

WORKSHOP MEETING OF THE  
BOARD OF DIRECTORS WITH MET DIRECTORS  
MUNICIPAL WATER DISTRICT OF ORANGE COUNTY  
18700 Ward Street, Conference Room 101, Fountain Valley, California  
June 7, 2023, 8:30 a.m.

**This meeting will be held in person. As a convenience for the public, the meeting may also be accessed by Zoom Webinar and will be available by either computer or telephone audio as indicated below. Because this is an in-person meeting and the Zoom component is not required, but rather is being offered as a convenience, if there are any technical issues during the meeting, this meeting will continue and will not be suspended.**

**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

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### 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. 2141

### PRESENTATION/DISCUSSION ITEMS

#### 1. PRESENTATION BY MWDOC STAFF REGARDING NEXT STEPS ON CLIMATE ADAPTATION MASTER PLAN

*Recommendation: Review and discuss the information presented.*

**2. LEGISLATIVE ACTIVITIES**

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

*Recommendation: Review and discuss the information presented.*

**3. 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.*

**ACTION ITEMS**

**4. AB 334 (B. RUBIO) – PUBLIC CONTRACTS: CONFLICTS OF INTEREST**

*Recommendation: Adopt a support position on AB 334 (B. Rubio) and send a letter to the author and the Orange County delegation.*

**5. ADOPT RESOLUTION IN SUPPORT OF CATHY GREEN FOR ACWA PRESIDENT**

*Recommendation: Review and discuss the request from Orange County Water District (OCWD) President Cathy Green to adopt a Resolution supporting her nomination as President of the Association of California Water Agencies (ACWA).*

**INFORMATION ITEMS**

**6. 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 Water Supply Condition Update
- c. Water Quality Update
- d. Colorado River Issues
- e. Delta Conveyance Activities and State Water Project Issues

*Recommendation: Review and discuss the information presented.*

**7. METROPOLITAN (MET) BOARD AND COMMITTEE AGENDA DISCUSSION ITEMS**

- a. Summary regarding May MET Board Meetings
- b. MET 4-Month Outlook on Upcoming Issues (not available)
- 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.



**DISCUSSION ITEM**  
June 7, 2023

**TO:** Board of Directors

**FROM:** Harvey De La Torre, Interim General Manager

Staff Contact: Melissa Baum-Haley

**SUBJECT: PRESENTATION BY MWDOC STAFF REGARDING NEXT STEPS ON CLIMATE ADAPTATION MASTER PLAN**

**STAFF RECOMMENDATION**

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

**REPORT**

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As a continuation in a series of presentations on the Climate Adaptation Master Plan for Water process, MWDOC staff will provide an overview of the May 23 Board Workshop Discussion on Key Elements for Metropolitan (Reliability, Resilience, Financial Sustainability, and Affordability) and initial discussions of Guiding Principles.

**Background**

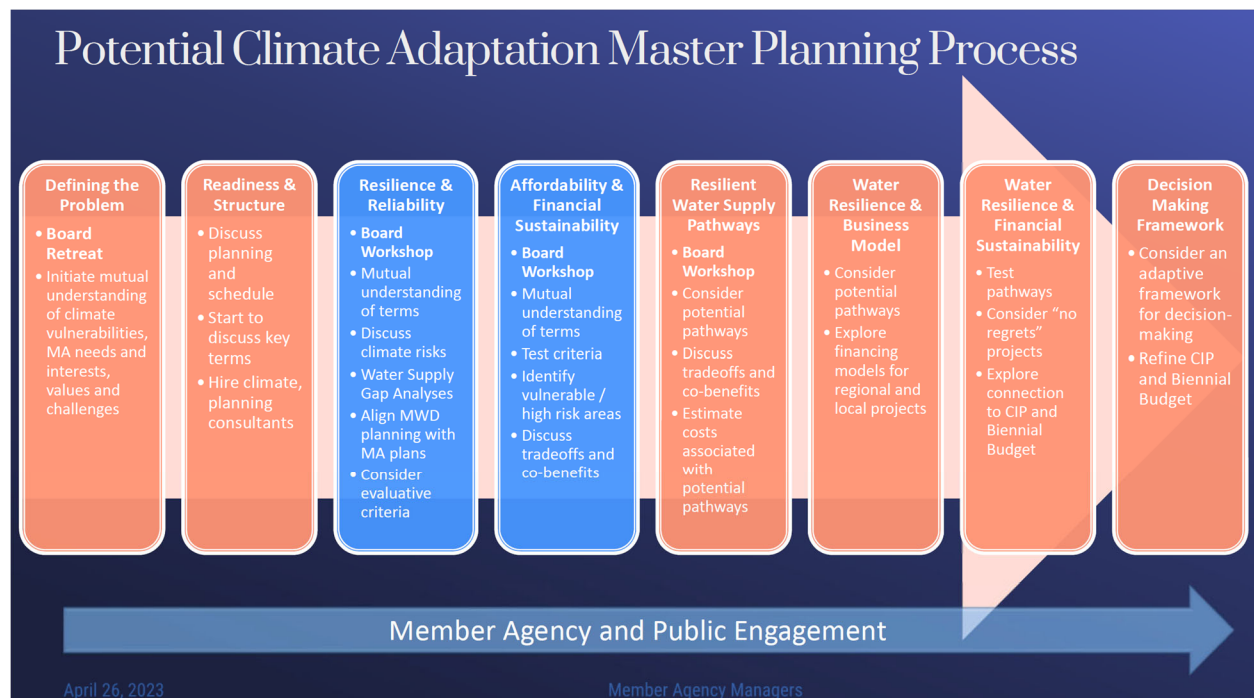
The February 2023 Metropolitan Board Retreat raised the idea of developing a Climate Adaptation Master Plan for Water (CAMP) to better integrate Metropolitan's planning for water resources, climate resilience, and finances, given the significance of rapidly increasing impacts of climate change on water supplies and operations. This planning work is intended to function as a catalyst to help position Metropolitan for greater climate resilience and to provide reliable water in an economically and environmentally responsible manner in the years and decades ahead.

On May 23, the Metropolitan Board held a workshop focused on terminology of interests and initial discussions of guiding principles. The Guiding Principles are intended to be high-level and actionable statements of what the Board wants the CAMP to accomplish.

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

Through the development of the CAMP, the Metropolitan Board will make key policy decisions on the following items:

1. Develop a mutual understanding of key terms and outline goals and potential impacts for Metropolitan and member agencies. This will commence with additional Board workshops in May and June.
  - a. Resilience
  - b. Reliability
  - c. Financial Sustainability
  - d. Affordability
2. Develop evaluative criteria to measure climate-resilient strategies for:
  - a. Local and regional water supply and conveyance projects.
  - b. Storage development inside and outside service area.
  - c. Investments in imported water supply.
  - d. Conservation and other demand management programs.
3. Identify potential pathways for future investment to meet resilience, reliability, financial sustainability and affordability goals and objectives and evaluate against criteria.
4. Evaluate organizational needs for meeting goals and objectives, including:
  - a. Business model options
  - b. Financing and rate structures
  - c. Workforce development



The Metropolitan *Subcommittee on Long-Term Regional Planning and Business Modeling* is expected to be the hub for Board direction related to the planning process and the alignment of resource planning, providing recommendations for full Board actions.

### **Common Understand of Key Terms**

Metropolitan staff has begun reviewing how Metropolitan, as a district, has defined the key terms in the past and how they have been used in practice. Once a common understanding of definitions takes shape, how evolving climate conditions impact these key terms will also be evaluated.

Generally, the key terms will capture the following concepts:

**Reliability**: (Supply) Ability to always meet water demands.

**Resilience**: (System) Capacity to prepare for disruptions, to recover from shocks and stresses, and to adapt and grow from a disruptive experience.

**Financial Sustainability**: (Enterprise) Ensuring Metropolitan's revenues are sufficient to cover expenses over the short- and long-term.

**Affordability**: (Customer) Relative cost burden and elastic ability to access (pay for) service.

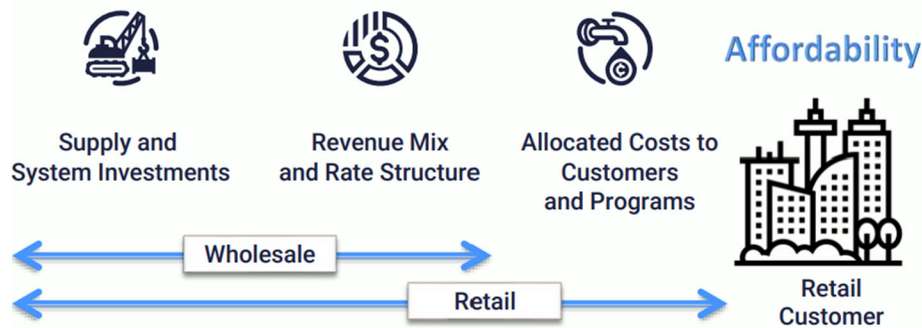
Supply Reliability denotes the importance of developing a diversified portfolio of projects/programs to meet projected water demands. As defined in previous IRP's Metropolitan's Reliability goals have expanded over time. The early goal, set in the 1990's, was to avoid shortages for firm demand in all but the most severe drought (1 in 50 years). The goal was then expanded with a buffer for full capability to meet all retail-level water demands under all foreseeable hydrologic events (100% reliability) through integrating imported and local water resources. More recently, through the 2020 IRP Needs Assessment, the future reliability goal expanded the "foreseeable" hydrologic events tested through varied scenarios.

As the definitions and a better understanding of reliability and resilience are being considered, it has become evident that these two terms are interrelated. Further, for a retail customer to have 100% reliability, a combination of actions by both retail and wholesale water providers must occur. Most efforts to address resilience have focused on system reliability and seismic resilience.



To achieve Financial Sustainability as defined for the short- and long-term, Metropolitan needs to maintain adequate monetary reserves to withstand unforeseen expenditures and revenue declines due to variations in economic and hydrologic conditions, while ensuring the business model remains viable into the future.

Concurrently, affordability has different implications for Metropolitan vs. Wholesale Member Agencies and Retail Member Agencies. As a wholesaler, Metropolitan doesn't control how its Member Agencies pass on Metropolitan's costs to its retail agencies and/or their customers. From the system perspective, affordability is local and the retail customer's ability to access water service is based on their overlapping rate burden and capacity to pay.



### **Board Workshops**

The May 23 Metropolitan Board workshop focused on terminology, shared interests, and the brainstorming of potential guiding principles. Guiding Principles are high-level and actionable statements of what the Board wants the CAMP to accomplish. They ensure that important needs, priorities, and conditions are being considered and balanced.

CAMP Guiding Principles will:

- Inform and drive planning components (i.e. evaluative criteria, project portfolios)
- Steer decision-making during the planning process
- Provide scaffolding to discussions on Reliability, Resilience, Financial Sustainability, & Affordability

To prepare for the June 27 Board workshop, Metropolitan staff will synthesize the input received at the May 23 workshop and return to the Board with initial set of Draft Guiding Principles for feedback and fine-tuning. The input will also provide input to develop initial framework of evaluative criteria.

Throughout the CAMP process, Metropolitan and its Member Agencies will identify potential pathways and investments needed to increase reliability and resilience. The evaluative criteria will help score, weight, and rank pathways to facilitate the objective analysis of alternatives to understand tradeoffs and opportunities to provide multiple benefits. The development of evaluative criteria will be iterative and will be based on working understandings of priorities and guiding principles.

MWDOC staff is seeking healthy discussion at this Joint Board Workshop. The general feedback received will aid in including input on aligning Member Agency planning process with CAMP within Orange County, and with other Metropolitan Member Agencies.

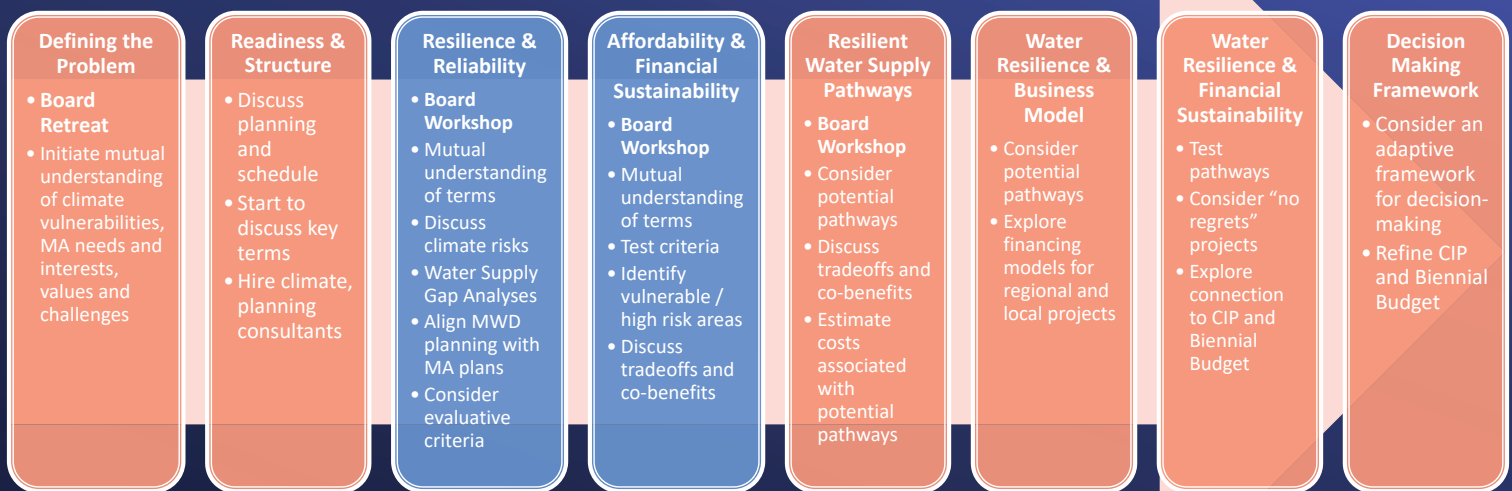
**Attachment:** May 23 Board Workshop Climate Adaptation Master Plan PowerPoint



# Climate Adaptation Master Plan for Water: Terminology and Interests

Item 5a  
May 23, 2023

## Potential Climate Adaptation Master Planning Process



## Today's Discussion: Terminology & Interests

Reliability  
Resilience  
Affordability  
Financial Sustainability

- How does Metropolitan define these terms now?
- How are they used in practice?
- How do evolving climate conditions impact our understanding of these terms?

May 23, 2023

Board of Directors Workshop Long-Term Regional Planning Processes and Business Modeling

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## Reliability & Resilience

- (Supply) Reliability  
Always meet water demands
- (System) Resilience  
Withstand & recover from  
disruptions

May 23, 2023

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Item # 5a Slide 4

Working Definition

## How Metropolitan defines...

Supply Reliability denotes the importance of developing a diversified portfolio of projects/programs to meet projected water demands

## Reliability

Source: Integrated Resources Plan

### Early goal

- Avoid shortages for firm demand in all but the most severe drought (1 in 50 years)

### Later goal (with buffer)

- Full capability to meet all retail-level water demands under all foreseeable hydrologic events (100% reliability)
- Through integrating imported and local water resources

### Future goal (expanded “foreseeable”)

- Full capability to meet all retail-level water demands under all foreseeable hydrologic events (test through scenarios)

May 23, 2023

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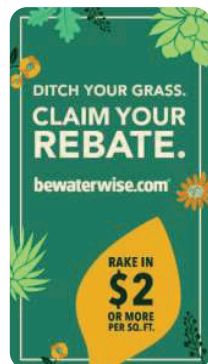
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Working Definition

## How Metropolitan defines...

## Reliability in Practice

Source: Integrated Resources Plan



Water Use Efficiency



Local Supply



Imported Supply



Water Storage

May 23, 2023

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## Combination of actions by both retail and wholesale water providers

Working Definition

Reliability  
(Supply)  
&  
Resilience  
(System)



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## Resilience

*The capacity to prepare for disruptions, to recover from shocks and stresses, and to adapt and grow from a disruptive experience.*

Working Definition

How  
Metropolitan  
defines...

Most efforts to address resilience have focused on system reliability and seismic resilience



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## Resilience in Practice

Working Definition

How  
Metropolitan  
defines...



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Financial  
Sustainability &  
Affordability

- (Enterprise) Financial Sustainability  
Revenues sufficient to cover expenses over  
the short- and long- term
- (Customer) Affordability  
Relative cost burden and elastic ability to  
access (pay for) service

May 23, 2023

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Working Definition

## How Metropolitan defines...

### Financial Sustainability

- Enterprise-wide assessment of Metropolitan's financial health
- Revenues sufficient to cover expenses over the short- and long-term
  - Maintain adequate monetary reserves to withstand unforeseen expenditures and revenue declines due to variations in economic and hydrologic conditions
  - Ensure business model remains viable into the future

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Working Definition

## How Metropolitan defines...

### Financial Sustainability in Practice

- Remaining cost competitive
  - Efficient use of resources
  - Cost-containment strategies
- Maintain creditworthiness for access to capital markets / debt financing
  - Operational liquidity
  - Reserve sufficiency and sustainability
  - Debt Coverage Ratios
  - Net position / debt capacity

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Working Definition

## How Metropolitan defines...

# Financial Sustainability in Practice

- Long-term planning...
  - Invest to maintain our targeted water supplies
  - Fund replenishments and refurbishments of core system
  - Maintain highly skilled workforce
  - Forecast impact on projected average rates
- ...Incorporating climate change
  - Rating agencies are developing more robust models to assess the risk exposure of climate change on their portfolio of credits
  - Increased uncertainty and variability due to climate change requires Metropolitan to update its projected financial outlook

May 23, 2023

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Working Definition

## How Metropolitan defines...

# Affordability

- Economy of scale concept
  - Met was created to deliver regional projects (CRA/SWP) more affordably for Member Agencies
- Relative cost concept
  - Comparative Cost – to other source of water (\$/AF)
  - Cost Value – ROI as a metric may help assess cost value and scalability of a project or program (can include multiple benefits)
  - Lifecycle Cost – What is the value over the long-term? O&M in addition to upfront capital costs

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## Affordability in Practice

Member Agency Perspective

### Affordability Is Complex

It has different implications for Metropolitan vs. Wholesale Member Agencies and Retail Member Agencies

- Member Agencies have distinct profiles of financial capacity
  - Large and small
  - Growing and established
  - Different levels of financial capacity
  - Different levels of rate capacity
  - Varying levels of reliance on Metropolitan supplies
- Retail customer capacity to pay (income as a measure of capacity to pay)
  - Disposable income
  - Household vs. per capita income
  - Research on metrics and overlapping rate burden

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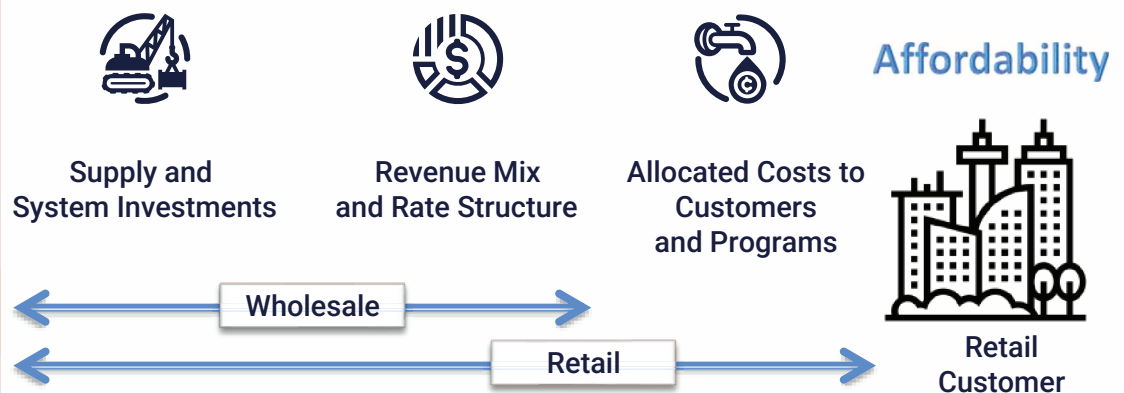
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System Perspective

### Affordability Is Local

As a wholesaler, Metropolitan doesn't control how its Member Agencies pass on Metropolitan's costs to its member agencies and/or their customers

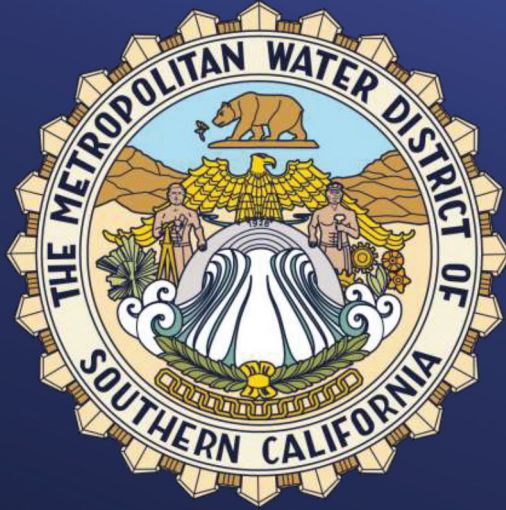
Retail customer ability to access water service is based on their overlapping rate burden and capacity to pay



May 23, 2023

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

**From:** Natural Resource Results

**RE:** Monthly Board Report – May 2023

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### **Debt Limit**

Over the Memorial Day weekend, President Biden and Speaker McCarthy struck a deal to raise the nation's debt limit. The agreement would:

- Increase defense spending by roughly 3% for fiscal year 2024 and allows for a 1% increase in fiscal year 2025.
- Force a 1% cut across the board if Congress does not pass all 12 of the annual appropriations bills.
- Hold discretionary spending flat at roughly fiscal year 2023 levels.
- Claw back \$21.4 billion that was given to the IRS in the Inflation Reduction Act.
- Add additional work requirements to certain federal nutrition assistance programs.
- Claw back \$30 billion in unspent federal COVID funding.
- Make slight changes to NEPA by allowing any federal agency to adopt a Categorical Exclusion (CE) that is used by another federal agency, require Environmental Impact Statements (EIS) to be completed in 2 years with a 300-page limit, shorten the statute of limitations for NEPA lawsuits from 6 years down to 2 years, and requires that a litigant must have participated in the NEPA process in order for their lawsuit to have standing.

The bill does not touch the \$4 billion that the Bureau of Reclamation received from the Inflation Reduction Act.

### **Waters of the United States (WOTUS)**

The Supreme Court finally ruled in the *Sackett v. EPA* case which essentially invalidates the Administration's recent WOTUS rule that went into effect on March 20<sup>th</sup>. The majority opinion, which was led by Justice Alito found "The Clean Water Act (CWA) extends to only those wetlands with a continuous surface connection to bodies that are waters of the United States in their own right, so that they are indistinguishable for those waters."

The ruling threw out the "significant nexus" test that had been the ruling WOTUS test since the *Rapanos* decision, stating that the CWA never mentions the test, therefore EPA has no statutory authority to impose it. The ruling also stated that the boundary between significant and insignificant nexus is far from clear.

The Principal Concurrence (agreement in judgment only) was led by Justice Kavanaugh and agreed with doing away with the “significant nexus” test but stopped short of agreeing with the new continuous surface connection test requiring wetlands to be “adjoining” waters of the United States.

While the Administration has not made any public statements as to how it will proceed after the ruling, they will need to go back to the drawing board to rewrite their recently finalized rule.

### **WEROC**

With the appropriations process delayed until Congress addresses the debt limit, we are in limbo with our earmark request. Whenever the House Appropriations Committee resumes its markups of the annual spending bills, we will be able to determine whether we made it into the bill or not.

### **Colorado River**

The Lower Basin States came up with a proposal that is supported by the Bureau of Reclamation that would conserve nearly 3 million acre-feet of water over the next three years, providing a stop-gap measure until the Basin States can work on a long-term deal to manage the reservoirs after 2026. The proposal is in response to the BOR’s Supplemental Environmental Impact Statement and Reclamation will now analyze the proposal and publish an updated draft assessment.

### **STREAM Act**

Senator Feinstein is circulating a discussion draft of a bill that she introduced in the 117<sup>th</sup> Congress, the Support to Rehydrate the Environment, Agriculture and Municipalities Act (STREAM Act). A section-by-section of the legislation is attached to this report.

## **Section-by-Section Analysis of “STREAM Act”**

**Draft, May 2023**

- Section 1, Short Title; Table of Contents, indicates that this Act may be cited as the “Support To Rehydrate the Environment, Agriculture, and Municipalities Act” or the “STREAM Act”.
- Section 2, Definitions, includes important definitions of key terms, including:
  - Non-Federal storage project, which is any project in a Reclamation State that—
    - (A) involves the construction, expansion, or repair 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(9).
  - 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(8).
  - 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.
  - Public benefits. Section 2(10). 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, Storage and Conveyance Projects.

## **Title I, Infrastructure Development**

- Section 101, Storage and Conveyance Projects
  - **This section authorizes funding for non-Federal storage projects. It uses the Title XVI precedent of non-reimbursable funding for water supply where the project provides multiple benefits including environmental benefits within the watershed.**
  - Section 101 is framed as an amendment to the provisions of section 4007 of the Water Infrastructure Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114-322).
  - Section 101 extends section 4007 as applied to State-led storage projects, but does not extend section 4007 as applied to Federally-owned storage projects.
  - Section 4007(b)(1) as amended would replace the term “State-led storage project” with “non-Federal storage project”, because tribes are eligible to seek funding for such projects.
  - Surface and groundwater storage, conveyance, and natural water retention and release projects are eligible per the definition of “non-Federal storage projects” in section 2(9).
  - Section 4007(b)(2) as amended would authorize construction of non-Federal storage projects other than natural water retention and release projects 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 (or sponsoring Indian tribe for tribal projects) supports Federal funding of the project.
  - Section 4007(b)(3) would continue to require compliance with environmental laws for Federal participation in a non-Federal storage project.
  - Section 4007(b)(4) would continue to authorize the Secretary to rely on reports prepared by the non-Federal entity as long as the Secretary retained responsibility for making the determinations in paragraph 4007(b)(2).
  - Section 4007(b)(5) as amended would authorize natural water retention and release projects:
    - for projects costing less than \$10 million, the eligible entity must show that the project will help optimize the storage or delivery of water in a watershed in which a Bureau of Reclamation facility is located; and

- for projects costing over \$10 million, there must also be a credible estimate of the quantify of the storage benefit.
- Section 4007(b)(6) as amended would limit the Federal cost-share to \$250 million for non-Federal storage projects authorized by this section.
- Sections 4007(b)(7) and (8) as amended address the maximum Federal cost-share and reimbursability of Federal funding:
  - **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(10) 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.
  - **Water supply benefits are generally reimbursable, except that water supply benefits are nonreimbursable** up to the extent that the value of the water supply benefits is equal to the value of public benefits described above that are fish and wildlife or water quality benefits.
  - To give an example, this means that if a project sponsor is seeking \$100 million in federal funding for a \$400 million non-Federal storage project, the sponsor can get that \$100 million funding on a non-reimbursable basis if there is \$50 million in public benefits from either the project itself or other projects as part of a watershed restoration plan approved with the project, and then an equal \$50 million in water supply benefits from the project if the public benefits include at least \$50 million in fish and wildlife or water quality benefits. Some examples of fish and wildlife or water quality benefits from a watershed plan could include:
    - water leasing during a dry year, water sharing agreements, water banking, ongoing water conservation, and related activities if they provide fish and wildlife or water quality benefits;
    - environmental restoration projects; and
    - natural water retention and release projects.
- If nonreimbursable funding 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(6)(D)) up to the limit of 25 percent of the total project cost.

- Section 4007(b)(9) as amended would establish funding priority for a project that has 2 or more of the following: 1) substantial multiple benefits, 2) reductions in environmental impacts from water projects, 3) multi-state benefits, 4) collaborative development and support by multiple stakeholders; or 5) is located in a watershed where an integrated, comprehensive watershed management plan.
- Section 4007(e) as amended would authorize \$750 million total in funding from FY 2025 through FY 2029 for:

1) non-Federal storage projects, including natural water retention and release projects, authorized pursuant to the provisions of this section;

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.

Under the amended section 4007(e), 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.

- Subsection 101(b) of the STREAM Act is a conforming amendment which reflects the fact that the STREAM Act is amending and extending sections 4007, 4009(a) and 4009(c) of the WIIN Act, so they no longer expire in 2021.

- Subsection 101(c) 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.
- Subsection 101(d) 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 101(e) reauthorizes the CALFED legislation through fiscal year 2027.
- 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.**
  - The basic idea of this section is modeled on the Section 7001 report that the Army Corps of Engineers submits to Congress for WRDA projects.
- **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 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 104, Desalination Project Development, 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).
  - 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.
  - 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.
  - 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 105, Drinking Water Assistance for Disadvantaged Communities
  - **This section authorizes an additional \$100 million for the Bureau of Reclamation’s program to provide drinking water assistance to disadvantaged communities in section 50231 of the Inflation Reduction Act.**
  - The Secretary is encouraged to 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 106, 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.
  - Congress appropriated \$3.2 billion for the Aging Infrastructure Program in the Infrastructure Investment and Jobs Act.
  - If we are spending this much money to retool Reclamation infrastructure for the needs of the 21<sup>st</sup> 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.
- 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.
  - 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.
  - 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 multi-benefit 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 107, Use of Revenue to Improve Drought Resilience or Dam Safety
    - **Issue:** 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.
    - **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.

- 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 dam safety 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 or dam safety 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, improve dam safety, and accelerate repayment of existing obligations.

## **Title II, Improved Technology and Data**

- Section 201, Reauthorization of the Transboundary Aquifer Assessment Program
  - This section reauthorizes the United States-Mexico Transboundary Aquifer Assessment Act (42 U.S.C. 1962 note; Public Law 109-448).
  - 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, Ecosystem Restoration
  - 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.”

- Subsection (c) supplements the \$100 million provided to the competitive grant program for habitat restoration in the bipartisan infrastructure law with:
  - 1) An authorization of \$150 million total for the competitive grant program from fiscal year 2025 through fiscal year 2029; and
  - 2) An authorization of \$100 million total from fiscal year 2025 through fiscal year 2029 for other grants, contracts, and agreements to achieve the habitat restoration purposes of this section and consistent with its requirements, as authorized in this section.
  - 3) Among other purposes, this \$100 million could be used to ensure that when Sacramento Valley rice growers sell their water and idle their crops, some water is left behind and applied to bare fields in late summer and early fall to create shallow flooded habitat during a critical shorebird migration period. See subsection (f) of amended section 40907 of the amended Infrastructure Investment and Jobs Act.
- 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.
- Finally, subsection (c) requires the Secretary to comply with applicable environmental laws in implementing this section.
- Section 302, Performance-based Restoration Authority
  - **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.
  - 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.

- 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.
- 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.
- 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
- 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 Drought Program Under the Reclamation States Emergency Drought Relief Act of 1991
  - 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.
  - The existing Act limits permanent facilities that it authorizes to groundwater wells.
  - 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 (a) also requires that a well drilled to minimize losses and damages from drought conditions must either 1) align with applicable local, state, or regional groundwater sustainability goals; or 2) support drinking water supplies for a

disadvantaged community or Tribe.

- Subsection (a) further 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 (a) 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 (b) 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 (b) also extends the Reclamation States Emergency Drought Relief Act authorization to 2031.
- Subsection (c) amends the Secure Water Act of 2009 to provide that an application for WaterSMART funding to drill a groundwater well for municipal supply to minimize losses and damages from drought conditions shall not increase the applicant's net water use beyond the period of any drought emergency, unless the groundwater well is for the purpose of supplying drinking water for a disadvantaged community or Tribe, or if the new groundwater use is partially offset by aquatic habitat enhancement during the drought period, or over the long-term, including a future drought period.
- Section 402, Environmental Compliance
  - This section requires the Act to be implemented consistent with applicable State law and Federal environmental law.
- Section 403, Effect
  - This section provides that nothing in this Act shall interfere with any obligation of a State under the Rio Grande Compact or any other interstate compact approved by Congress.

To: Municipal Water District of Orange County  
From: Syrus Devers, Best Best & Krieger  
Date: June 7<sup>th</sup>, 2023  
Re: Monthly Report

### Legislative Report

The deadline to move a bill out of the house of origin was June 2<sup>nd</sup> and both houses held floor sessions every day in the run-up to the deadline in order to clear a backlog of legislation. The next major deadline is passing the State Budget by June 15<sup>th</sup>, although this is more of a procedural deadline than a substantive one. After that comes what may be the most significant deadline of the year; the final policy committee deadline. Legislators will only have until July 14<sup>th</sup> to clear all assigned policy committees in the 2<sup>nd</sup> house. The 2<sup>nd</sup> house deadline is where the collegiality disappears and bills will not be moved as a courtesy to give the author more time to work on the issues.

Last month's report discussed the need to focus on other pieces of legislation besides the water rights bills. With all the attention on AB 460, AB 1337, and SB 389, several bills made it past policy committees with little opposition. The effort proved successful with a number of key oppose bills getting held in the Appropriations Committees of each house.

#### Held bills:

**SB 687** (Eggman): This bill would have linked the Delta Conveyance Project to adoption and implementation of the Delta Water Quality Control Plan update, which could have delayed the project indefinitely. BBK staff was the only contract lobbyist who appeared in opposition in Senate Natural Resources and Water, and the only other opposition witness besides the State Water Contractors. Although the bill made it past the policy committee stage, it was successfully held on suspense in Senate Appropriations.

**AB 1072** (Wicks): This bill would have required 40% of all conservation funds for water efficient landscapes to be dedicated to low-income households. BBK worked through ACWA in opposition and was successful at getting the bill held in Assembly Appropriations.

**AB 838** (Connolly): This hard to explain bill required water districts to calculate the "median dollar amount" billed to each customer, and the cost of all planned infrastructure improvements. Despite opposition letters from water associations, the bill was not actively opposed in the policy committee and was passed with bipartisan support. More active opposition resulted in the bill being held in Assembly Appropriations.

### Bad bills that are still alive:

**AB 755** (Papan): This bill requires water districts to estimate the hypothetical savings rate payers would realize if the largest users of water achieved mandated efficiency goals when undertaking a rate study. Again, this was not actively lobbied in committee and it passed on a party line vote. At the time this report was prepared the bill was waiting for a vote on the Assembly Floor.

### The water rights bills:

While BBK staff was focused on the bills listed above, the rest of the water lobby corps was working against the package of water rights bills. Here are the current results:

**AB 460** (Bauer-Kahan): Still moving. This is the most problematic of the three bills. It would give the SWRCB the power to issue restraining orders on par with a court's power to issue Temporary Restraining Orders. It may appear that the bill squeaked by with the minimum of 41 votes on the Assembly Floor, but more likely is that the vote was worked out in advance. The author made no attempt to seek more votes once the count reached 41, which it did fairly quickly. It suggests more votes were possible but that the author was content with the minimum necessary.

**AB 1337** (Wicks): Still moving. This bill overturns the court holding in the Curtailment Cases and allows SWRCB to enforce water rights against pre-1914 water right holders. This bill fared slightly better than AB 460 and quickly got to 44 votes on the Assembly Floor. Again, it appeared that the author already had the vote count and made no attempt to hold the role open and add more votes.

**SB 389** (Allen): Future uncertain. This bill would grant the SWRCB sweeping powers to demand information to support a water right claim, and it puts the burden of proof on the holder of the right. The one possible bright spot for the opposition coalition is that SB 389 stalled on its first vote at 16, a poor showing, with 21 needed to pass the Senate Floor. But it's not over because the author can continue to work the votes and bring the bill up again before Friday the 2<sup>nd</sup>. (This report was prepared on 5/31.)

### **Administrative Report**

The Governor took over the issue of infrastructure permit streamlining by holding a press conference and then introducing 10 Budget Trailer Bills on various aspects of the process for approving major projects. He was also probably behind the demise of ACWA's sponsored bill on permit streamlining which was held on suspense in Senate Appropriations. Not 3 hours after SB 23 (Caballero) was held, the Executive Directors for ACWA and CMUA were called in by the Governor's staff and told about the press conference that would be held the next day. During the press conference the Governor claimed he had been meeting with legislators on the trailer bills, but it soon became clear that this was overstated. It took the Legislature a little over a week to hear and shoot down the most visible piece of the Governor's bill package on CEQA reform. In lieu of the Governor's proposal, the Assembly scheduled a joint hearing of the Natural Resources and Judiciary Committees to consider CEQA reforms. The hearing will be on June 7<sup>th</sup> at 2:30 in the Assembly.

# ACKERMAN CONSULTING

## Legal and Regulatory

June 7, 2023

1. **Clean Water Act Decision:** The US Supreme Court made a major decision last week regarding the Clean Water Act. The term “waters of the US” has been a battle ground for some time. The interpretation has been going back and forth to include waterways, wetlands and streams that are directly connected to navigable waterways or that are merely adjacent to those waterways. The EPA has historically taken a broader view which has created more havoc for farmers, property owners and developers. The environmentalists have preferred the more expanded view. This court has determined that more narrow interpretation is correct. This is considered a major victory for the landowners and developers. The court stated that the broader view leaves decisions to the bureaucrats and not the elected officials. They also stated that this does not prohibits states like California from taking a broader approach to protecting wetlands, but they could not use this Federal law as the sole basis.
2. **California CEQA Reform:** Governor Newsom had put forward some Executive Orders and bill proposals to help public infrastructure projects speed up the process. A Senate Budget Committee has put a hold on the effort saying it was too complex to be taken up at the end of session. While stating that they supported CEQA reform, they said that the legislative deadlines were too tight to accomplish it. However, as we all know, many last-minute issues can be inserted into the budget process. But for now, the proposal is done. Many groups still oppose any attempt to reform CEQA.
3. **Audit Blasts DWR:** The State Auditor recently released a study blasting the Department of Water Resources for gross errors in their forecasts and actions. The major faults were overestimating water supply and not adequately including effects of climate change. They were critical of DWR putting too much emphasis on historical data and making mistakes in forecasting which caused misguided releases of water. Oroville releases were criticized the most. DWR pushed back with all the Auditor’s findings but some legislators agree with the Auditor. Environmental groups also agree with the Auditor.
4. **Fire Retardant v Pollution:** Environmental groups had filed suit against the use of chemical retardants in fire prevention. The reason being that the chemicals in the retardants did damage to the environment, particularly when the chemicals reached the water system. A Federal Judge ruled that some damage did occur, but it was outweighed by the retardants success at controlling fire damage to property, humans, and the environment. The Mayor of Paradise supported the decision. If the retardant were not used in Paradise, the deaths and damage would have been much worse. The ruling is limited to the 10 western states. The Forest Service immediately filed for a new permit with the EPA to continue using the retardant. That process will take many years and could require more restrictions in the future for use of these retardants. Health risks for firefighters and people encountering the retardant is exceptionally low. However, the chemical can be harmful to some fish, birds, and crawfish. Steps have been taken to avoid areas close to waterways.

5. **Nor Cal Reservoir:** An American River Basin study is proposing a reservoir in the high Sierras near Alder Creek in El Dorado County. The projected increased in snow runoff has pushed this idea up the priority list. The climate whiplash from drought to flood has shown the benefits of more storage at the higher levels. In addition to the storage benefits and flood control protection, it provides a source of cold water which can be released later in the season to help fish during breeding season. As we have seen in the past when release of warmer water was made, the fish were harmed not helped. This reservoir can also be used for agricultural purposes in El Dorado County. The cost is roughly \$1.4 billion and could be completed in 10 years. This reservoir would aid the storage and release issues of Folsom Lake.
6. **Record Snow:** Another report has come forward, this time from Nature, as to the reason for our record-breaking snow fall. Northern Illinois University scientists explain the pattern of atmospheric rivers. In normal years Ars contribute almost half of the regions snow and rain. Back-to-back Ars do not usually occur. This season they did. Also, the snows water content also doubled. This report which also included contributions from UC Berkely and Scripps did not give much credit for the season to climate change.
7. **Queen Creek Saves Colorado River:** If all the cities and areas in the Colorado River water shed were like Queen Creek, there would be no problem with the system. The town of Queen Creek (pop 60,000), Arizona has a 100-year water supply because of its groundwater. Queen has a small allocation from the Colorado River. However, it has been using treated wastewater to recharge its underground aquifer for many years and now has a reserve for about 100 years. The US Department of Interior is urging all users of the Colorado River to develop and improve systems to improve a sustainability program. While not every area can be a Queen Creek, everyone can improve their situation.
8. **Tulare Lake-Yes or No:** One hundred and fifty years ago, Tulare Lake covered some 800 square miles and was the largest freshwater lake west of the Mississippi River. It was home to various flora and fauna and humans and boats were common. Over time, agriculture diverted water and created canals which eventually created a dry lakebed. Most of the lakebed is privately owned and in agricultural use. Today, because of the heavy snow and rain, Tulare Lake is over 100 square miles and has many farms and houses underwater. The Tachi Yokut Tribe which operates a casino nearby would like to return it to its former condition. The soil contains heavy doses of Corcoran clay which creates a very impermeable lake bottom causing the water to remain. The area has suffered significant subsidence making the pooling lake condition easier to form. The last occurrence like this was in 1983 where it took almost two years to evaporate the water. DWR is trying to transfer some of this water to surrounding infrastructure. The Kings, Kaweah, Tule, and Kern Rivers drain into Tulare Lake and there is no natural outlet to the sea. A prior analysis estimated the Tulare Lake could have twice the storage capacity as the currently proposed Sites Reservoir. And would be much cheaper to develop. The primary owner of the current lake bottom is JG Boswell Co. a major agricultural stakeholder.
9. **Snowpack Data:** You have probably been following stories comparing our current snow season as the 2<sup>nd</sup> or 4<sup>th</sup> heaviest in history. The Mercury News decided to research the topic and found some interesting results. The definition of “normal snowpack” kept by DWR has changed 5 times 1950. These changes impact the rankings whether the current is 2<sup>nd</sup> or 4<sup>th</sup>. It also impacts whether 1952 or 1983 is first. First major factor is changing the

reporting locations. Early on, some low snow areas were included in the test stations. When high snow occurred in the lesser areas it skewed the numbers up. Later, these stations were removed from the algorithm. The second factor that changed was the base years used for comparison. Early comparisons went back to 1946. Then the period became 1992 to 2020. The reason given was to keep pace with climate change. This shifting of the goal posts is now being questioned by many researchers as not working with consistent data.

10. **High Redwood Studies:** A UC Berkeley researcher is studying the giant redwoods for impact of droughts and atmospheric river events. The difference is that his study is being done 200 feet up the redwood tree. The fact that these trees have lived so long and become so tall makes the research more interesting. The weather whiplash which this year brought high wind conditions knocked down many of these trees. Their conclusion was that these trees are extraordinarily strong and have shown resilience for centuries enduring rain, snow, fire, lightning, droughts, and floods. Also, they assert that we should do more to protect the older existing redwoods as opposed to planting new ones to start life all over again.
11. **Single Atom to Purify Water:** Yale researchers have discovered a cheaper, more efficient way of treating water. The traditional method is use of nanoscale catalysts. Most catalysts contain expensive material like palladium which costs \$2000 per ounce. Their research has the use of single atom catalysts. This method may be combined with other elements. However, the cost is reduced dramatically, and the method is much more efficient.

June 7, 2023

TO: MWDOC Board of Directors

FROM: Peter Whittingham

SUBJECT: May, 2023 Report

This month has been an extremely busy period for the District and for agencies throughout Orange County, with a number of noteworthy events of significant importance to the region. A few of the more notable developments and issues of April are as follows:

- MWDOC and OCWD's Boards held a joint meeting on May 5 to discuss a variety of issues, including the Focused MSR application submitted to OC LAFCO by OCWD and the potential of a supplemental application from MWDOC with a separate scope of work to be undertaken by the LAFCO consultants, Albert A. Webb Associates and John Schatz.
- ACWA held its Spring Conference in Monterey May 9-11. The well-attended conference featured a variety of topical sessions and presentations, including "Removing Barriers to Groundwater Recharge," a critical issue for south county agencies.
- A number of Orange County retail agencies, including Trabuco Canyon Water District and Santa Margarita Water District, have initiated their respective Prop 218 notifications and processes relative to proposed rate and fee adjustments.
- The Department of Water Resources (DWR) announced it will begin an emergency program to divert high river flows away from flood-prone Central Valley communities and into groundwater recharge basins. DWR is working with local agencies to provide funding for the deployment of 15 temporary pumps which over four months could capture as much as 55,000 acre-feet of water.
- California Water Impact Network (<https://www.c-win.org/>) issued a report calling on Governor Newsom and Metropolitan Water District to abandon the \$16 billion Delta Conveyance Project due to its "...exorbitant price tag, environmental restrictions on operations and the impacts of climate change on deliveries." The Southern California Water Coalition quickly and strongly rebutted this report and the recommendation.

- California, Nevada, and Arizona agreed to reduced allocations of Colorado River water as part of a landmark settlement negotiated by the Bureau of Reclamation/Interior Department. Under the agreement, the federal government will provide \$1.2 billion to cities, irrigation district mayand Native American tribes that agree to temporarily use less water. California currently receives the largest allocation of all seven states, with an annual entitlement of 4.4 million acre-feet. Roughly 2.5 million acre-feet goes to the Imperial Irrigation District, with much of the remainder going to the Metropolitan Water District.

It is a pleasure to work with you and to represent the Municipal Water District of Orange County.

Sincerely,



Peter Whittingham

## Bill Matrix

Prepared by Syrus Devers, May 31<sup>st</sup>, 2023

### A. Priority Support/Oppose

#### [AB 460](#)

**(Bauer-Kahan D) State Water Resources Control Board: water rights and usage: interim relief: procedures.**

**Status:** 5/30/2023-Read third time. Passed. Ordered to the Senate.

**Summary:** Current law authorizes the State Water Resources Control Board to investigate all streams, stream systems, lakes, or other bodies of water, take testimony relating to the rights to water or the use of water, and ascertain whether water filed upon or attempted to be appropriated is appropriated under the laws of the state. Current law requires the board to take appropriate actions to prevent waste or the unreasonable use of water. This bill would authorize the board, in conducting specified investigations or proceedings to inspect the property or facilities of a person or entity, as specified. The bill would authorize the board, if consent is denied for an inspection, to obtain an inspection warrant, as specified, or in the event of an emergency affecting public health and safety, to conduct an inspection without consent or a warrant.

Position	Priority
Opposition	A. Priority
	Support/Oppose

#### [AB 557](#)

**(Hart D) Open meetings: local agencies: teleconferences.**

**Status:** 5/24/2023-Referred to Coms. on GOV. & F. and JUD.

**Calendar:** 6/7/2023 9 a.m. - 1021 O Street, Room 2200 SENATE GOVERNANCE AND FINANCE, CABALLERO, ANNA, Chair

**Summary:** The Ralph M. Brown 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. 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, as specified. If there is a continuing state of emergency, or if state or local officials have imposed or recommended measures to promote social distancing, current law requires a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures. Current law requires a legislative body that holds a teleconferenced meeting under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option. Current law prohibits a legislative body that holds a teleconferenced meeting under these abbreviated teleconferencing procedures from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time. This bill would extend the above-described abbreviated teleconferencing provisions when a declared state of emergency is in effect, or in other situations related to public health, as specified, indefinitely.

Position	Priority
Support	A. Priority Support/Oppose

[AB 735](#) **(Berman D) Workforce development: utility careers.**

**Status:** 5/19/2023-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/10/2023)(May be acted upon Jan 2024)

**Summary:** Would establish the High Road Utility Careers (HRUC) program, to be administered by the California Workforce Development Board, to connect existing resources with individuals interested in careers in the utility sector and ensure a continued reliable workforce for California utilities. The bill would require the board to administer the HRUC program through partnerships with statewide water, wastewater, and energy utility associations and to coordinate the program with existing and future programs and initiatives administered by the board, including high road training partnerships, in order to align interested individuals with available resources. The bill would require the HRUC program, upon appropriation by the Legislature, to dedicate funding and resources toward accomplishing specified goals, including connecting workers to high-quality jobs or entry-level work with defined routes to advancement and increasing skills and opportunities while expanding pipelines for low-income populations.

Position	Priority
Support	A. Priority Support/Oppose

[AB 755](#) **(Papan D) Water: public entity: cost-of-service analysis.**

**Status:** 5/18/2023-Read third time and amended. Ordered to third reading.

**Calendar:** 5/31/2023 #28 ASSEMBLY THIRD READING FILE - ASSEMBLY BILLS

**Summary:** Current law authorizes a public entity that supplies water at retail or wholesale within its service area to adopt, in accordance with specified procedures, and enforce a water conservation program. This bill would require a public entity, as defined, that conducts a cost-of-service analysis, as defined, to identify the total incremental costs incurred by all the major water users, as described, in the single-family residential class and the total incremental costs that would be avoided if major water users met a specified efficiency goal. The bill would also require both of those costs to be made publicly available by posting the information in the public entity's cost-of-service analysis.

Position	Priority
Opposition	A. Priority Support/Oppose

[AB 838](#) **(Connolly D) California Water Affordability and Infrastructure Transparency Act of 2023.**

**Status:** 5/19/2023-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 4/19/2023)(May be acted upon Jan 2024)

**Summary:** The California Safe Drinking Water Act requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health. Current law declares it to be the established policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. The act prohibits a person from operating a public water system unless the person first submits an application to the state board and receives a permit to operate the system, as specified. The act requires a public water system to submit a technical report to the state board as a part of the permit application or when otherwise required by the state board, as specified, and to submit the report in the form and format and at intervals specified by the state board. This bill would require, beginning January 1, 2025, and thereafter at intervals determined by the state board, public water systems to provide specified information and data related to customer water bills and efforts to replace aging infrastructure to the state board.

Position	Priority
Watch	A. Priority Support/Oppose

[AB 1337](#) **(Wicks D) State Water Resources Control Board: water diversion curtailment.**

**Status:** 5/30/2023-Read third time. Passed. Ordered to the Senate.

**Summary:** Under existing law, the diversion or use of water other than as authorized by specified provisions of law is a trespass, subject to specified civil liability. This bill would expand the instances when the diversion or use of water is considered a trespass. This bill contains other related provisions and other existing laws.

Position	Priority
Opposition	A. Priority Support/Oppose

**AB 1572****(Friedman D) Potable water: nonfunctional turf.****Status:** 5/22/2023-Read second time. Ordered to third reading.**Calendar:** 5/31/2023 #283 ASSEMBLY THIRD READING FILE - ASSEMBLY BILLS

**Summary:** (1)Existing law establishes various state water policies, including the policy that the use of water for domestic purposes is the highest use of water. This bill would make legislative findings and declarations concerning water use, including that the use of potable water to irrigate nonfunctional turf is wasteful and incompatible with state policy relating to climate change, water conservation, and reduced reliance on the Sacramento-San Joaquin Delta ecosystem. The bill would direct all appropriate state agencies to encourage and support the elimination of irrigation of nonfunctional turf with potable water. This bill contains other related provisions and other existing laws.

Position	Priority
Oppose unless amended	A. Priority Support/Oppose

**AB 1594****(Garcia D) Medium- and heavy-duty zero-emission vehicles: public agency utilities.****Status:** 5/22/2023-Read second time. Ordered to third reading.**Calendar:** 5/31/2023 #285 ASSEMBLY THIRD READING FILE - ASSEMBLY BILLS

**Summary:** Executive Order No. N-79-20 establishes the goal of transitioning medium- and heavy-duty vehicles in California to zero-emission vehicles by 2045 for all operations where feasible and by 2035 for drayage trucks, and requires the State Air Resources Board to develop and propose medium- and heavy-duty vehicle regulations to meet that goal. This bill would require any state regulation that seeks to require, or otherwise compel, the procurement of medium- and heavy-duty zero-emission vehicles by a public agency utility to ensure that those vehicles can support a public agency utility's ability to maintain reliable water and electric services, respond to disasters in an emergency capacity, and provide mutual aid assistance statewide and nationwide, among other requirements. The bill would define a public agency utility to include a local publicly owned electric utility, a community water system, and a wastewater treatment provider, as specified. This bill contains other existing laws.

Position	Priority
Support	A. Priority Support/Oppose

**AB 1637****(Irwin D) Local government: internet websites and email addresses.****Status:** 5/22/2023-Read second time. Ordered to third reading.**Calendar:** 5/31/2023 #287 ASSEMBLY THIRD READING FILE - ASSEMBLY BILLS

**Summary:** The California Constitution authorizes cities and counties to make and enforce within their limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws and further authorizes cities organized under a charter to make and enforce all ordinances and regulations in respect to municipal affairs, which supersede inconsistent general laws. This bill, no later than January 1, 2027, would require a local agency, as defined, that maintains an internet website for use by the public to ensure that the internet website utilizes a ".gov" top-level domain or a ".ca.gov" second-level domain and would require a local agency that maintains an internet website that is noncompliant with that requirement to redirect that internet website to a domain name that does utilize a ".gov" or ".ca.gov" domain. This bill, no later than January 1, 2027, would also require a local agency that maintains public email addresses to ensure that each email address provided to its employees utilizes a ".gov" domain name or a ".ca.gov" domain name. By adding to the duties of local officials, the bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

Position	Priority
Watch	A. Priority Support/Oppose

**Notes 1:** No longer applies to special districts**SB 23****(Caballero D) Water supply and flood risk reduction projects: expedited permitting.****Status:** 5/19/2023-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/15/2023)(May be acted upon Jan 2024)

**Summary:** Current law prohibits an entity from substantially diverting or obstructing the natural flow of, or substantially changing or using any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, except under specified conditions, including requiring the entity to send written notification to the Department of Fish and Wildlife regarding the activity in the manner prescribed by the department. This bill would

require a project proponent, if already required to submit a notification to the department, to submit to the department the certified or adopted environmental review document, as applicable, for the activity in the notification. The bill would require the department, under prescribed circumstances, to take certain actions within specified timelines, or within a mutually agreed-to extension of time.

Position	Priority
Support	A. Priority
	Support/Oppose

**Notes 1:** Support position approved on 3/1/2023

#### **SB 366**

**(Caballero D) The California Water Plan: long-term supply targets.**

**Status:** 5/23/2023-Read second time and amended. Ordered to third reading.

**Calendar:** 5/31/2023 #53 SENATE SENATE BILLS -THIRD READING FILE

**Summary:** Current law requires the Department of Water Resources to update every 5 years the plan for the orderly and coordinated control, protection, conservation, development, and use of the water resources of the state, which is known as "The California Water Plan." Current law requires the department to include a discussion of various strategies in the plan update, including, but not limited to, strategies relating to the development of new water storage facilities, water conservation, water recycling, desalination, conjunctive use, water transfers, and alternative pricing policies that may be pursued in order to meet the future needs of the state. Current law requires the department to establish an advisory committee to assist the department in updating the plan. This bill would revise and recast certain provisions regarding The California Water Plan to, among other things, require the department to instead establish a stakeholder advisory committee and to expand the membership of the committee to include tribes, labor, and environmental justice interests. The bill would require the department, in coordination with the California Water Commission, the State Water Resources Control Board, other state and federal agencies as appropriate, and the stakeholder advisory committee to develop a comprehensive plan for addressing the state's water needs and meeting specified long-term water supply targets established by the bill for purposes of "The California Water Plan."

Position	Priority
Support	A. Priority
	Support/Oppose

#### **SB 389**

**(Allen D) State Water Resources Control Board: determination of water right.**

**Status:** 5/30/2023-Read third time. Passed. (Ayes 23. Noes 11.) Ordered to the Assembly.

**Summary:** Would, upon specified findings, authorize the State Water Resources Control Board to investigate the diversion and use of water from a stream system to determine whether the diversion and use are based upon appropriation, riparian right, or other basis of right, as specified.

Position	Priority
Opposition	A. Priority
	Support/Oppose

#### **SB 687**

**(Eggman D) Water Quality Control Plan: Delta Conveyance Project.**

**Status:** 5/19/2023-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/8/2023)(May be acted upon Jan 2024)

**Summary:** Would require the State Water Resources Control Board to adopt a final update of the 1995 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary, as provided, before the board may consider a change in point diversion or any other water rights permit or order for the Delta Conveyance Project. The bill would also, if, after completing the update of the plan and in compliance with existing law, the board approves a change in point of diversion or any other water rights permit or order associated with the Delta Conveyance Project, prohibit the operation of the Delta Conveyance Project unless and until the updated plan is fully implemented. The bill would specify that these provisions do not constitute an authorization for or approval of funding for the Delta Conveyance Project or any other project that includes isolated Delta conveyance facilities, and do not reduce any statutory or other regulatory conditions or permit requirements for Delta conveyance projects.

Position	Priority
Opposition	A. Priority
	Support/Oppose

## B. Watch

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### [AB 30](#)

#### **(Ward D) Atmospheric Rivers: Research, Mitigation, and Climate Forecasting Program.**

**Status:** 5/23/2023-In Senate. Read first time. To Com. on RLS. for assignment.

**Summary:** Current law establishes the Atmospheric Rivers: Research, Mitigation, and Climate Forecasting Program in the Department of Water Resources. Current law requires the department, upon an appropriation for purposes of the program, to research climate forecasting and the causes and impacts that climate change has on atmospheric rivers, to operate reservoirs in a manner that improves flood protection, and to reoperate flood control and water storage facilities to capture water generated by atmospheric rivers. This bill would rename that program the Atmospheric Rivers Research and Forecast Improvement Program: Enabling Climate Adaptation Through Forecast-Informed Reservoir Operations and Hazard Resiliency (AR/FIRO) Program. The bill would require the department to research, develop, and implement new observations, prediction models, novel forecasting methods, and tailored decision support systems to improve predictions of atmospheric rivers and their impacts on water supply, flooding, post-wildfire debris flows, and environmental conditions.

Position	Priority
Watch	B. Watch

### [AB 62](#)

#### **(Mathis R) Statewide water storage: expansion.**

**Status:** 5/19/2023-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/10/2023)(May be acted upon Jan 2024)

**Summary:** Current law establishes within the Natural Resources Agency the State Water Resources Control Board and the California regional water quality control boards. Current law requires the work of the state board to be divided into at least 2 divisions, known as the Division of Water Rights and the Division of Water Quality. This bill would establish a statewide goal to increase above- and below-ground water storage capacity by a total of 3,700,000 acre-feet by the year 2030 and a total of 4,000,000 acre-feet by the year 2040. The bill would require the Department of Water Resources, in consultation with the state board, to take reasonable actions to promote or assist efforts to achieve the statewide goal, as provided. The bill would require the department, beginning July 1, 2027, and on or before July 1 every 2 years thereafter until January 1, 2043, in consultation with the state board, to prepare and submit a report to the Legislature on the progress made to achieve the statewide goal.

Position	Priority
Watch	B. Watch

### [AB 66](#)

#### **(Mathis R) Natural Resources Agency: water storage projects: permit approval.**

**Status:** 5/19/2023-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 4/19/2023)(May be acted upon Jan 2024)

**Summary:** Current law establishes the Natural Resources Agency, composed of departments, boards, conservancies, and commissions responsible for the restoration, protection, and management of the state's natural and cultural resources. Current law establishes in the agency the Department of Water Resources, which manages and undertakes planning with regard to water resources in the state. This bill would require the agency, and each department, board, conservancy, and commission within the agency, to take all reasonable steps to approve the necessary permits for specified projects that meet certain employment conditions within 180 days from receiving a complete permit application.

Position	Priority
	B. Watch

### [AB 249](#)

#### **(Holden D) Water: schoolsites: lead testing: conservation.**

**Status:** 5/22/2023-Read second time. Ordered to third reading.

**Calendar:** 5/31/2023 #236 ASSEMBLY THIRD READING FILE - ASSEMBLY BILLS

**Summary:** Would require a community water system that serves a schoolsite, as defined, to test for lead in the potable water system outlets of the schoolsite before January 1, 2027, except for potable water system outlets in buildings that were either constructed after January 1, 2010, or modernized after January 1, 2010, and all faucets and other end point devices used for providing potable water were replaced as part of the modernization. The bill would require the community water system to report its findings to the applicable school or local educational agency and to the State Water

Resources Control Board. The bill would require the local educational agency or school, if the lead level exceeds a specified level at a schoolsite, to notify the parents and guardians of the pupils who attend the schoolsite, take immediate steps to make inoperable and shut down from use all fountains and faucets where the excess lead levels may exist, and work with the schoolsites under its jurisdiction to ensure that a potable source of drinking water is provided for pupils, as specified. The bill would require a community water system to test a potable water system outlet that replaces an outlet that is found to have excess levels of lead. The bill would require a community water system to prepare a sampling plan for each schoolsite where lead sampling is required under these provisions. The bill would require the state board to make the results of schoolsite lead sampling publicly available by posting the results on its internet website. By imposing additional duties on local agencies, this bill would impose a state-mandated local program.

Position	Priority
Watch	B. Watch

**AB 277**     **(Rodriguez D)   Extreme Weather Forecast and Threat Intelligence Integration Center.**

**Status:** 5/22/2023-Read second time. Ordered to third reading.

**Calendar:** 5/31/2023 #238 ASSEMBLY THIRD READING FILE - ASSEMBLY BILLS

**Summary:** Would establish the State-Federal Flood Operations Center within the Department of Water Resources and would authorize the department to administer the center in the department's divisions, offices, or programs. The bill would provide that the purpose of the center is to function as the focal point for gathering, analyzing, and disseminating flood and water-related information to stakeholders and would authorize the center to take specified actions for that purpose, including to function during emergency situations to enable the department to centrally coordinate statewide emergency responses.

Position	Priority
Watch	B. Watch

**AB 305**     **(Villapudua D)   California Flood Protection Bond Act of 2024.**

**Status:** 5/18/2023-From committee: Do pass. (Ayes 13. Noes 1.) (May 18). Read second time. Ordered to third reading.

**Calendar:** 5/31/2023 #56 ASSEMBLY THIRD READING FILE - ASSEMBLY BILLS

**Summary:** Would enact the California Flood Protection Bond Act of 2024 which, if approved by the voters, would authorize the issuance of bonds in the amount of \$4,500,000,000 pursuant to the State General Obligation Bond Law for flood protection projects, as specified. The bill would provide for the submission of these provisions to the voters at the November 5, 2024, statewide general election.

Position	Priority
Watch	B. Watch

**AB 338**     **(Aguiar-Curry D)   Public works: definition.**

**Status:** 5/18/2023-From committee: Do pass. (Ayes 11. Noes 3.) (May 18). Read second time. Ordered to third reading.

**Calendar:** 5/31/2023 #62 ASSEMBLY THIRD READING FILE - ASSEMBLY BILLS

**Summary:** Current law requires that, except as specified, not less than the general prevailing rate of per diem wages, determined by the Director of Industrial Relations, be paid to workers employed on public works projects. Existing law defines the term "public works" for purposes of requirements regarding the payment of prevailing wages to include construction, alteration, demolition, installation, or repair work done under contract and paid for using public funds, except as specified. Current law makes a willful violation of laws relating to the payment of prevailing wages on public works a misdemeanor. This bill would, commencing January 1, 2025, expand the definition of "public works" to include fuel reduction work done under contract and paid for in whole or in part out of public funds performed as part of a fire mitigation project, as specified. The bill would limit those provisions to work that falls within an apprenticeship occupation in the building and construction trades for which an apprenticeship program has been approved and to contracts in excess of \$100,000. The bill would delay the application of those provisions until January 1, 2026, for nonprofits.

Position	Priority
Watch	B. Watch

**AB 340**     **(Fong, Vince R)   California Environmental Quality Act: grounds for noncompliance.**

**Status:** 4/28/2023-Failed Deadline pursuant to Rule 61(a)(2). (Last location was NAT. RES. on 2/9/2023)(May be acted upon Jan 2024)

**Summary:** The California Environmental Quality Act (CEQA) prohibits an action or proceeding from being brought in a court to challenge the approval of a project by a public agency unless the alleged grounds for noncompliance are

presented to the public agency orally or in writing by a person during the public comment period provided by CEQA or before the close of the public hearing on the project before the issuance of the notice of determination. This bill would require the alleged grounds for noncompliance with CEQA presented to the public agency in writing be presented at least 10 days before the public hearing on the project before the issuance of the notice of determination. The bill would prohibit the inclusion of written comments presented to the public agency after that time period in the record of proceedings and would prohibit those documents from serving as basis on which an action or proceeding may be brought.

Position	Priority
Watch	B. Watch

**AB 676**     **(Bennett D)    Water: general state policy.**

**Status:** 5/23/2023-In Senate. Read first time. To Com. on RLS. for assignment.

**Summary:** Current law establishes various state water policies, including the policy that the use of water for domestic purposes is the highest use of water and that the next highest use is for irrigation. This bill would provide specific examples of the use of water for domestic purposes, including, but not limited to, sustenance of human beings and household conveniences.

Position	Priority
Watch	B. Watch

**AB 1072**     **(Wicks D)    Water conservation and efficiency: low-income residential customers.**

**Status:** 5/19/2023-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/17/2023)(May be acted upon Jan 2024)

**Summary:** Would declare the policy of the state that all residents have access to water conservation and efficiency programs. The bill would also set forth related findings including that reaching the state's environmental justice goals and commitments requires designing climate adaptation programs so that all households may participate.

Position	Priority
Watch	B. Watch

**AB 1205**     **(Bauer-Kahan D)    Water rights: sale, transfer, or lease: agricultural lands.**

**Status:** 5/23/2023-In Senate. Read first time. To Com. on RLS. for assignment.

**Summary:** Would find and declare that speculation or profiteering by an investment fund in the sale, transfer, or lease of an interest in any surface water right or groundwater water right previously put to beneficial use on agricultural lands within the state is a waste or an unreasonable use of water.

Position	Priority
Watch	B. Watch

**AB 1567**     **(Garcia D)    Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, Clean Energy, and Workforce Development Bond Act of 2024.**

**Status:** 5/26/2023-Read third time and amended. Ordered to third reading.

**Calendar:** 5/31/2023 #192 ASSEMBLY THIRD READING FILE - ASSEMBLY BILLS

**Summary:** Would enact the Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, Clean Energy, and Workforce Development Bond Act of 2024, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$15,995,000,000 pursuant to the State General Obligation Bond Law to finance projects for safe drinking water, wildfire prevention, drought preparation, flood protection, extreme heat mitigation, clean energy, and workforce development programs.

Position	Priority
Watch	B. Watch

**AB 1573**     **(Friedman D)    Water conservation: landscape design: model ordinance.**

**Status:** 5/22/2023-Read second time. Ordered to third reading.

**Calendar:** 5/31/2023 #284 ASSEMBLY THIRD READING FILE - ASSEMBLY BILLS

**Summary:** The Water Conservation in Landscaping Act provides for a model water efficient landscape ordinance that is adopted and updated at least every 3 years by the Department of Water Resources, unless the department makes a specified finding. Existing law requires a local agency to adopt the model ordinance or to adopt a water efficient landscape ordinance that is at least as effective in conserving water as the updated model ordinance, except as specified. Existing law specifies the provisions of the updated model ordinance, as provided. Existing law includes a related

statement of legislative findings and declarations. This bill would require the updated model ordinance to include provisions that require that plants included in a landscape design plan be selected based on their adaptability to climatic, geological, and topographical conditions of the project site, as specified. The bill would also exempt landscaping that is part of ecological restoration projects that do not require a permanent irrigation system, mined-land reclamation projects that do not require a permanent irrigation system, and existing plant collections, as part of botanical gardens and arboretums open to the public, from the model ordinance. The bill would require the updated model ordinance to include provisions that require that all new or renovated nonresidential areas install plants that meet specified criteria, and that prohibit the inclusion of nonfunctional turf in nonresidential landscape projects after January 1, 2026. The bill would also revise the legislative findings and declarations to state that the model ordinance furthers the state's goal to conserve biodiversity and provide for climate resilience consistent with state drought efforts to eliminate the use of irrigation of nonfunctional turf. This bill contains other related provisions and other existing laws.

Position	Priority
Watch	B. Watch

**AB 1648** **(Bains D) Water: Colorado River conservation.**

**Status:** 4/28/2023-Failed Deadline pursuant to Rule 61(a)(2). (Last location was W.,P. & W. on 3/16/2023)(May be acted upon Jan 2024)

**Summary:** Would prohibit the Metropolitan Water District of Southern California and the Department of Water and Power of the City of Los Angeles from achieving a reduction in, or conservation of, Colorado River water consumption required by an agreement with specified entities through increased water deliveries or imports from other regions of California, including the San Joaquin Valley and the Sacramento-San Joaquin Delta. The bill would require the Colorado River Board of California, the Department of Water Resources, and the State Water Resources Control Board to use their existing authority to enforce these provisions. The bill would specify that these provisions apply retroactively to January 1, 2023, and apply to any agreement entered into on or after that date.

Position	Priority
Watch	B. Watch

**ACA 2** **(Alanis R) Public resources: Water and Wildfire Resiliency Act of 2023.**

**Status:** 4/20/2023-Referred to Coms. on W., P., & W. and NAT. RES.

**Summary:** Would establish the Water and Wildfire Resiliency Fund within the State Treasury, and would require the Treasurer to annually transfer an amount equal to 3% of all state revenues that may be appropriated as described from the General Fund to the Water and Wildfire Resiliency Fund. The measure would require the moneys in the fund to be appropriated by the Legislature and would require that 50% of the moneys in the fund be used for water projects, as specified, and that the other 50% of the moneys in the fund be used for forest maintenance and health projects, as specified.

Position	Priority
Out for Analysis	B. Watch

**SB 3** **(Dodd D) Discontinuation of residential water service: community water system.**

**Status:** 5/23/2023-Read second time and amended. Ordered to third reading.

**Calendar:** 5/31/2023 #51 SENATE SENATE BILLS -THIRD READING FILE

**Summary:** Current law authorizes the State Water Resources Control Board to provide for the deposit into the Safe and Affordable Drinking Water Fund of certain moneys and continuously appropriates the moneys in the fund to the state board for grants, loans, contracts, or services to assist eligible recipients. This bill would require the board to, upon appropriation by the Legislature, expend moneys to provide training statewide to community water systems with between 15 and 200 service connections to meet compliance with the Water Shutoff Protection Act.

Position	Priority
Out for Analysis	B. Watch

**SB 48** **(Becker D) Building Energy Savings Act.**

**Status:** 5/25/2023-In Assembly. Read first time. Held at Desk.

**Summary:** Current law requires each utility to maintain records of the energy usage data of all buildings to which they provide service for at least the most recent 12 complete calendar months, and to deliver or otherwise provide that aggregated energy usage data for each covered building, as defined, to the owner, as specified. Current law requires the State Energy Resources Conservation and Development Commission (Energy Commission) to adopt regulations providing for the delivery to the Energy Commission and public disclosure of benchmarking of energy use for covered buildings, and specifies that this requirement does not require the owner of a building with 16 or fewer residential utility accounts to collect or deliver energy usage information to the Energy Commission. This bill would additionally specify

that the requirement does not require the owner of a building with less than 50,000 square feet of gross floor space to collect or deliver energy usage information to the Energy Commission.

Position	Priority
Watch	B. Watch

**SB 57**      **(Gonzalez D)    Utilities: disconnection of residential service.**

**Status:** 4/28/2023-Failed Deadline pursuant to Rule 61(a)(2). (Last location was E. U., & C. on 3/22/2023)(May be acted upon Jan 2024)

**Summary:** Would require an electrical corporation, local publicly owned electric utility, gas corporation, local publicly owned gas utility, water corporation, or local agency that owns a public water system to postpone the disconnection of a customer's residential service for nonpayment of a delinquent account when the temperature will be 32 degrees Fahrenheit or cooler, or 95 degrees Fahrenheit or warmer, within the utility's service area during the 24 hours after that service disconnection would occur, as specified. The bill would require each of those utilities to notify its residential ratepayers of that requirement and to create an online reporting system available through its internet website, if it has one, that enables its residential ratepayers to report when their utility service has been disconnected in violation of that requirement, as specified. The bill would require the PUC to establish a citation program to impose a penalty on an electrical corporation or gas corporation that violates that requirement, and require each local publicly owned electric utility and local publicly owned gas utility to annually report to the State Energy Resources Conservation and Development Commission the number of residential service connections it disconnected for nonpayment of a delinquent account. The bill would authorize the State Water Resources Control Board to enforce the requirement that a water corporation and local agency that owns a public water system postpone a disconnection of a customer's residential service, as specified.

Position	Priority
Watch	B. Watch

**SB 66**      **(Hurtado D)    Water Quality, Supply, and Infrastructure Improvement Act of 2014: Drinking Water Capital Reserve Fund: administration.**

**Status:** 4/28/2023-Failed Deadline pursuant to Rule 61(a)(2). (Last location was E.Q. on 3/29/2023)(May be acted upon Jan 2024)

**Summary:** The Water Quality, Supply, and Infrastructure Improvement Act of 2014 bond act provides that the sum of \$260,000,000 is to be available for grants and loans for public water system infrastructure improvements and related actions to meet safe drinking water standards, ensure affordable drinking water, or both, as specified. Current law requires the State Water Resources Control Board to deposit up to \$2,500,000 of the \$260,000,000 into the Drinking Water Capital Reserve Fund, to be available upon appropriation by the Legislature. Current law requires the state board to administer the Drinking Water Capital Reserve Fund for the purpose of serving as matching funds for disadvantaged communities and requires the state board to develop criteria to implement this provision. This bill would require the state board to provide an analysis of the criteria to implement that provision to the Senate Committee on Natural Resources and Water and Assembly Committee on Water, Parks, and Wildlife on January 1, 2025, and every 2 years thereafter.

Position	Priority
Watch	B. Watch

**SB 69**      **(Cortese D)    California Environmental Quality Act: local agencies: filing of notices of determination or exemption.**

**Status:** 5/30/2023-Read third time. Passed. (Ayes 40. Noes 0.) Ordered to the Assembly.

**Summary:** The California Environmental Quality Act (CEQA) authorizes a local agency that determines that a project is not subject to CEQA to file a notice of exemption with the county clerk of each county in which the project will be located, as provided. CEQA requires the county clerk to make the notice available for public inspection and post the notice within 24 hours of receipt in the office or on the internet website of the county clerk, as specified. This bill would require a local agency to file a notice of determination with the Office of Planning and Research in addition to the county clerk of each county in which the project will be located. The bill would authorize a local agency to file a notice of exemption with the Office of Planning and Research in addition to the county clerk of each county in which the project will be located. The bill would require the notice, including any subsequent or amended notice, to be posted both in the office and on the internet website of the county clerk and on the State Clearinghouse website of the Office of Planning and Research within 24 hours of receipt. By imposing duties on local agencies, the bill would create a state-mandated local program.

Position	Priority
Watch	B. Watch

**SB 231**      **(Hurtado D)    Water measurement.**

**Status:** 5/25/2023-Read third time. Passed. (Ayes 40. Noes 0.) Ordered to the Assembly. In Assembly. Read first time. Held at Desk.

**Summary:** Current law requires the Department of Water Resources, the State Water Resources Control Board, and the State Department of Public Health to coordinate the collection, management, and use of agricultural and urban water measurement information provided to each agency. Current law requires the board, in collaboration with the Department of Water Resources, the California Bay-Delta Authority or its successor agency, and the State Department of Public Health, to prepare and submit a report to the Legislature by January 1, 2009, evaluating the feasibility, estimated costs, and potential means of financing a coordinated water measurement database. This bill would require the board, in collaboration with the Department of Water Resources and the Delta Stewardship Council or its successor agency, to prepare and submit an update to the report to the Legislature by January 1, 2025, evaluating the feasibility, estimated costs, and potential means of financing a coordinated water measurement database, as specified.

Position	Priority
Watch	B. Watch

**SB 272**

**(Laird D) Sea level rise: planning and adaptation.**

**Status:** 5/25/2023-In Assembly. Read first time. Held at Desk.

**Summary:** Would require a local government, as defined, lying, in whole or in part, within the coastal zone, as defined, or within the jurisdiction of the San Francisco Bay Conservation and Development Commission, as defined, to implement sea level rise planning and adaptation through either submitting, and receiving approval for, a local coastal program, as defined, to the California Coastal Commission or submitting, and receiving approval for, a subregional San Francisco Bay shoreline resiliency plan to the San Francisco Bay Conservation and Development Commission, as applicable, on or before January 1, 2034, as provided. By imposing additional requirements on local governments, the bill would impose a state-mandated local program. The bill would require local governments that receive approval for sea level rise planning and adaptation on or before January 1, 2029, to be prioritized for sea level rise funding, upon appropriation by the Legislature, for the implementation of projects in the local government's approved sea level rise adaptation plan. The bill would require, on or before December 31, 2024, the California Coastal Commission, in close coordination with the Ocean Protection Council and the California Sea Level Rise State and Regional Support Collaborative, to establish guidelines for the preparation of that planning and adaptation.

Position	Priority
Watch	B. Watch

**SB 315**

**(Hurtado D) Groundwater: groundwater sustainability agencies: probationary basins.**

**Status:** 5/19/2023-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/1/2023)(May be acted upon Jan 2024)

**Summary:** The Sustainable Groundwater Management Act authorizes the State Water Resources Control Board to designate specified basins as probationary basins if certain conditions are met, including, but not limited to, that the Department of Water Resources, in consultation with the board, determines that a groundwater sustainability plan is inadequate or that the groundwater sustainability program is not being implemented in a manner that will likely achieve the sustainability goal. Current law requires the board, if it designates a basin as a probationary basin pursuant to specified conditions, to identify the specific deficiencies and potential remedies. Current law authorizes the board to request the department, within 90 days of the designation, to provide technical recommendations to local agencies to remedy the deficiencies and to develop an interim plan for the probationary basin one year after the designation, as specified. This bill would require any groundwater sustainability agency that hires a third-party consulting firm to ensure that the integrity of the science being used to develop a groundwater sustainability plan is protected and the data is not sold. The bill would delete the authorizations for the board to request technical recommendations from the department. The bill would additionally place various requirements on the board in working with a groundwater sustainability agency, including, among other things, requiring the board to provide clear benchmarks and guidance for groundwater sustainability agencies to improve their groundwater management plans.

Position	Priority
Watch	B. Watch

**SB 865**

**(Laird D) Municipal water districts: automatic exclusion of cities.**

**Status:** 4/28/2023-Failed Deadline pursuant to Rule 61(a)(2). (Last location was GOV. & F. on 3/1/2023)(May be acted upon Jan 2024)

**Summary:** Current law authorizes a governing body of a municipal water district to adopt an ordinance excluding any territory annexed to a metropolitan water district organized under the Metropolitan Water District Act, if the territory is annexed prior to the effective date of the formation of the municipal water district. Current law requires the Secretary of State to issue a certificate reciting the passage of the ordinance and the exclusion of the area from the municipal water district within 10 days of receiving a certified copy of the ordinance. This bill would extend the number of days the Secretary of State has to issue a certificate to 14 days.

Position	Priority
Watch	B. Watch

[SB 867](#) **(Allen D) Drought, Flood, and Water Resilience, Wildfire and Forest Resilience, Coastal Resilience, Extreme Heat Mitigation, Biodiversity and Nature-Based Climate Solutions, Climate Smart Agriculture, Park Creation and Outdoor Access, and Clean Energy Bond Act of 2024.**  
**Status:** 5/22/2023-Read second time. Ordered to third reading.  
**Calendar:** 5/31/2023 #49 SENATE SENATE BILLS -THIRD READING FILE

**Summary:** Would enact the Drought, Flood, and Water Resilience, Wildfire and Forest Resilience, Coastal Resilience, Extreme Heat Mitigation, Biodiversity and Nature-Based Climate Solutions, Climate Smart Agriculture, Park Creation and Outdoor Access, and Clean Energy Bond Act of 2024, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$15,500,000,000 pursuant to the State General Obligation Bond Law to finance projects for drought, flood, and water resilience, wildfire and forest resilience, coastal resilience, extreme heat mitigation, biodiversity and nature-based climate solutions, climate smart agriculture, park creation and outdoor access, and clean energy programs.

Position	Priority
Watch	B. Watch

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## C. Spot Bill

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[AB 396](#) **(Fong, Vince R) Dams.**  
**Status:** 5/5/2023-Failed Deadline pursuant to Rule 61(a)(3). (Last location was PRINT on 2/2/2023)(May be acted upon Jan 2024)  
**Summary:** Current law regulates the construction and operation of dams and exempts certain structures for these purposes. Current law requires the owner of such exempt structures to employ a registered civil engineer to supervise the structure, as prescribed. This bill would make nonsubstantive changes to the above provision.

Position	Priority
Watch	C. Spot Bill

[AB 422](#) **(Alanis R) Natural Resources Agency: statewide water storage: tracking.**  
**Status:** 4/28/2023-Failed Deadline pursuant to Rule 61(a)(2). (Last location was W.,P. & W. on 2/9/2023)(May be acted upon Jan 2024)  
**Summary:** Would require the Natural Resources Agency, on or before June 1, 2024, to post on its publicly available internet website information tracking the progress to increase statewide water storage, and to keep that information updated.

Position	Priority
Watch	C. Spot Bill

**Total Measures: 40**

**Total Tracking Forms: 40**

# Metropolitan Water District of Southern California

## State Legislation Matrix

### May 8, 2023 – First Year of Legislative Session

Item No. 2f

Bill Number Author	Amended Date Location	Title-Summary	MWD Position	Effects on Metropolitan
<b>AB 400</b> <b>B. Rubio (D – Baldwin Park)</b>  Sponsors: California State Association of Counties, League of California Cities	Amended 5/1/2023  Assembly Appropriations Committee	<b>Local agency design-build projects: authorization.</b> This measure would extend the existing sunset date to January 1, 2031, for the use of design-build as a delivery method for public works contracts and allow the use of design-build to continue indefinitely.	<b>Support</b>  Based on October 2021 Board Action	Metropolitan's current authority to use design-build under AB 1845 (Calderon, CH. 275, 2022) will sunset on January 1, 2028. The provisions of this bill would allow Metropolitan to use design-build for future projects through January 1, 2031.
<b>AB 1572</b> <b>Friedman (D - Glendale)</b>  Sponsors: Heal the Bay, National Resources Defense Council	Amended 4/20/23  Assembly Appropriations Committee	<b>Potable water: nonfunctional turf.</b> This measure prohibits the use of potable water for the irrigation of non-functional turf located on commercial, industrial, institutional and multifamily residential properties by specified dates. This measure would also require the State Water Resources Control Board to establish compliance and certification requirements by July 1, 2025.	<b>Support and Consider Co-Sponsorship if amended</b>  Based upon April 2023 Board action	This bill's intent is consistent with Metropolitan's efforts to conserve water and reduce non-functional turf in the service area. Based on input from the Board and member agencies, Metropolitan is seeking amendments to exclude multi-family residential buildings, clarify definitions of terms, secure funding for institutional customers in disadvantaged communities and protect the authority and local control of public water systems.
<b>AB 1573</b> <b>Friedman (D - Glendale)</b>	Amended on 3/23/2023  Assembly Appropriations Committee: 5/03/2023 hearing	<b>Water conservation: landscape design: model ordinance.</b> This measure would require the updated model water efficient landscape ordinance for all plants installed in new or renovated nonresidential areas to be at least 75% local native plants and have a 0.3 plant factor. This measure would also prohibit the use of nonfunctional turf in nonresidential landscape projects after January 1, 2026.	<b>Support, if Amended</b>  Based upon 2023 Legislative Priorities and Principles, adopted December 2022	This measure is consistent to Metropolitan's effort to address the reduction of nonfunctional turf within its service area. Metropolitan staff have identified implementation challenges due to a requirement for 75 percent local native plants and 3 plant factor and are working with the author and sponsor to address the concerns.  Metropolitan is seeking clarifying amendments that include: (1) removal of the .3 plant factor, (2) reduction of the native plant requirement from 75 percent to 50 percent, with a phased approach from 25 percent up to 50 percent, and (3) require water efficient irrigation methods.

# Metropolitan Water District of Southern California

## State Legislation Matrix

### May 8, 2023 – First Year of Legislative Session

<b>AB 1648</b> <b>Bains (D - Bakersfield)</b>	Amended on 3/16/2023  Assembly Water, Parks, and Wildlife Committee	<b>Water: Colorado River Conservation.</b> This measure would specifically prohibit Metropolitan and LADWP achieving federally required reductions on Colorado River resources through increased water deliveries from other regions of California, including the Delta, retroactively as of January 1, 2023.	<b>Oppose</b>  Based upon 2023 Legislative Priorities and Principles, adopted December 2022	This measure affects Metropolitan's flexibility with its entire water portfolio, including the integrated water resource management and the Annual Operating Plan. Metropolitan's reliability and its ability to meet demands would also be impaired by restrictions on Metropolitan's discretion to develop creative partnerships with its State Water Project and Colorado River Basin stakeholders.
<b>SB 366</b> <b>Caballero (D - Merced)</b>  Sponsors: California Municipal Utilities Association, California Council for Environmental and Economic Balance, California State Association of Counties	Amended 4/27/2023  Senate Appropriations Committee	<b>The California Water Plan: long-term supply targets.</b> This measure would revise the California Water Plan to require the Department of Water Resources to update the California Water Plan by December 31, 2028, and every five years after, to include establishing a long-term water supply target for 2050 and discussion on the development of specified water supply sources to meet demand.	<b>Support, if Amended</b>  Based upon 2023 Legislative Priorities and Principles, adopted December 2022	The intent of this bill is to help modernize California's water management practices and provide long-term reliable supplies in response to the current climate challenges. Metropolitan is seeking clarifying amendments that include: (1) ensuring the 2050 target will reflect statewide, regional, and local planning efforts; and (2) delete reference in the bill to "minimize the need to import water from other hydrologic regions." These amendments will ensure that regional and local efforts are properly considered and incorporated in the new 2050 water supply targets and preserves an important water management tool with agricultural water transfers on the Colorado River and in other watersheds.
<b>SB 687</b> <b>Eggman (D - Stockton)</b>	Amended 5/2/2023  Senate Appropriations Committee: 5/08/2023 hearing	<b>Water Quality Control Plan: Delta Conveyance Project.</b> This measure will require the State Water Resources Control Board to adopt a final update of the Bay-Delta Water Quality Control Plan before the Board may consider a change in the point of diversion or any other water rights permit or order for the Delta Conveyance Project.	<b>Oppose</b>  Based upon 2023 Legislative Priorities and Principles, adopted December 2022	Metropolitan supports updating the Water Quality Control Plan to protect beneficial uses in the Delta. However, this bill would result in halting or delaying planning efforts on the Delta Conveyance Project and potentially prevent the project from operating if approved.



## Item No. 4

### ACTION ITEM

June 7, 2023

**TO:** Board of Directors

**FROM:** Harvey De La Torre  
Interim General Manager

Staff Contact: Heather Baez

**SUBJECT: AB 334 (B. RUBIO) – PUBLIC CONTRACTS: CONFLICTS OF INTEREST**

### STAFF RECOMMENDATION

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Staff recommends the Board of Directors vote to adopt a support position on AB 334 (B. Rubio) and send a letter to the author and the Orange County delegation.

### BILL SUMMARY

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Assembly Bill 334 would establish that an independent contractor, who meets specified requirements, is not an officer for purposes of being subject to the prohibition on being financially interested in a contract.

Specifically, this bill provides that an independent contractor that enters into a contract with a public entity to perform one phase of a project and seeks to enter into a subsequent contract for a later phase of the same project is not an “officer” subject to conflict-of-interest prohibitions if either of the following conditions are met:

- 1) The independent contractor did not have responsibilities for public contracting on behalf of the public entity under the initial contract.
- 2) The independent contractor did not participate in making the subsequent contract through its performance of the initial contract.

### ARGUMENTS IN SUPPORT

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When agencies seek to contract with engineers, land surveyors, architects, and geologists on public works infrastructure projects, these design professionals are increasingly – and inappropriately – subjected to the terms of Government Code Section 1090. As a result, well-qualified professionals are being precluded from participating in subsequent phases of work if they had any involvement in an earlier phase of the project.

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

AB 334 will clarify Government Code Section 1090 according to previous court rulings and FPPC guidance regarding arrangements with independent contractors and will return control to public agencies to determine for themselves, their own contracting decisions. Public agencies will retain the right to set their own contract requirements or disallow contracts for any reason they desire.

## **ARGUMENTS IN OPPOSITION**

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This bill is opposed, unless amended, by the California District Attorneys Association (CDAA), to strike the definitions of “have responsibilities for public contracting” and “participate in the making of the subsequent contract.” CDAA argues these definitions “would prevent District Attorneys and the Attorney General from prosecuting and investigating conflicts of interest involving state, county, and local governments, and officials in their potential conflict-of-interest dealings”

## **REGISTERED SUPPORT & OPPOSITION**

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Support:

American Council of Engineering Companies of California (Sponsor)  
 American Institute of Architects California  
 Associated General Contractors of California  
 Associated General Contractors - San Diego Chapter  
 Association of California Cities - Orange County  
 California State Association of Counties  
 City of Mountain View  
 City of San Marcos  
 Coachella Valley Water District  
 County of Del Norte  
 Lake Shastina Community Services District  
 League of California Cities  
 McKinleyville Community Services District

Opposition:

California District Attorneys Association (unless amended)

## **BOARD OPTIONS**

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### **Option #1**

- Adopt a support position on AB 334 and send a letter to the author and the Orange County delegation

### **Option #2**

- Take no action

## **STAFF RECOMMENDATION**

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Option #1

**ATTACHED:** AB 334 Full Text

AMENDED IN SENATE MAY 30, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

**ASSEMBLY BILL**

**No. 334**

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**Introduced by Assembly Member Blanca Rubio**  
**(Coauthor: Assembly Member Gipson)**  
**(Coauthor: Senator Ochoa Bogh)**

January 30, 2023

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An act to add Section 1097.6 to the Government Code, relating to contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 334, as amended, Blanca Rubio. Public contracts: conflicts of interest.

Existing law prohibits members of the Legislature and state, county, district, judicial district, and city officers or employees from being financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Existing law authorizes the Fair Political Practices Commission to commence an administrative or civil action against persons who violate this prohibition, as prescribed, and includes provisions for the collection of penalties after the time for judicial review of a commission order or decision has lapsed, or if all means of judicial review of the order or decision have been exhausted. Existing law identifies certain remote interests in contracts that are not subject to this prohibition and other situations in which an official is not deemed to be financially interested in a contract. *Existing law makes a willful violation of this prohibition a crime.*

This bill would establish that an independent contractor, who meets specified requirements, is not an officer for purposes of being subject

to the prohibition on being financially interested in a contract. *The bill would authorize a public agency to enter into a contract with an independent contractor who is an officer for a later phase of the same project if the independent contractor did not participate in the making of the subsequent contract and specified requirements are met.*

*This bill would prohibit a person who acts in good faith reliance on these provisions from being subject to criminal, civil, or administrative enforcement for violation of these conflict-of-interest prohibitions if the initial contract includes specified language and the independent contractor is not in breach of those terms. The bill would further state that compliance with the conditions described in this bill can be relied upon as a complete defense in any criminal, civil, or administrative proceeding, even if the initial contract does not include the language specified in the bill.*

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

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

1 SECTION 1. Section 1097.6 is added to the Government Code,  
2 to read:  
3 1097.6. (a) (1) For a public entity that has entered a contract  
4 with an independent contractor to perform one phase of a project  
5 and seeks to enter into a subsequent contract with that independent  
6 contractor for a later phase of the same project, the independent  
7 contractor is not an “officer” ~~for purposes of~~ *under* this article if  
8 ~~either of the following conditions are met: the independent~~  
9 ~~contractor did not have responsibilities for public contracting on~~  
10 ~~behalf of the public entity under the initial contract.~~  
11 ~~(1) The independent contractor did not have responsibilities for~~  
12 ~~public contracting on behalf of the public entity under the initial~~  
13 ~~contract.~~  
14 ~~(2) The independent contractor did not participate in making~~  
15 ~~the subsequent contract through its performance of the initial~~  
16 ~~contract.~~  
17 ~~(b) For the purposes of this section, an independent contractor:~~  
18 ~~(1) Does~~  
19 ~~(2) For purposes of this section, an independent contractor does~~  
20 ~~not “have responsibilities for public contracting” if (A) the both~~  
21 ~~of the following exist:~~

1 (A) *The public entity at all times retains responsibility for public*  
2 *contracting, including with respect to any subsequent phase of a*  
3 *project and (B) the project.*

4 (B) *The independent contractor's duties under the initial contract*  
5 *do not include preparing or assisting the public entity with the*  
6 *public entity's preparation of a request for proposals, request for*  
7 *qualifications, or any other solicitation regarding a subsequent or*  
8 *additional contract with the public entity.*

9 (b) (1) *If an independent contractor is an officer under*  
10 *subdivision (a), then it is not a violation of this article for the public*  
11 *entity to enter into a subsequent contract with that independent*  
12 *contractor for a later phase of the same project if the independent*  
13 *contractor did not participate in the making of the subsequent*  
14 *contract through its performance of the initial contract.*

15 (2) ~~Does~~ *For purposes of this section, an independent contractor*  
16 *does not "participate in the making of the subsequent contract" if*  
17 ~~(A) the both of the following conditions are met:~~

18 (A) *The independent contractor's participation in the planning,*  
19 *discussions, or drawing of plans or specifications during an initial*  
20 *stage of a project are limited to conceptual, preliminary, or initial*  
21 *plans or specifications and (B) all specifications.*

22 (B) *All bidders or proposers for the subsequent contract have*  
23 *access to the same information, including all conceptual,*  
24 *preliminary, or initial plans or specifications.*

25 (c) *A person who acts in good faith reliance on this section shall*  
26 *not be subject to criminal, civil, or administrative enforcement*  
27 *under this article provided both of the following conditions are*  
28 *met:*

29 (1) *A statement identical or substantially similar to the following*  
30 *is included in the initial contract between the public entity and the*  
31 *independent contractor:*

32  
33 *"Contractor/consultant's duties under this agreement shall not*  
34 *include preparing or assisting the public entity with the public*  
35 *entity's preparation of a request for proposals, request for*  
36 *qualifications, or any other solicitation regarding a subsequent*  
37 *or additional contract with the public entity. The public entity*  
38 *entering this agreement shall at all times retain responsibility for*  
39 *public contracting, including with respect to any subsequent phase*  
40 *of this project. Contractor/consultant's participation in the*

1 *planning, discussions, or drawing of project plans or specifications*  
2 *shall be limited to conceptual, preliminary, or initial plans or*  
3 *specifications. Contractor/consultant shall cooperate with the*  
4 *public entity to ensure that all bidders for a subsequent contract*  
5 *on any subsequent phase of this project have access to all*  
6 *conceptual, preliminary, or initial plans or specifications prepared*  
7 *by contractor pursuant to this agreement.”*

8  
9 *(2) The independent contractor is not in breach of the*  
10 *contractual obligations set forth in paragraph (1).*

11 *(d) In the event the language set forth in paragraph (1) of*  
12 *subdivision (c) is not included in the initial contract between the*  
13 *public entity and the independent contractor, compliance with*  
14 *subdivisions (a) and (b) may nevertheless be relied on as a*  
15 *complete defense in any criminal, civil, or administrative*  
16 *proceeding.*

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## Item No. 5

### ACTION ITEM

June 7, 2023

**TO:** Board of Directors

**FROM:** Harvey De La Torre  
Interim General Manager

Staff Contact: Heather Baez

**SUBJECT: SUPPORTING RESOLUTION – CATHY GREEN FOR ACWA PRESIDENT**

### STAFF RECOMMENDATION

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Staff recommends the Board of Directors review and discuss the request from Orange County Water District (OCWD) President Cathy Green to adopt a Resolution supporting her nomination as President of the Association of California Water Agencies (ACWA).

### REPORT

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At the May 17, 2023 Board Meeting, the Board of Directors:

- Authorized MWD OC Board President, Megan Yoo Schneider or her designee, to cast the District's ballot for the ACWA President and Vice President and the Region 10 Board of Directors.
- Directed staff to bring this item back to the Board in August after the official ballot has been released, to review the candidates for both President and Vice President, and the Region 10 Board of Directors. At that time, the Board can determine if they would like to direct the District's designee to vote for particular candidates.

At the May 18, 2023 Executive Committee meeting, Board President Yoo Schneider, at the request of OCWD President Cathy Green, directed staff to place on the Board agenda for discussion and review, a supporting resolution for OCWD President Green for ACWA President. The supporting resolution is attached.

### ATTACHED:

- Supporting Resolution, OCWD President Cathy Green for ACWA President

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

**RESOLUTION OF THE GOVERNING BODY OF  
YOUR AGENCY NAME HERE  
IN SUPPORT OF THE NOMINATION OF  
CATHY GREEN AS A CANDIDATE FOR THE POSITION OF ASSOCIATION OF  
CALIFORNIA WATER AGENCIES PRESIDENT**

WHEREAS, the Association of California Water Agencies (ACWA) is seeking nominations of candidates for the 2023 election of the Association's statewide positions of President and Vice President; and,

WHEREAS, an official nominating resolution from an ACWA member agency on whose board the nominee serves must accompany all nominations for the positions of President and Vice President; and,

WHEREAS, eligible candidates must be an elected or appointed member of the governing body or commission of a member agency of the Association; and,

WHEREAS, the ACWA Election Committee will present an open ballot with all qualifying candidates to the members for a vote by written ballot; and,

WHEREAS, the individual who fills an officer position will need to have a working knowledge of water industry issues and concerns, possess strength of character and leadership capabilities, and be experienced in matters related to the performance of the duties of the office; and,

WHEREAS, this person must be able to provide the dedication of time and energy to effectively serve in this capacity; and,

WHEREAS, Cathy Green has served as ACWA Vice President since 2021 and on the ACWA board since 2014, and she has served on the ACWA Board Executive Committee since 2020; and,

WHEREAS, as ACWA Vice President since 2021, Cathy Green would like to run as President of ACWA to continue the momentum she has built on key initiatives she is leading, including advocating for state accountability on water policy issues, spearheading the ACWA Council of Past Presidents to mentor new ACWA members, and an internal human resources initiative to support ACWA staff; and,

WHEREAS, Cathy Green has served as ACWA Region 10 Chair and Vice Chair; and,

WHEREAS, Cathy Green has served on the ACWA Water Quality Committee, ACWA Energy Committee, and ACWA State Legislative Committee; and,

WHEREAS, Cathy Green has served in a leadership role at Orange County Water District (OCWD). She was appointed to the OCWD Board of Directors in November 2010

and was elected to office in 2012, and re-elected in 2016 and 2020. She was selected by the Board to serve as its President in 2014-16, and 2022 through present. She also served as 1<sup>st</sup> Vice President from 2013-14 and 2018-22; and,

WHEREAS, Cathy Green currently serves as the Chair of the OCWD Executive Committee and the OCWD Joint Planning Committee; and,

WHEREAS, prior to Cathy Green's service on OCWD's Board, she was elected to two consecutive terms on the Huntington Beach City Council where she served two terms as mayor. Cathy Green has been involved as a council liaison and committee member on many city boards, commissions, and committees; and,

WHEREAS, it is the opinion of the GOVERNING BODY of the YOUR AGENCY NAME HERE that Cathy Green possesses all of the qualities needed to fulfill the duties of the office of ACWA President; and,

NOW, THEREFORE, BE IT RESOLVED, that the YOUR AGENCY NAME HERE does hereby support the nomination of Cathy Green as a candidate for the office of ACWA President.

PASSED AND ADOPTED by YOUR AGENCY NAME HERE at a regular meeting of said Board/City held on DATE.



**DISCUSSION ITEM**

June 7, 2023

**TO: Board of Directors**

**FROM: Harvey De La Torre,  
Interim General Manager**

Staff Contact: Melissa Baum-Haley

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

**STAFF RECOMMENDATION**

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

**DETAILED REPORT**

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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. Water Supply Condition Update
- c. Water Quality Update
- d. Colorado River Issues
- e. Delta Conveyance Activities and State Water Project Issues

**ISSUE BRIEF #A****SUBJECT: MET Finance and Rate Issues****RECENT ACTIVITY**

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Water Transactions for March 2023 (for water delivered in January 2023) totaled 61.9 thousand acre-feet (TAF), which was 39.3 TAF lower than the budget of 101.2 TAF and translates to \$61.0 million in receipts for March 2023, which was \$35.3 million lower than budget of \$96.3 million.

Year-to-date water transactions through March 2023 (for water delivered in May 2022 through January 2023) were 1,189.4 TAF, which was 91.4 TAF lower than the budget of 1,280.8 TAF. Year-to-date water receipts through March 2023 were \$1,128.3 million, which was \$80.0 million lower than the budget of \$1,208.3 million.

Metropolitan staff and the finance team are working on finalizing documentation for an estimated \$280 million revenue bond sale in May 2023, including Appendix A, Metropolitan's primary disclosure document. Metropolitan finance staff also has been working on developing a rating agency strategy and two presentations to Moody's and S&P for the upcoming bond sale. As of March 31, 2023, Metropolitan's investment portfolio balance was \$1.2 billion.

## ISSUE BRIEF #B

**SUBJECT: MET's Supply Condition Update**

### **RECENT ACTIVITY**

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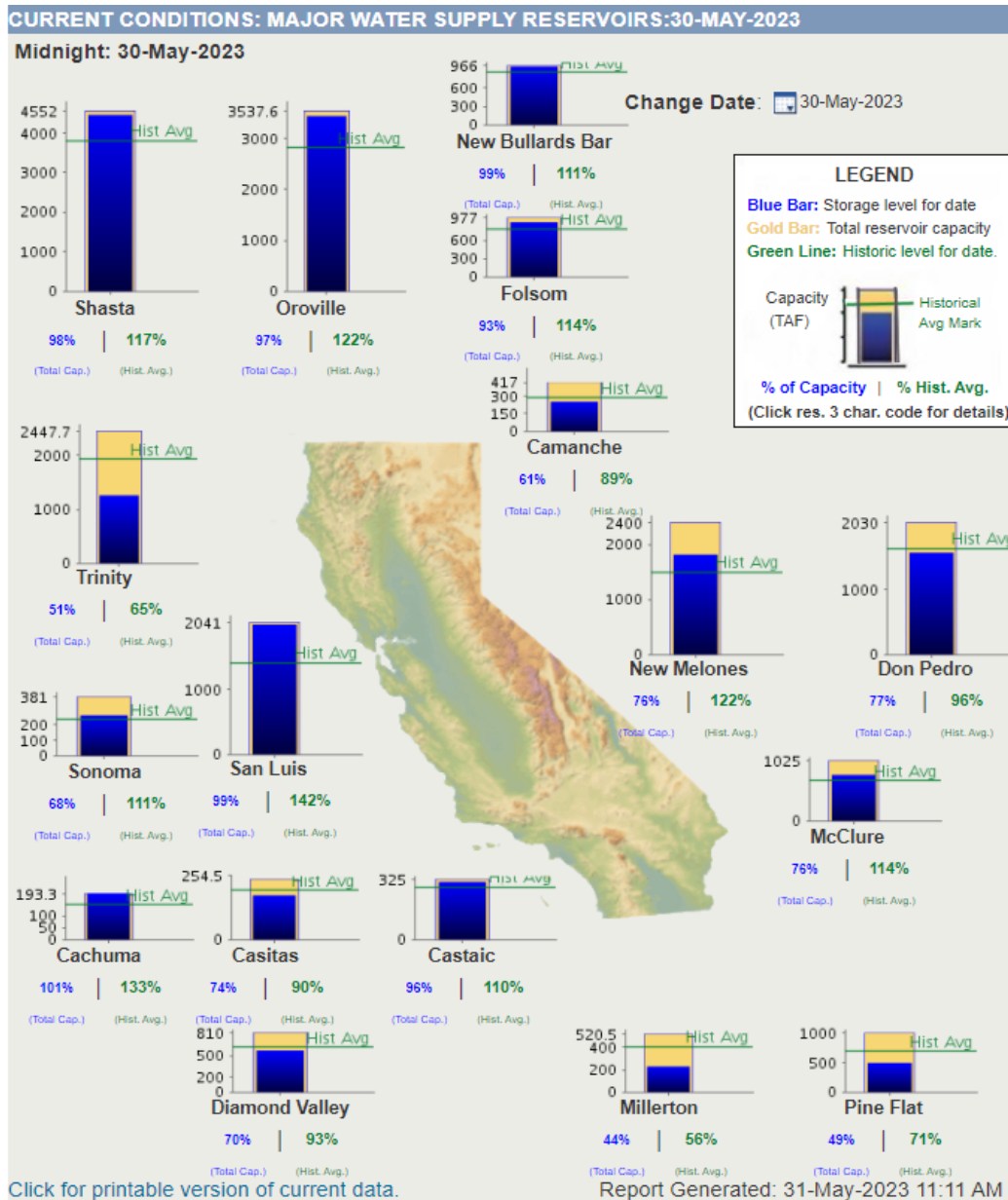
The 2022-23 Water Year (WY) officially started on October 1, 2022. Thus far, Northern California accumulated precipitation (8-Station Index) reported **62.8. inches or 131% of normal** as of May 31st. The Northern Sierra Snow Water Equivalent peaked at **59.1 inches on April 9<sup>th</sup>**, which is **215% of normal** for that day. Due to barrage of atmospheric rivers in January and March, the Department of Water Resources (DWR) has increased the State Water Project (SWP) **"Table A" allocation to 100%**. This allocation provides Metropolitan with approximately **1,911,500 AF in SWP deliveries this water year**. In Addition, Article 21 supplies (approximately 148,000 AF) were made to SWP contractors on March 24<sup>th</sup> 2023. DWR's SWP Allocation considers several factors including existing storage in SWP, conservation reservoirs, SWP operational regulatory constraints, and the 2023 contractor demands. In additional, Metropolitan received **134,000 AF for Human Health and Safety Supply in Calendar Year (CY) 2022**.

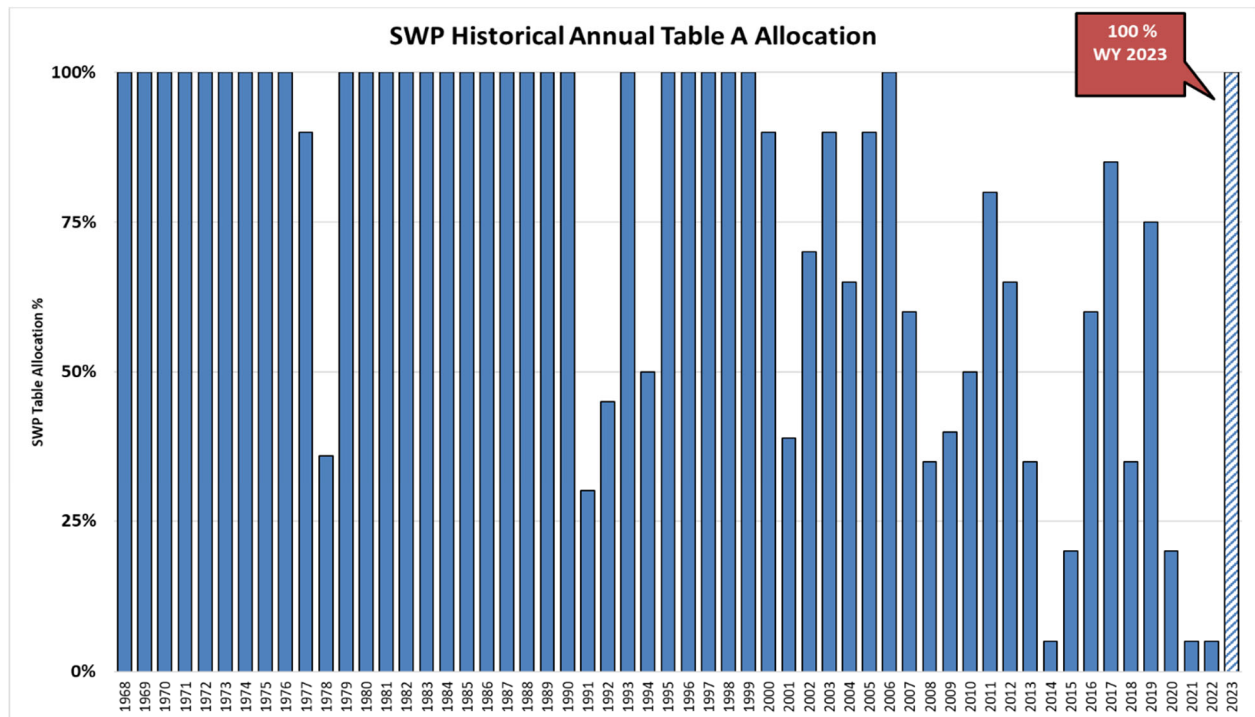
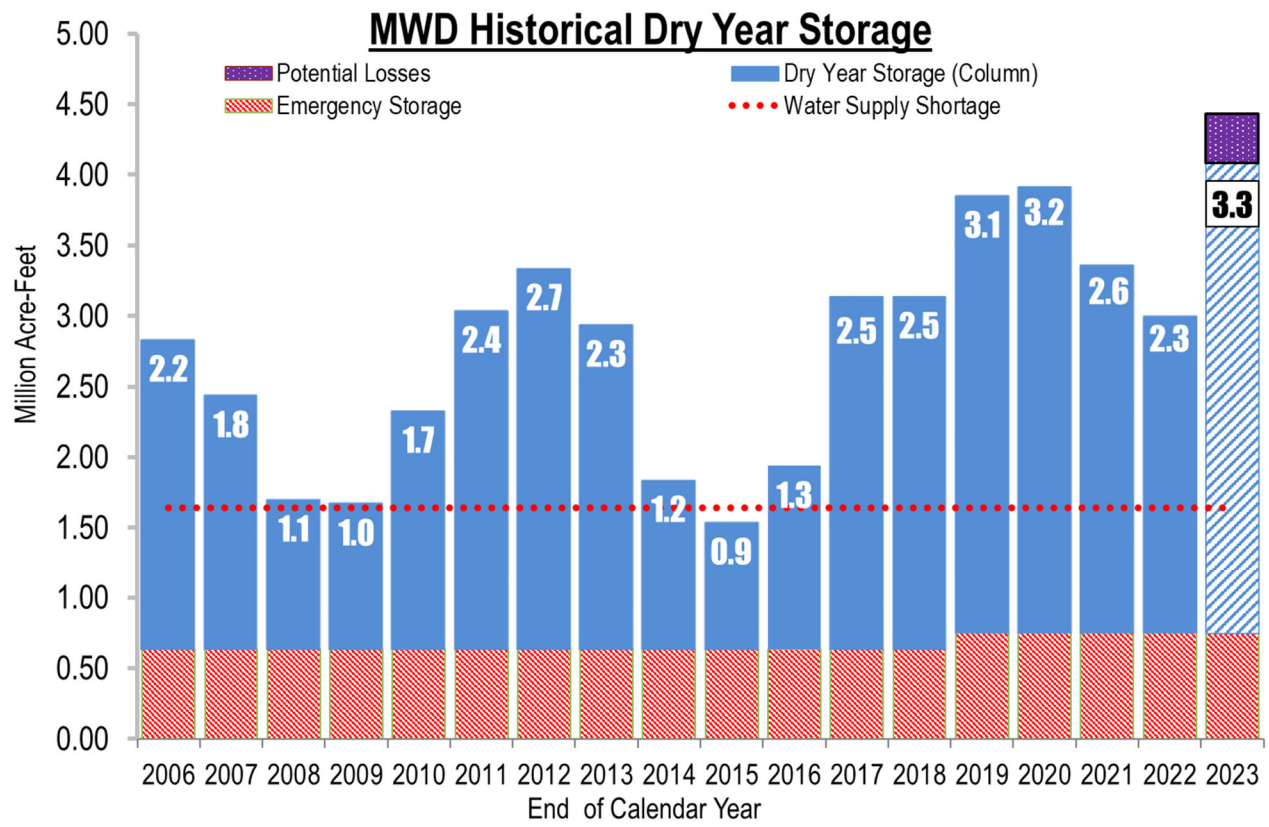
The Upper Colorado River Basin accumulated precipitation is reporting **26.5 inches or 119% of normal as of May 30<sup>th</sup>**. On the Colorado River system, snowpack is measured across four states in the Upper Colorado River Basin. The Upper Colorado River Basin Snow Water Equivalent peaked **26.2 inches as of April 10<sup>th</sup>**, which is **131% of normal** for that day. Due to the below average inflows into Lake Powell over the past several years, the United States Bureau of Reclamation **declared a shortage at Lake Mead that has been ongoing since January 1<sup>st</sup>, 2022**. As of May, **there is a 93% chance of shortage continuing in CY 2024 and a 3% chance that Metropolitan will see an 180,000 AF reduction in Colorado River water supplies in CY 2025.**

As of May 30<sup>th</sup> Lake Oroville storage is at **97% of total capacity and 122% of normal**. As of May 30<sup>th</sup> San Luis Reservoir has a current volume of **99% of the reservoir's total capacity and is 142% of normal**.

With CY 2023 estimated total demands and losses of 1.57 million acre-feet (MAF) and with a 100% SWP Table A Allocation, Metropolitan is projecting that supplies will exceed demands levels in CY 2023. Based on this, estimated total dry-year storage for Metropolitan at the end of **CY 2023 will increase to approximately 3.3 MAF**.

A projected dry-year storage supply of **3.3 MAF would be the highest level in Metropolitan's history**. However, due to the **100% SWP Table A Allocation**, there is **potential that Metropolitan will not be able to store approximately 350 TAF**. 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. **However, with a majority of Metropolitan's water supplies stored in Lake Mead and with still a 5-year shortage projection at Lake Mead, there remains a lot of uncertainty to where supply balances will be in the future.**





### 2023 WSDM Storage Detail

	1/1/2023 Estimated Storage Levels <sup>1</sup>	CY 2023 Put Capacity <sup>2</sup>	2023 Total Storage Capacity
<b>WSDM Storage</b>			
Colorado River Aqueduct Delivery System	1,139,000	400,000	1,657,000
Lake Mead ICS	1,139,000 <sup>3</sup>	400,000	1,657,000
State Water Project System	502,000	720,000	1,897,000
MWD SWP Carryover <sup>4</sup>	39,000	297,000	350,000
DWCV SWP Carryover <sup>4</sup>			
MWD Articles 14(b) and 12(e)	0	0	N/A
Castaic and Perris DWR Flex Storage	3,000	216,000	219,000
Arvin Edison Storage Program	119,000	0 <sup>5</sup>	350,000
Semitropic Storage Program	158,000	131,000	350,000
Kern Delta Storage Program	137,000	45,000	250,000
Mojave Storage Program	19,000	10,000	330,000
AVEK Storage Program	27,000	3,000	30,000
AVEK High Desert Water Bank Program	0	18,000 <sup>6</sup>	18,000 <sup>7</sup>
<b>In-Region Supplies and WSDM Actions</b>	<b>698,000</b>	<b>404,000</b>	<b>1,246,000</b>
Diamond Valley Lake	494,000	316,000	810,000
Lake Mathews and Lake Skinner	194,000	32,000	226,000
Conjunctive Use Programs (CUP) <sup>8</sup>	10,000	56,000	210,000
<b>Other Programs</b>	<b>662,000</b>	<b>189,000</b>	<b>1,181,000</b>
Other Emergency Storage	381,000	0	381,000
DWCV Advanced Delivery Account	281,000	189,000	800,000
<b>Total</b>	<b>3,001,000</b>	<b>1,713,000</b>	<b>5,981,000</b>
Emergency	750,000	0	750,000
<b>Total WSDM Storage (AF) <sup>9</sup></b>	<b>2,251,000</b>	<b>1,713,000</b>	<b>5,231,000</b>

<sup>1</sup> Preliminary start of year balances, subject to DWR adjustments and USBR final accounting in May 2023.

<sup>2</sup> Put capacity assumed under a 75 percent SWP Table A Allocation. Storage program losses included where applicable.

<sup>3</sup> This amount is net of the water Metropolitan stored for IID in Lake Mead in an ICS sub-account.

<sup>4</sup> Total storage capacity varies year to year based on prior year remaining balance added to current year contractual limits.

<sup>5</sup> Puts are limited due to water quality considerations.

<sup>6</sup> Includes the early recharge in the High Desert Water Bank Program expected to commence in the summer.

<sup>7</sup> Represents a portion of the total storage capacity. Total storage capacity is 280,000 AF once the program is fully constructed. Anticipated to be fully operational by the end of 2025.

<sup>8</sup> Total of all CUP programs including IEUA/TVMWD (Chino Basin); Long Beach (Central Basin); Long Beach (Lakewood); Foothill (Raymond and Monk Hill); MWDOC (Orange County Basin); Three Valleys (Live Oak); Three Valleys (Upper Claremont); and Western.

<sup>9</sup> Total WSDM Storage level subject to change based on accounting adjustments.

### Attachment: Water Supply PowerPoint



## Water Supply Conditions

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

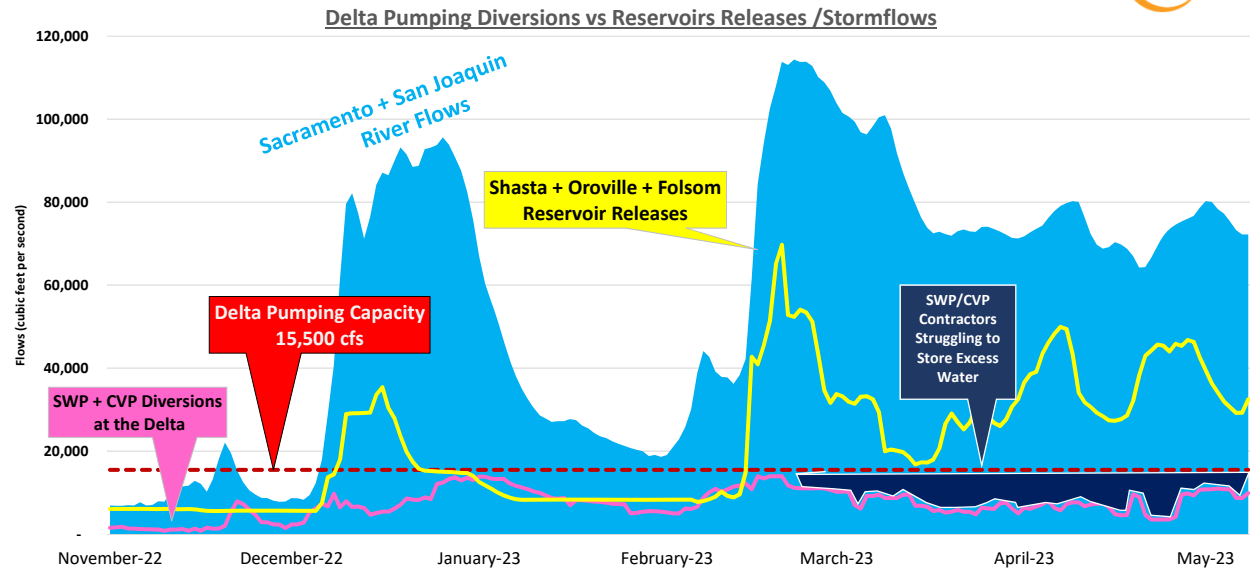
June 7<sup>th</sup> 2023



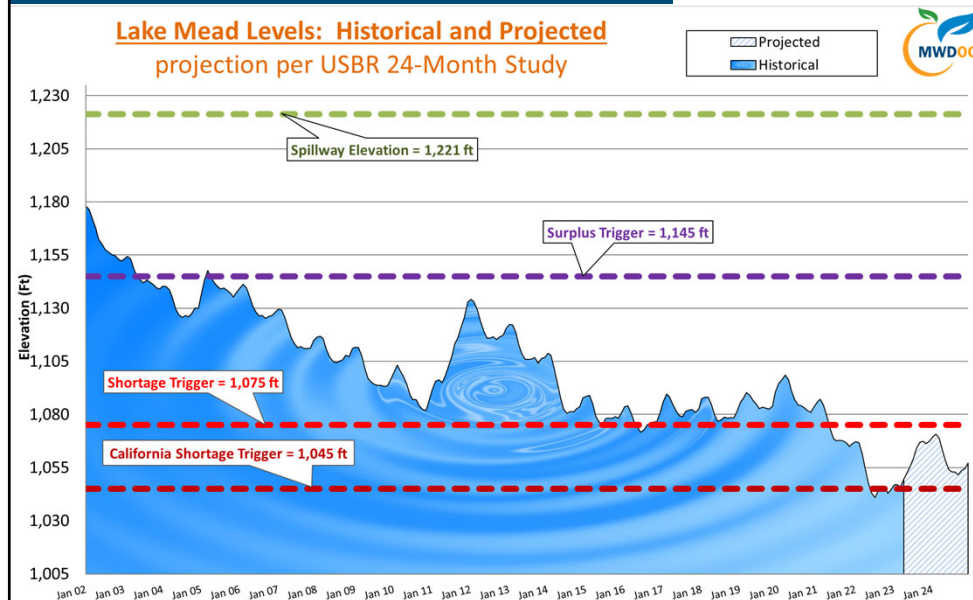
## Review of Regional Water Supply Conditions

Insight to regional water supply conditions that affect Orange County's water supply

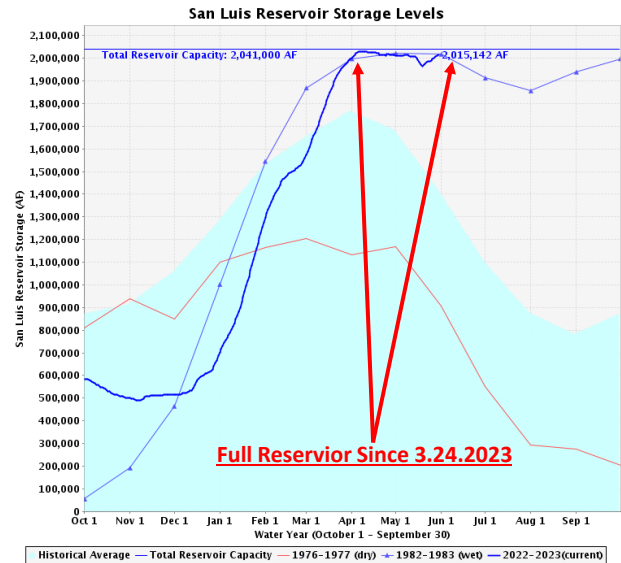
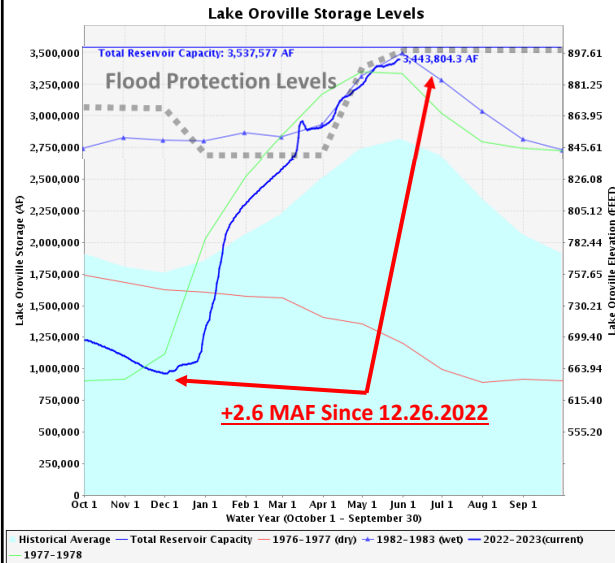
# Delta Operations



## Lake Mead Estimated 24 Month Projected Levels



# Lake Oroville Storage and San Luis Storage



*\*Casa Romantica, San Clemente Hill Slide 4.28.2023*



Questions???

## **ISSUE BRIEF #C**

**SUBJECT: MET's Water Quality Update**

### **RECENT ACTIVITY**

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#### **Water System Operations**

Metropolitan member agency water deliveries were 68,000 AF for April with an average of 2,300 AF per day, which was 300 AF per day higher than March. Treated water deliveries increased by 5,600 AF from March for a total of 42,600 AF, or 63% of total deliveries for the month. The Colorado River Aqueduct pumped a total of 47,000 AF in April. SWP imports averaged 3,100 AF per day, totaling about 93,400 AF for the month. The target SWP blend is 100% for Weymouth and Diemer plants and as high as possible for the Skinner plant. System limitations and storage priorities allowed the blend leaving Lake Skinner to increase to about 10% by the end of the month.

#### **Water Treatment and Distribution**

The SWP target blend entering the Weymouth plant stayed at 100% in April. The SWP blend at the Diemer plant was approximately 97%, because of an operational need to maintain a small Colorado River water flow on the Lower Feeder. The SWP target entering Lake Skinner increased from zero to around 50% to maximize the delivery of Article 21 supplies.

Flow-weighted running annual averages for total dissolved solids from March 2022 through February 2023 for Metropolitan's treatment plants capable of receiving a blend of supplies from the SWP and the Colorado River Aqueduct were 605, 609, and 608 mg/L for the Weymouth, Diemer, and Skinner plants, respectively.

#### **Future Legislation and Regulation**

On March 24, the Department of Toxic Substances Control released its revised Generator Improvements Rule for public comment. The Generator Improvements Rule applies to hazardous waste generators such as Metropolitan. Metropolitan staff is reviewing the revised rule before the May 8 comment deadline.

On March 29, the Environmental Protection Agency (EPA) published draft maximum contaminant levels (MCLs) for PFOA and PFAS at 4 parts per trillion (ppt) for each compound—the detection limit of EPA's test method. The proposed rule also set maximum contaminant level goals (MCLGs) for both PFOA and PFOS to 0 ppt. Last, the EPA proposed regulating PFNA, PFHxS, PFBS, and GenX as a mixture. The EPA hopes to finalize the regulation by early 2024 with a three-year compliance timeline from the rule's effective date. Metropolitan staff will submit comments before the May 30 comment deadline.

On March 30, Cal/OSHA released a 45-day comment period package for the Proposed Indoor Heat Illness Prevention Standard. Cal/OSHA can adopt the standard as early as summer 2023. The proposed standard applies to all indoor work areas where the temperature exceeds

or equals to 82° F with additional requirements when temperature equals or exceeds 87°F. Key requirements include providing access to water at worksites and within cooling areas; establishing cool-down areas at all times, and encouragement of breaks; and using control measures to minimize the risk of heat illness (i.e., PPE, engineering controls). Employees must also be trained on indoor heat illness prevention. Metropolitan staff is currently reviewing the requirements and assessing impacts. Public comments are due on May 18.

On April 5, the EPA published proposed revisions to the Consumer Confidence Reports (CCRs) under the Safe Drinking Water Act. When finalized, the EPA's proposal would, among other things, require public water systems serving over 10,000 people to deliver CCRs twice a year, encourage modern electronic delivery options, clarify information regarding lead levels and efforts to reduce lead in drinking water, and provide translation for customers with limited English proficiency. The EPA held two informational webinars about the proposed CCR Rule on April 12 and April 20, 2023. Metropolitan staff is reviewing the proposed CCR Rule for potential changes to Metropolitan's Annual Water Quality Report that informs the member agency CCRs.

On April 7, Metropolitan submitted a comment letter on the California Air Resources Board's (CARB) 15-day Proposed Advanced Clean Fleets (ACF) Regulation. Set for adoption on April 28, the ACF includes a 50% zero-emission vehicle (ZEV) purchase mandate for medium to heavy-duty vehicles weighing more than 8,500 pounds beginning in 2024 with 100% completion by 2027. The ACF will affect comment letter requested that CARB delay the 100% ZEV purchase requirement compliance date from 2027 to 2030 to allow both the ZEV marketplace and state's charging infrastructure to mature. Metropolitan staff will continue to monitor the development of the ACF Regulation.

On April 13, the EPA requested public "input and data" regarding whether to designate the precursors to PFOA and PFOS, as well as seven additional PFAS as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund). The seven additional PFAS are PFBS, PFHxS, PFNA, Gen X, PFBA, PFHxA, and PFDA. This proposal follows the EPA's September 6, 2022, Notice of Proposed Rulemaking to designate PFOA and PFOS as hazardous substances under the CERCLA--which is not yet final. The April 1 Federal Register notice also requests input on regulating groups or categories of PFAS as hazardous substances.

Metropolitan staff is preparing comments by the June 12 comment deadline.

**Wednesday, May 24, 2023**

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\*Bromate values are from sample date 5/15/2023.  
 \*\*Bromate maximum contaminant level is an RAA of 10 µg/L.  
 -THM values are from sample date 5/2/2023.  
 TDS values are from the latest Table D report.

**MWD water quality goals meet or exceed all State and Federal regulations.**

WATER QUALITY INFORMATION LINE: (800) 354-4420  
VISIT MWD ON THE WEB AT <http://www.mwdh2o.com>

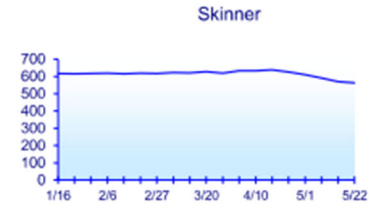
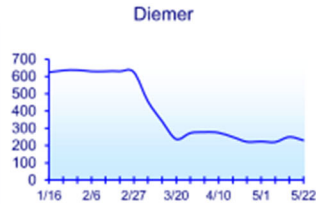
# Water Quality Section Weekly TDS Report

For the week of 5/21/2023

Percent SPW Needed to Achieve TDS Goal of 500 mg/L				Estimated TDS for Reservoirs		
Source Water TDS		SPW Required		Reservoir (Effluent)	Date	mg/L
Plant	CRW	SPW	Percent			
Weymouth	602	102	20%	Lake Havasu (Table D)	2/1/23	639
Diemer	602	102	20%	Lake Mathews (DFPI-LWRFR)	5/22/23	602
Skinner-Silverwood	0	102	490%	Lake Skinner (Outlet Structure)	5/22/23	510
Skinner-Perris	0	285	175%	Castaic Lake (JFPI)	5/21/23	352
CRW for Diemer and Weymouth is Lake Mathews and San Jacinto - West Portal for Skinner.				Silverwood (Mills Inf)	5/22/23	102
				Lake Perris	5/22/23	285
				DVL Outlet (Table D)	2/13/23	281

## SUNDAY COMPOSITE ESTIMATED TDS FOR 01/15/23 - 05/21/23

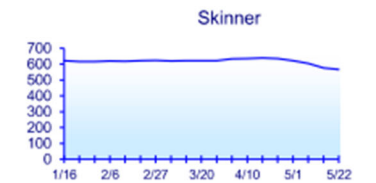
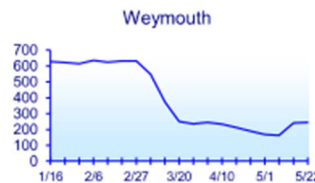
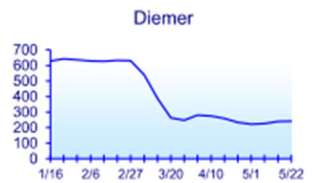
TDS For Week of 5/21	
Plant Eff.	mg/L
Diemer	231
Weymouth	246
Skinner	563
Jensen	371
*Mills	124



Sunday composite estimated TDS measured from plant effluent composite samples collected on Sunday and analyzed for hardness and electrical conductivity. \*Collected on Monday 5/22/2023

## WEEKLY COMPOSITE ESTIMATED TDS FOR 01/15/23 - 05/21/23

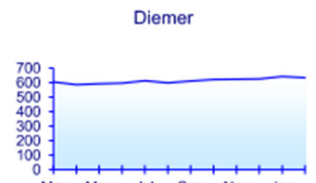
TDS For 5/15 - 5/21	
Plant Eff.	mg/L
Diemer	241
Weymouth	244
Skinner	566



Weekly composite estimated TDS measured from plant effluent composite samples collected Monday through Sunday and analyzed for hardness and electrical conductivity.

## MONTHLY COMPOSITE CALCULATED TDS FOR March 2022 - February 2023

TDS For Feb 2023	
Plant Eff.	mg/L
Diemer	635
Weymouth	638
Skinner	636
Jensen	350
Mills	300



Monthly calculated TDS calculated from plant effluent monthly composite sample for total anions and cations. These results are also used for Table D.

## FLOW WEIGHTED RAA TDS FOR March 2022 - February 2023

Flow-Weighted RAA TDS	
Mar 2022 - Feb 2023	
Plant	mg/L
Diemer	609
Weymouth	605
Skinner	608
Jensen	328
Mills	297



Seasonal flow weighted RAA TDS calculated from plant effluent monthly composite sample for total anions and cations. Results are based on average monthly flows.

## **ISSUE BRIEF #D**

**SUBJECT: Colorado River Issues**

### **RECENT ACTIVITY**

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#### **Lower Basin States Agreement on Colorado River Conservation Actions**

On May 22, 2023, The Colorado River Basin States Representatives of Arizona, California, and Nevada reached an agreement to conserve at least an additional 3 million acre-feet (MAF) of Colorado River Water in the Lower Basin by the end of calendar year 2026, with at least 1.5 MAF of that total being conserved by the end of calendar year 2024 (Lower Basin Plan). The three lower basin states requested the Lower Basin Plan be fully analyzed as an action alternative in the Bureau of Reclamation's Near-Term Colorado River Operations Draft Supplemental Environmental Impact Statement.

The terms of the Lower Basin Plan are as follows:

1. The Lower Basin Plan does not require the Secretary to unilaterally exercise her authorities to implement reductions and it does not contemplate any waiver of these authorities to protect the Colorado River system in the future if hydrological conditions require such action.
2. Tier-based reductions and contributions in the remaining interim period (2023 through 2026, inclusive) under this alternative shall be limited to the existing 2007 Interim Guidelines, the Lower Basin Drought Contingency Plan (DCP), and Minute 323.
3. At minimum, System Conservation (in lieu of additional reductions) achieved in the remaining interim period (2023 through 2026, inclusive) shall be at least 3 MAF of which at minimum 1.5 MAF shall be physically conserved by the end of calendar year 2024.
4. In aggregate (understanding that each contract is different and will have user-level limitations), compensated System Conservation shall be mandatory, enforceable, measurable, verifiable, and non-retrievable.
5. System Conservation up to 2.3 MAF will be federally compensated under Pub. L. 117-169 Inflation Reduction Act Title V, Subtitle B, Part 3 "Drought Response and Preparedness" Section 50233 "Drought Mitigation in the Reclamation States" (IRA Funding).
6. The remaining required System Conservation may be in whole or in part compensated by state and/or local entities or be uncompensated. To the extent that System Conservation is federally funded with non-"Bucket 1" IRA Funding, such as under "Bucket 2" IRA Funding, or under Pub. L. 117-58 "The Bipartisan Infrastructure Law" Title IX "Western Water Infrastructure", that System Conservation may offset up to 0.2 MAF of the remaining required System Conservation.
7. All or a portion of the remaining required System Conservation may be offset with Intentionally Created Surplus (ICS) created in 2023-2026 and for any such ICS the

creator cannot order delivery of, transfer, or assign the ICS at any time before December 31, 2026. Because of the limitation on ICS storage space, some DCP ICS will become system water, which is an uncompensated addition of system water.

8. If the April 24-month Study “Minimum Probable” model in 2024, 2025, and 2026 indicates that the respective end of year elevation in Lake Mead will fall below 1,025 feet, the Lower Division States will have 45 calendar days from the publication of the respective 24-month Study to propose, after consultation with the Upper Basin States, an implementable plan to Reclamation to protect Lake Mead from reaching an elevation of 1,000 feet. If such an acceptable plan, as determined by Reclamation, is not developed, Reclamation may independently take action(s) to protect 1,000 feet.
9. Glen Canyon Dam operations in the remaining interim period (2023 through 2026, inclusive) under this alternative shall be consistent with the existing 2007 Interim Guidelines and the DCPs except as modified in this term 9. Subject to the Secretary’s authorities described in term 1, Lake Powell releases will occur as specified under the 2007 Interim Guidelines except that when Lake Powell is in either the Middle Elevation Release Tier or Lower Elevation Balancing Tier, a mid-year adjustment can be made to reduce the release to an annual volume not less than 6.0 MAF if there is a possibility of the Minimum Probable scenario in any 24-month study of Lake Powell dropping below 3,500 feet in any of the upcoming 12 months that cannot be avoided by modifying monthly release volumes without changing the annual release volume.

The lower basin agreement was submitted concurrent with a letter from all Seven Basin States requesting a suspension of the current Draft SEIS comment period to fully analyze this proposed action alternative.

## **ISSUE BRIEF #E**

**SUBJECT: Delta Conveyance Activities and State Water Project Issues**

### **RECENT ACTIVITY**

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#### **Delta Conveyance**

The California Department of Water Resources (DWR) is continuing efforts to organize and develop responses to the comments received on the Delta Conveyance Project (DCP) draft Environmental Impact Report (EIR), as required under the California Environmental Quality Act CEQA. DWR received more than 700 unique comment letters with over 6,000 individual comments. The Final EIR is expected at the end of 2023, which will include responses to all substantive comments on the Draft EIR and, where appropriate, edits to the Draft EIR responsive to comments received.

The U.S. Army Corps of Engineers (USACE) draft Environmental Impact Statement (EIS) comment period closed on March 16, 2023. The DCP draft EIS is required under National Environmental Protection Act. The USACE is also starting the initial organization of the comments received on the DCP draft EIS.

DWR's field activities under the Initial Study/Mitigated Negative Declaration for Soil Investigations in the Delta are planned to resume in early May 2023. These activities include data collection, soil samples, and surveys to better understand the region's geology to support the evaluation of potential activities, including the proposed DCP. DWR will update its public information website to provide information on the soil investigations to interested members of the public.

(<https://water.ca.gov/Programs/State-Water-Project/Delta-Conveyance/Environmental-Planning>)

#### **Sites Reservoir**

At the Sites Reservoir Authority Joint Authority Board and Reservoir Committee meeting on April 21, an update on the Final EIR/EIS schedule was presented. It is anticipated that certification of the Final EIR will be an action item for consideration at the July or August Authority Board Meeting. At that time, the Authority Board will also need to adopt CEQA findings and a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program. Following these actions, the Authority Board will consider approval or denial of the Sites Reservoir Project.

Sites Reservoir Authority staff also presented information on the Principles for the Storage, Delivery and Sale of Sites Reservoir Project Water (Storage Principles). The Storage Principles describe a framework for procedures related to Sites Reservoir Project water that includes system losses, available storage, and allocation. The available storage in Sites Reservoir is calculated to be 1.41 million acre-feet, which includes recent refinements and a 60 thousand acre-feet dead pool that is unavailable stored water in the wholesale electrical

energy market, which has the potential to be more cost-effective than going through Pacific Gas & Electric.

### **Science Activities**

Metropolitan staff continued participating in collaborative science activities addressing native fish species in the Delta, their habitats, and the effects of stressors. In April, Metropolitan staff worked with university researchers to conduct field sampling work for an assessment of contaminant occurrence in the Sacramento Deep Water Ship Channel. Delta smelt use the ship channel as habitat, and the study will inform contaminant risk in the ship channel.

Metropolitan staff is also continuing to work on Phase 3 of the Reorienting to Salmonid Recovery project. In this phase, participants will develop an agreed-upon suite of priority actions for salmonid recovery. In late March, Metropolitan staff facilitated the first structured decision-making workshop for the Reorienting to Salmonid Recovery project. The workshop participants included state and federal resource agencies, public water agencies, non-governmental organizations, commercial and recreational fishing interests, and tribes. At the workshop the participants discussed potential management options and recovery scenarios to benefit salmon and provided input on bookend scenarios to evaluate.

### **Regulatory Activities**

In April, Metropolitan staff presented an update on the Voluntary Agreements to Metropolitan's One Water and Stewardship Committee. The presentation included information on the schedule and the Draft Scientific Basis Report Supplement in Support of Proposed Voluntary Agreements for the Sacramento River, Delta, and Tributaries Update to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Plan). The State Water Resources Control Board (SWRCB) will continue its public and peer review process for the Draft Scientific Basis Report Supplement through early 2024, and SWRCB consideration for adoption of a Bay-Delta Plan update and implementation plan is tentatively scheduled for the end of 2024.

### **Delta Island Activities**

Metropolitan staff prepared and submitted a \$19.7 million grant application to the Delta Conservancy's Nature Based Solutions: Wetland Restoration Grant Program. If awarded, the grant will fund development of a multi-benefit mosaic of wetlands, rice, and other habitat projects on Webb tract that are designed to stop and/or reverse subsidence, generate carbon credits from carbon sequestration opportunities, and create habitat. Metropolitan staff provided an oral presentation on the proposed project to the April 25 Metropolitan Subcommittee on Bay-Delta. Metropolitan staff is also developing outreach materials and met with Contra Costa County representatives and CDFW representatives to discuss the project. Contra Costa County's Board of Supervisors will consider a resolution of support for the project at its May meeting.

**Ecosystem Restoration**

Metropolitan staff attended the Delta Plan Interagency Implementation Committee Restoration Subcommittee meeting where the California Department of Fish and Wildlife (CDFW) gave a presentation on the Cutting the Green Tape Initiative designed to increase the pace and scale of environmental restoration projects and discussed the potential implications for Delta projects. Metropolitan staff also attended a Southern Yolo Bypass tour with representatives from Yolo County that included a visit to the Lookout Slough Project, which is a multi-benefit project to restore 3,400 acres of tidal wetland.

**Summary Report for  
The Metropolitan Water District of Southern California  
Board Meeting  
May 9, 2023**

**CONSENT CALENDAR OTHER ITEMS – ACTION**

Authorized the preparation of commendatory resolution supporting Cathy Green as Association of California Water Agencies President. **(Agenda Item 7B)**

Approved Committee Assignments.

**Subcommittee on Pure Water Southern California and Regional Conveyance**

Tim Smith

**Subcommittee on Bay-Delta**

Glen Peterson

**Subcommittee on Demand Management and Conservation Programs and Priorities**

Jeff Armstrong – Chair

Judy Abdo

Desi Alvarez

Lois Fong-Sakai

Russell Lefevre

Jacque McMillan

Marty Miller

Tracy Quinn

Marsha Ramos

**(Agenda Item 7C)**

**CONSENT CALENDAR ITEMS - ACTION**

Awarded a \$637,520 contract to Acro Constructors for upgrades to the video production room at Metropolitan's Headquarters Building. **(Agenda Item 7-1)**

Authorized an agreement with Arcadis U.S. Inc. for a not-to-exceed amount of \$550,000 to design, develop, and deploy Metropolitan's Capital Investment Plan Budget System Improvements. **(Agenda Item 7-2)**

(a) Authorized an increase of \$1.5 million to an existing agreement with Stantec Consulting Services Inc. for a new not-to-exceed total amount of \$1.69 million for preliminary design of a

mechanical dewatering facility at the Jensen Plant. (b) Authorized an amendment to an agreement with Los Angeles Department of Water and Power to forego construction of two new lagoons on LADWP's property and to extend Metropolitan's use of two solids lagoons at the Aqueduct Filtration Plant. **(Agenda Item 7-3)**

Amended the Capital Investment Plan for fiscal years 2022/2023 and 2023/2024 to include the Diemer Helicopter Hydrant Facility project. **(Agenda Item 7-4)**

Awarded a \$1,466,665 contract to B&K Valves & Equipment Inc. for procurement of 72 replacement air release and vacuum valves for San Diego Pipeline Nos. 3 and 5. **(Agenda Item 7-5)**

Authorized an increase in the maximum amount payable under contract with Thompson Coburn LLP for legal advice on state and federal energy regulatory and contractual matters by \$200,000 to a maximum amount payable of \$300,000. **(Agenda Item 7-6)**

Approved changes in the Administrative Code to clarify provisions relating to Board committees and the role of the Vice Chairs of the Board, to delete references to certain Ad Hoc Committees, and to correct the pay grade for Board Executive Secretary due to elimination of the job title of Board Administrator. **(Agenda Item 7-7)**

#### **OTHER BOARD ITEMS - ACTION**

Awarded a \$2,601,437 procurement contract to Sojitz Machinery Corporation of America to furnish two large diameter butterfly valves for the Inland Feeder/SBVMWD Foothill Pump Station Intertie project as part of water supply reliability improvements in the Rialto Pipeline service area. **(Agenda Item 8-1)**

Awarded a \$5,266,000 contract to Leed Electric Inc. to install 12 flow monitoring stations along the CRA conveyance system. **(Agenda Item 8-2)**

Adopted a resolution to support an approximately \$20,900,000 grant application to the Sacramento-San Joaquin Delta Conservancy to develop a multi-benefit landscape opportunity on Webb Tract, and authorized the General Manager or designated representative to accept the grant if awarded and return to the Board at a future meeting to review the draft funding agreement and funding plan and consider adding the proposed project to the Capital Investment Program. **(Agenda Item 8-3 amended option #1)**

Authorized the General Manager to enter into an agreement with Western Municipal Water District, Rubidoux Community Services District, West Valley Water District, and San Bernardino Valley Municipal Water District to deliver water to Western's service area through facilities not owned by Metropolitan or Western and direct staff to bring back to the Board, on a committee and board schedule to be established by staff working with the Board chair, relevant vice chairs, and committee chairs, the three policy issues identified in the Board letter and a fourth policy issue related to assessing water quality and salinity inequities among member

agencies, including but not limited to, a report on how staff seeks to achieve the objectives of Section 136 of the MWD Act on blending. **(Agenda Item 8-4 amended option #1)**

Reviewed and maintained the General Manager's implementation of the Cyclic Cost-Offset Program effective April 15, 2023, pursuant to the Program terms approved by the Board on April 9, 2019 (No motion or vote is required for this option; the Report will be received and filed.) **(Agenda Item 8-5)**

Adopted the resolution to continue the Standby Charge for fiscal year 2023/24.  
**(Agenda Item 8-6)**

Authorized the General Counsel to increase the maximum amount payable under a contract with Sheppard, Mullin Richter & Hampton LLP for legal services by \$150,000 to an amount not to exceed \$250,000. **(Agenda Item 8-7)**

Authorized filing a cross-complaint in Oswalt v. The Metropolitan Water District of Southern California, San Diego County Superior Court Case No. 37-2023-00009934-CU-PO-CTL.  
**(Agenda Item 8-8)**

**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>

# The Metropolitan Water District of Southern California

## Agenda

The mission of the Metropolitan Water District of Southern California is to provide its service area with adequate and reliable supplies of high-quality water to meet present and future needs in an environmentally and economically responsible way.

### Board of Directors - Draft

June 13, 2023

12:00 PM

Tuesday, June 13, 2023  
Meeting Schedule

08:30 a.m. FAIRP  
10:30 a.m. EOP  
12:30 p.m. Break  
01:00 p.m. BOD  
03:00 p.m. EIA

Agendas, live streaming, meeting schedules, and other board materials are available here: <https://mwdh2o.legistar.com/Calendar.aspx>. A listen-only phone line is available at 1-877-853-5257; enter meeting ID: 891 1613 4145. Members of the public may present their comments to the Board on matters within their jurisdiction as listed on the agenda via in-person or teleconference. To participate via teleconference 1-833-548-0276 and enter meeting ID: 815 2066 4276 or click <https://us06web.zoom.us/j/81520664276pwd=a1RTQWh6V3h3ckFhNmDsUWpKR1c2Zz09>

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

1. **Call to Order**
  - a. Invocation: TBD
  - b. Pledge of Allegiance: TBD
2. **Roll Call**
3. **Determination of a Quorum**
4. **COMMUNITY REFLECTIONS**
  - a. TBD 21-2278
5. **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))**
6. **OTHER MATTERS AND REPORTS**
  - A. Report on Directors' Events Attended at Metropolitan's Expense 21-2199
  - B. Chair's Monthly Activity Report 21-2200

- |    |   |         |
|----|---|---------|
| C. | General Manager's summary of activities | 21-2201 |
| D. | General Counsel's summary of activities | 21-2202 |
| E. | General Auditor's summary of activities | 21-2203 |
| F. | Ethics Officer's summary of activities  | 21-2204 |

**\*\* CONSENT CALENDAR ITEMS -- ACTION \*\***

**7. CONSENT CALENDAR OTHER ITEMS - ACTION**

- |    |   |         |
|----|---|---------|
| A. | Approval of the Minutes of the Board of Directors Meeting for May 9, 2023 (Copies have been submitted to each Director, any additions, corrections, or omissions) | 21-2198 |
| B. | Approve Committee Assignments   |         |

**8. CONSENT CALENDAR ITEMS - ACTION**

- |     |  |         |
|-----|--|---------|
| 7-1 | Authorize agreements with AECOM Technical Services, Inc. and CDM Smith Inc., each in an amount not to exceed \$800,000, for water desalination studies in Metropolitan's service area; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA (EOT)  | 21-2277 |
| 7-2 | Amend the Capital Investment Plan for fiscal years 2022/2023 and 2023/2024 to include three projects: (1) Jensen Administration Building column panel replacement; (2) Skinner chemical storage tanks replacement; and (3) Auld Valley and Red Mountain Control Structures upgrade; and award a \$281,900 contract to MMJ Contracting, Inc. to replace the existing entrance column panels at the Jensen Administration Building; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA (EOT) | 21-2281 |
| 7-3 | Approve up to XX to purchase insurance coverage for Metropolitan's Property and Casualty Insurance Program for fiscal year 2023/24; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA (FAIRP)   | 21-2287 |
| 7-4 | Approve Metropolitan's Statement of Investment Policy for fiscal year 2023/24, delegate authority to the Treasurer to invest Metropolitan's funds for fiscal year 2023/24; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA (FAIRP)  | 21-2288 |

- 7-5** Authorize the General Manager to execute six lease amendments and two new license agreements with various landowners or site operators for the installation and upgrade of telecommunication equipment and changes in the premises at existing telecom sites known as Edom Hill, Vidal Junction, Crossman Peak, Las Vegas Junction, Searchlight, Christmas Tree, Black Peak, and to commence occupying a new site known as Super Nap. These agreements are to facilitate the implementation of Metropolitan's Desert-Wide-Area Network Upgrade Project. The subject telecom sites are located in Riverside (659-260-030), San Bernardino (xxxxxxx), Mohave (113-02-003), Clark (190-15-000-001; 243-34-501-019; 259-00-001-001; 176-01-801-043) and La Paz (311-01-006) Counties with the respective Assessor Parcel Numbers in parenthesis [Missing CEQA] (FAIRP) **21-2290**
- 7-6** Authorize the General Manager to grant a permanent easement to Eastern Municipal Water District for the construction and operation of a pipeline northeast of Diamond Valley Lake in the city of Hemet within Assessor Parcel Numbers 464-250-002, 464-250-003, 454-270-020 and 454-270-032; the General Manager has determined that the proposed action is exempt and not subject to CEQA (FAIRP) **21-2291**
- 7-7** By a two-thirds vote, authorize payment of up to \$932,800 for support of the Colorado River Board and Six Agency Committee for FY 2023/24; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA (OWS) **21-2284**
- 7-8** Adopt Mitigated Negative Declaration for the Delta Smelt and Native Species Preservation Project and take related CEQA actions (OWS) **21-2286**

**\*\* END OF CONSENT CALENDAR ITEMS \*\***

**9. OTHER BOARD ITEMS - ACTION**

- 8-1** Authorize on-call agreements with Kennedy Jenks Consultants, Inc., Lee & Ro, Inc., and Stantec Consulting Services, Inc., in amounts not to exceed \$10 million each, for a maximum of five years for engineering services; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA (EOT) **21-2279**

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|------------|---|----------------|
| <b>8-2</b> | Award a \$16,490,000 contract to J. F. Shea Construction, Inc. to replace equipment storage buildings at three Colorado River Aqueduct pumping plants; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA (EOT)   | <b>21-2280</b> |
| <b>8-3</b> | Review and consider the Antelope Valley-East Kern Water Agency's approved amended Mitigated Negative Declaration and authorize up to \$79 million for additional project costs and authorize the General Manager to amend and extend the term of the High Desert Water Bank Program agreement with the Antelope Valley East Kern Water Agency (OWS)   | <b>21-2283</b> |
| <b>8-4</b> | Authorize the General Manager to: (1) enter into an agreement with the U.S. Bureau of Reclamation to create Colorado River system water for Lake Mead from 2023 through 2026 using funds provided by the federal government; and (2) forebear up to 268,500 acre-feet; and adopt CEQA determination that the environmental effects of the conservation efforts that are the subject of the proposed action were previously addressed in various CEQA documents and related actions, and that no further CEQA review is required (OWS)   | <b>21-2285</b> |
| <b>8-5</b> | Express support, if amended, on AB 1567 (Garcia) and SB 867 (Allen), legislative bond proposals to provide funding for water projects to address climate change impacts; the General Manager has determined that the action is exempt or otherwise not subject to CEQA (LRAC)   | <b>21-2292</b> |
| <b>8-6</b> | Approve entering into 2022-2026 Memorandum of Understanding between The Metropolitan Water District of Southern California and The Supervisors Association of The Metropolitan Water District of Southern California; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA [Conference with Labor Negotiators; to be heard in closed session pursuant to Gov. Code 54957.6. Metropolitan representatives: Debra S. Gill, Human Resources Group Manager, Gifty J. Beets, Human Resources Section Manager of Labor Relations. Employee organization: The Supervisors Association of The Metropolitan Water District of Southern California] (EOP) | <b>21-2302</b> |

## **10. BOARD INFORMATION ITEMS**

- |            |                                       |                |
|------------|---------------------------------------|----------------|
| <b>9-1</b> | Conservation Program Board Report     | <b>21-2197</b> |
| <b>9-2</b> | Introduction of Ordinance 152 (FAIRP) | <b>21-2289</b> |

## **11. OTHER MATTERS**

NONE

## **12. FOLLOW-UP ITEMS**

NONE

## **13. FUTURE AGENDA ITEMS**

## **14. 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. (EOT). Board agendas may be obtained on Metropolitan's Web site <https://mwdh2o.legistar.com/Calendar.aspx>

Writings relating to open session agenda items distributed to Directors less than 72 hours prior to a regular meeting are available for public inspection at Metropolitan's Headquarters Building and on Metropolitan's Web site <https://mwdh2o.legistar.com/Calendar.aspx>.

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 Board Executive Secretary in advance of the meeting to ensure availability of the requested service or accommodation.