



**SPECIAL BOARD MEETING
AGENDA PACKET**

APRIL 19, 2024

This page intentionally left blank.



Special Board Meeting - Friday, April 19, 2024, 1:00 p.m.

Carmichael Water District Board Room
7837 Fair Oaks Boulevard
Carmichael, CA 95608

AGENDA

The Board will discuss all items on its agenda, and may take action on any of those items, including information items and continued items. The Board will not take action on or discuss any item not appearing on the posted agenda, except: (a) upon a determination by a majority vote of the Board that an emergency situation exists; or (b) upon a determination by a two-thirds vote of the Board members present at the meeting, or, if less than two-thirds of the members of the Board are present, a unanimous vote of those members present, that the need to take immediate action became apparent after the agenda was posted. Agenda packets can be found at our website at carmichaelwd.org.

The Board of Directors welcomes and encourages participation in meetings. Public comment may be given on any agenda item as it is called and limited to three minutes per speaker. Matters not on the posted agenda may be addressed under Public Comment. Please follow Public Comment Guidelines found on the District's website at carmichaelwd.org/public-comment-guidelines/.

In compliance with the Americans with Disabilities Act, if you have a disability and need a disability-related modification or accommodation to participate in this meeting, please contact the General Manager at 483-2452. Requests must be made as early as possible, and at least one full business day before the start of the meeting.

CALL TO ORDER AND STATEMENT REGARDING PUBLIC PARTICIPATION: President Selsky

ROLL CALL

PRESIDENT'S COMMENTS

PUBLIC COMMENT:

1. Public Comment

Any member of the public may address the Board on any item not on the agenda and of interest to the public that is within the subject matter jurisdiction of the Board.

ANNOUNCE CLOSED SESSION AND ADJOURN OPEN SESSION TO CLOSED SESSION

CLOSED SESSION

2. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION;

Government Code sections 54954.5(c) and 54956.9(a) and (d) (1); *Koch & Koch, Inc. v. Carmichael Water District, et al.*, Sacramento Superior Court Case No. 24CV000659

3. CONFERENCE WITH LEGAL COUNSEL – REAL PROPERTY NEGOTIATIONS (Government Code section 54956.9): Real Property at 4515 Charleston Drive, Carmichael, CA 95608.

ADJOURN CLOSED SESSION AND OPEN REGULAR SESSION

REPORT OUT OF CLOSED SESSION

ACTION CALENDAR:

4. Strategic Plan and Employee Survey

Staff recommends that the Board of Directors discuss the scope of the strategic plan and authorize the General Manager to sign a service agreement with BHI Management Consulting for a not-to-exceed value of \$52,380.

5. La Vista Storage Tank & Booster Pump Station Project – Professional Services Agreement (PSA) Amendment #1 for Construction Management Services

Staff recommends that the Board of Directors approve a contract increase from \$999,201 to \$1,431,874 with Water Works Engineers and authorize the General Manager to execute Professional Services Agreement Amendment 1.

BUDGET WORKSHOP

6. Budget Workshop

INFORMATIONAL ITEMS:

7. Water Conservation Regulations – “Making Conservation a Way of Life” Update

8. Update on COTP - Transmission Leasing Next Steps

9. Water Agencies File Lawsuit to Protect Water Rates and Local Control

The next meeting of the Board of Directors will be a Regular Board Meeting held on:
Tuesday, May 21, 2024 at 6:00 p.m.

This page intentionally left blank.

MEMO

TO: Board of Directors

FROM: Cathy Lee, General Manager

DATE: April 10, 2024

RE: Strategic Plan and Employee Survey

BACKGROUND

Previously, the Board of Directors (Board) directed staff to conduct an employee survey and incorporate the data as part of a District wide strategic plan. At the February 2024 Regular Board of Directors (Board) meeting, the Board discussed the methods for which the employee survey should be completed and provided direction to staff to develop a scope of work with the recommended consultant, BHI Management Consulting.

SUMMARY

BHI Management Consulting provided a revised scope of work to assist the District in conducting a strategic plan to provide a roadmap for the District in the next 5 to 10 years. The scope of work recommended a comprehensive multi-year strategic plan to review and analyze the District's mission, strengths, weakness, opportunities, and threats (SWOT), and the Board's vision. The option items include an employee survey and meeting and a public survey and meetings. Based on previous feedback and to ensure buy-in from stakeholders, BHI Management Consulting recommends the optional employee survey and public meetings. The cost for the base strategic plan is \$28,500, optional employee survey is additional \$15,480, and optional public meetings is additional \$8,400 for a total cost of \$52,380. BHI Management Consulting will attend the April Regular Board meeting to discuss the items in detail with the Board.

RECOMMENDATION

Staff recommends that the Board of Directors discuss the scope of the strategic plan and authorize the General Manager to sign a service agreement with BHI Management Consulting for a not-to-exceed amount of \$52,380.

ATTACHMENT(S)

1. BHI Management Consulting Proposal

Ms. Cathy Lee, General Manager
Carmichael Water District
P7837 Fair Oaks Blvd.
Carmichael, CA 95608

April 7, 2024

Subject: Proposal to assist the Carmichael Water District with a Strategic Plan

Dear Ms. Lee,

This proposal outlines my approach and fees to assist the Carmichael Water District (CWD) Board of Directors (board) with a Strategic Plan. The resulting plan will provide a roadmap for the District in the next 5-10 years. It will be developed by all District leaders including the District Board, District General Manager and key staff; with my firm guiding all of the processes involved. BHI (Brent Ives) has assisted with the strategic plans of 160 California public agencies over the last 23 years and has developed a baseline set of tasks that have proven to produce a useful and enduring plan for Districts across the State.

Each of the plans with which we have assisted are different from one another, reflecting the varying needs, situation, planning environment, needs within the community, future risks, opportunities and potential threats District. BHI is currently involved assisting two other water districts with similar planning in California.

The baseline approach for each of the four stages are outlined below. The proposed cost of each stage of the baseline plan is costed out in the Task to Cost Table below. Additionally, recommended options for each of the four stages are described in Appendix A, herein and priced in the Table.

Regarding recommended options, in discussions with the General Manager, an employee survey was mentioned as a potential option. Employee involvement is definitely a recommended part of the development of a strategic plan. A survey and one other employee involvement option are proposed for Board consideration.

An employee survey is not part of the baseline planning method, thus priced separately as a recommended option, one that we have conducted many times before. See details of conducting employee involvement, including an employee survey, in Appendix A.

In similar fashion, optional recommended tasks will be associated with the stages of the strategic planning process as appropriate. Other inputs to the Board planning, prior to their planning workshop are also listed as options.

Strategic Plan - In order to properly prepare for the future, it is a best practice for a District to develop a comprehensive, multi-year strategic plan. As mentioned, such a project can be flexibly designed with optional services to supplement the baseline project. Options are outlined in Appendix A below and the estimated cost of each option is included in the cost table.

Strategic Plan Approach and Model Outline/Options -

Our baseline planning model utilizes four stages:

1. **Stage -1 Pre-workshop input and reconnaissance** – This stage allows for BHI to become fully acquainted with the District structure, culture, and opportunities, and gather broad input regarding the District's future. Tasks will include thorough review of past planning efforts, reviewing relevant past Board meetings, and informative meetings with the key staff of the District. Meetings with individual Board members is included within this stage. Meetings with individual Board members meetings will discuss District Mission and looking to the future. Also discussed in these meetings will be the Strengths, Weaknesses, Opportunities and Threats (SWOT) for the District now and in the future. Meetings will also be conducted with the District key staff members to gain their outlook for the District. All inputs gathered are organized and assembled to provide for productive discussions at the upcoming Board Planning workshop (Stage 2).

Stage 2 - Board Initial Workshop Stage – Board workshop – All inputs gathered in Stage 1 are organized and prepared for the Board strategic planning workshop. This meeting is an opportunity to allow for the Board to collectively plan the future of the District. The workshop will provide for a collective review of the SWOT thoughts from each member.

- The Board is prepared for this workshop through activities above. They may however be provided a pre-workshop questionnaire to jog strategic thinking.
- District Mission will be reviewed and Board Vision will be outlined to guide the strategic plan.
- SWOT – the analysis, best done together and best when time allows it to be thoroughly explored. The outcome of this broad thinking exercise is a key part of the development of an implementation plan to leverage strengths, capitalize on opportunities, mitigate weaknesses and protect against threats.
- Open public workshop of the Board of Directors for strategic planning including much of the above including discussions and review of the District Mission and values and, most currently useful, Board vision. This special workshop will be open to the public and generally held in one setting, yet can become two meeting when needed.

The deliverables of the Board planning workshop are to assure that District Mission is clearly understood and stated, that the multiyear-year Vision for the District is initiated by the Board. Outcomes of this process allow for guidance in the development of a clear implementation plan post-workshop.

Stage 3 - Plan Development Stage (Staff/Consultant – post workshop) This stage comprises the development of the Strategic Plan document, which reflects the direction

of the Board for the future years. BHI will begin by proposing an initial draft, then work with District Staff to complete implementing actions seen as needed to achieve the Board's vision will be developed. The resultant draft is then shared with the Board in a 'Tone-check Meeting' roughly 6-8 weeks after the Board planning workshop (Stage 2). BHI consultants will attend this meeting. Adjustments can be made at and after this meeting to assure that the Plan adequately reflects the multi-year strategy of the Board.

Stage 4 - Document Development and Board Approval Stage – Board meeting #3 is and can accomplish to seek approval of the resulting plan, as-is or as revised. This can generally be accomplished at regular Board meeting. Consultants will present the approval final version of the plan. This stage includes providing a final designed digital copy of the strategic plan to the District.

Options to the Stage above are detailed in APPENDIX A below.

BHI Management Consulting – The background and experience of BHI Management Consulting, Brent Ives and BHI associates are provided in APPENDIX B below.

Note on Approach – The actual project scope may evolve from this proposal based on Board and staff input upon consideration of approval meeting.

BHI MANAGEMENT CONSULTING

"Organizational Efficiency for Public Agencies"

Cost - Mr. Ives' client hourly rate is \$390/hr. Associates of BHI may assist with the administration of the survey(s) as well as the collection and organization of results and other tasks as needed. BHI Associates are billed at \$180/hr.

Employee Strategic Plan - CWD Tasks	Principal (Ives) @ \$390/hr.	BHI Associate @ \$180/hr.	Labor Hours/Task Total	Task Estimate	TOTAL COST WITH OPTION	Comments
BASE STRATEGIC PLAN	Hours	Hours	Hours			
<i>Stage 1 - Input</i>	16	0	16	\$ 6,240.00		Completed via phone or Zoom
<i>Stage 2 - Board Planning Workshop#1</i>	16	8	24	\$ 7,680.00		
<i>Stage 3 - Plan Development</i>	22	16	38	\$ 11,460.00		
<i>Stage 4 - Plan Approval Stage</i>	8	0	8	\$ 3,120.00		
TOTAL BASE PLAN	62	24	86	\$ 28,500.00	\$ 28,500.00	Base Planning Effort Cost
RECOMMENDED OPTIONS	Hours	Hours	Hours			
<i>Input Stage 1 - Option 1 - Employee Survey (Recommended)</i>	36	8	44	\$ 15,480.00	\$ 43,980.00	Recommended Option
<i>Input Stage 1 - Option 2 - Employee Meeting(s)</i>	14	8	22	\$ 6,900.00		
<i>Input Stage 1 - Option 3 - Public Meeting(s) - (Recommended)</i>	16	12	28	\$ 8,400.00	\$ 52,380.00	Recommended Option
<i>Input Stage 1 - Option 4 - Public Survey</i>	58	18	76	\$ 25,860.00		
EXPENSES						
Travel Related costs	Billed upon needed trip @ 225/trip					
BHI Office overhead expenses (project related programs)		FIXED		\$ 500.00		

Schedule – it is anticipated that such a full project, if all additional items were included, would take approximately 6 months from the notice to proceed.

Summary – Please understand that this proposal is meant to allow for Board discussion, consideration of options and potential approval. Your signature below and/or a purchase order or District professional services agreement will allow the project to begin.

Brent H. Ives, Principal
BHI Management Consulting
209.740.6779

APPENDIX A – Optional Services, with recommendations

Stage 1 – Input Stages Options: options 1-4 below relate to Stage 1 – Input in the Base Strategic Planning tasks. Two are recommended and two are listed as options for Board consideration.

Option 1 - Employee Survey (Recommended) – As mentioned above, this was discussed by the Board earlier. Such a third-party survey (BHI) carries the advantage of objectivity and allow employees to remain autonomous with their thoughts and opinions therefore allowing them to state their more freely. Along with allowing employees to remain nameless, the survey method also allows more broad coverage of subjects, being more effective in gaining input in the areas of organizational health, overall workplace morale, District future needs, and various miscellaneous opinions. While being more open and thorough, this option takes longer to achieve it costs more to achieve. The cost difference in employee input options can be seen in the Table below.

If this option is chosen it begins at the very initial stages of the planning project to allow for the Employee Input Report to be ready for Board use at Stage 2 Board workshop. The specific approach to this option follows:

A. Survey basis and design - The consultant will begin by working through the District staff and Board President to assure that all elements and procedures for the survey are clear and met. The Consultant will proceed to develop a survey that focuses specifically on the desired District deliverables. In general, keeping the survey as short as possible allows for better response ratio. The initial work envisioned in this option is for the CWD employees only. The final design of the survey will be fully vetted and accepted by the District prior to its distribution.

B. Survey Distribution - The survey will be sent by Survey Monkey or like online survey method. Care will be taken so that employees can be sure that their responses are anonymous and cannot be tracked back to them. Part of this assurance to the employees will require that either the Consultant or District Management communicate with them to provide that assurance. The proposal does not anticipate that any direct meeting with employees will be required, however, that can be added if needed.

C. Survey Analysis and Reporting of Results - Consultant will prepare all response data and prepare for reporting to the District. The report will include the analysis the determination of results from employees, highlighting the both highs and low responses. Correlation of narrative feedback will be studied and provided as well. Comments that repeat will be duly noted. All raw data will also be contained in an appendix to the report. The District will have full access to all data collected.

D. Reporting - BHI will prepare a report directly regarding the survey results, discussions and recommendations to the Board for use at the Strategic Planning

workshop.

Option 2 - Employee Meeting(s) - This option would be carried out by the consultant meetings directly with an employee group(s) to gather their input on the strategic future of the District. This option can be effective for gaining employee group(s) future thinking, yet is usually limited by the format and opinion reticence of individuals to speak openly in a group. The method is less valuable for asking questions regarding the workplace culture. While some employees prefer this method, most, in utilities Districts do not. The option carries the advantage however of being much less involved and quicker to achieve, therefore less expensive. It does allow the Board to acknowledge the employee base while planning.

Option 3 – Public Input (Recommended) – This option involves proactively gaining direct input from District constituents. This can be accomplished by advertising 2 meetings for that purpose. Generally, one meeting is held at District offices and one online. The purpose of these meetings is for the public to weigh-in on the District's future without needing to go before the Board. These meetings are held with the consultant only, allowing open feedback.

Option 4 – Public Survey – An opinion survey of your service community is a means by which to gain broad input on the District now and in the future. This is not generally needed unless much time has elapsed since the District has proactively asked the public their thoughts. This is a time-consuming option in its design and implementation, thus is not a recommendation for the District unless critically needed.

APPENDIX B

BRENT H. IVES, PRINCIPAL
BHI Management Consulting

After a 37 year career as a technical manager at Lawrence Livermore National Laboratory. Mr. Ives has 24 years of management consulting experience to California public agencies. Brent has also served for 23 years on the City Council of the City of Tracy, CA, with the last 8 years the directly elected Mayor of the City of Tracy, CA, a city of 102,000 in the central valley of California. He served as a charter commissioner and Chairman of the Altamont Commuter Express (ACE Train) Joint Powers Authority, and a Chair/Director of the San Joaquin County Council of Governments. Brent is now the former Mayor of Tracy, having termed out of office in December 2014.

Brent Ives, through his firm BHI Management Consulting (BHI), has trained staff of hundreds of local agencies and individual decision makers, Council members, Board members and managers from all walks of the public sector and business. He teaches best governance practices for the California Special District Association. Brent and other BHI associates have decades of experience leading public agencies to improve through thinking strategically, including a broad perspectives on the future. Brent also operates the web-based Board training site, www.GoodBoardWork.com. In 2016, Brent also wrote and published the book, *52 Ways to Be a Better Board*, available on Amazon, a book aimed at Board best practices and good governance.. He has a clear vision for looking over the horizon with the public to form practical and clear public policy and strategy.

Public Agency Planning and Development

- Assisted over 150 public agencies in California with strategic planning.
- Facilitated over hundreds of public meetings on various issues in California regarding access reliability, risk, planning, management, administration, culture, and overall organizational health.
- BHI has conducted of employee meetings and surveys to assist in the inclusion of the invaluable perspective of the day-to-day, on-the-ground perspective.
- Co-directed public outreach element for Lawrence Livermore National Laboratory and interface with the Defense Nuclear Facilities Safety Board in 1998 for the LLNL Environmental Health and Safety Plutonium and HEU Vulnerability Assessment.
- Led local effort as Mayor to assess and institute Mayor's Community Youth Support Network, assisting at-risk youth and their parents/care-givers with information and programs to learn about, extricate themselves from and avoid gang lifestyle altogether.



BHI MANAGEMENT CONSULTING

"Organizational Efficiency for Public Agencies"

Ms. Jill Ritzman is an accomplished public agency professional having served the County of Sacramento County and the General Manager of the Cameron Park Community Services District. She has been a strategic planning consultant and is experienced in the development of public policy having worked for various public agencies for over 30 years. Jill brings complimentary perspective to all projects she undertakes; she is a gifted facilitator and trainer. Jill has been involved with BHI with strategic planning development for over a decade. Her approach to planning is inclusive, informal and proven effective. Jill is a strategic thinker as her success as shown throughout her career.

BHI MANAGEMENT CONSULTING

"Organizational Efficiency for Public Agencies"

Partial Listing of Agencies Served:

Town of Yountville
City of Pleasanton
City of Westminster
City of Richmond
Nickel Farms
City of San Ramon
City of Citrus Heights
Marin/Sonoma Mosquito-Vector Control District
West Side Cemetery District
Cordova Recreation and Parks District
Cosumnes Community Services District
Central Contra Costa Sanitation District
Cordova Recreation and Parks District
Livermore Area Recreation and Parks District
Auburn Recreation and Park District
Phelan-Pinon Community Services District
Greater Vallejo Recreation and Park District
Pleasant Hill Recreation and Park District
Pleasant Valley Recreation and Park District
Conejo Recreation and Park District
Apple Valley Recreation and Park District
Rodeo Sanitary District
LWR Engineering
South Coast Water District
Big Bear Airport District
Palmdale Water District

Yorba Linda Water District
Orange County Water District
Orange County Sanitation District
Central Contra Costa Sanitary District
Dublin-San Ramon Sanitation District
Castro Valley Sanitation District
Rosamond CSD
Marina Coast Water District
Grossmont Healthcare District
West Bay Sanitary District
Costa Mesa Sanitary District
Monterey Regional Water Pollution Control Agency
Lawrence Livermore National Safety
Sacramento Metro Fire
Monterey Regional Fire Authority
City of San Ramon
Fairfield-Suisun Sewer District
East Bay Regional Park District
Kensington Fire Protection District
South Coast Water District
Rainbow Municipal Water District
Sweetwater Water District
City of Westminster
Lewiston CSD
East Kern Healthcare District
City of Ione
Town of Yountville
Otay Water District
Sweetwater Water Authority

MEMO

TO: Board of Directors

FROM: Greg Norris, Engineering Manager

DATE: April 4, 2024

RE: La Vista Storage Tank & Booster Pump Station Project – Professional Services Agreement (PSA) Amendment #1 for Construction Management Services

BACKGROUND

Construction on the La Vista Storage Tank and Booster Pump Station (BPS) Project started in September 2021 and is expected to be completed in the last quarter of 2024. Throughout the project duration many unforeseen issues came up, including the discovery of a tank liner in the old steel water storage tank. Demolition and disposal of the tank and other related soil work required additional time and the project experienced a work suspension extending from March 2023 to January 2024.

Water Works Engineers (WWE) are currently under agreement with CWD to provide construction management (CM) services on the project. WWE assisted CWD on an as needed/as requested basis during the work suspension period, to provide information regarding demolition and disposal of the old tank and the contractor's costs, work schedule, and adherence to the contract. Additional factors that impacted WWE's original budget include review of the contractor's submittals, request for information (RFI's) during the work suspension and critical path work items with schedule impacts as a result of increased activity durations. Therefore, WWE provided more construction management services than what was originally budgeted.

SUMMARY

The La Vista Storage Tank and BPS Project's unforeseen challenges have led to additional work being done by WWE, utilizing the original CM services budget. As a result, WWE's cost budget for the original PSA is approximately 95% complete, with approximately 9 to 10 months of work left on the project. In anticipation of CM services costs exceeding the current agreement amount, WWE provided a fee estimate for CM services to be extended through September 20, 2024. If executed, the attached draft amendment signed by WWE will allow for WWE to continue providing CM services based on the attached fee estimate.

FINANCIAL IMPACT

WWE's fee estimate for CM Services for additional work at the La Vista Storage Tank and BPS is \$432,673. There is enough funding in the approved budget and in the La Vista Tank bond fund to cover the extra work.

RECOMMENDATION

Staff recommends that the Board of Directors approve a contract increase from \$999,201 to \$1,431,874 with Water Works Engineers and authorize the General Manager to execute Professional Services Agreement Amendment 1.

ATTACHMENT(S)

La Vista Storage Tank & BPS Project - PSA Amendment #1

AMENDMENT NO. [1]
TO AGREEMENT FOR LA VISTA TANK REPLACEMENT PROJECT
CONSTRUCTION MANAGEMENT SERVICES BETWEEN CARMICHAEL WATER
DISTRICT
AND WATER WORKS ENGINEERS

This Amendment No. [1] to the December 16, 2020 Agreement between CARMICHAEL WATER DISTRICT (“District”) and WATER WORKS ENGINEERS, LLC (“Consultant”) concerning construction management services is made effective as of the date of the District’s signature, in Carmichael, California.

RECITALS:

- A. On December 16, 2020, District and Consultant entered into an agreement for construction management services in connection with La Vista Tank Replacement Project (“Agreement”);
- B. District desires to extend the services provided by Consultant;
- C. Consultant is willing to perform the extended services; and
- D. The parties desire to amend the Agreement on the terms and conditions set forth below to provide for the extension of services by Consultant to include: additional construction management services for the La Vista Storage Tank and Booster Pump Station Project (referred to in the Agreement as the ‘La Vista Tank Replacement Project’).

AGREEMENT:

1. **Description of Extended Services.**

(a) Extended construction management services shall be as described in Consultant’s scope of work included in Exhibit A of the Agreement.

(b) Consultant’s Fee Estimate, which is attached hereto and incorporated herein as Exhibit A to this Amendment No. [1], is for extended construction management services through September 20, 2024. The September 20, 2024 date does not necessarily represent a project completion date or a specific level of progress.

2. Compensation.

(a) The total compensation for the additional construction management services described in this Amendment No. 1 shall not exceed \$ 432,673. Compensation shall be based on Consultant's Fee Estimate dated March 31, 2024, which is attached hereto and incorporated herein as Exhibit A to this Amendment No. [1].

(b) The not-to-exceed amounts of compensation described in subdivision (a) of this Section 2 are in addition to the not-to-exceed amount set forth in Section 2 and Exhibit A of the Agreement. With this Amendment No. 1, Contractor's total not-to-exceed compensation is \$ 1,431,874.

3. Term of Agreement.

This Amendment shall become effective on the date signed by the District. The Agreement, together with this Amendment No. [1], shall expire on February 26, 2025, unless terminated earlier pursuant to Section 15 of the Agreement.

4. Effect on Agreement.

Except as specifically provided herein, the Agreement, and each of its terms and conditions, shall remain in full force and effect, are incorporated herein by this reference, and apply to the work described in Section 1 hereof.

CARMICHAEL WATER DISTRICT

By: _____ Date: _____
General Manager

WATER WORKS ENGINEERS, LLC

By:  Date: 4/8/2024
Consultant:
Michael J. Fisher
Managing Member / Principal In Charge

EXHIBIT A

Water Works Engineers Fee Estimate

Client: Carmichael Water District
Project: La Vista Tank and Booster Pump Station Project
Prepared by: WWE
Date: 3/31/2024
Rev: 3



Water Works Engineers

Classification	Title
E5	Principal Engineer
E4	Senior Engineer/Construction Manager
E3	Project Engineer/Asst Construction Manager
E2	Associate/Resident Engineer
I1	Field Inspector
I2	Senior Inspector
I3	Supervising Inspector
AA	Administrative

Expenses

WWE Expenses

Subconsultants

Mid Pacific Engineering (Materials Testing)

Subconsultant Markup

Estimated Hours and Fee March 01, 2024 to September 20, 2024

Total: \$ 100,750

Total \$486,752

Remaining Project Budget as of March 01, 2024 - \$54,079

Proposed Amendment No. 1 Budget Increase \$432,673

This page intentionally left blank.

MEMO

TO: Board of Directors

FROM: Greg Norris, Engineering Manager

DATE: April 8, 2024

RE: Water Conservation Regulations – “Making Conservation a Way of Life” Update

BACKGROUND

The State Water Board (SWB) has been active in developing a water conservation regulation referred to as “Making Conservation a California Way of Life”. The regulation has been open to public comment at several stages of the development process. In October 2023, SWB presented the latest draft version of the regulation to the public to solicit comments. The SWB took those comments and provided a revised version of the draft regulation based on the public input. The SWB recently released a new version of the proposed regulation in March 2024. Water districts such as CWD have had an opportunity to represent themselves and be represented by water groups such as RWA and ACWA.

SUMMARY

In the most recent version of the proposed regulation, the RWA and ACWA letters noted improvements in the value and feasibility of the law, however noted many items that still were considered unreasonable. See attached letters for detailed descriptions of those items. CWD signed on in agreement to both response letters submitted by RWA and ACWA.

FISCAL IMPACT

There will be a cost to CWD when the regulation is set into law. Cost is unknown at this time.

RECOMMENDATION

None as this is only informational.

ATTACHMENTS

RWA letter to SWB dated 3/27/24

ACWA letter to SWB dated 3/27/24



March 27, 2024

Brett Ewart, Chair
Bill Roberts, Vice Chair

Members

California American Water
Carmichael Water District
Citrus Heights Water District
Del Paso Manor Water District
El Dorado Irrigation District
Elk Grove Water District
Fair Oaks Water District
Folsom, City of
Georgetown Divide Public Utility District
Golden State Water Company
Lincoln, City of
Nevada Irrigation District
Orange Vale Water Company
Placer County Water Agency
Rancho Murieta Community Services District
Roseville, City of
Sacramento, City of
Sacramento County Water Agency
Sacramento Suburban Water District
San Juan Water District
West Sacramento, City of
Yuba City, City of

Associates

County of Placer
El Dorado County Water Agency
Sacramento Area Flood Control Agency
Sacramento Municipal Utility District
Sacramento Regional County Sanitation District
Yuba Water Agency

Submitted via email: commentletters@waterboards.ca.gov

Subject: Comment Letter – Proposed Making Conservation a California Way of Life Regulation

Dear Members of the Board and Staff,

The Regional Water Authority (RWA) appreciates the opportunity to comment on the proposed Making Conservation a California Way of Life Regulation. RWA is a joint powers authority representing 22 public and private water suppliers serving over 2.2 million residents in Sacramento, Placer, El Dorado, Nevada, Yolo, Yuba, and Sutter Counties. RWA's mission is to serve, represent and align the interests of regional water providers and stakeholders for the purpose of improving water supply reliability, availability, quality, and affordability. RWA and our member agencies have been active participants in the regulation development process over the last 7 years.

Our region is committed to long term water efficiency. RWA's nationally recognized award-winning Regional Water Efficiency Program has been supporting local suppliers' efficiency efforts for over two decades. **Our region has reduced total demand 23% since 2013 while our population grew 15%.** This has been achieved through the hard work of our water suppliers' water efficiency staff, grant and locally funded water efficiency programs, significant investments in smart metering technology, public outreach and education efforts and commitment from our residents, institutions, and businesses. **We believe that water efficiency is a necessary component of sustainable water management and climate change adaptation.**

The revised regulation draft includes many constructive changes that will allow our suppliers to be more successful in the implementation of this regulation, while maintaining alignment with the Governor's volumetric water conservation goals in the California Water Supply Strategy.

Thank you for addressing our concerns by including the following changes:

- An additional five years for suppliers to meet the toughest outdoor standards. This extension will give suppliers more time to develop and expand effective efficiency programs and customer outreach/education efforts.
- The inclusion of an alternative compliance pathway to cap annual mandated reductions for qualifying suppliers facing the most extreme reductions (over 30 percent) and disadvantaged communities while also maintaining accountability – every supplier will still have a budget to meet.
- The annual inclusion of the 20% irrigable not currently irrigated (INI) landscape area budget to account for the limitations of “moment in time” aerial imagery to achieve the goal of accurately capturing irrigated landscapes.

- The enforcement extension from 2025 to 2027 to account for unforeseen delays in the regulatory process.
- The allowance of local supplier participation in regional commercial, industrial, and institutional (CII) best management practices (BMP) and customer programs to count towards local suppliers' compliance requirements.
- The inclusion of residential pools and recycled water irrigated landscapes as "special landscape areas" with a landscape efficiency factor (LEF) of 1.0.
- The explicit inclusion of AMI meters as an in-lieu technology and the requirement of 1 in lieu technology for mixed use meter (MUM) compliance.
- Streamlining of the disclosable building requirement to only provide meter data to customers on request and limiting the identification of disclosable buildings to the existing publicly available list from the California Energy Commission's California Building Energy Benchmarking Program.
- Additional CII Performance Measures track for suppliers with less than 10% of CII deliveries.
- Clarification of "irrigation systems maintenance" in CII Performance Measures BMP listing.
- Return to using an area measurement (versus volumetric) for MUM conversion threshold.
- Extension of timeline for converting to a dedicated irrigation meter (DIM) or providing in lieu technologies for qualifying MUM customers.
- Increased flexibility in the prioritization of customer accounts for Performance Measures implementation to include the top 20% of all CII customers by volume for the first compliance round and the addition of key business activity indicators (KBAI) for later compliance dates.
- Streamlining of CII Classification, CII Performance Measures and MUMs compliance timelines to 100% of accounts at a single year versus several overlapped time stepped compliance percentages in the previous regulation draft.
- Alignment of nonfunctional turf requirements with the recently passed Assembly Bill 1572.
- The validity of some variances and recycled water connections for 5 years.

These changes and time extensions will go a long way toward ensuring successful implementation of the regulation, achieving the projected water savings, and educating our residents on maintaining a healthy water wise yard.

However, even with these meaningful changes, the revised draft regulation may not provide enough flexibility to maintain healthy landscapes, including our region's treasured tree canopy, long term. This new era of California water efficiency will require unprecedented resources – funding, staffing and customer education - from all suppliers regardless of projected reduction.

From this perspective, RWA has several outstanding concerns with the revised draft regulation including:

- While a 5-year time extension is helpful, it does not fix the residential outdoor 2040 standards of 0.55 LEF for residential properties and 0.45 LEF for CII DIM properties.

We continue to recommend a return to DWR's minimum standard recommendation of 0.63 for both residential and CII DIM properties.¹

- These 2040 outdoor standards are Model Water Efficient Landscape Ordinance (MWELO) design standards designated only for new landscapes (established after 2015) and do not accommodate both new and existing landscapes as outlined in the legislation.
- If these design standards are approved, by 2040, all existing residential landscapes will need to be watered like they have brand new drip irrigation, high-efficiency sprinkler heads, low-water use plants, a smart sprinkler timer and limited amounts of lawn. Also, this model landscape will need to be properly maintained all the time. That's just not realistic for the average homeowner in terms of knowledge, time, and cost.
- Efficient outdoor use should be set at a level that can be maintained over time, is achievable by the average resident and supports healthy new and existing landscapes. Only healthy landscapes will produce the multitude of benefits envisioned by stakeholders and the state to adapt to climate change. The proposed regulation endangers the existence of healthy landscapes, especially urban trees, which are paramount to addressing climate change impacts.
- The 2040 outdoor standards are responsible for driving our region and other inland communities to have more aggressive reductions compared to other parts of the state. This disparity has been presented by multiple entities including the California Data Collaborative, PPIC, LAO and State Water Board staff.
- Furthermore, the inclusion of effective precipitation factor lowers these 2040 landscape budgets even further by subtracting out (from Reference Evapotranspiration) a factor that the average homeowner will not and cannot accurately incorporate into their watering practices. **Effective precipitation should be removed from the outdoor budget calculation.**
- DWR's minimum outdoor standard of 0.63 is supported by both the PPIC and LAO Reports.
- Disregarding DWR's recommendations is inconsistent with the Conservation Legislation. (Water Code, §§ 10609.6, subd. (a)(1); 10609.8, subd. (a); 10609.10, subd. (a); 10609.14, subd. (a).) The State Water Board's decision to disregard DWR's recommendations in favor of its own more stringent standards improperly alters and amends the scope of the rulemaking authority provided by the Legislature, which is not permitted. (Govt. Code, §§ 11342.1, 11342.2, 11350; *People ex rel. Dept. of Alcoholic Beverage Control v. Miller Brewing Co.* (2002) 104 Cal.App.4th 1189, 1198.)
- Water Code Section 10609.20(b) allows suppliers to submit data for this regulation in either calendar or fiscal year. These reporting options are consistent with other prior and longstanding data reporting requirements including the annual water loss audits and urban water management plans. The regulation unnecessarily limits the flexibility granted in statute. **We recommend the final regulation text clearly states that suppliers can report data in calendar or fiscal year.**
 - This limitation is further complicated by Water Code Section 10608.34(b)(3) which states "each urban retail water supplier shall submit a completed and

¹ A more extensive explanation of RWA concerns the proposed 0.55 and 0.45 outdoor standards, use of irrigable lands versus irrigated, and effective precipitation was submitted in our October 17, 2023 comment letter.

validated water loss audit report for the previous calendar year or previous fiscal year as part of the report submitted to the department.” Data from these water loss audits is a required component of a supplier’s objective calculation. Suppliers have been submitting validated water loss audits in either fiscal or calendar year timesteps since 2017, with about 75% of the suppliers currently submitting in calendar year.² Switching audit reporting years is costly, compromises data integrity and is unnecessary.

- The State Water Board’s interpretation of the January 1st reporting deadline dictating that calendar year reporting is not possible for suppliers is inconsistent with DWR’s interpretation of the same reporting deadline of January 1st at it applies to the annual water loss audits in which DWR allows both fiscal and calendar year reporting. There should be consistency among state agencies for reporting purposes.
- The State Water Board does not have the authority to legislate in promulgating its regulation. (Govt. Code, §§ 11342.1, 11342.2; *Carmel Valley Fire Prot. Dist. v. Cal.* (2001) 25 Cal.4th 287, 299-30.) This requirement in the regulation does not account for the flexibility provided by the Conservation Legislation, and therefore renders the regulation invalid. (*Ibid.*)
- While we support the inclusion of the 20% INI in a supplier’s outdoor standard until new imagery is available, new imagery and the processing of that new imagery will present similar errors and limitations. **We recommend that data limitation/error adjustments like the current 20% INI “buffer” be reassessed every time new imagery and irrigable landscape area measurement analysis is obtained and conducted, respectively. And that the new data limitation/error adjustments be automatically (not only as needed) included in a supplier’s annual outdoor objective budget.**
 - Higher resolution imagery or a reconfiguring of the irrigable designations (II, INI, NI) will not resolve the inherent limitation of “moment in time” imagery. This issue will exist with any new imagery and its analysis to some extent. Therefore, the regulation should include text to acknowledge that with any new imagery, a new limitation/error adjustment will need to be incorporated into suppliers’ landscape area measurement data. The goal of the adjustment is to accurately represent a supplier’s irrigated landscape area that will be matched with the applicable water use data so there is a one-to-one relationship. To accomplish this goal, the adjustment should be included in every year’s outdoor objective budget. The adjustment will likely vary percentage wise from the current 20% INI assessment and will be unique to the new imagery and its analysis.
 - This ongoing need for a detailed limitation/error assessment is not ideal, will be expensive and will lead to unpredictable changes to suppliers’ landscape area measurement from year to year. We believe this is one of the reasons why the legislation was written to apply to “irrigable” lands (which would include the current categories of II and INI together) as there would not be a need to identify what is irrigated each year, which is exponentially more complex than identifying what is “irrigable”, which does not dramatically change year to year.

² California Department of Water Resources (DWR). Water Use Efficiency Data (WUEdata) Public Portal website <https://wuedata.water.ca.gov/> .

- Due to the regulation's reliance on aerial imagery for the outdoor standard and the dominating role it plays in a supplier's objective, statewide imagery will need to be updated as often as possible. **Considering the cost and staff time required to produce updated irrigable designations for all suppliers in the state, we recommend the state provide DWR with the resources to update imagery/analysis on an ongoing 5-year basis at minimum.**
- RWA is thankful for the return to a non-volumetric threshold for converting mixed use meters. However, **RWA supports returning to DWR's original recommendation of a 1-acre threshold, which allows suppliers to focus their resources on the larger landscape properties with the highest water savings potential.**
- Various data errors, uncertainties and limitations are unavoidable in the calculation of a supplier's objective including but not limited to limitations of aerial imagery and its analysis, water supplier data errors, weather-based inputs like Eto, human behavior regarding water efficient practices, and variance-associated water use that is ineligible because it is below the overall 5% volume threshold. There is a general acceptance that water efficiency is not an exact science, which does not bode well when matched with the exacting nature of a regulation. To address this conundrum, **we recommend the inclusion of a data error factor with the goal of providing suppliers with a modest buffer beyond the objective total to account for these data issues.** Adjustments for data uncertainty as a concept has already been accepted by the State Water Board during the related water loss regulatory process in 2022. This recommended data error factor should be in addition to the water loss buffer as they address related but separate data quality issues.
- **The 5% volumetric threshold for applying for variances should be removed and variances should have a “trust but verify” approach to approving supplier submissions.** There should not be restrictions on suppliers simply trying to account for water use that is happening and is included in an approved application of use. RWA understands State Water Board staff's concern that removing the 5% threshold could cause a drastic increase in variance submissions, however, the data requirements for variance submissions are so stringent that only very motivated and resourced suppliers will be able to apply. The addition of the “trust but verify” approach would help alleviate staff's concern as well.
- **RWA continues to request that the four additional proposed CII classifications that deviate from the Energy Star Portfolio Manager broad categories be removed from the proposed Regulation.** It is unclear why these additional categories are warranted.

Additionally, RWA recommends the following regulation text additions that will have a meaningful impact on implementation success and existing tree health:

- **In Sections 974 (g)(3) and (h)(2), we strongly support the addition of allowing regional entities, like RWA, to implement and provide CII performance measures/best management practices for local suppliers' participation to meet the regulation's compliance requirements. Furthermore, we recommend that the regulation text add “and/or statewide” after “regional” in both forementioned regulation text sections and “and/or implementing” after “designing” in Section 974 (g)(3).** These small changes open up a big opportunity for suppliers to take advantage of resources and programs from prominent statewide organizations like the

California Water Efficiency Partnership (CalWEP) that have been and will be an integral part of implementation of this regulation. About half of the state's urban water suppliers are CalWEP members and we expect more to join as the regulation moves into its implementation phase. Currently CalWEP offers streamlined rebate processing and discounted bulk purchase programs for suppliers.

- RWA believes one of the best ways to protect our existing trees is to provide customers with adequate outdoor standards (no lower than 0.63 LEF). **With the goal of protecting existing trees, RWA recommends the addition of the following concept to be included in the regulation:**

- **Include existing tree canopy in the definitions of residential and CII DIM Special Landscape Areas and/or assign a LEF value specifically for residential and CII DIM tree canopy landscape areas consistent with LEF assignments for recycled water and pools.** Suppliers would provide landscape area measurement data to identify existing tree canopy square footage and would include these areas and corresponding LEF value in their outdoor objective calculations. The concept could be incorporated at different timesteps throughout the regulation and would be especially helpful when the outdoor standard drops to 0.55 LEF and 0.45 LEF in 2040 for residential and CII DIMs respectively.

Additionally State Water Board staff should work with tree and forest focused organizations like ReLeaf to align tree related definitions (ex: climate-ready trees), temporary provision allocations (ex: 1 sq. foot for new trees), and alternative compliance pathway plan requirements (ex: “keep trees healthy”) with terminology and best management practices seen in the field and recommended by tree professionals.

From a policy perspective, RWA has the following comments:

- **Water suppliers have a limited set of tools to accomplish water use reductions necessary for compliance with the regulation, which include limitations on modifying customer behavior and use.** The success of this regulation is largely dependent on the participation of the average person. Therefore, the objective standards should be developed with this target audience in mind, including their capacity/willingness for daily lifestyle changes and their tolerance for the upfront and sustained increased costs associated with the changes needed to comply with this regulation.
- RWA understands that the State Water Board has been given enforcement discretion in the legislation. This discretion includes the recently proposed enforcement extension from 2025 to 2027. However, it is uncertain how this extension would apply to all the progressive enforcement options including the issuing of information orders, written notices, and conservation orders as outlined with deadlines in the legislation. Aside from key enforcement dates and general enforcement actions, there are limited details currently provided to suppliers on what enforcement and the associated enforcement “discretion” would tangibly look like for an average supplier. This regulation is very complex with layers of required activities that build on each other to meet and maintain compliance, with only a subset of those activities directly under the control of the supplier. Customer participation, weather and emergency conditions, equipment/material supply chain issues, and various data errors/limitations are largely outside of a supplier's control. The current enforcement language in the regulation is

limited and too vague to address the plethora of seen and unforeseen issues that may arise during implementation. Therefore, **RWA recommends the State Water Board develop an enforcement policy that would include a detailed timeline of key enforcement dates, applicable enforcement activities (notices/orders/fines), and conditions upon which the State Water Board may exercise discretion not to enforce to provide guidance for all parties involved in the implementation of this regulation.** Enforcement discretion conditions could include the concept of a compliance range or other factor for suppliers that are putting forth a “good faith” effort to comply but narrowly exceed their objective, suppliers that show continual progress toward meeting their objective but are not eligible for alternative compliance pathway options, suppliers who demonstrate they are implementing or will implement lower cost actions to help the supplier achieve overall water supply resiliency, suppliers that can verify an operational emergency that impacts their ability to report on the objective and other potential situations.

- RWA acknowledges the concerns expressed at the March 20th State Water Board Workshop regarding the limiting of “backsliding” of supplier water use by maintaining the demand reduction success of the 20 X 2020 regulation. **RWA recommends the State Water Board staff work with ACWA to address these “backsliding” concerns.**
- **There is a need for improved collaboration between the State Water Board staff and DWR staff on this regulation, specifically for objective reporting, compliance assessment, submittal of variances and temporary provisions, approval of alternative data, and other items.** The regulation text should align with the direction given in the legislation. A collaboration framework/agreement should be in place before 2025 objective reporting so suppliers have a clear understanding of which agency is taking the lead on what. This is concerning as there are already several existing examples of discrepancies between the two state agencies, including foundational items like the outdoor standard and compliance items like the State Water Board’s interpretation of calendar/fiscal year reporting options compared to DWR’s interpretation.
- **RWA’s overarching concern is that the revised draft regulation will adversely impact affordability and quality of life for all customers.** This regulation will come with a significant cost to our suppliers and their customers and is not always the lowest cost option available to our region for saving water or securing new supply. Most of our efficiency programs are not cost effective. To help supplement our implementation costs, RWA regularly applies for and is awarded grant funding. For example, RWA’s Regional Water Efficiency Program currently utilizes \$4M in grant funding in addition to our \$650,000 annual budget to support suppliers’ efficiency efforts. We will need new and expanded funding sources over the next couple of decades to assist suppliers in reaching their objective budgets. We cannot expect all costs to be recovered through water rate increases, which have the greatest impact on our most vulnerable populations. This next era of California water efficiency will require unprecedented resources as our region has already achieved much of the “lower hanging fruit” ways to save. Furthermore, currently available federal, state, and private grant funding is insufficient for the investment that is needed to successfully implement this regulation statewide.

Conclusion: Moving toward implementation

In conclusion, we look forward to continuing to work with State Water Board Members and staff to further refine the regulation with successful implementation in mind. **Our two priorities are alignment with DWR's minimum outdoor standard of 0.63 LEF, as supported by the PPIC and LAO Reports, and arguably required by the Conservation Legislation, and allowing for calendar and fiscal year reporting as stated in the Conservation Legislation.**

RWA is already preparing its suppliers for implementation by developing scalable indoor and outdoor CII programs, expanding DAC indoor direct installation programs, continuing to build relationships with customers through our ongoing regional public outreach campaigns, and educating our youngest water users through “in the classroom” educational programs. However, there is more work to be done.

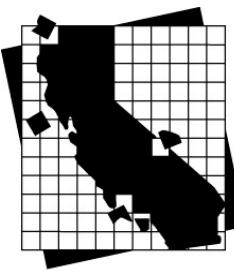
We are committed to continuing to invest in water efficiency in our region, which we believe is an essential part of increasing overall water reliability and addressing climate change.

We look forward to the continued conversation during these comment periods and toward the successful approval of the regulation later this year.

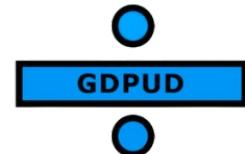
Sincerely,



James Peifer
Executive Director



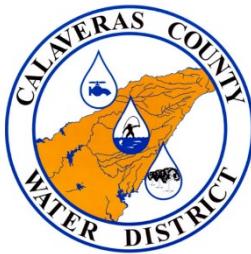
CSDA







Sunnyvale



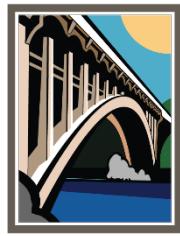
DESERT WATER



PALMDALE WATER DISTRICT
A CENTURY OF SERVICE

EL SINORE
VALLEY

MUNICIPAL WATER DISTRICT



Public
Utilities



NORTH MARIN
WATER DISTRICT



SAN GABRIEL VALLEY
WATER COMPANY



RCSD
Rosamond Community Services District



Carlsbad
Municipal Water District

CITRUS
HEIGHTS
WATER
DISTRICT

SCV
WATER



SOUTH COAST
WATER DISTRICT
Partnering With The Community



YUBA CITY



March 27, 2024

Submitted via: commentletters@waterboards.ca.gov

Courtney Tyler
Clerk to the State Water Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Re: Comment Letter — Proposed Making Conservation a California Way of Life Regulation

Dear Ms. Tyler,

The Association of California Water Agencies (ACWA) and the undersigned organizations appreciate the opportunity to provide comments to the State Water Resources Control Board (State Water Board) on the proposed Making Conservation a California Way of Life Regulation (Regulation). ACWA and its coalition partners submitted comprehensive comments to the State Water Board on the August 2023 version of the proposed Regulation. Core to ACWA's comments was the request that the State Water Board work with ACWA, water suppliers, and other interested parties to address the policy and technical concerns in the revised draft. We immensely appreciate the significant time that State Water Board staff and Board Members, environmental and environment justice groups, and water suppliers dedicated to this process in November and December of 2023, which resulted in 21 meetings of five working groups. We believe that collaborative processes focused around understanding diverse perspectives and discussing different solutions lead to improved and effective policy.

Water suppliers offer a unique and important perspective on the development of the proposed Regulation because water suppliers have developed and successfully implemented water use efficiency programs, in partnership with their customers, over the past several decades. As noted in the Legislative Analyst's Office (LAO) January 2024 Report to the Legislature, *Assessing Early Implementation of Urban Water Use Efficiency Requirements* (Report), these local and state actions have led to water use reduction in which the state uses roughly the same total amount of urban water now as it did in 1990, despite a 30% increase in population.

We support many of the changes made to the proposed Regulation to address the water communities' feasibility, cost, and flexibility concerns in the previous version. We remain committed to continuing to work productively with the State Water Board and other interested parties to finalize this regulation so that water suppliers can continue to advance the goals of Making Conservation a California Way of Life.

Section 1. Support for Changes to the Revised Proposed Regulation

ACWA and the undersigned coalition partners are in strong support of the following changes made to the revised proposed Regulation. These changes are foundational to the success of this regulation, which we define as water suppliers' ability to work with their customers to achieve meaningful water savings and multi-benefits, while considering cost, affordability, and suppliers'

good faith efforts, while minimizing unintended impacts. We urge the State Water Board to retain these changes in the final Regulation that it adopts.

1. Support for Changes to Timelines

- a. Outdoor Water Use Standard: We are in strong support of the proposed revisions of Section 968 to the outdoor residential water use standards timelines. The provision of five additional years to achieve meaningful water use reductions is reasonable, allows for more cost-effective implementation, and does not undermine the overall savings that will be achieved. In our October 2023 Comment Letter, we expressed significant concern that the initial proposed timelines were not reasonable, did not support cost-effective compliance, and would not achieve the multi-benefits desired. These concerns were also recognized in the LAO Report that “although the requirements are phased in over multiple years, the timeline for full implementation may be too aggressive given the number of changes that will have to occur to achieve the level of conservation envisioned. In addition, although the SWRCB is two years behind adopting final rules, suppliers’ deadlines (which are set in statute) have not been correspondingly adjusted.”

To achieve the ambitious water use efficiency standards that this regulation would establish, water suppliers will need to develop and implement new programs that require long-term customer behavior change and significant investments. With a final Regulation expected to go into effect in 2025, starting compliance in 2025 would not be reasonable as 42% of suppliers be out of compliance. Additionally, suppliers would not have the appropriate time to collect and submit the required data for variances, which help ensure that individual water use objectives include all significant and appropriate uses of water. We strongly believe that the adjustments to the outdoor standards timeline will help provide the necessary time for all urban retail water suppliers to analyze existing water use efficiency programs; plan for cost-effective compliance with the standards, objectives and performance measures; budget for and staff programs; educate customers and build partnerships, including targeted programs for disadvantaged communities (DACs); allow for technology advancements; and avoid unintended impacts to urban trees, DACs, and water affordability.

The proposed outdoor standards of a 0.55 Landscape Efficiency Factor (LEF) are far more stringent than the Department of Water Resources’ (DWR) 2022 *Recommendations to the State Water Board*, developed in coordination with the State Water Board and a diverse group of stakeholders and technical analyses and studies, of 0.63 LEF by 2030. The LAO Report, Public Policy Institute of California and many water suppliers have called for the State Water Board to revert to DWR’s recommendations for an outdoor standard. We believe that the achievement of 0.55

LEF for 2040 will be a tremendous lift for many suppliers and could still impose significant feasibility and cost-challenges, particularly absent dedicated funding or technical assistance.

- b. **CII Performance Measures.** We strongly support the proposed revisions to the implementation timelines for the Commercial, Industrial, and Institutional (CII) Performance Measures (PMs). Like the water use efficiency standards, compliance with the CII PMs in the previous version of the Regulation were proposed to begin in 2025. Additionally, implementation schedules for the CII PMs were overly prescriptive, requiring a specified percentage of completion bi-annually, and all stacked on top of each other within a five-year period, despite some CII PMs requiring completion before moving on to the next. We believe that the revised schedule will provide water suppliers with appropriate flexibility to successfully complete the CII PMs, resulting in reduced cost-impacts and reduced implementation challenges.

2. Support for Changes to Compliance

- a. **Compliance in 2027.** We strongly support the proposed modification to the compliance start date of 2027. Enacting legislation SB 606 and AB 1668 (2018) directed the regulation to be adopted by 2022 and defined the implementation and enforcement path, that authorized the State Water Board to:
 - Issue information orders starting January 1, 2024
 - Written notices starting January 1, 2025
 - Conservation orders starting January 1, 2026
 - Civil liabilities starting January 1, 2027

We believe that adjusting compliance to begin in 2027 is consistent with the intent of the enacting legislation, which created a pathway within the first two to five years from the intended 2022 adoption date of the regulation for suppliers to develop programs that will be essential to achieving compliance. The change in compliance dates provides an important signal and more certainty to suppliers that the State Water Board's focus is on the successful compliance with the regulation, rather than enforcement.

- b. **Alternative Compliance Pathway.** We strongly support the proposed changes to Section 966(i) and (j) that provide for a more feasible alternative compliance pathway. In our October 2023 letter, we expressed concern that many suppliers' proposed water use objectives were unreasonable or infeasible. Based on preliminary data, the initial version of the proposed Regulation indicated that 41% of suppliers could be required to achieve water use reductions greater than 20% within the next 10 years. Many of these communities serve DACs. We raised concerns that the previously proposed alternative compliance pathway did not provide a pathway

to compliance. It only provided five additional years and had many requirements that were infeasible or unreasonable for suppliers.

We believe that the two alternative compliance pathways currently proposed, one for communities below the Median Household Income (MHI) and with a water use reduction greater than 20% and one that applies to all suppliers with a reduction greater than 30%, are both necessary and strike an appropriate balance of achieving meaningful water savings. There was significant discussion on alternative compliance in the State Water Board's working group meetings, and we appreciate that the State Water Board has now removed requirements that were infeasible for many water suppliers (e.g., eligibility requirements of 40% dedicated funding to DACs, which conflicts with Proposition 215, SITES rating system, and Tree City USA recognition). We believe that the revised alternative compliance requirements, which direct suppliers to develop a plan and show how they will meet a threshold of savings, provide more flexibility and align more accurately with the overall goals of advancing water use efficiency.

We appreciate some interested parties' concerns regarding 966(j) and the perception that communities with a higher MHI will be provided greater flexibility than the previous version of the regulation. However, this proposed pathway would still result in suppliers achieving a minimum of 30% reduction in water use in the next 15 years. This is significant and would require suppliers and customers to make substantial investments and changes in water use. Additionally, we note that a cap was not proposed on the total reduction, and for suppliers eligible for 966(j) and with a reduction greater than 30%, they will continue to meet the full extent of their water use objective but are being provided reasonable time with 2% per year annual reductions.

3. Support for Inclusion of Irrigable, Not Irrigated. We support changes to Section 968(b)(2)(B) that allows for the inclusion of 20% of the suppliers' unique square footage of Irrigable Not Irrigated (INI) area. These changes align the draft Regulation more consistently with existing law and the Department of Water Resources' (DWR) analysis and recommendations to the State Water Board. In Section 2, Comment 1 of this letter, we note continued concern with provisions of this section, and request additional changes to make the provisions of INI consistent with existing law.

As noted in our previous comment letter, the Conservation Legislation requires outdoor efficiency standards to apply to "irrigable lands" (Wat. Code, § 10609.6 (2)(B)). The August 2023 draft Regulation did not apply to "irrigable lands" as the statute requires. Instead, the draft Regulation only included irrigable land that is currently being irrigated in its proposed outdoor standards. Section 968(b)(2)(B) inappropriately limits 20% of the irrigable, but not currently

irrigated (INI), landscape area as eligible for inclusion in the objective until 2027, and even then, it is only allowed to be included if the supplier will surpass its objective target without it. Because the draft Regulation did not apply to all irrigable lands, it was inconsistent with the Conservation Legislation. Additionally, we noted that DWR conducted a statistical analysis of outdoor water use, Landscape Area Measurement (LAM) and INI data. The data concluded that the INI area is being irrigated at one fifth or 20% of the irrigable area. This 20% should not be viewed as additional, but as area that is being irrigated. As a result, DWR correctly recommended that the calculation of annual outdoor water use must include 20% INI. DWR's findings were also based on the recognition that its analysis was only a snapshot in time and undercounting of irrigated area would continue unless multiple images are conducted over the analysis year.

4. Support for Other Technical Changes.

a. Outdoor Water Use Efficiency Standards. We support the following changes made to Section 968:

- Inclusion of residential parkway landscape.
- Inclusion of alternative sources of data for LAM, evapotranspiration, and effective precipitation.
- Designation of special landscapes areas with a LEF of 1.0.
- Designation of residential special landscape standard as 1.0 and the addition of recycled water irrigated landscape.
- Clarification for variances and temporary provision approval, including process, required information, and timeline for inclusion.
- Removal of temporary provisions for existing residential pools, spas and similar water features.

b. CII PMs. We support the following changes made to Section 972, 973 and 974:

- Removal of interim implementation schedules of CII performance measures
- Changes to the definition of large landscape.
- Inclusion of additional flexibility in the options of in-lieu technologies.
- Modifications to identification of disclosable buildings through existing California Energy Commission resources, and associated reporting requirements.
- Inclusion of alternative methodologies for identifying CII connections to develop conservation programs.
- Consideration for suppliers with limited CII water use.
- Compliance through regional programs.

c. Bonus Incentive. We support the following changes to Section 971:

- Development of methodology for calculating the bonus incentive through direct potable reuse.

Section 2. Requests for Changes

1. Request for Changes to Recognize Data Errors and Limitations. We urge the State Water Board to recognize that there are and will continue to be inherent data quality limitations and variability that impact suppliers' compliance with their water use objective. As water suppliers and the state work together to implement the final Regulation, the goal for high-quality data is important. However, we continue to request changes that recognize inherent data limitations and gaps.
 - a. Compliance and Enforcement. **We request that a final Regulation make clear that it will consider data limitations and errors and provide technical assistance prior to taking enforcement actions.** The State Water Board should make clear that "if a supplier does not meet its water use objective because of potential data errors and limitations (e.g., it is unable to obtain the information required for variances, there are potential errors in landscape area measurement (LAM) data), prior to any enforcement action, technical assistance must be offered to the supplier to correct data errors and limitations.
 - b. Evaluate Future LAM for Error. We appreciate that the State Water Board's revised proposed Regulation allows for updated aerial imagery and landscape classification. We want to work with the State Water Board and DWR to better understand landscape classification, as it relates to retailer's actual water use of existing landscapes, particularly INI. **Any new LAM data should be analyzed to determine the accuracy and associated errors (e.g., areas classified as INI that are likely irrigated), and those errors should be reflected in suppliers' updated LAM.** As currently proposed, the proposed Regulation does not provide any flexibility to account for errors in updated LAM.
 - c. Data Error Adjustment. Regarding the request for a Data Error Adjustment (DEA), we note that the State Water Board has accounted for data quality and variability issues in other regulations, such as the Water Loss Regulation, which provided that "a supplier shall maintain, for each compliance assessment, real loss that is no greater than 5 gallons per connection per day above the supplier's real water loss standard." The DEA would be a percentage, either five or ten percent as determined below, added to a supplier's budget for efficient indoor residential water use, efficient outdoor residential water use, and efficient water use on a CII landscape with a dedicated irrigation meter (DIM) or equivalent technology.

2. Request for Inclusion of Irrigable, Not Irrigated.

- a. New LAM Data. The proposed Regulation would remove the inclusion of 20% of the suppliers' unique square footage of INI area once updated landscape area is provided. Like DWR's statistical findings that 20% of INI landscape is being irrigated, new LAM data would likely include similar errors. **We request that whenever new LAM data is developed, updated INI “buffers” are again provided, and that suppliers may use the updated INI “buffer” data to meet compliance.**
- b. Consideration of INI. We have concerns with the language in the revised draft Regulation related to Section 968(b)(2)(B) that provides for the inclusion of 20% of suppliers unique square footage of Irrigable Not Irrigated area “*if the supplier’s actual urban water use for the reporting year, calculated in accordance with section 10609.22, is greater than the urban water use objective calculated pursuance to section 966 without inclusion of Irrigable Not Irrigated area.*” While we appreciate the improvements from the previous version of the proposed Regulation, we still believe that this is inconsistent with the requirements of existing law and DWR’s analysis, which recognized that INI lands are in fact being irrigated and should be included in suppliers water use objective. **This language should be struck from the final Regulation.**

3. Request for Changes to Effective Precipitation. **We continue to request that Effective Precipitation be removed from the final Regulation and outdoor standard.** Effective Precipitation is not required by MWELO (Title 23, Division 2.7, Section 494): “A local agency may consider Effective Precipitation (25% of annual precipitation) in tracking water use.” The inclusion of Effective Precipitation in the outdoor standard is inconsistent with real-world irrigation practices. Landscapes are generally not designed to consider effective precipitation since it can be highly variable. Precipitation often falls during winter months when irrigation is not utilized (May through September) and can percolate below the root zone of the plant negating its beneficial effect to that plant’s watering needs. Additionally, precipitation is often not distributed evenly throughout a supplier’s service area. Some areas may receive precipitation and other areas none, making it difficult to apply one effective precipitation rate at the water supplier level.
4. Request for Clarification of Compliance 2027 and Progressive Enforcement. We appreciate that the State Water Board has a positive track record of utilizing its enforcement discretion. Additionally, as mentioned in Section 1 Comment 2a of this letter, we support that the revised proposed Regulations modifies the compliance date to 2027. We assume that the intent of 2027 compliance means a progressive enforcement consistent with statute, in which the State Water Board may issue information orders starting 2027, written notices in 2028, conservation orders in 2029, and civil liabilities in 2030. However, the language is

vague, and the steps and timelines of the State Water Board's progressive enforcement should be defined to provide certainty to all interested parties.

5. Request for Improvements to Reporting.

- a. Reporting Year. The Conservation Legislation allows for water suppliers' calculations to be based on "conditions for the previous calendar or fiscal year." (Wat. Code § 10609.20, subd. (b).) Section 975 of the draft Regulation would require urban water supply reports to be based on conditions of the previous state fiscal year. A regulation cannot limit flexibility that a statute specifically allows. We additionally note that this is inconsistent with the State Water Board's adopted Water Loss Regulation, which allows water loss audit reporting on either a fiscal or calendar year. Because the proposed Regulation would require water suppliers to report based on the state fiscal year, it is inconsistent with the Conservation Legislation. Additionally, we note that the requirement for suppliers to report on a fiscal year basis creates conflict with other existing reporting requirements, including the electronic annual report. **We request that a final Regulation allow suppliers to report either calendar year or fiscal year.**
- b. Streamline Reporting. Given the 15-day comment period deadline, we did not have adequate time to provide detailed comments to all the new reporting requirements. However, we note significant concern with the newly proposed reporting requirements that are either duplicative with existing reporting to the State Water Board or request reporting that is outside the scope of the enacting legislation and regulation. Following the submittal of our comment letter, we would like to work with State Water Board staff and other interested parties to make technical changes to the final Regulation to address the following problematic reporting requirements:
 - i. Top 10% single family residential and multi-family residential customers
 - ii. Excluded demands (e.g., process water estimate and MUM volumes)
 - iii. Volume reporting
 - iv. Applied water to large landscapes
 - v. Estimated water savings
 - vi. Reporting units

We request that State Water Board staff meet with water suppliers to discuss technical revisions to the reporting requirements to minimize duplicative and burdensome reporting that does not align with the intent of enacting legislation. Additionally, we request that any final reporting document that water suppliers must complete be developed through a collaborative process.

6. Request for Technical Cleanup on CII PMs.

- a. CII Classification. We continue to request that the four additional proposed classifications that deviate from the Energy Star Portfolio Manager broad categories be removed from the proposed Regulation. We do not understand the value that including these additional classifications would provide for the burden they create for suppliers.
- b. CII BMPs.
 - i. Key Business Activity Indicator (KBAI). We appreciate the flexibility that the addition of the KBAI option provides in targeting CII programs and PMs in Section 974. This would allow suppliers to target inefficient water use more effectively. It is important to note that there is significant variability in water use, even within a single classification category, within a single supplier service area, and between suppliers. These variations can be due to the location, operating hours, extent of outdoor landscaping, seasonal variation, etc. As a result, it would be challenging to establish a single efficiency standard or easily identify inefficient customers based on a single benchmark in each classification. In some cases, inefficiency could be determined based on the age of plumbing fixtures or devices, evidence of leaks, or other on-site conditions that are not necessarily readily identifiable across a classification or obvious in the analysis of water use data. **We request that the language be clarified to acknowledge that the determination of efficiency could have a wide range and could be challenging to quantify, and that the supplier would target these CII customers based on the range in addition to other factors, determined by the supplier, based on their local service area.**
 - ii. “Offer” vs. “Implement”. The draft Regulation requires suppliers to “implement” actions and technologies for large landscapes. The term “implement” implies that suppliers will take up an action on a customer’s behalf. Suppliers may offer programs, rebates, incentives, and in-lieu technologies, but suppliers cannot require the customer to act or implement in-lieu water use technologies. **The draft Regulation should replace “implement” with “offer” to recognize suppliers’ appropriate authorities.**
 - iii. Statewide Entities. We appreciate changes that allow a supplier to rely on implementation by a regional entity in lieu of implementing its own conservation program. We recommend that statewide entities also be included.

We appreciate the opportunity to provide these written comments to the State Water Board on the draft Regulation. We ask for the opportunity to work collaboratively with the State Water Board on provisions to clarify and streamline reporting and compliance, and we look forward to the finalization of this regulation so the true work of Making Conservation a California Way of Life can begin. Please do not hesitate to contact me at ChelseaH@acwa.com or (916) 206-4078 if you have any questions regarding our input.

Sincerely,
Chelsea Haines

Chelsea Haines

Regulatory Relations Manager
Association of California Water Agencies

Alameda County Water District
Amador Water Agency
Bay Area Water Supply & Conservation Agency
Bella Vista Water District
Calaveras County Water District
California Municipal Utilities Association
California Special Districts Association
California Water Association
California-Nevada Section AWWA
Carmosa Water District
Carlsbad Municipal Water District
Carmichael Water District
Casitas Municipal Water District
Citrus Height Water District
City of Bakersfield
City of Chino
City of Colton
City of Folsom
City of Garden Grove
City of Glendora Water Division
City of Oceanside
City of Ontario
City of Ontario
City of Redding
City of Roseville
City of San Diego Public Utilities Department
City of Santa Rosa
City of Sunnyvale
City of Upland
City of Yuba City
Coachella Valley Water District
Contra Costa Water District
Cucamonga Valley Water District
Desert Water Agency
East Valley Water District
Eastern Municipal Water District

El Dorado Water Agency
El Toro Water District
Elk Grove Water District
Elsinore Valley Municipal Water District
Foothill Municipal Water District
Georgetown Divide Public Utility District
Golden State Water Company
Great Oaks Water Company
Helix Water District
Indio Water Authority
Inland Empire Utilities Agency
Las Virgenes Municipal Water District
Liberty Utilities
Los Angeles Department of Water and Power
Mesa Water District
Monte Vista Water District
Municipal Water District of Orange County
North Marin Water District
Otay Water District
Padre Dam Municipal Water District
Palmdale Water District
Ramona Municipal Water District
Rancho California Water District
Regional Water Authority
Rosamond Community Services District
Rowland Water District
Sacramento Suburban Water District
San Diego County Water Authority
San Gabriel Valley Water Association
San Gabriel Valley Water Company
Santa Clarita Valley Water Agency
Santa Fe Irrigation District
Santa Margarita Water District
South Coast Water District
South Tahoe Public Utility District
Suburban Water Systems
Sweetwater Authority
Tahoe City Public Utility District
Three Valleys Municipal Water District
Truckee Donner Public Utility District
Upper San Gabriel Valley Municipal Water District
Vallecitos Water District
Valley Center Municipal Water District

Vista Irrigation District
Walnut Valley Water District
West Basin Municipal Water District
West Kern Water District
West Valley Water District
Western Municipal Water District
Yorba Linda Water District

CC: The Honorable E. Joaquin Esquivel, Chair, State Water Resources Control Board
The Honorable Dorene D'Adamo, Vice Chair, State Water Resources Control Board
The Honorable Laurel Firestone, State Water Resources Control Board
The Honorable Sean Maguire, State Water Resources Control Board
The Honorable Nichole Morgan, State Water Resources Control Board
Mr. Eric Oppenheimer, Executive Director, State Water Resources Control Board
Mr. James Nachbaur, Director, Office of Research, Planning and Performance, State Water Resources Control Board
Ms. Charlotte Ely, Supervisor, Conservation and Efficiency, State Water Resources Control Board
Mr. Dave Eggerton, Executive Director, Association of California Water Agencies
Ms. Cindy Tuck, Deputy Director, Association of California Water Agencies

MEMO

TO: Board of Directors

FROM: Greg Norris, Engineering Manager

DATE: April 8, 2024

RE: Update on COTP - Transmission Leasing Next Steps

BACKGROUND

Carmichael Water District (CWD) currently owns 1 mega-watt (MW), 0.0677% (1/1600 MW) of the transmission capacity in the Cal-Oregon Transmission Project (COTP), which transmits power from the California-Oregon border to a substation in Tracy, CA. Since COTP's inception in 1994, CWD has leased the transmission capability to SMUD. The current lease agreement with SMUD was signed on January 1, 2005 and is set to expire on December 31, 2024. The transmission lease agreement yielded an annual revenue from SMUD that ranged from \$24,480 to \$13,536, using an annual depreciation method. In addition, SMUD paid CWD's share of an annual O&M fee directly to COTP that started at \$1,200/year in 2005, but is now at \$15,516/year.

In February 2024, SMUD notified the District that it will not be pursuing a renewal of the lease agreement and that they are not interested in purchasing the 1 MW of transmission capacity.

SUMMARY

After SMUD notified the District that it is NOT interested in moving forward with a lease renewal or a purchase option for the 1 MW of transmission capability from CWD, staff met with the Project Manager of COTP, Transmission Agency of Northern California (TANC), General Manager and staff to discuss potential next steps. TANC recommended possible options for the District as follows:

1. Keep the entitlement. CWD would be responsible for the annual operations and maintenance (O&M) costs associated with CWD's share of the COTP. Historically O&M costs have been about \$15,000 per year for the 0.0677% share, but TANC expects these costs to increase as the equipment ages. CWD could sell transmission capacity on the COTP, but CWD would need to develop their own Open Access Transmission Tariff and arrange for third party sales on OATT. TANC members' third party sales on the COTP have not typically resulted in revenue because their benefit mainly comes through transmission capacity to serve their own members in their own service territory.
2. Enter into another leasing agreement with an entity, such as the one between CWD and SMUD. This temporarily transfers all of CWD's COTP rights and responsibilities to another entity (depending on the language in that agreement), and at the end of the term, the rights and responsibilities would go back to CWD.
3. Permanently or through a Layoff of a specified time period, assign all of CWD's COTP rights and entitlement. This would be a sale or transfer of CWD's rights and entitlement to another entity, and CWD would no longer have any entitlement, rights, or responsibilities on the COTP.

For the #1 option above, because CWD neither sells nor delivers power, this option will end up costing CWD money with no opportunity to break even. There is no possibility of revenue if CWD kept the 1 MW, just O&M costs.

For #1 and #2 options above, no entity outside of COTP or TANC would likely invest in the effort of purchasing or leasing CWD's 1 MW due to the time and expense of transferring the transmission capability versus the value of the 1 MW capacity.

Finally, the only feasible option is #2 or #3 as an outright sale or lease of the 1 MW share of the COTP to another member in TANC, avoiding the necessary processing fees that would be required for someone outside of TANC to take over the 1 MW.

TANC has put on their April Board meeting (April 17, 2024) agenda an item to discuss the expiration of SMUD lease agreements with COTP members and will offer to their members that if any member is interested in picking up transmission capability to contact those COTP members effected. If a member does contact CWD to discuss the purchase or lease of the 1 MW, staff will collect information and develop a recommendation for CWD Board consideration.

FISCAL IMPACT

Loss of about \$20,000 per year after SMUD lease expires. Average O&M cost for a 1 MW share is about \$15,000 per year.

RECOMMENDATION

None as this is only informational.



FOR IMMEDIATE RELEASE

Media Contact: Kayleigh Shepard, (916) 725-6873 ext 134

Water Agencies File Lawsuit to Protect Water Rates and Local Control

*Citrus Heights Water District and Fair Oaks Water District stand with customers against
alleged San Juan Water District wholesale water rate overcharge*

Citrus Heights, CA (**April 11, 2024**) – As a last resort, Citrus Heights Water District (CHWD) and Fair Oaks Water District (FOWD) filed a joint lawsuit against their wholesale water provider, San Juan Water District (SJWD). CHWD and FOWD elected officials, who represent about two-thirds of SJWD's population, unanimously backed the case. The districts allege that SJWD's rate increase illegally overcharges CHWD and FOWD customers.

"Wholesale water from SJWD is CHWD's single largest outbound cost. We are committed to making sure our customers pay their fair share - and no more," said CHWD Board President Caryl Sheehan. "Local residents, business owners, and our Districts pleaded with the SJWD Board to work with us, but they simply approved the rates over our opposition."

SJWD's Board of Directors voted to approve the higher rates on December 13, 2023, with only Director Pam Tobin voting against the increase, and urging more coordination with CHWD and FOWD.

"SJWD approved unfair rates that also make it more expensive to use local water supplies that we've already invested in," said Chris Petersen, FOWD Board President. "At the end of the day, litigation is something that FOWD and CHWD wanted to avoid, but found necessary for better, fairer rates."

SJWD is a wholesale water agency that provides water to local water agencies, including FOWD and CHWD, who in turn deliver it to homes and businesses. SJWD provides water directly to homes and businesses in the Granite Bay area. SJWD also sells much of its least expensive water to others, which the districts allege leaves CHWD and FOWD customers with higher bills.

The complaint suggests that under the new rate plan that SJWD recently approved, local water agencies are *disincentivized to conserve or use local, reliable groundwater*. This appears to conflict with State policy or decades-long efforts to build regional water supply resiliency. The current rate plan could make the region more vulnerable to water shortages and keep rates artificially high for CHWD and FOWD customers.

The Superior Court of California, County of Sacramento will assign a judge to oversee the case. CHWD and FOWD will keep the community up to date as the lawsuit progresses. The Districts encourage customers to stay informed about this important issue.

Stay informed:

www.chwd.org/lawsuit

www.fowd.com

###