



8:00 A.M. OPERATIONS CENTER - 1200 SOUTH GENE AUTRY TRAIL – PALM SPRINGS – CALIFORNIA

Pursuant to Assembly Bill 361 (AB361), there will be no public location for attending in person. This meeting will be held virtually because state and local officials recommend measures to promote social distancing. Members of the public who wish to participate may do so by calling in at:

**Toll Free: (866) 899-4679
Access Code: 112-618-885**

**or Via Computer:
<https://www.gotomeeting.com/meeting/join-meeting>
9-digit Meeting ID: 112618885**

Members of the public who wish to comment on any item within the jurisdiction of the Agency or any item on the agenda may submit comments by emailing sbaca@dwa.org or may do so during the meeting. Comments will become part of the Board meeting record. Board members and staff will be participating in this meeting via teleconference.

****In order to reduce feedback, please mute your audio when you are not speaking.***

1. **CALL TO ORDER/PLEDGE OF ALLEGIANCE** **BLOOMER**
2. **ROLL CALL** **BACA**
3. **PUBLIC COMMENT:** Members of the public may comment on any item not listed on the agenda, but within the jurisdiction of the Agency. In addition, members of the public may speak on any item listed on the agenda as that item comes up for consideration. Speakers are requested to keep their comments to no more than three (3) minutes. As provided in the Brown Act, the Board is prohibited from acting on items not listed on the agenda
4. **CONSENT CALENDAR ITEMS:** Items listed under the Consent Calendar are considered to be routine and will be acted upon by one motion of the Board without discussion. There will be no separate discussion on these items unless a Board Member requests a specific item to be discussed and/or removed from the Consent Calendar for separate action.
 - A. Approve minutes of the November 16, 2021 Board Meeting
 - B. Approve minutes of the November 28, 2021 Special Board Meeting
 - C. Receive and File – Minutes of the November 18, 2021 Conservation & Public Affairs Committee Meeting
 - D. Receive and File - Minutes of the December 2, 2021 Executive Committee Meeting
 - E. Receive and File – Memo on November 18, 2021 State Water Contractors' Meeting
 - F. Request Authorization to Continue Virtual Board and Committee Meetings for Another 30 Days Based Upon a Determination That In-Person Meetings Would Pose a Risk to Public Health (Per AB 361)
 - G. Request Authorization for General Manager to Execute the Indio Sustainable Groundwater Management Act Memorandum of Understanding Supplement 3 for the United States Geological Services Subsidence Study
 - H. Request Adoption of Resolution No. 1266 Adopting an Amended Conflict of Interest Code
 - I. Request Approval for General Manager to Execute Ninth Amendment to Tolling & Waiver Agreement with DWR
5. **ACTION ITEM:**
 - A. Request Board Decision on Customer Appeal – Ori Dekel **JOHNSON**

6. PUBLIC HEARINGS:

- A. Request to Adopt Resolution No. 1267 Adopting the 2022 Indio Subbasin Water Management Plan Update Sustainable Groundwater Management Act (SGMA) Alternative Plan **METZGER**
- B. Request to Adopt Resolution No. 1268 Adopting the 2022 Mission Creek Subbasin Alternative Plan Update in Compliance with the Sustainable Groundwater Management Act **METZGER**

7. GENERAL MANAGER'S REPORT

KRAUSE

8. DISCUSSION ITEM:

- A. Legislative Annual Report **REEB**
- B. Director's Report on ACWA Fall Conference Attendance **BLOOMER, CIOFFI, STUART**

9. DIRECTORS COMMENTS/REQUESTS

10. CLOSED SESSION

- A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Pursuant to Government Code Section 54956.9 (d) (1)
Name of Case: Agua Caliente Band of Cahuilla Indians vs. Coachella Valley Water District, et al
(Two Cases)
- B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Pursuant to Government Code Section 54956.9 (d) (1)
Name of Case: Mission Springs Water District vs. Desert Water Agency
- C. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Pursuant to Government Code Section 54956.9 (d) (1)
Bonnie Kessner, et al vs. Desert Water Agency, et al
- D. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Pursuant to Government Code Section 54956.9 (d) (1)
Name of Case: AT&T vs. County of Riverside

11. RECONVENE INTO OPEN SESSION – REPORT FROM CLOSED SESSION

12. ADJOURN

Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities, as required by Section 202 of the Americans with Disabilities Act of 1990. Any person with a disability who requires a modification or accommodation in order to participate in a meeting is asked to contact Desert Water Agency's Assistant Secretary of the Board, at (760) 323-4971, at least 48 working hours prior to the meeting to enable the Agency to make reasonable arrangements. Copies of records provided to Board members that relate to any agenda item to be discussed in open session may be obtained from the Agency at the address indicated on the agenda.

DECLARATION OF POSTING

Pursuant to Government Code Section 54954.2, I certify that this agenda has been posted at least 72 hours prior to the meeting on the Agency's website at www.dwa.org and at the Agency's main office, 1200 South Gene Autry Trail, Palm Springs, CA.



Sylvia Baca, MMC
Assistant Secretary of the Board

**MINUTES
OF THE REGULAR MEETING
OF THE
DESERT WATER AGENCY
BOARD OF DIRECTORS**

4-A

November 16, 2021

DWA Board via Kristin Bloomer, President)
Teleconference: James Cioffi, Vice President)
Joseph K. Stuart, Secretary-Treasurer)
Patricia G. Oygar, Director)
Paul Ortega, Director)

DWA Staff via Mark S. Krause, General Manager)
Teleconference: Steve Johnson, Assistant General Manager)
Esther Saenz, Finance Director)
Sylvia Baca, Asst. Secretary of the Board)
Ashley Metzger, Dir. Public Affairs & Water Planning)
Kris Hopping, Human Resources Director)
Kim McCance, Senior Administrative Asst.)

Consultants via Michael T. Riddell, Best Best & Krieger)
Teleconference:

Public via David Freedman, Palm Springs Sustainability Comm.)
Teleconference: Doug Loar, Veolia)

19289. President Bloomer opened the meeting at 8:00 a.m. and asked everyone to join her in the Pledge of Allegiance. **Pledge of Allegiance**

19290. President Bloomer called upon Assistant Secretary of the Board Baca to conduct the roll call: **Roll Call**

Present: Ortega, Oygar, Stuart, Cioffi, Bloomer

19291. President Bloomer opened the meeting for public comment. **Public Comment**

Mr. Freedman gave an update on the Palm Springs Airport Demonstration Garden. **Mr. Freedman**

There was no one else from the public wishing to address the Board at this time.

19292. President Bloomer called for approval of the Consent Calendar. She noted that the Consent Calendar items 4-A through 4-G are expected to be routine and to be acted upon by the Board of Directors at one time without discussion. If any Board member requests that an item be removed from the consent calendar, it will be removed so that it may be presented separately.

- A. Approve minutes of the November 2, 2021 Board Meeting
- B. Receive and File - Minutes of the November 10, 2021 Executive Committee Meeting
- C. Receive and file – October Water Use Reduction Figures
- D. Receive and file – October Activities & Events for the Public Affairs & Water Planning Department
- E. Receive and file – Memo on October 21, 2021 State Water Contractors' Meeting
- F. Request Authorization for General Manager to Sign Memorandum of Understanding as a CVRWGM Member on Proposition 1 Round 2 IRWM Funding Split
- G. Request Authorization for General Manager to Execute Quitclaims Terminating Easement Interest Within Property Owned by Agua Caliente Band of Cahuilla Indians for the Cathedral City Casino Project

Approval of the Consent Calendar

- A. November 2, 2021 Regular Board Mtg. Meeting
- B. November 10, 2021 Executive Comm. Mtg. Minutes
- C. October Water Use Reduction Figures
- D. October Activities & Events
- E. October 21, 2021 SWC Meeting Report
- F. Request Authorization for GM to Sign Memorandum of Understanding as a CVRWGM Member on Proposition 1 Round 2 IRWM Funding Split
- G. Request Authorization for GM to Execute Quitclaims Terminating Easement Interest Within Property Owned by ACBCI for the Cathedral City Casino Project

Director Ortega moved for approval of Items 4-A thru 4-G. After a second by Vice President Cioffi, the Consent Calendar was approved by the following roll call vote:

AYES: Ortega, Oygur, Stuart, Cioffi, Bloomer
 NOES: None
 ABSENT: None
 ABSTAIN: None

19293. President Bloomer called upon Secretary-Treasurer Stuart to present an overview of financial activities for the month of October 2021.

Secretary-Treasurer's Report (October)

Operating Fund

Secretary-Treasurer Stuart reported that the Operating Fund received \$3,652,430 in Water Sales Revenue, \$103,947 in Reclamation Sales Revenue, \$3,860 in Snow Creek Hydro Revenue from SCE for the month of September 2021, and \$12,832 in Construction Deposits. \$3,368,497 was paid out in Accounts Payable. Year-to-date Water Sales are 5% over budget, Year-to-date Total Revenues are 8% over budget; and Year-to-date Total Expenses are 20% under budget. There were a total of 23,264 active services as of October 31, compared to 23,232 active services as of September 30.

General Fund

Reporting on the General Fund, Mr. Stuart stated that \$1,710,301 was received in Groundwater Assessments. \$579,129 was paid in State Water Project charges (YTD \$7,089.875).

Reporting on the Wastewater Fund, Mr. Stuart reported \$83,386 was received in Wastewater Revenue Receipts. \$72,378 was paid out in Accounts Payable.

Secretary-Treasurer's Report (October)
(Cont.)
Wastewater Fund

19294. President Bloomer called upon General Manager Krause to provide an update on Agency operations.

General Manager's Report

Mr. Krause provided an update on Agency operations for the past several weeks.

In response to Director Ortega, Mr. Krause noted that landscaping is budgeted for all well sites and heavy vegetation removal funding has been added to the current budget.

In response to Director Ortega, Mrs. Saenz reported that the Agency has not yet received the funding from the California Water and Wastewater Arrearage Payment Program.

19295. Secretary-Treasurer Stuart, Vice President Cioffi and President Bloomer noted their attendance at the NWRA Conference.

Discussion Item:
Director's Report on NWRA Conference

19296. Director Ortega requested an update from Best, Best & Krieger regarding the mapping on redistricting and one additional public hearing in December for public input on redistricting.

Directors Comments/Requests

19297. At 9:10 a.m., President Bloomer convened into a Teleconference Closed Session for the purpose of Conference with Legal Counsel, (A) Existing Litigation, pursuant to Government Code Section 54956.9 (d) (1), Agua Caliente Band of Cahuilla Indians vs. Coachella Valley Water District, et al (Two Cases); (B) Existing Litigation, pursuant to Government Code Section 54956.9 (d) (1), Mission Springs Water District vs. Desert Water Agency; (C) Existing Litigation, pursuant to Government Code Section 54956.9 (d) (1) Bonnie Kessner, et al vs. Desert Water Agency, et al; and (D) Existing Litigation, Pursuant to Government Code Section 54956.9 (d) (1), AT&T vs. County of Riverside.

Closed Session:
A. Existing Litigation – ACBCI vs. CVWD, et al. (2 Cases)
B. Existing Litigation – MSWD vs. DWA
C. Existing Litigation- Bonnie Kessner, et al vs. Desert Water Agency et al
D. Existing Litigation - Possible Intervention in Case: AT&T vs. County of Riverside

19298. At 10:58 a.m., Assistant General Manager Johnson reconvened the meeting into open session and announced there was no reportable action taken.

Reconvene – No Reportable Action

19299. In the absence of any further business, Assistant General Adjournment Manager Johnson adjourned the meeting at 10:59 a.m.

Sylvia Baca
Assistant Secretary of the Board

DRAFT

**MINUTES
OF THE SPECIAL MEETING
OF THE
DESERT WATER AGENCY
BOARD OF DIRECTORS**

November 28, 2021

DWA Board via Kristin Bloomer, President)
Teleconference: James Cioffi, Vice President)
Joseph K. Stuart, Secretary-Treasurer)
Patricia G. Oygar, Director)
Paul Ortega, Director)

DWA Staff via Mark S. Krause, General Manager)
Teleconference: Steve Johnson, Assistant General Manager)
Esther Saenz, Finance Director)
Sylvia Baca, Asst. Secretary of the Board)
Ashley Metzger, Dir. Public Affairs & Water Planning)

Consultants via Michael T. Riddell, Best Best & Krieger)
Teleconference:

Public via None
Teleconference:

19300. President Bloomer opened the meeting at 10:32 a.m. and asked everyone to join her in the Pledge of Allegiance. **Pledge of Allegiance**

19301. President Bloomer called upon Assistant Secretary of the Board Baca to conduct the roll call: **Roll Call**

Present: Ortega, Oygar, Stuart, Cioffi, Bloomer

19302. President Bloomer opened the meeting for public comment. **Public Comment**

There was no one from the public wishing to address the Board at this time.

19303. At 10:40 a.m., President Bloomer convened into a Teleconference Closed Session for the purpose of Conference with Legal Counsel, (A) Existing Litigation, pursuant to Government Code Section 54956.9 (d) (1), Agua Caliente Band of Cahuilla Indians vs. Coachella Valley Water District, et al (Two Cases). **Closed Session:**
A. Existing Litigation – ACBCI vs. CVWD, et al. (2 Cases)

19304. At 11:49 a.m., General Manager Krause reconvened the meeting into open session and announced there was no reportable action taken. **Reconvene – No Reportable Action**

19305. In the absence of any further business, General Manager Krause adjourned the meeting at 11:50 a.m. **Adjournment**

Sylvia Baca
Assistant Secretary of the Board

DRAFT

Minutes
Conservation & Public Affairs Committee
November 18, 2021

Directors Present: James Cioffi, Paul Ortega

Staff Present: Mark Krause, Ashley Metzger

Call to Order

1. Public Comments

None.

2. Discussion Items

A. Customer Experience Gauging

The Committee discussed the different mechanisms staff is considering to develop a baseline for customer experience gauging. The Committee expressed support for focus groups and surveys and requested more information on timing and budget at the next Committee meeting.

B. Outreach on Divisions

The Committee advised staff that two virtual workshops and direct outreach in the Desert Hot Springs community seemed appropriate for the redistricting effort.

C. Canned Water

Staff updated the Committee on the rollout of canned water at events. The Committee expressed support for staff continuing to use this approach.

D. Drought Outreach

Staff shared several campaign options. The Committee was supportive of staff moving forward with any of the presented concepts.

E. Drought Funding Opportunities

Staff highlighted upcoming drought funding opportunities.

F. Incentives Budget Update

Staff reviewed program fiscal year-to-date spending. The Committee supported staff's shifting budget from underperforming programs to meet needs of programs with high participation.

G. Business Toilet Program

Staff informed the Committee that the program launched.

H. DWA Site Assessments

Staff updated the Committee on site assessments conducted to date and the plan for future assessments.

I. Water Use Efficiency Update

Staff shared updates from several key Water Use Efficiency workshops in November.

Adjourn

Minutes
Executive Committee Meeting
December 2, 2021

Directors Present: Kristin Bloomer, James Cioffi

Staff Present: Mark Krause, Steve Johnson, Esther Saenz, Ashley Metzger,
Sylvia Baca

Call to Order

1. Public Comments - None

2. Discussion Item

A. Review Agenda for December 7, 2021 Board Meeting

The proposed agenda for the December 7, 2021 meeting was reviewed.

Adjourn

STATE WATER CONTRACTORS MEETING
November 18, 2021

I. BOARD ACTION ITEMS

(a) Consultants

- SWC retained GF Advocacy (in partnership with The Onate Group) for legislative support and advocacy services in Sacramento for the period of December 1, 2021, through September 30, 2022.
- Kathy Cole's retirement led to search for new legislative consultants.

II. SWP OPERATIONS – ENERGY

(a) Senate Bill ("SB") 49

- Bill "require[s] the Natural Resources Agency, in collaboration with the Energy Commission and the Department of Water Resources, to assess the opportunities and constraints for potential operational and structural upgrades to the State Water Project to aid California in achieving its climate and energy goals, and to provide associated recommendations consistent with specified purposes and California's energy goals." Report is due to the Legislature by January 2022.
- Report discusses shifting SWP energy sources further towards renewables, with a target goal of 100% renewable energy powering the SWP by 2045. Report discusses the various ways of accomplishing that goal.
- State agencies may need to go carbon-neutral by 2035, ten years ahead of schedule.
- Report recommends pumping during the day when energy is the cheapest and generating energy in the afternoon and evening when it is the most expensive.
- Contractors may need to consider taking deliveries on certain days and not on others, or at certain times of the day, depending on energy availability.
- Next step is for SWC Energy Committee to review the report and provide feedback to DWR.

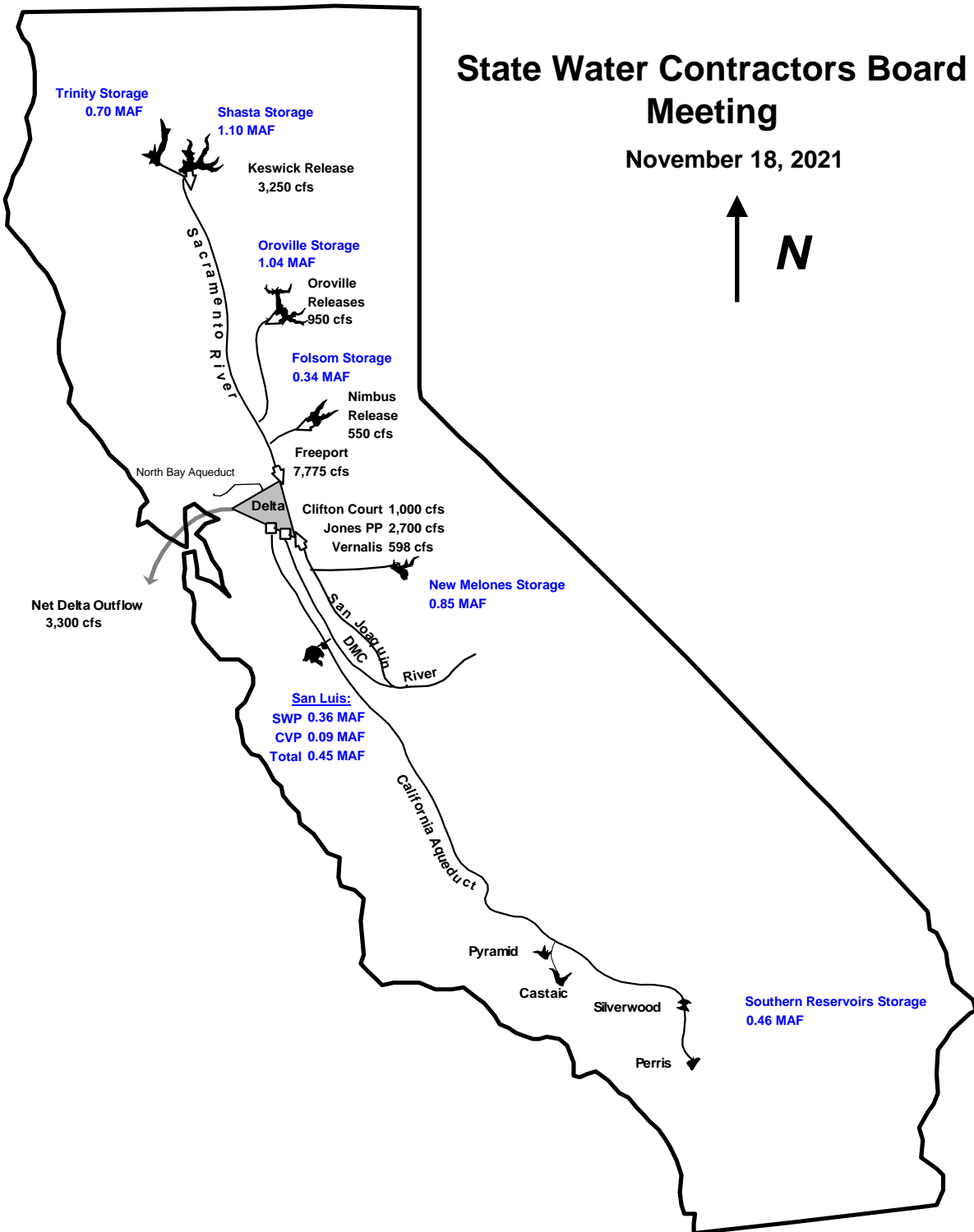
III. SWP OPERATIONS – WATER

(a) Water Levels

- Storm in Northern California a few weeks ago raised the water levels in Oroville Dam by 200,000 acre feet and delivered much-needed moisture to the Feather River watershed.
- U.S. Bureau of Reclamation paying off water loan from SWC, expected to pay it off by December.
- Water levels in the San Luis Reservoir have increased. Deliveries to Contractors are higher due to elevated water levels. Hoping for a strong rain season ahead.

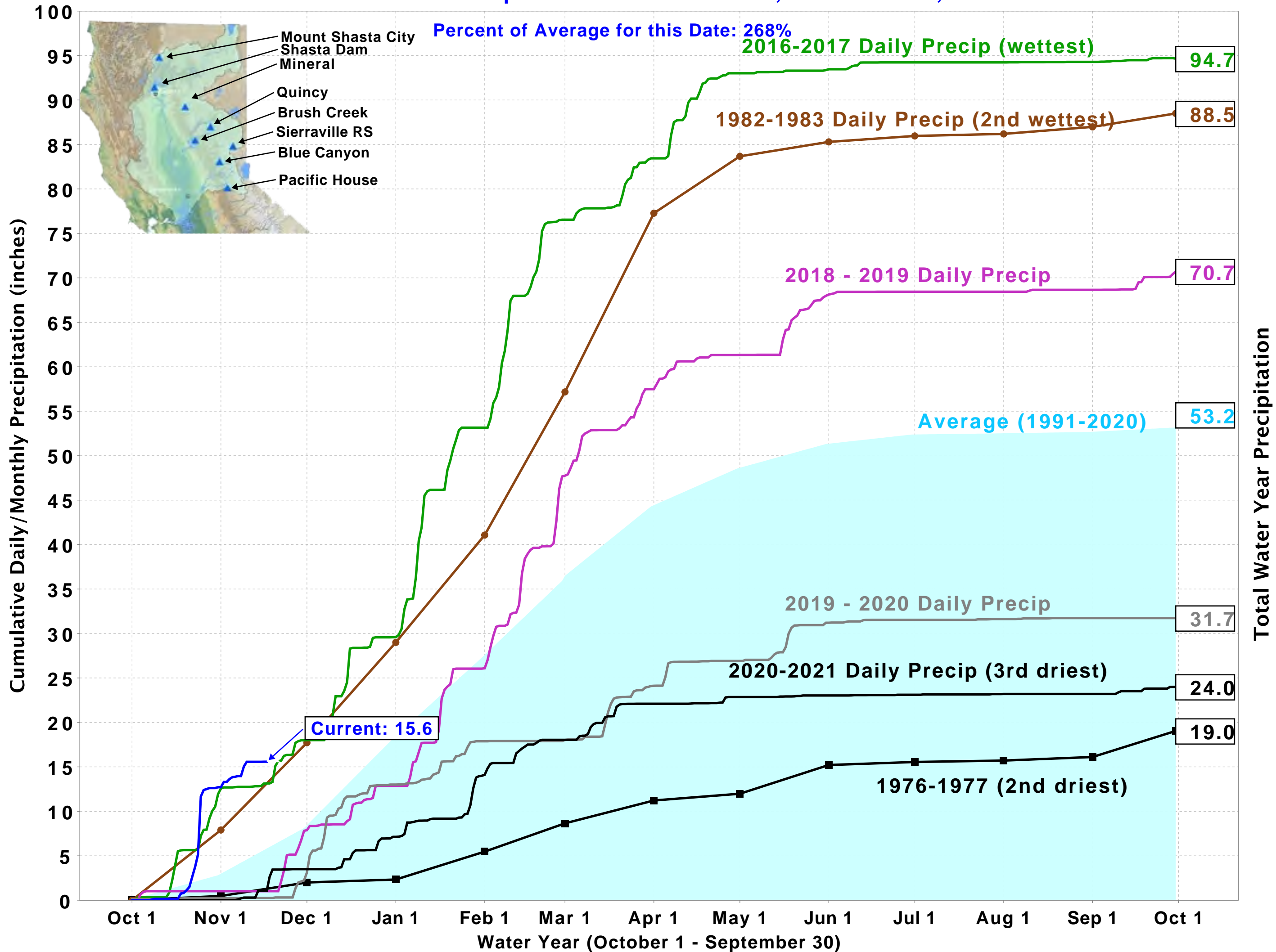
State Water Contractors Board Meeting

November 18, 2021

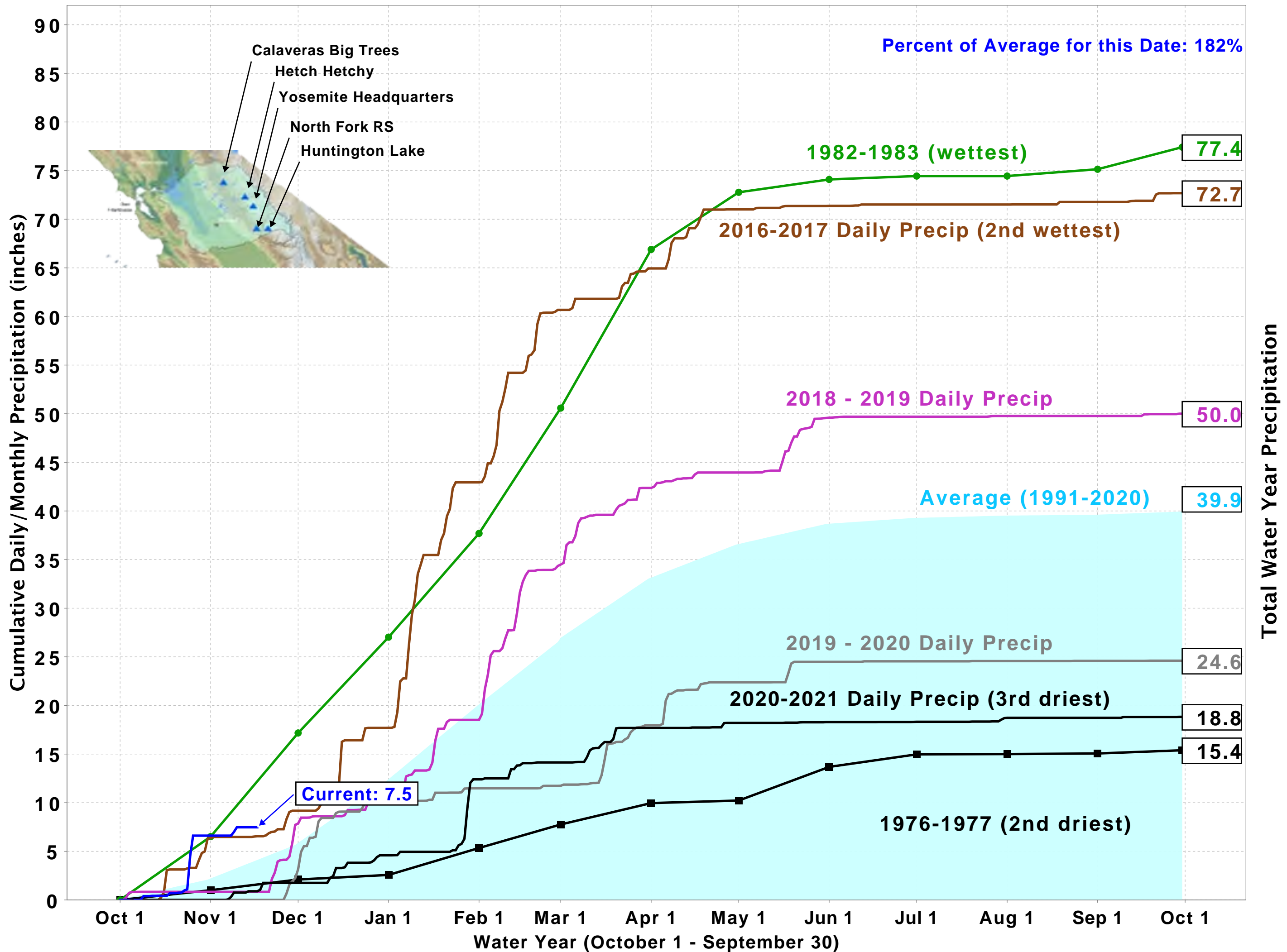


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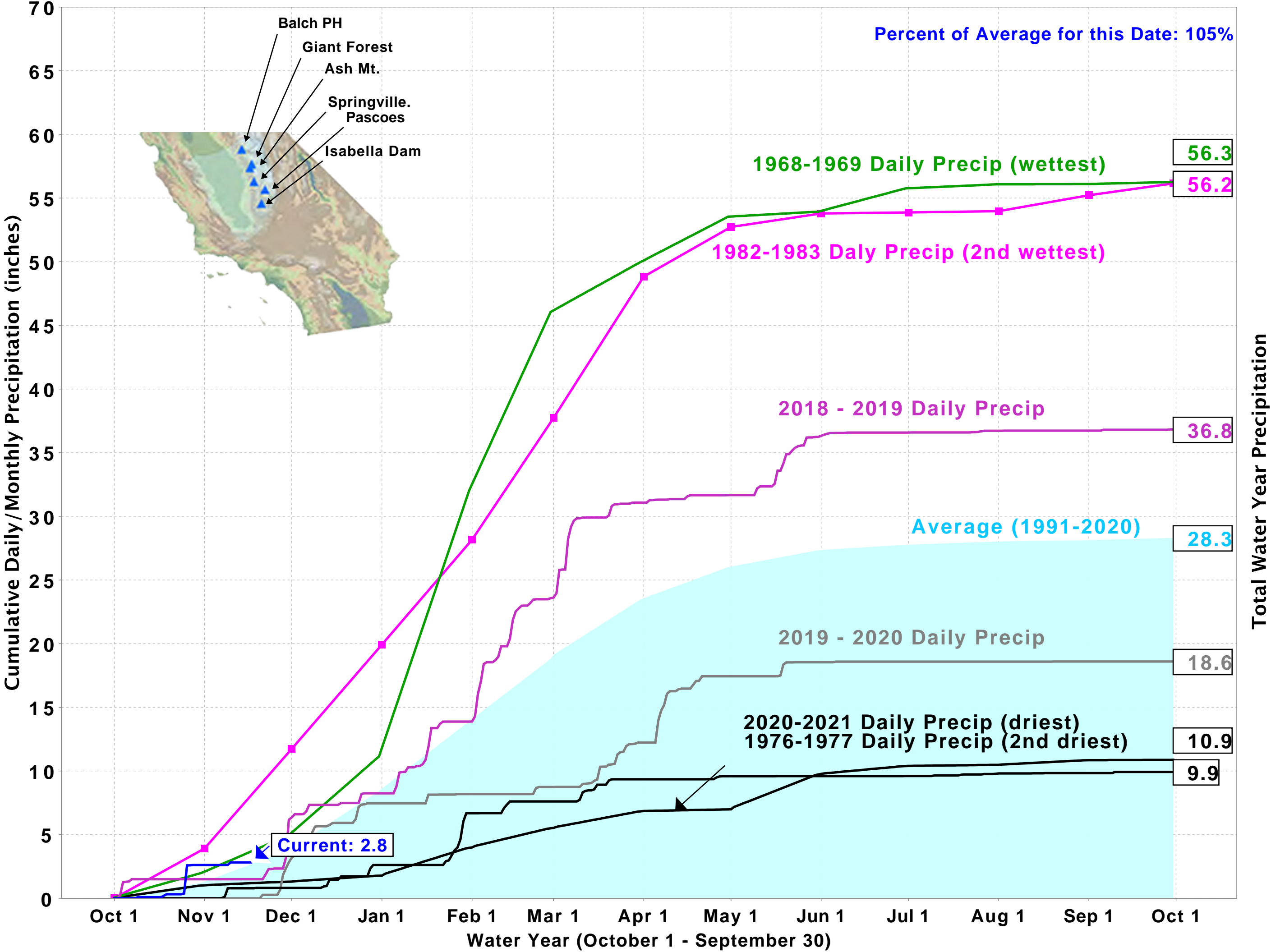
Northern Sierra Precipitation: 8-Station Index, November 17, 2021



San Joaquin Precipitation: 5-Station Index, November 17, 2021



Tulare Basin Precipitation: 6-Station Index, November 17, 2021

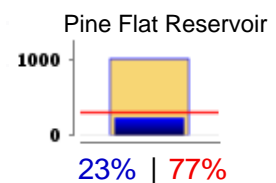
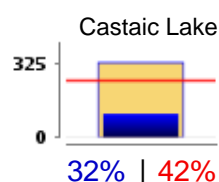
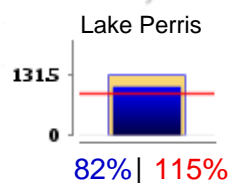
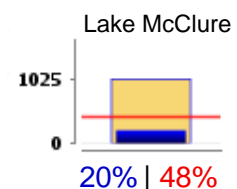
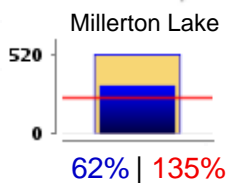
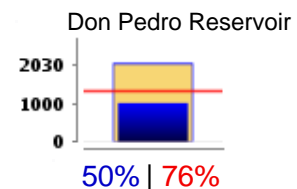
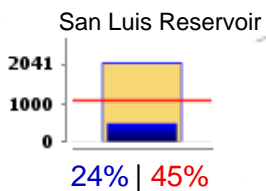
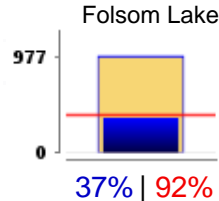
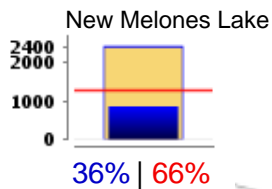
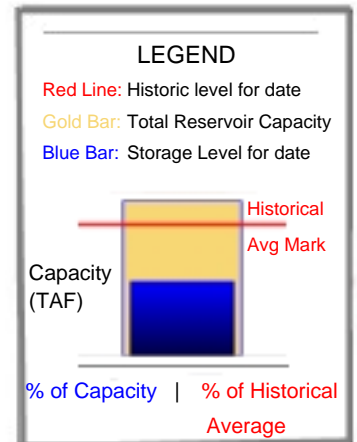
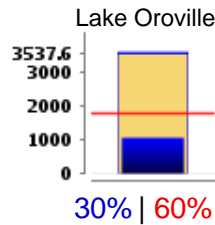
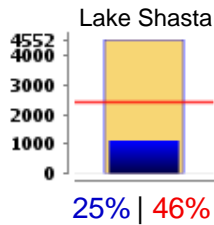
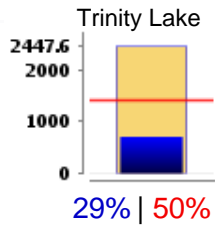




CURRENT RESERVOIR CONDITIONS

SELECTED WATER SUPPLY RESERVOIRS

Midnight: December 1, 2021



**STAFF REPORT
TO
DESERT WATER AGENCY
BOARD OF DIRECTORS**

DECEMBER 7, 2021

**RE: REQUEST AUTHORIZATION TO CONTINUE VIRTUAL BOARD
AND COMMITTEE MEETINGS FOR ANOTHER 30 DAYS BASED
UPON A DETERMINATION THAT IN-PERSON MEETINGS WOULD
POSE A RISK TO PUBLIC HEALTH (PER AB 361)**

At its October 5 and November 2, 2021 meetings, the Board of Directors authorized the continuation of virtual Board and Committee meetings for a 30-day period in accordance with the provisions of AB 361.

The Board of Directors may elect to continue conducting virtual meetings if it makes its own specific findings that meetings in person would pose a health threat to those in attendance, or when other regulatory bodies having jurisdiction within the Agency's service area recommend social distancing for the protection of people who otherwise might attend those meetings in person. The Board must make that determination every thirty days in order for meetings to be conducted virtually.

Therefore, it is recommended that the Desert Water Agency Board of Directors authorize Board and Committee meetings to be conducted virtually for the next ensuing 30-day period based upon the following facts and determinations:

- The CDC currently classifies Riverside County Covid-19 community transmission rates as high.
- The CDC recommends social distancing and masking indoors in high transmission areas, including Riverside County.
- The City of Palm Springs also requires that, regardless of vaccination status, masks be worn indoors in businesses.
- The Delta variant is a more highly contagious strain and even some fully vaccinated individuals are contracting it.
- Due to the COVID-19 emergency, meeting in person would present imminent risks to the health and safety of attendees.

Fiscal Impact: None.

Recommendation:

Staff recommends that the Board of Directors authorize the continuation of virtual Board and Committee meetings for another 30 days based upon a determination that in-person meetings would pose a risk to public health (Per AB 361).

**STAFF REPORT
TO
DESERT WATER AGENCY
BOARD OF DIRECTORS**

DECEMBER 7, 2021

RE: REQUEST AUTHORIZATION FOR GENERAL MANAGER TO EXECUTE THE INDIO SUSTAINABLE GROUNDWATER MANAGEMENT ACT MEMORANDUM OF UNDERSTANDING SUPPLEMENT 3 FOR THE UNITED STATES GEOLOGICAL SERVICES SUBSIDENCE STUDY

On September 6, 2016, Desert Water Agency (DWA) entered into an memorandum of understanding (MOU) regarding governance of the Indio Sub-basin under the Sustainable Groundwater Management Act (SGMA) with Coachella Valley Water District (CVWD), the Coachella Water Authority (CWA) and the Indio Water Authority (IWA) (collectively referred to as the Partners), for the development and submission of an alternative groundwater sustainability plan (GSP) for the Indio Sub-basin. This MOU facilitated both the development and shared financing of the GSP.

Subsequently, SGMA required the submission of an Annual Report of all alternative GSPs beginning April 1, 2018. There were two prior supplements (first and second) to the MOU to account for participation and cost share for these annual reports. The second supplemental MOU authorized the General Manager to participate in cost sharing for all future annual reports pursuant to MOU guidelines.

Staff is proposing a third supplemental MOU to gain Board approval to implement a joint funding agreement with US Geological Survey (USGS) for a land subsidence study in the Indio Subbasin to cover the period 2017-2023. The project will conclude in Fiscal Year 2024-2025.

Desert Water Agency	18%	\$52,401.36
Coachella Valley Water District	51%	\$143,489.57
Coachella Water Authority	16%	\$44,190.14
Indio Water Authority	15%	\$43,198.93
TOTAL	100%	\$283,280.00

Fiscal Impact:

Finance Director Saenz has reviewed this staff report. Desert Water Agency's proposed share of the cost is 18% or \$52,401.36 of a total \$283,280 project cost. This fiscal year's portion of that expense has been included in the 2021/2022 General Fund Budget.

Recommendation:

Staff recommends that the Board authorize the General Manager to enter into a third supplemental MOU with the Partners for the purpose of producing and cost sharing in the USGS land subsidence study.

Attachments:

1. Third Supplemental MOU

THIRD SUPPLEMENT TO
MEMORANDUM OF UNDERSTANDING
REGARDING GOVERNANCE OF THE INDIO SUBBASIN
UNDER THE SUSTAINABLE GROUNDWATER MANAGEMENT ACT

This THIRD SUPPLEMENT TO MEMORANDUM OF UNDERSTANDING, dated November 8, 2021, is entered into among the following parties: City of Coachella, acting through and on behalf of, the Coachella Water Authority (CWA); Coachella Valley Water District (CVWD); Desert Water Agency (DWA); and City of Indio, acting through and on behalf of, the Indio Water Authority (IWA). The parties previously entered into that certain Memorandum of Understanding (MOU), dated October 5, 2016, for the purpose of developing a common understanding regarding the governance structures applicable to implementation of the Sustainable Groundwater Management Act (Water Code, Part 2.74, Section 10720 et seq.) (SGMA) in the Indio Subbasin of the Coachella Valley Groundwater Basin. The parties to the MOU and this Third Supplement are collectively referred to as “Partners” and individually as “Partner;” and

WHEREAS, the Partners previously entered into that certain Supplement to MOU, dated April 3, 2018, for the purpose of retaining a consultant to assist in preparing the Groundwater Sustainability Agencies’ (GSAs) Indio Subbasin Annual Report for Water Year 2016-2017 in accordance with SGMA; and

WHEREAS, the Partners previously entered into that certain Second Supplement to MOU, dated October 29, 2018, for the purpose of retaining consultants to assist in preparation of the GSAs’ Indio Subbasin Annual Reports by Water Year for submission to the California Department of Water Resources (DWR). Said Reports are required to be submitted to DWR by April 1 of each year to satisfy SGMA requirements. An additional purpose of the Second Supplement is to retain consultants to assist in updates and revisions identified and required by DWR in the approved Alternative Plan for the Indio Subbasin to satisfy SGMA requirements; and

WHEREAS, the Partners wish to enter into this Third Supplement for the purpose of implementing and funding a joint funding agreement (JFA) with the United States Geological Survey (USGS) to study land subsidence in the Indio Subbasin for the period from 2017 to 2023;

NOW, THEREFORE, it is mutually understood and agreed as follows:

SECTION 1:

RETENTION OF CONSULTANTS AND EXECUTION OF AGREEMENTS

- 1.1 The Partners acknowledge and agree that land subsidence is an undesirable result as defined by SGMA. Land subsidence is an indicator of sustainability that is managed through the Alternative Plan for the Indio Subbasin. The Partners acknowledge and agree that there is value in continued study of land subsidence in the Indio Subbasin.

1.1.1 The study will be performed by the USGS under a JFA with CVWD whereby USGS will complete a study and publish a report with findings (collectively, Work). USGS will study land subsidence in the Indio Subbasin for the period from 2017 to 2023.

1.1.1.1 As of the date of this Third Supplement, each Partner has had the opportunity to review and comment on the Scope of Work prepared by USGS.

1.1.1.2 Each Partner shall have the opportunity to review and comment on the draft subsidence report to be prepared by USGS.

1.1.1.3 Each Partner shall be provided an electronic copy of the final subsidence report to be prepared by USGS.

1.1.1.4 CVWD shall inform each Partner of progress on the Work and any changes to the proposed schedule.

SECTION 2:

INVOICING AND PAYMENT

2.1 CVWD will administer the JFA and pay invoices to USGS per the terms of the JFA. At the end of each fiscal year, CVWD will invoice each Partner for reimbursement of their cost share of the payments that have been made to USGS during that fiscal year.

2.2 The estimated total cost of the Work is \$283,280.00 between fiscal years 2021-2022 and 2024-2025. The estimated total cost of the Work shall not be exceeded without the prior consent of each Partner.

2.3 CVWD shall invoice each Partner for reimbursement according to the agreed upon cost share as follows:

2.3.1 CWA shall be responsible for a cost share of 16% which is \$44,190.14.

2.3.2 CVWD shall be responsible for a cost share of 51% which is \$143,489.57.

2.3.3 DWA shall be responsible for a cost share of 18% which is \$52,401.36.

2.3.4 IWA shall be responsible for a cost share of 15% which is \$43,198.93.

2.4 CVWD shall invoice each Partner for reimbursement at the end of each fiscal year for costs accrued during that fiscal year.

2.5 Each Partner shall pay invoices within 30 days of receipt of the invoice.

SECTION 3:

MISCELLANEOUS

- 3.1 Abbreviations, capitalized words, and phrases used in this Third Supplement shall have the same meaning as in the MOU.
- 3.2 All terms of the MOU remain unchanged, except, as supplemented herein.
- 3.3 This Third Supplement may be executed in any number of counterparts, each of which shall be deemed original, but all of which, when taken together, shall constitute one and the same instrument.
- 3.4 By signing this Agreement, the undersigned represent that they are authorized to bind their respective Partners to this Third Supplement.

IN WITNESS WHEREOF, the Partners have executed this Third Supplement to the MOU as of the day and year indicated on the first page of this Third Supplement to the MOU.

J. M. Barrett

Coachella Valley Water District

Gabriel Martin

Coachella Water Authority

Mark Krause

Desert Water Agency

Reymundo Trejo

Indio Water Authority

**STAFF REPORT
TO
DESERT WATER AGENCY
BOARD OF DIRECTORS**

DECEMBER 7, 2021

**RE: REQUEST ADOPTION OF RESOLUTION NO. 1266 AMENDING
THE CONFLICT OF INTEREST CODE**

The Political Reform Act (the “Act”) requires all public agencies to adopt and maintain a Conflict of Interest Code containing the rules for disclosure of personal assets and the prohibition from making or participating in making governmental decisions that may affect any personal assets. The Conflict of Interest Code must specifically designate all agency positions that make or participate in the making of decisions and assign specific types of personal assets to be disclosed that may be affected by the exercise of powers and duties of that position.

The Act further requires that agencies regularly review and update their Codes as necessary when directed by the code-reviewing body or when change is necessitated by changed circumstances (Sections 87306 and 87306.5).

Pursuant to the Act, the Agency adopted a Conflict of Interest Code which was approved by the Riverside County Board of Supervisors in 2018. Review of the Code shows that it must be amended to include new positions that must be designated, removes positions that have been eliminated and revises titles of existing positions.

Attached is a redlined version of the proposed amended Code showing the revisions made to the Conflict of Interest Code.

Fiscal Impact: None

Recommendation:

Staff recommends that the Board of Directors Adopt Resolution No. 1266 amending the Conflict of Interest Code of Desert Water Agency and directing that such amendment be submitted to the Riverside County Board of Supervisors as the District’s code-reviewing body (Gov. Code § 82011) requesting approval of the amendment as required under Government Code section 87303.

Attachments:

Attachment #1 - Resolution No. 1266

Attachment #2 - Legislative (redlined) version of proposed amended Conflict of Interest Code

RESOLUTION NO. 1266

RESOLUTION OF THE BOARD OF DIRECTORS OF THE DESERT WATER AGENCY ADOPTING AN AMENDED CONFLICT OF INTEREST CODE PURSUANT TO THE POLITICAL REFORM ACT OF 1974

WHEREAS, the State of California enacted the Political Reform Act of 1974, Government Code Section 81000 et seq. (the "Act"), which contains provisions relating to conflicts of interest which potentially affect all officers, employees and consultants of the Desert Water Agency (the "Agency") and requires all public agencies to adopt and promulgate a Conflict of Interest Code; and

WHEREAS, the Board of Directors adopted a Conflict of Interest Code (the "Code") which was amended on November 6, 2018, in compliance with the Act; and

WHEREAS, subsequent changed circumstances within the Agency have made it advisable and necessary pursuant to Sections 87306 and 87307 of the Act to amend and update the Agency's Code; and

WHEREAS, the potential penalties for violation of the provisions of the Act are substantial and may include criminal and civil liability, as well as equitable relief which could result in the Agency being restrained or prevented from acting in cases where the provisions of the Act may have been violated; and

WHEREAS, notice of the time and place of a public meeting on, and of consideration by the Board of Directors of, the proposed amended Code was provided each affected designated employee and publicly posted for review at the offices of the Agency; and

WHEREAS, a public meeting was held upon the proposed amended Code at a regular meeting of the Board of Directors on December 7, 2021, at which all present were given an opportunity to be heard on the proposed amended Code.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Desert Water Agency as follows:

Section 1. The Board of Directors does hereby adopt the proposed amended Conflict of Interest Code, a copy of which is attached hereto and shall be on file with the Executive Secretary and available to the public for inspection and copying during regular business hours;

Section 2. The said amended Code shall be submitted to the Board of Supervisors of the County of Riverside for approval and said Code shall become effective at the time which the Board of Supervisors approves the proposed amended Code as submitted.

APPROVED AND ADOPTED this 7th day of December, 2021.

Kristin Bloomer, President

ATTEST:

Joseph K. Stuart, Secretary-Treasurer

STATE OF CALIFORNIA)
) ss.
COUNTY OF RIVERSIDE)

I, Sylvia Baca, Assistant Secretary of the Board of Directors of Desert Water Agency, do hereby certify the foregoing Resolution No. 1266 was duly adopted by said Board at its regular meeting held on December 7, 2021, and that it was adopted by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sylvia Baca
Assistant Secretary of the Board of Directors

(SEAL)

DESERT WATER AGENCY
CONFLICT OF INTEREST CODE

(Amended ~~November 6, 2018~~ December 7, 2021)

The Political Reform Act (Gov. Code § 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. § 18730) that contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code. After public notice and hearing Section 18730 may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This incorporation page, Regulation 18730, and the attached Appendix designating positions and establishing disclosure categories, shall constitute the conflict of interest code of the **Desert Water Agency** (the "**Agency**").

All officials and designated positions shall file their statements of economic interests with the **Executive Secretary** as the Agency's Filing Officer/Official. The **Executive Secretary** shall make and retain a copy of all statements filed by Members of the Board of Directors and the General Manager, and forward the originals of such statements to the Clerk of the Board of Supervisors of the County of Riverside. The **Executive Secretary** shall retain the originals of the statements filed by all other officials and designated positions and make all statements available for public inspection and reproduction during regular business hours. (Gov. Code § 81008.)

APPENDIX
CONFLICT OF INTEREST CODE
OF THE
DESERT WATER AGENCY

(Amended ~~November 6, 2018~~ December 7, 2021)

PART “A”

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

Agency Officials who manage public investments, as defined by 2 Cal. Code of Regs. § 18700.3(b), are NOT subject to the Agency’s Code, but must file disclosure statements under Government Code Section 87200 et seq. [Regs. § 18730(b)(3)] These positions are listed here for informational purposes only.

It has been determined that the positions listed below are officials who manage public investments¹:

Board of Directors
Finance Director
General Manager
Investment Consultants

¹ Individuals holding one of the above-listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by § 87200.

DESIGNATED POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

<u>DESIGNATED POSITIONS'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
<u>Accountant</u>	<u>5</u>
Accounting Supervisor	4
Assistant Construction Superintendent	3, 5
Assistant General Manager	1, 2
Chief Engineer	1, 2
<u>Communications and Water Resources Manager</u>	<u>5</u>
Construction Superintendent	3, 5
Consulting Engineer	1, 2
Controller	1, 2
Customer Service Supervisor <u>Field Services Supervisor</u>	5
<u>Engineer</u>	<u>5</u>
Executive Secretary/Assistant Secretary to the Board	4
Facilities & Safety Officer	2, 3, 5
Fleet Mechanic Foreman	5
General Counsel	1, 2
Human Resources Manager <u>Director</u>	5
Information Systems Technology Administrator	5
Laboratory Director	5

DESIGNATED POSITIONS'
TITLE OR FUNCTION

DISCLOSURE CATEGORIES
ASSIGNED

Operations Engineer <u>Operations and Engineering Manager</u>	5
Operations Technician Foreman	5
Outreach & Conservation Associate	5,6
Outreach & Conservation Manager <u>Director of Public Affairs and Water Planning</u>	5,6
Outreach Specialist I	5,6
Senior Account Clerk (Purchasing)	4
Water Operations Supervisor	5

Consultants and New Positions²

² Individuals serving as a consultant as defined in FPPC Reg. 18700.3(a) or a new position created since the Code was last adopted which make or participate in the making of decisions, must file under the broadest disclosure category in this Code subject to the following limitation:

The General Manager may determine that, due to the range of duties or contractual obligations, it is more appropriate to designate a limited disclosure requirements. A clear explanation of the duties and a statement of the extent of the disclosure requirements must be in a written document. (Gov. Code Sec. 82019; FPPC Regulations 18219 and 18734.) The General Manager's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code. (Gov. Code Sec. 81008.)

PART “B”

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of economic interests that the designated position must disclose for each disclosure category to which he or she is assigned.³ “Investment” means financial interest in any business entity (including a consulting business or other independent contracting business) and are reportable if they are either located in or doing business in the jurisdiction, are planning to do business in the jurisdiction, or have done business during the previous two years in the jurisdiction of the Agency.

Category 1: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are located in, do business in, or own real property within the jurisdiction of the Agency.

Category 2: All interests in real property which is located in whole or in part within, or not more than two (2) miles outside, the jurisdiction of the Agency.

Category 3: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are engaged in land development, construction or the acquisition or sale of real property within the jurisdiction of the Agency.

Category 4: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the Agency.

Category 5: All investments and business positions in business entities, and sources of income, including gifts, loan and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the designated position’s department, unit or division.

Category 6: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, or income from a nonprofit or other organization, if the source is of the type to receive grants or other monies from or through the Agency or its subdivisions.

³ This Conflict of Interest Code does not require the reporting of gifts from outside this agency’s jurisdiction if the source does not have some connection with or bearing upon the functions or duties of the position. (Reg. 18730.1)

**STAFF REPORT
TO
DESERT WATER AGENCY
BOARD OF DIRECTORS**

DECEMBER 7, 2021

**RE: REQUEST APPROVAL FOR GENERAL MANAGER TO EXECUTE
NINTH AMENDMENT TO TOLLING AND WAIVER AGREEMENT WITH
DEPARTMENT OF WATER RESOURCES**

In 2007, Desert Water Agency and all other State Water Contractors entered into a Tolling and Waiver Agreement with the Department of Water Resources, and thereafter executed eight amendments to the Agreement extending the term of the Agreement until December 3, 2021. The purpose of the Agreement and its amendments was to toll the very short period allowed in the State Water Contract for filing claims with DWR, and then suing upon those claims, involving disputed charges in DWR's invoices to the Contractors. The Contractors and DWR did not want to force the filing of lawsuits to resolve the disputed charges while the parties were engaged in discussions to resolve their disagreements regarding a number of charges. The Agreement and its eight previous amendments have preserved the rights of the Contractors to challenge disputed charges in DWR's invoices. During that period of time some charges have been added to the original list, and a number have been resolved amicably.

In order to extend the tolling period beyond the December 31, 2021 term, a Ninth Amendment to the Tolling and Waiver Agreement has been prepared and needs to be signed and transmitted to DWR by the end of December. The amendment would extend the tolling period to include State Water Project invoices through December 31, 2023 (a two-year extension to the current term). DWR cannot have different tolling agreements with different Contractors, and therefore cannot sign any version of the Ninth Amendment which deviates in any respect from the one that has been prepared for execution by all Contractors.

The Ninth Amendment provides that any Contractor may remove any claim from the Agreement, thus clearing the way for a lawsuit on that claim, by providing written notice to DWR and to the other Contractors that have signed the Agreement. Thus, the amendment provides easy "off ramps" should the Agency decide that it would prefer to simply litigate any claim.

Fiscal Impact: Unknown at this time.
Finance Director Saenz has reviewed this report.

Recommendation:
Staff and Legal Counsel agrees with the provisions set forth in the Ninth Amendment and recommends execution.

NINTH AMENDMENT TO TOLLING AND WAIVER AGREEMENT

This NINTH AMENDMENT TO TOLLING AND WAIVER AGREEMENT (“Ninth Amendment”), which shall be effective as of December 15, 2021 (“Effective Date of Ninth Amendment”), is entered into by and between DESERT WATER AGENCY (“AGENCY”) and the CALIFORNIA DEPARTMENT OF WATER RESOURCES (“DWR”). AGENCY and DWR are referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

A. In 2007, the Parties entered into a Tolling and Waiver Agreement (“Agreement”), and thereafter entered into the First Amendment with an effective date of December 15, 2007 (“First Amendment”), Second Amendment with an effective date of December 15, 2008 (“Second Amendment”), Third Amendment with an effective date of September 15, 2009 (“Third Amendment”), Fourth Amendment with an effective date of December 15, 2010 (“Fourth Amendment”), Fifth Amendment with an effective date of December 15, 2012 (“Fifth Amendment”), Sixth Amendment with an effective date of December 15, 2015 (“Sixth Amendment”), Seventh Amendment with an effective date of December 15, 2017 (“Seventh Amendment”), and Eighth Amendment with an effective date of December 15, 2019 (“Eighth Amendment”). Except as otherwise set forth in this Ninth Amendment, capitalized terms have the meanings given to such terms in the Agreement, as amended.

B. Among other things, the Agreement, as currently amended through the Eighth Amendment, tolls the statute of limitations with regard to certain Claims beginning with the Effective Date of the Agreement through and including December 31, 2021. The Claims specified in the Agreement, as amended through the Eighth Amendment, include, with certain exceptions, DWR’s bills to the Contractors for calendar years 2007 through and including 2022, but do not include bills for subsequent years.

C. Thus, in the absence of an amendment to extend the tolling period beyond December 31, 2021, AGENCY will be required to formally protest and/or take other legal action to preserve its rights to pursue Claims under the Agreement, as amended, upon expiration of the

tolling period on December 31, 2021. In addition, in the absence of an amendment to the Agreement regarding the SWP bills for 2023 and 2024, AGENCY will be required to formally protest its SWP bills for 2023 and 2024 and/or take other legal action to preserve any claims it may have with respect to such bills.

D. The Parties currently are engaged in good faith discussions concerning a possible resolution of the claims related to the SWP bills issued for calendar years 2007 through and including 2022 and certain other claims related to the State Water Project. In order to facilitate these discussions, the Parties agree that the applicable tolling period for pursuing Claims as set out in the Agreement, as amended, (with the exception of the issues set out in Exhibit 1, Exhibit 2A, Exhibit 2B, Exhibit 2C, and Exhibit 2D) should be extended through December 31, 2023, and that claims related to the SWP bills issued by DWR for 2023 and 2024, including any revisions made on or before December 31, 2023, should also be tolled.

E. The Parties also recognize that there may be issues that they are not able to resolve through good faith discussions and that a Party to this Agreement and/or a Contractor which has entered into a similar, but separate, tolling and waiver agreement with DWR may desire to seek formal dispute resolution or other legal action on such issues before the end of the tolling period on December 31, 2023. Accordingly, the Parties have included procedures in this Agreement, as amended, and DWR has included similar procedures in its tolling and waiver agreements with other Contractors to allow any party (including DWR) to exclude issues from the tolling provisions before the end of the tolling period and to have such exclusion apply to and bind DWR and all other Contractors with tolling and waiver agreements with DWR.

NOW, THEREFORE, AGENCY and DWR, for good and adequate consideration, the sufficiency of which is hereby acknowledged, agree to the following:

TERMS OF NINTH AMENDMENT

1. The text in Paragraph 1(b) of the Agreement, as amended by the Eighth Amendment, is deleted in its entirety and replaced with the following text, shown here in italics:

(b) (i) *The term “Claims” is broadly defined to include any and all claims for relief, actions, suits, causes of action, damages, debts, costs, demands, losses, liabilities and obligations of whatever nature, whether legal or equitable, and notices of contest under Article 29(i) of the State Water Contracts (or with regard to Alameda County Water District, Alameda County Flood Control and Water Conservation District, Zone 7 and Santa Clara Valley Water District, notices of contest under Article 29(k) of the State Water Contracts) that arise out of or are related to: (1) the Metropolitan Claim; (2) the use, prior to July 1, 2006, of revenue bond proceeds and commercial paper note proceeds to pay “costs incurred for the enhancement of fish and wildlife or for the development of public recreation”; (3) the related establishment, restatement or adjustment of charges and rate reductions under the State Water Contracts; (4) the accounting for the costs of the San Joaquin Drainage Program; (5) the allocation of the costs of certain facilities in the Delta to the purposes of the development of public recreation and the enhancement of fish and wildlife; (6) DWR’s bills to the Contractors for calendar years 2007 through and including 2024, including any revisions to such bills made on or before December 31, 2023; provided that the term “Claims” does not include the issue set out in Exhibit 1, attached hereto, effective January 1, 2009; the issues set out in Exhibit 2A, attached hereto, effective January 1, 2016; the issues set out in Exhibit 2B, attached hereto, effective January 1, 2018; the issues set out in Exhibit 2C, attached hereto, effective January 1, 2020; and the issues set out in Exhibit 2D, attached hereto, effective January 1, 2022. To the extent the issue set out in Exhibit 1 was heretofore included within the term “Claims”, the Tolling Period Expiration Date for such issue as used in Paragraph 4 shall be deemed to be December 31, 2008. To the extent the issues set out in Exhibit 2A were heretofore included within the term “Claims”, the Tolling Period Expiration Date for such issues as used in Paragraph 4 shall be deemed to be December 31, 2015. To the extent the issues set out in Exhibit 2B were heretofore included within the term “Claims”, the Tolling Period Expiration Date for such issues as used in Paragraph 4 shall be deemed to be December 31, 2017. To the extent the issues set out in Exhibit 2C were heretofore included within the term “Claims”, the Tolling Period Expiration Date for such issues as used in Paragraph 4 shall be deemed to be December 31, 2019. To the extent the issues set out in Exhibit 2D were heretofore*

included within the term “Claims”, the Tolling Period Expiration Date for such issues as used in Paragraph 4 shall be deemed to be December 31, 2021. In addition, the term “Claims” shall not include any issue to the extent such issue is excluded from the term “Claims” pursuant to the provisions of Paragraph 1(b)(ii) or 1(b)(iii)

(ii) Any Party (including DWR) to this Agreement may elect to remove one or more of the issues set out in Exhibit 3 from the term “Claims” by giving 60 days advance written notice to DWR and the other Contractors which have tolling and waiver agreements with DWR with a tolling period expiration date that has been extended to December 31, 2023. Such notice shall specify the effective date of such exclusion and shall apply to and be binding upon DWR and the other Contractors listed in Exhibit 4 which have a tolling and waiver agreement with DWR with a tolling period expiration date that has been extended to December 31, 2023. Exhibit 4 contains a listing of all water contractors which entered into the previous tolling and waiver agreement amendment extending the tolling period to December 31, 2021, and which are expected to enter into amendments to extend their tolling periods to December 31, 2023. To be effective, such notice must be received by DWR and shall be effective as to all other Contractors with tolling and waiver agreements with DWR with a tolling period expiration date that has been extended to December 31, 2023, even if one or more of such Contractors do not receive such notice. The effect of such notice by one Party or by any Contractor with a tolling and waiver agreement with DWR shall be to exclude such issue or issues from the term “Claims” in this Agreement and in the tolling and waiver agreements of DWR and the other Contractors listed in Exhibit 4 with a tolling period expiration date that has been extended to December 31, 2023. To the extent the issue or issues set out in the notice were heretofore included within the term “Claims”, the Tolling Period Expiration Date for each such issue as used in Paragraph 4 shall be the issue exclusion date so specified in the notice.

(iii) Any Party (including DWR) to this Agreement may elect to remove one or more issues (other than those listed in Exhibit 3, which are addressed in Paragraph 1(b)(ii)) from the definition of the term “Claims” by giving 120 days advance written

notice to DWR and the other Contractors which have tolling and waiver agreements with DWR with a tolling period expiration date that has been extended to December 31, 2023; provided, however, that such Party (if other than DWR) shall notify DWR at least 30 days in advance of the issuance of such 120 day notice and allow DWR the opportunity to discuss the matter with that Party. The Party shall use its best efforts to describe clearly in the notice the issue or issues to be excluded and shall specify the effective date of such exclusion. The notice shall apply to and be binding upon DWR and the other Contractors listed in Exhibit 4 which have a tolling and waiver agreement with DWR with a tolling period expiration date that has been extended to December 31, 2023. To be effective, such notice must be received by DWR and shall be effective as to all other Contractors with tolling and waiver agreements with DWR with a tolling period expiration date that has been extended to December 31, 2023, even if one or more of such Contractors do not receive such notice. The effect of such notice by one Party or by any Contractor with a tolling and waiver agreement with DWR shall be to exclude such issue or issues from the term "Claims" in this Agreement and in the tolling and waiver agreements of DWR and the other Contractors listed in Exhibit 4 with a tolling period expiration date that has been extended to December 31, 2023. To the extent the issue or issues set out in the notice were heretofore included within the term "Claims", the Tolling Period Expiration Date for each such issue as used in Paragraph 4 shall be the issue exclusion date so specified in the notice.

2. The text in Paragraph 4 of the Agreement, as amended by the Eighth Amendment, is deleted in its entirety and replaced with the following text, shown here in italics:

The Tolling Period Expiration Date is December 31, 2023; provided that DWR may, upon giving 60 days advance written notice to Agency, change the Tolling Period Expiration Date to a date earlier than December 31, 2023, if the sum of the maximum Table A amounts for all Contractors who enter into a Ninth Amendment to the Tolling and Waiver Agreement with DWR (plus the Table A amount for the County of Butte, if the County enters into an Eighth Amendment to the Tolling and Waiver Agreement with DWR) is less than 95% of the sum of the maximum Table A amounts for the 27 Contractors who signed the Monterey Amendment; and provided further that the Tolling

Period Expiration Date as to any specific issue may be set at an earlier date pursuant to the provisions of Paragraph 1(b)(ii) or 1(b)(iii). For the time period between the Effective Date of the Agreement and the Tolling Period Expiration Date, inclusive (the "Tolling Period"), Agency and DWR agree that, except as provided for in this Agreement, all Periods of Limitation applicable to all Claims between the Parties, including without limitation those described in the Metropolitan Claim, shall be tolled and waived, shall not run or expire, and shall not operate in any manner so as to prejudice, bar, limit, create a defense to or in any way restrict Claims between the Parties. Except as provided in Paragraph 2 herein, after the Tolling Period Expiration Date, the Parties shall have the same rights, remedies, and damages each of them had on the Effective Date of the Agreement and the Tolling Period shall be excluded from any time calculation in determining whether any period of limitations has run; provided, however, that with regard to Claims pertaining to DWR's bills to the Contractors for calendar years 2007 through and including 2024, AGENCY shall have until 60 days from the Tolling Period Expiration Date to submit notices of contest to DWR for Claims pertaining to any such bills for calendar years 2007 through and including 2024. Except for the Parties' waiver of the Statute of Limitations as provided herein and except as provided in Paragraph 2 herein, this Agreement shall not operate as a waiver of any Claims or defenses that either Party may have against the other.

3. Exhibit 1, entitled "Issue Not Included in the Term "Claims" Effective January 1, 2009", which title was changed by the Fifth Amendment, remains unchanged as a part of this Agreement and is attached.

4. Exhibit 2, entitled "Issues Not Included in the Term "Claims" for Purposes of the Tolling and Waiver Agreement Extension Beginning January 1, 2013", which was added by the Fifth Amendment, did not have any issues listed and was therefore deleted in its entirety and replaced in the Sixth Amendment by Exhibit 2, entitled "Issues Not Included in the Term "Claims" Effective January 1, 2016". Exhibit 2 subsequently was renumbered as Exhibit 2A, but remained entitled "Issues Not Included in the Term "Claims" Effective January 1, 2016. Exhibit 2A is attached to the Sixth Amendment and remains a part of this Agreement.

5. Exhibit 2B, entitled “Issues Not Included in the Term “Claims” Effective January 1, 2018”, is attached to the Seventh Amendment and remains a part of this Agreement.

6. Exhibit 2C, entitled “Issues Not Included in the Term “Claims” Effective January 1, 2020”, is attached to the Eighth Amendment and remains a part of this Agreement.

7. Exhibit 2D, entitled “Issues Not Included in the Term “Claims” Effective January 1, 2022,” is attached to this Ninth Amendment and made a part of this Agreement.

8. Exhibit 3, entitled “Issues that May be Excluded from the Term “Claims” upon 60 Days Advance Notice”, which was added by the Fourth Amendment, is amended by listing additional issues, if any, to issues 1 and 2 previously listed therein, and such Exhibit 3 as amended is attached and remains a part of this Agreement.

9. Exhibit 4, entitled “Contractors which Signed Prior Tolling Agreement Amendment Extending Tolling Period to December 31, 2019 and which are Expected to Enter into Amendment to Extend Tolling Period to December 31, 2021”, which was added by the Eighth Amendment, is deleted in its entirety and replaced by Exhibit 4 entitled “Contractors which Signed Prior Tolling Agreement Amendment Extending Tolling Period to December 31, 2021, and which are Expected to Enter into Amendment to Extend Tolling Period to December 31, 2023”, which is attached and made a part of this Agreement.

10. All other terms and conditions of the Agreement, as amended, are unchanged by this Ninth Amendment and shall remain in full force and effect.

11. In consideration of the extension of the tolling period provided by this Ninth Amendment, the Parties intend to continue to use their best efforts to discuss and seek to resolve, in a timely manner, as many of the remaining issues as practicable that have been tolled by this Agreement or that have otherwise been raised in the resolution process established in response to

this Agreement.

12. Each individual signing below represents and warrants that he or she is authorized to execute this Ninth Amendment on behalf of the respective Party to this Ninth Amendment and does so freely and voluntarily.

13. Each Party warrants and represents that, in executing this Ninth Amendment, it has relied upon legal advice from counsel of its choice; that the terms of this Ninth Amendment have been read and its consequences have been completely explained to it by counsel; that it fully understands the terms of this Ninth Amendment; and that it knows of no reason why this Ninth Amendment shall not be a valid and binding agreement of that Party.

14. The Parties agree that this Ninth Amendment will be executed using DocuSign by electronic signature, which shall be considered an original signature for all purposes and shall have the same force and effect as an original signature. The Ninth Amendment shall take effect as soon as all Parties have signed.

15. All Parties will receive an executed copy of this Ninth Amendment via DocuSign after all Parties have signed.

DATED: _____

Thomas Gibson
General Counsel
Attorney for DWR

DATED: _____

Name: Mark S. Krauser
Title: General Manager
For: DESERT WATER AGENCY

EXHIBIT 1

ISSUE NOT INCLUDED IN THE TERM “CLAIMS” EFFECTIVE JANUARY 1, 2009

1. The validity of charges for costs incurred by DWR at Perris Reservoir for beach sand, the ADA fishing pier, and marina repairs and relocation, which have been billed to and included in the annual Statements of Charges issued to Metropolitan Water District, Coachella Valley Water District and Desert Water Agency for calendar years 2008 and 2009.

EXHIBIT 2A

ISSUES NOT INCLUDED IN THE TERM “CLAIMS” EFFECTIVE JANUARY 1, 2016

FOR THE COMPLETE LIST OF “ISSUES NOT INCLUDED IN THE TERM “CLAIMS” EFFECTIVE JANUARY 1, 2016” PLEASE REFER TO EXHIBIT 2 IN THE SIXTH AMENDMENT. THOSE ISSUES ARE DEEMED INCORPORATED HEREIN AS THOUGH FULLY SET FORTH IN THIS EXHIBIT 2A.

EXHIBIT 2B

ISSUES NOT INCLUDED IN THE TERM “CLAIMS” EFFECTIVE JANUARY 1, 2018

FOR THE COMPLETE LIST OF “ISSUES NOT INCLUDED IN THE TERM “CLAIMS” EFFECTIVE JANUARY 1, 2018” PLEASE REFER TO EXHIBIT 2B IN THE SEVENTH AMENDMENT. THOSE ISSUES ARE DEEMED INCORPORATED HEREIN AS THOUGH FULLY SET FORTH IN THIS EXHIBIT 2B.

EXHIBIT 2C

ISSUES NOT INCLUDED IN THE TERM “CLAIMS” EFFECTIVE JANUARY 1, 2020

FOR THE COMPLETE LIST OF “ISSUES NOT INCLUDED IN THE TERM “CLAIMS” EFFECTIVE JANUARY 1, 2020” PLEASE REFER TO EXHIBIT 2C IN THE EIGHTH AMENDMENT. THOSE ISSUES ARE DEEMED INCORPORATED HEREIN AS THOUGH FULLY SET FORTH IN THIS EXHIBIT 2C.

EXHIBIT 2D

ISSUES NOT INCLUDED IN THE TERM “CLAIMS” EFFECTIVE JANUARY 1, 2022

1. Whether any FloodSafe Program costs were improperly included in the Department overhead costs. Resolution: The Department’s policy is not to include any non-SWP costs in its overhead costs and the Department’s practice is in accordance with its policy. Hence no changes were necessary.
2. Whether downstream costs totaling approximately \$896,000 for 1999 were improperly included in the transportation variable charges when the Department prepared the computation manually and these costs were not removed when SAP was used. Resolution: The Department determined that the costs were properly included in the Contractors’ charges. The methodology of the Department’s downstream process pre-SAP and post-SAP changed. The \$896,000 is downstream costs for January – June of 1999 and is conversion data from pre-SAP in Cost Element 74C0000290. The downstream costs for July – December of 1999 reside in the modern cost element in 7704000640, totaling approximately \$422,932.
3. Whether the Department had documentation in place to support alpha allocation factors within SAP. Resolution: The Department determined that this was a recommendation from the audit report, not a claim. Through Phase II Alpha analysis, the Department documented the guidelines for alpha allocation factors. WREM65 was established to maintain documentation on allocation factors.
4. Whether Reid Gardner insurance invoices were improperly allocated based on beginning dates, rather than service periods, resulting in an overstatement of 2009 Off Aqueduct Power insurance costs by approximately \$58,209 in the 2011 Statements of Charges. Resolution: The Department determined that the costs were allocated correctly pursuant to the Department’s standard practice. Insurance costs, as part of the Minimum Operations

and Maintenance costs of the SWP, have always been recorded by the beginning dates rather than allocated to the service periods.

5. Whether contract retentions from 1999 to 2004, totaling approximately \$1,413,960, were allocated statewide through cost center 2500FAD890, resulting in a double billing of these charges. Resolution: The Department reversed the incorrect adjusting entries done in 2010, which caused the double billing of contract retentions. This correction was done in April 2020.
6. Whether the Oroville flood control adjustment for 1999 to 2007 requires updating. Resolution: The Department updated the Oroville flood control adjustment by reallocating the costs to water supply and recreation project purpose for 1999 to 2007.
7. Whether the Department improperly charged in 2011 approximately \$1.5 million in costs associated with the Caltrans Highway 246 widening project to various financial reaches on the Coastal Branch. Resolution: The Department agreed that Caltrans Highway 246 widening project costs were reimbursed from Caltrans solely and not to be charged to any financial reaches. Through KB15 adjustment approved on 11/24/2020, the Department credited \$1,319,897.04 for 2010 and \$321,603.67 for 2011, for a total credit of \$1,641,500.71, applied to related financial reaches on the Coastal Branch associated with Cost Center 2315FDL062. Following the correction, starting with the 2022 Statements of Charges, manual adjustments will no longer be included in Attachment 4B (TWS-min) to exclude these R33A Caltrans Highway 246 costs.
8. Whether the Department incorrectly allocated costs in 13 newly created State Water Resources Development System (SWRDS) cost centers for year 2010. Resolution: The Department updated the allocation process and fully allocated the costs in 10 of the 13 cost centers. The costs from other cost centers were properly allocated, so the costs remained unchanged.

9. Whether costs related to alpha allocation cycle SAA923 were improperly allocated to other project purpose cost centers, as these costs should be allocated 100% to Contractors. Resolution: The Department determined that the costs were properly included in the Contractors' charges. The alpha allocation cycle SAA923 is correct to have an SWP joint allocation.
10. Whether some 2008 and 2009 costs were moved to 2010, in error, when the Department moved the costs of the Supervisory Control and Data Acquisition System from the cost center 2301MAD057 to the cost center 2390FAD908. Resolution: The Department moved the related costs back to 2008 and 2009, and these were reflected in the 2017 Statements of Charges.
11. Whether the costs from Order number J10104000605, which relates to the Franks Tract Project Management Project, was incorrectly included in alpha cost center 1101FAD890. Resolution: The Department removed the costs related to Order number J10104000605 from cost center 1101FAD890 in 2016; the correction was reflected in the billing system.
12. Whether the Department incorrectly allocated costs in three (3) newly created SWRDS cost centers for year 2011. Resolution: The Department reviewed the allocation process and determined the costs from these cost centers were properly allocated. Hence no changes were necessary.
13. Whether Order number 85000001895 in alpha cost center 2301FFE907 included costs misallocated to North Bay Aqueduct (NBA) Reaches and California Aqueduct (CA) Reaches 2A and 2B, resulting in a misallocation of costs of approximately \$434,495. Resolution: The Department determined that the costs in the calendar year 2011, charged in Internal Order (IO) 85000001895 for 69 KV Transmission Line and Banks Switchyard South Bay Aqueduct (SBA) Enlargement, were included in alpha cost center 2301FFE907, which comprised costs to NBA Reaches and CA Reaches 2A and 2B. The Department Delta Field Division and Program Control, Operation, and Maintenance confirmed that IO 85000001895 included work for the Delta -O&M Substation &

Distribution Renovation, which supported the whole Delta Field Division regardless of where the substation sits geographically. Delta Field Division includes NBA Reaches 2A and 2B, which benefited from this work. Thus, allocating the work to alpha cost center 2301FFE907, rather than to South Bay Cost Center, is correct. Hence, no changes are necessary.

14. Whether the credit included in the Delta Water Charge for the refurbishment costs of Hyatt Units 1, 3, and 5 was understated by \$15,000 and debt service for the refurbishment costs of Hyatt Units 2, 4, and 6 included in the variable charge was understated by \$469,000 due to the use of an outdated debt service schedule, in the 2014 Statements of Charges. Resolution: The Department included the \$15,000 credit in the Delta Water Charge and used the up-to-date debt service schedule, and these changes were reflected in the 2017 Statements of Charges.
15. Whether Order number E7435FDH9070 in alpha cost center 2315FDH907 included costs misallocated to CA Reaches R18A, R19, R20A, R20B, R21, R22A, R22B, R23, and R24. Resolution: The Department agreed that invoices related to Joint Agreement Maintenance of a Portion of Templin Highway in the Vicinity of Castaic Lake Agreement No. 64973 – Contract No. B-58416 were misallocated to cost center 2315FDH907. For resolution, WBS E.0500.THWHY.001 was created under FA WR2315FDK9070000 that includes Reach 29J where Templin Highway is located. Past Templin Highway charges of \$45,000, that were previously included in the FDH907 Cost Center group, were moved to WBS E.0500.THWHY.001 (Cost Center: 2315FDK907) as of 1/27/2021 in the billing system.
16. Whether station service costs were miscalculated for 2013 by excluding East Branch Extension (EBX) plants from the calculation. Resolution: The Department updated station service costs for 2013 to include EBX plants in the calculations. This correction was reflected in the 2021 Statements of Charges.

17. Whether costs of approximately \$25,879 for work performed at Oso pumping plant, on invoice number 1.14.002.01, were improperly allocated to the Santa Ana Division in 2014. Resolution: The Department reallocated approximately \$25,879 in costs from the Santa Ana Division to the Oso pumping plant for 2014. This correction was reflected in the 2020 Statements of Charges.
18. Whether the Hyatt-Thermalito credit to the Delta Water Charge was incorrectly charged to System Power Costs for years 2008 through 2016. Resolution: The Department updated the Hyatt related debt service amounts in May 2019.
19. Whether the escalation factor for the labor cost for the transportation minimum future estimates was double-counted for the years 2016 and 2017. Resolution: The Department determined that the escalation factor was not double-counted per the Department criteria memorandum. Hence no changes were necessary.
20. Whether the amount of approximately \$52,000 in credits related to remote terminal units was incorrectly allocated in the Contractors' charges for 2013. Resolution: The Department reversed the credits, and the correction is posted in Utility Cost Allocation and Billing System (UCABS) dated 7/3/2018.
21. Whether the permanent adjustments to reflect the transfer of costs incurred after July 2017 from a statewide allocation to Delta reaches were incorrectly done for 2017 Statement of Charges. Resolution: The Department made a permanent transfer entry in PR5 in February 2016 to move the costs and several KB15 entries to reverse the temporary entries. As a result, the cost movements needed are in place, and the unnecessary temporary entries have been fully reversed.
22. Whether a reimbursement of \$286,000 for power used to pump non-entitlement water was allocated to plants statewide instead of the plants used. Resolution: The Department determined that the costs were properly included in the Contractors' charges. The Department invoiced Westlands Water District (WWD) the actual California Independent

System Operator (CAISO) costs associated with the transportation of WWD's water for 2013 and 2014, totaling \$315,000 and \$286,000, respectively, and therefore credited back the same cost center when payment was received.

23. Whether greenhouse gas instrument credits (emission allowances), totaling approximately \$8,000,000, were incorrectly charged to the Contractors in 2012, based on the year of purchase instead of the years the credits were used. Resolution: The Department reallocated the costs for the greenhouse gas instrument credits to the years the credits were used. This was reflected in the 2020 Statements of Charges.
24. Whether labor costs for administering Federal billings totaling approximately \$377,000 for 2009 to 2017 were improperly allocated statewide instead of to the joint use reaches. Resolution: The Department reallocated the relevant costs, and the correction was reflected in the 2019 Statements of Charges.
25. Whether the cost of emission allowances included in the Off-Aqueduct and variable components exceeds the actual costs by approximately \$61,000. Resolution: The Department adjusted the emission allowances in the Off-Aqueduct and variable components to correct this issue, and this was reflected in the 2020 Statements of Charges.
26. Whether costs, totaling approximately \$18,000, for salmon festivals in 2014 and 2015 were improperly allocated to the Contractors. Resolution: The Department moved costs for salmon festivals in 2014 and 2015, totaling approximately \$23,300, to a recreational Functional Area, WR23002200710000. This was reflected in the 2020 Statements of Charges.
27. Whether differences between amounts recorded in the financial accounting system and the cost accounting system resulted in credits, totaling approximately \$133,000, for recreation costs being improperly allocated to the Contractors in the 2018 Statements of Charges. Resolution: The Department corrected the mispostings in the financial accounting system, totaling approximately \$133,000, by posting to the correct period for November 2007 and

November 2008, thereby resolving the differences between the two accounting systems. This was reflected in the 2020 Statements of Charges.

28. Whether the Temporary Rock Barriers Program costs removed from the Delta Water Charge calculation for years 2021-2035 and 2022- 2035 did not conform to the budgeted amounts provided by the Department, resulting in an overstatement of costs to the Contractors. Resolution: The Department included Escalation rate, if the rate applied, in addition to the labor and operating expenses in calculating the three-year average of annual projections of the Temporary Barrier Program, and that was updated in the 2020 Statement of Charges.
29. Whether costs of approximately \$9,783 for work performed at Chrisman pumping plant, on Claim number 1319184, were improperly allocated to the Devil's Den Pumping Plant in the 2018 Statements of Charges. Resolution: The Department reallocated approximately \$9,783 in costs, from the Devil's Den Pumping Plant to the Chrisman pumping plant. This was reflected in the 2019 Statements of Charges.
30. Whether costs of approximately \$385,618 for work performed at Alamo Powerplant, on Claim numbers 1324323 and 1327434, were improperly allocated to the Devil Canyon Powerplant in the 2018 Statements of Charges. Resolution: The Department reallocated approximately \$385,618 in costs from the Devil Canyon Powerplant to the Alamo Powerplant. This was reflected in the 2019 Statements of Charges.
31. Whether the 2016 Actual Suspended Costs total used in calculating Available Funds for Rate Management Credits included the incorrect created on date for cost center M500300232 (used March 9, 2017 vs. the actual cutoff date for the Statement of Charges), resulting in an overstatement of Available Funds for Rate Management Credits of \$1,184. Resolution: Per Ernst & Young LLP's (E&Y), the 2016 Suspended Costs total for cost center M500300232 uses the correct created on date.

32. Whether the East Branch Enlargement (EBE) “judgment call” item for years 1979 to 1985 included in the cost/debt reconciliation project does not conform to Bulletin 132-13, Table B26, *Capital Costs of Each Aqueduct Reach to be Reimbursed through the Capital Cost Component of the East Branch Enlargement Transportation Charge Phase 1 and Phase 2*. Resolution: The Department updated several EBE cost reconciliation items from 1979-1985 in accordance with Bulletin 132-13, Table B26; the update was reflected in the billing system.
33. Whether the cost of Cap-and-Trade emission allowances expected to be used in 2019 was improperly included in the transportation variable component, as projected, of the Statements of Charges as well as in the monthly invoices for the variable component. Resolution: The Department determined that the Statements of Charges included the cost of emission allowances used in the relevant year and the projected cost to purchase Cap and Trade allowances in the same year for future compliance periods. Actual cost of Cap-and-Trade auction purchases each year was reflected in invoicing rate to invoice monthly variable charges in the particular year. Hence no changes were necessary.
34. Whether the 2016 debt service amounts for various Oroville power projects were improperly revised and are \$222,000 less than the amount included in the variable component. Resolution: The Department updated the SAP with actual debt service amounts in May 2019.
35. Whether the \$2.1 million credit for the 2018 San Joaquin River Flow Augmentation Program collected through the transportation minimum component was improperly excluded from the Delta Water Charge calculation. Resolution: The Department included the \$2.1 million credit for the 2018 San Joaquin River Flow Augmentation Program in the Delta Water Charge calculation for the 2020 Statements of Charges.
36. Whether the amount included in the 2016 variable component for the P2426 FERC relicensing costs improperly differs from the amount on the debt service schedule by

approximately \$18,000. Resolution: The Department updated the 2016 transportation variable costs, and the correction is reflected in the 2020 Statement of Charges.

37. Whether reimbursements for the Collaborative Adaptive Management Team of approximately \$110,000 were not recorded in time to be reflected in the 2019 Statements of Charges. Resolution: The Department made entries, totaling approximately \$110,000 in August 2018, to record the reimbursements received from the U.S. Bureau of Reclamation (USBR) for the Collaborative Adaptive Management Team. This was reflected in the 2020 Statements of Charges.
38. Whether the 2018 and 2019 Hyatt Thermalito power revenue used in the calculation of the Delta Water Charge was based on outdated costs, resulting in an understatement of net costs. Resolution: The billing methodology for the Delta Water Rate was based on cost projections from the Bulletin 132 planning process each year. The variance between transportation variable H-T power revenue and Delta Water Rate H-T power revenue each year was due to agreed-upon business processes by both the Department and the Contractors to reflect a more accurate transportation variable melded unit rate. Hence no changes were necessary.
39. Whether the Department incorrectly allocated the costs statewide for the Grant revenue of approximately \$145,000 for mussel inspections at the San Luis Recreation Area. Resolution: The Department updated the allocation process and moved the costs to the San Luis cost center. The correction is reflected in the 2020 Statements of Charges.
40. Whether the Municipal Water Quality Investigation (MWQI) charge for 2017 was improperly excluded from the transportation minimum component. Resolution: The Department included the MWQI charge for 2017 in the transportation minimum component, totaling approximately \$1,517,364. This correction was reflected in the 2019 Rebill.

41. Whether the Turnout costs were not excluded in calculation of the S-series alpha allocation cycles resulting in an overstatement of costs to the Contractors to calculate the S-series alpha allocation cycle percentages for CA-R8D of approximately \$19,060, for CA-R19 of approximately \$1,371, for CA-R20B of approximately \$13,028, and for CA-R29A of approximately \$958. Resolution: The numeric cost centers with the first 4 digits = 2500 were not filtered from the data set used to calculate the S-series alpha allocation cycles. Turnout costs were inadvertently included in S-series for the 2019 Statements of Charges. The costs were removed for the 2020 Statement of Charges.
42. Whether the credits for asset sales were improperly allocated to power cost centers within SAP, resulting in an understatement of costs to the Contractors in 2017 of approximately \$707,420. Resolution: The credits for asset purchase were accumulated in SAP by cost objects and allocated by SAP to reaches based on the Power Allocation Table (PAT). Per E&Y's Audit of 2021 SOC, credits for asset purchase were properly reversed out of the related power cost centers in SAP.
43. Whether the Department has incorrectly charged the Hyatt–Thermalito credit to the Delta Water Charge for years 2007, 2008, 2010, 2011, 2012, 2014, 2015, and 2016. Resolution: The Department updated the Hyatt-Thermalito (2,4,6) credits in 2016 to be consistent with the current WSRB schedules.
44. Whether the Department overestimated the Delta Water Charge for 2017 by approximately \$12,091 (PV of \$12,648) when the Department calculated the capital component of the Delta Water Charge based on the \$533,595,379 amount per CCOOROVLE, while the amount per SAP was \$533,583,288. Resolution: The Department applied the correction, and that was reflected in the 2020 Statement of Charges.
45. Whether the Minimum Delta Facilities costs used in the Delta Water Charge calculation improperly factored in the credit for the Water Purchase Program in 2018, resulting in an overstatement of costs to the Contractors of approximately \$2,668,450 (PV of

\$2,092,200). Resolution: The Department applied the correction, and that was reflected in the 2020 Statement of Charges.

46. Whether costs pertaining to relinquished capacity do not conform to the relinquished capacity credits for years 1996 through 2035 within the Delta Water Charge calculation. Resolution: The Department corrected this inconsistency, and it was reflected in the 2020 Statements of Charges.
47. Whether a 2010 adjustment for KCWA Municipal Water Quality Investigation (MWQI) costs was incorrectly charged to 2015 MWQI costs. Resolution: The Department determined that the MWQI program allocated the costs correctly for both years.
48. Whether the 2017 cumulative unit rate instead of 2018 cumulative rate for Reach VEBX-2RC was used to calculate the transportation variable charge for San Bernardino Valley MWD in the 2018 calculated component in Attachment 4C of the Statement of Charges, resulting in an understatement of costs to San Bernardino Valley MWD of approximately \$23,152. Resolution: The Department applied the correction, and that was reflected in the 2020 Statement of Charges Rebill.
49. Whether the adjusted capital cost component included in Attachment 4D of the Statement of Charges to calculate the transportation capital charge improperly omitted the relinquished capacity credit for KCWA in the amount of approximately \$393,939 and for Dudley Ridge Water District in the amount of approximately \$24,777 for the year 2018. Resolution: The Department updated the relinquished capacity credit for the year 2018, and the correction is reflected in the 2020 Statements of Charges.
50. Whether costs of approximately \$2,990 for work performed at Buena Vista pumping plant, on Claim number 1347900, were improperly allocated to the Edmonston Pumping Plant in the 2019 Statements of Charges. Resolution: The Department reallocated approximately \$2,990 in costs from the Edmonston Pumping Plant to the Buena Vista pumping plant. This was reflected in the 2020 Statements of Charges.

51. Whether costs for work performed at the San Joaquin Field Division, on Claim numbers 1348021, 1349616 and 1350656, were improperly allocated statewide through alpha cost center 2200FAD111 in the 2019 Statements of Charges. Resolution: The Department determined that the costs were properly included in the Contractors' charges. This work was for the SWP Communications System Replacement project, which provides an alternate path segment for protection to the SWP Communications System.
52. Whether the 2017 actual amount used in the calculation of Available Funds for Rate Management Credits for On-Aqueduct Power Facilities Debt Service (Pyramid, Alamo, and Small Hydropower Projects) includes interest payments of approximately \$2,977,679, while the amount per SAP was incorrectly including approximately \$2,995,654, resulting in an overstatement of Available Funds for Rate Management Credits of \$17,975. Resolution: The Department reallocated approximately \$10,894 from the CVP Water System Revenue fund (0507017) to the Small Hydro Project fund (0507013) to reallocate cash related to the debt service payment made in June 2017. This correction was made in December 2020 and was reflected in the 2022 Statements of Charges.
53. Whether claim numbers 1353731 and 1347698, which include work performed for the Coastal Branch, had costs improperly allocated directly to Devil's Den Pumping Plant (CB2-R33A). Resolution: The Department determined that the repairs were performed on specific pumping plants in specific Reach 33A and therefore charges were properly allocated to specific plants and shall not be allocated coastal-wide. Claim number 1353731 included refurbishment of the air compressor, specifically at Polonio Pass Pumping Plant (POPP), which was correctly charged and identified through Plant Maintenance Order (PMO) 75000195532 in SAP. Claim number 1347698 included bridge crane repairs at Bluestone Pumping Plant (BLPP), which was correctly charged and identified through Plant Maintenance Order (PMO) 75000170597 in SAP. Hence no changes were necessary.

54. Whether costs, totaling approximately \$5,094, for work performed at Edmonston pumping plant, on Claim numbers 1341055 and 1356131, were improperly allocated to the San Joaquin Field Division, in the 2019 Statements of Charges. Resolution: The Department determined that the costs were properly included in the Contractors' charges. The work, totaling approximately \$5,094, was for fixing a door to the sandblasting room, which is used for work that benefits the entire field division and also other divisions.
55. Whether costs, totaling approximately \$6,864, for work performed at Las Perillas and Badger Hill Pumping Plants, on Claim number 1356131, were improperly allocated to the San Joaquin Field Division, in the 2019 Statements of Charges. Resolution: The Department reallocated approximately \$6,864 from the San Joaquin Field Division to Las Perillas and Badger Hill Pumping Plants. This was reflected in the 2022 Statements of Charges.
56. Whether costs, totaling approximately \$25,755, for work performed at Buena Vista Pumping Plant, on Claim number 1346694, were improperly allocated to the San Joaquin Field Division, in the 2019 Statements of Charges. Resolution: The Department reallocated approximately \$25,755 from the San Joaquin Field Division to the Buena Vista Pumping Plant. This was reflected in the 2022 Statements of Charges.
57. Whether costs, totaling approximately \$17,984, for work performed at Edmonston Pumping Plant, on Claim numbers 1354895 and 1348454, were improperly allocated to the San Joaquin Field Division, in the 2019 Statements of Charges. Resolution: The Department determined that the costs were properly included in the Contractors' charges. The Intercon Security System's invoices, totaling \$17,984, were for vehicle and gas charges, which provided security services for the whole San Joaquin Field Division, not just Edmonston Pumping Plant.
58. Whether costs, totaling approximately \$6,664, for work performed at Edmonston, Chrisman, Teerink, and Buena Vista Pumping Plants, on Claim numbers 1341056 and 1338070 , were improperly allocated to the San Joaquin Field Division, through alpha cost

center 2300FFN907. Resolution: The Department reallocated costs, totaling approximately \$6,664, from the San Joaquin Field Division to the plants where the work was performed in July 2021.

59. Whether costs, totaling approximately \$586,728, for work performed at the San Joaquin Field Division, on Claim numbers 1350631, 1351993 and 26 other Claim numbers , were improperly allocated to the Coastal Branch as well, through alpha cost center 2300FFN907. Resolution: The Department determined that the costs were properly included in the Contractors' charges. Invoice costs for work performed at the San Joaquin Field Division were correctly allocated to include the Coastal Branch Reaches 31A and 33A, as Coastal is maintained and part of the San Joaquin Field Division. Costs incurred at the San Joaquin Field Division headquarters or the Area Control Center will have a percentage allocated to the Coastal reaches.
60. Whether costs, totaling approximately \$15,510, for work performed at Teerink, Chrisman and Edmonston Pumping Plants, on Claim numbers 1343368, 1341123, 1350993, and 1355617, were improperly allocated to the San Joaquin Field Division through alpha cost center 2300FFN907. Resolution: In July 2021, the Department reallocated approximately \$15,510 from the San Joaquin Field Division to the plants where the work was performed.
61. Whether Claim number 1368419 with dollar amount of \$6,088, which includes work performed for the Coastal Branch, had costs improperly allocated directly to Devil's Den pumping plant (CB2-R33A). Resolution: The Department determined that the repairs were performed on specific pumping plants in specific Reach 33A and therefore charges were allocated to specific plants and shall not be allocated coastal-wide. Claim number 1368419 included refurbishing the air compressor specifically at Bluestone Pumping Plant (BLPP) through PMO 75000200035 using FA WR23008715030000, Polonio Pass Pumping Plant (POPP) through PMO 75000205841 using FA WR23008715040000, Devil's Den Pumping Plant (DEPP) through PMO 75000205842 using FA WR23008715020000, which was correctly charged using appropriate Reach-Feature of Reach 33A- Specific Plants where repairs were made. Hence no changes were necessary.

62. Whether costs, totaling approximately \$31,629, for work performed at Edmonston pumping plant, on Claim numbers 1367605, 1359429, 1366826 and 1369030, were improperly allocated to the San Joaquin Field Division through alpha cost center 2300FFN907. Resolution: Costs totaling \$17,487 for the Commercial Door invoices and the Hazardous Services invoices were moved to the Edmonston P.P., where the work was performed in July 2021. The Inter-con Security invoices, totaling \$14,142, were for vehicle and gas charges which benefit the entire field division, so these costs will not be moved.
63. Whether costs, totaling approximately \$30,398, for work performed at Lost Hills, Buena Vista, Teerink, Chrisman, Edmonston, Las Perillas and Badger Hill pumping plants, on Claim numbers 1366263 and 1360961, were improperly allocated to the San Joaquin Field Division through alpha cost center 2300FFN907. Resolution: In July 2021, the Department reallocated approximately \$30,398 in costs for Commercial Door invoices from the San Joaquin Field Division to the plants where the work was performed.
64. Whether costs, totaling approximately \$32,056, for work performed at Chrisman pumping plant, on Claim numbers 1364828 and 1359429, were improperly allocated to the San Joaquin Field Division through alpha cost center 2300FFN907. Resolution: The Department determined that the costs were properly included in the Contractors' charges. The work was for waste removal services at the O&M center, which is located at the Chrisman pumping plant. The O&M center benefits the entire field division.
65. Whether costs, totaling approximately \$13,900, for work performed at Buena Vista, Teerink, Chrisman, Edmonston, Las Perillas and Badger Hills pumping plants, on Claim number 1366263, were improperly allocated to the San Joaquin Field Division through alpha cost center 2300FFN907. Resolution: In July 2021, the Department reallocated approximately \$13,900 in costs for Commercial Door invoices from the San Joaquin Field Division to the plants where the work was performed.

66. Whether costs, totaling approximately \$731,893, for work performed at the San Joaquin Field Division, on Claim numbers 1366826, 1365679, and 29 other Claim numbers, were improperly allocated to the Coastal Branch as well, through alpha cost center 2300FFN907. Resolution: The Department determined that the costs were properly included in the Contractors' charges. Invoice costs for work performed at the San Joaquin Field Division were correctly allocated to include the Coastal Branch Reaches 31A and 33A, as Coastal is maintained and part of the San Joaquin Field Division. All costs incurred at the San Joaquin Field Division headquarters or the Area Control Center will have a percentage allocated to the Coastal reaches.
67. Whether the S-series alpha allocation cycle update calculation improperly excluded costs tracked by the Department that should have been reflected in the calculation, resulting in a reallocation of costs of approximately \$9,859 among the Contractors in 2018. Resolution: Exclusion of several costs from S-Series alpha cycle update calculation impacted the 2018 alpha allocation cycle FFE-908 percentages and the three-year average used to calculate the alpha allocation cycle FFE-908 percentages for the 2020 Statements of Charges. Per E&Y's Audit of the 2021 Statements of Charges, the costs were included in the current-year S-series alpha allocation cycle update.
68. Whether the updated alpha allocation cycle percentages for ADE-900 and ADF-900 within the SAP were not used for the S-series alpha allocation cycle update, resulting in a reallocation of costs among the Contractors in 2018 based on the approximately \$634,012 and \$634,747 costs in alpha allocation cycles ADE-900 and ADF-900, respectively. Resolution: Per E&Y's Audit of the 2021 Statements of Charges, the correct alpha allocation cycle percentages for ADE-900 and ADF-900 were used in the S-series update. No further changes are necessary.
69. Whether master data related to EBX Reach 3D was not finalized before the 2020 Statements of Charges and was improperly excluded from the calculation of the S-series alpha allocation cycle update. Resolution: Per E&Y's 2021 Statements of Charges Audit, EBX Reach 3D now receives an allocation within the S-series update.

70. Whether the Department incorrectly charged the Hyatt–Thermalito credit to the Delta Water Charge for years 2007, 2008, and 2011. Resolution: The Department updated the Hyatt-Thermalito (2,4,6) credit to be consistent with the current WSRB schedules.
71. Whether corrections to SAP data during May 2019 were improperly excluded from the Delta Water Charge calculation, specifically to MCOCA-R1, MCOCA-R2A, MCOCA-R2B, MCOSANLUIS, MCOCA-R3 cost center groups, and not reflected in the 2020 Statements of Charges, resulting in an overstatement of costs to the Contractors of \$470,441. Resolution: Per E&Y's 2021 Statements of Charges Audit, these corrections are included in the 2021 Delta Water Charge calculations.
72. Whether the capital component to the Delta Water Charge included pre-funding of Oroville spillway recovery costs which were in excess of the 2019 projections vs. allocating these costs to the 2020 year, resulting in an overstatement of interest costs allocated to the Contractors' PV of \$1,292,979. Resolution: Per E&Y's 2021 Statements of Charges Audit, the prefunding of Oroville spillway recovery costs was no longer in excess of 2019 projections.
73. Whether the adjustments to remove costs associated to the Change of Point of Delivery (CPOD) water purchase program project did not conform to the associated Internal Orders (IOs) in the SAP Module, UCABS for 2016 and 2017. Resolution: Per E&Y's Audit of the 2020 Statement of Charges, the CPOD water purchase program project conforms to the associated IOs in the SAP Module, UCABS within the 2021 SWC calculation for 2016 and 2017.
74. Whether the adjustments to remove costs associated to the Change of Point of Delivery (CPOD) water purchase program project incorrectly included recreation costs for 2016, 2017, and 2018. Resolution: Per E&Y's Audit of the 2020 Statement of Charges, the CPOD water purchase program correctly excluded the recreation costs within the 2021 Delta Water Charge calculation for 2016, 2017, and 2018.

75. Whether the corrections to SAP data during March through June (up to the cutoff date of the SOC of June 21, 2019) were incorrectly excluded from the Coastal reallocation calculation specifically to CB Reaches 33B, 34, and 35. Resolution: Per E&Y's Audit of the 2020 Statement of Charges, the corrections are now included in the Coastal reallocation calculation.
76. Whether the Department has incorrectly charged the Hyatt–Thermalito credit to the Delta Water Charge for years 2007 and 2008. Resolution: The Department updated the Hyatt-Thermalito (2,4,6) credit to be consistent with the current WSRB schedules.
77. Whether the Department has incorrectly charged Santa Barbara County for Transportation Minimum in 2007 and 2008. Resolution: The Department provided explanations and detail for increased expenditures in 2007 and 2008.
78. Whether the Department has incorrectly charged the commitment fees for the Series 2 commercial paper line totaling \$4.5 million. Resolution: The Department allocated the commitment fees consistent with current procedures.

EXHIBIT 3

ISSUES THAT MAY BE EXCLUDED FROM THE TERM “CLAIMS” UPON 60 DAYS ADVANCE NOTICE

1. The Department of Water Resources’ change in funding the costs of the San Joaquin Valley Drainage program from the Capital Facilities Account (as established pursuant to Article 51 (b) (1) of the State Water Contract) prior to 2006 to operations and maintenance costs beginning in 2006, but not including the Department’s retention of unused Capital Facility Account balances in 2006 and 2007 for anticipated future year capital expenditures (which retention issue shall not be subject to exclusion upon 60 days notice).
2. All Claims arising out of or related to the determination, allocation and/or payment of fish and wildlife enhancement and recreation costs incurred in constructing, operating and maintaining the State Water Project Perris Reservoir and any of its appurtenant, ancillary or related facilities, including, but not limited to, such costs associated with any actions taken at Perris Reservoir to address seismic safety issues. (“Claims” as used in this item 2, does not include the issue described in Exhibit 1, item 1.)

EXHIBIT 4

CONTRACTORS WHICH SIGNED PRIOR TOLLING AGREEMENT AMENDMENT EXTENDING TOLLING PERIOD TO DECEMBER 31, 2021 AND WHICH ARE EXPECTED TO ENTER INTO AMENDMENT TO EXTEND TOLLING PERIOD TO DECEMBER 31, 2023

Valerie Pryor, General Manager
Alameda County FC&WCD, Zone 7
100 North Canyons Parkway
Livermore, CA 94551

Mark Gilkey, Manager-Engineer
Dudley Ridge Water District
286 W. Cromwell Ave
Fresno, CA 93711-6162

Ed Stevenson, General Manager
Alameda County Water District
43885 So. Grimmer Blvd.
Fremont, CA 94537

Scott Sills, Manager
Empire West Side Irrigation District
P.O. Box 66
Stratford, CA 93266

Dwayne Chisam, General Manager
Antelope Valley/East Kern Water Agency
6500 West Avenue N
Palmdale, CA 93551-2855

Amelia Minaberrigarai, General Counsel
Kern County Water Agency
P.O. Box 58
Bakersfield, CA 93302

Bruce Alpert, County Counsel
Butte County
2279 Del Oro Avenue, Suite A
Oroville, CA 95965

Edward Hill, Administrative Officer
County of Kings
1400 West Lacey Blvd
Hanford, CA 93230

Matthew Stone, General Manager
Santa Clarita Valley Water Agency
27234 Bouquet Canyon Road
Santa Clarita, CA 91350

James Chaisson, General Manager
Littlerock Creek Irrigation District
35141 N.87th Street East
Littlerock, CA 93543

David Vaughn, City Manager
City of Yuba City
1201 Civic Center Blvd
Yuba City, CA 95993

John Schlotterbeck, Senior Deputy General
Counsel
Metropolitan Water District
P.O. Box 54153
Los Angeles, CA 90054

Jim Barrett, General Manager
Coachella Valley Water District
P.O. Box 1058
Coachella, CA 92236

Kathy Cortner, General Manager
Mojave Water Agency
13846 Conference Center Drive
Apple Valley, CA 92307

Jennifer Spindler, General Manager
Crestline/Lake Arrowhead Water Agency
P.O. Box 3880
Crestline, CA 92325

Christopher Silke, District Engineer
Napa County FC & WCD
1195 Third Street, Room 201
Napa, CA 94559

Mark Krause, General Manager
Desert Water Agency
P.O. Box 1710
Palm Springs, CA 92263-1710

Anthea Hansen, General Manager
Oak Flat Water District
P.O. Box 1596 / 17840 Ward Avenue
Patterson, CA 95363

Peter Thompson II, Resource and Analytics
Director
Palmdale Water District
2029 East Avenue Q
Palmdale, CA 93550

Rick L. Callender, Esq., Chief Executive
Officer
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, CA 95118

Heather Dyer, Chief Exec. General Manager
San Bernardino Valley MWD
380 East Vanderbilt Way
San Bernardino, CA 92408

Roland Sanford, -General Manager
Solano County Water Agency
810 Vaca Valley Parkway
Vacaville, CA 95688

Darin Kasamoto, General Manager
San Gabriel Valley MWD
P.O. Box 1299
Azusa, CA 91702

Jacob Westra, General Manager
Tulare Lake Basin WSD
1001 Chase Avenue
Corcoran, CA 93212

Lance Eckhart, General Manager
San Geronio Pass Water Agency
1210 Beaumont Avenue
Beaumont, CA 92223

Glenn Shephard, Director
Ventura County Watershed Protection District
800 S. Victoria Avenue
Ventura, CA 93009-1600

Kate Ballantyne, Deputy Director
San Luis Obispo County FC&WCD
976 Osos Street, Room 206
San Luis Obispo, CA 93408

and
Michael Flood, General Manager
Casitas Municipal Water District
1055 Ventura Avenue
Oakview, CA 93022-9622

Matthew Young, Water Agency Manager
Santa Barbara County Water Agency
123 East Anapamu Street, 2nd Floor
Santa Barbara, CA 93101-2058

and
Ray Stokes, Executive Director
Central Coast Water Agency
255 Industrial Way
Buellton, CA 93427-9565

**STAFF REPORT
TO
DESERT WATER AGENCY
BOARD OF DIRECTORS**

DECEMBER 7, 2021

RE: CUSTOMER APPEAL – ORI DEKEL

On December 17, 2019, the Board of Directors adopted Resolution No. 1224 “Policy on Discontinuation of Residential Water Service for Nonpayment”, which became effective on February 1, 2020. This resolution was in accordance with Senate Bill 998 that was adopted by the California Legislature in 2018, which imposes new and expanded customer protections regarding discontinuation of residential water service for nonpayment and related matters.

Section 5 of Resolution No. 1224 addresses the procedures to contest or appeal a bill, in particular Section 5.3 (Appeal to Board of Directors).

“Any customer whose timely complaint or request for an investigation pursuant to this Section 5 has resulted in an adverse determination by the Agency may appeal the determination to the Board of Directors by filing a written notice of appeal with the Agency Secretary within ten (10) business days of the Agency’s mailing of its determination. Upon receiving the notice of appeal, the Agency Secretary will set the matter to be heard at an upcoming Board meeting and mail the customer written notice of the time and place of the hearing at least ten (10) days before the meeting. The decision of the Board shall be final.”

The appellant, Ori Dekel is appealing his September 2021 water bill for the reasons listed:

1. Unusually high consumption compared to previous months.
2. DWA staff has checked the property for leaks and found none.
3. After a new meter was installed in October, his consumption has gone down.

Appeal Procedure:

1. Staff has provided the Board with the correspondence for this appeal (Attachment 1) and staff summary and records of the account (Attachment 2).
2. The appellant, if in attendance, will be invited by President Bloomer to speak concerning the appeal
3. After hearing the appellant, the Board will decide whether to grant or deny the appeal.

Fiscal Impact:

If the Board decides to deny appeal, there will be no fiscal impact. If the Board decides to grant the appeal, the Agency will credit Mr. Dekel's account (the amount to be decided by the Board). One unit of water would be a \$2.08 credit.

Staff recommendation:

Staff recommends that the Board of Directors consider the appeal by Ori Dekel and grant or deny this appeal.

Attachments:

Attachment #1 – Appeal form submitted by Mr. Dekel

Attachment #2 – Staff Summary and Records of Issue

From: Ori Dekel [REDACTED]
Sent: Monday, November 15, 2021 10:16 AM
To: Samantha Lopez <SLopez@dwa.org>
Subject: Fwd: Desert Water Agency – Bill Dispute

Begin forwarded message:

From: Desert Water Agency <no-reply@dwa.org>
Subject: Desert Water Agency – Bill Dispute
Date: October 21, 2021 at 10:46:19 AM PDT
To: [REDACTED]
Reply-To: outreach@dwa.org

Hello ORI DEKEL,

Thank you for submitting your bill appeal (details below). We will reach out to you after we have reviewed this information.

Name: ORI DEKEL

Email: [REDACTED]

Phone: [REDACTED]

Date on bill you're disputing: 09/28/2021

Message: Message: Account number: [REDACTED]
Address: 3588 E AVENIDA FEY NORTE
Date: 9/28/2021
Last read: 1,581 HCF
Current read: 1,681 HCF
Consumption: 100 HCF (74,800 gallons)

Hello,

At the end of September I was rather shocked to get a bill for 100 HCF. Usually my monthly consumption is between 20HCF - 30HCF. I live here full time and I think I would've known had there been a leak twice the size of my pool. This isn't some vacation rental that something might have happened and no one would have noticed. I also work from home so I'm here practically all the time.

Ever since the 9/28 read I've been checking the water meter daily.

9/29 1683
9/30 84
10/1 85.5
10/2 86.6
10/3 87.7
10/4 89.4
10/5 90.3
10/6 91.3
10/7 92.3
10/8 93.1
10/9 93.9
10/10 94.88
10/11 95/6
10/13 1 (new meter was put in)
10/15 3.83
10/16 4.48
10/17 5.6
10/19 7.57
10/20 8.5
10/21 9.1

As you can see, there is nothing in the these daily reads to back up a 100HCF monthly consumption.

A representative was sent to the premises and we were not able to find any plausible explanation as well. He graciously checked few items, irrigation was set to a 5mins cycles, I explained I had the pool checked out for leaks a year ago before I redid it, they found no leaks and then poured pebble-tech on top of that so that's highly an unlikely option. Toilets are fine, faucets are fine etc.

Back on August, there was a leak right before/on the water meter, DWA team was here to fix it. This should not have affected my bill but maybe some of that water was allocated to me a month after? I really have no other idea.

If I saw a 3 unit daily consumption since 9/28 I would realize I may have a hidden leak somewhere and would work with a professional to locate it, however, this isn't the case and the daily consumption is rather average, which makes the September bill a total mystery to me and that is why I am disputing it.

Furthermore, I already exhausted the H2O help for 2021 and I'm unable to get any further assistance from them.

I really do not believe it makes sense to charge me an additional amount of twice the size of my pool on top of the average consumption for September. That is really a lot.

Thank you for looking into this matter,
Ori

Thank You,

Desert Water Agency

760-323-4971

<http://www.dwa.org>

Customer Information:

Ori Dekel
3588 E. Avenida Fey Norte
Palm Springs

Summary of High Bill Complaint:

On August 9, 2021, at 7:08 PM, the Agency standby field personnel received a phone call from the property owner regarding a leak at the meter. Melchor Abubo, Construction Foreman, arrived on site at 7:21 PM and found a leak on the service line connection prior to the meter. The leak was small, therefore, Melchor did not repair the leak. He left a construction cone marking the leak location and wrote up a card to have the leak repaired the following day by the meter shop. He also recorded a meter read of 1559 when he left the site.

On August 10, 2021, at 7:30 AM, Alfredo Felix with the Agency meter shop crew arrived at the property and changed out the adaptor that is located after the service stop but before the meter. He completed his work at 8:00 AM and recorded a meter read of 1560 before he left the site.

On September 29, 2021, Garrett Nelson, Field Services Supervisor, received a call from Mr. Dekel asking if someone could meet him at the property to investigate and look for possible leaks onsite that may have caused his September water use to be 100 units (the meter to the property is read around the 25th of every month, so the September water bill measured use from approximately August 25 to September 25). Garrett arrived on site at 2:36 PM. During the site visit, Garrett reported seeing slow motion on the meter and found the automatic pool fill was on. Garrett also discovered a broken drip irrigation head. At that time Mr. Dekel advised Garrett that he would have his automatic pool fill system inspected.

On October 8, 2021, Mr. Dekel submitted an online dispute of his September 2021 water bill. Garrett immediately reached out to Mr. Dekel and set up a field visit for October 11, 2021. At the time of the visit, Garrett reported no motion on the meter. Garrett performed a flow test of the meter and found that the meter was under measuring the flow and was only 94% accurate. Garrett did not find any other issues at the site. Garrett filed paperwork to have the meter replaced, and on October 11, 2021, Jesus Becerra with the meter shop crew replaced the meter. Garrett also reviewed the past history of the account and learned that the account used 73 units in September 2020.

Based on the field visit results and the past history use, Garrett sent Mr. Dekel a letter on October 11, 2021 advising him that he will be responsible for the entire September 2021 water bill, and he had 10 business days to file an appeal with the Board. On October 21, 2021, Mr. Dekel filed an appeal to the Board; however, due to technical problems, Agency staffing was not made aware of the appeal until November 15, 2021.

It should be noted that on December 1, 2021, the Agency's meter shop crew performed a bench flow test at the Operations Center on the pulled meter from the property (the same meter that Garrett performed the field flow test on) and found that the meter flowed below the acceptable limit for both the fast speed flow test and the medium speed flow test.

Bench Flow Test Results:

Fast Flow Test: 93.9% of water measured through the meter

Medium Flow Test: 95% of water measured through the meter

Acceptable Limits: 98.5% to 101.5% measured through the meter

CUSTOMER INQUIRY

DATE 8-10-21 INDEX NO. _____
 NAME _____ METER NO. _____
 ADDRESS 3588 Avenida Fey Norte PHONE NO. _____
 INQUIRY: (10-104) At meter box

CALL STAT	TIME	
DSPTD		AM PM
ARV SCENE	<u>7:30</u>	AM PM
DPT SCENE	<u>8:00</u>	AM PM

CALL TAKEN BY: _____ AT _____ AM
 PM

CONTACTED: RESULTS: c/o Adt. After S.S.
☒ OWNERS
☐ TENANT
☐ NO ONE
☐ LEFT TAG
☐ CCV

SERVICEMAN Alfredo F. DATE 8-10-21 READ 1560
 Form No. 207 Rev 3/09

CUSTOMER INQUIRY

DATE 8/9/21 INDEX NO. _____
 NAME ORE METER NO. _____
 ADDRESS 3588 Avenida Fey Norte PHONE NO. _____
 INQUIRY: Water coming from box

CALL STAT	TIME	
DSPTD	<u>715</u>	AM PM
ARV SCENE	<u>721</u>	AM PM
DPT SCENE	<u>726</u>	AM PM

CALL TAKEN BY: Mekher A. AT 7100 AM
 PM

CONTACTED: RESULTS: Leak before meter left cave.
☒ OWNERS
☐ TENANT
☐ NO ONE
☐ LEFT TAG
☐ CCV

SERVICEMAN Mekher A. DATE 8/9/21 READ 1559
 Form No. 207 Rev 3/09

Garrett Nelson

From: Courtney Estrada
Sent: Friday, October 08, 2021 11:00 AM
To: Garrett Nelson; Jamie Hoffman
Cc: Samantha Lopez
Subject: FW: Desert Water Agency - Bill Dispute

Please see below

From: Desert Water Agency <no-reply@dwa.org>
Sent: Friday, October 08, 2021 10:51 AM
To: Disputes <Disputes@dwa.org>
Subject: Desert Water Agency - Bill Dispute



Hello,

We received this bill dispute from the website. Please note, we have 10 business days (per our policy) to respond to the customer.

Name: ORI DEKEL

Email: _____

Phone: _____

Property Address: 3588 E Avenida Fey Norte

Date on bill disputing: 09/28/2021

Why disputing your bill? : Account number _____

Address: 3588 E AVENIDA FEY NORTE

Date: 9/28/2021

Last read: 1,581 HCF

Current read: 1,681 HCF

Consumption: 100 HCF (74,800 gallons)

Hello,

At the end of September I was rather shocked to get a bill for 100 HCF. Usually my monthly consumption is between 20HCF - 30HCF.

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9/29 1683

9/30 84

10/1 85.5

10/2 86.6

10/3 87.7

10/4 89.4

10/5 90.3

10/6 91.3

10/7 92.3

10/8 93.1

As you can see, there is nothing in the these daily reads to back up a 100HCF monthly consumption.

A representative was sent to the premises and we were not able to find any plausible explanation as well. He graciously checked few items, irrigation was set to a 5mins cycles, I explained I had the pool checked out for leaks a year ago before I redid it, they found no leaks and then poured pebble-tech on top of that so that's highly an unlikely option. Toilets are fine, faucets are fine etc.

Back on August, there was a leak right before/on the water meter, DWA team was here to fix it. This should not have affected my bill but maybe some of that water was allocated to me a month after? I really have no other idea.

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Furthermore, I already exhausted the H2O help for 2021 and I'm unable to get any further assistance from them.

I really do not believe it makes sense to charge me an additional amount of twice the size of my pool on top of the average consumption for September.

Thank you for looking into this matter,
Ori

Thank You!

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METER/BACKFLOW REPAIR OR CHANGE REPORT

INITIATED BY GARRETT

DATE 10/11/21

METER ADDRESS 3588 E AVENIDA FEY NORTE PALM SPRINGS
ORI DEKEL

Meter Installed: 5/31/00

=====

<input checked="" type="checkbox"/> 1.FLOW TEST INACC.	<input type="checkbox"/> 11.LEAK @ METER - DWA SIDE
<input type="checkbox"/> 2.FLOW TEST UNABLE	<input type="checkbox"/> 12.LEAK @ METER - CUST SIDE
<input type="checkbox"/> 3.REGISTER	<input type="checkbox"/> 13.METER BOX
<input type="checkbox"/> 4.GLASS	<input checked="" type="checkbox"/> 14.CHANGE DUE TO AGE
<input type="checkbox"/> 5.DEFECTIVE ERT	<input type="checkbox"/> 15.PULL METER
<input type="checkbox"/> 6.BURIED	<input type="checkbox"/> 16.PULL-TEST-REINSTALL
<input type="checkbox"/> 7.CABLE CUT	<input type="checkbox"/> 17.RELOCATE EXISTING MTR TO NEW SERVICE
<input type="checkbox"/> 8.CHANGE SIZE	<input type="checkbox"/> 18.REPLACE SERVICE STOP
<input type="checkbox"/> 9.RESET	<input type="checkbox"/> 19.INDEX NUMBER CHANGE
<input type="checkbox"/> 10.PULL-TEST-REPLACE	<input type="checkbox"/> 20.CONSTRUCTION
	<input type="checkbox"/> 21.MISCELLANEOUS
	<input type="checkbox"/> 22.PULL - UNAUTHORIZED USAGE

=====

FIELD TESTED METER 94% ACCURATE

WORK COMPLETED BY J. GarciaDATE 10/12/21

TIME ARRIVED _____ TIME DEPARTED _____

=====

METER	BACKFLOW
NUMBER	BRAND/MOD

ERT ID No ERT. ERT CD _____SIZE 4DGT 5/8 Z SIZE _____ CODE _____

FILE READ	<u>1681</u>	TYPE	SER#
OLD READ	<u>1696</u>		
NEW READ	<u>Ø</u>		

=====

ACCOUNT NUMBER ROUTE/SEQ NUMBER 930 1300SERVICE NUMBER

=====

RECORD CONTROL: CHANGED BY DATEACCOUNTING
DATA PROCESSING
SERVICE RECORD
METER RECORD
REPAIR RECORD

COMPLETED
10-13-21

=====

☐ SERVICE ABANDONED - Delete Service Record From System.
REMARKSMETER REPLACED.

Kristin Bloomer, President (Division 5)
James Cioffi, Vice President (At large)
Joseph K. Stuart, Secretary-Treasurer (At large)
Patricia G. Oygar, Director (At large)
Paul Ortega, Director (Division 4)



Mark S. Krause, General Manager-Chief Engineer
Best, Best & Krieger, General Counsel
Krieger & Stewart, Consulting Engineers

October 11, 2021

Ori Dekel
3588 E Avenida Fey Norte
Palm Springs, CA 92262

RE: WATER BILL DISPUTE

3588 E Avenida Fey Norte

Dear Valued Customer:

Thank you for reaching out to us – and for your concern about the water use associated with your billing issue. Our team has thoroughly reviewed your dispute and has determined that we will not be able to grant your request.

I understand this is not the news you were hoping for. If you would like to take the matter further, please fill out this form (www.dwa.org/appeal) within 10 business days of the date on this notice and our Board of Directors will review your appeal at a public board meeting. If no appeal is submitted within ten business days, the decision above will be final. Paper forms are available for those who need them, please call 760-323-4971 or pick one up in our office. Completing the form online is the quickest way to get your issue resolved.

We will notify you when the appeal hearing date is set. You're welcome to attend the meeting and provide comments regarding your appeal. The decision of the Board of Directors will be final and binding.

If you need any help during this process, please let us know. We're happy to share any information or documentation you provide with our Board of Directors.

Sincerely,

Garrett Nelson
Field Services Supervisor

5/0

Truck #

Date

ACCT#

DATE INSTALLED

OLD METER

NEW METER

ERT#

Type:

OLD/NEW READ

1696

/0

DONE BY

CODE

FACTORY TEST:

F:

M:

S:

DATE TESTED:

93.9

M:

95.0

BY ER

DATE: 12-1-21

AWWA acceptable % Rate is 98.5/101.5

**STAFF REPORT
TO
DESERT WATER AGENCY
BOARD OF DIRECTORS**

DECEMBER 7, 2021

RE: PUBLIC HEARING - REQUEST TO ADOPT RESOLUTION NO. 1267 ADOPTING THE 2022 INDIO SUBBASIN WATER MANAGEMENT PLAN UPDATE SUSTAINABLE GROUNDWATER MANAGEMENT ACT (SGMA) ALTERNATIVE PLAN

In 2014, the California Legislature enacted a statewide framework for sustainable groundwater management, known as the Sustainable Groundwater Management Act (California Water Code section 10720 et seq.). The Sustainable Groundwater Management Act (SGMA) went into effect on January 1, 2015.

SGMA requires all medium- and high-priority groundwater basins, as designated by the California Department of Water Resources (DWR) Bulletin 118, to be managed by a Groundwater Sustainability Agency (GSA) or multiple GSAs. DWR designated the Indio Subbasin of the Coachella Valley Groundwater Basin as a medium-priority basin. In 2015, Desert Water Agency (DWA) elected to become a GSA for the Indio Subbasin (ISB) of the Coachella Valley Groundwater Basin. Other GSAs in the basin include Coachella Valley Water District (CVWD), Indio Water Authority (IWA) and Coachella Water Authority (CWA).

On December 29, 2016, the ISB GSAs together submitted to DWR the 2013 Coachella Valley Water Management Plan as a proposed Alternative to a Groundwater Sustainability Plan (Alternative Plan) for the Indio Subbasin.

On July 17, 2019, DWR determined that the Alternative Plan for the Indio Subbasin satisfied the objectives of SGMA and notified the GSAs that the Alternative Plan was approved and that they would be required to submit an update of the Alternative Plan by January 1, 2022, and every five years thereafter.

The ISB GSAs have jointly developed the Alternative Plan Update for the Indio Subbasin. Stakeholder engagement during development of the Alternative Plan Update was conducted in accordance with the Communication Plan included as Appendix 1-B. Todd Groundwater and Woodard & Curran led seven Tribal Workgroup Meetings and seven Public Workshops to solicit input from stakeholders. The Communication Plan, meeting announcements and materials were posted to the Indio Subbasin SGMA website (www.indiosubbasinsgma.org). A complete copy of the plan is available on the SGMA website at <https://www.indiosubbasinsgma.org/alternative-plan-update/>.

The Alternative Plan Update was released for comment on September 27, 2021. Comments received and responses prepared by the agencies are included in Appendix 1-E and also posted to the Mission Creek Subbasin SGMA website.

The Alternative Plan Update builds on the 2010 Coachella Valley Water Management Plan which has been effective at eliminating groundwater overdraft in the Indio Subbasin. The Alternative Plan Update provides an assessment of groundwater conditions in the Mission Creek Subbasin, documents the progress towards sustainable management, and incorporates updates to water supply assumptions and demand projections based on the latest growth projections provided by the Southern Association of California Governments (SCAG). The Alternative Plan Update also updates the planned projects and management actions for continued sustainability and incorporates specific recommendations in DWR's evaluation and approval of the Alternative Plan.

The Alternative Plan Update includes a range of planning scenarios with robust climate change assumptions to assess whether projected water demands over the 25-year planning horizon can be met while continuing to sustainably manage the Indio Subbasin.

A 10% safety factor (buffer) was included for drinking water and other potable uses. Results of analysis and groundwater modeling show that implementation of planned projects and management actions will meet projected water demands and sustainable management of the Indio Subbasin. The agencies have established sustainability criteria for groundwater storage, levels, and subsidence that will be evaluated annually.

Following adoption by the four governing bodies, CVWD will submit to DWR the approved Alternative Plan Update on behalf of the Management Committee and file a CEQA Notice of Exemption with the Riverside County Clerk.

Fiscal Impact:

None

Recommendation:

Staff recommends: 1). Open the Public Hearing for staff to present the report and to receive testimony and comments. 2). Following the Public Hearing, that the Board adopt Resolution No.1267 adopting the 2022 Indio Subbasin Water Management Plan Update Sustainable Groundwater Management Act Alternative Plan

Attachment:

1. Resolution No. 1267

RESOLUTION NO. 1267

RESOLUTION OF THE BOARD OF DIRECTORS OF DESERT WATER AGENCY ADOPTING THE 2022 INDIO SUBBASIN WATER MANAGEMENT PLAN UPDATE SUSTAINABLE GROUNDWATER MANAGEMENT ACT (SGMA) ALTERNATIVE PLAN

WHEREAS, the California Legislature enacted a statewide framework for sustainable groundwater management, known as the Sustainable Groundwater Management Act (California Water Code section 10720 et seq.), pursuant to Senate Bill 1168, Senate Bill 1319, and Assembly Bill 1739, which was approved by the Governor and Chaptered by the Secretary of State on September 16, 2014; and

WHEREAS, the Sustainable Groundwater Management Act (SGMA) went into effect on January 1, 2015; and

WHEREAS, SGMA requires all medium- and high-priority groundwater basins, as designated by the California Department of Water Resources (DWR) Bulletin 118, to be managed by a Groundwater Sustainability Agency (GSA) or multiple GSAs; and

WHEREAS, the Indio Subbasin of the Coachella Valley Groundwater Basin has been designated by DWR as a medium-priority basin (DWR Bulletin 118 No. 7-021.01); and

WHEREAS, Desert Water Agency elected on November 17, 2015 to become a GSA for the Indio Subbasin of the Coachella Valley Groundwater Basin; and

WHEREAS, a Memorandum of Understanding (MOU) dated October 5, 2016 was entered into among the following entities (Partners): the City of Coachella, acting through, and on behalf of, the Coachella Water Authority (CWA); the Coachella Valley Water District (CVWD); the Desert Water Agency (DWA); and the City of Indio, acting through, and on behalf of, the Indio Water Authority (IWA). The purpose of the MOU is to develop a common understanding among the Partners regarding the governance structures applicable to implementation of SGMA in the Indio Subbasin; and

WHEREAS, each of the Partners has become a GSA for its service area overlying the Indio Subbasin; and

WHEREAS, on December 29, 2016, the Partners collaboratively submitted an Alternative to a Groundwater Sustainability Plan (Alternative Plan) for the Indio Subbasin to DWR in accordance with Water Code section 10733.6; and

WHEREAS, on July 17, 2019, DWR determined that the Alternative Plan for the Indio Subbasin satisfies the objectives of SGMA and notified the Indio Subbasin GSAs that the Alternative Plan was approved, and that they would be required to submit an assessment and update of the Alternative Plan by January 1, 2022, and every five years thereafter; and

WHEREAS, the Indio Subbasin GSAs have jointly developed an *Indio Subbasin Water Management Plan Update: Sustainable Groundwater Management Act (SGMA) Alternative Plan*

(Alternative Plan Update) for the Indio Subbasin and on September 27, 2021, released the Alternative Plan Update for public comment; and

WHEREAS, Desert Water Agency conducted a public hearing on December 7, 2021 for the purpose of receiving public comments and considering adoption of the Alternative Plan Update for the Indio Subbasin; and

WHEREAS, Water Code section 10733.6 requires that Alternative Plan Updates be submitted to DWR for review; and

WHEREAS, this resolution and approval of the Alternative Plan Update are not subject to the California Environmental Quality Act (CEQA) pursuant to California Code of Regulations (CCR) 15262 and SGMA 10728.6 because CEQA does not apply to planning studies for possible future actions not yet approved, adopted, or funded by this Agency (CCR 15262) or to the preparation and adoption of plans pursuant to SGMA (SGMA 10728.6), and because projects to implement actions taken pursuant to the Alternative Plan will be analyzed in accordance CEQA based on the nature of the project, environmental setting and potential environmental impacts before those projects are approved.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of Desert Water Agency as follows:

1. The foregoing recitals are true and correct and made an operative part of this Resolution.
2. The Alternative Plan Update for the Indio Subbasin of the Coachella Valley Groundwater Basin is hereby approved and adopted, subject to minor, non-substantive modifications to the text agreed upon by the four Indio Subbasin GSAs prior to submittal to DWR on or before December 31, 2021. A copy of the 2022 Alternative Plan Update is attached hereto and incorporated herein by reference.
3. The Board of Directors hereby designates CVWD to provide notification of this approval and adoption to DWR, including a copy of this Resolution, the approved Alternative Plan Update, and any additional information/documentation required by law.

ADOPTED this 7th day of December 2021.

Kristin Bloomer, President

ATTEST:

Joseph K. Stuart, Secretary-Treasurer

**STAFF REPORT
TO
DESERT WATER AGENCY
BOARD OF DIRECTORS**

DECEMBER 7, 2021

**RE: PUBLIC HEARING - REQUEST TO ADOPT RESOLUTION NO.
1268 ADOPTING THE 2022 MISSION CREEK SUBBASIN
SUSTAINABLE GROUNDWATER MANAGEMENT ACT (SGMA)
ALTERNATIVE PLAN UPDATE**

In 2014, the California Legislature enacted a statewide framework for sustainable groundwater management, known as the Sustainable Groundwater Management Act (California Water Code section 10720 et seq.). The Sustainable Groundwater Management Act (SGMA) went into effect on January 1, 2015.

SGMA requires all medium- and high-priority groundwater basins, as designated by the California Department of Water Resources (DWR) Bulletin 118, to be managed by a Groundwater Sustainability Agency (GSA) or multiple GSAs. DWR designated the Mission Creek Subbasin of the Coachella Valley Groundwater Basin as a medium-priority basin. In 2015, Desert Water Agency (DWA) elected to become a GSA for the Mission Creek Subbasin of the Coachella Valley Groundwater Basin. The CVWD, DWA, and Mission Springs Water District (MSWD) comprise the Mission Creek Management Committee pursuant to the 2004 Settlement Agreement.

On December 29, 2016, CVWD, DWA and MSWD together submitted to DWR the 2013 Mission Creek/Garnet Hill Water Management Plan as a proposed Alternative to a Groundwater Sustainability Plan (Alternative Plan) for the Mission Creek Subbasin.

On July 17, 2019, DWR determined that the Alternative Plan for the Mission Creek Subbasin satisfied the objectives of SGMA and notified CVWD, DWA and MSWD that the Alternative Plan was approved and that they would be required to submit an update of the Alternative Plan by January 1, 2022, and every five years thereafter.

The CVWD, DWA and MSWD have jointly developed the Alternative Plan Update for the Mission Creek Subbasin. Stakeholder engagement during development of the Alternative Plan Update was conducted in accordance with the Communication Plan included as Appendix D. Wood Environmental and Kennedy Jenks led four Public Workshops to solicit input from stakeholders. The Communication Plan, meeting announcements and materials were posted to the Mission Creek Subbasin SGMA website (www.missioncreeksubbasinsgma.org).

The Alternative Plan Update was released for comment on October 18, 2021. Comments received and responses prepared by the agencies are included in Appendix H and also posted to the Mission Creek Subbasin SGMA website.

The Alternative Plan Update builds on the 2013 Mission Creek/Garnet Hill Water Management Plan which has been effective at eliminating groundwater overdraft in the Mission Creek Subbasin. The Alternative Plan Update provides an assessment of groundwater conditions in the Mission Creek Subbasin, documents the progress towards sustainable management, and incorporates updates to water supply assumptions and demand projections based on the latest growth projections provided by the Southern Association of California Governments (SCAG).

The Alternative Plan Update also updates the planned projects and management actions for continued sustainability and incorporates specific recommendations in DWR's evaluation and approval of the Alternative Plan. The Alternative Plan Update includes a range of planning scenarios with robust climate change assumptions to assess whether projected water demands over the 25-year planning horizon can be met while continuing to sustainably manage the Mission Creek Subbasin.

A 10% safety factor (buffer) was included for drinking water and other potable uses. Results of analysis and groundwater modeling show that implementation of planned projects and management actions will meet projected water demands and sustainable management of the Mission Creek Subbasin. The agencies have established sustainability criteria for groundwater storage, levels, and subsidence that will be evaluated annually.

Following adoption by the three governing bodies, CVWD will submit to DWR the approved Alternative Plan Update on behalf of the Management Committee and file a CEQA Notice of Exemption with the Riverside County Clerk.

Fiscal Impact:

None

Recommendation:

Staff recommends: 1). Open the Public Hearing for staff to present the report and to receive testimony and comments. 2). Following the Public Hearing, that the Board adopt Resolution No. 1268 adopting the 2022 Mission Creek Subbasin Alternative Plan Update in Compliance with the Sustainable Groundwater Management Act.

Attachment:

1. Resolution No. 1268

RESOLUTION NO. 1268

RESOLUTION OF THE BOARD OF DIRECTORS OF DESERT WATER AGENCY ADOPTING THE 2022 MISSION CREEK SUBBASIN ALTERNATIVE PLAN UPDATE IN COMPLIANCE WITH THE SUSTAINABLE GROUNDWATER MANAGEMENT ACT

WHEREAS, the California Legislature enacted a statewide framework for sustainable groundwater management, known as the Sustainable Groundwater Management Act (California Water Code section 10720 et seq.), pursuant to Senate Bill 1168, Senate Bill 1319, and Assembly Bill 1739, which was approved by the Governor and Chaptered by the Secretary of State on September 16, 2014; and

WHEREAS, the Sustainable Groundwater Management Act (SGMA) went into effect on January 1, 2015; and

WHEREAS, SGMA requires all medium- and high-priority groundwater basins, as designated by the California Department of Water Resources (DWR) Bulletin 118, to be managed pursuant to a Groundwater Sustainability Plan or an approved Alternative Plan; and

WHEREAS, DWR has designated the Mission Creek Subbasin of the Coachella Valley Groundwater Basin as a medium-priority basin (DWR Bulletin 118 No. 7-021.02); and

WHEREAS, on November 17, 2015 Desert Water Agency elected to become a GSA for the Mission Creek Subbasin of the Coachella Valley Groundwater Basin as provided in SGMA and DWR has accepted the Agency as a GSA within the Mission Creek Subbasin; and

WHEREAS, the Coachella Valley Water District, Desert Water Agency, and Mission Springs Water District (Parties) comprise the Management Committee pursuant to the 2004 Settlement Agreement; and

WHEREAS, on December 29, 2016, Desert Water Agency, Coachella Valley Water District and Mission Springs Water District together submitted to DWR a proposed Alternative to a Groundwater Sustainability Plan (Alternative Plan) for the Mission Creek Subbasin in accordance with Water Code section 10733.6; and

WHEREAS, on July 17, 2019, DWR determined that the Mission Creek Subbasin Alternative Plan satisfies the objectives of SGMA and notified the Parties that the Alternative Plan was approved, and that it would be necessary to submit an assessment and update of the Alternative Plan by January 1, 2022, and every five years thereafter; and

WHEREAS, the Parties have jointly developed the Mission Creek Subbasin Alternative Plan Update, and released a draft for public comment on October 18, 2021; and

WHEREAS, the Board of Directors of Desert Water Agency conducted a public hearing on December 7, 2021 for the purpose of receiving public comments and considering adoption of the Mission Creek Subbasin Alternative Plan Update; and

WHEREAS, Water Code section 10733.6 requires the Alternative Plan Update to be submitted to DWR for review; and

WHEREAS, this resolution and approval of the Alternative Plan Update are not subject to the California Environmental Quality Act (CEQA) pursuant to California Code of Regulations (CCR) 15262 and SGMA 10728.6 because CEQA does not apply to planning studies for possible future actions not yet approved, adopted, or funded by this Agency (CCR 15262) or to the preparation and adoption of plans pursuant to SGMA (SGMA 10728.6), and because projects to implement actions taken pursuant to the Alternative Plan will be analyzed in accordance CEQA based on the nature of the project, environmental setting and potential environmental impacts before those projects are approved.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of Desert Water Agency as follows:

1. The foregoing recitals are true and correct and made an operative part of this Resolution.

2. The 2022 Mission Creek Subbasin Alternative Plan Update is hereby approved and adopted, subject to such minor, non-substantive modifications to the text as the Parties may find necessary or appropriate prior to submittal to DWR on or before December 31, 2021. A copy of the 2022 Alternative Plan Update is attached hereto and incorporated herein by reference.

3. This Board of Directors hereby designates Coachella Valley Water District as the Party authorized to provide notification of this approval and adoption to DWR, including a copy of this Resolution, the approved Alternative Plan Update, and any additional information/documentation required by law.

ADOPTED this 7th day of December 2021.

Kristin Bloomer, President

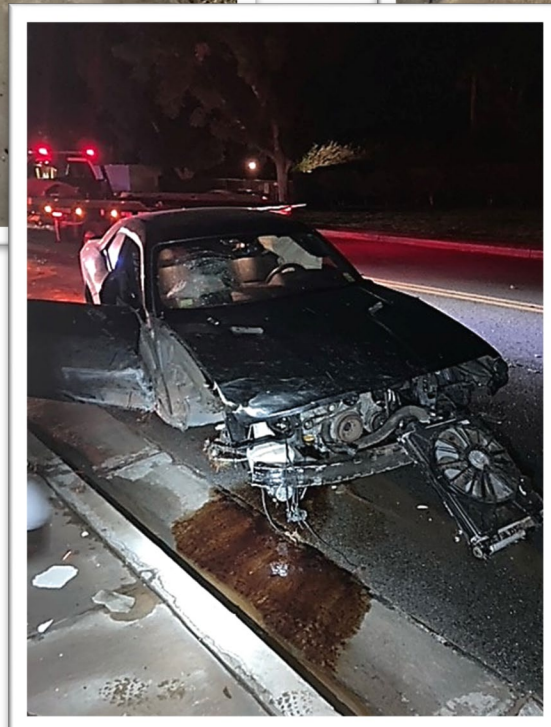
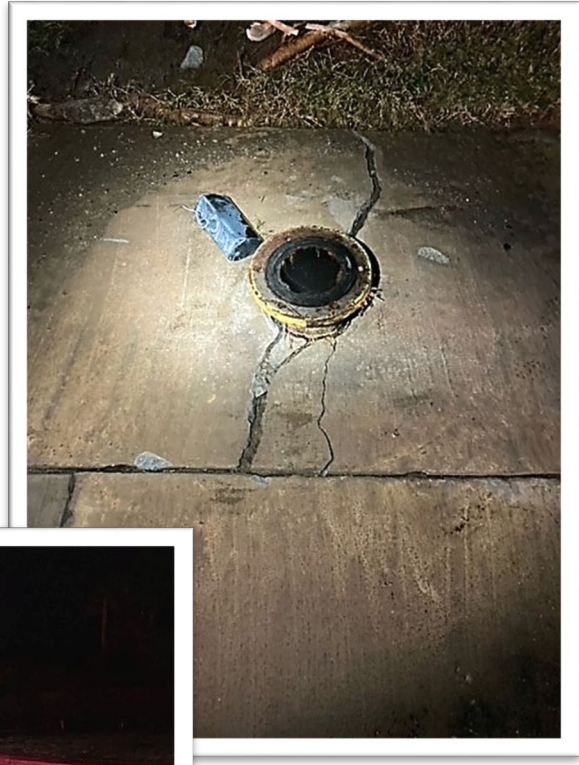
ATTEST:

Joseph K. Stuart, Secretary-Treasurer

GENERAL MANAGER'S REPORT DECEMBER 7, 2021

Damaged Hydrant (2715 Sonora Rd.)

On November 11 at approximately 10:15 p.m., Construction staff responded to a hit fire hydrant at 2715 Sonora Rd. on the south side of E. Sonora Rd. just east of San Joaquin Dr. The water flowed for approximately 20 minutes from a fully open 6-inch fire hydrant bury. Staff re-installed the fire hydrant and put it back into service. A police report was filed.



2022 State Water Project Initial Allocation

On 12/1/2021, the Department of Water Resources (DWR) issued its initial allocation notification. Due to persistent dry conditions over the last several years coupled with the elevated risk of continuing drought conditions, DWR will be allocating the initial 2022 State Water Project (SWP) available supplies on a basis that ensures the SWP long-term water supply contractors can meet their outstanding minimum human health and safety demands for water. These health and safety needs are determined to be not more than 55 gallons per capita per day, consistent with the recent State Water Resources Board emergency curtailment regulations. This initial allocation is consistent with the long-term water supply contracts and public policy. DWR may revise this allocation if there are significant changes to hydrologic and water supply conditions.

State Water Board Considering Emergency Drought Regulations

On November 30, the State Water Resources Control Board (State Water Board) announced that they are considering emergency regulations due to the drought.

Many of the proposed emergency regulations are in line with our existing Water Shortage Contingency Plan Stage 1, which we are currently in. Several extend beyond that including prohibitions on using potable water for:

- Watering publicly owned or maintained medians and parkways
- Construction or street sweeping unless no other alternative is available

The State Water Board has information on rulemaking [posted online](#).

DWA has coordinated on this matter with the City of Palm Springs and City of Cathedral City as well as our regional partners. Comment letters are due December 23 and staff will likely submit comments for the Agency or as a party to a regional or joint effort.

Delivery of Water to the Whitewater River Recharge Facilities

Metropolitan began delivery of 10,500 acre-feet on November 29th. The delivery began at 50 cubic feet per second (cfs) and has been increasing at 50 cfs increments daily. It is anticipated that the flowrate will increase to its maximum of 500 cfs next week. We hope to be able to take some of the delivery through the Whitewater Hydroelectric Plant. The delivery of water is helping Metropolitan manage their water level at Lake Mathews. Recently water demands have dropped off and provided an opportunity to receive these deliveries. This water will most likely be allocated to meet Metropolitan's obligations to deliver CVWDs quantification settlement water.

We also received notice from Metropolitan that the Colorado River Aqueduct will be taken out of service on February 1st, 2022, for 27 days to perform annual maintenance.

SYSTEM LEAK DATA					
(PERIOD BEGINNING NOV 9, 2021 THRU NOV 29, 2021)					
STREET NAME	NUMBER OF LEAKS	PIPE DIAMETER (INCHES)	YEAR INSTALLED	PIPE MATERIAL	PIPE CONSTRUCTION
AVENIDA CABALLEROS	6	14	1953	STEEL	BARE/UNLINED
ANDREAS RD	5	6	1958	STEEL	BARE/UNLINED
PATENCIO RD	5	4	1954	STEEL	BARE/UNLINED
SUNNY DUNES RD	2	6	1946	STEEL	BARE/UNLINED
COMPADRE RD	2	6	1958	STEEL	BARE/UNLINED
VIA ALTAMIRA	2	4	1954	STEEL	BARE/UNLINED
ALEJO RD	1	12	1960	STEEL	CML
INDIAN CANYON DR	1	8	1938	STEEL	BARE/UNLINED
VIA MONTE VISTA	1	8	1953	STEEL	BARE/UNLINED
LOUELLA RD	1	6	1955	STEEL	BARE/UNLINED
E PALM CANYON DR	1	6	1955	STEEL	BARE/UNLINED
BISKRA RD	1	6	1957	STEEL	BARE/UNLINED
LOUISE DR	1	6	1959	STEEL	BARE/UNLINED
PASEO GRACIA	1	4	1946	STEEL	BARE/UNLINED
S RIVERSIDE DR	1	4	1948	STEEL	BARE/UNLINED
TERRY LN	1	4	1956	STEEL	BARE/UNLINED
VISTA ORO	1	4	1958	STEEL	BARE/UNLINED
TOTAL LEAKS IN SYSTEM:		33			

Streets highlighted in green are included as part of the

2020/2021 Replacement Pipeline Project

Streets highlighted in blue are being proposed as part of the

2021/2022 Replacement Pipeline Project

Vista Chino 20" mainline replacement design is being developed

F.Y. 2021/2022 budget for design

SYSTEM INFORMATION:	
OLDEST PIPE IN THE SYSTEM (YEAR OF INSTALLATION):	1935
AVERAGE YEAR OF INSTALLATION OF UNLINED STEEL PIPE (SYSTEMWIDE):	1952
AVERAGE AGE OF UNLINED STEEL PIPE (SYSTEMWIDE):	66 YEARS
AVERAGE AGE OF PIPELINE AT THE TIME OF REPLACEMENT:	68 YEARS
TOTAL LENGTH OF PIPE IN SYSTEM OLDER THAN 70 YEARS (LINEAR FEET):	128,186
TOTAL LENGTH OF UNLINED PIPE SYSTEMWIDE (LINEAR FEET):	297,672
*AVERAGE LENGTH OF PIPE REPLACED ANNUALLY (LINEAR FEET):	14,500
PROJECTED TIME FRAME FOR 100% REPLACEMENT OF UNLINED STEEL PIPE:	21 YEARS
PROJECTED TIME FRAME FOR 100% REPLACEMENT OF PIPE OLDER THAN 70 YEARS:	9 YEARS
YEAR AGENCY TRANSITIONED TO CEMENT LINED STEEL PIPE:	1960
<p>*PLEASE NOTE THIS FIGURE REPRESENTS THE AVERAGE LINEAR FOOTAGE OF PIPELINE REPLACED ANNUALLY GIVEN AN AVERAGE ANNUAL BUDGET OF \$3 MILLION.</p>	

SYSTEM LEAKS
(Period beginning Nov. 9, 2021
thru Nov. 29, 2021)

2021/2022 REPLACEMENT PIPELINES - VIA ALTAMIRA

2021/2022 REPLACEMENT PIPELINES - TERRY LN

2020/2021 REPLACEMENT PIPELINES - AVENIDA CABALLEROS

2021/2022 REPLACEMENT PIPELINES - COMPADRE RD

2021/2022 REPLACEMENT PIPELINES - SUNNY DUNES RD

General Manager's Meetings and Activities

Meetings:

11/16/21	DWA Bi-Monthly Board Mtg	Conf Call
11/16/21	SGMA Indio Subbasin – Final Edits to Plan	Conf Call
11/16/21	SGMA Mission Creek – Final Edits to Plan.	Conf Call
11/16/21	WWRF BLM Right of Way Grant – Cooperators Mtg	Conf Call
11/17/21	DWA Active Killer Prevention Training	Conf Call
11/17/21	SWP – DCP Coordination Mtg. and Update	Conf Call
11/17/21	SWC Monthly Mtgs.	Conf Call
11/18/21	SWC Mthly Board Mtg.	Conf Call
11/18/21	SWC Mthly DC Finance Authority Mtg.	Conf Call
11/18/21	DWA Area of Benefit Water Supply Analysis	Conf Call
11/19/21	DWA Redistricting Mtg with Consultant	Conf Call
11/19/21	Sites Reservoir Mthly Reservoir Cmte Mtg	Conf Call
11/19/21	SGMA Mission Creek Mtg.	Conf Call
11/22/21	DWA Wkly Staff Mtgs	Conf Call
11/22/21	Mtg with Camino Monte Developers	Conf Call
11/23/21	Future Tax Rate Discussion with Finance Director	Conf Call
11/24/21	Discussion With BB&K Regarding Tribal Mediation	Conf Call
11/25/21	Discussion With BB&K on Tribal Mediation Memo	Conf Call
11/26/21	Discussion With BB&K on Tribal Mediation Proposal	Conf Call
11/27/21	Coordination of DWA Special Board Meeting	Conf Call
11/28/21	DWA Special Board Mtg.	Conf Call
11/29/21	Discussion with BB&K/CVWD Tribal Mediation Proposal	Conf Call
11/30/21	DWA Mthly IT Department Update	Conf Call
11/30/21	DWA HR Benefits Meeting	Conf Call
12/01/21	DWA Salary Survey Review	Conf Call
12/01/21	DWA Whitewater River Diversion Point of Discharge	Field
12/02/21	DWA Executive Cmte Mtg	Conf Call
12/03/21	SWC Update Call	Conf Call
12/03/21	SWC East Branch Enlargement Cost Reallocation	Conf Call
12/06/21	All Day Tribal Mediation Mtg.	ACBCI
12/06/21	DWA Ad Hoc Cmte Mtg on Redistricting	Conf Call
12/07/21	Tribal Mediation Plenary Mtg	ACBCI
12/07/21	DWA Bi-Monthly Board Meeting	Conf Call

Activities:

- 1) Palm Springs Aerial Tramway Water Supply 2021
- 2) SWP Contract Extension Amendment
- 3) DWA Remote Meter Reading Fixed Network
- 4) Whitewater Hydro – Automatic Re-start
- 5) State and Federal Contractors Water Authority and Delta Specific Project Committee (Standing)

Activities Cont.:

- 6) Whitewater River Surface Water Recharge
- 7) Lake Oroville Spillway FEMA funding
- 8) Replacement Pipelines 2020-2021
- 9) DC Project – Finance JPA Committee (Standing)
- 10) DWA/CVWD/MWD Operations Coordination/Article 21/Pool A/Pool B/Yuba Water (Standing)
- 11) DWA/CVWD/MWD Exchange Agreement Coordination Committee (Standing)
- 12) SWP 2020 Water Supply
- 13) ACBCI Water Rights Lawsuit
- 14) Whitewater Hydro Operations Coordination with Recharge Basin O&M
- 15) SGMA Tribal Stakeholder Meetings
- 16) Whitewater Spreading Basins – BLM Permits
- 17) Delta Conveyance Project Cost Allocation
- 18) DWA Surface Water Filtration Feasibility Snow Creek Village/Palm Oasis
- 19) MCSB Delivery Updates
- 20) Well 6 Meaders Cleaners RWQB Meetings
- 21) SWP East Branch Enlargement Cost Allocation
- 22) UWMP Population Calculation Update/Valley-Wide UWMP
- 23) RWQCB Update to the SNMP
- 24) SGMA – San Geronio Pass Subbasin

MEMORANDUM

NOVEMBER 29, 2021

TO: Mark Krause, General Manager and Chief Engineer
Desert Water Agency

FROM: Bob Reeb and Raquel Ayala Vargas
Reeb Government Relations, LLC

SUBJECT: 2021 Annual Report

This is the 17th year that Reeb Government Relations has had the honor and privilege to work with Desert Water Agency (DWA or Agency) to advance the interests of the Agency, its taxpayers and customers in state-level legislative and regulatory affairs in Sacramento.

The COVID-19 pandemic continued to restrict the normal course of business in the State Capital. Despite the development and disbursement of COVID vaccinations and easing of restrictions this past June that allowed the state to begin to return to some semblance of pre-pandemic normalcy, access to the capitol building remained severely restricted with legislative staff working remotely. Legislative committee hearings were held live online, and our firm was able to provide testimony to policy and fiscal committees by telephone. Our firm utilized video teleconferencing software to meet with legislators and others to influence the outcome of legislation and administrative guidelines and regulations.

State Budget

Governor Gavin Newsom presented his proposed budget to the Legislature on January 8, 2021. The impact to state revenues was not well known as California entered the second year of the COVID-19 pandemic, but the overall disruption the state's economy and working families was the primary focus of the Governor's proposed Budget. The proposed budget included \$34 billion in total reserves. Additionally, the Governor proposed \$14 billion investment into the economy through four priorities for immediate action: (1) the Golden State Stimulus Checks; (2) supporting small businesses; (3) extending eviction protections; and (4) supporting California schools.

Five months after the Governor released his proposed budget, California had the lowest COVID-19 positivity rate and was on track to fully open by mid-June. Governor Newsom presented his revised state budget proposal to the Legislature on May 14. In stark contrast to the revised FY 2020-21 state budget from where the state projected a \$54 billion budget deficit, the FY2021-22 state budget had a projected \$75.7 billion surplus. Combined with over \$25 billion in federal relief, the Governor proposed the California Comeback Plan, both to accelerate the state's pandemic recovery and address chronic underinvestment in homeless response, health care, education and financial assistance for low-income Californians.

The Legislature passed a final budget on June 28, 2021, which maximized flexible federal funds to support and improve core programs. Our firm advocated for inclusion of water supply,

Sustainable Groundwater Management Act implementation, conveyance subsidence damage repair, agricultural water management, and land repurposing funding in the state budget. We also participated in a budget work group formed by the Association of California Water Agencies. The budget bill appropriated \$3.475 billion for water and drought resilience and 1.225 billion for a climate resilience package, the latter with the intent to appropriate an additional \$1.225 million annually in FY2022-23 and FY 2023-24. DWR received \$500 million for small community drought assistance, urban water management and multibenefit water project grants; \$300 million for SGMA implementation [\$180 million FY2021-22, \$60 million FY2022-23, and \$60 million FY2023-24]; \$200 million for conveyance subsidence repair [\$100 million FY2021-22 and \$100 million FY2022-2]. DWR also received a \$20 million appropriation to for a California Aqueduct solar panel pilot study.

Drought Grips the Western United States

After a dry 2020, the state's drought situation became increasingly more apparent with each passing month in early 2021. The Department of Water Resources (DWR) announced in February that statewide snowpack measurements reflected dry conditions even after recent storms. The following month, DWR reported similar conditions, with below average precipitation across the state and depleting reservoirs.

California is experiencing its worst drought since the late 1800s, as measured by both lack of precipitation and elevated temperatures. August 2021 was the driest and hottest August on record since reporting began and the water year that ended last month was the second driest on record. With near record low storage in California's largest reservoirs, on March 23, 2021, DWR announced an adjustment to its initial State Water Project 10% allocation for the 2021 water year to 5%. On April 21, 2021, Governor Newsom declared a drought emergency in Sonoma and Mendocino counties; he expanded this declaration to include 41 counties on May 10, 2021, including Solano County.

The Governor issued an executive order in July calling on Californians to voluntarily reduce water use by 15 percent compared to 2020 to protect water reserves and complement local conservation mandates. On October 19, Governor Gavin Newsom issued a proclamation extending the drought emergency statewide and further urging Californians to step up their water conservation efforts as the western U.S. faces a potential third dry year. To bolster water conservation, the proclamation authorizes the State Water Resources Control Board to ban wasteful water practices, including the use of potable water for washing sidewalks and driveways, and the use of potable water for street cleaning or construction purposes, unless no other source of water or other method can be used or if necessary, to protect the health and safety of the public.

The October proclamation adds the eight counties not previously included in the drought state of emergency: Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Francisco, and Ventura. In addition, the proclamation requires local water suppliers are directed to execute their urban Water Shortage Contingency Plans and agricultural Drought Plans at a level appropriate to local conditions that takes into account the possibility of a third consecutive dry year. Suppliers shall ensure that Urban and Agricultural Water Management Plans are up to date and in place. Statewide per capita residential water use declined 21 percent during the last drought between 2013 and 2016 and as of 2020, the urban sector was using about 16 percent less on average statewide than in 2013.

Our firm participated in an ACWA working group that initially was organized to influence the writing of a climate resilience state general obligation bond, but later shifted to making

recommendations to the Legislature and Newsom Administration regarding state budget appropriations for drought relief and climate resilience programs. In the end, the State Water Board received \$1.3 billion for the Clean Water and Drinking Water state revolving funds and a 3-year commitment of \$400 million for groundwater cleanup and water recycling; DWR received \$500 million for small community drought assistance, urban water management and multibenefit water project grants. CalFire and various other state entities, including conservancies, received \$1.524 billion in FY 2021-22 for wildfire and forest resilience.

District Activity on the Legislative Front

This year, President pro Tempore Toni Atkins and Assembly Speaker Anthony Rendon limited legislators to 12 bills at the mid-point of the session. A significant drop from the usual 50 bill limit for Assembly Members and 40 bill limit for Senators over a 2-year legislative session. The Legislature sent 836 bills to Governor Newsom for consideration, twice as many as last year but still fewer than has typically come across the governor's desk. Of the 836 bills Governor Newsom considered this year, 313 were Senate bills and 523 were Assembly bills. In total, he signed 770 into law and vetoed 66 bills. This is a veto rate of 7.89% for his third year in office. The number of vetoes for 2021 is the ninth lowest since 1967. The three years with the lowest number of vetoed bills were under Governor Jerry Brown (1982, 1981, 1978).

The Agency began the year actively monitoring and engaging in direct lobbying on over 20 bills. Below, we highlight a handful of bills that the Agency was active on this year.

Water Rate Assistance Programs

On March 2020, Governor Newsom proclaimed a state of emergency in California because of the threat of COVID-19 pandemic. Along with the proclamation came a string of actions that sought to reduce the spread, and to mitigate the impacts, of COVID-19. Executive Order N-42-20, issued the following month, placed a moratorium on water service shutoff due to non-payment to assist residents experiencing substantial income loss due to these measures.

In June of this year, Governor Newsom issued Executive Order N-08-21 which established a timeline to lift the COVID-19 pandemic Executive Orders. The order set an expiration date of September 30, 2021, for the water shutoff moratorium in placed since last year. This date has since been once again extended, by AB 155, to December 31, 2021.

The effects of the water service shutoff moratorium on public water systems became more apparent as the pandemic stretched on. Throughout November 2020, the State Water Resources Control Board (SWRCB or Board) collected data on water system financial impacts and household water bill debt accumulation during the COVID-19 pandemic. The survey responses were meant to assist the Board in formulating statewide estimates for water systems that may be facing fiscal crisis and the number of households with water bill debt, including the level and geographic distribution of debt; as well as to inform policymakers of options for financial assistance and emergency response for water systems and households experiencing economic hardship. Two separate surveys were released, one for community water systems (CWS) serving up to 10,000 connections and another for CWS serving more than 10,000 connections. A total of 500 smaller (<10,000 connections) CWS were contacted to take the survey developed to gather data on water system financial impacts. And a total of 150 larger (>10,000 connections) CWS were contacted to take the survey developed to gather data on the number of households with water bill debt.

Survey results released in January 2021 by the Board found that “public water systems throughout the state were facing heightened financial challenges during the COVID-19 pandemic as about 1.6 million residential water customers, or 12% of all households, have been unable to pay their bills”. The Board estimated that the statewide household water debt across the state as of January 1, 2021, stood at \$1 billion.

On the legislative front, Senator Bill Dodd (D-Napa) introduced Senate Bill 222 and Senate Bill 223 to confront the growing challenge of water affordability for low-income households on two fronts: (1) establish a Low-Income Rate Assistance Program, and (2) expand the water shutoff prohibitions. The Agency opposed both bills due to a number of concerning provisions.

SB 223 would have expanded provisions related to prohibiting discontinuation of residential water service due to nonpayment. The Agency maintained an “oppose” position against SB 223 due to the bill’s requirement for water agencies to include an arrearage management plan. This arrearage management plan would have been required to extend for a maximum of 12 months and include forgiveness of at least one-twelfth of the delinquent balance with each consecutive on-time payment of the monthly charge for water service only. Forgiveness of the full delinquent balance under this plan would have taken place at the final consecutive on-time payment under the plan. By mandating debt forgiveness, SB 223 would have placed the Legislature in the middle of local water management funding decisions. Though most delinquencies throughout the COVID-19 pandemic were likely linked to job loss or a reduction in hours, the Agency—along with other water systems—also pointed to anecdotal evidence that many customers were not paying their bills due to the moratorium imposed by Governor Newsom; SB 223 could have led to a similar experience with such discontinuation of service requirements that, in essence, could have made a water system a lender of last resort. SB 223 became a 2-Year Bill after being held in the Senate Appropriations Committee in May. SB 223 may be acted upon in January 2022.

SB 222 would establish the Water Rate Assistance Fund in the State Treasury to help provide water affordability assistance, for both drinking water and wastewater services, to low-income ratepayers and ratepayers experiencing economic hardship in California. The bill would require the Department of Community Services and Development to develop and administer the Water Rate Assistance Program established by the bill. The bill would make moneys in the fund available upon appropriation by the Legislature to the department to provide, in consultation with the State Water Board, direct water bill assistance, water bill credits, and water crisis assistance, and would require 80% of total funds to be directly applied to customer assistance. SB 222 would also authorize the department to identify and contract with a third-party fund administrator, and require the department, in consultation with the State Water Board, to develop guidelines and fund oversight procedures for program implementation by January 1, 2023, consult with an advisory group, and adopt an annual fund expenditure plan. According to Senator Dodd, the pandemic dramatically increased attention to the lack of a statewide water affordability program in California and revealed the urgent need to address it. He contended that “access to affordable water is a racial justice and equity issue, and we must ensure equitable access for all Californians to realize the Human Right to Water.” The State Water Board estimated then statewide annual cost of a water low-income rate assistance program to be \$600 million.

The Agency took an “oppose unless amended” position on SB 222 due to a number of significant concerns. Our firm participated in an ACWA working group that developed proposed amendments to improve the legislation, such as: (1) using an existing benefit distribution system instead of developing costly new programs; (2) specifying a progressive funding source; (3) creating a formulaic low-income water rate assistance (LIRA) program eligibility

criterion and includes reasonable public process opportunities relative to the development of program documents; (4) no new mandates for public water system data collection regarding local rates/rate structures; and (5) specifying cost limits on both State administration and State implementation.

While SB 222 was later amended to address some of ACWA's suggestions, the Agency maintained an "oppose unless amended" position on the bill due to some outstanding concerns. For example, the bill proposed to limit the use of program fund dollars for "administrative purposes" to 10 percent of the annual deposits into the fund. Should SB 222 require each public water system to implement the program, the cost of the program could increase to \$1 billion per year. SB 222 does not propose to pay for the ongoing cost of program administration. The Agency also disagreed with ACWA's suggestion that an existing benefit distribution mechanism, like CalFresh EBT cards, be utilized for the Program, as it obfuscates the nexus to payment of a water service bill; in fact, there is no guarantee that the funds would be utilized for payment of a water bill.

SB 222 was held on the Assembly Floor by Senator Dodd in the final week of the legislative session at the request of the Newsom Administration. Our firm was able to secure a number of key amendments to the bill immediately prior to that action through the Assembly Appropriations Committee. The amendments deleted language relating to the forgiveness of delinquency by the public water system. The amended bill would now authorize the Department of Community Services and Development, the administering agency, to reimburse public water and sewer systems for reasonable costs associated with the administration of the Water-LIRA program. A minimum of 80 percent of program funding shall be for direct assistance to low-income ratepayers. Additionally, the bill would allow the public water or sewer system to receive funds from the Department and apply a corresponding credit to a customer account for funds received. Finally, the amendments defined "water crisis assistance" to mean emergency assistance on behalf of eligible individuals or households who provide evidence that they meet one or more of the following conditions: receipt of a utility shutoff notice, insufficient funds to pay a delinquent utility bill, or other conditions that might be included in the state's annual fund expenditure plan. SB 222 remains silent on the funding source for the program (which means funding will be determined each year by the Legislature).

Water or Sewer Service: Legal Actions

Senate Bill 323 by Senator Anna Caballero (D-Salinas) would establish a 120-day statute of limitations for any lawsuit that challenges an ordinance, resolution, or motion adopting a fee or charge for water or sewer service, starting from the effective date of, or date of final action on, the fee or charge. If a validation action is not brought within 120 days, parties would be barred from challenging the validity of the fee or charge. The bill would require local agencies to include a statement that water and sewer rates have a 120-day statute of limitations in any written notice of a new, increased, or extended fee or charge. The Association of California Water Agencies (ACWA) sponsored this legislation.

Existing law establishes a 120-day statute of limitations for challenging an ordinance, resolution, or motion that sets rates for electric service, establishing water or sewer connection fees and capacity charges, or setting the cost of zoning or building permits. In doing so, existing law defined a reasonable period beyond which agencies would not face exposures to lawsuits challenging the validity of various local taxes, assessments, fees, and charges, thus recognizing the need to minimize fiscal uncertainty for public agencies providing essential services. Such legal protections were inconsistent as a statute of limitations was afforded to fees and charges that funded some essential services, like electricity, but not others.

Water and sewer utility budgets are funded by service rate revenues, which in turn provide the funding necessary to supply safe drinking water, upgrade and improve aging infrastructure, and continue effective operations. Existing law, however, did not protect public water and sewer agencies against lawsuits that sought refunds or sought to invalidate existing rate structures years after rates had been adopted and collected. According to the bill's Senate Floor Analysis, "water rates have been fertile ground for lawsuits since voters approved Proposition 218 in 1996. In February 2020, a class action lawsuit was filed against 81 water agencies throughout the state alleging that their practice of charging ratepayers for the costs associated with supplying water for fire protection violates Proposition 218... Some ordinances under the class action lawsuit date back to 2016, meaning that the plaintiffs didn't initiate litigation until four years after the rates were adopted in some cases." These delayed lawsuits often threatened an agency's financial stability and make financial planning unpredictable.

The Agency maintained a "support" position on SB 323 throughout the year as the bill would add consistency to the law by providing public agency water and sewer service rates the same protections previously only afforded to fees and charges that fund other essential services. The bill would also balance the interests of ratepayers with those of public water and sewer agencies since it allowed customers to bring challenges within a reasonable—but limited—amount of time.

Governor Newsom signed SB 323 into law on September 22. (Chapter 216, Statutes of 2021)

Water Theft: Enhanced Penalties

Existing law authorized the legislative body of a city or a county, respectively, to make, by ordinance, any violation of an ordinance subject to an administrative fine or penalty and limits the maximum fine or penalty amounts for infractions, to \$100 for the first violation, \$200 for a second violation of the same ordinance within one year of the first violation, and \$500 for each additional violation of the same ordinance within one year of the first violation.

According to ACWA, "water theft can take many forms. Customers have been documented tampering with water meters to avoid paying for water or using makeshift plumbing to circumvent their water meter altogether. Water users who regularly fill large water tankers (e.g., for construction or dust mitigation) often fill their trucks from fire hydrants. Local agencies typically require a permit to fill trucks or other large vessels. However, the penalty for doing so without a valid permit is often so low that it is cheaper for the consumer to knowingly break the law and pay a small fine than it is to follow the law."

Additionally, water theft can pose major health and safety and economic risks to communities and their water systems. During water theft, cross-contamination can occur when non-potable sources are illegally connected to a drinking water system. One illegal connection can contaminate a water source and make it unsafe for people to use. ACWA notes that water theft also makes it more difficult for water agencies to accurately account for the water being used by their rate payers; revenues lost from water theft can be passed on to paying customers, negatively impacting water affordability. The American Water Works Association (AWWA) suggests that water suppliers assume that about .25% of supplied water is withdrawn illegally, which could account for hundreds of thousands of dollars—if not millions—in lost revenues.

Senate Bill 427 by Senator Susan Eggman (D-Stockton), sponsored by the Elk Grove Water District, sought to resolve such issues by significantly raising the fines for violations of water ordinances. Specifically, the bill would authorize the legislative body of a "local agency" to

make, by ordinance, any violation of an ordinance enacted by the local agency regarding water theft subject to an administrative fine or penalty. The bill limits the maximum fine or penalty amounts for infraction to \$1,000 for a first violation, \$2,000 for a second violation of the same ordinance within one year, and \$3,000 for each additional violation of the same ordinance within one year. The bill would require that the local agency establish a process for granting a hardship waiver to reduce the amount of the fine imposed for water theft upon a showing by the responsible party that payment of the full amount of the fine would impose an undue financial burden on the responsible party.

According to Senator Eggman, by requiring agencies to allow for hardship waivers and to establish an administrative review process should they wish to enact the enhanced penalties, the bill protects the safety of water systems without allowing for excessively punitive fines relative to the ability to pay. Thus, the law remains balanced, as the new authority granted to agencies is coupled with new guardrails.

The Agency held a “support” position on SB 427. The Governor signed SB 427 into law on July 23. (Chapter 137, Statutes of 2021)

Water Conveyance Systems: Water Conveyance Restoration Fund

Under Current law, the United States Bureau of Reclamation operates the federal Central Valley Project (CVP), and the Department of Water Resources (DWR) operates the State Water Project (SWP) to supply water to persons and entities in the state. Current law requires the Friant-Kern Canal to be of such capacity as the department determines necessary to furnish an adequate supply of water for beneficial purposes in the area to be served by the canal.

Senate Bill 559 by Senator Melissa Hurtado (D-Sanger) would establish the Water Conveyance Restoration Fund in the State Treasury to be administered by DWR, and require all moneys deposited in the fund to be expended, upon appropriation by the Legislature, in support of subsidence repair costs, including environmental planning, permitting, design, and construction and necessary road and bridge upgrades required to accommodate capacity improvements. The Director of Water Resources would apportion money appropriated from the fund among several projects, including The Friant-Kern Canal, Delta-Mendota Canal, San Luis Field Division of the California Aqueduct, and the San Joaquin Division of the California Aqueduct. The bill would make these provisions inoperative on July 1, 2030, and would repeal the provisions as of January 1, 2031.

The bill takes a holistic, statewide approach to repair and restore SWP and CVP infrastructure. Although SGMA is intended to bring groundwater use into balance, including reducing land subsidence, groundwater sustainability agencies have only recently began implementing their plans. It is estimated that such plans can take anywhere between 20 – 30 years before they can achieve sustainability. Additionally, many of these plans anticipate further declines in groundwater levels over the next decade. The bill would authorize the state to cost-share in projects to address subsidence damage to four conveyance facilities in the San Joaquin Valley—California Aqueduct, Delta Mendota Canal, Friant-Kern Canal, and the joint use facilities at San Luis Reservoir.

According to Senator Hurtado, decades of subsidence damage has led these facilities to experience a 15 – 60% reduction of design flow capacity and at least \$15 – 30 million per year in higher operational and power cost. This damage has also reduced California’s resilience to the impacts of climate change, and threatens the water supply for millions of Californians, including those living in disadvantaged communities. If enacted, SB 559 would help maintain clean and

affordable water for at least 31 million people; preserve the state's \$3 trillion economy; protect thousands of existing jobs and create hundreds of jobs; support ongoing critical habitat and ecosystem restoration efforts; ensure irrigation of over 3 million acres of farmland; and strengthen the resiliency of the state's water infrastructure against the impacts of climate change.

The Agency adopted a "support" position on SB 559. Unfortunately, several amendments adopted by the Assembly Appropriations Committee were viewed as untenable by Senator Hurtado and supporters of SB 559. Senator Hurtado had the bill placed on the Assembly Inactive File rather than move the bill off the Assembly Floor. The bill may be acted upon in January 2022, although it is unclear at this time whether the Senate and Assembly Democratic leadership will agree on further amendments that will reverse the actions of the Assembly Appropriations Committee.

Department of Water Resources: Procurement Methods

Existing law requires under the State Contract Act, public entities must fully complete the design of a project prior to awarding a construction contract and must award that contract to the "lowest responsible bidder." This process, commonly known as design-bid-build, is intended to ensure that the project is built for the lowest possible cost.

Senate Bill 626 by Senator Bill Dodd (D-Napa) would authorize the Department of Water Resources (DWR) to use the design-build and Construction Manager/General Contractor (CM/GC) procurement processes for contracts until January 1, 2033, for the construction of seven projects of the State Water Project (SWP). The bill would require the DWR to: (1) use department employees or consultants under contract with the department to perform all project design and engineering services related to design and construction inspection services; (2) verify, under oath, information provided to the DWR in response to request for qualifications; (3) prepare and submit to the Legislature an interim report that describes each CM/GC and design-build project approved under the bill's provisions no later than July 1, 2025, and a final report by July 1, 2028. The bill would prohibit the use of CM/GC and design-build methods to perform construction inspection services for the SWP projects and would prohibit the use of CM/GC method for the design or construction of through-Delta conveyance facilities of the Sacramento-San Joaquin Delta.

The CM/GC project delivery method allows an agency to engage a construction manager during the design process to aid the design team. When the design is complete, the agency and the construction manager negotiate a guaranteed maximum price for the construction of the project; if the price is acceptable to both parties, they execute a contract for construction services and the construction manager becomes the general contractor. Under the design-build method, a single contract covers the design and construction of a project with a single company or consortium that acts as both the project designer and builder. The design-build entity then arranges all architectural, engineering and construction services, and is responsible for delivering the project at a guaranteed price and schedule based upon performance criteria set by the public agency. Both the CM/GC method and design-build method can lead to less costly and more expedient project deliveries. Existing law authorizes the Department of Water Resources to use the design-build method only for projects at the Salton Sea; SB 626 would remove this limitation.

The bill would provide necessary aid with the construction and maintenance of the State Water Project's infrastructure, a water delivery system serving more than 27 million people and 750,000 acres of farmland through 700 miles of aqueducts, canals, and pipelines. Planned,

constructed, and operated by DWR, the SWP is the largest state-built, multi-purpose water project in the country, providing flood control, power generation, recreation, fish and wildlife protection, and water quality improvements in the Sacramento-San Joaquin Delta. With an aging infrastructure, however, the SWP faces numerous operations challenges, such as subsidence along the aqueduct, growing population and demand, climate change and natural disasters, long-term affordability and regulatory compliance. Adapting and updating the 60-year-old system is not only essential to building a more resilient water supply, but also ensures that the water supply can continue to deliver clean, reliable, and affordable water, while also withstanding the impacts of climate change.

According to Senator Dodd, while demands on the SWP operations, maintenance and workforce have increased over the last 35 years, staffing has remained stagnant leading the DWR to study and explore alternative project delivery methods to expedite delivery, reduce construction costs and liability, and increase safety for workers and the public. Through the collaboration involved with CM/GC and design-build procurement, a designer and contractor can better recognize, plan, and implement cost-saving, timesaving, and safety measures, producing a safe, more resilient product in less time than would be achievable through traditional or design sequencing delivery methods. "This legislation will allow DWR to bring in outside expertise when needed and allow the department to focus instead on critical water infrastructure."

DWA maintained a "support" position on SB 626 throughout the year. Governor Newsom signed SB 626 into law on September 23. (Chapter 247, Statutes of 2021)

Local Government: Open Meetings

Under the Ralph M. Brown Act, all regular and special meetings of a legislative body of a local agency are required to be open and public, allow persons to attend and participate, and be held within the territory of the local agency's jurisdiction. The Act only allows meetings to occur via teleconferencing under the following circumstances: (1) the legislative body notice each teleconference location of each member that will be participating in the public meeting; (2) each teleconference location is accessible to the public; (3) members of the public can address the legislative body at each location; (4) the legislative body posts agendas at each teleconference location; and (5) at least a quorum of the legislative body participates from locations within the local agency's jurisdiction.

Governor Newsom's Executive Order N-29-20 suspends the Act's requirements for teleconferencing to enable local agencies to conduct meetings during the COVID-19 pandemic, provided that: (1) notice and accessibility requirements are met; (2) public members can observe and address the legislative body at the meeting; and (3) a legislative body of a local agency has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities.

This year, the Legislature introduced a number of bills that sought to build on the Governor's Executive Order and amend the Ralph M. Brown Act to further incorporate the flexibility of teleconferencing in conducting local government meetings.

Assembly Bill 339, by Assembly Member Alex Lee (D-San Jose), sought to require city councils and boards of supervisors in jurisdictions with over 250,000 residents to provide both in-person and teleconference options for the public to attend their meetings.

According to Assembly Member Lee, while public meetings quickly adapting to the pandemic through teleconferencing expanded access to people who would not have ordinarily

participated in such meetings, the pandemic also exacerbated existing barriers that prevented people from participating in public discourse. By requiring both in-person and online meetings for cities or counties with over 250,000 residents, the Assembly Member believed that the public's access to government would be better protected, even after the COVID-19 pandemic.

The Senate Floor Analysis of AB 339 noted that the bill would depart from the practice of uniformly applying the Brown Act's public meeting requirements to all local agencies, regardless of population size. While the analysis notes that larger local agencies may have the ability to comply with AB 339's requirements, it begged the question of whether or not the level of public access you receive depends on the size of the jurisdiction in which a person lives. Furthermore, the bill would impose significant unreimbursed costs to affected local agencies and fails to provide flexibility to local governments manage their own affairs.

DWA held a "watch" position on AB 339, which passed the Legislature on September 9, 2021. Governor Newsom vetoed AB 339 on October 7, 2021, with the following message:

I am returning Assembly Bill 339 without my signature. This bill requires, until December 31, 2023, that city councils and boards of supervisors in jurisdictions with over 250,000 residents provide both in-person and teleconference options for the public to attend their meetings. While I appreciate the author's intent to increase transparency and public participation in certain local government meetings, this bill would set a precedent of tying public access requirements to the population of jurisdictions. This patchwork approach may lead to public confusion. Further, AB 339 limits flexibility and increases costs for the affected local jurisdictions trying to manage their meetings. Additionally, this bill requires in-person participation during a declared state of emergency unless there is a law prohibiting in-person meetings in those situations. This could put the health and safety of the public and employees at risk depending on the nature of the declared emergency. I recently signed urgency legislation that provides the authority and procedures for local entities to meet remotely during a declared state of emergency. I remain open to revisions to the Brown Act to modernize and increase public access, while protecting public health and safety. Unfortunately, the approach in this bill may have unintended consequences.

Assembly Bill 361 by Assembly Member Robert Rivas (D-Hollister) would allow, until January 1, 2024, local agencies to use teleconferencing without complying with specified Ralph M. Brown Act restrictions in certain state emergencies. Specifically, the bill would authorize local agencies to use teleconferencing to declare or ratify a local emergency, during a declared state of or local emergency, when health officials have imposed or recommended measures to promote social distancing, and during a declared local emergency provided the legislative body determines by majority vote that meeting in person would present imminent risks to the health or safety of attendees. The bill would require legislative bodies that use teleconference under these procedures to give notice of the meeting and post agendas, allow the public to access the meeting and address the legislative body, and give notice of how the public may access the meeting and offer public comment.

According to Assembly Member Rivas, "When the COVID-19 pandemic started, public agencies struggled to conduct their meetings in compliance with the public accessibility and transparency requirements of the Brown Act and Bagley-Keene Acts while still abiding by stay-at-home orders. As a result, Governor Newsom issued several executive orders (EOs) to grant agencies the flexibility to meet remotely during the pandemic. However, these EOs are expiring soon, meaning that these flexibilities will not apply to future emergencies like wildfires, floods, pandemics, or other events that make in-person gatherings dangerous. Local and state

agencies will again struggle to provide essential services like water, power, and fire protection at a time when constituents will need those services the most.”

AB 361 would ensure that the Brown Act will permanently apply the flexibility of Governor Newsom’s executive orders to future emergencies. Though the Act currently authorizes the use of teleconferencing, it still requires the physical posting of meeting notices and agendas where staff and agency members could potentially be exposed to dangers during a state of or local emergency. Additionally, the Act requires that each of the remote meeting locations be accessible to the public which is contrary to public health directives regarding social distancing during the pandemic. This requirement could also potentially expose agency staff and members, and the public to dangers during future emergencies.

By codifying the teleconferencing practices that local agencies have refined throughout the pandemic, AB 361 would allow local agencies to conduct meetings safely during future emergencies while still conforming to open meeting laws.

DWA had a “watch” position on AB 361. Governor Newsom signed AB 361 into law on September 16. (Chapter 165, Statutes of 2021)

Water Quality: Impaired Waters

Assembly Bill 377 by Assembly Member Robert Rivas (D-Hollister) would require the elimination of all impaired waterways and require all waters of the state to be fishable, swimmable, and drinkable by 2050. Specifically, the bill would require, by January 1, 2023, the State Water Resources Control Board (State Water Board) and the Regional Water Quality Control Boards (Regional Boards) to prioritize enforcement of water quality standard violations that are causing or contributing to an exceedance of a water quality standard in a surface water of the state. The bill would require the State Water Board and Regional Boards to evaluate impaired state surface waters and report to the Legislature, by January 1, 2025, a plan to bring all water segments into attainment by 2050. Additionally, the bill would create the Waterway Recovery Account in the Waste Discharge Permit Fund and make moneys in the Waterway Recovery Account available for the State Water Board to expend, upon appropriation by the Legislature, to bring impaired waters into attainment in accordance with the plan.

According to Assembly Member Rivas, AB 377 would put the state back on track to achieve the Congress’ intentions under the 1972 Clean Water Act, which set a goal of restoring and maintaining clean water in all the nation’s rivers, lakes, wetlands, and other waterways by 1985. Specifically, the bill “will require the State and Regional Water Boards to close permit loopholes, ensure that all dischargers are in compliance with water quality standards, and direct a larger proportion of existing funding toward cleaning up impaired waterways.”

U.S. EPA regulations require state water quality standard submittals to include an antidegradation policy to protect beneficial uses and prevent further degradation of high-quality waters (33 U.S.C. § 1313(d) (4)(B); 40 C.F.R. § 131.12). The State’s Antidegradation Policy is embodied in State Water Board Resolution No. 68-16 (Statement of Policy with Respect to Maintaining High Quality Waters in California). In general, the policy emphasizes the protection of high-quality waters, which include groundwater.

Water quality objectives in water quality control plans ensure the reasonable protection of beneficial uses and the prevention of nuisance. State law recognizes, however, that it may be possible for the quality of water to be changed to some degree without unreasonably affecting beneficial uses. Factors to be considered by a regional board in establishing water quality

objectives include, but are not necessarily be limited to, all of the following: (1) Past, present, and probable future beneficial uses of water; (2) Environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto; (3) Water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area (4) Economic considerations; (5) The need for developing housing within the region; and (6) The need to develop and use recycled water.

This legislation would prohibit, on or after January 1, 2030, a regional water quality control plan from including a schedule for implementation for achieving a water quality standard that was adopted as of January 1, 2021, and would prohibit a regional water quality control plan from including a schedule for implementation of a water quality standard that is adopted after January 1, 2021, unless specified conditions are met.

In proposing that all waters of the state be fishable, swimmable, and drinkable by 2050, AB 377 would remain contrary to federal and state law regarding the designation of water bodies for beneficial uses, thus imposing unreasonable requirements the Agency.

DWA maintained an “oppose” position against AB 377. The bill was last located in the Appropriations Suspense File, where, after a postponed hearing, it became a 2-year bill. The bill may be acted upon in January 2022.

Metropolitan Water District of Southern California: Master Reclamation Plan

Assembly Bill 442 by Assembly Member Chad Mayes (I-Rancho Mirage) would authorize the Metropolitan Water District of Southern California (MWD) to prepare a master reclamation plan that identifies each individual surface mining operation in specified counties and satisfies all reclamation plan requirements for each surface mining site. The bill would exempt emergency excavations or grading conducted by MWD for its own operations and infrastructure for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters, or other emergencies. The bill would impose numerous requirements on the MWD to ensure protection of the environment and control of materials excavated or graded.

The Surface Mining and Reclamation Act (SMARA) exempts certain activities from the provisions of the act, including, among others, emergency excavations or grading conducted by the Department of Water Resources (Department) or the Central Valley Flood Protection Board (Board) for the specified purposes; surface mining operations conducted on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Department for the purpose of the State Water Resources Development System or flood control; and surface mining operations on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Board for the purpose of flood control.

MWD retained ownership of the land beneath and adjacent to the CRA, including excess stone, gravel, and sand used to construct the project. MWD also maintains 19 borrow pit sites that supply aggregate materials used to repair and maintain the CRA and other critical infrastructure in its system. In 2017, San Bernardino and Riverside Counties informed MWD that it had to comply with SMARA because some sites involved the removal of native soils, which constitutes a mining activity under SMARA. SMARA also requires the preparation of reclamation plans and financial assurances that mining sites will be reclaimed. SMARA requires MWD to prepare separate reclamation plans for both San Bernardino and Riverside County, even though earthmoving activities in each county are similar in nature and cause minimal impact, DWA had a “support” position on AB 442 because would ensure a more uniform and efficient application

of existing law. With multiple counties in the same service area, requiring separate plans under SMARA for each county creates duplicate work. The proposed legislation's provision for MWD to create a master plan could incorporate the work at all locations and ensures regulatory consistency. The bill would also allow MWD to ensure the safe operation of its critical drinking water infrastructure, including CRA, and ensure the delivery of water to 19 million Californians.

Governor Newsom signed AB 442 into law on September 16. (Chapter 166, Statutes of 2021)

Development Fees: Impact Fee Nexus Study

Impact fees support a wide range of community services and benefits, such as public safety infrastructure, transportation infrastructure, affordable housing, environmental mitigation, libraries, parks, flood control, and other projects.

Existing law requires each public agency to provide a development project applicant with a list that specifies the information that will be required from any applicant for a development project. The Mitigation Fee Act, requires local officials establishing, increasing, or imposing a fee as a condition of project approval to: (1) identify the fee's use; (2) demonstrate a reasonable relationship between the fee's use and the development project; and (3) demonstrate a reasonable relationship between the need for the public facility or facilities funded by the fee and the development project the fee is assessed on. Local governments are required to conduct a nexus study prior to imposing a new impact fee or increasing a fee above the level of fees allowed by the previous nexus study to ensure that any proposed impact fees meet all legal requirements. Such nexus studies typically identify the new demand for services from development and a maximum level of impact fees needed to fund the facilities and meet that level of service provision.

AB 602 by Assembly Member Grayson (D-Concord) would establish new standards and practices for impact fee nexus studies prepared by local agencies. The bill would require, on and after January 1, 2022, a local agency that conducts an impact nexus study to follow specific standards and practices, including: (1) that before the adoption of a development fee, an impact fee nexus study *must* be conducted; (2) that the study identify the existing level of service for each public facility, identify the proposed new level of service, and explain the necessity of the new level of service; and (3) that if the study is adopted after July 1, 2022, either calculate a fee levied or imposed on a housing development project proportionately to the square footage of the proposed units, or make findings that support the use of another metric. The bill would require that a local agency that calculates fees proportionately to the square footage of the proposed units be deemed to have used a valid method to establish a reasonable relationship between the fee charged and the burden posed by the development. Additionally, local agencies would be required to post a written fee schedule or link to the written fee schedule on their websites.

AB 602 would also require, on or before January 1, 2024, that the Department of Housing and Community Development (Department) create an impact fee nexus study template that may be used by local jurisdictions. The bill would require that the template include a method of calculating the feasibility of housing being built within a given level.

The Agency initially held an "oppose unless amended" position on AB 602 and requested that the fees listed under Chapter 7 of the California Government Code be deleted from the bill. The bill defined "Fee" to mean a fee or charge described in the Mitigation Fee Act, including Chapter 7 (Commencing with 66012). Section 66013 defines "fee" as "a fee for the physical facilities necessary to make a water connection or sewer connection, including, but not limited to,

meters, meter boxes, and pipelines from the structure or project to a water distribution line or sewer main, and the estimated reasonable cost of labor and materials for installation of those facilities bears a fair or reasonable relationship to the payor's burdens on, or benefits received from, the water sewer connection." Since the Department has no expertise in connection and capacity fees, such a template would not have provided any useful guidance to water and sewer agencies. Subject to Proposition 26 and provisions in the Mitigation Fee Act, local agencies calculate these fees based on localized circumstances and are required to ensure they do not exceed the cost of service; thus, the Department would have served no conceivable role in this process.

The bill was amended on May 4, 2021, to waive the square footage requirement of a nexus study if, among other requirements, the local agency explains why the square footage is not an appropriate metric. Based on this amendment, the Agency removed its opposition to the bill. The bill was later amended on July 5, 2021, to specify that certain provisions of AB 602 *do not* apply to fees or charges subject to Section 66013, which includes connection fees and capacity charges.

Governor Newsom signed AB 602 into law on September 28. (Chapter 347, Statutes of 2021)

Sacramento-San Joaquin Delta: Sea Level Rise Analysis Report

Assembly Bill 979 by Assembly Member Jim Frazier (D-Fairfield) would require any individual or entity undertaking a project in the Sacramento-San Joaquin Delta (Delta) to complete a report (Report) analyzing the impact of current sea-level rise projections on the project. Specifically, the bill would: (1) require the Report to analyze different scenarios contained in the Ocean Protection Council's (OPC) Sea-Level Rise Guidance 2018 Update Document (Guidance Document); (2) require the Report to be submitted to the Delta Stewardship Council (DSC), Delta Protection Commission (DPC) and the Legislature; and (3) specify that the definition of "project" is the same definition used in the California Environmental Quality Act (CEQA) and that nothing in the bill abridges any law, including the Delta Protection Act.

Providing water to more than 27 million Americans and 3 million acres of agricultural land, the Delta is both the hub of the California water system and one of the valuable estuary and wetland ecosystems on the west coast of the Americas. It supports a four hundred billion dollar a year economy, is part of the Pacific Flyway, is a critical habitat to 700 native plant and animal species and is home to more than 500,000 people.

According to the Assembly Member Frazier, the bill will ensure that proponents of any projects in the Delta analyze how OPC's current sea-level rise scenarios of at least 10 feet impact the project, making such an analysis a "binding requirement for any project in the legal Delta." Although the Assembly Member attempted to paint the bill as a "common sense" measure, the legislation fails to comprehend the complexity involved with such modeling scenarios and does not take into consideration the potential fiscal impacts such stringent requirements will have on state and local agencies.

The Assembly Appropriations Committee's Analysis stated that the legislation could result in "significant costs of an unknown amount, likely in the tens of millions of dollars or more annually and ongoing, for all state agencies with infrastructure or planning infrastructure in the Delta areas that may experience sea level rise or storm surges." The analysis also noted that with over 138 sea-level rise scenarios over 13 timeframes outlined the OPC's Guidance document, even an uncomplicated project may require as many as 115 modeling scenarios. When coupled with the continuously evolving nature of sea-level rise, such modeling scenarios may be

rendered worthless. State, local and private entities can undertake multiple projects simultaneously, easily reaching into the hundreds per year; with as many as 115 different modeling scenarios, staff and contracting time costs would increase into the millions of dollars for state and local agencies (using state grant funds). To comply with this bill, individual projects could cost between \$10,000 and \$55,000 per project.

DWA held an “oppose” position on AB 979. The bill was held under submission in May, and became a 2-year bill after missing the May 21 deadline for fiscal committees to hear and report the bill to the Assembly Floor. AB 979 may be acted upon in January 2022.

Urban Residential Indoor Water Objective

Assembly Bill 1434 by Assembly Member Laura Friedman (D-Glendale) would amend Section 10609.4 of the Water Code to establish, beginning January 1, 2023, until January 1, 2025, the daily standard for indoor residential water use as 48 gallons per capita. Beginning on January 1, 2025, the bill would establish the daily standard as 45 gallons per capita and, beginning January 1, 2030, 40 gallons per capita daily.

AB 1434 would have overridden two agreed upon provisions in AB 1668 by the same author (Chapter 15, Statutes of 2018). Current law sets the standard for indoor residential water use at 55 gallons per capita daily until January 1, 2025. Beginning on January 1, 2025, until January 1, 2030, the standard for indoor residential water use was set at the greater of 52.5 gallons per capita daily or a standard recommended by the Department of Water Resources (DWR), in coordination with the State Water Board. The department and the board were required to conduct necessary studies and investigations to recommend to the Legislature a standard for indoor residential water use. The results of these studies and investigations were required to be made to the chairpersons of the relevant policy committees of each house of the Legislature by January 1, 2021, and would have included the information necessary to support the recommended standard, if there is one. Current law also requires the studies and investigations to include an analysis of the benefits and impacts of how the changing standard for indoor residential water use will impact water and wastewater management, including potable water usage, wastewater, recycling and reuse systems, infrastructure, operations, and supplies.

If enacted into law, AB 1434 would have taken effect on January 1, 2022 – well ahead of the 2025 established timeframe for making a change in the standard. Furthermore, the bill would reduce the indoor water use standard significantly below any level set forth under AB 1668. While the determination of residential indoor water use is based on aggregated data for each retail urban water supplier and is not a state mandated standard for individual households, the standard has significance as it is one of the four factors for a supplier to determine its urban water use objective and related targets. The bill brings into question whether improvements to indoor water using appliances would enable households to achieve the proposed standards, or whether individual households on the aggregate would be required to reduce indoor gallons per capita per day water use. AB 1434 also failed to outline the purpose of the proposed lower standard, especially considering the requirements specified under the Urban Management Planning Act and other laws regarding water supply availability across multiple water year types. While residential outdoor water use in the summer months is more significant, the lower standards threaten to deter supplier investments in infrastructure designed to ensure adequate water supply, and place significant upward pressure on water rates.

DWA maintained an “oppose” position against AB 1434. The bill was last located in the Assembly Appropriations Committee when Assembly Member Friedman requested that hearings on the bill be cancelled. AB 1434 is currently a 2-Year bill and may be acted upon in

January 2022.

On the regulatory side, DWR and the State Water Board released on May 11, 2021, a Public Review Draft Report to the Legislature on the Results of Indoor Residential Water Use Studies (Draft Report), as required by AB 1668. In their Draft Report, DWR proposes to reduce the indoor residential water use standards from the current levels that were established in 2018 through negotiated policy bills that were enacted by the California Legislature — AB 1668 and SB 606. More specifically, the DWR Study proposes to reduce the indoor residential water use standards from 52.5 gallons per capita per day (GPCD) in 2025 to 47 GPCD; and further reduces the standards in 2030 from 50 GPCD to 42 GPCD.

DWA joined ACWA in objecting to the state agency recommendations alleging they lacked proper analysis and failed to consider potential negative impacts on local water reuse projects and wastewater system infrastructure. Further, AB 1668 required state agencies to collaborate with local agencies while conducting their studies and investigations, but such a process was not provided.

ACWA is working on providing an alternative study on the effects of implementing these new standards weighting in the level of conservation achieved (positive effects) and the costs it will have on the systems and its impacts to providing affordable service (negative effects). The latter being an effect that the DWR admittedly did not consider in its report.

While DWR's Draft Report has not yet been submitted to the Legislature, given the department's draft recommendations, it is safe to assume that AB 1434 – or a version of it – will resurface next year.

Looking Ahead to 2022

It is an election year in 2022 and all state constitutional officers will appear on the ballot along with all 80 Assembly Members and one-half of the 40-member State Senate. In a normal election cycle, the decennial redrawing of district lines would be completed by now, however COVID-19 induced delays will result in little time for candidates to determine whether to seek election or reelection. Locally, Senator Melissa Melendez (R-Lake Elsinore), elected after a special election in 2020, is not eligible to be on the ballot in 2022 due to term limits. Senator Melendez has indicated a bid for the lieutenant governorship after having filed paperwork establishing a campaign committee. Assembly Member Chad Mayes (I-Rancho Mirage) is eligible to run for another 2-year term in the State Assembly and is not subject to term limits until 2026.

It is unclear as of this writing whether the work of the Legislature will return to normal in January 2022. Final plans to fully reopen the legislative process and access to legislators and staff will depend on the status of the pandemic infection, hospitalization, and death rates. Nevertheless, legislators and staff will relocate to a new office building for the next five years as the Capitol Building Annex is demolished and replaced with a new building. We would expect a normal bill introduction load next year should public access to the legislative process be fully restored.