it has reconsidered the circumstances of the state of emergency for COVID-19, and (2) state and local officials continue to impose or recommend measures to promote social distancing.

COMMITTEE RECOMMENDATION

This item was not presented to a Committee.

SUMMARY

At the October 4, 2021 Board meeting, pursuant to AB 361, the Board of Directors adopted Resolution No. 2115 and authorized the Board to continue to have remote meetings based upon the continued state of emergency for COVID-19 and the finding that state and local officials have imposed or recommended measures to promote social distancing. At the past several meetings, including the March 16, 2022 Board meeting, the Board voted to continue such remote meetings for additional 30 day periods. As previously indicated, if the Board wishes to continue to hold remote meetings pursuant to AB 361, and assuming a state of emergency still is in place, it must make similar findings within every 30 days.

At the time this report was prepared, there is a continued state of emergency for COVID-19 and state and local officials continue to recommend measures to promote social distancing. This item is on the Agenda for the Board to consider whether to continue remote meetings pursuant to AB 361 for an additional 30 days and to make the appropriate findings.

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





ACTION ITEM April 6, 2022

TO: Board of Directors

FROM: Robert Hunter Staff Contact: Heather Baez

General Manager

SUBJECT: AB 2449 (RUBIO) - OPEN MEETINGS: LOCAL AGENCIES:

TELECONFERENCES

STAFF RECOMMENDATION

Staff recommends the Board of Directors vote to adopt a Support position on AB 2449 (Rubio) and send a letter to the author's office and Orange County delegation.

COMMITTEE RECOMMENDATION

This item was not presented to a Committee.

BACKGROUND

As part of his response to the COVID-19 pandemic, Governor Newsom originally issued a series of Executive Orders to expand public access to meetings of local agencies by suspending some of the restrictions on teleconferencing.

Governor Newsom's executive order was beneficial to local agencies trying to conform with the Brown Act's public accessibility requirement during this pandemic, and it allowed the public to access and participate in meetings remotely.

Although the order has since expired, AB 361 (Chapter 165, Statutes of 2021) permits local agencies to continue to meet virtually and remotely during a state-declared emergency without being required to have a quorum present and abide by other requirements of teleconference meeting under the Brown Act. Pursuant to AB 361, local legislative bodies may continue to meet virtually until the end of the current state of emergency and during any future state of emergency until January 1, 2024 and must take a majority vote every 30 days in order to continue allowing members to participate virtually without being required to abide by existing Brown Act requirements.

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

BILL SUMMARY

Assembly Bill 2449 would eliminate the previously existing concept of teleconference locations and will revise notice requirements to allow for greater public participation in teleconference meetings of local agencies. The bill does not require teleconferencing, rather, it modernizes existing law to ensure greater public participation in meetings of the legislative bodies of local agencies who choose to utilize teleconferencing.

AB 2449 would require that a quorum of the governing body be physically present at a clearly identified meeting location for all public meetings. The bill also expresses legislative intent to improve and enhance public access to local agency meetings, consistent with the digital age, by allowing broader access through the teleconferencing options relevant to AB 361, on a consistent, ongoing basis outside of a declared emergency.

ARGUMENTS IN SUPPORT

AB 2449 is an attempt plan for the eventual expiration of AB 361 and modernize remote meeting requirements in a way that utilizes technical capabilities that agencies have incorporated during the pandemic. The bill would provide an alternative to the existing concept of teleconference locations while granting the public and local officials with greater flexibility to participate remotely in Brown Act meetings.

ARGUMENTS IN OPPOSITION

While there are no arguments on file at this time, it is expected that opponents will argue that continuing remote public meetings will diminish elected official's accountability to their constituents, and generally lessen the dignity and esteem of elected office. In addition, inconsistent internet access across regions will cause some constituents to have more access to their elected officials than others.

BOARD OPTIONS

Option #1

 Adopt a support position on AB 2449 and send a letter to the author's office and Orange County delegation.

Option #2

Take no action

STAFF RECOMMENDATION

Option #1

ATTACHED:

AB 2449 Full Text

Introduced by Assembly Member Blanca Rubio

February 17, 2022

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2449, 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, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with those specified teleconferencing requirements in specified circumstances when a

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declared state of emergency is in effect, or in other situations related to public health.

This bill would authorize a local agency to use teleconferencing without complying with those specified teleconferencing requirements if at least a quorum of the members of the legislative body participates in person from a singular location clearly identified on the agenda that is open to the public and situated within the local agency's jurisdiction. The bill would impose prescribed requirements for this exception relating to notice, agendas, the means and manner of access, and procedures for disruptions. The bill would require the legislative body to implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with federal law.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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:

- SECTION 1. Section 54953 of the Government Code, as amended by Section 3 of Chapter 165 of the Statutes of 2021, is amended to read:
- 4 54953. (a) All meetings of the legislative body of a local sagency shall be open and public, and all persons shall be permitted
- 6 to attend any meeting of the legislative body of a local agency,
- 7 except as otherwise provided in this chapter.
- 8 (b) (1) Notwithstanding any other provision of law, the 9 legislative body of a local agency may use teleconferencing for

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

- (2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.
- (3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.
- (4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.
- (c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.
- (2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.
- (3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in

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which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) 4 (Division 10 (commencing with Section 7920.000) if Title 1) to inspect or copy records created or received in the process of developing the recommendation.

- (d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.
- (2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.
- (3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.
- (e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of

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paragraph (2) of this subdivision in any of the following circumstances:

- (A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.
- (B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
- (C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
- (2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:
- (A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.
- (B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. 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 legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.
- (C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.
- (D) In the event of a disruption—which that prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control—which that prevents members of the public from offering public comments

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using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption—which that prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

- (E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.
- (F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.
- (G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.
- (ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.
- (iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.
- (3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative

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body shall, not later than 30 days after teleconferencing for the
first time pursuant to subparagraph (A), (B), or (C) of paragraph
(1), and every 30 days thereafter, make the following findings by
majority vote:

- (A) The legislative body has reconsidered the circumstances of the state of emergency.
 - (B) Any of the following circumstances exist:

- (i) The state of emergency continues to directly impact the ability of the members to meet safely in person.
- (ii) State or local officials continue to impose or recommend measures to promote social distancing.
- (4) For the purposes of this subdivision, "state of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).
- (f) A local agency may use teleconferencing without complying with paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction and the legislative body complies with all of the following:
- (1) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.
- (2) All members of the legislative body attending the meeting by teleconference shall participate only through both audio and visual technology.
- (3) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option, and an opportunity for members of the public to attend and address the legislative body at the in-person location of the meeting.

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(4) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

- (5) In the event of a disruption that prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.
- (6) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.
- (7) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.
- (8) The legislative body shall 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 of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.

(f)

- (g) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.
- 38 SEC. 2. Section 54953 of the Government Code, as added by Section 4 of Chapter 165 of the Statutes of 2021, is amended to 40 read:

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54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

- (b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.
- (2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.
- (3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.
- (4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations
- (c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.
- (2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

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- (3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.
- (d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.
- (2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.
- (3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the

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Health and Safety Code if the advisory committee has 12 or more members.

- (e) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction and the legislative body complies with all of the following:
- (1) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.
- (2) All members of the legislative body attending the meeting by teleconference shall participate only through both audio and visual technology.
- (3) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option, and an opportunity for members of the public to attend and address the legislative body at the in-person location of the meeting.
- (4) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.
- (5) In the event of a disruption that prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during

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a disruption that prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

- (6) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.
- (7) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.
- (8) The legislative body shall 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 of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.

22 (e)

- (f) This section shall become operative January 1, 2024.
- SEC. 3. The Legislature finds and declares that Sections 1 and 2 of this act, which amend Section 54953 of the Government Code, impose a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hospital room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

SEC. 4. The Legislature finds and declares that Sections 1 and 2 of this act, which amend Section 54953 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of

—13— AB 2449

Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

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



ACTION ITEM April 6, 2022

TO: Board of Directors

FROM: Robert Hunter Staff Contact: Heather Baez

General Manager

SUBJECT: SB 991 (NEWMAN) - PUBLIC CONTRACTS: PROGRESSIVE DESIGN

BUILD: PUBLIC AGENCIES

STAFF RECOMMENDATION

Staff recommends the Board of Directors vote to adopt a Support position on SB 991 (Newman) and send a letter to the author's office and the Orange County delegation.

COMMITTEE RECOMMENDATION

This item was not reviewed by a Committee.

BILL SUMMARY

Senate Bill 991 would allow, until January 1, 2029, local agencies that provide for the production, storage, supply, treatment, or distribution of water to use progressive design-build for projects over \$5 million.

BACKGROUND

Progressive design-build is a more recent variant on traditional design-build contracting. While there is some variation, the progressive design-build model generally includes two phases.

In the first phase, the awarding authority uses a best value process to select a designbuild entity who completes preliminary plans and preconstruction services necessary to provide a cost estimate and final design proposal. The project then "progresses" to the second phase of the project, where the awarding authority and the design-build entity agree to a final design, project cost, and schedule. If they cannot agree, there is an "off

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

ramp" between the two phases where the awarding authority can pursue other options, but still benefit from having the first phase work complete.

This is different from traditional design-build where the awarding entity contracts with a single entity to design and construct a project at a set price before design work begins, and without a similar off ramp.

ARGUMENTS IN SUPPORT

According to the author, "Recent data and forecasts indicate that California faces an unprecedented need to provide additional capacity to treat water. Recent technological developments have opened the door to new opportunities to convert wastewater into drinking water. In order to do so at scale, however, a substantial share of California's 600 local water agencies will need to make significant investments in new infrastructure that incorporates cutting-edge treatment methods. SB 991 will afford local water agencies the option of using the progressive design-build contracting method to reduce overall project risks, costs, and schedules for public works projects estimated to cost more than \$5 million."

The MWDOC Board of Directors took a "support" position on AB 1845 (Calderon) on March 2, 2022. That measure would allow the Metropolitan Water District of Southern California to use the progressive design-build contracting method on their regional recycled water project and potentially other drought related projects in the region. SB 991 would provide the same benefits to all water providers with projects of \$5M or more.

ARGUMENTS IN OPPOSITION

None on file.

BOARD OPTIONS

Option #1

 Adopt a support position on SB 991 and send a letter of support to the author's office and the Orange County delegation.

Fiscal Impact: If enacted, this measure could potentially save public agencies time and money as they could finish projects sooner and more efficiently.

Option #2

Take no action

Fiscal Impact: Same as above

STAFF RECOMMENDATION

Option #1

ATTACHED:

SB 991 Full Text

No. 991

Introduced by Senator Newman

February 14, 2022

An act to add *and repeal* Chapter 4.1 (commencing with Section 22170) to of Part 3 of Division 2 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 991, as amended, Newman. Public contracts: progressive design-build: local agencies.

Existing law, until January 1, 2025, authorizes local agencies, as defined, to use the design-build procurement process for specified public works with prescribed cost thresholds. Existing law requires specified information submitted by a design-build entity in the design-build procurement process to be certified under penalty of perjury.

Existing law authorizes the Director of General Services to use the progressive design-build procurement process for the construction of up to 3 capital outlay projects, as jointly determined by the Department of General Services and the Department of Finance, and prescribes that process. Existing law defines "progressive design-build" as a project delivery process in which both the design and construction of a project are procured from a single entity that is selected through a qualifications-based selection at the earliest feasible stage of the project. Existing law, pursuant to the process, after selection of a design-build entity, authorizes the Department of General Services to contract for design and preconstruction services sufficient to establish a guaranteed maximum price, as defined. Existing law authorizes the department, upon agreement on a guaranteed maximum price, to amend the contract

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in its sole discretion, as specified. Existing law requires specified information to be verified under penalty of perjury.

This bill, until January 1, 2033, authorizes 2029, would authorize local agencies, defined as any city, county, city and county, or special district authorized by law to provide for the production, storage, supply, treatment, or distribution of any water from any source, to use the progressive design-build process for public works projects in excess of \$5,000,000, similar to the progressive design-build process authorized for use by the Director of General Services. The bill would require a local agency that uses the progressive design-build process to submit, no later than January 1, 2028, to the appropriate policy and fiscal committees of the Legislature a report on the use of the progressive design-build process containing specified information, including a description of the projects awarded using the progressive design-build process. The bill would require the design-build entity and its general partners or joint venture members to verify specified information to be verified under penalty of perjury. By expanding the crime of perjury, the bill would impose a state-mandated local program.

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:

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1
      SECTION 1. Chapter 4.1 (commencing with Section 22170)
    is added to Part 3 of Division 2 of the Public Contract Code, to
3
    read:
4
5
        Chapter 4.1. Local Agency Progressive Design-Build
6
                            Contracting
7
8
      22170. For purposes of this chapter, the following definitions
9
      (a) "Best value" means a value determined by evaluation of
10
11
    objective criteria that relate to demonstrated competence and on
    the professional qualifications necessary for the satisfactory
12
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performance of the services required. Other factors such as price, features, functions, and life-cycle costs may be considered. If the qualifications-based selection process includes estimates of cost as a factor, a best value determination may involve the selection of the lowest cost proposal meeting the interests of the local agency and meeting the objectives of the project, or a tradeoff between price and other specified factors.

- (a) (1) "Best value" means a value determined by evaluation of objective criteria that may include, but are not limited to, price, features, function, life-cycle costs, experience, and past performance.
- (2) A best value determination may involve the selection of the lowest cost proposal meeting the interests of the local agency and the objectives of the project, selection of the best proposal for a stipulated sum established by the procuring local agency, or a tradeoff between price and other factors.
- (b) "Construction subcontract" means each subcontract awarded by the design-build entity to a subcontractor that will perform work or labor or render service to the design-build entity in or about the construction of the work or improvement, or a subcontractor licensed by the State of California that, under subcontract to the design-build entity, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications produced by the design-build team.
- (c) "Design-build entity" means a corporation, limited liability company, partnership, joint venture, or other legal entity that is able to provide appropriately licensed contracting, architectural, and engineering services as needed pursuant to a design-build contract.
- (d) "Design-build project" means any project that treats, pumps, stores, or conveys water, wastewater, recycled water, or advanced treated water using the progressive design-build construction procurement process described in this chapter.
- (e) "Design-build team" means the design-build entity itself and the individuals and other entities identified by the design-build entity as members of its team. Members shall include the general contractor and, if utilized in the design of the project, all electrical, mechanical, and plumbing contractors.
- (f) "Guaranteed maximum price" means the maximum payment amount agreed upon by the local agency and the design-build entity

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for the design-build entity to finish all remaining design, preconstruction, and construction activities sufficient to complete and close out the project.

- (g) "Local agency" means a city, county, city and county, or special district authorized by law to provide for the production, storage, supply, treatment, or distribution of any water from any source.
- (h) "Progressive design-build" means a project delivery process in which both the design and construction of a project are procured from a single entity that is selected through a qualifications-based selection at the earliest feasible stage of the project.
- (i) "Qualifications-based selection" means the process by which the local agency solicits for services from the design-build entities and that price is not the sole factor as the basis of award.
- 22171. A local agency may procure progressive design-build contracts and use the progressive design-build contracting process described in this chapter for public works projects in excess of five million dollars (\$5,000,000).
- 22171.5. A local agency entering into design-build contracts authorized under this chapter shall develop guidelines for a standard organizational conflict-of-interest policy, consistent with applicable law, regarding the ability of a person or entity that performs services for the local agency relating to the solicitation of a design-build project, to submit a proposal as a design-build entity, or to join a design-build team.
- 22172. The procurement process for progressive design-build projects shall progress as follows:
- (a) The local agency shall prepare and issue a request for qualifications in order to select a design-build entity to execute the project. The request for qualifications shall include, but is not limited to, the following elements:
- (1) Documentation of the size, type, and desired design character of the project and any other information deemed necessary to describe adequately the local agency's needs, including the expected cost range, the methodology that will be used by the local agency to evaluate the design-build entity's qualifications, the procedure for final selection of the design-build entity, and any other information deemed necessary by the local agency to inform interested parties of the contracting opportunity.

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(2) Significant factors that the local agency reasonably expects to consider in evaluating qualifications, including technical design and construction expertise, and all other non-price-related factors. The local agency may require that a cost estimate, including the detailed basis for the estimate, be included in the design-build entities' responses and consider those costs in evaluating the statements of qualifications.

- (3) The relative importance or the weight assigned to each of the factors identified in the request for qualifications.
- (4) A standard template request for statements of qualifications prepared by the local agency. In preparing the standard template, the local agency may consult with the construction industry, the building trades and surety industry, and other local agencies interested in using the authorization provided by this chapter. The template shall require the following information:
- (A) If the design-build entity is a privately held corporation, limited liability company, partnership, or joint venture, a listing of all of the entity's shareholders, partners, or members known at the time of the statement of qualification submission who will perform work on the project.
- (B) Evidence that the members of the design-build team have completed, or have demonstrated the experience, competency, capability, and capacity to complete, projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project, and a financial statement that ensures that the design-build entity has the capacity to complete the project.
- (C) The licenses, registration, and credentials required to design and construct the project, including, but not limited to, information on the revocation or suspension of any license, credential, or registration.
- (D) Evidence that establishes that the design-build entity has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance.
- (E) Information concerning workers' compensation experience history and a worker safety program.
- (F) If the proposed design-build entity is a corporation, limited liability company, partnership, joint venture, or other legal entity,

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a copy of the organizational documents or agreement committing to form the organization.

- (G) An acceptable safety record. A proposer's safety record shall be deemed acceptable if its experience modification rate for the most recent three-year period is an average of 1.00 or less, and its average total recordable injury or illness rate and average lost work rate for the most recent three-year period does not exceed the applicable statistical standards for its business category or if the proposer is a party to an alternative dispute resolution system as provided for in Section 3201.5 of the Labor Code.
- (5) The information required under this subdivision shall be certified under penalty of perjury by the design-build entity and its general partners or joint venture members.
- (b) (1) A design-build entity shall not be evaluated for selection unless the entity provides an enforceable commitment to the local agency that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades, in accordance with Chapter 2.9 (commencing with Section 2600) of Part 1.
- (2) This subdivision shall not apply if one or more of the following requirements are met:
- (A) The local agency has entered into a project labor agreement that will bind all contractors and subcontractors performing work on the project or contract to use a skilled and trained workforce, and the entity agrees to be bound by that project labor agreement.
- (B) The project or contract is being performed under the extension or renewal of a project labor agreement that was entered into by the local agency prior to before January 1, 2023.
- (C) The entity has entered into a project labor agreement that will bind the entity and all its subcontractors at every tier performing the project or contract to use a skilled and trained workforce.
- (3) For purposes of this subdivision, "project labor agreement" has the same meaning as provided in paragraph (1) of subdivision (b) of Section 2500.
- (c) At the close of the solicitation period, the local agency shall review the submissions. The local agency may evaluate submissions based solely upon the information provided in each design-build entity's statement of qualifications. The local agency

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may also interview some or all of the design-build entities to further evaluate their qualifications for the project.

- (d) Notwithstanding any other provision of this code, upon issuance of a contract award, the local agency shall publicly announce its award, identifying the design-build entity to which the award is made, along with a statement regarding the basis of the award. The statement regarding the local agency's contract award and the contract file shall provide sufficient information to satisfy an external audit.
- 22172.1. (a) The design-build entity shall provide payment and performance bonds for the project in the form and in the amount required by the local agency, and issued by a California admitted surety. The amount of the payment bond shall not be less than the amount of the performance bond.
- (b) The design-build contract shall require errors and omissions insurance coverage for the design elements of the project.
- (c) The local agency shall develop a standard form of payment and performance bond for its design-build projects.
- 22172.2. (a) After selecting a design-build entity based upon qualifications, the local agency may enter into a contract and direct the design-build entity to begin design and preconstruction activities sufficient to establish a guaranteed maximum price for the project.
- (b) (1) Upon agreement of the guaranteed maximum price for the project, the local agency, at its sole and absolute discretion, may amend its contract to direct the design-build entity to complete the remaining design, preconstruction, and construction activities sufficient to complete and close out the project, and may add funds not exceeding the guaranteed maximum price to the contract for these activities.
- (2) If the cost for completing all remaining design, preconstruction, and construction activities sufficient to complete and close out the project exceed the guaranteed maximum price, the costs exceeding the guaranteed maximum price shall be the responsibility of the design-build entity. If the cost for these activities are less than the guaranteed maximum price, the design-build entity shall not be entitled to the difference between the cost and the guaranteed maximum price. These amounts shall, at the discretion of the local agency, be shared, based on preestablished percentages, defined in the request for qualifications.

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(c) If the local agency and the design-build entity do not reach agreement on a guaranteed maximum price, or the local agency otherwise elects not to amend the design-build entity's contract to complete the remaining work, the local agency may solicit proposals to complete the project from firms that submitted statements of qualifications pursuant to Section 22172. The local agency may also, upon written determination that it is in the best interest of the city, county, city and county, or special district, as applicable, to do so, formally solicit proposals from other design-build entities, and contract award shall be made on a best value basis.

- 22172.3. (a) The local agency, in each design-build request for qualifications, may identify specific types of subcontractors that shall be included in the design-build entity's statement of qualifications. All construction subcontractors that are identified in the statement of qualifications shall be afforded the protections of Chapter 4 (commencing with Section 4100) of Part 1.
- (b) Following award of the design-build contract, except for those construction subcontractors listed in the statement of qualifications, the design-build entity shall proceed as listed in this subdivision in awarding construction subcontracts with a value exceeding one-half of 1 percent of the contract price allocable to construction work for projects with a contract value of greater than or equal to ten million dollars (\$10,000,000).
- (1) Provide public notice of availability of work to be subcontracted in accordance with the publication requirements applicable to the competitive bidding process of the local agency, including a fixed date and time on which qualifications statements, bids, or proposals will be due.
 - (2) Establish reasonable qualification criteria and standards.
- (3) Award the subcontract-either on a best value basis or to the lowest responsible bidder. on a best value basis. The process may include prequalification or short-listing.
- (c) Subcontractors awarded construction subcontracts under this subdivision shall be afforded all the protections of Chapter 4 (commencing with Section 4100) of Part 1.
- (d) A licensed construction contractor or subcontractor that provides design services used on a project authorized by this chapter shall not be subject to any liability arising from their

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design if the construction contract or subcontract for that design is not performed by that contractor or subcontractor.

- 22172.4. (a) If the local agency elects to award a project pursuant to this chapter, retention proceeds withheld by the local agency from the design-build entity shall not exceed 5 percent if a performance and payment bond, issued by an admitted surety insurer, is required in the solicitation. Work performed to establish the guaranteed maximum price shall not be subject to retention.
- (b) In a contract between the design-build entity and a subcontractor, and in a contract between a subcontractor and any subcontractor thereunder, the percentage of the retention proceeds withheld shall not exceed the percentage specified in the contract between the local agency and the design-build entity. If the design-build entity provides written notice to any subcontractor that is not a member of the design-build entity, before or at the time the bid is requested, that a bond may be required, and the subcontractor subsequently is unable or refuses to furnish a bond to the design-build entity, then the design-build entity may withhold retention proceeds in excess of the percentage specified in the contract between the local agency and the design-build entity from any payment made by the design-build entity to the subcontractor.
- 22172.5. (a) Notwithstanding Section 10231.5 of the Government Code, no later than January 1, 2028, a local agency that uses the progressive design-build process pursuant to this chapter shall submit to the appropriate policy and fiscal committees of the Legislature a report on the use of the progressive design-build process.
- (b) The report shall include, but is not limited to, the following information:
- (1) A description of the project or projects awarded using the progressive design-build process.
 - (2) The contract award amounts.
 - (3) The design-build entities awarded the project or projects.
- (4) A description of any written protests concerning any aspect of the solicitation, bid, or award of the contracts, including the resolution of the protests.
 - (5) A description of the prequalification process.
- 38 (6) The number of specialty subcontractors listed by construction 39 trade type, on each project, that provided design services, but did

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1 not meet the target price for their scope of work, and therefore did
2 not perform construction services on that project.

- (7) Whether or not any portion of a design prepared by the specialty subcontractor that did not perform the construction work for that design was used by the local agency.
- (8) The number of specialty subcontractors listed by construction trade type, on each project, that meet the definition of a small business, as specified in paragraph (1) of subdivision (d) of Section 14837 of the Government Code.
- (9) The number of specialty subcontractors listed by construction trade type, on each project, that meet the definition of a microbusiness, as specified in paragraph (2) of subdivision (d) of Section 14837 of the Government Code.
- (10) If a project awarded under this chapter has been completed, an assessment of the project performance, including, but not limited to, a summary of any delays or cost increases.
- (c) The report submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.
- 20 22173. Nothing in this chapter affects, expands, alters, or limits any rights or remedies otherwise available at law.
 - 22174. This chapter shall remain in effect only until January 1, 2033, 2029, and as of that date is repealed.
 - SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIIIB of the California

32 Constitution.

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

From: Natural Resource Results

RE: Monthly Board Report – April 2022

FY22 Appropriations

On March 11th, President Biden signed the FY22 omnibus appropriations bill into law, finalizing what was an incredibly slow and painful appropriations cycle. Bureau of Reclamation received \$1.7 billion for Water and Related Resources (the agency's main funding account) and highlights include:

- \$25 million to implement the Colorado River DCP
- \$20 million for drought response under the WaterSMART Program
- \$2.5 million for Salton Sea research
- \$45.5 million for WaterSMART
- \$10.5 million for WIIN Act Desalination and Water Purification projects
- \$20 million for desalination and water purification research
- \$117 million for WIIN Act storage projects
- \$53 million for Title XVI projects and
- \$33 million for CALFED and legislative language extending the CALFED authorization

FY23 Budget

On Monday, March 28th President Biden released his FY23 budget request. Overall, the request includes \$1,746 billion for the Bureau of Reclamation.

- \$24 million for drought response under the WaterSMART Program
- \$2 million for Salton Sea research
- \$62 million for WaterSMART
- \$5.7 million for desalination and water purification research
- \$4 million for Title XVI projects and
- \$33 million for CALFED

STREAM Act

Senator Feinstein is again circulating a discussion draft of a western water bill that she is calling the STREAM Act and is seeking letters of support and potential edits from outside organizations. The legislation, along with a section by section of the bill are attached to this memo.

Senator Feinstein is likely to introduce the bill in late April or early May so MWDOC will need to move relatively quickly if there are desired edits to the legislation.

Infrastructure

On March 22nd, the Department of the Interior (DOI) announced that it will invest \$100 million into the seismic upgrade of BF Sisk Dam. This funding comes predominately from the Infrastructure Investment and Jobs Act (IIJA) but also includes some annual appropriations for Congress. In 2019, DOI signed a Record of Decision (ROD) for the \$1.1 billion project.

Big picture, the Bureau of Reclamation intends to spend \$1.6 billion from IIJA in FY22. The FY22 spend plan allocations include:

- \$420 million for rural water projects that benefit various Tribal and non-Tribal underserved communities by increasing access to potable water.
- \$245 million for WaterSMART Title XVI that supports the planning, design, and construction of water recycling and reuse projects.
- \$210 million for construction of water storage, groundwater storage and conveyance project infrastructure.
- \$160 million for WaterSMART Grants to support Reclamation efforts to work cooperatively with states, Tribes, and local entities to implement infrastructure investments to increase water supply.
- \$100 million for aging infrastructure for major repairs and rehabilitation of facilities.
- \$100 million for safety of dams to implement safety modifications of critical infrastructure.
- \$50 million for the implementation of Colorado River Basin drought contingency plans to support the goal of reducing the risk of Lake Mead and Lake Powell reaching critically low water levels.
- \$18 million for WaterSMART's Cooperative Watershed Management Program for watershed planning and restoration projects for watershed groups.
- \$15 million for Research and Development's Desalination and Water Purification Program for construction efforts to address ocean or brackish water desalination.
- \$8.5 million for Colorado River Basin Endangered Species Recovery and Conservation Programs.

WEROC

MWDOC is making a Congressionally Directed Spending (earmark) request for funding from the FY23 appropriations bill. Applications were submitted to both CA Senators, and we are working with FEMA to ensure that they fully understand the impact and importance of the WEROC EOC. In FY22, there was some confusion with FEMA internally as to whether to project was eligible for an earmark (FEMA provides guidance to the House and Senate Appropriations Committees) and we believe that we have a path to a resolution for FY23.

Section-by-Section Analysis of Draft "STREAM Act"

Senator Feinstein, December 2021

- <u>Section 1, Short Title; Table of Contents,</u> indicates that this Act may be cited as the "Support To Rehydrate the Environment, Agriculture, and Municipalities Act" or the "STREAM Act".
- <u>Section 2, Definitions</u>, includes important definitions of key terms, including:
 - o Non-Federal storage project, which is any project in a Reclamation State that—
 - (A) involves the construction or expansion by an eligible entity of—
 - (i) a surface or groundwater storage project that is not federally owned;
 - (ii) a facility that is not federally owned conveying water to or from surface or groundwater storage; or
 - (iii) a natural water retention and release project; and
 - (B) provides a benefit in meeting any obligation under applicable Federal law (including regulations). Section 2(11).
 - Natural water retention and release projects, which use primarily natural processes and features, like wetlands, to allow increased utilization of existing storage facilities through aquifer recharge, floodplain retention, and altering the timing of runoff. Besides enhancing water supplies, these multi-benefit projects typically also promote ecosystem restoration and flood protection. Section 2(10).
 - o Federal benefits. Section 2(8). As applied to storage, water recycling, and desalination projects, this term means
 - 1) public benefits provided directly by the project;
 - 2) fish and wildlife or water quality public benefits provided by the implementation of a watershed restoration plan approved together with the project, if there is an increased Federal commitment to pay for public benefits in the watershed as compared to such Federal commitments prior to the date of approval of the project; or
 - 3) water supply benefits identified pursuant to reclamation law, which are reimbursable unlike public benefits.
 - o Public benefits. Section 2(12). This term is defined to include:
 - 1) traditional non-reimbursable costs fish/wildlife including refuges, flood control, recreation, water quality, etc.
 - 2) drinking water supply for disadvantaged communities.
 - 3) emergency drinking water supply used in response to a gubernatorial disaster declaration; and

4) energy benefits, including the value of associated greenhouse gas reductions and any reduction in energy costs for federal taxpayers.

Many of these key terms are further discussed below in the analysis of section 103, Competitive Grant Program for Non-Federal Storage Projects.

Title I, Infrastructure Development

• Section 101, Competitive Grant Program for the Funding of Water Recycling Projects, reauthorizes and amends the Title XVI competitive grant program for water recycling projects established in 2016 pursuant to the WIIN Act (Subtitle J, Public Law 114-322).

There are three key differences from the competitive grant program for water recycling authorized in the WIIN Act:

- 1) The authorization of appropriations has been increased to \$300 million over 5 years, as compared to the prior \$100 million over 5 years. Subsection (g).
- 2) Congress does not need to approve funding awards for specific projects through designating the project by name in an enacted appropriations bill.
 - Reclamation can award funding to projects from available appropriations, after competitively evaluating grant applications from eligible projects.
- 3) The draft bill raises the maximum federal funding contribution for each Title XVI project to \$50 million from the current ceiling of \$20 million in 1996 prices. Subsection (b)(1).
 - The cap remains \$20 million in 1996 prices for projects that have received that amount as of December 31, 2021.
 - The maximum federal cost-share remains at 25% (up to the new maximum federal contribution of \$50 million).

• Section 102, Annual Report to Congress

- This section requires the Commissioner of Reclamation to submit an annual report to Congress transmitting feasibility reports on Federal storage projects, and non-Federal storage projects with a federal investment exceeding \$250 million, for Congress to consider whether to authorize the projects.
- This section is modeled on the Section 7001 report that the Army Corps of Engineers submits to Congress for WRDA projects.
- The language of the section closely tracks 33 U.S.C. 2282d regarding the Army Corps' Chief's reports.

- O This section is intended to expedite approval of projects requiring Congressional authorization, by facilitating a "Reclamation WRDA" package of projects approved by the House and Senate authorizing committees. If Congress chooses, this "Reclamation WRDA" package could be added to the WRDA bill each Congress.
- Section 103, Competitive Grant Program for Non-Federal Storage Projects:
 - This section establishes a competitive grant program for non-Federal storage projects by adapting the structure and language of the competitive grant program for large-scale water recycling and reuse projects in Section 40905 of the Infrastructure Investment and Jobs Act.
 - This approach uses the Title XVI precedent of non-reimbursable funding for water supply where the project provides multiple benefits including environmental benefits within the watershed.
 - Subsection 103(b) establishes a program to provide grants to eligible entities on a competitive basis for the planning, design, and construction of non-Federal storage projects.
 - Subsection 103(c) sets parameters for eligible projects:
 - Surface and groundwater storage, conveyance, and natural water retention and release projects are eligible;
 - The Federal cost-share cannot exceed \$250 million;
 - Projects must be constructed, operated and maintained by an eligible entity in a Reclamation state; and
 - Projects must provide a Federal benefit (definition of "Federal benefit" discussed below).
 - Subsection 103(d) sets conditions for grants for eligible projects:
 - For studying a project, if the Secretary has identified the potential for sufficient Federal benefits to proceed;
 - For construction, if
 - ➤ The eligible entity demonstrates that the project is feasible and provides a Federal benefit:
 - ➤ The eligible entity has sufficient funding to complete the project and is solvent; and
 - > The Governor of the relevant State supports Federal funding of the project.
 - For construction of natural water retention and release projects, simplified procedures for projects costing less than \$10 million, and additional procedures for projects costing over \$10 million.
 - O Subsection 103(e) establishes funding priority for projects that have 2 or more of the following: 1) substantial multiple benefits, 2) reductions in environmental impacts from water projects, 3) multi-state benefits, and 4) collaborative development and support by multiple stakeholders.

- Subsection 103(f) states that
 - The Federal cost-share shall not exceed 25 percent of the total cost of the project (with the exception of natural water retention and release projects, which can have up to a 90% Federal cost-share).
 - Any funding under the program for the value of public benefits shall be considered nonreimbursable.
 - Public benefits are defined in Section 2(8) as either
 - 1) public benefits provided directly by the project; or
 - 2) fish and wildlife or water quality public benefits provided by the implementation of a watershed restoration plan approved together with the project, if there is an increased Federal commitment to pay for public benefits in the watershed as compared to such Federal commitments prior to the date of approval of the project.
 - In practice, this means that if a project proponent is seeking \$100 million in federal funding for a non-Federal storage project, the proponent can get that funding on a non-reimbursable basis there is \$100 million in public benefits from either the project itself or other projects as part of a watershed restoration plan approved with the project. Some examples of public benefits from a watershed plan could include:
 - o water leasing during a dry year, water sharing agreements, water banking, ongoing water conservation, and related activities;
 - o environmental restoration projects; and
 - o natural water retention and release projects.
 - If funding for public benefits is less than 25 percent of the total cost of the eligible project, the Secretary may provide reimbursable funds to an eligible entity for the value of any water supply benefits identified pursuant to reclamation law (as described in section 2(8)(D)) up to the limit of 25 percent of the total project cost.
- o The remaining subsections of section 103:
 - Require compliance with environmental laws in subsection (g);
 - Require guidance on implementation from Reclamation within 1 year in subsection (h);
 - Require reports on implementation in subsection (i);
 - Require conveyance systems associated with storage projects to be eligible for funding under the section, in subsection (j).
- Section 104, Funding for Non-Federal Storage Projects, and Storage and Conveyance
 Projects Eligible under the Infrastructure Jobs and Investment Act.
 - Subsection (a) authorizes \$750 million total in funding from FY 2023 through FY 2027 for:
 - 1) non-Federal storage projects, including natural water retention and release projects, authorized pursuant to the provisions of section 103;

- 2) storage projects that are eligible for study funding under section 40902(a)(1) of the Infrastructure Investment and Jobs Act, if for such projects the funding under this section is provided in accordance with the provisions of section 40902(b) and (c) of the Infrastructure Investment and Jobs Act; and
- 3) storage projects that have received construction funding under section 40902(a)(2) of the Infrastructure Investment and Jobs Act, if for such projects the funding under this section is provided in accordance with the provisions of section 40902(b) and (c) of the Infrastructure Investment and Jobs Act.

Any carryover storage funding appropriated pursuant to section 4007 of the WIIN Act may be used for the three categories of projects described above.

Because the \$750 million authorization in this section would become the general source of storage funding provided through annual appropriations, we believe it is appropriate to allow this pot to be used for projects that are eligible for study funding under the Infrastructure Investment and Jobs Act. In addition, if projects are partly funded for construction under the Infrastructure Investment and Jobs Act, we believe it is appropriate to use this general pot of storage annual appropriations to provide funding to move these projects closer to the completion of construction that has already begun. Note that if any funding from this storage pot is used for projects authorized to receive funding under the Infrastructure Investment and Jobs Act, then the restrictions on which projects can receive funding and the cost-sharing and reimbursability rules from section 40902 of the Infrastructure Investment and Jobs Act would all apply to that funding.

- O Subsection (b) amends section 40902(a)(2)(C)(i) of IIJA to make potentially eligible for construction funding under IIJA two projects whose feasibility studies were authorized by IIJA, the Verde Reservoirs Sediment Mitigation Project and the Tualatin River Basin Project. The projects will have to comply with the requirements of section 40902(a)(2) of IIJA to become eligible for construction funding under IIJA.
- O Subsection (c) grandfathers Federal and non-Federal storage projects that receive construction funding under the \$1.15 billion in storage funding in IIJA so they do not need further authorization to complete construction. Absent this provision, partly built projects might have to stop in the middle of construction to get Congressional authorization when section 40902 of IIJA expires in 2026.
- Subsection (d) reauthorizes the CALFED legislation through fiscal year 2026 (which we
 will update to fiscal year 2027 if and when the omnibus appropriations bill is enacted
 extending CALFED through 2022.)
- <u>Section 105, Desalination Project Development</u>, reauthorizes and amends the competitive grant program for desalination projects established in 2016 pursuant to the WIIN Act.
 - There are three key differences from the competitive grant program for desalination authorized in the WIIN Act:

- 1) The authorization of appropriations has been increased to \$150 million over 5 years, as compared to the prior \$30 million over 5 years. At least \$10 million is set aside for rural desalination projects. Subparagraph (F)(i).
- 2) Congress does not need to approve funding awards for specific projects through designating the project by name in an enacted appropriations bill.
- Reclamation can award funding to projects from available appropriations, after competitively evaluating grant applications from eligible projects.
- 3) The bill establishes priority criteria for which projects to fund. Subsection (b). These are based on and slightly modified from the prioritization criteria for desalination projects in Rep. Huffman's HR 3404, section 105(b).
- Subparagraph (B)(ii) includes provisions from former Senator Udall and former Representative Torres Small's 2019 Western Water Security Act (S. 2718/HR 4891) on rural desalination projects.
- O Just as for non-federal storage projects and natural water retention and release projects, the following are required to obtain funding for desalination projects (subparagraph (C)):
 - 1) The Governor of the affected state supports federal funding of the project, and the project is included in a state-approved plan; and
 - 2) For construction funding, the state or local sponsor determines, and Reclamation concurs, that the project is feasible, and sufficient funding is available to complete it.
- o The definition of an eligible project:
 - Makes clear that public private partnerships are eligible for funding as long as a state or local government entity pays either for the construction of the project or the water provided by the project. Subparagraph (A)(i).
 - Also allows any "organization with water or power delivery authority" to apply for funding if that organization constructs, operates and maintains the project. Subparagraph (A)(i). This language comes from the definition of an "eligible applicant" in section 9502 of the Secure Water Act.
- Section 106, Reclamation Infrastructure Finance and Innovation Pilot Program:
 - o Creates a new loan program at 30-year Treasury rates for water supply projects known as the Reclamation Infrastructure Finance and Innovation Act (RIFIA). Subsection (a).
 - o The \$125 million authorized funding for loans would make available \$8 to \$12 billion in lending authority under OMB's scoring parameters for similar loans under WIFIA.
 - Subsection (b) defines "eligible projects" to include projects that promote water conservation or water use efficiency in addition to water supply projects.

- Subsection (d) adopts the requirements of the Water Infrastructure Finance and Innovation Act (WIFIA) for determination of project eligibility and loan selection, and program administration.
- The roles of the Environmental Protection Agency (EPA) and the Bureau of Reclamation are defined by the agreement between the agencies that was completed in October 2019 pursuant to the 2018 Water Resources Development Act legislation. Under the agreement EPA will retain responsibility for administering any loans under the section.
- Subsection (e) authorizes \$150 million total for fiscal years 2023 through 2027, including \$125 million in federal outlays for supporting loans; and \$25 million in administrative costs for Reclamation and EPA.
- The \$125 million in federal outlays would support \$8 to \$12 billion in loan amounts under OMB's guidance for the parallel WIFIA program.
- A portion of the \$25 million in administrative costs could be used for technical assistance for small community projects, including paying a portion of the costs for acquiring rating opinion letters.
- Section 107, Drinking Water Assistance for Disadvantaged Communities
 - This section is modeled after the text of a provision providing drinking water assistance for disadvantaged communities that was approved by the ENR and HNR majorities and included in the draft Build Back Better bill. This model provides considerable flexibility for the Secretary to design a program tailored to the needs of specific states in consultation with other federal agencies and state authorities working on this important issue.
 - This section authorizes the Secretary, acting through the Commissioner of Reclamation, o enter into grants, contracts, or financial assistance agreements to provide drinking water for disadvantaged communities in a manner as determined by the Commissioner of Reclamation for up to 100 percent of the cost of the planning, design, or construction of water projects, or facilities or features of water projects. Subsection (a).
 - The term "disadvantaged community" is defined in section (2)(5) as a low-income community as described in section 45D(e) of the Internal Revenue Code of 1986.
 - o \$100 million is authorized to be appropriated over 5 years. Subsection (b)(1).
 - The Secretary shall use at least a portion of the funds authorized by this section to incorporate into multiple benefit projects features or facilities to assist in providing domestic water supplies to disadvantaged communities. Subsection (b)(2).
- Section 108, Extraordinary Operation and Maintenance Work; Project Modification

- This section amends the existing Aging Infrastructure Program (Public Law 111-11, Title IX, Subtitle G) to authorize projects to not only repair aging Bureau of Reclamation facilities, but to modify the facilities to achieve increased public benefits and other project benefits.
- o Congress appropriated \$3.2 billion for the Aging Infrastructure Program in the Infrastructure Investment and Jobs Act.
- o If we are spending this much money to retool Reclamation infrastructure for the needs of the 21st century, the Secretary should have the authority to modify the projects to achieve increased public benefits and other project benefits, where she believes it is appropriate to do so.
- Paragraph (2) of the new subsection (e) establishes a few basic principles for any project modification:
 - It shall add no more than 25% of the project cost for projects costing over \$100 million, or no more than \$25 million for projects costing under \$100 million (projects exceeding these thresholds would need to be authorized by Congress);
 - At least 50% of the new benefits provided by the modification of the project must be public benefits (note that "new benefits" is a term defined in paragraph (1)); and
 - In order to undertake a project modification, the Secretary shall obtain the consent of:
 - The transferred works operating entity if the project involved is a transferred works; and
 - Any project beneficiary that would experience an adverse impact from the operation of the modified project (note that "adverse impact" is a term defined in paragraph (1)).
 - If the modified project creates a new project beneficiary, the Secretary cannot subsequently reoperate the project to increase the benefits to that new beneficiary without the consent of any project beneficiaries that would experience an adverse impact.
 - The costs of planning, design and environmental compliance of the modified project shall be allocated in accordance with Reclamation procedures, with the caveat that any project beneficiary who does not receive any increase in long-term average annual water deliveries as a result of the modification shall not be allocated any reimbursable portion of these costs.
- o Paragraph (3) sets up a process for the Secretary to obtain consent for a modified project from project beneficiaries that would experience an adverse impact. If the

necessary consent is not obtained within twelve months of the date consent is requested, the extraordinary maintenance of the project shall proceed without the modification, subject to one twelve-month extension to obtain required consents at the Secretary's discretion.

- o Paragraph (4) addresses the reallocation of costs based on project changes and increased public benefits. Public benefits shall be non-reimbursable, and the cost allocation of reimbursable costs to each project beneficiary shall reflect the changes in benefits that the project is providing to that beneficiary.
- o Paragraph (5) addresses incentives to participate in modified projects where public benefits are increased, but not water contractor benefits.
 - The water contractors will face strong disincentives to participate in these projects. Some contractors may see their benefits reduced. All contractors will have to accept significant delay in obtaining the benefits of the restoration of these projects. It will take significant time to modify the projects in a manner that the contractors can accept, and then to conduct environmental compliance on the proposed modification. The contractors will also have to accept modified project operations that give increased priority to public benefits.
 - To offset these disincentives for water contractors to participate in projects which increase just public benefits, the bill reduces the reimbursable costs for such modified projects by 15%. The result is that each project beneficiary will pay 85% of the reimbursable costs for the modified project that the beneficiary would otherwise have been allocated.
 - This paragraph sets up a financial incentive for water contractors to support modified projects that solely increase environmental and other public benefits without increasing water diversions or other water supply benefits. Without this financial incentive, I expect water contractors will generally oppose such modification of the projects that they rely on for water deliveries.
 - This paragraph is also consistent with the provision of some non-reimbursable benefits for water supply in the context of other authorizations for projects that provide both water supply and substantial public benefits in a watershed:
 - ➤ Title XVI provides 25% non-reimbursable benefits for projects providing water supply that have watershed benefits through the use of recycled water;
 - ➤ The large-scale water recycling program that Congress just authorized in the Infrastructure Investment and Jobs Act provides up to 75% non-reimbursable benefits for projects that likewise provide both water supply and watershed benefits through the use of recycled water;

- Section 103 of this bill provides non-reimbursable benefits for non-Federal storage and conveyance projects to the extent that they provide increased public benefits in the watershed.
- Given the inevitability of increasingly severe and lengthy droughts as the West's climate changes, it will be essential to provide incentives to collaborate on multibenefit projects that bring agricultural, environmental, and urban interests together to address the very serious challenge of maintaining sufficiently reliable water supply for all. This proposed amendment to the Aging Infrastructure Program seeks to increase incentives for such necessary collaboration.
- Section 109, Use of revenue to improve drought resilience.
 - O <u>Issue:</u> Pursuant to the Sale of Water for Miscellaneous Purposes Act of 1920 (43 USC 521), the Warren Act of 1911 (43 USC 525), and corresponding Bureau of Reclamation (BOR) policy, any revenue from the sale of surplus water must be deposited into the Reclamation Fund and credited to capital repayment of the associated project. Under existing law, revenue from the sale of water continues to flow to the Reclamation Fund even after water users completed capital repayment of their project. As a result, there is no longer any benefit to the contractor from sale of surplus water unless the contractor receives another federal loan on the project.
 - o Importance: Across the West, drought is stressing many water systems and new constraints often lead to water scarcity even in normal years. This is being compounded by aging BOR facilities that require significant investment to ensure they can continue to operate in a safe and effective fashion, especially as dams and other facilities are forced to withstand more variable and severe precipitation event as a result of climate change. Congress has responded to these challenges over the years by authorizing the Safety of Dams (SOD), Extraordinary Maintenance (XM), and other programs that assist water users in upgrading and repairing existing infrastructure by allowing for extended repayment of costs through contracts that are distinct from the capital repayment obligations for the original construction of BOR projects.
 - O Despite the fact that operational flexibility and conservation are growing increasingly important in water management, existing Reclamation law provides very little incentive for paid-out BOR contactors that either have occasional surplus water or could create surplus water through system upgrades to make the investments or undertake the lengthy marketing and contracting necessary to realize a sale. This is especially true for projects that are currently in need of improvements that will increase drought resiliency or are repaying Reclamation for SOD or XM projects and can't use any incremental revenues to help cover payments.
 - Solution: This section changes existing law to ensure that water users are able to apply revenues derived from the temporary sale of surplus water to infrastructure to improve drought resiliency and for other existing BOR repayment obligations. This change to the treatment of revenue will incentivize water utilities to make water available to relieve

water shortages in their region, improve project drought resiliency, and accelerate repayment of existing obligations.

Title II, Improved Technology and Data

- Section 201, Reauthorization of the Transboundary Aquifer Assessment Program
 - o This section reauthorizes the United States-Mexico Transboundary Aquifer Assessment Act (42 U.S.C. 1962 note; Public Law 109-448).
 - o This section derives from former Senator Udall and former Representative Torres Small's 2019 Western Water Security Act (S. 2718/HR 4891).

Title III, Ecosystem Restoration and Protection

- Section 301, Restoration and Environmental Compliance
 - This section makes limited amendments to the competitive grant program for habitat restoration projects established in section 40907 of the Infrastructure Investment and Jobs Act.
 - Subsection (a) adds definitions of two new terms, "Committee" and "Project". The term
 "Committee" describes the "Integrated Water Management Leadership Committee"
 described more fully in subsection (c).
 - Subsection (b) amends section 40907(c)(1) of the Infrastructure Investment and Jobs Act (Public Law 117–58) to direct that Interior:
 - "(B) may not provide a grant to carry out a habitat restoration project the purpose of which is to meet existing environmental mitigation or compliance obligations that are express requirements of a permit or order issued under Federal or State law, unless such requirements expressly contemplate reliance on Federal funding in performance of the requirements."
 - O Subsection (c) supplements the \$100 million provided to the competitive grant program for habitat restoration in the bipartisan infrastructure bill with:
 - 1) An authorization of \$150 million total for the competitive grant program from fiscal year 2023 through fiscal year 2027; and
 - 2) An authorization of \$100 million total from fiscal year 2023 through fiscal year 2027 for other grants, contracts, and agreements to achieve the habitat restoration purposes of this section.
 - O Subsection (c) also directs the Secretary to establish an Integrated Water Management Federal Leadership Committee which coordinates federal agency efforts to implement integrated water management projects, if requested to do so for a particular project by an eligible entity or qualified non-government organization partner.

- o Finally, subsection (c) requires the Secretary to comply with applicable environmental laws in implementing this section.
- Section 302, Performance-based Restoration Authority
 - or Multiple large- and small-scale ecosystem restoration projects have been authorized or are required by law, yet implementation of these projects often stalls when federal agencies have competing priorities or don't have the resources or technical experience to undertake them successfully. This section expedites the implementation of certain types of habitat and ecosystem restoration projects by authorizing the Secretary of the Interior (Secretary) to enter into performance-based financial arrangements for the delivery of ecological targets and outcomes by experienced non-federal entities. This section does not create a new program, but instead allows the use of performance-based financial arrangements under the Secretary's existing ecosystem and habitat restoration authorities. It is needed to both expedite completion of many restoration projects—including large, multi-year projects—and to clarify that performance-based financial mechanisms are an authorized use of federal funds for such projects. The section additionally furthers the goals of reducing costs to the federal government in undertaking such projects and increasing flexibility in the administration of funding for such projects, consistent with federal acquisition regulations.
 - o In General. Subsection (b) authorizes the Secretary, in implementing existing authorities under Federal law related to habitat and ecosystem restoration, to—
 - (1) enter into performance-based contracts, grant agreements, and cooperative agreements for habitat and ecosystem restoration, mitigation, and enhancement projects where ecological targets and outcomes are
 - clearly defined,
 - agreed upon in advance, and
 - capable of being successfully achieved
 - (2) enter into performance-based contracts with eligible restoration providers experienced in financing and completing successful ecological habitat and restoration, mitigation, and enhancement activities.
 - (3) provide grant and award agreements for habitat and ecosystem restoration, mitigation, and enhancement projects as described in paragraph (1) and allow for the use of performance-based tools in such agreements.
 - (4) provide pass-through financing for funds granted or awarded to non-federal third parties utilizing performance-based contracts for projects authorized under paragraph (1).
 - (5) use performance-based financial mechanisms for multi-year projects.
 - o Guidelines. Subsection (c) directs the Secretary to—
 - (1) develop guidelines for using performance-based financing and to consult with experienced external organizations in developing such guidelines. Such consultation shall not constitute or require establishing a committee under the Federal Advisory Committee Act. Guidelines shall include guidance on

- appropriate proposal and project evaluation criteria,
- restoration provider eligibility criteria,
- criteria for defining achievable ecological outcomes, and
- determination of restoration provider financial assurances sufficient to ensure ecological outcomes will be successfully achieved.
- o Identification of Eligible Projects. Subsection (d) directs the Secretary to identify opportunities for using performance-based financing for projects authorized in subsection (b)(1) and issue a request for proposals from eligible restoration providers to undertake such projects.
- o Certification. Under subsection (e), the Secretary shall certify that work was completed in accordance with ecological requirements and outcomes previously agreed to.
- Technical Assistance. Subsection (f) authorizes the Secretary to provide technical assistance to restoration providers for studies, design, engineering, and permitting.
- Rule of Construction. Subsection (g) clarifies that nothing in the section authorizes the Secretary to waive any obligation of the Secretary or non-Federal parties under federal environmental law.
- Non-Federal Funding. Subsection (h) authorizes use of performance-based financing under the act for non-federal project cost shares, on the condition that the non-federal cost-share responsibility remains with the non-federal party.
- Cost Share. Subsection (i) clarifies that nothing in the section shall affect a cost-sharing requirement under Federal law that is applicable to a project carried out under the performance-based restoration authority established under subsection (a).
- Mitigation. Subsection (j) clarifies that nothing in this section shall authorize Federal funding to meet existing environmental mitigation or compliance obligations that are express requirements of a permit or order issued under Federal or State law, unless such requirements expressly contemplate reliance on Federal funding in performance of the requirements
- o Report. Subsection (k) requires the Secretary to
 - (1) issue and submit to Congress a report describing results of, and impediments to, the use of performance-based financing within 3 years of the date of enactment, and
 - (2) address such impediments, if any—to the extent practicable—and to protect the public interest and investment in projects financed under the Act.

Title IV, Miscellaneous

- Section 401, Amendments to Reclamation States Emergency Drought Relief Act.
 - Droughts have become more frequent than when the Reclamation States Emergency Drought Relief Act was enacted in 1991. As a result, some amendments appear appropriate to the Act to reflect the increased frequency of droughts.
 - o The existing Act limits permanent facilities that it authorizes to groundwater wells.
 - o Given the increased frequency of droughts, it seems more efficient to install a greater number of permanent facilities than to frequently install and remove temporary facilities.
 - Subsection (a) therefore provides authorization during a declared drought emergency for any permanent facilities or projects up to a federal investment of \$30 million that are supported by the relevant State (or tribe if the facility is on an Indian reservation).
 - The \$30 million threshold comes from the Infrastructure Investment and Jobs Act, which creates a precedent authorizing Interior to proceed with projects up to \$30 million without Congressional authorization of the specific projects (in that Act this precedent is applied to small storage projects).
 - Subsection (b) addresses the problem of drought shortfalls in environmental funding programs like the Central Valley Improvement Act that derive their funding from per acre fees in water delivered.
 - Because their funding varies by the amount of water delivered, these programs provide substantially less environmental funding precisely when the funding is most needed, during droughts.
 - Subsection (b) would authorize non-reimbursable funding to make up these shortfalls, without affecting the Secretary's legal obligations to the environment or existing authority to make up shortfalls in environmental funding in non-drought years.
 - Subsection (c) amends the existing Act to clarify that it applies to drought emergencies declared for portions of States, and does not require drought emergencies to apply to an entire State.
 - Subsection (d) extends the Reclamation States Emergency Drought Relief Act authorization to 2031.
- Section 402, Technical Amendment to Infrastructure Investment and Jobs Act.
 - The Infrastructure Investment and Jobs Act (the bipartisan infrastructure bill) allows
 COVID relief funds granted to states and counties to be used for the local cost-share for

Bureau of Reclamation water projects.

- o This section contains a technical amendment to section 40909 of the Act.
- The technical amendment would allow COVID relief funds to be used for the local costshare not just for Reclamation projects, but for non-Federal projects that are authorized by Congress to receive Reclamation funding.
- Once COVID relief funds have been authorized for the local cost-share of authorized Bureau of Reclamation projects, we see no reason not to extend their use to the local cost-share of non-Federal projects authorized to receive Reclamation funding.

• Section 403, Savings Clause

• This section requires the Act to be implemented consistent with applicable State law and Federal environmental law.

• Section 404, Effect

• This section provides that nothing in this Act shall interfere with any obligation of a State under the Rio Grande Compact.

1 Title: To support water infrastructure in Reclamation States, and for other purposes.

2

- 4 Be it enacted by the Senate and House of Representatives of the United States of America in
- 5 Congress assembled,

6 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

- 7 (a) Short Title.—This Act may be cited as the "Support To Rehydrate the Environment,
- 8 Agriculture, and Municipalities Act" or the "STREAM Act".
- 9 (b) Table of Contents.—The table of contents for this Act is as follows:
- 10 Sec.1.Short title; table of contents.
- 11 Sec.2.Definitions.

12 TITLE I—INFRASTRUCTURE DEVELOPMENT

- 13 Sec.101. Competitive grant program for the funding of water recycling projects.
- 14 Sec.102. Annual report to Congress.
- 15 Sec. 103. Competitive grant program for non-Federal storage projects.
- Sec. 104. Funding for non-Federal storage projects, and storage and conveyance projects eligible
- under the Infrastructure Jobs and Investment Act.
- 18 Sec. 105. Eligible desalination project development.
- 19 Sec. 106. Reclamation infrastructure finance and innovation pilot program.
- 20 Sec. 107. Drinking water assistance for disadvantaged communities.
- 21 Sec. 108. Extraordinary operation and maintenance work; project modification.
- Sec. 109. Use of revenue to improve drought resilience.

23 TITLE II—IMPROVED TECHNOLOGY AND DATA

Sec.201.Reauthorization of the transboundary aquifer assessment program.

25 TITLE III—ECOSYSTEM RESTORATION AND

- 26 PROTECTION
- 27 Sec.301.Ecosystem restoration.
- 28 Sec.302.Performance-based restoration authority.

29 TITLE IV—MISCELLANEOUS

- 30 Sec. 401. Modifications to drought program under the Reclamation States Emergency Drought
- 31 Relief Act of 1991.
- 32 Sec.402. Clarification of authority to use coronavirus fiscal recovery funds to meet a non-Federal
- matching requirement for authorized water projects.

- 1 Sec.403.Environmental compliance.
- 2 Sec.404.Effect.

³ SEC. 2. DEFINITIONS.

4	In this Act:
5 6	(1) ANNUAL REPORT.—The term "annual report" means a report required under section 102(a).
7 8 9 10	(2) AUTHORIZED PROJECT.—The term "authorized project" means a storage project authorized by an Act of Congress, including through an applicable standing authorization under section 5B of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 509b) or any other applicable law.
11 12	(3) AUTHORIZING COMMITTEES OF CONGRESS.—The term "authorizing committees of Congress" means—
13	(A) the Committee on Energy and Natural Resources of the Senate; and
14	(B) the Committee on Natural Resources of the House of Representatives.
15	(4) Design; study.—
16 17 18	(A) IN GENERAL.—The terms "design" and "study" include any design, permitting, study (including a feasibility study), materials engineering or testing, surveying, or preconstruction activity relating to a water storage facility.
19 20 21	(B) EXCLUSIONS.—The terms "design" and "study" do not include an appraisal study or other preliminary review intended to determine whether further study is appropriate.
22 23	(5) DISADVANTAGED COMMUNITY.—The term "disadvantaged community" means a low-income community (as defined in section 45D(e) of the Internal Revenue Code of 1986).
24 25 26	(6) ELIGIBLE DESALINATION PROJECT.—The term "eligible desalination project" has the meaning given the term in paragraph (2) of section 4(a) of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298) (as amended by section 105(a)).
27	(7) ELIGIBLE ENTITY.—The term "eligible entity" means—
28 29	(A) any State, political subdivision of a State, department of a State, or public agency organized pursuant to State law;
30 31	(B) an Indian Tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)) or an entity controlled by an Indian Tribe;
32	(C) a water users' association;
33	(D) an agency established by an interstate compact; and
34	(E) an agency established under State law for the joint exercise of powers.
35 36	(8) FEDERAL BENEFIT.—The term "Federal benefit", with respect to a non-Federal storage project, water recycling project, or eligible desalination project, means—
37	(A) public benefits provided directly by a project;

1	(B) public benefits that—
2	(i) are—
3	(I) fish and wildlife benefits described in paragraph (12)(A)(i); or
4	(II) water quality benefits;
5 6	(ii) are provided by the implementation of a watershed restoration plan approved with the project; and
7 8	(iii) represent an increased Federal commitment in the watershed as compared to Federal commitments before the date of approval of the project;
9 10	(C) benefits to a watershed from a water recycling project or eligible desalination project; or
11	(D) water supply benefits identified in accordance with the reclamation laws.
12 13	(9) FEDERAL STORAGE PROJECT.—The term "Federal storage project" means any project constructed by the Bureau of Reclamation—
14	(A) that involves the construction or expansion of—
15	(i) a surface water storage facility; or
16	(ii) a facility conveying water to or from surface or groundwater storage; and
17	(B) to which the United States holds or will hold title.
18	(10) NATURAL WATER RETENTION AND RELEASE PROJECT.—
19 20 21 22 23	(A) IN GENERAL.—The term "natural water retention and release project" means a non-Federal storage project designed and developed to increase water availability for optimal management through aquifer recharge, floodplain retention, the alteration of the timing of runoff to allow increased utilization of existing storage facilities, or another mechanism that—
24 25	(i) uses primarily natural materials appropriate to the specific site and landscape setting; and
26 27	(ii) substantially mimics natural riverine, wetland, ecosystem, or hydrologic processes.
28	(B) INCLUSIONS.—The term "natural water retention and release project" includes—
29	(i) a single natural water retention and release project;
30 31	(ii) several distributed natural water retention and release projects across a watershed; and
32 33	(iii) the redesign, modification, or replacement of existing infrastructure to incorporate natural water retention and release elements.
34 35	(11) NON-FEDERAL STORAGE PROJECT.—The term "non-Federal storage project" means any project in a Reclamation State that—
36	(A) involves the construction or expansion by an eligible entity of—

1	(i) a surface or groundwater storage project that is not federally owned;
2	(ii) a facility that is not federally owned conveying water to or from surface or groundwater storage; or
4	(iii) a natural water retention and release project; and
5 6	(B) provides a benefit in meeting any obligation under applicable Federal law (including regulations).
7 8	(12) PUBLIC BENEFIT.—The term "public benefit", with respect to a non-Federal storage project, water recycling project, or desalination project, means—
9 10 11 12 13	(A)(i) fish and wildlife benefits in excess of express mitigation and environmental compliance obligations under applicable Federal and State law, including regulations, permits, contracts, licenses, grants, or orders or decisions from Federal and State courts, in effect on the date on which amounts are made available for the applicable project under this Act;
14	(ii) flood control benefits;
15	(iii) recreational benefits;
16	(iv) water quality benefits; and
17	(v) any other benefits that are nonreimbursable under the reclamation laws;
18 19	(B) drinking water supply for disadvantaged communities, including through groundwater recharge;
20 21	(C) emergency drinking water supply used in response to a disaster declaration by a Governor; and
22	(D) energy savings benefits, including—
23	(i) the value of associated greenhouse gas reductions; and
24 25	(ii) any reduction in energy costs for Federal taxpayers, such as reduced water delivery costs for water providing fish and wildlife benefits.
26 27	(13) QUALIFIED PARTNER.—The term "qualified partner" means a nonprofit organization operating in a Reclamation State that is acting with the written support of an eligible entity.
28 29 30	(14) RECLAMATION LAWS.—The term "reclamation laws" means Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)).
31 32 33	(15) RECLAMATION STATE.—The term "Reclamation State" has the meaning given the term in section 4014 of the Water Infrastructure Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114–322).
34 35	(16) RELEVANT COMMITTEES OF CONGRESS.—The term "relevant committees of Congress" means—
36	(A) the Committee on Appropriations of the Senate;
37	(B) the Committee on Energy and Natural Resources of the Senate;

1	(C) the Committee on Appropriations of the House of Representatives; and
2	(D) the Committee on Natural Resources of the House of Representatives.
3	(17) SECRETARY.—The term "Secretary" means the Secretary of the Interior.
4 5	(18) STORAGE PROJECT.—The term "storage project" means a Federal storage project or a non-Federal storage project.
6 7 8	(19) WATER RECYCLING PROJECT.—The term "water recycling project" means a project provided a grant under section 1602(f) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h(f)).
9	(20) WATERSHED.—The term "watershed" includes—
10	(A) an entire watershed; or
l1 l2	(B) any portion of a watershed, including the upper or lower reaches of the watershed.
13 14 15	(21) WATERSHED RESTORATION PLAN.—The term "watershed restoration plan" means a plan approved by the Secretary that would provide benefits to the affected watershed from a non-Federal storage project and other projects and activities, including—
16	(A)(i) restoration of fish and wildlife habitat or flows; or
17	(ii) water quality benefits; and
18	(B) water supply benefits.
19	TITLE I—INFRASTRUCTURE DEVELOPMENT
19 20	TITLE I—INFRASTRUCTURE DEVELOPMENT SEC. 101. COMPETITIVE GRANT PROGRAM FOR THE
20	SEC. 101. COMPETITIVE GRANT PROGRAM FOR THE
20 21 22 23	SEC. 101. COMPETITIVE GRANT PROGRAM FOR THE FUNDING OF WATER RECYCLING PROJECTS. (a) Authorization of New Water Recycling Projects.—Section 1602 of the Reclamation
20 21 22	SEC. 101. COMPETITIVE GRANT PROGRAM FOR THE FUNDING OF WATER RECYCLING PROJECTS. (a) Authorization of New Water Recycling Projects.—Section 1602 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h) is amended—
20 21 22 23 24	SEC. 101. COMPETITIVE GRANT PROGRAM FOR THE FUNDING OF WATER RECYCLING PROJECTS. (a) Authorization of New Water Recycling Projects.—Section 1602 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h) is amended— (1) in subsection (e)(2)(B), by striking "in accordance with the reclamation laws"; and
20 21 22 23 24	SEC. 101. COMPETITIVE GRANT PROGRAM FOR THE FUNDING OF WATER RECYCLING PROJECTS. (a) Authorization of New Water Recycling Projects.—Section 1602 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h) is amended— (1) in subsection (e)(2)(B), by striking "in accordance with the reclamation laws"; and (2) in subsection (f)—
220 221 222 223 224 225 226 227 228	SEC. 101. COMPETITIVE GRANT PROGRAM FOR THE FUNDING OF WATER RECYCLING PROJECTS. (a) Authorization of New Water Recycling Projects.—Section 1602 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h) is amended— (1) in subsection (e)(2)(B), by striking "in accordance with the reclamation laws"; and (2) in subsection (f)— (A) in paragraph (1), by striking ", subject to subsection (g)(2)"; and (B) by striking paragraph (2) and all that follows through the end of subsection (g)
220 221 222 223 224 225 226 227 228 229	SEC. 101. COMPETITIVE GRANT PROGRAM FOR THE FUNDING OF WATER RECYCLING PROJECTS. (a) Authorization of New Water Recycling Projects.—Section 1602 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h) is amended— (1) in subsection (e)(2)(B), by striking "in accordance with the reclamation laws"; and (2) in subsection (f)— (A) in paragraph (1), by striking ", subject to subsection (g)(2)"; and (B) by striking paragraph (2) and all that follows through the end of subsection (g) and inserting the following: "(2) PRIORITIES AND DIVERSITY OF PROJECT TYPES.—In providing grants under paragraph
20 21 22 23 24 25 26	SEC. 101. COMPETITIVE GRANT PROGRAM FOR THE FUNDING OF WATER RECYCLING PROJECTS. (a) Authorization of New Water Recycling Projects.—Section 1602 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h) is amended— (1) in subsection (e)(2)(B), by striking "in accordance with the reclamation laws"; and (2) in subsection (f)— (A) in paragraph (1), by striking ", subject to subsection (g)(2)"; and (B) by striking paragraph (2) and all that follows through the end of subsection (g) and inserting the following: "(2) PRIORITIES AND DIVERSITY OF PROJECT TYPES.—In providing grants under paragraph (1), the Secretary shall—

1 2 3	"(iii) provide multiple benefits, including water supply reliability, ecosystem benefits, system reliability benefits, groundwater management and enhancements, and water quality improvements; and
4 5	"(B) take into consideration selecting a diversity of project types, including projects that serve—
6	"(i) a region or more than 1 community;
7	"(ii) a rural or small community; or
8	"(iii) an urban community or city.
9 10 11 12	"(g) Authorization of Appropriations.—In addition to amounts made available under section 40901(4)(A) of the Infrastructure Investment and Jobs Act (Public Law 117–58), there is authorized to be appropriated to the Secretary to carry out subsections (e) and (f) \$300,000,000 for the period of fiscal years 2023 through 2027."
13 14	(b) Limitation on Funding.—Section 1631(d) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h–13(d)) is amended—
15	(1) in paragraph (1)—
16	(A) by striking "by paragraph (2)" and inserting "in paragraphs (2) and (3)"; and
17 18	(B) striking "\$20,000,000 (October 1996 prices)" and inserting "\$50,000,000 (in prices as determined for January 2022)"; and
19	(2) in paragraph (2)—
20	(A) in subparagraph (B)—
21	(i) by striking "(B) In the case" and inserting the following:
22	"(B) SAN GABRIEL BASIN.—In the case"; and
23	(ii) by indenting clauses (i) and (ii) appropriately; and
24	(B) by striking "(2)(A) Subject to" and inserting the following:
25 26 27	"(2) PROJECTS FUNDED AS OF 2021.—The Federal share of the cost of any single project authorized under this title shall be \$20,000,000 (October 1996 prices) if the project has received that amount as of December 31, 2021.
28	"(3) Older projects.—
29	"(A) IN GENERAL.—Subject to".
30	SEC. 102. ANNUAL REPORT TO CONGRESS.
31 32 33	(a) Annual Reports.—Not later than February 1 of each year, the Secretary shall develop and submit to the authorizing committees of Congress an annual report, to be entitled "Report to Congress on Future Storage Project Development", that—
34	(1) identifies, with respect to Federal storage projects and non-Federal storage projects—
35	(A) each feasibility report that—
36	(i) meets the criteria established under subsection (c)(1)(A); and

1 2	(ii) is recommended by the Secretary for congressional authorization for construction;
3 4 5	(B) each proposed feasibility study submitted to the Secretary by an eligible entity pursuant to subsection (b) that meets the criteria established under subsection (c)(1)(A);
6 7	(C) any proposed modification to an authorized project that meets the criteria established under subsection (c)(1)(A) that is—
8	(i) submitted to the Secretary by an eligible entity pursuant to subsection (b); or
9	(ii) identified by the Secretary for authorization; and
10 11 12	(2) provides a status update for each feasibility study for a Federal storage project that is under evaluation during the period covered by the report and is intended to meet the criteria established under subsection (c)(1)(A), including identifying—
13	(A) the initiation date of the feasibility study;
14	(B) the percentage completion of the feasibility study; and
15	(C) the expected completion date of the feasibility study.
16	(b) Requests for Proposals.—
17 18 19	(1) PUBLICATION.—Not later than May 1 of each year, the Secretary shall publish a notice requesting proposals from eligible entities for proposed feasibility studies and proposed modifications to authorized projects to be included in the annual report.
20 21 22 23	(2) DEADLINE FOR REQUESTS.—The Secretary shall include in each notice required under this subsection a requirement that eligible entities submit to the Secretary any proposals described in paragraph (1) by not later than 120 days after the date of publication of the notice in order for the proposals to be considered for inclusion in the annual report.
24 25	(3) NOTIFICATION.—On the date of publication of each notice required by this subsection, the Secretary shall—
26	(A) make the notice publicly available, including on the internet; and
27 28	(B) provide written notification of the publication to the relevant committees of Congress.
29	(c) Contents.—
30	(1) Inclusions.—
31	(A) CRITERIA.—The Secretary shall include in the annual report—
32 33 34	(i) subject to subparagraph (B), a feasibility report or proposed feasibility study for, or proposed modifications to, a Federal storage project or non-Federal storage project that—
35 36	(I) the Secretary determines is related to the missions and authorities of the Bureau of Reclamation;
37 38	(II) requires specific congressional authorization, including by an Act of Congress;

1 2	(III) the Secretary determines could be eligible for design, study, or construction; and
3	(IV) has not been authorized by Congress; and
4	(ii) a list of, as of the date of the annual report—
5	(I) each non-Federal storage project that is under construction;
6 7	(II) each feasibility study that is being conducted for non-Federal storage projects; and
8 9	(III) the amount of appropriated funding that the Secretary has awarded to each project or feasibility study listed under subclause (I) or (II).
10	(B) LIMITATIONS.—Notwithstanding subparagraph (A)(i)—
11 12	(i) a feasibility study shall not be included in an annual report if the feasibility study was included in any previous annual report; and
13 14 15	(ii) a feasibility report for a non-Federal storage project shall not be included in an annual report unless the project has a Federal cost-share of more than \$250,000,000.
16 17 18 19	(C) DESCRIPTION OF BENEFITS.—The Secretary shall describe in the annual report, to the extent applicable and practicable, for each proposed feasibility study and proposed modification to an authorized project included in the annual report, the benefits of each project or proposed modification.
20 21	(D) IDENTIFICATION OF OTHER FACTORS.—The Secretary shall identify in the annual report, to the extent practicable—
22 23	(i) for each proposed feasibility study included in the annual report, the eligible entity that submitted the proposed project study pursuant to subsection (b); and
24 25	(ii) for each proposed feasibility study and proposed modification to a project included in the annual report, whether the eligible entity has demonstrated—
26 27 28	(I) that local support exists for the proposed feasibility study or proposed modification to an authorized project (including the project that is the subject of the proposed feasibility study or the proposed modification); and
29	(II) the financial ability to provide the required non-Federal cost share.
30 31 32	(2) TRANSPARENCY.—The Secretary shall include in the annual report, for each feasibility report, proposed feasibility study, and proposed modification to a project included under paragraph (1)(A)—
33 34 35	(A) the name of the associated eligible entity, including the name of any eligible entity that has contributed, or is expected to contribute, a non-Federal share of the cost of—
36	(i) the feasibility report;
37	(ii) the proposed feasibility study; or
38	(iii) construction of—

1	(I) the project that is the subject of—
2	(aa) the feasibility report; or
3	(bb) the proposed feasibility study; or
4	(II) the proposed modification to a project;
5 6	(B) a letter or statement of support for the feasibility report, proposed feasibility study, or proposed modification to a project from each associated eligible entity;
7 8	(C) the purpose of the feasibility report, proposed feasibility study, or proposed modification to a project;
9 10	(D) an estimate, to the extent practicable, of the Federal, non-Federal, and total costs of construction of—
11	(i) the project that is the subject of the feasibility report; or
12	(ii) the proposed modification to an authorized project; and
13 14	(E) an estimate, to the extent practicable, of the monetary and nonmonetary benefits of—
15	(i) the project that is the subject of the feasibility report; or
16	(ii) the proposed modification to an authorized project.
17 18 19	(3) CERTIFICATION.—The Secretary shall include in the annual report a certification stating that each feasibility report, proposed feasibility study, and proposed modification to a project included in the annual report meets the criteria established under paragraph (1)(A)
20	(4) Appendix.—
21 22 23 24 25	(A) IN GENERAL.—The Secretary shall include in the annual report an appendix listing the proposals submitted under subsection (b) that were not included in the annual report under paragraph (1)(A) and a description of why the Secretary determined that those proposals did not meet the criteria for inclusion under that paragraph.
26	(B) LIMITATION.—The Secretary shall not include—
27 28 29 30	(i) in an appendix under subparagraph (A) any proposal that meets the criteria for inclusion in the annual report solely on the basis of a determination by the Secretary that the proposal requires legislative changes to an authorized project or feasibility study; or
31 32 33	(ii) in an appendix under subparagraph (A) or any other part of the annual report any proposal that meets the criteria for inclusion in the annual report solely on the basis of a policy of the Secretary.
34 35	(d) Special Rule for Initial Annual Report.—Notwithstanding any other deadline under this section, the Secretary shall—
36 37	(1) not later than 60 days after the date of enactment of this Act, publish a notice required under subsection (b)(1); and
38	(2) include in the notice a requirement that eligible entities submit to the Secretary any
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1	proposals described in subsection (b)(1) by not later than 120 days after the date of
2	publication of the notice in order for the proposals to be considered for inclusion in the first
3	annual report developed by the Secretary under this section.

(e) Publication.—On submission of an annual report to Congress, the Secretary shall make the annual report publicly available, including through publication on the internet.

6 SEC. 103. COMPETITIVE GRANT PROGRAM FOR NON-7 FEDERAL STORAGE PROJECTS.

7	FEDERAL STORAGE PROJECTS.
8	(a) Definitions.—In this section:
9	(1) ELIGIBLE ENTITY.—The term "eligible entity" means—
10 11	(A) a State, Indian Tribe, municipality, irrigation district, water district, wastewater district, or other organization with water or power delivery authority;
12 13	(B) a State, regional, or local authority, the members of which include 1 or more organizations with water or power delivery authority; or
14	(C)(i) an agency established under State law for the joint exercise of powers;
15	(ii) a combination of entities described in subparagraphs (A) and (B); or
16	(iii) with respect to a natural water retention and release project, a qualified partner.
17 18	(2) ELIGIBLE PROJECT.—The term "eligible project" means a project described in subsection (c).
19 20	(3) PROGRAM.—The term "program" means the grant program established under subsection (b).
21 22 23	(4) RECLAMATION STATE.—The term "Reclamation State" means a State or territory described in the first section of the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 391).
24 25 26 27	(b) Establishment.—The Secretary shall establish a program to provide grants to eligible entities on a competitive basis for the planning, design, and construction of non-Federal storage projects that provide substantial water supply and other benefits to a Reclamation State in accordance with this section.
28	(c) Eligible Project.—A project shall be eligible for a grant under this section if the project—
29	(1) involves the construction or expansion by an eligible entity of—
30	(A) a surface or groundwater storage project that is not federally owned;
31 32	(B) a facility that is not federally owned that conveys water to or from surface or groundwater storage; or
33	(C) a natural water retention and release project;
34	(2) has a Federal cost-share of not more than \$250,000,000;
35	(3) is located in a Reclamation State;
36	(4) is constructed, operated, and maintained by an eligible entity; and

1	(5) provides a Federal benefit.
2	(d) Project Evaluation.—The Secretary may provide a grant to an eligible entity for an eligible project under the program—
4 5	(1) for the study of the eligible project, if the Secretary has identified the potential for sufficient Federal benefits from the eligible project to proceed;
6 7	(2) for the construction of a non-Federal storage project that is not a natural water retention and release project, if—
8 9	(A) the eligible entity determines through the preparation of a feasibility study or equivalent study, and the Secretary concurs, that the eligible project—
10	(i) is technically and financially feasible;
11	(ii) provides a Federal benefit; and
12	(iii) is consistent with applicable Federal and State laws;
13 14	(B) the eligible entity has sufficient non-Federal funding available to complete the eligible project, as determined by the Secretary;
15	(C) the eligible entity is financially solvent, as determined by the Secretary;
16 17 18	(D) the Governor, a member of the cabinet of the Governor, or the head of a department of the Reclamation State in which the non-Federal storage project is located supports the project or Federal funding of the project; and
19 20 21	(E) not later than 30 days after the date on which the Secretary concurs with the determinations under subparagraph (A) with respect to the eligible project, the Secretary submits to Congress written notice of the determinations; and
22	(3) for a natural water retention and release project—
23 24 25	(A) that costs not more than \$10,000,000, if the eligible entity demonstrates that the natural water retention and release project would help optimize the storage or delivery of water in a watershed in which a Bureau of Reclamation facility is located; and
26	(B) that costs more than \$10,000,000, if—
27	(i) the conditions described in paragraph (2) have been met; and
28	(ii) the eligible entity determines, and the Secretary concurs, that—
29 30 31	(I) the natural water retention and release project would produce or allow additional retention or delivery of water in a watershed in which a Bureau of Reclamation facility is located; and
32 33 34	(II) there is a credible estimate of the quantity of the storage benefit of the natural water retention and release project during each of a "wet" year, a "normal" year, and a "dry" year.
35 36 37	(e) Priority.—In providing grants to eligible entities for eligible projects under the program, the Secretary shall give funding priority to an eligible project that directly or through watershed restoration plans approved with the project meets 2 or more of the following criteria:
38	(1) Provides multiple benefits, including substantial quantities of each of the following:

1	(A) Water supply reliability benefits for drought-stricken States and communities.
2	(B) Fish and wildlife benefits.
3	(C) Water quality improvements.
4 5 6	(2) Reduces impacts on environmental resources from water projects owned or operated by Federal agencies and State agencies, including through measurable reductions in water diversions from imperiled ecosystems.
7 8	(3) Advances water management plans across a multi-State area, such as drought contingency plans in the Colorado River Basin.
9	(4) Is collaboratively developed or supported by multiple stakeholders.
10	(f) Federal Assistance.—
11	(1) FEDERAL COST SHARE.—
12 13 14	(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of the cost of any eligible project provided a grant under the program shall not exceed 25 percent of the total cost of the eligible project.
15 16 17	(B) EXCEPTION.—The Federal share of the cost of a natural water retention and release project provided a grant under the program shall not exceed 90 percent of the total cost of the natural water retention and release project.
18 19	(2) TOTAL DOLLAR CAP.—The Secretary shall not impose a total dollar cap on Federal contributions for all eligible projects provided a grant under the program.
20	(3) REIMBURSABILITY OF FUNDS.—
21 22 23 24	(A) NONREIMBURSABLE FUNDS.—Subject to subparagraph (B), any funds provided by the Secretary to an eligible entity under the program for the value of public benefits described in subparagraphs (A) and (B) of section 2(8) shall be considered nonreimbursable.
25 26 27 28	(B) REIMBURSABLE FUNDS.—If any funding provided under subparagraph (A) is less than 25 percent of the total cost of the eligible project, the Secretary may provide reimbursable funds to an eligible entity for any Federal benefits provided under section 2(8)(D) for not more than 25 percent of the total cost of the eligible project.
29 30 31	(g) Environmental Laws.—In providing a grant for an eligible project under the program, the Secretary shall comply with all applicable environmental laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).
32 33 34	(h) Guidance.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue guidance on the implementation of the program, including guidelines for the preparation of feasibility studies or equivalent studies by eligible entities.
35	(i) Reports.—
36 37 38	(1) ANNUAL REPORT.—At the end of each fiscal year, the Secretary shall make available on the website of the Department of the Interior an annual report that lists each eligible project for which a grant has been awarded under this section during the fiscal year.
39	(2) COMPTROLLER GENERAL.—

1 2 3	(A) ASSESSMENT.—The Comptroller General of the United States shall conduct an assessment of the administrative establishment, solicitation, selection, and justification process with respect to the funding of grants under this section.
4 5 6 7	(B) REPORT.—Not later than 1 year after the date on which a grant is initially awarded under this section, the Comptroller General of the United States shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes—
8 9	(i) the adequacy and effectiveness of the process by which each eligible project was selected, if applicable; and
10 11	(ii) the justification and criteria used for the selection of each eligible project, if applicable.
12 13	(j) Treatment of Conveyance.—The planning, design, and construction of a conveyance system for an eligible project shall be eligible for grant funding under the program.
14	SEC. 104. FUNDING FOR NON-FEDERAL STORAGE
15	PROJECTS, AND STORAGE AND CONVEYANCE
16	PROJECTS ELIGIBLE UNDER THE INFRASTRUCTURE
17	JOBS AND INVESTMENT ACT.
18	(a) Funding.—
19 20 21 22 23 24	(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available under section 40901(1) of the Infrastructure Investment and Jobs Act (Public Law 117–58), there is authorized to be appropriated to the Secretary to carry out this section \$750,000,000 for the period of fiscal years 2023 through 2027, of which \$50,000,000 is authorized to be appropriated during that period to carry out natural water retention and release projects under section 103(d)(3).
25 26	(2) ALLOCATION.—Subject to paragraphs (3) and (5), the Secretary shall allocate amounts made available under paragraph (1) among—
27	(A) the design and study of—
28 29	(i) non-Federal storage projects, including natural water retention and release projects; and
30 31 32 33	(ii) storage projects that are eligible for study funding under subsection (a)(1) of section 40902 of the Infrastructure Investment and Jobs Act (Public Law 117–58), if the amounts made available to the storage projects under this clause are provided in accordance with subsections (b) and (c) of that section; and
34	(B) construction of—
35 36	(i) non-Federal storage projects, including natural water retention and release projects; and
37 38	(ii) storage projects that have received construction funding in accordance with subsection (a)(2) of section 40902 of the Infrastructure Investment and Jobs Act

1 2	(Public Law 117–58), if the amounts made available to the storage projects under this clause are provided in accordance with subsections (b) and (c) of that section.
3 4 5	(3) PRELIMINARY STUDIES.—Of the amounts made available under paragraph (1), not more than 25 percent shall be provided for appraisal studies, feasibility studies, or other preliminary studies.
6 7 8	(4) WIIN ACT STORAGE FUNDING.—The Secretary may award funding made available under section 4007(h) of the Water Infrastructure Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114–322) to—
9 10	(A) non-Federal storage projects, including natural water retention and release projects;
11 12 13 14	(B) storage projects that are eligible for study funding under subsection (a)(1) of section 40902 of the Infrastructure Investment and Jobs Act (Public Law 117–58), if the amounts made available under this subparagraph to storage projects is provided in accordance with subsections (b) and (c) of that section; and
15 16 17 18	(C) storage projects that have received construction funding in accordance with subsection (a)(2) of section 40902 of the Infrastructure Investment and Jobs Act (Public Law 117–58), if the amounts made available to storage projects under this subparagraph is provided in accordance with subsections (b) and (c) of that section.
19 20 21	(5) OTHER STORAGE PROJECTS.—The funds appropriated under paragraph (1) may not be used for storage projects other than those described in paragraph (2) unless authorized by an Act of Congress.
22	(6) Use of funding for public benefits.—
23 24	(A) In GENERAL.—The Federal share of the cost of public benefits provided by a storage project described in paragraph (2) may be used for—
25 26	(i) the capital and operations, maintenance, and replacement costs of public benefits; and
27 28 29	(ii) the operations, maintenance, and replacement costs of public benefits described in section 2(12)(A), the capital costs of which are funded by the applicable Reclamation State.
30 31 32	(B) EFFECT.—Nothing in this paragraph precludes the Secretary from using other authorities or appropriations for the capital and operations, maintenance, and replacement costs of a non-Federal storage project to provide public benefits.
33 34 35	(b) Amendment to the Infrastructure Jobs and Investment Act.—Section 40902(a)(2)(C)(i) of the Infrastructure Investment and Jobs Act (Public Law 117–58) is amended by striking "clause (i) or (ii)" and inserting "clause (i), (ii), or (iii)".
36	(c) Authorization To Complete Storage Projects That Receive Construction Funding.—
37 38 39	(1) DEFINITION OF CONSTRUCTION.—In this subsection, the term "construction" has the meaning given the term in section 4011(f) of the Water Infrastructure Improvements for the Nation Act (Public Law 114–322; 130 Stat. 1881).
40	(2) EXTENSION OF EXISTING REQUIREMENTS.—A storage project that has received funding

1 2 3 4	for construction activities in accordance with section 40901(1) of the Infrastructure Investment and Jobs Act (Public Law 117–58) shall be eligible for funding (including funding authorized under this section or an amendment made by this section), to complete construction of the project in accordance with the standards under section 40902 of that Act
5 6 7 8 9	(d) Calfed Reauthorization.—Title I of Public Law 108–361 (118 Stat. 1681; 123 Stat. 2860; 128 Stat. 164; 128 Stat. 2312; 129 Stat. 2407; 130 Stat. 1866; 133 Stat. 2669), as amended by section 204 of the Energy and Water Development and Related Agencies Appropriations Act, 2021 (Public Law 116–260), is amended by striking "2021" each place it appears and inserting "2026".
10 11	SEC. 105. ELIGIBLE DESALINATION PROJECT DEVELOPMENT.
12 13 14	(a) Eligible Desalination Projects Authorization.—Section 4(a) of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298) is amended by striking paragraph (2) and inserting the following:
15	"(2) Projects.—
16	"(A) DEFINITIONS.—In this paragraph:
17 18 19 20	"(i) ELIGIBLE DESALINATION PROJECT.—The term 'eligible desalination project' means any project located in a Reclamation State, or for which the construction, operation, sponsorship, or funding is the responsibility of, and the primary water supply benefit accrues to, 1 or more entities in a Reclamation State, that—
21	"(I) involves an ocean or brackish water desalination facility—
22 23 24	"(aa) constructed, operated, and maintained by a State, Indian Tribe, irrigation district, water district, or other organization with water or power delivery authority; or
25 26 27	"(bb) sponsored or funded by any combination of a State, department of a State, political subdivision of a State, or public agency organized pursuant to State law, including through—
28	"(AA) direct sponsorship or funding; or
29 30	"(BB) indirect sponsorship or funding, such as by paying for the water provided by the facility;
31	"(II) provides a Federal benefit; and
32 33	"(III) is consistent with applicable Federal and State resource protection laws, including any law relating to the protection of marine protected areas.
34 35 36 37	"(ii) FEDERAL BENEFIT; RECLAMATION STATE; RELEVANT COMMITTEES OF CONGRESS.—The terms 'Federal benefit', 'Reclamation State', and 'relevant committees of Congress' have the meaning given the terms in section 2 of the Support To Rehydrate the Environment, Agriculture, and Municipalities Act.
38 39	"(iii) RURAL DESALINATION PROJECT.—The term 'rural desalination project' means an eligible desalination project that is designed to serve a community or

1 2	group of communities, each of which has a population of not more than 25,000 inhabitants.
3	"(B) Cost-sharing requirement.—
4 5 6	"(i) IN GENERAL.—Subject to the requirements of this subsection and notwithstanding section 7, the Federal share of an eligible desalination project carried out under this subsection shall be—
7 8	"(I) not more than 25 percent of the total cost of the eligible desalination project; or
9 10	"(II) in the case of a rural desalination project, the applicable percentage determined in accordance with clause (ii).
11	"(ii) RURAL DESALINATION PROJECTS.—
12 13 14 15	"(I) COST-SHARING REQUIREMENT FOR APPRAISAL STUDIES.—Subject to subclause (IV), in the case of a rural desalination project carried out under this subsection, the Federal share of the cost of appraisal studies for the rural desalination project shall be—
16 17	"(aa) 75 percent of the total costs of the appraisal studies, up to \$200,000; and
18 19	"(bb) if the total costs of the appraisal studies are more than \$200,000, 50 percent of any amounts over \$200,000.
20 21 22 23	"(II) COST-SHARING REQUIREMENT FOR FEASIBILITY STUDIES.—Subject to subclause (IV), in the case of a rural desalination project carried out under this subsection, the Federal share of the cost of feasibility studies for the rural desalination project shall be not more than 50 percent.
24 25 26 27	"(III) COST-SHARING REQUIREMENT FOR CONSTRUCTION COSTS.—Subject to subclause (IV), in the case of a rural desalination project carried out under this subsection, the Federal share of the cost of construction of the rural desalination project shall be not more than 75 percent.
28 29 30 31 32	"(IV) REDUCTION IN NON-FEDERAL SHARE.—The Secretary may reduce the non-Federal share of a rural desalination project required under subclause (I), (II), or (III) by not more than 10 percent if the Secretary determines, after consultation with the heads of any other Federal agencies that are partners in the rural desalination project and in accordance with applicable Reclamation standards, that the reduction is appropriate due to—
34 35	"(aa) an overwhelming Federal interest in the rural desalination project; and
36 37	"(bb) the sponsor of the rural desalination project demonstrating financial hardship.
38 39 40	"(iii) LIMITATION.—Funding for a rural desalination project under clause (ii) or the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3901 et seq.) shall not be considered for purposes of the Federal share established under

1	this subparagraph.
2 3	"(C) STATE ROLE.—Participation by the Secretary in an eligible desalination project under this paragraph shall not occur unless—
4	"(i)(I) the eligible desalination project is included in a State-approved plan; or
5 6	"(II) the participation has been requested by the Governor of the State in which the eligible desalination project is located;
7 8	"(ii) the State or local sponsor of the eligible desalination project determines, and the Secretary concurs, that—
9	"(I) the eligible desalination project—
10	"(aa) is technically and financially feasible;
11	"(bb) provides a Federal benefit; and
12 13	"(cc) is consistent with applicable Federal and State laws (including regulations);
14 15	"(II) sufficient non-Federal funding is available to complete the eligible desalination project; and
16 17	"(III) the non-Federal project sponsor is financially capable of funding the non-Federal share of the project costs; and
18 19 20	"(iii) the Secretary submits to the relevant committees of Congress and makes publicly available on the internet a written notification of the determinations under clause (ii) by not later than 30 days after the date of the determinations.
21 22	"(D) Environmental Laws.—To be eligible to receive a grant under this subsection, a desalination project shall comply with—
23 24	"(i) applicable Federal environmental laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and
25	"(ii) applicable State environmental laws.
26 27	"(E) INFORMATION.—In participating in an eligible desalination project under this subsection, the Secretary—
28 29 30	"(i) may rely on reports prepared by the sponsor of the eligible desalination project, including feasibility or equivalent studies, environmental analyses, and other pertinent reports and analyses; but
31 32	"(ii) shall retain responsibility for making the independent determinations described in subparagraph (C).
33	"(F) Funding.—
34 35 36 37 38	"(i) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available under section 40901(5) of the Infrastructure Investment and Jobs Act (Public Law 117–58), there is authorized to be appropriated to carry out this paragraph \$150,000,000 for the period of fiscal years 2023 through 2027, of which not less than \$10,000,000 shall be made available during the period for

1	rural desalination projects.
2 3 4 5	"(ii) FUNDING OPPORTUNITY ANNOUNCEMENT.—The Commissioner of Reclamation shall release a funding opportunity announcement for a grant program under this paragraph by not later than 75 days after the date of enactment of an Act that provides funding for the program."
6 7 8	(b) Prioritization of Projects.—Section 4 of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298) is amended by striking subsection (c) and inserting the following:
9 10	"(c) Prioritization.—In carrying out demonstration and development activities under this section, the Secretary shall prioritize projects—
11	"(1) for the benefit of drought-stricken States and communities;
12 13	"(2) for the benefit of States that have authorized funding for research and development of desalination technologies and projects;
14 15 16	"(3) that demonstrably improve self-reliance on local or regional water supplies in the case of any project sponsors that rely on imported water supplies that have an impact on species listed under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);
17	"(4) that demonstrably leverage the experience of or partner with—
18 19	"(A) international entities with considerable expertise in desalination, such as Israel; or
20 21 22	"(B) nonprofit water research foundations or institutions with expertise in technology innovation to advance sustainable desalination processes or brine management;
23	"(5) located in a region that—
24	"(A) is impacted by salinity or brackish groundwater; and
25	"(B) has agricultural production of national importance;
26 27 28	"(6) that support regional stakeholder-based planning and implementation efforts to manage brine and salinity for sustainability and improvement of groundwater quality within an approved basin plan;
29	"(7) that maximize the use of renewable energy to power desalination facilities;
30 31	"(8) that maximize energy efficiency so that the lifecycle energy demands of desalination are minimized;
32 33	"(9) located in a region that has employed strategies to increase water conservation and the capture and recycling of wastewater and stormwater; and
34	"(10) that, in the case of ocean desalination facilities—
35	"(A)(i) use a subsurface intake; or
36 37 38	"(ii) if a subsurface intake is not feasible, use an intake that uses the best available site, design, technology, and mitigation measures to minimize the mortality of all forms of marine life and impacts to coastal-dependent resources;

1 2	"(B) are sited and designed to ensure that the disposal of wastewater (including brine from the desalination process)—
3 4	"(i) is not discharged in a manner that increases salinity levels in Federal or State marine protected areas; and
5 6	"(ii) achieves ambient salinity levels within a reasonable distance from the discharge point;
7 8 9	"(C) are sited, designed, and operated in a manner that maintains indigenous marine life and a healthy and diverse marine community within a reasonable distance from the discharge point;
10	"(D) do not cause significant unmitigated harm to aquatic life; and
11 12	"(E) include a construction and operation plan designed to minimize loss of coastal habitat as well as aesthetic, noise, and air quality impacts.".
13 14 15 16 17 18	(c) Priority Scoring System.—As soon as practicable after the date of enactment of this Act, for purposes of making recommendations to Congress for projects to be carried out under section 4 of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298), the Commissioner of Reclamation shall establish a priority scoring system that provides for the assignment of priority scores for the projects based on the prioritization criteria established under subsection (c) of that section.
19 20	(d) Research Authority.—Section 8(a) of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298) is amended—
21	(1) in the first sentence, by striking "2021" and inserting "2026"; and
22	(2) in the second sentence, by striking "\$1,000,000" and inserting "\$3,000,000".
23	SEC. 106. RECLAMATION INFRASTRUCTURE FINANCE
24	AND INNOVATION PILOT PROGRAM.
25 26 27 28	(a) Establishment.—The Secretary shall establish and carry out a pilot program under which the Secretary shall provide to eligible entities described in subsection (c) loans and technical assistance in accordance with this section to carry out eligible projects described in subsection (b).
29	(b) Eligible Projects.—
30 31 32	(1) IN GENERAL.—A project eligible to receive assistance under the pilot program under this section is a water supply or water conservation project that, as determined by the Secretary—
33	(A) is located in—
34	(i) the State of Alaska;
35	(ii) the State of Hawaii; or
36 37	(iii) a State or territory described in the first section of the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 391);
38	(B) would—

1 2 3	(i) contribute directly or indirectly (including through groundwater recharge) to a safe, adequate water supply for domestic, agricultural, environmental, or municipal and industrial use; or
4	(ii) promote water conservation or water use efficiency; and
5	(C) is otherwise eligible for assistance under this section.
6 7 8	(2) PROJECTS ASSOCIATED WITH BUREAU OF RECLAMATION FACILITIES.—A project that supports an improvement to, or is associated with, a Bureau of Reclamation facility shall be eligible to receive assistance under the pilot program under this section if—
9	(A) the project meets the criteria described in paragraph (1);
10 11 12	(B) the eligible entity carrying out the project demonstrates to the satisfaction of the Secretary that the eligible entity is initiating and implementing the project for non-Federal purposes;
13 14 15 16	(C) the eligible entity retains or secures, through a long-term Federal property lease, operation and maintenance transfer agreement that provides for self-funding, or easement agreement with the Secretary, substantial control over the assets, operation, management, and maintenance of the project; and
17	(D) the project meets any other criteria that the Secretary may establish.
18 19 20 21 22	(3) SMALL COMMUNITY PROJECTS.—For projects eligible for assistance under this section and section 5028(a)(2)(B) of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 3907(a)(2)(B)), the Secretary may assist applicants in combining 1 or more projects into a single application in order to meet the minimum project cost of \$5,000,000 required under that section.
23 24	(c) Eligible Applicants.—The following entities are eligible to receive assistance under this section:
25 26	(1) An entity described in section 5025 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 3904).
27	(2) A conservancy district, Reclamation district, irrigation district, or water district.
28	(3) A canal company or mutual water company.
29	(4) A water users' association.
30	(5) An agency established by an interstate compact.
31	(6) An agency established under State law for the joint exercise of powers.
32 33	(7) Any other individual or entity that has the capacity to contract with the United States under the reclamation laws.
34	(d) Requirements.—
35 36	(1) PROJECT SELECTION.—In selecting eligible projects to receive assistance under the pilot program under this section, the Secretary shall ensure diversity with respect to—
37	(A) project type; and
38	(B) geographical location within the States referred to in subsection (b)(1)(A).

1 2	(2) IMPORTATION OF OTHER REQUIREMENTS.—The following provisions of law shall apply to the pilot program under this section:
3 4 5	(A) Sections 5022, 5024, 5027, 5028, 5029, 5030, 5031, 5032, and 5034(a) of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 3901, 3903, 3906, 3907, 3908, 3909, 3910, 3911, 3913(a)), except that—
6 7	(i) any reference contained in those sections to the Secretary of the Army shall be considered to be a reference to the Secretary;
8 9	(ii) any reference contained in those sections to an eligible project shall be considered to be a reference to an eligible project described in subsection (b);
10 11 12	(iii) paragraphs (1)(E) and (6)(B) of subsection (a), and subsection (b)(3), of section 5028 of that Act (33 U.S.C. 3907) shall not apply with respect to this section; and
13 14	(iv) subsections (e) and (f) of section 5030 of that Act (33 U.S.C. 3909) shall not apply with respect to this section.
15 16 17 18 19	(B) The agreement between the Administrator of the Environmental Protection Agency and the Commissioner of Reclamation required under section 4301 of the America's Water Infrastructure Act of 2018 (33 U.S.C. 3909 note; Public Law 115–270), pursuant to which the Administrator shall retain responsibility for administering any loans under this section.
20 21	(3) ENVIRONMENTAL LAWS.—No project shall receive funding under this section unless the project complies with—
22 23	(A) applicable Federal environmental laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and
24	(B) applicable State environmental laws.
25	(e) Authorization of Appropriations.—
26 27 28	(1) IN GENERAL.—There is authorized to be appropriated to the Secretary to carry out the pilot program under this section \$150,000,000 for the period of fiscal years 2023 through 2027, to remain available until expended.
29 30 31 32 33 34	(2) ADMINISTRATIVE COSTS.—Of the funds made available pursuant to paragraph (1), the Secretary may use for administrative costs of carrying out the pilot program under this section (including for the provision of technical assistance to project sponsors pursuant to paragraph (3), to obtain any necessary approval, and for transfer to the Administrator of the Environmental Protection Agency to provide assistance in administering and servicing Federal credit instruments under the pilot program) not more than \$5,000,000 for each applicable fiscal year.
36	(3) SMALL COMMUNITY PROJECTS.—
37 38 39 40	(A) IN GENERAL.—Subject to subsection (b), the Commissioner may use the funds made available under paragraph (2) to provide assistance, including assistance to pay the costs of acquiring the rating opinion letters under paragraph (1)(D) of section 5028(a) of the Water Resources Reform and Development Act of 2014 (33 U.S.C.

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1 2 3	3907(a)), to assist project sponsors in obtaining the necessary approvals for small community projects that are eligible for assistance under paragraph (2)(B) of that section or subsection (b)(3).
4 5 6	(B) LIMITATION.—Assistance provided to a project sponsor under subparagraph (A) may not exceed an amount equal to 75 percent of the total administrative costs incurred by the project sponsor in securing financial assistance under this section.
7	SEC. 107. DRINKING WATER ASSISTANCE FOR
8	DISADVANTAGED COMMUNITIES.
9 10 11 12 13 14 15	(a) In General.—The Secretary (acting through the Commissioner of Reclamation) may provide grants or enter into contracts or financial assistance agreements that provide not more than 100 percent of the cost of the planning, design, or construction of water projects or facilities or features of water projects, the primary purpose of which is to improve the domestic water supplies of communities or households that do not have reliable access to domestic water supplies in sufficient quantities or of sufficient quality in a State or territory described in the first section of the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 391).
16	(b) Authorization of Appropriations.—
17 18	(1) AMOUNT.—There is authorized to be appropriated to the Secretary to carry out this section \$100,000,000 for the period of fiscal years 2023 through 2027.
19 20 21	(2) MULTIPLE BENEFIT PROJECTS.—The Secretary shall use all or a portion of the funds made available under subsection (a) to incorporate into multiple benefit projects features or facilities to assist in providing domestic water supplies to disadvantaged communities.
22	SEC. 108. EXTRAORDINARY OPERATION AND
23	MAINTENANCE WORK; PROJECT MODIFICATION.

- (a) Reimbursement of Costs.—Section 9603(b) of the Omnibus Public Land Management Act of 2009 (43 U.S.C. 510b(b)) is amended—
 - (1) in paragraph (1), by striking "reimbursable purposes" and inserting "reimbursable and nonreimbursable purposes of the project and costs allocated to a reimbursable purpose";
 - (2) in paragraph (2), by striking "costs" and inserting "costs, including reimbursable and nonreimbursable costs"; and
 - (3) by adding at the end the following:
 - "(4) DETERMINATION OF REIMBURSABLE COSTS.—Any costs expended under paragraph (1) or advanced under paragraph (2) that are allocated to existing nonreimbursable purposes of the project, including costs to restore or add a public benefit (as defined in section 2 of the Support To Rehydrate the Environment, Agriculture, and Municipalities Act), shall be considered to be nonreimbursable costs for purposes of this subsection."
- (b) Authorization to Modify Projects to Increase Public Benefits and Other Project Benefits.—Section 9603 of the Omnibus Public Land Management Act of 2009 (43 U.S.C. 510b) is amended by adding at the end the following:

1 2	"(e) Authorization to Modify Projects to Increase Public Benefits and Other Project Benefits.—
3	"(1) DEFINITIONS.—In this subsection:
4 5 6 7	"(A) ADVERSE IMPACT.—The term 'adverse impact' means, with respect to a project modification, a reduction in water quantity or quality or a change in the timing of water deliveries available to a project beneficiary from the modified project as compared to the water quantity or quality or timing of water deliveries from—
8 9 10	"(i) the project with the original capacity restored, if the extraordinary operation and maintenance work under this section is intended to restore lost project capacity;
11 12 13	"(ii) the project prior to undertaking the planning and design, if the extraordinary operation and maintenance work under this section is for any purpose other than to restore lost project capacity; or
14 15	"(iii) project operations of the modified project without an increase in benefits for a new project beneficiary under paragraph (2)(E).
16 17	"(B) NEW BENEFIT.—The term 'new benefit' means the increase in benefits of the modified project compared to the benefits provided by—
18 19 20	"(i) the project with the original capacity restored, if the extraordinary operation and maintenance work under this section is intended to restore lost project capacity; or
21 22 23	"(ii) the project prior to undertaking the planning and design, if the extraordinary operation and maintenance work under this section is for any purpose other than to restore lost project capacity.
24 25 26 27 28	"(C) PROJECT BENEFICIARY.—The term 'project beneficiary' means any entity that has a repayment, long-term water service, or other form of long-term contract or agreement executed pursuant to the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.), for water service from the project.
29 30 31	"(D) PUBLIC BENEFIT.—The term 'public benefit' has the meaning given the term in section 2 of the Support To Rehydrate the Environment, Agriculture, and Municipalities Act.
32	"(2) AUTHORIZATION; REQUIREMENTS.—
33 34 35 36 37 38 39	"(A) IN GENERAL.—In a case in which a project is anticipated to require extraordinary operation and maintenance work during the 10-year period beginning on January 1, 2023, the Secretary, in consultation with any transferred works operating entity and any project beneficiaries, may develop and carry out a proposal to modify project features to increase public benefits and other project benefits, including carrying out a feasibility study and conducting any applicable environmental analysis required for the proposal, subject to subparagraphs (B) through (F).
40 41	"(B) MAXIMUM COST.—The maximum amount that may be added to the original project cost as a result of a project modification under subparagraph (A) shall not

1	exceed—
2	"(i) an amount equal to 25 percent of the original cost of the project, in the case of a project for which the original cost of the project exceeds \$100,000,000; or
4 5	"(ii) \$25,000,000, in the case of a project for which the original cost of the project is not more than \$100,000,000.
6 7 8	"(C) PUBLIC BENEFITS.—In the case of a project modification under subparagraph (A), not less than 50 percent of the new benefits provided by the modification of the project shall be public benefits.
9 10 11	"(D) WRITTEN CONSENT REQUIRED.—A project modification under subparagraph (A) shall not be constructed until the date on which the Secretary has obtained the written consent of—
12	"(i) the transferred works operating entity, if applicable; and
13 14	"(ii) consistent with paragraph (3), any project beneficiary that would experience an adverse impact as a result of the modification of the project.
15 16 17 18	"(E) ADVERSE IMPACT.—Any benefits that accrue to a new project beneficiary resulting from operations of the modified project shall not be increased without the consent of existing project beneficiaries that would experience an adverse impact as a result of the modification of the project.
19 20 21 22 23 24	"(F) REIMBURSEMENT OF COSTS.—The costs of planning, design, and environmental compliance for a project modification under subparagraph (A) shall be reimbursed in accordance with subsection (b), except that any of the costs that would otherwise be allocated to a project beneficiary shall be considered nonreimbursable if the project beneficiary does not receive any increase in long-term average annual water deliveries as a result of the modification.
25	"(3) PROCEDURE FOR OBTAINING CONSENT AND TIME LIMITATION.—
26 27 28 29	"(A) INITIAL DETERMINATION.—The Secretary shall initially determine whether the consent of a project beneficiary is required prior to construction under paragraph (2)(D) based on whether the modification or subsequent operations of the modified project would have any adverse impacts on a project beneficiary.
30 31	"(B) WRITTEN REQUEST FOR CONSENT.—The Secretary shall provide to the transferred works operating entity, if any, and any project beneficiaries, in writing—
32 33	"(i) a description of the proposed modification and subsequent operations of the project; and
34	"(ii)(I) a request for consent under paragraph (2)(D); or
35 36	"(II)(aa) an explanation that the Secretary has determined that no consent is required under paragraph (2)(D); and
37 38 39 40	"(bb) a statement that if the project beneficiary believes that the consent of the project beneficiary is required, the project beneficiary shall send to the Secretary a reply not later than 30 days after the date of receipt of the notice that includes an explanation of the reasons that the project beneficiary would experience adverse

1	impacts as a result of the project modification.
2	"(C) FINAL DETERMINATION.—
3 4 5 6	"(i) WRITTEN RESPONSE.—The Secretary shall respond in writing to any reply from a project beneficiary under subparagraph (B)(ii)(II)(bb) stating whether or not the Secretary determines that the project beneficiary would experience adverse impacts as a result of the project modification.
7 8 9	"(ii) FINAL AGENCY ACTION.—A written determination by the Secretary under clause (i) shall be considered to be a final agency action for purposes of section 704 of title 5, United States Code.
10 11 12 13	"(iii) WRITTEN REQUEST.—If the Secretary determines under clause (i) that the project beneficiary would experience adverse impacts as a result of the project modification, the Secretary shall send to the project beneficiary a written request for consent in accordance with subparagraph (B)(ii).
14	"(D) TIME PERIOD FOR CONSENT.—
15 16 17 18 19 20	"(i) IN GENERAL.—If written consent required under paragraph (2)(D) is not obtained by the date that is 1 year after the date on which written consent is requested under subparagraph (B)(ii), the Secretary or the transferred works operating entity, as applicable, shall proceed with extraordinary operation and maintenance work of the project without the modification, unless the Secretary extends the time for consent under clause (ii).
21 22	"(ii) EXTENSION.—At the discretion of the Secretary, the Secretary may elect to extend the time for obtaining consent under paragraph (2)(D) by 1 year.
23 24 25 26	"(4) REALLOCATION OF COSTS BASED ON PROJECT CHANGES AND INCREASED PUBLIC BENEFITS.—The Secretary shall allocate costs, including capital repayment costs and operation and maintenance costs, for a project modification under paragraph (2), to provide that—
27 28	"(A) the public benefits provided by the modified project, including associated annual operation and maintenance costs, shall be nonreimbursable; and
29 30	"(B) the cost allocation of reimbursable costs to each project beneficiary reflects any changes in the benefits that the modified project is providing to the project beneficiary.
31 32 33 34 35 36	"(5) INCENTIVE FOR BENEFITTING ENTITIES TO PARTICIPATE IN PROJECTS WITH INCREASED PUBLIC BENEFITS.—The total amount of reimbursable capital costs, as determined under paragraph (4), for a project modification that would increase public benefits without increasing municipal, industrial, or irrigation benefits of a project, shall be reduced by 15 percent, with each project beneficiary to be responsible for 85 percent of the reimbursable costs that would otherwise be allocated to the project beneficiary.
37 38	"(6) REIMBURSABLE FUNDS.—All reimbursable costs under this subsection shall be repaid in accordance with subsection (b).".
39	SEC. 109. USE OF REVENUE TO IMPROVE DROUGHT
40	RESILIENCE.

1	(a) Definitions.—In this section:
2	(1) DROUGHT RESILIENCE INVESTMENT.—The term "drought resilience investment" means—
4 5	(A) an improvement or addition to an eligible facility that will increase drought resilience in a Reclamation State;
6 7	(B) annual payments on any repayment obligations incurred under the Bureau of Reclamation Safety of Dams Program; or
8 9	(C) annual payments on repayment obligations incurred under section 9603 of the Omnibus Public Land Management Act of 2009 (43 U.S.C. 510b).
10	(2) ELIGIBLE FACILITY.—The term "eligible facility" means—
11	(A) a project or facility owned by the Bureau of Reclamation; and
12 13	(B) a non-Federal facility that stores, transports, or delivers water to or from a Bureau of Reclamation project or facility.
14 15 16 17	(3) ELIGIBLE TEMPORARY TRANSFER.—The term "eligible temporary transfer" means the temporary and voluntary selling, leasing, or exchanging of water or water rights among individuals or agencies that is allowable under the reclamation laws and the water law of the applicable State.
18 19 20	(4) TRANSFEROR.—The term "transferor" means the holder of a water service, transferred works, or other contract that entitles the holder to water from a Bureau of Reclamation project or facility that undertakes an eligible temporary transfer.
21	(b) Use of Revenue for Drought Resilience Investment.—
22 23 24 25 26 27	(1) IN GENERAL.—Notwithstanding the Act of February 25, 1920 (41 Stat. 451, chapter 86; 43 U.S.C. 521), or subsection J of section 4 of the Act of December 5, 1924 (43 Stat. 703, chapter 4; 43 U.S.C. 526), all amounts derived from an eligible temporary transfer that would otherwise be deposited in the reclamation fund established by the first section of the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 391), shall remain available to the transferor.
28	(2) USE OF FUNDS.—Any funds retained by a transferor under paragraph (1) may be—
29	(A) used for a drought resilience investment; or
30 31	(B) placed in the reserve account of the transferor, to be used for future drought resilience investments.
32 33	(3) REPORTING.—The transferor shall report to the Commissioner of Reclamation on the use of any uses of funds derived from an eligible temporary transfer.
34	(4) Effect of section.—
35	(A) IN GENERAL.—Nothing in this section—
36 37	(i) affects any other authority of the Secretary to use amounts derived from revenues from a Bureau of Reclamation project; or
38	(ii) creates, impairs, alters, or supersedes a State water right.

1 2	(B) APPLICABLE LAW.—Any eligible temporary transfer shall comply with all applicable—
3	(i) State water laws;
4	(ii) Federal laws and policies; and
5	(iii) interstate water compacts.
6	(c) Reclamation Laws.—This section supplements and amends the Act of June 17, 1902 (32
7 8	Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.).
9	TITLE II—IMPROVED TECHNOLOGY AND DATA
10	SEC. 201. REAUTHORIZATION OF THE
11	TRANSBOUNDARY AQUIFER ASSESSMENT PROGRAM.
12 13 14 15 16 17	(a) Designation of Priority Transboundary Aquifers.—Section 4(c)(2) of the United States-Mexico Transboundary Aquifer Assessment Act (42 U.S.C. 1962 note; Public Law 109–448) is amended by striking "New Mexico or Texas" and inserting "New Mexico, Texas, or Arizona (other than an aquifer underlying Arizona and Sonora, Mexico, that is partially within the Yuma groundwater basin designated by the order of the Director of the Arizona Department of Water Resources dated June 21, 1984)".
18	(b) Reauthorization.—
19 20 21 22	(1) AUTHORIZATION OF APPROPRIATIONS.—Section 8(a) of the United States-Mexico Transboundary Aquifer Assessment Act (42 U.S.C. 1962 note; Public Law 109–448) is amended by striking "\$50,000,000 for the period of fiscal years 2007 through 2016" and inserting "\$50,000,000 for the period of fiscal years 2023 through 2027".
23 24 25 26	(2) SUNSET OF AUTHORITY.—Section 9 of the United States-Mexico Transboundary Aquifer Assessment Act (42 U.S.C. 1962 note; Public Law 109–448) is amended by striking "enactment of this Act" and inserting "enactment of the Support To Rehydrate the Environment, Agriculture, and Municipalities Act".
27	TITLE III—ECOSYSTEM RESTORATION AND
28	PROTECTION
29	SEC. 301. ECOSYSTEM RESTORATION.
30 31	(a) Definitions.—Section 40907 of the Infrastructure Investment and Jobs Act (Public Law 117–58) is amended by striking subsection (a) and inserting the following:
32	"(a) Definitions.—In this section:
33 34	"(1) COMMITTEE.—The term 'Committee' means the Integrated Water Management Federal Leadership Committee established under subsection (e)(1).
35	"(2) ELIGIBLE APPLICANT.—The term 'eligible applicant' means—
36	"(A) a State;

1	"(B) a Tribal or local government;
2	"(C) an organization with power or water delivery authority;
3	"(D) a regional authority; or
4	"(E) a nonprofit conservation organization.
5	"(3) PROJECT.—The term 'project' includes—
6	"(A) planning, design, permitting, and preconstruction activities;
7 8	"(B) construction, construction management, replacement, and other similar activities;
9 10	"(C) management activities, including the acquisition of an interest in land or water, including the acquisition of a conservation easement;
l1 l2	"(D) research, development, demonstration (including the demonstration of the scalability of a project or activity), and monitoring; and
13 14	"(E) project administration activities, including the payment of fees associated with implementing the project or activity.".
15 16	(b) Requirements.—Section 40907(c)(1) of the Infrastructure Investment and Jobs Act (Public Law 117–58) is amended by striking subparagraph (B) and inserting the following:
17 18 19 20 21	"(B) may not provide a grant to carry out a habitat restoration project the purpose of which is to meet existing environmental mitigation or compliance obligations that are express requirements of a permit or order issued under Federal or State law, unless such requirements expressly contemplate reliance on Federal funding in performance of the requirements."; and
22 23	(c) Committee.—Section 40907 of the Infrastructure Investment and Jobs Act (Public Law 117–58) is amended by adding at the end the following:
24 25	"(e) Integrated Water Management Federal Leadership Committee for Assisting Projects at the Request of a Sponsor.—
26 27 28 29	"(1) ESTABLISHMENT.—Not later than 180 days after the date on which an eligible entity or qualified partner sponsoring a habitat restoration project that receives a grant under this section submits to the Secretary a request for the establishment of the Integrated Water Management Federal Leadership Committee, the Secretary shall establish the Integrated Water Management Federal Leadership Committee.
31 32	"(2) CHAIRPERSON.—The Assistant Secretary for Water and Science of the Department of the Interior shall—
33	"(A) serve as the chairperson of the Committee; and
34 35	"(B) coordinate the activities of, and communication among, members of the Committee.
36 37	"(3) MEMBERSHIP.—The Committee shall include representatives of Federal agencies with responsibility for water and natural resource issues, including representatives of—
38	"(A) the Bureau of Reclamation;

1	"(B) the United States Fish and Wildlife Service;
2	"(C) the National Marine Fisheries Service;
3	"(D) the Corps of Engineers;
4	"(E) the Environmental Protection Agency; and
5	"(F) the Department of Agriculture.
6 7	"(4) DUTIES AND RESPONSIBILITIES.—The members of the Committee shall establish the duties and responsibilities of the Committee, including—
8 9 10	"(A) facilitating communication and collaboration among Federal agencies to support and advance any projects for which an eligible entity or qualified partner requests the assistance of the Committee;
11 12 13	"(B) ensuring the effective coordination among relevant Federal agencies and departments to ensure accelerated implementation of any projects for which an eligible entity or qualified partner requests the assistance of the Committee; and
14 15	"(C) making policy and budgetary recommendations, if determined to be appropriate by the Committee, to support the implementation of projects.
16 17 18	"(5) PROJECT ASSISTANCE.—On request of an eligible entity or a qualified partner for a habitat restoration project, the Committee shall assist that project with permit processing and interagency coordination.
19 20 21	"(f) Authorization of Appropriations.—In addition to amounts made available under section 40901(11), there is authorized to be appropriated to the Secretary \$250,000,000 to carry out this section for the period of fiscal years 2023 through 2027, of which—
22 23	"(1) \$100,000,000 shall be made available to issue grants and enter into contracts, and agreements to carry out this section; and
24 25	"(2) \$150,000,000 shall be made available for the competitive grant program described in subsection (b).
26	"(g) Applicable Law.—Nothing in this section affects or modifies—
27	"(1) the obligations of the Secretary under—
28	"(A) the reclamation laws; or
29	"(B) Federal environmental laws, including—
30 31	"(i) the Central Valley Project Improvement Act (title XXXIV of Public Law 102–575; 106 Stat. 4706); and
32	"(ii) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); or
33 34	"(2) the obligations of a non-Federal party to comply with applicable Federal and State laws.".
35	SEC. 302. PERFORMANCE-BASED RESTORATION
36	AUTHORITY.

1	(a) Definitions.—In this section:
2 3 4	(1) ELIGIBLE PROJECT.—The term "eligible project" means a habitat or ecosystem restoration, mitigation, or enhancement project or activity authorized individually or through an existing Federal program.
5 6 7 8	(2) ELIGIBLE RESTORATION PROVIDER.—The term "eligible restoration provider" means a non-Federal for-profit or nonprofit organization, company, or corporation, or a State, Tribal, or local government, that is bonded, insured, and experienced in financing and completing successful habitat and restoration, mitigation, and enhancement activities.
9 10 11 12 13 14 15	(3) PERFORMANCE-BASED.—The term "performance-based" means, with respect to a contract, grant agreement, cooperative agreement, or fixed amount award, a pay-for-performance, pay-for-success, pay-for-results, or similar model by which the restoration provider agrees to finance and complete habitat or ecosystem restoration, mitigation, or enhancement activities, with payment to the restoration provider linked to delivery of verifiable and successful ecological performance, based on metrics and the timeframe established in advance by the Secretary.
16 17 18	(4) RESTORATION PROVIDER.—The term "restoration provider" means a non-Federal organization that performs restoration services contracted for, agreed to, or awarded under a contract or agreement entered into under subsection (b)(1).
19	(b) Authorization.—
20 21 22 23 24 25	(1) IN GENERAL.—Subject to subsection (j), in implementing existing authorities under Federal law related to habitat and ecosystem restoration, mitigation, or enhancement, the Secretary may enter into performance-based contracts, grant agreements, and cooperative agreements, including providing funding through fixed amount awards, with eligible restoration providers for the conduct of eligible projects for which ecological targets and outcomes are—
26	(A) clearly defined;
27	(B) agreed to in advance; and
28	(C) capable of being successfully achieved.
29 30 31 32	(2) PERFORMANCE-BASED CONTRACTS.—For purposes of paragraph (1), the Secretary may enter into performance-based contracts with eligible restoration providers experienced in financing and completing successful ecological habitat and restoration, mitigation, and enhancement activities.
33	(3) GRANTS AND AWARDS.—For purposes of paragraph (1), the Secretary—
34 35	(A) may provide funding through grant agreements and cooperative agreements, including fixed amount awards, for eligible projects; and
36 37	(B) shall allow for the use of performance-based tools in the agreements and awards described in subparagraph (A).
38 39	(4) PASS-THROUGH GRANTS AND AWARDS.—For purposes of paragraph (1), the Secretary—

(A) may allow funding provided to States, local governments, Indian Tribes, and

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1 2	nonprofit organizations to be passed through to third-party eligible restoration providers under a contract or agreement entered into under that paragraph; and
3 4	(B) shall allow for the use of performance-based tools in grant and cooperative agreements entered into with eligible restoration providers under that paragraph.
5 6 7 8	(5) MULTI-YEAR AGREEMENTS.—The Secretary may use performance-based contracts, grant agreements, and cooperative agreements, including fixed amount awards, issued under this section for multi-year agreements, including capacity for multi-year payment schedules for professional services, subject to appropriations prior to obligation.
9	(c) Guidelines.—
10 11 12 13	(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall develop programmatic guidelines for the use of performance-based contracts, grant agreements, and cooperative agreements for eligible projects authorized under subsection (b)(1).
14	(2) Consultation required.—
15 16 17 18	(A) IN GENERAL.—In developing the guidelines under paragraph (1), the Secretary shall consult with external organizations and other appropriate entities with experience in performance-based contracts, agreements, or awards, consistent with sections 6302 through 6305 of title 31, United States Code.
19 20 21	(B) LIMITATION.—Consultation with the organizations and entities described in subparagraph (A) shall not constitute or necessitate establishment of an advisory committee under the Federal Advisory Committee Act (5 U.S.C. App.).
22 23	(3) REQUIREMENTS.—At a minimum, guidelines developed under paragraph (1) shall include guidance on—
24	(A) appropriate proposal and evaluation criteria for eligible projects;
25	(B) eligibility criteria for restoration providers;
26	(C) criteria for defining achievable ecological outcomes; and
27 28	(D) determination of restoration provider financial assurances sufficient to ensure ecological outcomes will be successfully achieved.
29	(d) Identification of Eligible Projects.—The Secretary shall—
30 31	(1) identify eligible projects for the use of contracts and agreements under subsection (b)(1); and
32 33 34	(2) issue a request for proposals from eligible restoration providers to meet the ecological requirements of habitat and ecosystem restoration, mitigation, and enhancement for the eligible projects identified under paragraph (1).
35 36 37 38	(e) Certification.—After the date on which an eligible project identified under subsection (d)(1) is completed, the Secretary shall certify that the work on the eligible project was completed in accordance with the ecological requirements and outcomes defined in advance in the applicable contract or agreement.
39	(f) Technical Assistance.—At the request of an eligible restoration provider entering into a

1 2	contract or agreement with the Secretary under subsection (b)(1), the Secretary may provide to the eligible restoration provider technical assistance with respect to—
3 4	(1) conducting a study, engineering activity, or design activity related to an eligible project carried out by the eligible restoration provider under this section; and
5	(2) obtaining permits necessary for the eligible project.
6	(g) Effect.—Nothing in this section authorizes the Secretary to waive—
7	(1) the obligations of the Secretary under—
8	(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);
9	(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);
10	(C) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); or
11	(D) any other provision of Federal environmental law; or
12 13	(2) the obligations of a non-Federal party to comply with applicable Federal and State laws.
14 15 16	(h) Non-Federal Funding.—The restoration provider may finance the applicable non-Federal share of an eligible project carried out under the authority provided under subsection (b)(1), on the condition that the non-Federal cost-share responsibility remains with the non-Federal party.
17 18 19	(i) Cost Share.—Nothing in this section affects a cost-sharing requirement under Federal law that is applicable to an eligible project carried out under the authority provided under subsection (b)(1).
20 21 22 23	(j) Mitigation.—Nothing in this section authorizes Federal funding to meet existing environmental mitigation or compliance obligations that are express requirements of a permit or order issued under Federal or State law, unless the requirements expressly contemplate reliance on Federal funding for the performance of the requirements.
24	(k) Report.—
25 26	(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary shall—
27 28 29 30 31	(A) submit to the authorizing committees of Congress and make publicly available a report describing the results of activities carried out under the authority established under subsection (b)(1), including any recommendations of the Secretary on whether the authority or any component of the authorized activities should be implemented on a national basis; and
32 33 34 35	(B) except as provided in subsection (g), identify any procedural requirements that impede the use of performance-based contracts, grants, and cooperative agreements, including fixed amount awards, for the development and completion of eligible projects.
36 37 38 39	(2) ADDRESSING IMPEDIMENTS.—Not later than 1 year after the date on which the Secretary identifies impediments, if any, under paragraph (1)(B), the Secretary shall develop and implement programmatic procedures and approaches, including recommendations to the authorizing committees of Congress on legislation, that would—

1	(A) to the extent practicable, address the impediments; and
2	(B) protect the public interest and any public investment in eligible projects carried out under this section.
4	TITLE IV—MISCELLANEOUS
5	SEC. 401. MODIFICATIONS TO DROUGHT PROGRAM
6	UNDER THE RECLAMATION STATES EMERGENCY
7	DROUGHT RELIEF ACT OF 1991.
8 9	(a) Assistance During Drought; Water Purchases.—Section 101 of the Reclamation States Emergency Drought Relief Act of 1991 (43 U.S.C. 2211) is amended—
10	(1) in subsection (a)—
11	(A) in the first sentence, by striking "Consistent" and inserting the following:
12	"(1) IN GENERAL.—Subject to paragraph (2) and consistent";
13 14	(B) in paragraph (1) (as so designated), in the second sentence, by striking "Any construction activities" and inserting the following:
15	"(2) LIMITATION.—Any construction activities"; and
16 17 18	(C) in paragraph (2) (as so designated), by striking "except that" and all that follows through the period at the end and inserting the following: "except that the following may be permanent facilities:
19	"(A) A construction project—
20	"(i) for which Federal expenditures are not more than \$30,000,000; and
21	"(ii) that is supported by—
22	"(I) the Governor or the relevant agency head of the affected State; or
23 24	"(II) if the construction project is on a reservation, by the affected Indian Tribe.
25	"(B) A well drilled to minimize losses and damages from drought conditions."; and
26	(2) by adding at the end the following:
27	"(e) Funding for Fee-based Environmental Programs.—
28 29 30 31 32 33 34	"(1) IN GENERAL.—For any fiscal year for which, due to a drought, as determined by the Secretary, there are insufficient funds to carry out any environmental program that is funded in whole or in part by fees based on the water volume of water delivered by a Federal reclamation project (including fees collected under section 3407(c) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4726)), the Secretary may use other unobligated amounts made available to the Secretary to carry out the environmental program for the fiscal year.
35 36	"(2) NONREIMBURSABLE FUNDS.—Notwithstanding any other provision of law, amounts made available under paragraph (1) shall be nonreimbursable.

1	"(3) EFFECT.—Nothing in this subsection affects—
2 3	"(A) the authority of the Secretary to address insufficient funding for an environmental program described in paragraph (1) that is not a result of a drought; or
4	"(B) the obligations of the Secretary to the environment under Federal law.".
5 6	(b) Applicable Period of Drought Program.—Section 104 of the Reclamation States Emergency Drought Relief Act of 1991 (43 U.S.C. 2214) is amended—
7	(1) by striking subsection (a) and inserting the following:
8 9	"(a) In General.—The programs and authorities established under this title shall not become operative in any Reclamation State or in the State of Hawaii until the date on which—
10 11 12	"(1)(A) the Governor of the affected State, and the governing body of the affected Indian Tribe with respect to a reservation, has made a request for temporary drought assistance; and
13	"(B) the Secretary has determined that the temporary assistance is merited;
14 15	"(2) a drought emergency has been declared for a State or portion of a State by the Governor of each affected State; or
16	"(3) a drought contingency plan is approved in accordance with title II."; and
17	(2) in subsection (c), by striking "2021" and inserting "2031".
18	SEC. 402. CLARIFICATION OF AUTHORITY TO USE
19	CORONAVIRUS FISCAL RECOVERY FUNDS TO MEET A
20	NON-FEDERAL MATCHING REQUIREMENT FOR
21	AUTHORIZED WATER PROJECTS.
22 23 24	(a) Coronavirus State Fiscal Recovery Fund.—Paragraph (4) of section 602(c) of the Social Security Act (42 U.S.C. 802(c)) (as added by section 40909(a) of the Infrastructure Investment and Jobs Act (Public Law 117–58)) is amended—
25	(1) in the paragraph heading, by striking "BUREAU OF RECLAMATION"; and
26 27	(2) by striking "an authorized Bureau of Reclamation project" and inserting "a project undertaken or funded by the Bureau of Reclamation pursuant to an Act of Congress".
28 29 30 31 32	(b) Coronavirus Local Fiscal Recovery Fund.—Paragraph (5) of section 603(c) of the Social Security Act (42 U.S.C. 803(c)) (as added by section 40909(b) of the Infrastructure Investment and Jobs Act (Public Law 117–58)) is amended by striking "an authorized Bureau of Reclamation project" and inserting "a project undertaken or funded by the Bureau of Reclamation pursuant to an Act of Congress".
33	SEC. 403. ENVIRONMENTAL COMPLIANCE.
34 35 36 37	No water recycling project, Federal project, non-Federal storage project, eligible desalination project, project eligible for a loan under the pilot program under section 106, or a project eligible for a grant under section 107 or 108 shall receive Federal funding under this Act unless the applicable project complies with—

- 1 (1) applicable Federal environmental laws; and
- 2 (2) applicable State environmental laws.

3 SEC. 404. EFFECT.

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6 7 Nothing in this Act or an amendment made by this Act shall be interpreted or implemented in a manner that interferes with any obligation of a State under the Rio Grande Compact approved by Congress under the Act of May 31, 1939 (53 Stat. 785, chapter 155), or any litigation relating to the Rio Grande Compact.



To:	MWDOC				
From:	From: Syrus Devers, Best & Krieger				
Date:	April 6th, 2022				
Re:	State Legislative Report				

Governor Newsom's Executive Order: Although this Board will have been briefed on the March 28th order by the time this report is received, it is worth noting that previous advocacy efforts appear to have been successful, at least so far. The declaration mentioned more than once that water agencies have adopted drought contingency plans and called on them to implement those plans if they've not already done so. The governor also mentioned in his press release that lessons from previous droughts show that it is important to have local leaders adopt measures appropriate to their circumstances. Obviously the Governor can change course whenever he chooses, but the initial steps appear to validate the painful decisions made in 2018 to adopt objective water budgets and drought contingency planning.

Turning to legislation, the first priority bills are being set for a hearing in policy committees and some "watch" bills have already begun to move. AB 2387 (E. Garcia) is a possible water bond and is a "watch" at this time. This bill will become a priority if it advances to the Senate and gets a hearing date. It is still unclear if there is an appetite for a bond on the ballot in the face of the state and federal funds being spent at this time. SB 1157 (Hertzberg) on indoor water use standards is set for April 5th in Senate Natural Resources and Water. (This report was prepared on March 31st.) This bill has been reported on previously and no amendments have been adopted since the bill appeared in print in February.

Monday, March 29th, was a significant day for water policy announcements. Besides the Governor's Executive Order, state and federal agencies also announced a Memorandum of Understanding (MOU) on the Delta Voluntary Agreements. Although quickly criticized by environmental advocacy groups, and noting the challenging regulatory process yet to come, the MOU includes the Westlands Water District and the Metropolitan Water District, so the significance attributed to the MOU may be justified. At almost the same time, a short-term agreement was announced on the Sacramento river by state and federal agencies and water contractors. All of this potentially good news, however, was overshadowed by the SWRCB cutting deliveries on the State Water Project (SWP) to 5% two weeks prior. Some water districts that are dependent on the SWP are facing minimum deliveries for health and safety for the first time, which brings up the issue of rules for what uses are allowed for water that is strictly for health and safety. If a public water system is receiving water for health and safety reasons that otherwise could not be made available under environmental regulations, must it ban all outdoor watering? There are, no doubt, rules somewhere but few have ever cared to look them up until now.

ACKERMAN CONSULTING

Legal and Regulatory

April 6, 2022

- 1. Erin Brockovich Standards: We all remember the movie regarding hexavalent chromium (chromium 6) which released in 2000. The State is ready to set standards for this compound in drinking water. The proposed standard is 10 parts per billion. If the standard is established, California will be the first state in the nation to do so. The highest levels have been reported in the Counties of Los Angeles, Ventura, Yolo, Merced and Riverside. While the compound has been proven to be cancer causing, there continues to exist a real debate over how much concentration is required and over what time. In California, 85% of our wells have been tested and 331 public wells exceed the suggested limit. While the current proposal is a draft, we expect action to be taken by early 2024. It should also be noted that chromium 6 does occur naturally in addition to industrial contamination. A bigger issue is the cost to remove the compound to the desired level. Smaller systems, which have the larger problems, estimate costs of \$40 to \$160 per month increases to fix it. Even larger systems, depending on the size of the problem would see increases from \$1 to \$45 per month. These numbers are significant.
- 2. **LA Stormwater:** The County of Los Angeles passed Measure W in 2018 to raise money for storm water collection and use. Thus far, \$556 million has been collected but only \$95 million has been spent, truly a drop in the bucket. Very little benefit has been seen. County officials say it could take 50 years to complete then necessary work. To date the money has been spent on feasibility studies and project evaluations. Measure W splits the proceeds between County use (60%) and 88 cities (40%). Critics are admonishing the County to get moving but the review system and the bureaucracy seems to be slowing things down. The article does commend Orange County for having and implementing on overall plan for water use.
- 3. La Nina: While this is our second year of La Nina conditions, the results vary depending on where you are on the globe. This year while southern Africa and California are in drought conditions, Australia (which had a horrific drought a few years ago) got 31 inches of rain in 6 days. While La Nina is a natural condition, the argument continues over how much influence climate change has. The Pacific Ocean has experienced less hurricanes while the Atlantic Ocean has had more. Locally in California, La Nina is predicted to continue through May. This could produce wetter conditions in the Pacific Northwest and drier conditions in Southern California. Experts say we would need at least two atmospheric river events to finish the water year in the normal range. The central result of La Nina conditions is the degree of uncertainty it produces every time it occurs.
- 4. **World Lake Mapping:** NOAA and the National Science Foundation have completed a study of 1.4 million lakes and reservoirs throughout the world. Using artificial intelligence and existing data, their goal is to map topography of these bodies of water. Factors such as volume, temperature, evaporation, inflows and outflows

are directly impacted by the shape of the bottoms of these lakes and reservoirs. This information can be used by water managers in making real time decisions and planning for the future. All this information will be available to the public. There are over 100 million lakes and reservoirs worldwide. The initial work chose the 1.4 million of the most important ones. Also, significant information already existed regarding shoreline measurements, volume, watershed, elevation, surface area and other.

- 5. **Nanorobots Clean Water:** The University of Chemistry and Technology, Prague has used nanorobots to clean contaminated water. These robots consist of polymer material and iron oxide which are responsive to temperature change. The robots are magnetic which allow them to attach to the large pollutants, in this case arsenic. The robots are placed in the contaminated water at a low temperature, the water then heated which causes the arsenic to attach to the robots. Then, they are removed and the water cooled causing the arsenic to fall off. Then repeat. The nanorobots are reusable and very efficient. The nanorobots can be designed to attack various types of materials depending on the need.
- 6. **Hydrogels Produce Water:** Various methods are being developed for extracting water from the air. The University of Texas is looking at a hydrogel which contains hygroscopic salt. Prior efforts with this technology have been not effective. Texas has been able to tweak the process by matching the right salt with the right hydrogel. The hydrogels have great capacity for absorbing water. Their tests were with 30% humidity and have been quite successful. The system will be particularly useful in arid and drought areas.
- 7. **Taking Rivers Pulse:** Duke University (they also play basketball) has been taking the pulse of rivers in the US in a current study. Their study included over 200 rivers in the US and looked at how land development and climate change impacts "life" in the river. Their study was year- round and continuous (every five minutes) and included recording oxygen, carbon dioxide, light, leaves, bugs, floods, droughts and seasons. This study is designed to help water planners and growth planners deal with the interactions of nature and man.
- 8. **Biofuel Recovery:** A shared goal of energy and water experts is to find a better way of turning wastewater into useful fuel. Researchers at the Department of Energy's Pacific Northwest National Laboratory have developed a process (with patent pending) which would be self- sustaining, clean the water and generate hydrogen as a byproduct. The system is called electrocatalytic oxidation fuel recovery. It converts waste carbon into useful chemicals and produces hydrogen at the same time. They have discovered a catalyst and renewable elements to enhance a natural process. They believe this will solve past problems with high energy costs, overall economic feasibility and environmental sustainability.
- 9. **Solar Panels and SGMA:** The Public Policy Institute of California (PPIC) recently did an article on how the Central Valley could deal with the Sustainable Groundwater Management Act (SGMA). Many experts conclude that in order to meet SGMA requirements, the San Joaquin Valley would have to fallow about 500,000 acres (10%) of its active farmland. California also passed SB 100 which requires 100% clean energy by 2045. While this requirement is being challenged by many as unrealistic and non- achievable, it is still present. PPIC researchers have suggested using solar farms as a potential use for the land that may be fallowed. That would provide income to the farmers but would not solve other issues with reduction of the agricultural

- business in the Valley. They also pointed out that transmission is still a roadblock to some solar projects. Our electricity grid in California is not presently set up to handle the construction of solar farms all over the state.
- 10. **Spinach in the Desert:** Saudi Arabia is currently using hydrogel technology (discussed in Paragraph 6 above) to produce water and electricity. King Abdulla University developed a system called WEC2P. This big metal box has a solar panel on top of a hydrogel layer. The box produces water. Heat from the solar panels generates electricity which forces the water from the hydrogel. They produced enough water to start a small spinach garden. The black box produced 2 liters of water over a two- week period. Small but a start. (Note: The University of Texas model produced 6 liters in 24 hours with an improved hydrogel.)

MWDOC

Bill Matrix

Prepared by Best Best & Krieger, April 6th, 2022

A. Priority Support/Oppose

Measure	Author	Topic	Status	Brief Summary	Position	Priority	Notes 1
B 1845	Calderon D	Metropolitan Water District of Southern California: alternative project delivery methods.	3/28/2022-R e-referred to Com. on W.,P., & W.	Would authorize the Metropolitan Water District of Southern California to use the design-build procurement process for certain regional recycled water projects or other water infrastructure projects. The bill would define "design-build" to mean a project delivery process in which both the design and construction of a project are procured from a single entity. The bill would require the district to use a specified design-build procedure to assign contracts for the design and construction of a project, as defined.	Support	A. Priority Support/ Oppose	Support adopted on March 2nd
AB 1944	Lee D	Local government: open and public meetings.	2/18/2022-R eferred to Com. on L. GOV.	Current 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. Current law, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with those specified teleconferencing requirements in specified circumstances when a declared state of emergency is in effect, or in other situations related to public health. This bill would specify that if a member of a legislative body elects to teleconference from a location that is not public, the address does not need to be identified in the notice and agenda or be accessible to the public when the legislative body has elected to allow members to participate via teleconferencing.	Out for Analysis	A. Priority Support/ Oppose	
AB 2142	Gabriel D	Income taxes: exclusion: turf replacement water conservation program.	3/22/2022-In committee: Hearing for testimony only.	The Personal Income Tax Law and the Corporation Tax Law, in conformity with federal income tax law, generally defines "gross income" as income from whatever source derived, except as specifically excluded, and provides various exclusions from gross income. Current law provides an exclusion from gross income for any amount received as a rebate or voucher from a local water or energy agency or supplier for the purchase or installation		A. Priority Support/ Oppose	Support adopted on March 2nd

				of a water conservation water closet, energy efficient clothes washers, and plumbing devices, as specified. This bill would, for taxable years beginning on or after January 1, 2022, and before January 1, 2027, under both of these laws, provide an exclusion from gross income for any amount received as a rebate, voucher, or other financial incentive issued by a local water agency or supplier for participation in a turf replacement water conservation program.			
AB 2157	Rubio, Blanca D	Urban water use objectives: indoor residential water use.	2/15/2022-Fr om printer. May be heard in committee March 18.		Watch	A. Priority Support/ Oppose	Spot bill, but still a priority.
AB 2278	Kalra D	Natural resources: biodiversity and conservation report.	3/28/2022-R e-referred to Com. on NAT. RES.	Under current law, by Executive Order No. N-82-20, Governor Gavin Newsom directed the Natural Resources Agency to combat the biodiversity and climate crisis by, among other things, establishing the California Biodiversity Collaborative and conserving at least 30% of the state's lands and coastal waters by 2030. This bill would require the Secretary of the Natural Resources Agency to prepare and submit, beginning on or before January 1, 2024, an annual report to the Legislature on the progress toward achieving the directives of the executive order.	Watch	A. Priority Support/ Oppose	Possible return of AB 3030
AB 2387	Garcia, Eduardo D	Safe Drinking Water, Wildfire Prevention, Drought	3/22/2022-R e-referred to Com. on W.,P., & W.	Would enact the Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce	Watch	A. Priority Support/ Oppose	

		Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2022.		Development Bond Act of 2022, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$7,430,000,000 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.			
AB 2449	Rubio, Blanca D	Open meetings: local agencies: teleconferences.	3/3/2022-Ref erred to Com. on L. GOV.	Current law, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with specified teleconferencing requirements in specified circumstances when a declared state of emergency is in effect, or in other situations related to public health. This bill would authorize a local agency to use teleconferencing without complying with those specified teleconferencing requirements if at least a quorum of the members of the legislative body participates in person from a singular location clearly identified on the agenda that is open to the public and situated within the local agency's jurisdiction. The bill would impose prescribed requirements for this exception relating to notice, agendas, the means and manner of access, and procedures for disruptions. The bill would require the legislative body to implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with federal law.	Out for Analysis	A. Priority Support/ Oppose	On the agenda for April 6th.
AB 2451	Wood D	State Water Resources Control Board: drought planning.	3/3/2022-Ref erred to Com. on W.,P., & W.	Would require the State Water Resources Control Board to establish a Drought Section within the Division of Water Rights, as specified. The bill would require the state board, in consultation with the Department of Fish and Wildlife, to adopt principles and guidelines for diversion and use of water in coastal watersheds during times of water shortage for drought preparedness and climate resiliency and for the development of watershed-level contingency plans to support public trust uses, public health and safety, and the human right to water in times of water shortage. The bill would require the state board to adopt those principles and guidelines no later than March 31, 2023, as specified.	Watch	A. Priority Support/ Oppose	
<u>SB 45</u>	Portantino D	Short-lived climate pollutants: organic waste	1/24/2022-R ead third time. Passed.	Current law requires the Department of Resources Recycling and Recovery, in consultation with the State Air		A. Priority Support/ Page 90 of	Bond intended for the Nov. '22

		reduction goals: local jurisdiction assistance.	(Ayes 36. Noes 0.) Ordered to the Assembly. In Assembly. Read first time. Held at Desk.	than July 1, 2020, and in consultation with the state board, to analyze the		Oppose	ballot.
SB 230	Portantino D	State Water Resources Control Board: Constituents of Emerging Concern in Drinking Water Program.	Ordered to the Assembly. In Assembly. Read first	Would require the State Water Resources Control Board to establish, maintain, and direct a dedicated program called the Constituents of Emerging Concern in Drinking Water Program for 5 years 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 for 3 years to review and provide recommendations to the state board on CECs for further action, among other duties. The bill would require the state board to provide a final report to the Legislature by June 1, 2026, on the work conducted by the panel.	Support	A. Priority Support/ Oppose	Support position adopted April 7th.
SB 991	Newman D	Public contracts: progressive design-build: local agencies.	3/22/2022-Se t for hearing March 31. From committee with author's amendments. Read second time and amended. Re-referred to Com. on GOV. & F.	Would, until January 1, 2029, authorize local agencies, defined as any city, county, city and county, or special district authorized by law to provide for the production, storage, supply, treatment, or distribution of any water from any source, to use the progressive design-build process for public works projects in excess of \$5,000,000, similar to the progressive design-build process authorized for use by the Director of General Services. The bill would require a local agency that uses the progressive design-build process to submit, no later than January 1, 2028, to the appropriate policy and fiscal committees of the Legislature a report on the use of the progressive design-build process containing specified information, including a description of the projects awarded using the progressive	Out for Analysis	A. Priority Support/ Oppose	On the agenda for April 6th.

SB 1157	Hertzberg D	Urban water use objectives: indoor residential water use.	3/24/2022-Se t for hearing April 5.	Water Resources, in coordination with the State Water Resources Control Board, and including collaboration with and input from stakeholders, to conduct necessary studies and investigations and authorizes the department and the board to jointly recommend to the Legislature a standard for indoor residential water use. Current law, until January 1, 2025, establishes 55 gallons per capita daily as the standard for indoor residential water use. Existing law establishes, beginning January 1, 2025, the greater of 52.5 gallons per capita daily or a standard recommended by the department and the board as the standard for indoor residential water use, and beginning January 1, 2030, establishes the greater of 50 gallons per capita daily or a standard recommended by the department and the board as the standard for indoor residential water use. This bill would eliminate the option of using the greater of 52.5 gallons per capita daily, as applicable, or a standard recommended by the department and	Support	A. Priority Support/ Oppose	Support adopted on March 2nd
B. W	/atch			the board as the standard for indoor residential water use.			
	1	Tonio	Ctatus	Daiof Cummon:	Docition	Designation	Notes 1
Measure	Author	Topic	Status	Brief Summary	Position	Priority	Notes 1
AB 1001	Garcia, Cristina D	Environment: mitigation measures for air quality impacts: environmental justice.	3/22/2022-Fr om committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on RLS.	The California Environmental Quality Act (CEQA) requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. This bill would require mitigation measures, identified in an environmental impact report or mitigated negative declaration to mitigate the adverse effects of a project on air quality of a disadvantaged community, to include measures for avoiding, minimizing, or otherwise mitigating for the adverse effects on that community. The bill would require mitigation measures to include measures conducted at the project site that avoid or minimize to		B. Watch	

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				less than significant the adverse effects on the air quality of a disadvantaged		
				community or measures conducted in the affected disadvantaged community that directly mitigate those effects.		
AB 1774	Seyarto R	California Environmental Quality Act: water conveyance or storage projects: judicial review.	2/10/2022-R eferred to Coms. on NAT. RES. and JUD.	The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report (EIR) on a project that the lead agency proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA establishes a procedure by which a person may seek judicial review of the decision of the lead agency made pursuant to CEQA. This bill would require the Judicial Council to adopt rules of court applicable to actions or proceedings brought to attack, review, set aside, void, or annul the certification or adoption of an environmental impact report for water conveyance or storage projects, as defined, or the granting of project approvals, including any appeals to the court of appeal or the Supreme Court, to be resolved, to the extent feasible, within 270 days of the filing of the certified record of proceedings with the court to an action or proceedings with the	Watch	B. Watch
AB 1817	Ting D	Product safety: textile articles: perfluoroalkyl and polyfluoroalkyl substances (PFAS).	Ordered to	Would prohibit, beginning January 1, 2024, any person from distributing, selling, or offering for sale in the state any textile articles that contain regulated PFAS, and requires a manufacturer to use the least toxic alternative when removing regulated PFAS in textile articles to comply with these provisions.		B. Watch
AB 2108	Rivas, Robert D	Water policy: environmental justice: disadvantaged and tribal community representation.	om committee:	Current law establishes the State Water Resources Control Board (state board) in the California Environmental Protection Agency. The state board consists of 5 members appointed by the Governor, including one member who is not required to have specialized experience. Current law requires one of those members, excluding the		B. Watch

			(March 22).	member who is not required to have		
			Re-referred to Com. on W.,P., & W.	specialized experience, to additionally be qualified in the field of water supply and water quality relating to irrigated agriculture. This bill would require that one of the persons appointed by the Governor to the state board be qualified in the field of water supply and water quality relating to disadvantaged or tribal communities. The bill would also require that at least one person appointed to each regional board have specialized experience to represent disadvantaged or tribal communities.		
AB 2247	Bloom D	Perfluoroalkyl and polyfluoroalkyl substances (PFAS) and PFAS products and product components: publicly accessible reporting platform.	3/22/2022-R e-referred to Com. on E.S. & T.M.	Would require, as part of the hazardous waste control laws, the Department of Toxic Substances Control to work with the Interstate Chemicals Clearinghouse to establish, on or before January 1, 2024, a publicly accessible reporting platform to collect information about PFAS and products or product components containing regulated PFAS, as defined, being sold, offered for sale, distributed, or offered for promotional purposes in, or imported into, the state. The bill would require, on or before March 1, 2024, and annually thereafter, a manufacturer, as defined, of PFAS or a product or a product component containing regulated PFAS that is sold, offered for sale, distributed, or offered for promotional purposes in, or imported into, the state to register the PFAS or the product or product component containing regulated PFAS, and specified other information, on the publicly accessible reporting platform.	Watch	B. Watch
AB 2313	Bloom D	Water: judges and adjudications.	3/30/2022-R ead second time and amended.	Would require the Judicial Council, on or before January 1, 2025, to establish a program that provides training and education to judges in specified actions relating to water, as defined. The bill would provide that the program may be funded by an appropriation from the General Fund in the annual Budget Act or another statute, or by using existing funds for judicial training. The bill would authorize the Chairperson of the Judicial Council to assign to certain actions relating to water a judge with that training or education.		B. Watch
AB 2477	Rodriguez D	Emergency alert and warning service providers: minimum operating standards.	3/17/2022-R e-referred to Com. on E.M.	The California Emergency Services Act establishes the Office of Emergency Services (OES) in the office of the Governor and makes the OES responsible for the state's emergency and disaster response services, as specified. Current law, on or before July 1, 2022, requires the	Watch	B. Watch

AB 2605 Villapudua D Villapudua S AB 2605 Villapudua V Villapudua D Villapudua D Villapudua D Villapudua V Villapudua D Villapudua V Villapudua V Villapudua V Villapudua D Villapudua V V Villapudua V Villapudua V V V V V V V V V V	ty, the uly for and last grand la	B. Watch	
control plans and water rights e-referred to Com. on California regional water quality		Watch Page 95 o	

		permits.	W.,P., & W.	control boards as the principal state agencies with authority over matters relating to water quality. Current law requires the state board to formulate and adopt state policy for water quality control. Current law authorizes the state board to adopt water quality control plans for waters that require water quality standards pursuant to the Federal Water Pollution Control Act, and provides that those plans supersede any regional water quality control plans for the same waters to the extent of any conflict. This bill would require the state board, on or before December 31, 2023, to adopt a final update of the 1995 Water Quality Control Plan for the Bay-Delta, as specified, and to implement the amendments to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary adopted by the state board pursuant to Resolution No. 2018-0059 on December 12, 2018.		
AB 2740	Dahle, Megan R	Water resources: desalination.	3/17/2022-R eferred to Com. on W.,P., & W.	Current law requires the Department of Water Resources, not later than July 1, 2004, to report to the Legislature, on potential opportunities and impediments for using seawater and brackish water desalination, and to examine what role, if any, the state should play in furthering the use of desalination technology. Current law requires the department to convene a Water Desalination Task Force, comprised of representatives from listed agencies and interest groups, to advise the department in carrying out these duties and in making recommendations to the Legislature. This bill would repeal these provisions.	Watch	B. Watch
AB 2742	Friedman D	Water meters: urban water suppliers.	2/19/2022-Fr om printer. May be heard in committee March 21.	-	Watch	B. Watch
AB 2811	Bennett D	California Building Standards Commission: recycled water: nonpotable water	3/17/2022-R eferred to Com. on E.S. & T.M.	Would require, commencing January 1, 2024, all newly constructed nonresidential buildings be constructed with dual plumbing to allow the use of recycled water for all applicable nonpotable water demands, as defined,	Watch	B. Watch

		systems.		if that building is located within an existing or planned recycled water service area, as specified.		
AB 2857	Bauer-Kaha n D	Sustainable Groundwater Management Act: groundwater sustainability plans: domestic well impacts.	3/28/2022-R e-referred to Com. on W.,P., & W.	Management Act requires all groundwater basins designated as high- or medium-priority basins by the Department of Water Resources that are designated as basins subject to critical conditions of overdraft to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2020, and requires all other groundwater basins designated as high- or medium-priority basins to be managed under a groundwater sustainability plans by January 31, 2022, except as specified. The act prescribes that a groundwater sustainability plan contain certain information, including, where appropriate and in collaboration with the appropriate local agencies, control of saline water intrusion, wellhead protection areas and recharge areas, a well abandonment and well destruction program, well construction policies, and impacts on groundwater dependent ecosystems. This bill would additionally require that a groundwater sustainability plan include measures to mitigate adverse impacts on domestic wells, as defined, including, but not limited to, compensating an owner of a domestic well or a user of water from a domestic well for increased energy costs associated with deeper groundwater pumping and increased costs to households associated with the delivery of water from an existing water supply system or alternative water supply system or alternative water supply. The bill would prohibit a mitigation measure from subjecting an owner of a domestic well or a user of water from a domestic well or a user of water from a domestic well or a user of water from a domestic well or a user of water from a domestic well or a user of water from a domestic well or a user of water from a domestic well or a user of water from a domestic well or a user of water from a domestic well or a user of water from a domestic well or a user of water from a domestic well or a user of water from a domestic well or a user of water from a domestic well or a user of water from a domestic well or a user of water from a domestic we	B. Watch	
AB 2876	Bigelow R	Sustainable Groundwater Management Act.	2/19/2022-Fr om printer. May be heard in committee March 21.	The Sustainable Groundwater Management Act requires all groundwater basins designated as high- or medium-priority basins by the Department of Water Resources that are designated as basins subject to critical conditions of overdraft to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2020, and requires all other groundwater basins designated as high- or medium-priority basins to be managed under a groundwater sustainability plan or coordinated	B. Watch	· 144

				groundwater sustainability plans by January 31, 2022, except as specified. The act requires all relevant state agencies to consider the policies of the act, and any adopted groundwater sustainability plans, when revising or adopting policies, regulations, or criteria, or when issuing orders or determinations, where pertinent. This bill would make nonsubstantive changes to the latter provision.			
AB 2877	Garcia, Eduardo D	Safe and Affordable Drinking Water Fund: tribes.	3/28/2022-R e-referred to Com. on E.S. & T.M.	to the State Water Resources Control Board moneys deposited in the Safe and Affordable Drinking Water Fund for the development, implementation, and sustainability of long-term drinking water solutions, among other things. Current law requires the state board to expend moneys in the fund for grants, loans, contracts, or services to assist eligible recipients. Current law includes within the list of "eligible recipients," public agencies, nonprofit organizations, public utilities, mutual water companies, federally recognized California Native American tribes, specified nonfederally recognized Native American tribes, administrators, groundwater sustainability agencies, community water systems, and technical assistance providers. This bill would specify that a limited waiver of tribal sovereignty is not required for a tribe that is an eligible recipient to access funding from the fund. The bill would require 10% of the total moneys in the fund to annually be reserved for eligible recipients that are federally recognized California Native American tribes or specified nonfederally recognized Native American tribes and would require the state board to expend those moneys, upon appropriation by the Legislature, for grants, loans, contracts, or services to assist those eligible recipients.	Watch	B. Watch	
AB 2895	Arambula D	Water: permits and licenses: temporary changes: water or water rights transfers.	3/21/2022-R e-referred to Com. on W.,P., & W.	Under current law, the State Water Resources Control Board administers a water rights program pursuant to which the board grants permits and licenses to appropriate water. Current law prescribes the process for a permittee or licensee to petition the board for a temporary change due to a transfer or exchange of water rights and subsequent notice, decision, and hearing requirements by the board. Under that process, a petitioner is required to publish notice of a petition in a newspaper, as specified. Current law requires a petition to contain specified information and requires a	Watch	B. Watch	144

				petitioner to provide a copy of the petition to the Department of Fish and Wildlife, the board of supervisors of the county or counties in which the petitioner currently stores or uses the water subject to the petition, and the board of supervisors of the county or counties to which the water is proposed to be transferred. This bill would revise and recast the provisions regulating temporary changes due to a transfer or exchange of water rights, including, among other revisions, specifying that those provisions apply to a person who proposes a temporary change for purposes of preserving or enhancing wetlands habitat, fish and wildlife resources, or recreation.			
AB 2919	Fong R	Dams: release of water: fish populations.	3/28/2022-R e-referred to Com. on W.,P., & W.	Current law requires the owner of a dam to allow sufficient water at all times to pass through a fishway, or in the absence of a fishway, allow sufficient water to pass over, around or through the dam, to keep in good condition any fish that may be planted or exist below the dam. This bill would provide that, notwithstanding any other law, the release of water from a dam shall only be regulated based on actual fish populations and not based on approximate fish populations.	Watch	B. Watch	
SB 832	Dodd D	Water rights: measurement of diversion.	3/24/2022-Se t for hearing April 5.	Current law defines various terms applicable to the Water Code. This bill would define "water year," unless otherwise specified, to mean the 12-month period beginning October 1 and ending September 30.	Watch	B. Watch	
SB 890	Nielsen R	Department of Water Resources: Water Storage and Conveyance Fund: water storage and conveyance.	3/8/2022-Ma rch 8 set for first hearing. Failed passage in committee. (Ayes 3. Noes 6.)	Would establish the Water Storage and Conveyance 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 and reservoir storage costs, including environmental planning, permitting, design, and construction and all 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 complete funding for the construction of the Sites Reservoir, and 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. This bill would make		B. Watch	

				these provisions inoperative on July 1, 2030, and would repeal it as of January 1, 2031.			
SB 892	Hurtado D	Cybersecurity preparedness: food and agriculture sector and water and wastewater systems sector.		Current law requires CalOES to establish the California Cybersecurity Integration Center (Cal-CSIC) with the primary mission of reducing the likelihood and severity of cyber incidents that could damage California's economy, its critical infrastructure, or public and private sector computer networks in the state. Current law requires Cal-CSIC to provide warnings of cyberattacks to government agencies and nongovernmental partners, coordinate information sharing among these entities, assess risks to critical infrastructure information networks, enable cross-sector coordination and sharing of best practices and security measures, and support certain cybersecurity assessments, audits, and accountability programs. Current law also requires Cal-CSIC to develop a statewide cybersecurity strategy to improve how cyber threats are identified, understood, and shared in order to reduce threats to California government, businesses, and consumers, and to strengthen cyber emergency preparedness and response and expand cybersecurity awareness and public education. This bill would require CalOES to develop, propose, and adopt optional reporting guidelines applicable to companies and cooperatives in the food and agriculture industry and entities in the water and wastewater systems industry if they identify a significant and verified cyber threat or active cyberattack	Watch	B. Watch	
SB 1059	Becker D	Privacy: data brokers.	3/30/2022-Se t for hearing April 19.	The California Constitution grants a right of privacy. Current law requires data brokers to register with, and provide certain information to, the Attorney General. Current law defines a data broker as a business that knowingly collects and sells to third parties the personal information of a consumer with whom the business does not have a direct relationship, subject to specified exceptions. Current law subjects data brokers that fail to register to injunction and liability for civil penalties, fees, and costs in an action brought by the Attorney General, with any recovery to be deposited in the Consumer Privacy Fund, as specified. This bill would include in the definition of data broker a business that knowingly collects and shares, as defined, certain personal		B. Watch	f 144

				information to third parties. The bill would transfer all authority and responsibilities under the provisions relating to data broker registration from the Attorney General to the CCPA, including by requiring data brokers to annually register with the California Privacy Protection Agency on or before January 31.			
SB 1078	Allen D	Sea Level Rise Revolving Loan Pilot Program.	3/25/2022-Se t for hearing April 4.	Current law requires the Ocean Protection Council to, among other things, establish policies to coordinate the collection, evaluation, and sharing of scientific data related to coastal and ocean resources among agencies. Current law establishes the State Coastal Conservancy with prescribed powers and responsibilities for implementing and administering various programs intended to preserve, protect, and restore the state's coastal areas. This bill would require the council, in consultation with the conservancy, to develop the Sea Level Rise Revolving Loan Pilot Program for purposes of providing low-interest loans to local jurisdictions for the purchase of coastal properties in their jurisdictions identified as vulnerable coastal property located in specified communities, including low-income communities, as provided. The bill would require the council, before January 1, 2024, in consultation with other state planning and coastal management agencies, as provided, to adopt guidelines and eligibility criteria for the program. The bill would authorize specified local jurisdictions to apply for, and be awarded, a low-interest loan under the program from the conservancy, in consultation with the council, if the local jurisdiction develops and submits to the conservancy a vulnerable coastal property plan and completes all other requirements imposed by the council.	Watch	B. Watch	
SB 1197	Caballero D	Water Innovation and Drought Resiliency Act of 2022.	3/25/2022-Se t for hearing April 19.	Current 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. Current law creates the Office of Planning and Research to serve the Governor as staff for long-range planning and research and as a comprehensive state planning agency. This bill, the Water Innovation and Drought Resiliency Act of 2022, would create the Initiative to Advance Water Innovation and Drought	Watch	B. Watch	144

SB 1219	Hurtado D	Water Resources	3/24/2022-Se t for hearing April 5.	Resiliency at the office for the furtherance of new technologies and other innovative approaches in the water sector. The bill would require the office, as part of the initiative, to take specified measures on or before December 31, 2024, to advance innovation in the water sector and ensure a drought-resilient economy. Current law establishes the State Water Resources Control Board within the California Environmental Protection Agency with specified duties relating to, among other things, administering water rights, the Porter-Cologne Water	Watch	B. Watch	Possible priority bill, but unlikely to move.
		Commission.		Quality Control Act, and the California Safe Drinking Water Act. Current law establishes the Department of Water Resources within the Natural Resources Agency and prescribes the jurisdiction and various general administrative authorities and duties of the department regarding, among other things, matters pertaining to water resources and dams in the state. This bill would dissolve the board as of January 1, 2025.			
SB 1476	Bradford D	replenishment districts: contracts.	3/23/2022-R e-referred to Com. on GOV. & F.	The Water Replenishment District Act provides for the formation of water replenishment districts with prescribed powers for the purposes of replenishing the groundwater supplies within the district. The act requires a district to advertise for bids before making any contract totaling \$25,000 or more within any 12-month period and, when work is to be done, to give notice calling for bids by publication, as prescribed. The act requires contracts and other documents executed by a district that require or authorize the district to expend \$10,000 or more to be authorized by the board of directors and signed by the president and the secretary, except as specified. This bill would revise and recast the provisions establishing the competitive bidding and related public notice procedures for water replenishment districts, including, among other revisions, deleting the requirement that a district advertise for bids before making any contract totaling \$25,000 or more within any 12-month period, and instead requiring a district contract for the erection, construction, alteration, repair, or improvement of a public structure or building of \$25,000 or more be let to contract by formal bidding procedure.	Watch	B. Watch	

Total Tracking Forms: 37

Item No. 4e

Topic	Bill Number Author	Status	Title – Summary	MWD Position	Effects on Metropolitan
Metropolitan-	SB 230	Amended	State Water Resources Control	CO-SPONSOR	Metropolitan and CMUA are co-
sponsored bills	Portantino (D)	1/20/2022	Board: Constituents of Emerging		sponsoring legislation in response to
			Concern Program		growing public concern about CECs in
	Sponsors:	,	,	Based on October	drinking water. The bill would establish
	;	Assembly Desk	Seeks to create a statewide program	2019 Board	a five-year CEC Drinking Water Program
	Metropolitan and		to identify and evaluate Constituents of Emerging Concern (CECs) in	Action	at the State Water Resources Control Roard
	Municipal		drinking water sources.		The program would set up a consistent
	Utilities		0		and science-based approach for
	Association				assessing the public health and drinking
	(CMUA)				water consequences of CECs, with the
					intent to improve knowledge and future
					regulatory determinations. The bill
					excludes PFAS from the program of
					review and requires the State Water Board
					to present a final report to the Legislature.
					The recent amendments make
					implementation of a CEC Drinking Water
					Program contingent upon an appropriation
					by the Legislature.
Metropolitan-	AB 1845	Introduced	Metropolitan Water District of	SPONSOR	Metropolitan is limited to the traditional
sponsored bills	Calderon (D)	2/8/2022	Southern California: alternative		Design-Bid-Build method for delivery of
			project delivery methods		public works construction contracts which
	Sponsor:	Assembly Local			can be inefficient and inflexible for large,
		Government	Allows the Metropolitan Water		time-sensitive, and complex projects like
Pa	Metropolitan	Committee	District of Southern California to use		its Regional Recycled Water Program and
age			alternative project delivery methods		emergency drought mitigation projects.
e 10			for the design and construction of a		The bill would amend the Public
04 (Regional Recycling Water Program		Contracting Code to permit Metropolitan
of *					to use Design-Build, Progressive Design-
144			1		

Topic	Bill Number Author	Status	Title – Summary	MWD Position	Effects on Metropolitan
			and a limited set of drought-related projects.		Build, and Construction Manager/General Contractor. These methods have the potential to expedite construction of critical new water infrastructure projects and reduce their overall costs.
Water Governance and Funding	AB 1195 C. Garcia (D) Sponsor: Author	Amended 5/24/2021 Senate Natural Resources and Water Committee Two-year bill	Brinking water. Requires the State Water Resources Control Board (State Water Board) to appoint a commissioner to implement the Safe and Affordable Fund for Equity and Resilience Program (SAFER Program) in Southern Los Angeles County.	OPPOSE UNLESS AMENDED Based upon May 2021 Board Action	Seeks to address the needs of public water systems in Southern Los Angeles County struggling to provide safe and affordable retail water. The May 24 amendments limit the role of the commissioner to focus on implementation of the SAFER Program and create a pilot program with Los Angeles County LAFCO to extend service or consolidate struggling systems. Metropolitan is seeking additional amendments to further clarify the role of the commissioner; strike a provision that grants the commissioner the authority to audit public water systems and bypass the public process created by the Legislature; and strike a section that would grant the State Water Board jurisdiction over decisions to transfer or abandon groundwater rights.
Delta/State Water Project	SB 832 Dodd (D)	Introduced 1/23/2022	Water rights: measurement of diversion Clarifies existing law that a person	SUPPORT IF AMENDED	Metropolitan supports metering and reporting of diversions to prevent unlawful diversion of State Water Project
e 105 of 1	Sponsor: Author	Senate Natural Resources & Water Committee	diverting 10 acre-feet or more of water per year under a registration is subject to existing water diversion		supplies in the Delta and other locations that may lead to additional regulatory burdens. Metropolitan is installing meters
44			2		

Topic	Bill Number Author	Status	Title – Summary	MWD Position	Effects on Metropolitan
			measurement, recording, and reporting requirements. Also, authorize the State Water Board to modify water diversion measurement requirements to allow open satellite data methods to estimate evapotranspiration if the board makes certain findings regarding use of water for irrigation.	Based upon Board-adopted 2022 State Legislative Priorities and Principles	on its Delta Islands to comply with existing statutory requirements. While OpenET would be a useful tool for water management and could be used as an indicator of unlawful diversions in the Delta, it is a new methodology for California. Studies to determine its adequacy as a water rights enforcement tool in the Delta and different hydrologic regions are needed.
					Metropolitan and the State Water Contractors are seeking amendments to require the board to develop a study plan for the Delta and another region of the state, and only allow OpenET to be used to comply with current monitoring and reporting requirements if an irrigator is
					pair of the study.
Water Bond Infrastructure Funding	SB 559 Hurtado (D)	Amended 8/30/2021	Department of Water Resources: water conveyance systems: Canal Conveyance Capacity Restoration	WATCH Based upon Board	Portions of the California Aqueduct, the Friant Kern Canal and the Delta Mendota Canal have lost capacity due to
Pag	Sponsors:	Senate Inactive File	Fund	adopted 2021	subsidence. The Fund would upon appropriation provide funding to DWR to
e 106 of	Friant Water Authority,	Two-year bill	Establishes the Canal Conveyance Capacity Restoration Fund that would upon appropriation provide up	Priorities and Principles	support a 10-year program to restore the capacity of the canals and ensure a more secure water supply. Funds could be used
144			3		

Topic	Bill Number	Status	Title – Summary	MWD Position	Effects on Metropolitan
	San Luis & Delta Mendota Water Authority, and State Water Contractors		to \$785 million in funding for the Department of Water Resources (DWR) to help pay for subsidence repairs to the State Water Project and Central Valley Project water conveyance systems and for necessary road and bridge upgrades.		to cover one-third of the cost to restore the capacity of the canals. A federal companion bill is envisioned that would provide one-third the cost and local partners would contribute the remaining one-third of the cost. The creation of the Fund is contingent upon all the following: an appropriation of funds; an agreement is executed to provide for local cost share; and the provision of adequate cost share as determined by the DWR Director. The August 8 Assembly Amendments are problematic causing the State Water Contractors and Metropolitan to withdraw support for the bill.
Oovernance OO Page 107 of 14	AB 2449 B. Rubio (D) Sponsor: Three Valleys Municipal Water District	Introduced 02/17/2022	Open meetings: local agencies: teleconferences Amends the Ralph M. Brown Act to allow a local agency to voluntarily use teleconferencing for public meetings during non-emergencies. Requires a quorum of the members meet in person at a noticed location that is open to the public and within the agency's jurisdiction. The bill prescribes requirements for this exception related to notice, agendas, means and manner of access, and procedures for disruptions. Requires	SUPPORT Based upon Board Action on 3/9/2021 on AB 703 (B. Rubio)	Metropolitan currently hosts teleconferencing public meetings in accordance with Executive Order, N-29-20. AB 2449 allows the option to hold teleconferenced meetings into the future after the COVID-19 public health emergency is over and the Executive Order is lifted as long as a quorum of the Board's directors participate in person, give notice and post agendas as prescribed, ensure that directors attending meeting by teleconference participate through both audio and visual technology, and allow

Topic	Bill Number Author	Status	Title – Summary	MWD Position	Effects on Metropolitan
			procedures for receiving and swiftly resolving requests for reasonable accommodation for individuals with dischilities consistent with federal		the public to address the Board in person or by teleconference. Waives the requirement to post an agenda at each
			law. Requires a quorum of the legislative		access to those locations. If there is a disruption to the call-in or streaming
			body present at the location noticed on the agenda, an audio and video		options, then no action can be taken by the board.
			the legislative body during the meeting,		
Water	AB 2142 (Gabriel)	Introduced	Income taxes: exclusion: turf	SUPPORT	Metropolitan previously supported the
Conservation		2/15/2022	replacement water conservation		Making Conservation a Way of Life
	Sponsor:		program.	Based upon Board	legislation and is working hard to promote
	Association of		Would provide an exclusion from	adopted 2022	indoor and outdoor conservation. Conservation rehates are key to success
	California Water		gross income for any amount	State Legislative Priorities and	California law previously exempted turf
	Agencies		received as a rebate, voucher or other financial incentive issued by a local	Principles	rebates from taxable income, but those provisions were allowed to sunset in
			water agency or supplier for		December 2019. This bill would reinstate
			participation in a turf replacement		an important tax exemption for turf
			water conservation program during the taxable years of January 1, 2022		replacement rebates from gross income in California, aligning it with certain other
			through January 1, 2027.		permanently exempt efficiency rebates.



DISCUSSION ITEM April 6, 2022

TO: Board of Directors

FROM: Robert Hunter, General Manager

Staff Contact: Melissa Baum-Haley

SUBJECT: DISCUSSION REGARDING MET'S BIENNIAL BUDGET

STAFF RECOMMENDATION

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

REPORT

Every two years Metropolitan embarks on its biennial budget along with the associated rates and charges including a ten-year forecast. The Proposed Biennial Budget appropriates \$2.200 billion for FY 2022/23 and \$2.293 billion for FY 2023/24, requiring revenue from rates and charges of \$1.732 billion and \$1.812 billion in each year, respectively. The revenue requirements for the proposed water rates and charges for CYs 2023 and 2024 are based on the FYs 2022/23 and 2023/24 proposed budgets, respectively. The \$1.732 billion revenue requirement for FY 2022/23 is an increase of \$25 million from the FY 2021/22 budget. The FY 2023/24 revenue requirement of \$1.812 billion is an increase of \$79 million from the FY 2022/23 proposed budget. Revenue requirements represent the amount of revenue to be recovered from rates and charges, after the application of property taxes, investment income, and other sources of revenue.

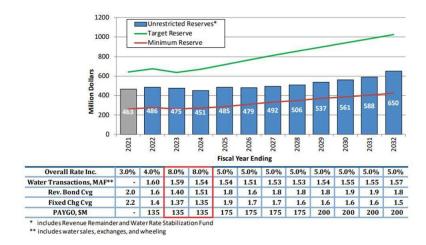
The proposed rate increase includes the 5 percent previously forecasted to catch-up for the loss of the Water Stewardship Rate (WSR) revenue, increased costs, and the effect of the latest water demand projections showing a downward trend. Water demands are projected to decrease 60 thousand acre-feet (TAF) over the proposed biennial budget period, from 1.60 million acre-feet (MAF) to 1.54 MAF, and are expected to continue to decline to 1.51 million MAF by FY 2025/26. These lower projected water demands have resulted in higher rate increases than previously forecasted.

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

To mitigate the rate impacts, the Proposed Biennial Budget incorporates actions to reduce the projected overall rate increases due to increased costs to 3 percent per year, well below the rate of inflation. In total, the proposed overall rate increase for 2023 and 2024 is 8 percent per year.

Rate Driver					Biennial Rate Impac	
\$103.9 M higher Revenue Requirement					6%	
60 TAF lower water transactions (1.60 MAF re		54 MAF)			4% 5%	
Catch-up for loss of Water Stewardship Rate I						
Increase to <u>partially</u> account for the fact that calendar year rate increases are only in effect for half the fiscal year.				1%		
Rate increase over the biennium (8% in 20	23 and 8%	in 2024)			16%	
results in low revenue bond coverage of Rates & Charges Effective January 1st	Current 2022			Proposed		
Tier 1 Supply Rate (\$/AF)	\$243	\$328	35%	\$348	6%	
Tier 2 Supply Rate (\$/AF)	\$285	\$532	87%	\$538	1%	
System Access Rate (\$/AF)	\$389	\$373	(4%)	\$416	12%	
System Power Rate (\$/AF)	\$167	\$187	12%	\$188	1%	
Full Service Untreated Volumetric Cost (\$/AF)						
Tier 1	\$799	\$888	11%	\$952	7%	
Tier 2	\$841	\$1,092	30%	\$1,142	5%	
Treatment Surcharge (\$/AF)	\$344	\$364	6%	\$370	2%	
Full Service Treated Volumetric Cost (\$/AF)						
Tier 1	\$1,143	\$1,252	10%	\$1,322	6%	
Tier 2	\$1,185	\$1,456	23%	\$1,512	4%	
Readiness-to-Serve Charge (\$M)	\$140	\$145	4%	\$183	26%	
			Carrier San Carrier	Harry Control of the Control	100000000000000000000000000000000000000	
Capacity Charge (\$/cfs)	\$12,200	\$10,700	(12%)	\$11,700	9%	

The remainder of the ten-year forecast projects overall rate increases of 5 percent annually. The current adopted budget had estimated overall rate increases of 5 percent for 2023 and 5 percent for 2024.



The proposed rates are not effective over the entire fiscal year and therefore, do not provide additional revenue until the second half of the first budget fiscal year. As a result, even with the additional 1 percent rate increase, it is still necessary to draw \$84 million from the Water Stewardship Fund and unrestricted reserves in FY 2022/23 and FY 2023/24. Also, revenue bond coverage is expected to drop to 1.40 times in FY 2022/23 and slightly recover to 1.51 times in FY 2023/24, below the 2.0 times target.

The biennial period covers a **transitionary** period of strategic planning at Metropolitan. During the Proposed Biennial Budget period, Metropolitan will be completing the 2020

Integrated Resources Plan, continuing with a rate refinement process, undertaking a long-term financial plan, and addressing Metropolitan's role as it approaches 100 years. The Proposed Biennial Budget funds the expenses necessary to transition Metropolitan during these key processes. As the processes are completed, future biennial budgets will reflect the outcomes of the priorities and directions the Board adopts through its various updated strategic planning processes. Currently, the proposed budget strikes a balance between funding Metropolitan's current strategic priorities, addressing drought conditions, maintaining financial robustness, and moderating rate impacts.

The cost of service (COS) analysis in the COS Report supports the proposed rates and charges. The proposed CYs 2023 and 2024 water rates and charges are based on Metropolitan's current methodology for developing rates and charges to produce the necessary revenue required to cover costs. The proposed rates and charges also exclude a separate rate or charge to recover demand management costs, as a result of Metropolitan's Board action on November 23, 2021, directing staff to recover 100 percent of demand management costs from Metropolitan's supply rate elements in the future rate and charge proposals. Accordingly, all demand management costs are now recovered by the Tier 1 and Tier 2 Supply rates.

Other highlights from the Proposed Biennial Budget include:

- Cost-cutting measures to reduce Departmental Operations and Maintenance (O&M)
 expenditures and other actions to reduce the CYs 2023 and 2024 rate impact.
- To support key operational needs, the budget reflects increased regular full-time employee (FTE) positions by 20 in comparison with the FY 2021/22 budget.
- Departmental labor budgets reflect negotiated labor increases and allowable merit adjustments as well as increased benefit costs such as pension and medical.
- Capital Investment Plan (CIP) spending for FYs 2022/23 and 2023/24 is projected to be approximately \$600 million for the biennial period. The capital program is made up of nearly 450 projects that are focused on building drought resiliency, addressing seismic vulnerabilities, meeting all regulatory requirements, and replacing and refurbishing aging infrastructure. The CIP Appendix includes a ten-year outlook as well as program and project details for the biennium.
- Planned contributions of \$99 million for Delta Conveyance Project (DCP) planning activities. These contributions will be funded from rates and the California WaterFix refund of \$34.5 million received in 2019. This contribution follows Board policy that staff works with the state to find solutions to improve the Delta.

KEY BUDGET ASSUMPTIONS

Metropolitan continues to be prepared to meet the challenges of reliably providing water to its service area throughout a variety of hydrologic conditions. Metropolitan has a diverse portfolio of water supplies, which have been augmented by additional programs approved by the Board over the last several years. Additionally, Metropolitan has made substantial investments in storage and supply programs to manage water should CY 2022 continue the ongoing drought.

• Water transactions projection: Water transactions include water sales, exchanges, and wheeling, which can be greatly impacted by hydrologic conditions. Predicting hydrologic conditions has become more challenging as a result of a changing climate. To prepare for these uncertainties, Metropolitan has weathered supply challenges by realizing the benefits of supply and storage investments made over the last 20 years. Both FY 2018/19 and FY 2019/20 were wet water years, resulting in record low

revenue on related transactions of approximately 1.4 MAF. In FY 2020/21, demand on Metropolitan increased to 1.57 MAF with the beginning of a new drought cycle. FY 2021/22 thus far has seen a succession of historic actions with the first initial SWP Table A allocation of five percent, a first-ever Colorado River Basin water shortage, and then a welcome sight of rains and snow in December and January. Metropolitan's Water Resource Management Group projected water transactions to be between 1.5 and 1.6 MAF over the next ten years, 1.59 MAF for FY 2022/23 and 1.54 MAF for FY 2023/24. The recent water transaction trend is shown in Link 1, Biennial Budget Summary.

- State Water Project and Colorado River: For FYs 2022/23 and 2023/24, Metropolitan's SWP supplies are projected to be 0.62 MAF and 0.82 MAF, respectively. This is based on a 25 percent SWP allocation for CY 2022 and 40 percent for CY 2023 and accounts for the utilization of Metropolitan's SWP supply programs. The SWP allocation after 2023 is set at the median forecast of 50 percent. For FYs 2022/23 and 2023/24, Colorado River diversions are projected to be 1.007 MAF and 0.923 MAF, respectively and account for the utilization of Metropolitan's Colorado River supply programs.
- Capital Investment Plan: Expenditures for the CIP will be managed to focus on projects that are critical to maintaining water quality, reliability, and safety. The CIP planned to spend for the biennial period totals \$600 million. Previously, Metropolitan budgeted 80 percent of CIP planned to spend because historically capital expenditures regularly lagged planned spending. The proposed budget now assumes CIP expenditures will be 100 percent of planned spending as recent changes in the capital appropriation process streamlined capital appropriations, thereby expediting capital project expenditures. The CIP reflects the focus on addressing aging infrastructure, drought response, and compliance with regulatory requirements. The capital expenditures for the full RRWP are not included in the biennium but are included in the projections starting in FY 2024/25 as part of the Ten-Year Financial Forecast. Detailed information about the CIP can be found in the CIP Appendix, Attachment 3.
- Ad valorem tax rate: It is proposed that the Board continue its determination that it is essential to Metropolitan's fiscal integrity to maintain an ad valorem tax rate in excess of the limitation in MWD Act Section 124.5, as the Board has done since the FY 2013/14 tax levy. Doing so will allow the Board to maintain the ad valorem tax rate at the current level of 0.0035 percent of assessed value for both fiscal years. This is projected to generate ad valorem tax revenues of \$163.1 million in FY 2022/23 and \$168.3 million in FY 2023/24. Over the biennial budget period, maintaining the ad valorem tax rate at the current level is essential to the fiscal integrity of the District as it will provide revenues that can be used to pay for growing State Water Contract costs, help to maintain a balance between fixed and variable revenues, and reduce the impact of future water rate increases that would otherwise result from SWP costs that the voters intended to be paid from property taxes.

NEXT STEPS

The Biennial Budget proposal has had four Board Workshops beginning on February 7, followed by a series of workshops and a public hearing, and culminating in Board consideration on April 12, 2022. The proposed Metropolitan rate increase of 8 percent and 8

percent, for calendar years 2023 and 2024 respectively, is significantly higher than what was previously forecasted (5 percent and 5 percent). At the fourth Metropolitan Board Budget Workshop, held on March 22, the MWDOC-MET delegation supported the request for Metropolitan staff to return in April with an additional Budget and Rate alternative lower than the current proposal.

We have invited MET's Assistant General Manager/Chief Financial Officer, Katano Kasaine to review and discuss the proposed biennial budget and key budget assumptions.

ADDITIONAL MATERIALS (links)

Attachment 1- Proposed Biennial Budget document for FYs 2022/23 and 2023/24 including 10 year financial forecast. It includes the Summary Section, describing the proposed appropriations, fund summaries, sources of funds, uses of funds, staffing plan and summary of the financing for the CIP; the Departmental Budget information; and a section of the document that describes the General District Requirements, comprised of the State Water Project, Colorado River Aqueduct, Supply Programs, Demand Management, Developments, and Capital Financing.

Attachment 2 - COS Report to support the proposed water rates and charges for CYs 2023 and 2024.

Attachment 3- is the CIP Appendix. The CIP Appendix includes a summary of CIP planned spending by capital program and project details.



April 6, 2021

TO: Board of Directors

FROM: Robert Hunter, General Manager

Staff Contact: Kevin Hostert

SUBJECT: WATER SUPPLY CONDITION UPDATE

STAFF RECOMMENDATION

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

SUMMARY REPORT

Executive Order N-7-22

On March 28, Governor Newsom issued Executive Order N-7-22, which directs a number of actions in response to the historic drought conditions. The executive order includes directing the SWRCB to consider the adoption of emergency regulations banning irrigation of "non-functional" turf in the commercial, industrial, and institutional sectors. Additionally, the order also directs the SWRCB to consider the adoption of emergency regulations requiring Urban Water Suppliers be at Level 2 of their Water Shortage Contingency Plans. Additional information can be found in the executive order link below.

Metropolitan General manager Adel Hagekhalil issued the following statement on Governor Newsom's executive order addressing extreme and expanding drought conditions:

"Our drought emergency shows no signs of lifting. Mandatory conservation, as called on by Gov. Newsom, is necessary to generate the increased level of water savings we need to stretch our limited State Water Project supplies through the end of the year. Southern California communities that depend on these supplies must immediately and significantly reduce their water use. The increased conservation actions local water agencies need to employ in response to the governor's call today will help residents and businesses make these much-needed cuts and stretch

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

reserves. We appreciate the governor's recognition that each community knows best what measures will spark the greatest conservation among its residents, rather than taking a one-size-fits-all approach. Metropolitan's board will consider taking additional actions next month to further prompt the application of mandatory conservation measures."

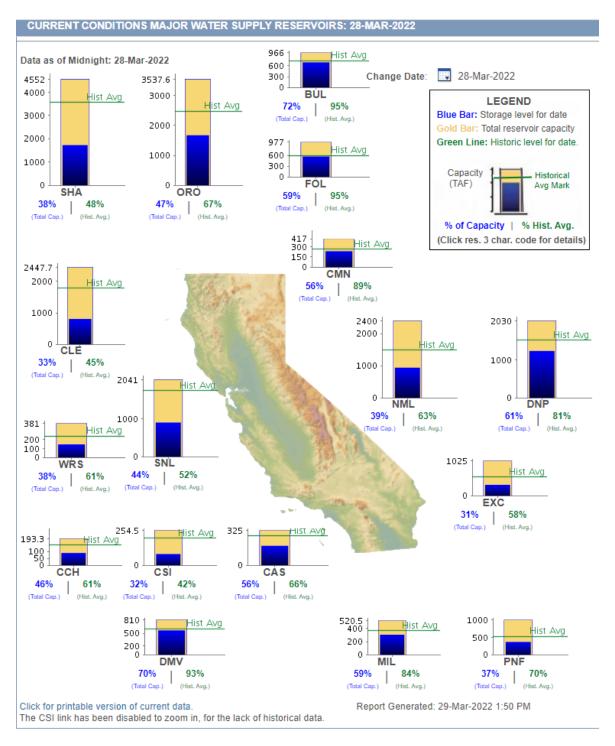
<u>Link to Governor's Press Release</u> Link to Governor's Executive Order N-7-22

Water Supply Update

The 2021-22 Water Year (2021-22 WY) officially started on October 1, 2021. Thus far, Northern California accumulated precipitation (8-Station Index) reported **33.2 inches or 80% of normal** as of March 29th. For 2021-22 WY, the Northern Sierra Snow Water Equivalent was at **8.6 inches on March 28th**, which is **31% of normal** for that day. Due to historical low precipitation/snowfall from January to March 2022, the Department of Water Resources (DWR) has decreased the State Water Project (SWP) "Table A" allocation to **5%.** This allocation provides Metropolitan with approximately **95,575 AF in SWP deliveries this water year.** DWR's SWP Allocation considers several factors including existing storage in SWP, conservation reservoirs, SWP operational regulatory constraints, and the 2022 contractor demands.

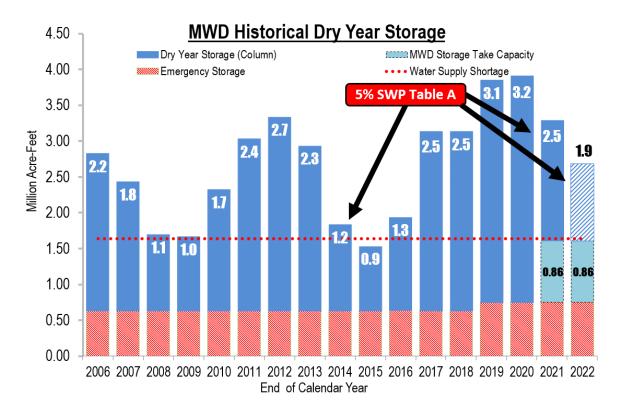
The Upper Colorado River Basin accumulated precipitation is reporting *15.7 inches or 97%* of normal as of March 28th. On the Colorado River system, snowpack is measured across four states in the Upper Colorado River Basin. The Upper Colorado River Basin Snow Water Equivalent was reporting *15.8 inches as of March 28th*, which is *85% of normal* for that day. Due to the below average precipitation/snowfall in 2020-21 WY, the United States Bureau of Reclamation <u>declared a shortage at Lake Mead starting January 1st</u>, *2022*. There is and a 94% chance of shortage continuing in 2023.

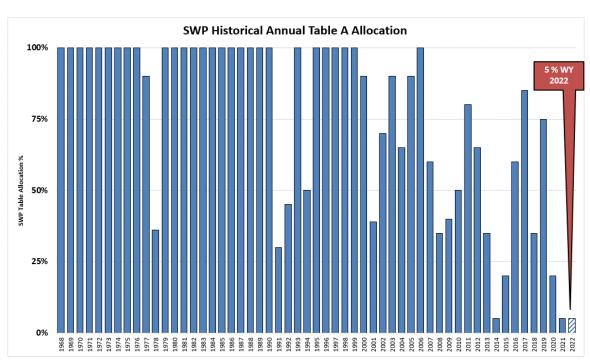
As of March 28th Lake Oroville storage is at **47% of total capacity and 67% of normal**. As of March 28th San Luis Reservoir has a current volume of **44% of the reservoir's total capacity and is 52% of normal**.



With early CY 2022 estimated total demands and losses of 1.710 million acre-feet (MAF) and with a 5% SWP Table A Allocation, Metropolitan is projecting that demands will exceed supply levels in Calendar Year (CY) 2022. Based on this, estimated total dry-year storage for Metropolitan at the end of CY 2022 will go down to approximately 1.928 MAF.

A projected dry-year storage supply of 1.928 MAF would still be about 0.928 MAF above where MWD has historically declared a water supply allocation. A large factor in maintaining a high water storage level are lower than expected water demands. We are seeing regional water demands reaching a 38-year low.





Attachment: PowerPoint on Water Supply Conditions





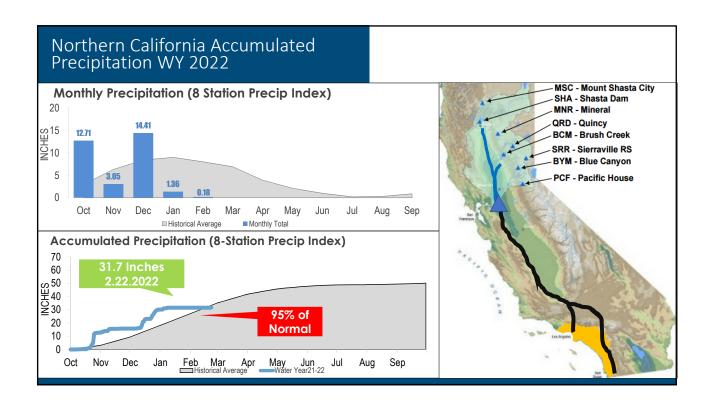


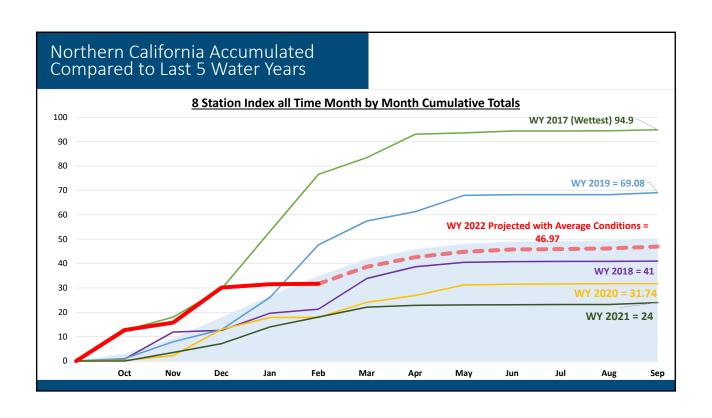


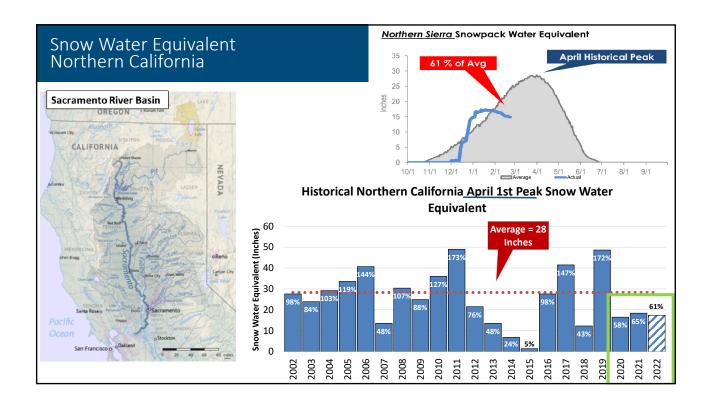
Water Supply Conditions
Kevin Hostert, Water Resources Analyst
Municipal Water District of Orange County
March 2nd 2022

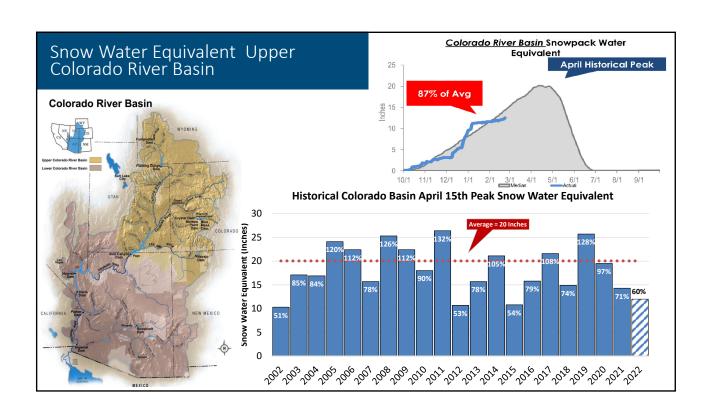


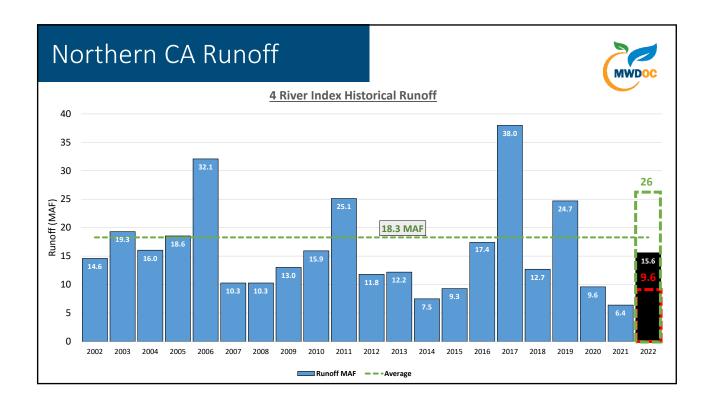


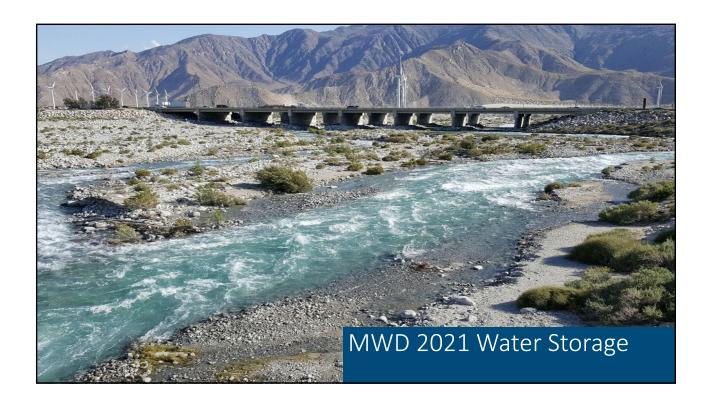


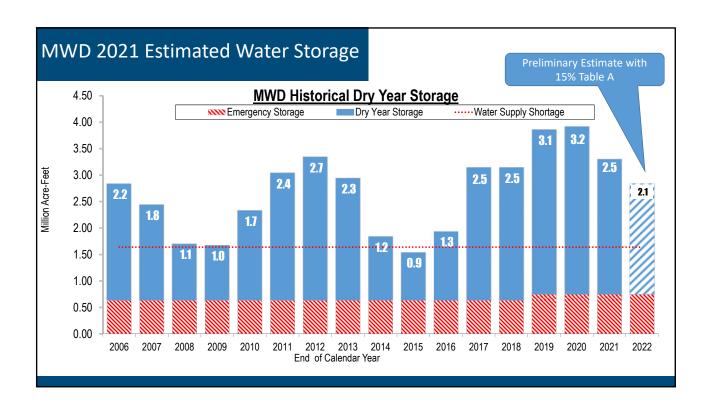




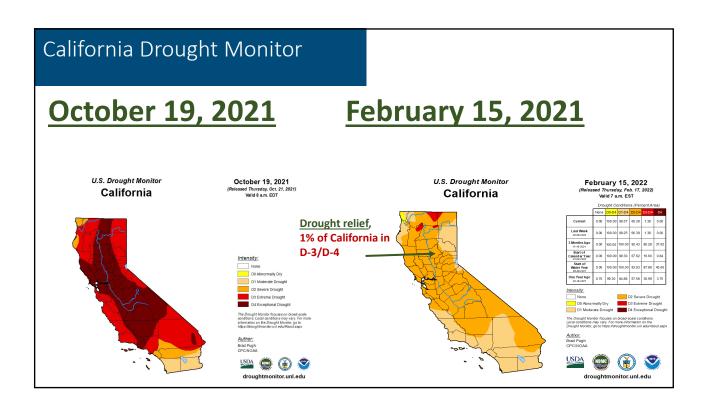












Water Supply Conclusions



- Accumulated Precipitation is <u>below</u> the historical average in Northern California.
- Accumulated Precipitation in Northern California the <u>last two years</u> was <u>extremely low.</u>
- Northern California Snowfall is <u>below average</u>.
- Key State/Federal Reservoirs Levels are **below historical averages**. More snow and precipitation is needed.
- The Colorado River System is still in <u>decline</u> and conditions are about normal so far in WY 2022.
- A repeat of December 2021 conditions in <u>March would be highly desirable</u> to help improve water supply conditions.





DISCUSSION ITEM

April 6, 2022

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 Integrated Resources Plan Update
- c. MET's Water Supply Conditions
- d. Colorado River Issues
- e. Delta Conveyance Activities and State Water Project Issues

ISSUE BRIEF #A

SUBJECT: MET Finance and Rate Issues

RECENT ACTIVITY

Current Update

Water Transactions for January 2022 totaled 88.1 thousand acre-feet (TAF), which were 19.7 TAF lower than the budget of 107.8 TAF and translate to \$80.7 million in revenues for January 2022, which were \$19.5 million lower than the \$100.2 million budget. Year-to-date water transactions through January 2022 were 1,008.1 TAF, which were 45.6 TAF higher than the budget of 962.5 TAF. Year-to-date water revenues through January 2022 were \$906.6 million, which were \$27.3 million higher than the budget of \$879.3 million. As of January 31, 2022, Metropolitan's investment portfolio balance was \$1.36 billion

Bienniel Budget Process

For information on the Metropolitan's Biennial Budget Process, please refer to the *Presentation Item: 6. Discussion Regarding MET's Biennial Budget.*

ISSUE BRIEF #B

SUBJECT: MET Integrated Resources Plan Update

RECENT ACTIVITY

Over the past two years, Metropolitan has worked on a new formulation of the Integrated Water Resources Plan (IRP). This first phase of the 2020 IRP incorporates scenario planning and features findings from a regional needs assessment. The findings will inform the selection and implementation of actions to address risks to Metropolitan's reliability. The 2020 IRP process is divided into two phases the (Phase 1) Needs Assessment and (Phase 2) Implementation Plan.

The technical-level process of Phase 1 will transition to a collaborative process with member agencies and stakeholders focused on implementation and adaptive management. The post-IRP Implementation Plan is expected to commence spring of 2022. This will be used to develop a decision support strategy for thinking through timing and the basis for adaptive management actions, using available information and evaluation. The post-IRP Implementation process will likely consider various projects and programs to meet the scenario gaps with recognition of factors such as cost, supply yield, and timing.

General Manager Hagekhalil has explained that the IRP will capture Metropolitan's potential supply gaps and guide the district during the post-IRP Implementation Plan process of identifying what alternatives (such as projects or programs) to invest in. This process may also be tied to a Financial Plan.

The Metropolitan Board discussed the updated findings at the March 22 IRP Special Committee and will seek Board adoption of the 2020 IRP Regional Needs Assessment Report at the April 12 Board meeting. Once adopted, Metropolitan will begin a collaborative IRP implementation phase and adaptive management plan to identify specific actions informed by the needs assessment findings. This One Water approach will bring together imported and local supplies, storage, and demand management.

ISSUE BRIEF #C

SUBJECT: MET's Water Supply Conditions

RECENT ACTIVITY

For information on current Water Supply Conditions, please refer to the *Information Item:* Water Supply Conditions Update.

ISSUE BRIEF #D

SUBJECT: Colorado River Issues

RECENT ACTIVITY

Colorado River Basin Conditions

The U.S. Bureau of Reclamation (Reclamation) 24-Month Study forecast for runoff into the Colorado River system has declined more than 1 million acre-feet (maf) between January and February 2022. Current runoff projections into Lake Powell for April through July of unregulated inflow forecast is 5.000 maf or 78 percent of average. The reduced runoff forecast has increased the chance of Lake Powell declining to power pool (elevation 3,490 feet) to around 25 percent each year through 2026. Current projections show the chances of Lake Mead declining to critically low elevations have improved because of an adjustment to a model that Reclamation made to more accurately account for intervening inflows between Lake Powell and Lake Mead. However, the risk of Lake Mead declining to elevation 1,020 feet is 20 percent in 2024 and increases to 37 percent in 2026. The increased risk of reaching critical elevations highlight the need to fully implement the 500+ plan agreement to add 1 maf of additional conserved water to Lake Mead by the end of next year. Metropolitan staff continues to explore new programs that could conserve water in the short-term and will keep the Board apprised of those activities.

Treaty Minute 323 Implementation Update

On September 21, 2017, the U.S. and Mexican Sections of the International Boundary and Water Commission signed Minute No. 323, titled "Extension of Cooperative Measures and Adoption of a Binational Water Scarcity Contingency Plan in the Colorado River Basin". Following Minute No. 323's adoption, a number of workgroups were established to implement the provisions of the minute. Metropolitan staff regularly participate in many of the workgroups, including the Projects' workgroup, which was established to seek "opportunities for joint cooperative projects with the potential for increasing delivery or exchange of Colorado River water benefitting both nations". In February, Metropolitan staff participated in the Minute 323 Projects Workgroup meeting. The Workgroup reviewed Conagua's progress on efficiency programs including replacement of existing gate structures on the main canals in the system, as well as SCADA controls for better management of water deliveries. Additionally, the Workgroup discussed a New Water Projects Study, which has been finalized by Conagua and is seeking funding to move forward. The Workgroup recommended Mexico conduct a pilot project using a new drip irrigation system in the Mexicali area with additional technical and financial support from the U.S. Lastly, the workgroup heard a presentation by the nongovernmental organizations (NGOs) that are working with the Mexicali area farmers to invest in water conservation projects to develop conserved water that could be purchased for environmental purposes. Some water has already been conserved and used for the environment and the NGOs would like to expand that effort as part of the Minute 323 Projects.

ISSUE BRIEF #E

SUBJECT: Delta Conveyance Activities and State Water Project Issues

RECENT ACTIVITY

Delta Conveyance

The California Department of Water Resources (DWR) is continuing to develop an Environmental Impact Report (EIR) under the California Environmental Quality Act. The U.S. Army Corps of Engineers (USACE), as part of its permitting review under the Clean Water Act and Rivers and Harbors Act, continues its preparation of an Environmental Impact Statement (EIS) to comply with the National Environmental Policy Act. DWR and USACE are planning to release draft environmental documents for public review in mid-2022.

Field activities under the Initial Study/Mitigated Negative Declaration for Soil Investigations in the Delta (including cone penetration tests, soil borings, and geophysical surveys) have been temporarily paused for the winter but will continue in the spring. DWR and the Delta Conveyance Design and Construction Authority (DCA) are continuing work to obtain temporary entry for additional soil surveys on private lands and permits for soil survey sites that fall under the jurisdiction of the Rivers and Harbors Act. Investigations at any given site will not occur until property owners have been notified and required permits and approvals for that site have been obtained.

As part of DWR's efforts to work with the community to develop a Community Benefits Program, DWR conducted a case study workshop on November 17, 2021. The workshop provided an opportunity to learn about other programs that have been implemented in other parts of the country. Three panelists spoke about the insights and lessons learned from implementing other programs and answered questions from the public. The meeting materials and videos (in English and Spanish) are available on DWR's website (Community Benefits Program (ca.gov)).

In February, DWR posted new planning and outreach materials to its Delta Conveyance Project website. These materials include a Public Outreach and Community Engagement Plan for 2022 that outlines ongoing public outreach and engagement activities (DCP Public Outreach and Community Engagement Plan for 2022 (ca.gov)). Other new materials include digital articles highlighting information from informational webinars on operations, climate change, environmental justice and fisheries held in 2021, and a new Delta Conveyance Deep Dive video on fisheries. These materials can be found on the project website (Delta Conveyance (ca.gov)).

Joint Powers Authority

During the Delta Conveyance Design and Construction Authority (DCA) Special Board of Director's Meetings on January 14 and February 17, the DCA extended a resolution authorizing virtual board and committee meetings pursuant to AB 361.

At its regularly scheduled January 20 DCA Board of Director's meeting, the Board of Directors approved a resolution to sunset the Stakeholder Engagement Committee (SEC). This direction recognized that the SEC was formed to solicit and incorporate stakeholder feedback for the DCA's conceptual design work, and this work has now been largely provided to the DWR environmental team. The DCA held a final SEC meeting in December to review its general work to date, its input in the conceptual design, and future outreach efforts by the DCA and DWR. In addition to this action, DCA staff recognized the SEC's valuable participation in representing their communities as part of the DCA's commitment to community outreach.

The DCA Board also approved an increase to the adopted fiscal year 2021/22 budget from \$23.5 million to \$24.48 million. The revised budget incorporates amounts remaining from the final portion of the underspend from the fiscal year 2020/21 budget in the amount of \$978,396.

During the Delta Conveyance Finance Authority (DCFA) regularly scheduled January and February meetings, the DCFA adopted similar resolutions in both meetings to continue remote teleconference meetings pursuant to the Brown Act Section 54953(e) for meetings of the DCFA.

Sites Reservoir

Metropolitan staff continued to participate in the collaborative groups called for in the 2019 Biological Opinions for the State Water Project (SWP) and Central Valley Project, and in the 2020 Incidental Take Permit (ITP) for Long-Term Operation of the SWP, to address science needs and inform management and operation of the water projects. The Delta Coordination Group is developing science and monitoring plans for planned operations of the water projects and implementation of the summer-fall habitat actions in 2022. The technical workgroup charged with developing a Juvenile Production Estimate (JPE) for Spring-run Chinook salmon, a requirement of the ITP, is currently focused on developing performance metrics to evaluate objectives related to development of a JPE. Work also continued on the development of a monitoring program for steelhead populations in the San Joaquin River basin, a requirement of the Biological Opinion. The technical workgroup developed specific hypotheses to guide monitoring and submitted a draft outline of the monitoring plan to state and federal agencies for review.

Metropolitan staff participated in the Interagency Ecological Program's Winter-Run Chinook Salmon Project Work Team (Winter-Run PWT). On January 14, the Winter-Run PWT submitted a letter to the National Marine Fisheries Service and the California Department of Fish and Wildlife formally transmitting the forecast for the number of juvenile winter-run Chinook salmon that are expected to enter the Delta, which in turn sets the allowable take at the water project facilities.

Science Activities

In February, a scientific paper published in the Environmental DNA journal titled <u>"The artemis package for environmental DNA analysis in R"</u> reported on results from a study to develop a statistical programming package named artemis to evaluate environmental DNA (eDNA) data from environmental field samples. The eDNA surveys provide an indirect, noninvasive,

affordable and rapid way to detect organisms in the environment. The study was funded through a collaboration of Metropolitan, the State Water Contractors, and U.S. Bureau of Reclamation. The artemis tool represents the first open source models developed specifically to design eDNA detection surveys and analyze data from eDNA surveys in a tidal system like the San Francisco Bay-Delta Estuary. This publication will support wider acceptance for the use of eDNA monitoring by regulatory agencies. The artemis model is already being applied locally and nationwide for a variety of projects including restoration, invasive species monitoring, and listed species monitoring. Use of eDNA surveys could potentially prove beneficial to improve how water project operations are managed efficiently for both environmental protection and water supply reliability.

Metropolitan staff continued participating in the Collaborative Science and Adaptive Management Program (CSAMP), including participation on the Collaborative Adaptive Management Team (CAMT). In January and February, activity focused on the two projects addressing improvement of Delta smelt and salmon. The technical working group for the Delta Smelt Structured Decision Making project is currently refining portfolios of management actions to benefit Delta smelt and is planning the analysis of the portfolios. The CSAMP Policy Group and CAMT were briefed on the portfolios and provided input. The portfolios of management actions will be evaluated using a combination of quantitative life-cycle models and expert judgement to characterize predicted Delta smelt outcomes. The costs and benefits of management approaches will be evaluated as well once the management approaches are refined. CAMT discussions in February also focused on the CAMT monitoring assessment effort and scoping the next phase to assess and document the objectives of CSAMP members with respect to monitoring.

Metropolitan staff continued collaboration with non-government environmental organizations and public water agencies on the CSAMP Salmon Recovery Initiative. CAMT and the CSAMP Policy Group received briefings in January from the science team leading the project. The briefings addressed the objectives and metrics developed in Phase 1 to help define salmon recovery in quantitative terms and the progress for scheduling outreach to stakeholders. In February, the project team started presentations to stakeholders throughout the Central Valley watershed, including tribes, to make them aware of this effort and ask for their participation in Phase 2 of the process. Phase 2 is focused on engaging with stakeholders to solicit actions planned for salmon recovery, and in phase 3 the actions will be analyzed to help determine which actions may best achieve salmonid recovery while meeting other objectives (e.g. cost, water supply, agricultural production, etc.).

In January, the State Water Contractors (SWC) released their Science Plan (State-Water-Contractors-SciencePlan_FINAL.pdf (swc.org)). The purpose of the SWC Science Plan is to communicate in a transparent manner SWC-funded science efforts that are part of an overall program. The SWC Science Plan lays out the goals and objectives, management questions, and research priorities and processes to ensure that funded science projects are reflective of best available science. Metropolitan staff provided input to the SWC Science Plan and continue to work with the SWC staff to develop partnerships on science projects.

Metropolitan staff continued work on the Delta smelt and Native Species Preservation Project, which will utilize Delta island properties currently owned by Metropolitan to support Delta smelt supplementation efforts. Monitoring studies initiated in October 2021 will characterize

water quality and biological factors in the existing impoundments on the Delta islands properties. In December, additional funding was approved by the SWC to continue the monitoring studies in spring and summer of 2022. Metropolitan staff is continuing to meet with state and federal agencies, non-government organizations, and university researchers to develop partnerships and scope out the next phases of the project.

Delta Levee Stability and Monitoring Efforts

The Delta Levee Stability and Monitoring efforts provide support to the Delta Islands Instrumentation and Monitoring Assessment and Bouldin Island Pilot Project to ensure integrity of freshwater conveyance and Delta Island levees, and to support real time levees monitoring of Delta Islands and broader Delta regional levees. Metropolitan's consultant installed remote erosion sensors on Bouldin Island's westside levee. Additional reception antenna extenders were also installed on previously installed levee sensor probes that measure changes in soil moisture and pressures in zones above high-water tides. Real time monitoring is collecting data that will be analyzed as a part of the evaluation process. The overall progress for the draft levee stability assessment report will be available in the summer of 2022.

Summary Report for The Metropolitan Water District of Southern California Board Meeting March 8, 2022

CONSENT CALENDAR ITEMS – ACTION

The Board:

Authorized the General Manager to negotiate a Project Labor Agreement for application on construction contracts with a value of \$5 million or greater within Metropolitan's Capital Investment Plan. (Agenda Item 7-1)

- (a) Authorized an agreement with Hazen and Sawyer for a not-to-exceed amount of \$890,000 for design to upgrade the Cabazon Radial Gate Facility; and (b) Authorized an agreement with LEE + RO, Inc. for a not-to-exceed amount of \$904,000 for design to replace radial gates along the San Diego Canal. (**Agenda Item 7-2**)
- (a) Adopted CEQA determination that the proposed action was previously addressed in the certified 2020 Program EIR and related CEQA actions; and (b) Awarded \$677,898 contract to Jeremy Harris Construction, Inc. for Stage 1 Right-of-Way and Infrastructure Protection improvements in Western San Bernardino region of Metropolitan's distribution system. (Agenda Item 7-3)

Authorized an agreement with HDR Engineering, Inc. for a not-to-exceed amount of \$2,800,000 for preliminary design to improve erosion protection structures along the aqueduct. (**Agenda Item 7-4**)

Authorized the General Manager to enter into a three-year agreement with GP Generate, LLC for media placement and advertising consulting services not to exceed \$10.5 million. (Agenda Item 7-5)

Adopt the General Manager's Strategic Priorities. (**Agenda Item 7-6**) (**Item was deferred**)

Authorized the General Manager to sign the Equity in Infrastructure Project pledge and participate in the project to support opportunities for historically underserved and underutilized businesses. (**Agenda Item 7-7**)

Authorized an agreement with Kennedy Jenks Consultants in an amount not to exceed \$1.5 million for design of on-site utility systems to serve the Diamond Valley Lake East Marina. (**Agenda Item 7-8**)

Reviewed and considered the County of Riverside's certified Final Environmental Impact Report and Addendum No. 1, and take related CEQA actions; and authorized the granting of a permanent easement for public road purposes to the County of Riverside. (Agenda Item 7-9)

CONSENT CALENDAR OTHER ITEMS – ACTION

Adopted resolution to continue remote teleconference meetings pursuant to the Brown Act Section 54953(e) for meetings of Metropolitan's legislative bodies for a period of 30 days. (**Agenda Item 6B**)

Approved Committee Assignments. Director Fong-Sakai was appointed to the One Water (Conservation and Local Resources) Committee and the Engineering and Operations Committee; Director Miller was appointed to the Water Planning and Stewardship Committee, and the Integrated Resources Plan Special Committee; and Director Smith was removed from the Integrated Resources Plan Special Committee. (**Agenda Item 6C**)

OTHER MATTERS AND REPORTS

Member Agency Overview: Richard Wilson, Assistant General Manager, Water, City of Burbank. (Agenda Item 4a)

Public hearing held regarding: (1) the proposed water rates and charges for calendar years 2023 and 2024 necessary to meet the revenue requirements for fiscal years 2022/23 and 2023/24; and (2) Review of the applicability of Metropolitan Water District Act Section 124.5 ad valorem property tax limitation for fiscal years 2022/23 through 2025/26. (Agenda Item 4b)

Presentation of 20-year Service Pin to Director David D. De Jesus, representing Three Valleys Municipal Water District. (**Agenda Item 5G**)

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

All current month materials, and materials after July 1, 2021 are available on the public website here: https://mwdh2o.legistar.com/Calendar.aspx

This database contains archives from the year 1928 to June 30, 2021: https://bda.mwdh2o.com/Pages/Default.aspx

Summary Report for The Metropolitan Water District of Southern California Special Board Meeting March 29, 2022

CONSENT CALENDAR OTHER ITEMS – ACTION

Adopted resolution to continue remote teleconference meetings pursuant to the Brown Act Section 54953(e) for meetings of Metropolitan's legislative bodies for a period of 30 days. (**Agenda Item 6A**)

OTHER MATTERS

Update on Proposed Voluntary Agreements for Delta Operations and on CDWR Water Operations Cases, Sacramento County Superior Court, Case No. JCCP 5117, which includes the following eight cases: The Metropolitan Water Dist. of S. Cal., et al. v. Calif. Dept. of Fish & Wildlife, et al., Fresno County Superior Ct. Case No. 20CECG01347; State Water Contractors, et al. v. Calif. Dept. of Fish & Wildlife, et al., Fresno County Superior Ct. Case No. 20CECG1302; San Bernardino Valley Municipal Water Dist. v. Calif. Dept. of Water Resources, et al., Fresno County Superior Ct. Case No. 20CECG01556; Tehama-Colusa Canal Auth., et al. v. Calif. Dept. of Water Resources, Fresno County Superior Ct. Case No. 20CECG01303; Sierra Club, et al. v. Calif. Dept. of Water Resources, San Francisco County Superior Ct. Case No. CPF-20-517120; North Coast Rivers Alliance, et al. v. Calif. Dept. of Water Resources, San Francisco County Superior Ct. Case No. CPF-20-517078; Central Delta Water Agency, et al. v. Calif. Dept. of Water Resources, Sacramento County Superior Ct. Case No. 34-2020-80003368; and San Francisco Baykeeper et al. v. Calif. Dept. of Water Resources, et al., Alameda County Superior Ct. Case No. RG20063682; and report on Pacific Coast Federation of Fishermens Assns., et al. v. Ross, et al., Federal District Court for the Eastern District of California, Case No. 1:20-CV-00431-DAD-SAB and Calif. Natural Resources Agency, et al. v. Ross, et al., Federal District Court for the Eastern District of California, Case No. 1:20-CV-00426-DAD-SKO. (WITHDRAWN) (Agenda Item 7A)

Briefing and discussion of proposed response to confidential draft State Audit Report of the Metropolitan Water District of Southern California. (Heard in closed session) (Agenda Item 7B)

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Upcoming Board Items

ANTICIPATED KEY ITEMS OF FOCUS – NOT AN EXHAUSTIVE LIST SCHEDULE SUBJECT TO CHANGE

Month	Key Board Items
April	Approve proposed biennial budget for fiscal years 2022/23 and 2023/24
	 Review and discuss Bay Delta Policies (Workshop #2)
	Appropriate funding for Sites Reservoir planning
	Report on actions that improve SWP reliant area reliability for long-term
	Authorize securing one-year water transfers from North-of-Delta water districts
	Report on Colorado River Tribal Partnerships
	Update on Status of Recommendations from Independent Review of Workplace Concerns
	Update on Antelope Valley-East Kern Water Agency (AVEK) High Desert Groundwater Storage Program
	Board Adoption of the 2020 IRP Regional Needs Assessment
	Release of State Auditor's Report
May	Report on Bond Financing CY 2022
	 Presentation by Delta Conveyance Authority Regarding Delta Conveyance EIR Technical Support
	Approve the Climate Action Plan
June	Approve Bay-Delta Policies
	 Authorize payment for support of the Colorado River Board and Six-Agency Committee for FY 2022/23
	Approve 500+ Plan Implementation Agreements
July	 Authorize an increase to agreement with Roesling Nakamura Terada Architects for final design and architectural services in support of the District Housing and Property Improvement Program.
	Update on Public Draft EIR Release on Delta Conveyance Project (Invited Presenter from California Department of Water Resources)
August	Update on Delta Conveyance Public Draft EIR and Comments





Regular Board of Directors Meeting

April 12, 2022

12:00 PM

Tuesday, April	12, 2022
Meeting Sch	nedule

08:30 am - WP&S 11:30 am - Break 12:00 pm - BOD

Teleconference meetings will continue until further notice. Live streaming is available for all board and committee meetings on mwdh2o.com (Click Here)

A listen only phone line is also available at 1-800-603-9516; enter code: 2176868#. Members of the public may present their comments to the Board on matters within their jurisdiction as listed on the agenda via teleconference only. To participate call (404) 400-0335 and enter Code: 9601962.

MWD Headquarters Building - 700 N. Alameda Street - Los Angeles, CA 90012

1. Call to Order

- 1.1 Invocation: Mitch Lahouti, Metropolitan Retiree
- 1.2 Pledge of Allegiance: Director David De Jesus, Three Valleys Municipal Water District

2. Roll Call

3. Determination of a Quorum

- 4. Opportunity for members of the public to address the Board on matters within the Board's jurisdiction. (As required by Gov. Code § 54954.3(a))
 - **a.** Member Agency Overview: Sunny Wang, Water Resources 21-985 Manager, City of Santa Monica

5. OTHER MATTERS AND REPORTS

A.	Report on Directors' Events Attended at Metropolitan's Expense	<u>21-986</u>
	Attachments: 04122022 BOD 5A Report.pdf	
В.	Chairwoman's Monthly Activity Report	<u>21-987</u>
C.	General Manager's Monthly Activity Report	21-988

7-3 Approve the proposed biennial budget for fiscal years 2022/23 and 2023/24, which includes the Capital Investment Plan and revenue requirements for fiscal years 2022/23 and 2023/24, and ten-year forecast; adopt resolutions fixing and adopting the water rates and charges for calendar years 2023 and 2024; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA. [POSTING SEPARATELY] (FI)

7-4 Authorize an agreement with Stantec Consulting Services, Inc. for a not-to-exceed amount of \$8.5 million to replace the control system at the Mills Water Treatment Plant and amend an existing agreement with CH2M Hill Engineers, Inc. for a not-to exceed amount of \$4.435 million; the General Manager has determined that this proposed action is exempt or otherwise not subject to CEQA (EO)

Attachments: <u>04122022 EO 7-4 B-L.pdf</u>

7-5 Appropriate \$600 million for projects identified in the Capital Investment Plan for Fiscal Years 2022/23 and 2023/24 and authorize the General Manager to initiate or proceed with work on capital projects identified in the Capital Investment Plan for Fiscal Years 2022/23 and 2023/24 and Minor Capital Projects to be identified during the biennial period, subject to any limits on the General Manager's authority and CEQA requirements; the General Manager has determined that the proposed actions are exempt or otherwise not subject to CEQA (EO)

Attachments: 04122022 EO 7-5 B-L.pdf

7-6 Adopt the CEQA determination that the proposed project was previously addressed in the approved 2014 Mitigated Negative Declaration and related CEQA action and (1) award a \$17,226,250 contract to Spiniello Infrastructure West, Inc. to replace the lining in a portion of the Orange County Feeder; and (2) authorize the General Manager to enter into a new 24-month lease agreement, with an 18-month option to extend, at 2750 Bristol Street in Costa Mesa, CA (Assessor's Parcel No. 418 182-05) in an amount not to exceed \$360,000 for use as a construction staging and storage site (EO)

Attachments: 04122022 EO 7-6 B-L.pdf

21-996

21-997

21-999

7-7 Approve the General Manager's Strategic Priorities; the General **21-886** Manager has determined that the proposed action is exempt or otherwise not subject to CEQA. [POSTING SEPARATELY] 7-8 Authorize granting a new ten-year license agreement to New 21-1000 Cingular Wireless, PCS LLC, for the continued operation of an existing telecommunications site on Metropolitan's fee-owned property in the city of Yorba Linda, identified as Orange County Assessor Parcel Number 329-021-03; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA (RPAM) Attachments: 04122022 RPAM 7-8 B-L.pdf 7-9 Authorize granting a new ten-year license agreement to CCATT 21-1001 LLC, for the continued operation of an existing telecommunications site on Metropolitan's fee-owned property in the city of Los Angeles commonly identified as Los Angeles County Assessor Parcel Number 4493-014-906; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA (RPAM) Attachments: 04122022 RPAM 7-9 B-L.pdf Authorize agreement with Western Municipal Water District, 21-1002 Rubidoux Community Services District, West Valley Water District, and San Bernardino Valley Municipal Water District to provide Rubidoux Community Services District assistance on water deliveries; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA. [POSTING SEPARATELY] (WPS) Authorize the General Manager to negotiate an agreement 21-1003 consistent with the draft terms of the Metropolitan Water District/Inland Empire Utilities Agency Exchange Agreement; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA. [POSTING

SEPARATELY] (WPS)

7-12 Authorize the General Manager to: (1) secure one-year water 21-1004 transfers with various water districts north of the Sacramento-San Joaquin River Delta for up to 75,000 acre-feet of additional supplies; (2) secure storage and conveyance agreements with the Department of Water Resources and various water districts to facilitate these transfers; (3) pay up to \$60 million from the State Water Project Budget for such transfers; and grant final decision-making authority to the General Manager subject to the terms set forth in this letter; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA (WPS) Attachments: 04122022 WPS 7-12 B-L .pdf **7-13** Appropriate \$20 million, and authorize an amendment to the 2019 21-1005 Reservoir Project Agreement with the Sites Project Authority to allow participation in the Sites Reservoir Project Amendment 3 Workplan; the General Manager has determined that the proposed actions are exempt or otherwise not subject to CEQA (WPS)

Attachments: 04122022 WPS 7-13 B-L .pdf

- 7-14 Declare Water Supply Condition; adopt supporting resolution; and authorize the General Manager to finalize a Water Supply Allocation for portions of the service area; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA. [POSTING SEPARATELY] (WPS)
- 7-15 Review and Express Support for the Bay-Delta Watershed
 Voluntary Agreements; the General Manager has determined that
 the proposed action is exempt or otherwise not subject to CEQA.
 [POSTING SEPARATELY] (WPS)
- 7-16 Express support for SB 991 (Newman, D-Fullerton): Public contracts: progressive design-build: local agencies; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA. [POSTING SEPARATELY] (CL)

Board of Directors April 12, 2022

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7-17 Report on Baker Electric, Inc. v. Metropolitan Water District of Southern California, et al., (Los Angeles Superior Court Case No. 21STCV15612) regarding Metropolitan's CRA 6.9 kV Power Cables Replacement Project, Contract No. 1915; authorize an increase in the maximum amount payable under contract with Musick, Peeler & Garrett LLP, for legal services by \$600,000 to an amount not to exceed \$900,000; and authorize an increase in the maximum amount payable under contract with Exponent, Inc. for consultant services by \$300,000 to an amount not to exceed \$400,000; the General Manager has determined the proposed action is exempt or otherwise not subject to CEQA. [Conference with legal counsel - existing litigation and initiating litigation; to be heard in closed session pursuant to Gov. Code Section 54956.9(d) (1) and 54956.9(d)(4). [POSTING SEPARATELY] (LC)

21-1008

7-18 Authorize settlement of John Campbell v. The Metropolitan Water District of Southern California Workers Compensation Appeals Board, Riverside, Case Numbers ADJ11262832, ADJ9311537, ADJ7783020, and ADJ8290584; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA [Conference with legal counsel – existing litigation; to be heard in closed session pursuant to Government Code Section 54956.9(d)(1)]. [POSTING SEPARATELY] (LC)

21-1041

** END OF CONSENT CALENDAR ITEMS **

8. OTHER BOARD ITEMS - ACTION

NONE

9. BOARD INFORMATION ITEMS

9-1 Report on Conservation

21-1009

Attachments: 04122022 BOD 9-1 Report.pdf

10. OTHER MATTERS

NONE

11. FOLLOW-UP ITEMS

NONE

12. FUTURE AGENDA ITEMS

Board of Directors April 12, 2022

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13. ADJOURNMENT

NOTE:

Each agenda item with a committee designation will be considered and a recommendation may be made by one or more committees prior to consideration and final action by the full Board of Directors. The committee designation appears in parenthesis at the end of the description of the agenda item e.g. (E&O, BF&I). Committee agendas may be obtained from the Executive Secretary.

Requests for a disability related modification or accommodation, including auxiliary aids or services, in order to attend or participate in a meeting should be made to the Executive Secretary in advance of the meeting to ensure availability of the requested service or accommodation.