GOVERNMENT AFFAIRS AND COMMUNITY OUTREACH COMMITTEE MEETING AND SPECIAL MEETING OF THE BOARD OF DIRECTORS

Tuesday, March 12, 2019
5:30 p.m.

Committee Members:
Jennifer Santana, Chair
Tony R. Fellow Vice-Chair

Call-In: (877) 411-9748
Participant Code: 8736969

UPPER SAN GABRIEL VALLEY MUNICIPAL WATER DISTRICT

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*The Government Affairs and Community Outreach Committee meeting is noticed as a joint committee meeting with the Board of Directors for the purpose of compliance with the Brown Act. Members of the Board who are not assigned to the Government Affairs and Community Outreach Committee may attend and participate as members of the Board, whether or not a quorum of the Board is present. In order to preserve the function of the Committee as advisory to the Board, members of the Board who are not assigned to the Government Affairs and Community Outreach Committee will not vote on matters before the Committee.

Communications
1. Call to Order 2. Public Comment
Discussion/Action
3. Legislative Update *(memos attached)* a. Washington DC b. Sacramento 4. Legislative Bill Positions *(staff memorandum attached)*
Oral Reports
5. Upper District's Membership Review 6. Plant Voucher Program Update
Other Matters
7.
Adjournment

Next Meeting: Tuesday, April 9, 2019 at 5:30 p.m.

American Disabilities Act Compliance
Government Code Section 54954.2(a)
To request special assistance to participate in this meeting, please contact the Upper District office at (626) 443-2297 at least 24 hours prior to meeting.

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW

To: Upper San Gabriel Valley Municipal Water District Government Affairs and Community Outreach Committee
From: John Freshman and Ana Schwab
Date: March 5, 2019
RE: Federal Report

Infrastructure and Federal Streamlining

The House and Senate are having hearings on the future of a broad infrastructure package. The Senate majority members are likely to call for more streamlining of federal permitting. Democrats in both chambers will call for any infrastructure package to include climate change provisions. Further, the House is having a hearing on the Clean Water States Revolving Loan Fund. A focus of the hearing is investment in community modernization and affordability.

Streamlining federal permitting has been priority for the President since before he took office. This priority is becoming a reality through the Federal Permitting Improvement Steering Council. Council members include the Army Corps of Engineers, the Bureau of Reclamation, and the Environmental Protection Agency. Furthering the President's goal, the White House has released a memorandum providing recommendations for state agencies reviewing projects under NEPA. The guidance laid out dictates that one agency will be the lead on permitting and will issue a single environmental impact statement for all federal agencies involved. This is the first direction by the federal government to state agencies that have reviewing responsibilities, the first start is Surface Transportation Project Delivery Program. The direction here provides light as to what to expect as the streamlining expands.

EPA

Andrew Wheeler has been confirmed as the Administrator of the Environmental Protection Agency. The vote was primarily along party lines. Sen. Susan Collins (R-ME) voted no, saying that the policies Wheeler is promoting are not in the best interest of the environment. Administrator Wheeler comes with a strong water background, having served as Counsel to the Senate Environment and Public Works Committee under Chairman Jim Inhofe (R-OK).

County of Maui, Hawii v. Hawai'i Wildlife Fund

The Supreme Court announced it will be hear *County of Maui, Hawaii v. Hawai'i Wildlife Fund.* The case deals with a potential expansion of the federal NPDES permitting to groundwater management. The question in the case is: if a pollutant travels through groundwater before reaching a federally regulated waterway, does the Clean Water Act apply? The case involves the discharge of municipal wastewater into injection wells.

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW

Updated WOTUS Rule

The EPA and Army Corps have called for comments on their proposed rule defining "Waters of the United States." Comments on the proposal are due by April 15, 2019. The proposal is to include: "traditional navigable waters, including the territorial seas; tributaries that contribute perennial or intermittent flow to such waters; certain ditches; certain lakes and ponds; impoundments of otherwise jurisdictional waters; and wetlands adjacent to other jurisdictional waters. Other highlights include:

- "Adjacent wetlands" and similar waters would only be included in CWA jurisdiction if they "are physically and meaningfully connected to other jurisdictional waters."

- "Ephemeral streams and related features" would be excluded from CWA jurisdiction.

- An impoundment, such as a man-made storage reservoir, remains under CWA Jurisdiction if it is constructed on a water body that would otherwise qualify as jurisdictional – meaning reservoirs constructed on ephemeral streams would be excluded from the definition.

- MS4s and other water conveyance infrastructure is excluded from the definition of WOTUS as long as it is not used for transporting goods, and it was not constructed in a water that would on its own qualify as jurisdictional – again, meaning that ditches and canals constructed in ephemeral streams are excluded from the definition.

- The Agencies are seeking comment on how the proposed rule will regulate impoundments, storm drains and other man-made infrastructure. The rule and the preamble make clear that the Agencies are actively seeking input from persons and entities who will be impacted by these aspects of the proposed rule.

Government Affairs & Community Outreach Committee Meeting
March 12, 2019
Army Corps of Engineers
Report by Michael Strachn

Fiscal Year 2020 Federal Funding, Corps of Engineers

The President's FY 2020 Budget request for the Corps of Engineers is currently scheduled to be unveiled on March 11th and 18th (general concepts on the 3/11 and project specifics on 3/18, though this could change). Early indications are that the top-line budget figures for the Corps of Engineers will be constrained.

We will monitor any changes made by Congress to its rules on congressional "earmarks" (congressionally-directed spending, as opposed to solely-Administration directive). In February, the Chairperson of the House Committee on Appropriations announced there would be no earmarks in the next appropriations cycle. We will monitor developments to see if the President's Budget proposal precipitates a change in the no-earmark policy, especially in the House.

WOTUS

There has been no substantive change since last month on the Administration's proposed changes to the scope of federal regulatory control under the Clean Water Act ("Waters of the U.S."). However, signals continue to emerge from capitol hill, that it intends to conduct aggressive oversight on the proposed changes and likely will propose legislation to keep them from being implemented. This topic could get caught up in "climate change" and "green new deal" rhetoric.

116th Congress

Due to delays caused by the government shutdown/wall funding stalemate (even though that crisis has been averted), normal legislative procedure, including consideration of agency funding bills, has been delayed by at least a month. Meanwhile, vitiating the President's emergency wall decision, "oversight" on numerous agencies' policies and a partisan maneuvering generally compete for time and attention with normal legislative activity.

Aaron Read
& Associates, LLC

LEGISLATIVE AND
GOVERNMENTAL REPRESENTATION

March 7, 2019

MEMO TO: Patty Cortez

FROM: Steve Baker

SUBJECT: Update on Upper District Issues

With the swearing-in of Governor Newsom the administration is up and running and the Governor has made a variety of appointments and proposals in the water arena. The Governor has appointed Wade Crowfoot as the Secretary of the Resources Agency. Wade was formerly the Executive Director of the Water Foundation. He will oversee the Department of Water Resources, the Department of Fish and Wildlife and a variety of other agencies. The Governor also appointed Joaquin Esquivel as the Chair of the State Water Resources Control Board, and Laurel Firestone as a Member of the Water Board. Joaquin was already on the board and was elevated to the Chair. Laurel was formerly an attorney at the Community Water Center, an environmental justice group that has been one of the main drivers of the fee on residential water to fund cleanup programs.

In his State of the State Address Governor Newsom said, "I do not support the Water Fix as currently configured." He indicated his support for a single tunnel. It is unclear the size of the tunnel the Governor is proposing, however additional environmental reviews will be required. The Governor in his budget proposed a fee on residential water users, as well as agricultural fees to fund cleanup of dirty drinking water systems. This is similar to the proposal made last year by Senator Monning in SB 623. One of his first actions as Governor, he visited the Central Valley community of Ceres which does not have access to clean drinking water to highlight this as one of his priorities.

The last day for bills to be introduced in the California Legislature was February 22, 2019. Following that deadline there was a grand total of 1,799 Assembly bills and 777 Senate bills. We have done an initial review of each of the measures and have identified dozens of them that the Upper District will have an interest in. We have worked with Patty and her staff to categorize those into a more manageable format and have provided a lengthy report on each of those bills. We will be updating Patty weekly on the status of each of the bills. We look forward to hearing from Upper District on the positions taken on measures of interest so we can communicate your position.

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There have been 3 bills introduced dealing with safe affordable drinking water, they include SB 200 (Monning), AB 217 (E. Garcia) and SB 669 (Caballero). Each of these bills create a safe drinking water fund. SB 669 would use the state general fund to be deposited into a trust fund. SB 200 and AB 217 have not identified a funding source but it is anticipated to be a fee on water connections as well as a fee on fertilizer. The Caballero bill is sponsored by ACWA.

The Upper District has taken a position of oppose unless amended on SB 204 (Dodd). The bill would have the effect of delaying the construction of the Water Fix. We will coordinate our activities on this measure with the Metropolitan Water District of Southern California and other interested water associations.

In 2018, the Upper District supported SB 606 and AB 1668, which implemented Governor Brown's "Making Water Conservation a Way of Life Program." Governor Newsom's budget includes funding to implement the program. Both the Assembly and Senate Budget Committees met the week of March 4th to consider the Governor's proposals. The committees approved $5.1 million for the Department of Water Resources and $2.7 million for the Water Resources Control Board to implement the conservation program.

MEMORANDUM

UPPER SAN GABRIEL VALLEY MUNICIPAL WATER DISTRICT

ITEM 4.

DATE: March 12, 2019

TO: Government Affairs and Community Outreach Committee

FROM: General Manager

SUBJECT: 2019-2020 State Legislative Bill Positions

Recommendation
Approve staff recommendations for state bill positions: AB 292, AB 533, AB 755, AB 1180, AB 1204, SB 204, SB 413 and SB 414 which are consistent with Upper District's 2019-20 Legislative Policy Principles adopted by the Board in February 2019.

AB 292 (Quirk): Recycled Water: Raw Water and Groundwater Augmentation
Introduced: 1/28/19; Amended: 3/6/19
Location: Assembly Environmental Safety and Toxic Materials; Status: Hearing 3/12/19

Summary: Existing law requires SWRCB to adopt uniform water recycling criteria for indirect potable water reuse for groundwater recharge by 2013, and to develop and adopt uniform water recycling criteria for surface water augmentation by December 31, 2016. Existing law also requires SWRCB to adopt uniform water recycling criteria for potable reuse through raw water augmentation. The law defines two terms for these purposes: "direct potable reuse" and "indirect potable reuse for groundwater recharge" for these purposes. This bill would eliminate both of these terms and replaces it with the following terms: "raw water augmentation, treated drinking water augmentation, groundwater augmentation, and reservoir augmentation."

Analysis: This bill is sponsored by WateReuse of California. Given the various possible types of recycled water projects, a common set of terms is needed. This will assist water agencies when promoting the safe use of recycled water, especially as the need for recycled water increases to meet future demands.
STAFF RECOMMENDATION: SUPPORT

AB 533 (Holden): Income Taxes: Exclusion: water conservation or efficiency programs: water runoff management improvement program
Introduced: 2/13/19
Location: Assembly Revenue and Taxation; Status: Hearing 3/18/19

Summary: Currently in the Personal Income Tax Law and Corporation Tax Law, gross income is defined as income from whatever source derived, except as specifically excluded. The law provides the various exclusion from gross income. This bill would include rebates, vouchers or other financial incentives issued from local

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water agencies or suppliers for any water conservation, efficiency program, or water runoff management improvement project from being defined as "gross income." This bill would take effect immediately as a tax levy.

Analysis: Metropolitan Water District, WaterNow Alliance, and California Water Efficiency Partnership are sponsors of the bill. The San Gabriel Valley Economic Partnership is in support of this bill. Consumer residential and commercial rebates are one of the most cost-effective tool for increasing conservation participation even during wet years or significant rainy seasons. Rebates provide a financial incentive to conserve water year round. Reducing that incentive may possible disparage households from participating thus conservation efforts can be reduced.
STAFF RECOMMENDATION: SUPPORT

AB 755 (Holden): California tire fee: Stormwater permit compliance fund
Introduced: 2/19/19
Location/Status: Assembly Natural Resources

Summary: Under state law, the California Tire Recycling Act requires every person who purchases a new tire to pay the California tire fee of $1.75 per tire which gets deposited into the California Tire Recycling Management Fund administered by the Department of Resources Recycling. By 2024, this fee would be reduced to $0.75 per tire. This bill aims to increase the tire fee to $1.50 and additional funds would be deposited into the Stormwater Permit Compliance Fund and would be available to the SWRCB – Division of Financial Assistance. Money from the fund would be appropriated for competitive grants for projects and programs for municipal storm sewer system permit compliance requirements that would prevent or remediate zinc pollutants caused by tires in the state and for an annual audit of the fund.

Analysis: This bill is a reintroduction of AB 1180 (Holden) introduced in 2017. The Board took a position to Support. This bill was in response to the San Gabriel Valley cities who are subject to the MS4 permit, but don't have a funding mechanism to achieve compliance. The San Gabriel Valley Council of Governments and California League of Cities have issued support for this bill when it was introduced.
STAFF RECOMMENDATION: SUPPORT

AB 1180 (Friedman): Water: recycled water
Introduced: 2/21/19
Location/Status: Assembly

Summary: Currently under California Code of Regulations, Title 22 regulates the use of recycled water in California. The regulations have not been updated since 2000. This bill would require SWRCB to update the state's non-potable recycled water regulations by 2023. Currently, Title 17 of the California Code of Regulations requires an air gap assembly when switching from potable to non-potable water. This bill also promotes recycled water use for dual plumbed building and for commercial, industrial, and institutional (CII) uses by requiring SWRCB, through the update of Title 17, regulations to include the use of a change over device or "swivel ell."

Analysis: This bill is sponsored by WateReuse California. Revising the Title 17 regulations will allow building owners to easily switch back and forth between potable and non-potable water when required for testing or other recycled water shutdowns. Title 17 of the California Code, as its currently written, is costly and generally

impractical for use in a building. Updates to Title 22 can greatly expand non-potable recycled water uses in California in a manner that protects public health. The ability to easily and cost-effectively make the switch to potable water will eliminate a barrier for building owners to bring recycled water used for landscape irrigation inside their buildings.
STAFF RECOMMENDATION: SUPPORT

AB 1204 (Rubio): Public Water Systems: Primary Drinking Water Standards: Implementation Date
Introduced: 2/21/19
Location/Status: Assembly, pending referral

Summary: Under existing law, the California Safe Drinking Water Act, SWRCB adopted primary drinking water standards for contaminants in drinking water and requires the Office of Environmental Health Hazard Assessment to prepare and publish an assessment of the risks to public health posed by each contaminant. It also requires the SWRCB to consider the technological and economic feasibility of compliance when developing their drinking water standard. This bill would establish a 3 year compliance period for any new primary drinking water standard for contaminants in drinking water that are adopted by the SWRCB. The drinking water standard is also known as Maximum Contaminant Levels (MCL).

Analysis: ACWA, CWA and Coachella Valley Water District are current sponsors of the bill. San Gabriel Valley Council of Governments Water Committee and Water TAC wanted to introduce a similar proposal that seeks to grant reasonable and feasible timeframes for compliance of new drinking water standards to maintain safe drinking water. Currently, there is no defined compliance period for new MCLs adopted by the SWRCB. Some regulations can be enforceable in as little as three months. The federal Safe Drinking Water Act (SDWA) generally provides for a 3-year compliance period, but currently the state SDWA does not. This bill would provide a process for public water systems to take needed steps to comply while still safeguarding the public.
STAFF RECOMMENDATION: SUPPORT

SB 204 (Dodd) State Water Project: contracts
Introduced: 2/4/19
Location: Senate Natural Resources and Water; Status: Hearing 3/12/19

Summary: Existing law provides that at least sixty days prior to the final approval of the renewal or extension of a long-term water supply contract between the Department of Water Resources (DWR) and a state water project contractor, DWR must present at an informational hearing before the Legislature the details of the terms and conditions of the contract. Existing law mandates that DWR submit a copy of the contract to the Joint Legislative Budget Committee (JLBC) and relevant policy and fiscal committees of the Legislature at least thirty days before the hearing. SB 204 would delete those provisions and replace them with provisions that would require DWR to provide at least ten days notice to the JLBC and relevant policy and fiscal committees of the Legislature before holding public sessions to negotiate any potential amendment of a long-term water supply contract. This would apply to amendments of project-wide significance with substantially similar terms intended to be offered to all contractors, or that would permanently transfer a contractual water amount between contractors. The bill would prohibit DWR from approving a long-term water supply contract for ninety days after the first hearing by the JLBC or relevant policy or fiscal committee to review the proposed amendment, if such a hearing is held.

Analysis: SB 204 is being coauthored by all but three members of the Legislative Delta Caucus, which is

comprised of twelve legislators who represent districts in and around the Sacramento - San Joaquin Delta. Members of this caucus have historically been opposed to WaterFix. This bill would grant the Legislature additional oversight of the project by mandating that the JPA submit long-term water supply or WaterFix construction contracts related to the project to several legislative committees for review – a process that could cause significant delays to the project. MWD has authored a coalition letter to *Oppose Unless Amended* the proposed bill. Per the 2019-20 Legislative Policy principles adopted by the Board, staff approved signing onto the coalition letter.
STAFF RECOMMENDATION: OPPOSE UNLESS AMENDED

SB 413 (Rubio) San Gabriel Water Quality Authority
Introduced: 2/20/19
Location/Status: Governance & Finance Committee

Summary: Existing law, the San Gabriel Basin Water Quality Authority Act, establishes the San Gabriel Water Basin Quality Authority, until July 1, 2030, and authorizes it to plan, finance, and implement groundwater remediation activities, as prescribed. The act requires the board of the authority to be composed of members and their alternates, as specified, generally with terms of office of 4 years. The act specifies the procedures for filling a vacancy in an office. Existing law requires the authority to develop and adopt a basinwide groundwater quality management and remediation plan with specified components.

Analysis: This bill would make changes to the terms of a member or alternate for a city with pumping rights elected in 2016 to expire January 1, 2022, and the terms of a member or alternate for a city without pumping rights elected in 2018 to expire on January 1, 2024, as prescribed. The bill seeks to align board seats held by city officials to coincide with their respective term of office. The bill would also streamline the reporting requirement for the Authority by incorporating the information in the 404 Update into the 406 Plan and requiring the SGBWQA to deliver a copy of the 406 Plan to the State Water Resources Control Board and the Los Angeles Regional Water Quality Control Board. The WQA is the sponsor of the bill.
STAFF RECOMMENDATION: SUPPORT

SB 414 (Caballero) The Small System Water Authority Act of 2019
Introduction: 2/20/19
Location/Status: Rules, pending referral

Summary: Existing law, the California Safe Drinking Water Act, provides for the operation of public water systems and imposes on the State Water Resources Control Board various responsibilities and duties. The act authorizes the state board to order consolidation with a receiving water system where a public water system or a state small water system, serving a disadvantaged community, as defined, consistently fails to provide an adequate supply of safe drinking water. This bill would create the Small System Water Authority Act of 2019 and authorize the creation of small system water authorities that will have powers to absorb, improve, and competently operate noncompliant public water systems. The bill, no later than March 1, 2020, would require the state board to provide written notice to all public agencies, private water companies, or mutual water companies that operate a public water system that has either less than 3,000 service connections or that serves less than 10,000 people, and are not in compliance, for the period from July 1, 2018, through December 31, 2019, with one or more state or federal primary drinking water standard maximum contaminant levels, as specified. The bill mandates reporting requirements and oversight for the noncompliant entities and provides authority to order consolidation by a neighboring water authority. The bill would require a capital improvement

plan to bring the authority into full compliance with drinking water standards within 3 years.

Analysis: The State Water Resources Control Board (State Board) has identified 329 (as of November 2017) systems statewide that chronically serve contaminated drinking water or cannot provide reliable water service due to unsound infrastructure or because they lack the local financial, managerial, and technical resources to do so. The vast majority of these systems are small, rural systems that typically serve less than 10,000 people. SB 414 proposes to merge non-compliant water systems into a larger and more robust public water system that can take advantage of improved economies of scale, streamlined managerial functions and enhanced financial capacity.

STAFF RECOMMENDATION: SUPPORT

SB 669 (Caballero) Water quality: Safe Drinking Water Fund
Introduced: 2/22/19
Location/Status: Rules, pending assignment

Summary: This bill would establish the Safe Drinking Water Fund in the State Treasury and would provide that moneys in the fund are continuously appropriated to the state board. The bill would require the state board to administer the fund to assist community water systems in disadvantaged communities that are chronically noncompliant relative to the federal and state drinking water standards and do not have the financial capacity to pay for operation and maintenance costs to comply with those standards, as specified. The bill would authorize the state board to provide for the deposit into the fund of federal contributions, voluntary contributions, gifts, grants, and bequests, transfers by the Legislature from the General Fund and the Greenhouse Gas Reduction Fund, funding from authorized general obligation bond acts, and net revenue from the Safe Drinking Water Trust that this bill would create. This bill would create in the State Treasury the Safe Drinking Water Trust Fund, to hold the trust property of the Safe Drinking Water Trust. The bill would create the Safe Drinking Water Trust Commission, consisting of 3 members, to serve as the trustee of the trust and would require the trustee to abide by the act and have all of the fiduciary duties, responsibilities, and obligations consistent with serving as a trustee of a trust.

Analysis: The Association of California Water Agencies (ACWA) and the California Municipal Utilities Association (CMUA) are the lead sponsors. The Trust's principal would be initially financed with a one-time infusion of General Fund dollars during a budget surplus year. With the record budget surplus for the 2019-20 Fiscal Year, the sponsors believe this is the perfect year to create and fund the Trust. The Trust would provide funds to assist community water systems in disadvantaged communities that are chronically noncompliant and do not have the financial capacity to pay for the operation and maintenance costs to comply with federal and state drinking water standards. This is the "alternative" approach to the Newsom Administration's proposal for a water tax. State law sets forth a policy of a human right to water for human consumption that is safe, clean, affordable and accessible. Adding a regressive statewide water tax on local water bills would work against keeping water affordable for all Californians. The San Gabriel Valley Water Association has expressed their support for the ACWA alternative.

STAFF RECOMMENDATION: SUPPORT