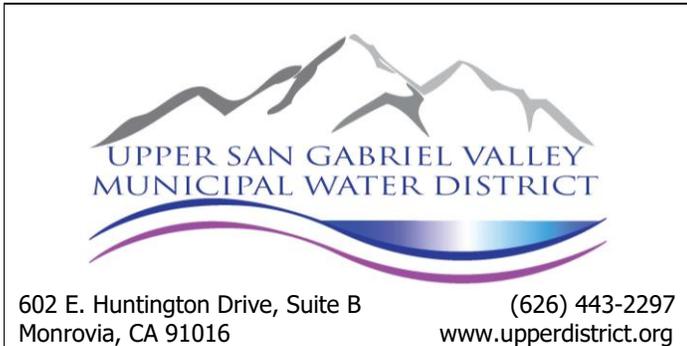


**GOVERNMENT AFFAIRS AND  
COMMUNITY OUTREACH  
COMMITTEE MEETING  
AND  
SPECIAL MEETING OF THE  
BOARD OF DIRECTORS**



**Tuesday, April 14, 2020**  
**9:00 a.m.**

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

**SPECIAL NOTICE - Teleconference Accessibility**

*Pursuant to Executive Order N-29-20 issued by Governor Newsom in response to the COVID-19 outbreak and as a precaution to protect both staff, our constituents, and elected officials, the Upper District will hold its Government Affairs and Community Outreach Committee meeting and special meeting of the Board of Directors via teleconference or the most rapid means of communication available at the time. Instructions to participate in the teleconference are below:*

**Join Zoom Meeting**

<https://us04web.zoom.us/j/187959570>

Meeting ID: 187 959 570

1 (669) 900-6833

Meeting ID: 187 959 570

*Public comments may be made through teleconference when prompted by the Chairman during the public comment period. Public comments may also be provided by emailing [Christy@usgvmwd.org](mailto:Christy@usgvmwd.org) in advance of or during the meeting. Please indicate "PUBLIC COMMENT" in the subject line.*

*If you have difficulty connecting to the teleconference line, please call (626) 443-2297 or email [Ruben@usgvmwd.org](mailto:Ruben@usgvmwd.org). It may take a few minutes to join Zoom or connect via telephone so please join early.*

\*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.

<b>Communications</b>
1. Call to Order
2. Public Comment
<b>Discussion/Action</b>
3. Legislative Update ( <i>memos attached</i> ) a. Washington D.C. b. Sacramento
4. State and Federal bill positions ( <i>staff memorandum attached</i> )
<b>Oral Reports</b>
5. Update on Upper District's Communications & Outreach
<b>Other Matters</b>
6.
<b>Adjournment</b>

**Next Meeting:** Tuesday, May 12, 2020 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**  
ATTORNEYS AT LAW

**To:** Upper San Gabriel Valley Municipal Water District Government Affairs and  
Community Outreach Committee  
**From:** John Freshman and Ana Schwab  
**Date:** April 8, 2020  
**RE:** Federal Report

**Federal Update**

As the novel Coronavirus COVID-19 continues to affect the nation, the U.S. government is working on providing resources to the states, healthcare sector, negatively-impacted industries, small businesses, families, and individuals. In March, a \$8.3 billion relief package, the Coronavirus Preparedness and Response Supplemental Appropriations Act, was enacted; President Donald Trump declared a nationwide emergency; and a second relief package, Families First Coronavirus Response Act, was enacted.

The largest relief funding came from the third package, a \$2.2 trillion package focused on relief for individuals, big corporations, small business, state and local governments, and public health. Nearly half of the package will provide relief to individuals and big corporations. Checks will be provided for individuals based on income tiers and various relief grants and loans are available for small businesses.

House Speaker Nancy Pelosi indicated that she is spearheading the effort to create a fourth relief package, which will be negotiated prior to either chamber returning to Washington, D.C. The plan is for lawmakers to return on April 20, but that is subject to change due to the unpredictability of COVID-19. Initially, the Speaker had advocated for a fourth package focused primarily on infrastructure funding but has since changed the priority to being a bill similar to CARES, a priority of which will focus on state governments, local governments, and public agencies support to help ensure that these sectors can avoid going into debt for providing the necessary services to their communities during this time. An issue lawmakers are pushing for is providing relief for utilities, which are being asked to keep water and electricity on despite late payments or lack thereof.

Both Leader McConnell and Speaker Pelosi are in agreement that the funding in CARES for the SBA loan and grant programs is not sufficient and are considering an additional influx of funds into these programs, which could be voted on as early as this week.

It is likely that the infrastructure package that Speaker Pelosi initially called for may be moved once the spike of the crisis falls and the rebuilding begins. One matter to consider is that any infrastructure package will likely hit some political roadblocks as any infrastructure package would be seen as a win for the President and Congress. Issues that would be included in infrastructure measures are clean water, aging infrastructure, and broadband.

Most lawmakers and their staff are teleworking and abiding by their states' respective safety measures. Congressional committees have postponed in-person business and hearings until they return. Upon their return, lawmaking efforts will primarily focus on additional economic relief



efforts and then on their routine areas of jurisdiction. Committees with jurisdiction over agricultural and natural resources are in discussions about the potential affects the pandemic will have on the agencies and industries.

### **EPA**

EPA announced it would use “enforcement discretion” on civil violations of environmental compliance obligations for environmental testing, reporting, and pollution control. EPA expects facilities to continue its procedures as usual, however, due to consequences of the pandemic, EPA will evaluate failure to meet standards on a case-by-case basis. If compliance is not reasonably practicable, facilities are expected to identify how COVID-19 was the cause of the noncompliance, document, and report the noncompliance with existing procedures to EPA. The action began retroactively on March 13 and is currently “temporary” with no specific end date. After the policy is no longer in effect, the EPA expects full compliance afterwards.

EPA Administrator Andrew Wheeler sent a letter to governors of all 50 states stating that drinking water and wastewater employees are considered essential workers as state authorities are enacting shelter in place restrictions. The administrator also recognizes the importance of supply chain businesses, such as chemical manufacturers and distributors, which support the daily operations of water industries.

### **Western Water Action**

In March, the House Natural Resources Committee approved four water infrastructure, desalination, and recycling bills along party lines. The water bills increase funding for various water infrastructure programs. A debate occurred between the California members over the feasibility and “common-sense” approach to expanding water funding opportunities. These four bills would be greatly beneficial to water suppliers in the western Reclamation states.

### **H.R. 1162 “Water Recycling Investment and Improvement Act” - Rep. Grace Napolitano**

- Summary: The bill would increase Title XVI water recycling competitive grant program funding to \$500,000,000 from \$50,000,000. It would make the program permanent, which is set to expire in 2021. The bill would increase the federal limitation cap to \$30,000,000 from \$20,000,000.
- Key remarks: Currently, there is \$977 million in backlogged projects that have been approved but not yet funded by the Bureau. The long overdue increase in funding would allow an influx in projects to begin with water agencies plans to modernize water infrastructure in California and that other 16 western water states. Rep. Napolitano expressed that the state of California is experiencing an on-going drought, and that her water districts’ aqueducts are not full. The reality is that northern California has much more water than southern California, and as such, southern California must find ways to create more water resources for itself.



### **H.R. 2473 “Securing Access for the Central Valley and Enhancing (SAVE) Water Resources Act” - Rep. Josh Harder**

- Summary: This bill would create the “Water Infrastructure and Drought Solutions Fund, which would receive \$300 million in funds for each year from 2030 to 2060. The funds would be diverted from the reclamation fund. The fund would be split in three parts: \$100 million of the funds would be for new surface and ground projects; \$100 million for water reclamation and reuse projects authorized under title XVI; and \$100 million for WaterSMART grants. The bill would also create a pilot program, the Reclamation Infrastructure Finance and Innovation Pilot Program, which would be used to fund water supply projects, including groundwater recharge. The bill would reauthorize the Rural Water Program through 2026. The Reclamation Wastewater and Groundwater Study Facilities Act would change appropriations from \$50 million to \$500 million. The bill would create the Water Technology Award Program to award prizes to person that advance water technology and desalination innovations.
- Adopted Amendment: Removed the Findings section. The amendment added a section for eligibility requirements for the RIFIA program. Members had issues with the section (D) “quantifiably demonstrate net ecosystem benefits in excess...” requirement, and it was agreed upon by the members that this added amendment would be passed, but this section of the amendment would need to be fixed subsequently.
- Key Remarks: This bill would promote and expand diverse, water project funding opportunities. The Reclamation Fund currently exceeds the use of its funds because of outdated laws. By allowing an increase in expenditures from the fund, new water projects can be started. In addition, creating an incentive for science and technology initiatives is necessary in order to have a competitive and advancing desalination resources.

### **H.R. 3723 “Desalination Development Act” - Rep. Mike Levin**

- Summary: This bill would promote desalination project development and drought resilience in Reclamation states. The bill would authorize \$260 million for 2020 through 2024. The federal cost share would be up to 25% for desalination projects. Congressional approval is required for the initial award of preconstruction or construction funding, and it is not required for additional funding. The bill includes a list of priorities for choosing projects.
- Adopted Amendment: Includes a definition for rural desalination project, which would be a project that serves a community of no more than 40,000 inhabitants. The cost share for rural projects would be 100 percent of total costs for appraisal studies (up to \$200,000), if it's above \$200,000, 40 percent for amounts over \$200,000. Federal cost-sharing for feasibility studies is up to 50%. Federal cost-sharing for construction costs is 35% of the total cost of construction, up to \$20,000,000 or 25 percent of the total cost of construction.
- Key Remarks: It is important to diversify water resources and innovations. This act would promote innovation and reliance on new types of water systems. Desalination is becoming increasingly cost-competitive and incentives should be created to encourage desalination projects.



### **H.R. 4891 “Western Water Security Act” - Rep. Xochitl Torres Small**

- Summary: This bill will give an additional \$120 million to the Bureau of Reclamation’s WaterSMART program, increasing it to \$650 million in funding. It authorizes an additional \$65 million to support desalination design and construction, setting aside \$15 million for rural desalination projects. It reauthorizes the Emergency Drought Relief Act to 2030, making \$180 million in funds for fiscal years 2006 through 2024. It reauthorizes the Cooperative Watershed Management Program. The bill also creates a pilot water leasing program that provides the Bureau of Reclamation and local water districts with increased flexibility to move water where it can be of the most use.
- Amendment: Removed section related to “Rural Desalination”.
- Key Remarks: This bill would provide more funding for the Bureau’s successful WaterSMART program. It would allow non-profits to compete for funds, expanding project opportunities. It would reauthorize and modernize the Emergency Drought Relief Act to meet today’s needs as drought becomes a growing concern.

### **PFAS**

House Armed Services Chairman Adam Smith (D-WA) announced the 2021 National Defense Authorization Act markup would be delayed past April 30. Committee staff will continue working on the legislation this month. Senate Armed Services Chairman Jim Inhofe-OK) expects PFAS related measures will be pushed for again in the next NDAA. Members of the bipartisan PFAS Task force sent Chairman Smith and Ranking Member Mac Thornberry (R-TX) a list of policies they want to see in the draft.

Senator Jeanne Shaheen (D-NH) and 17 other Democratic senators introduced legislation, S. 3480, “Providing Financial Assistance to States for Testing and Treatment Act”, to designate billions of dollars in funding for PFAS cleanups across the United States. The bill would authorize \$20 billion over the next decade for testing and remediation for PFAS. The bill would create grant programs under the Safe Drinking Water Act and Clean Water Act. These programs would receive \$1 billion annually in funding. So far, the bill has no Republican co-sponsors.

### **Representative Garamendi’s Letter Regarding the Environmental Impact Report for Delta Conveyance Project**

Representative Garamendi sent a letter to Director Karla Nemeth of the California Department of Water Resources (DWR) objecting to the agency’s lack of consideration of the “western route” as a potential route for the new Delta Conveyance Project. He urged the agency to complete a thorough and comprehensive environmental impact report that includes more than the two proposed routes, a “central tunnel corridor” and an “eastern tunnel corridor.” He urged the agency to consider the western option and analyze its pros and cons relative to the other routes.

Garamendi cited the California Environmental Quality Act (CEQA) as the driving force as to why all potentially feasible routes for any new Delta conveyance project and their impacts must be included. He also cited Governor Newsom’s executive order (N-10-19) issued on April 29,



2019, which directed state agencies to reassess both the 2016 California Water Plan and “current planning to modernize conveyance through the Bay-Delta with a single new tunnel project.”

**Notice - 85 FR 14098 Announcement of Preliminary Regulatory Determinations for Contaminants on the Fourth Drinking Water Contaminant Candidate List**

The Safe Drinking Water Act (SDWA), as amended in 1996, requires the Environmental Protection Agency (EPA) to make regulatory determinations every five years on at least five unregulated contaminants. A regulatory determination is a decision about whether or not to begin the process to propose and promulgate a national primary drinking water regulation (NPDWR) for an unregulated contaminant. A preliminary regulatory determination lays out and takes comment on EPA's view about whether certain unregulated contaminants meet three statutory criteria. After EPA considers public comment, EPA makes a final determination. The unregulated contaminants included in a regulatory determination are chosen from the Contaminant Candidate List (CCL), which the SDWA requires the EPA to publish every five years. The EPA published the fourth CCL (CCL 4) in the Federal Register on November 17,

2016. This document presents the preliminary regulatory determinations and supporting rationale for the following eight of the 109 contaminants listed on CCL 4: Perfluorooctanesulfonic acid (PFOS), perfluorooctanoic acid (PFOA), 1,1-dichloroethane, acetochlor, methyl bromide (bromomethane), metolachlor, nitrobenzene, and Royal Demolition eXplosive (RDX). The Agency is making preliminary determinations to regulate two contaminants (i.e., PFOS and PFOA) and to not regulate six contaminants (i.e., 1,1-dichloroethane, acetochlor, methyl bromide, metolachlor, nitrobenzene, and RDX). The EPA seeks comment on these preliminary determinations. The EPA is also presenting an update on three other CCL 4 contaminants (strontium, 1,4-dioxane, and 1,2,3-trichloropropane).

Comments must be received on or before May 11, 2020. Comments, identified by Docket ID No. EPA-HQ-OW-2019-0583, can be submitted via <https://www.regulations.gov/>.



RE: Summary of Compromise Version of S. 1932 – Garner and Feinstein

**Summary of S.1932 “Drought Resiliency and Water Supply Infrastructure Act”  
Compromise**

**Major Funding:**

- \$750 million for surface and groundwater storage projects
- \$160 million for water recycling projects
- \$80 million for desalination projects
- \$640 million for WaterSMART

**Title I: Infrastructure Development**

**Section 101 – Infrastructure Development**

- Funding for Water Recycling and Reuse Projects increased to \$160 million (from \$100 million).
- Each initial award will need to be approved by Congress through an appropriations act. After initial approval for design and study funding or construction funding, additional funding can be awarded without further congressional approval for federal and non-federal projects.
- Changing the limitation of the federal cost share funding for new Title XVI projects to \$30 million (from \$20 million). Maximum cost share remains at 25%.
- The \$20 million cap remains for projects that received that amount as of December 1, 2020.

**Section 102 – Annual Report to Congress**

- Requires the Commissioner of Reclamation to submit an annual report to Congress with feasibility reports on federal storage projects and major non-federal projects for Congress to consider to authorize. This is modeled after the Chief’s reports for WRDA projects submitted by the Army Corps of Engineers.

**Section 103 – Funding Storage and Supporting Projects**

- Increase authorizes for the Water Storage Program to \$750 million (from \$670 million).
- Federal storage projects have a maximum federal 50% cost share.
- Non-federal storage projects have a maximum federal 25% cost share.
- Both federal and non-federal storage projects need to have approval from Congress for construction. Congress also must authorize feasibility studies.
- Once Congress has approved the initial award of design or construction funding for a project, Reclamation can award additional, subsequent funds.
- CALFED legislation is reauthorized through FY 2024.

### **Section 105 - Desalination Project Development**

- Increases authorization to \$80 million (from \$60 million), with \$10 million set aside for rural desalination projects.

### **Section 106 - Reclamation Infrastructure Finance and Innovation Pilot Program**

- Creating of the Reclamation Infrastructure Finance and Innovation Pilot Program
  - Water conservation, groundwater recharge, and water use efficiency projects are included.
  - Authorizes \$150 million total for FY 2022-2026, including \$125 million in federal outlays for supporting loans; and \$25 million in administrative costs for Reclamation and EPA.
- Roles of EPA and Bureau of Reclamation determined by the Oct. 2019 agreement pursuant to 2018 WRDA.

### **Section 107 – WaterSMART Extension and Expansion**

- Increase authorization to \$650 million (from \$480 million).
- Reauthorize the Cooperative Watershed Management Program.
- WaterSMART revisions:
  - Make NGOS eligible applicants.
  - Prioritize multi-benefit projects (by providing higher federal match).
  - Prohibit funding of WaterSMART projects that would increase consumptive use of agricultural operations above pre-project levels.

### **Section 108 – Emergency Drought Assistance**

- Authorizes \$180 million in emergency drought assistance.

## **Title III, Ecosystem Restoration and Protection**

### **Section 301 - Restoration and Environmental Compliance**

- Authorizes \$140 million in appropriations over 5 years.
- Prioritized projects will include those with collaborative efforts to develop integrated water management projects that involved water supply and flood control for restoring, protecting, and enhancing floodplains and managed wetlands.
- Authorizes funding for projects that include forest, meadow, or watershed restoration activity on federally-owned lands that improve quality for surface or groundwater facility.

### **Section 403 – Savings Clause**

- Sets up a one-time process to deauthorize inactive recycling project authorizations where neither the federal government nor the project sponsor has spent money on construction in the past ten years.



March 20, 2020

Ms. Karla Nemeth, Director  
California Department of Water Resources  
1416 9th Street  
Sacramento, CA 95814

RE: Environmental Impact Report for Delta Conveyance Project

Dear Director Nemeth:

I am deeply disappointed that the State of California is not examining a potential western route for the new Delta conveyance project. This is unacceptable. I urge you to reconsider, as part of the environmental planning process.

The map released with the “Notice of Preparation of the Environmental Impact Report for the Delta Conveyance Project” shows only two proposed routes: a “central tunnel corridor” and an “eastern tunnel corridor.” Any honest planning process under the California Environmental Quality Act (CEQA) demands that state agencies evaluate *all* potentially feasible routes for any new Delta conveyance project and their impacts. Your CEQA process must include the western route utilizing existing conveyance infrastructure like the Sacramento Deep Water Ship Channel.

If your Department refuses to do this, then you owe Delta residents and the people of California an explanation in writing. You must explain when the decision was made to not consider the western route, by whom, and why. To my knowledge, no such explanation has been provided by the state to date. This raises serious concerns about a lack of public transparency.

Proponents of the now-defunct Twin Tunnels project also failed to seriously consider a western route. Instead, they spent more than \$280 million in pursuit of a multibillion-dollar boondoggle that will never be built. Enclosed are my May 8, 2019 letter to Governor Newsom and my February 7, 2020 public comment on the “draft Water Resilience Portfolio” outlining the numerous advantages of a western route for any new Delta conveyance project.

Governor Newsom’s executive order (N-10-19) issued on April 29, 2019, directed state agencies to reassess both the 2016 California Water Plan and “current planning to modernize conveyance through the Bay-Delta with a single new tunnel project.” I do not see how your Department can fulfill that gubernatorial directive without at least considering a western route as you prepare the environmental impact report for the Delta conveyance project.

Significant feasibility and scoping work for the western option has already been completed in the Department's November 2009 conceptual engineering report, as part of the state's then-Delta Habitat Conservation and Conveyance Program, and the analysis for the Bay-Delta Program (CALFED) in October 1997.

Any effort to modernize the Delta water system as directed in the Governor's executive order must include an honest and complete study of the western conveyance route. Again, I urge you to fully consider the western option and analyze its pros and cons relative to the "central tunnel corridor" and "eastern tunnel corridor" proposals in any final environmental impact report.

Please do not hesitate to contact me to discuss these matters further. I submit this letter as part of the public scoping period for the Department's environmental planning process for the proposed Delta conveyance project. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, reading "John Garamendi". The signature is fluid and cursive, with the first name "John" being particularly prominent.

JOHN GARAMENDI  
Member of Congress

CC: The Honorable Gavin Newsom, Governor of California  
Secretary Wade Crowfoot, California Natural Resources Agency



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May 8, 2019

The Honorable Gavin Newsom  
Governor of California  
State Capitol  
Sacramento, CA 95814

Dear Governor Newsom:

I am very pleased by the Department of Water Resources' formal withdrawal of permitting applications for the Twin Tunnels (WaterFix Project), following your April 29 executive order. As your Administration begins the renewed environmental review and planning process for a smaller, single conveyance project, I urge you in the strongest possible terms to consider an alternative route along the westside of the Delta. Enclosed is my "Little Sip, Big Gulp: A Water Plan for All of California," detailing the westside proposal.

A westside route utilizing the Sacramento Deep Water Ship Channel and then continuing southward to the Tracy pumps, using existing conveyance wherever possible, is the best way to minimize impacts on productive agricultural land, flood risk, and the environment. Indeed, a westside route for a single, right-sized pipeline at no more than 3,000 cubic feet per second (CFS) design capacity is the *only* project that can earn the support of Delta communities and landowners, including me.

The Sacramento Ship Channel ends 25 miles south near Rio Vista, where a pressurized pipeline spanning a mere 12 miles beneath the Sacramento and San Joaquin Rivers could deliver water along the eastside of the Old River channel leading to the Tracy pumps. The westside, single conveyance proposal was originally developed with support from environmental groups and Delta water users when I served in state government during the early 1990s. Now nearly three decades later, the westside proposal has withstood the test of time and may finally come into its own with your support.

Proponents of the now-defunct Twin Tunnels proposal failed to even consider a westside route, instead spending more than \$280 million in pursuit of a multibillion-dollar boondoggle that will never be built. This money could have instead funded much-needed upgrades and repairs to Delta levees, which must be maintained to provide flood protection and support continued water conveyance southward.

Again, I urge you to give all due consideration to a westside route for the smaller, single conveyance project. I stand ready to work with you to advance a westside route that meets our state's future water needs and safeguards the Delta. Thank you for your leadership and consideration.

Sincerely,

A handwritten signature in blue ink that reads "John Garamendi".

JOHN GARAMENDI  
Member of Congress

CC: Director Karla Nemeth, California Department of Water Resources

JOHN GARAMENDI  
CALIFORNIA, 3<sup>RD</sup> DISTRICT

ARMED SERVICES COMMITTEE  
CHAIRMAN READINESS  
STRATEGIC FORCES

TRANSPORTATION AND  
INFRASTRUCTURE COMMITTEE  
HIGHWAYS & TRANSIT

WATER RESOURCES  
ECONOMIC DEVELOPMENT  
COAST GUARD & MARITIME



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February 7, 2020

Secretary Wade Crowfoot  
California Natural Resources Agency

Secretary Jared Blumenfeld  
California Environmental Protection Agency

Secretary Karen Ross  
California Department of Food and Agriculture

Dear Secretaries Crowfoot, Blumenfeld, and Ross:

I welcome this opportunity to formally comment on the draft Water Resilience Portfolio developed pursuant to Governor Newsom's executive order (N-10-19). As a former state legislator, Deputy Secretary of the Interior during the Clinton Administration, and Lieutenant Governor, I am very pleased to see the state refocus on meeting California's long-term water needs.

**Sites Reservoir Project:**

I strongly support the Newsom Administration's stated commitment in the draft Portfolio to accelerate state review of the Sites Reservoir Project. I am pleased to see the state give Sites Reservoir the attention and prioritization it deserves. California has not built a new major reservoir in decades, despite continued population growth, increasing demands on our limited water supply, and uncertainty due to climate change bringing more erratic rainstorms, less snowpack, and prolonged drought. Our state's largest reservoir, the Sierra snowpack, continues to be significantly reduced even during wet years, making it critical to capture more water from rainfall. Accelerated state review of Sites Reservoir, as outlined in the draft Portfolio, is what is required to get this off-stream reservoir built.

Sites Reservoir will address many water supply and environmental challenges by increasing off-stream storage. Flood flows on the Sacramento River will be diverted into the reservoir and stored for later ecological and consumptive uses. Importantly, Sites

Reservoir will allow more cold water to be held back in federal and state reservoirs for release during drier months to support endangered salmon and other fish species.

To date, the Joint Powers Authority has secured more than \$1.2 billion in public funding for the Sites Reservoir Project, including \$816 million from the state's Water Storage Investment Program (2014 Proposition 1) and \$449 million in low-interest financing from the U.S. Department of Agriculture announced in 2018. Additional non-government funding commitments sufficient to build the reservoir have been made by water agencies in northern and southern California.

In Congress, I am working to secure additional federal funding from the Bureau of Reclamation for Sites Reservoir. The state's accelerated review of this off-stream reservoir is essential to securing federal participation in the project. I urge you to prioritize Sites Reservoir in the final Portfolio and stand ready to support the Governor's efforts for this project.

### **Delta Conveyance:**

I am pleased that the draft Water Resilience Portfolio reaffirmed the Governor's commitment to abandon the Twin Tunnels (WaterFix) project and consider alternatives. Unfortunately, the planning and scoping process for the now-defunct Twin Tunnels failed to adequately consider a western route and instead focusing solely on the eastern alignment for the tunnels. On May 9, 2019, I wrote to Governor Newsom urging him to consider a smaller conveyance project along the westside of the Delta. In the letter, I outlined the following:

- Utilize the Port of West Sacramento and the Deep Water Ship Channel as the first segment of the western conveyance facility, by installing a fish screen and low-head pump at the existing lock on the Sacramento River and allow water to flow into the port and channel.
- Build a lock at the southern end of the Ship Channel 25 miles south near Rio Vista to separate the Sacramento River water in the channel from the water and species in the Delta, thereby safeguarding smelt or other endangered fish from entrainment in the pump located north of the lock. This ship lock would also provide passage for ships transiting to the Port of West Sacramento.
- Construct a pressurized pipeline, sized between 3,000 to 4,000 cubic feet per second (CFS), from the pump north of the ship lock to carry water to three new reservoirs (Bacon Island, Holland Tract, and Webb Tract) in the central Delta,

which are already owned by the Metropolitan Water District of Southern California and could be permitted for water storage. These islands are strategically lined up to provide direct access to the pumps for the Central Valley and State Water Projects near Tracy. An alternative is to locate the pipeline along the eastside of the Old River channel to the Tracy pumps.

Locating the conveyance facility on the westside of the Delta and using existing conveyance, wherever possible, may prove to be less expensive and certainly would avoid the eastern alignment's damaging impacts on historic communities, the fragile Delta ecosystem, and productive agricultural land. The western alignment would result in less land subsidence and flood risk.

Any effort to modernize the Delta water system must include an honest and complete study of the western conveyance route. Attention must be paid to the November 2009 conceptual engineering report completed for the Department of Water Resources on the western isolated conveyance facility. This 2009 report was part of the state's Delta Habitat Conservation and Conveyance Program. As noted in the report, an analysis for a proposed conveyance project along the western perimeter of the Delta utilizing the Sacramento Deep Water Ship Channel was also completed in October 1997 for the Bay-Delta Program (CALFED) and found to be viable.

The eastside canal option contemplated in these state documents was the infamous "Peripheral Canal," which was soundly rejected by California voters in a 1982 ballot referendum (Proposition 9). In subsequent years, the open canal and eastside route became the extraordinarily expensive Twin Tunnels (WaterFix) project.

Proponents of the now-defunct Twin Tunnels failed to seriously consider a westside route, instead spending more than \$280 million in pursuit of a multibillion-dollar boondoggle that will never be built. This money could have funded much-needed upgrades and repairs to key Delta levees that provide the channel through which water flows to the Tracy pumps for the Central Valley and State Water Projects. The existing water supply system and every proposed alternative depend upon these levees and channels for most of the water pumped from the Delta estuary. These key Delta levees must be maintained.

As you finalize the Water Resilience Portfolio, I urge you to carefully consider an alternative route along the westside of the Delta as detailed on pages 7-14 of my enclosed "Little Sip, Big Gulp: A Water Plan for All of California." Much of the feasibility and scoping work for this western option has already been done for you by the state in the

aforementioned documents and analyses. I stand ready to work with you to advance a westside route that meets our state's future water needs and safeguards the Delta.

**Permitting for Environmental Projects:**

Lastly, I was pleased to see that the draft Portfolio directs state agencies to “support the development of expedited and cost-effective permitting mechanisms for common types of restoration and enhancement projects.” The current permitting regime is not well equipped to deal with projects designed to improve habitat for endangered species or increase their abundance.

In my Congressional district, the Lookout Slough Tidal Habitat Restoration and Flood Improvement Project in Yolo and Solano Counties provides a case study for why a better permitting mechanism is necessary. This multi-benefit project for the Department of Water Resources will provide for increased flood capacity in the Yolo Bypass and restore 3,000 acres of Delta smelt habitat, as called for in the 2008 biological opinions.

After three years under development, this restoration project is now at a place where permits are being submitted. Despite input from multiple agencies throughout this process, these same agencies are reportedly contemplating sequential review of permits rather than parallel review. A sequential review is unnecessary and could extend the permitting timeline by more than a year. Any delay would be frustrating, given that this project seeks to implement habitat restoration required under the 2008 biological opinions, now more than a decade later.

Projects like Lookout Slough designed to provide ecological benefits should not be forced into the same permitting process as projects with detrimental environmental impacts that must be mitigated. An expedited and cost-effective permitting mechanism for environmental projects as outlined by the draft Portfolio (section 13.2) would help to address this problem and get more habitat restoration projects underway.

As you finalize the Water Resilience Portfolio, I hope you give weight to these critical issues for our state. Please do not hesitate to contact me to discuss these matters further. I look forward to reviewing the final portfolio. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "John Garamendi".

JOHN GARAMENDI  
Member of Congress



The Honorable Donald J. Trump  
 President of the United States  
 The White House  
 1600 Pennsylvania Avenue, NW  
 Washington, D.C. 20500

The Honorable Steven T. Mnuchin  
 Secretary of the Treasury  
 1500 Pennsylvania Avenue, NW  
 Washington, D.C. 20220

The Honorable Nancy Pelosi  
 Speaker of the House of Representatives  
 United States House of Representatives  
 1500 Pennsylvania Avenue, NW  
 Washington, D.C. 20515

The Honorable Mitch McConnell  
 Majority Leader of the Senate  
 United States Senate  
 Washington, D.C. 20510

The Honorable Charles E. Schumer  
 Minority Leader of the Senate  
 United States Senate  
 Washington, D.C. 20515

The Honorable Kevin McCarthy  
 Minority Leader of the House of  
 Representatives  
 United States House of Representatives  
 Washington, D.C. 20515

March 21, 2020

Dear Mr. President, Secretary Mnuchin, Madam Speaker, Majority Leader McConnell, Minority Leader Schumer, and Minority Leader McCarthy:

We write to alert you to an urgent issue that directly affects all state and local governments, public agencies, and employees.

H.R. 6201, the Families First Coronavirus Response Act, which was signed into law on March 18, 2020, creates paid sick leave and family medical leave requirements for all state and local public agency employers. As we have all come to realize, it is imperative that people stay home if they are sick or to take care of a sick family member, especially in this crisis, and paid leave is critical for families to weather this global economic collapse. We support this provision.

Unfortunately, the bill treats private companies and public employers very differently. Both are required to provide paid sick leave, but only private sector employers will receive a tax credit to

offset the costs. Public sector employers are explicitly prohibited from receiving those same tax breaks, even though local governments, and most public agencies, pay payroll taxes.

We strongly urge you to include a provision in the Coronavirus Aid, Relief, and Economic Security Act, the next COVID-19 supplemental appropriations legislation, to strike Secs. 7001(e)(4) and 7003(e)(4) from H.R. 6201 and explicitly clarify that state and local governmental employers and public agencies, including those exempt from 26 USC 3111, fully qualify for both the Section 7001 and Section 7003 credits.

Local governments, public water and sanitation agencies, public hospital districts, and other public agencies provide critical services and infrastructure for all of your constituents and first responders. In this crisis, state and local governments and public agencies are facing unprecedented demands for emergency efforts that strain their resources, along with demands for measures to defer bills and taxes that are the governments' and agencies' sources of revenue. Unlike the Federal government, we cannot run deficits in response.

The recent supplemental appropriations bills not only fail to assist local governments and public agencies in any meaningful way, it penalizes them by specifically cutting them out of the tax credits that would help offset new leave requirements from the federal government. It is imperative that this change be made, and that future supplemental appropriations assist rather than penalize local governments and public agencies.

As local governments and public agencies, we are working hard to assist our communities in this crisis. We, our employees, and our constituents and ratepayers need assistance from the Federal government during emergencies.

Sincerely,



David Doyle  
City Manager  
City of Aliso Viejo



Michael Parmer  
Assistant City Manager  
City of Avalon



Jim Barrett  
General Manager  
Coachella Valley Water District



Blair King  
City Manager  
City of Coronado



*Ed Muzik*

Ed Muzik  
General Manager  
Hi-Desert Water District



*Fabiola Huerta*

Fabiola Huerta  
City Manager  
City of La Habra Heights



*David W. Pedersen*

David W. Pedersen  
General Manager  
Las Virgenes Municipal Water District



*Robert C. Ferrante*

Robert Ferrante  
Chief Engineer and General Manager  
Sanitation Districts of Los Angeles County



*Scott N. Schroyer*

Scott N. Schroyer  
General Manager  
South Granville Water and Wastewater Agency



*Tom Love*

Tom Love  
General Manager  
Upper San Gabriel Valley Municipal Water District



*Paula C.P. de Sousa*

Paula C.P. de Sousa  
General Counsel  
Valley Center Municipal Water District

[INSERT LOGOS HERE]

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President of the United States  
The White House  
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Washington, D.C. 20500

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Washington, D.C. 20515

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Minority Leader of the House of  
Representatives  
United States House of Representatives  
Washington, D.C. 20515

April 10, 2020

Dear Mr. President, Secretary Mnuchin, Madam Speaker, Majority Leader McConnell, Minority Leader Schumer, and Minority Leader McCarthy:

Thank you for your bipartisan leadership on the measures taken to date to support Americans during the coronavirus (COVID-19) pandemic.

As written, the previous measures do not address a number of issues public agencies are facing, and we write to request federal aid and appropriations to public agencies to assist with the overwhelming economic impacts and unmet needs caused by the coronavirus (COVID-19) pandemic.

We write to request federal aid and appropriations to assist public agencies with the economic impacts of the coronavirus (COVID-19) pandemic.

The three primary requests we have are:

First, we ask that the Families First Coronavirus Response Act, which was signed into law on March 18, 2020, be amended by striking Secs. 7001(e)(4) and 7003(e)(4) from H.R. 6201 and explicitly clarifying that state and local governmental employers and public agencies, including those exempt from 26 USC 3111, fully qualify for both the Section 7001 and Section 7003 credits.

The reality of COVID-19 has created a need for employees to stay at home, whether they or a loved one is ill or they are home to take care of a child whose school or daycare is closed due to COVID-19. Congress's response was to create a paid sick leave and additional family medical leave requirements for both public and private employers. However, under the legislation only private employers will receive a tax credit against their payroll taxes to offset the costs for the paid leave provisions in the Families First Act. Public agencies pay payroll taxes and are subject to the same costs as private employers. They should be treated equally.

Second, we request a fund to provide assistance to public agencies who are absorbing increased costs and losing revenue that are due to COVID-19. Due to the critical need for water and sanitation during this pandemic, public utility agencies are deferring shut offs and turning services back on for constituents in their district who find themselves unable to pay for utility services at this time. When the current crisis passes, many customers will have racked up large, unpaid bills, and public utilities will be required either to engage in massive shutoffs or absorb crippling revenue losses. A fund is necessary to allow for public agencies to apply for federal assistance with the costs that had been absorbed and revenues lost as a result of the COVID-19 pandemic. So as to ensure there is no delay in distribution and funds are available before it is time to resume normal collection procedures, the funds should be made available directly to the public agencies.

Third, we request that funds be made available for infrastructure projects. An influx of dollars for infrastructure allow for jobs to be preserved and new ones created, while also ensuring that constituents have access to the water and wastewater infrastructure necessary. This can be accomplished through appropriations into the Bureau of Reclamation's Title XVI program, the EPA WIFIA program, and the Drinking Water and Clean Water State Revolving Loan Funds. Additionally, seek that the advance refunding of tax-exempt bonds be reinstated. This measure, was removed for bonds issued after 2017. Reinstatement would allow local governments and other qualified entities to have access to billions of dollars which could be reallocated and spent on other projects;

We thank you for taking the time to consider these asks and we stand ready to provide any information you should on any of these measures, or any additional provisions you are considering in the next emergency appropriations package for public agencies.

Sincerely,



April 7, 2020

TO: Government Affairs and Community Outreach Committee, Upper San Gabriel  
Valley Municipal Water District  
FROM: Steve Baker  
SUBJECT: April 14, 2020 Legislative Update

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It is hard to imagine a short month ago everyone's lives were moving along normally and the Upper District's Government Affairs Committee was preparing to take positions on dozens of bills getting ready to be considered for the upcoming session. All of that changed in early March as state and federal leaders began to grapple with the rapid spread of the Coronavirus. On March 16<sup>th</sup>, as the Bay Area began a six-county shutdown that was a precursor to the rest of the state and most of the nation's eventual closure, the legislature hastily waived the Constitution and both houses unanimously passed SB 89 in a single day. The bill provides the Governor the authority to spend \$1 billion for emergency expenditures related to COVID-19. After the bill's passage, both houses of the legislature recessed until April 18, 2020.

Now that health experts have a better understanding of the spread of the virus, the legislative leaders have announced a further delay of resumption of legislative activity until May 3<sup>rd</sup>. The May 3<sup>rd</sup> return date will necessitate some legislative maneuvering to consider bills. The deadline for policy committees to hear and report most bills is April 24<sup>th</sup>. Most policy committees have sent memos encouraging legislators to prioritize their bills with an emphasis on policy matters related to the COVID-19 emergency. The state constitution requires the budget to be passed by June 15<sup>th</sup> and signed by the Governor by July 1<sup>st</sup>. The Governor has told lawmakers to disregard his January budget proposal and to expect a significantly paired down proposal in the May Revise. Assemblymember Phil Ting (D-San Francisco), who chairs the Assembly Budget Committee, has told his colleagues he expects the legislature will meet the constitutional deadline and the budget will be considered in an expedited timeframe. The Legislative Analyst and the Department of Finance have warned that while the state has a healthy surplus of \$17 billion, all of that and more will be used due to rapidly deteriorating economic conditions with significant unemployment and reduced state and local tax revenue from capital gains, sales tax, and income tax. To further complicate budgeting, the Governor has extended the tax filing period to July 15<sup>th</sup>, well into the next fiscal year.

On April 2<sup>nd</sup> the Governor issued Executive Order N-42-20 which prohibits urban water agencies from shutting of residential or commercial water delivery for nonpayment. He has issued similar executive orders that impact the payment of electricity and rent. The Governor has also issued executive orders

that declare the various types of essential employees that can remain on the job during the emergency. The order includes utility workers delivering water and waste water services.

During this crazy time, we have been monitoring amendments and other legislative activity. We have been in regular contact with Tom and Patty. Your staff should be commended for the social media and other outreach to customers and residents on a variety of water issues.

At some point, the Nation, the State and the Legislature will get back to normal. We believe it is still important the committee consider taking positions on bills that will impact Upper District and your customers and to consider any policy proposals that could be of benefit during these times

SB:bb  
2.051.20

# MEMORANDUM



## ITEM 4.

**DATE:** April 9, 2020  
**TO:** Government and Community Affairs Committee and Board of Directors  
**FROM:** General Manager  
**SUBJECT:** Federal and State Legislative Bill Summaries & Regulatory Update

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### **RECOMMENDATION**

Approve staff recommendations for federal and state legislative bill positions: S. 1932, AB 2093, AB 2364, AB 2840, AB 3256, and SB 996 which are consistent with Upper District's 2019-20 Legislative Policy Principles adopted by the Board in February 2019.

### **Federal Legislation**

#### **S. 1932 (Feinstein, Gardner): Drought Resiliency and Water Supply Infrastructure Act**

**Introduced:** 6/20/19

**Status:** Senate - 07/18/2019 Committee on Energy and Natural Resources Senate Subcommittee on Water and Power. Hearings held

**Summary:** *(As Introduced)* To support water infrastructure in Reclamation states and for other purposes. The bill includes a 5-year, \$100 million reauthorization of the Bureau of Reclamation's Title XVI Water Reclamation and Reuse competitive grant program, originally authorized in the 2016 Water Infrastructure Improvements for the Nation (WIIN) Act (Title XVI-WIIN). In addition to the key Title XVI-WIIN Competitive Grant Program, the legislation includes \$60 million for desalination, additional funding for surface and groundwater storage, and a new low-interest loan program for the financing of a range of water infrastructure projects.

**Analysis:** As of February 2020, a compromise has been reached between the authors on the major funding categories for the bill. In summary, the compromise consists of \$750 million for surface and groundwater storage projects; \$160 million for water recycling projects; \$80 million for desalination projects; and \$640 million for WaterSMART. During our February trip to ACWA DC, a meeting was held with Senator Feinstein's Legislative Director John Watts regarding the compromise and a request for support was made.

**RECOMMENDATION:** Support

### **State Legislation**

#### **AB 2093 (Gloria): Public records: writing transmitted by electronic mail: retention.**

**Introduced:** 2/5/20

**Location:** Asm. Appropriations; **Status:** 3/10/20 passed Asm. Judiciary Committee and Referred to Asm. Appropriations.

**Summary:** This bill would require all public agencies to retain all email relating to the public's business. Currently, the California Public Records Act requires that public agencies make all records in their possession available to the public, with no mention of how long agencies are required to file those records. While there are

retention requirements found elsewhere in the Government code they vary based on the kind of record and the agency. This bill would create a two-year retention standard across all of the state's public agencies with the aim of increasing transparency in state and local government. AB 2093 is a reiteration of last year's bill AB 1184 that was vetoed by the Governor. In his veto message of AB1184 in 2019, the Governor said "This bill does not strike the appropriate balance between the benefits of greater transparency through the public's access to public records, and the burdens of a dramatic increase in records retention requirements, including associated personnel and data-management costs to taxpayer."

**Analysis:** In the bill's analyses, some large agencies claim that a two-year retention standard would trigger an unfunded mandate. Some large agencies have estimated that their additional costs would be the following: The Department of Insurance at an annual cost of \$545,000, Department of Forestry and Fire at an annual cost of \$280,000 and Caltrans at an annual cost of \$450,000. The bill is opposed by the California Special Districts Association. The truncated legislative session in 2020 will present new challenges for AB 2093 moving forward this year. Members have been instructed that non-urgent bills or bills that require additional funding for agencies will most likely not be moving forward in the current climate.

**RECOMMENDATION:** Oppose

### **AB 2364(Rubio) Municipal Separate Storm sewer systems: financial capability analysis.**

**Introduced:** 2/18/20

**Location:** Asm. Environmental Safety and Toxic Materials; **Status:** 3/17/20 Hearing postponed by committee.

**Summary:** Under existing law, the State Water Resources Control Board (SWRCB) imposes a set of requirements for the discharge of storm water and wastewater to comply with the federal Clean Water Act and apply any other standards necessary to implement water quality control plans. This bill would mandate the SWRCB to establish financial capability assessment guidelines for cities and counties, or specifically municipal storm sewer system (MS4) permittees, by July 1, 2021 so they may comply with the law.

**Analysis:** The San Gabriel Valley Council of Governments (SGVCOG) is in support of this legislation. AB 2364 is a reintroduction of AB 1093 in 2019 and AB 2538 (2018) by Assemblymember Rubio. Both Governor Brown and Newsom vetoed this legislation, stating "the SWRCB is currently implementing and refining guidelines to assist local agencies in estimating and tracking the cost of compliance with their stormwater permits." However, the guidelines referenced in the veto message are still in draft form and have not been adopted. On the other hand, this bill will allow local municipalities or communities enough time to comply with the statutes and incorporates cost assessment in determining alternative compliance pathways and achievable schedules for these local municipalities. It will help permittees develop cost-effective plans, secure grants or other necessary revenue sources to fund those plans. Upper District took a position of support for last year's bill AB 1093.

**RECOMMENDATION:** Support

### **AB 2840(Rubio): MCL Compliance Period (Spot Bill)**

**Introduced:** 2/20/20

**Location:** Assembly

**Summary:** AB 2840 is currently a spot bill related to sales and use tax. This bill is being held by Assemblymember Rubio for a potential proposal related to a Maximum Contaminant Level (MCL) compliance period. The original deadline to amend spot bills was March 18. However, we expect the deadline to be reset once the legislature reconvenes on May 4<sup>th</sup>. 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. Currently, there is no defined compliance period for new MCLs adopted by the SWRCB. This bill would establish a 1-year compliance period for any new primary drinking water standards 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 and CMUA have developed a working group to work out the details of the potential bill and proposals for the author. Upper District is part of the ACWA working group and will continue to propose an extended compliance period of no less than 3-years as the preferred approach. An extended compliance period will grant reasonable timeframes for compliance of new drinking water standards to maintain safe drinking water. Upper District supported AB 1204 (Rubio) in March 2019 which allowed for 3 years. Upper District will continue to monitor this bill's progress.

**RECOMMENDATION:** Watch

**AB 3256(Garcia, E): Climate risks: bond measure.**

**Introduced:** 2/21/20

**Location:** 2/21/20-Assembly Print; **Status:** 2/24/20-Read first time.

**Summary:** The bill would state the intent of the legislature to enact a bond measure that would address climate risks to the state of California. This bill has yet to be amended. Draft amendments have been submitted on March 11, 2020, but AB 3256 is currently still in "spot bill" form, since the legislature has not reconvened. The amendment language totals the bond to \$6.98 billion.

**Analysis:** Based on the expected economic downturn and recession from COVID-19, voters may be reluctant to raise additional taxes on themselves for a climate resilience bond. In addition, the defeat of Proposition 13, School and College Facilities Bond, in March 2020 has some in the water industry concerned that voters may be disinclined to pass a large bond in November. The prospects of the successful passage of a climate resilience bond this year is uncertain. There are three versions of a climate resilience bond currently in the legislature – SB 45, AB 3246, and the Governor's proposal. Upper District took a position of support for SB 45 by Senator Allen on June 11, 2019 which totals \$5.51 billion. Governor Newsom has introduced trailer language for his own version which totals \$4.75 billion. ACWA submitted amendments to the Governor's bond language which includes provisions for regional and inter-regional water resilience, recycling and desalination, groundwater, and dam maintenance. ACWA is supportive of a climate resilience bond passing this year.

**RECOMMENDATION:** Watch

**SB 996(Portantino): State Water Resources Control Board: Constituents of Emerging Concern Program.**

**Introduced:** 2/15/20; **Amended:** 4/1/20

**Location:** Sen. Environmental Quality; **Hearing Date:** 4/15/20 (previously scheduled)

**Summary:** This bill would establish, maintain and direct an ongoing state-wide program called the Constituents of Emerging Concern (CECs) Drinking Water Program at the State Water Resources Control Board (SWRCB). This program would set up a consistent and science-based approach for analyzing and assessing CECs' potential public health effects from drinking water sources. It would guide the SWRCB in evaluating and identifying which CECs would require further action and prioritization. This bill also creates a dedicated funding source to support and maintain the CEC program. Specifically, the program would allow the SWRCB to form a Science Advisory Panel that would perform the following 1) identify the highest priority CECs 2) coordinate existing and new scientific research 3) evaluate and recommend a framework for standardizing and validating detection methods, monitoring approaches, and reporting procedures for CECs to eliminate barriers and improve timelines for actions on CECs 4) solicit public input on matters associated with the program through a Stakeholder Advisory Group.

**Analysis:** SB 996 is sponsored by Metropolitan Water District and California Municipal Utilities Association. With growing concern of these synthetic and naturally occurring chemicals, state legislators have felt compelled to push for regulatory mandates without fully evaluating its public health risks through science-based approaches. This bill would be proactive and forward thinking without interfering with any existing regulations or programs focused on CECs. Rather it would incorporate recommendations where needed to help guide decision-making on solutions for these CECs. Upper District has signed onto a coalition letter in support of this bill.

**RECOMMENDATION:** Support

## **Regulatory Update**

**Delta Operations:** The California Department of Fish and Wildlife (DFW) issued an Incidental Take Permit (ITP) to the Department of Water Resources (DWR) for long-term operations of the State Water Project (SWP). The permit covers four species protected under the California Endangered Species Act: Delta smelt, longfin smelt, winter-run Chinook salmon and spring-run Chinook salmon.

Under the California Endangered Species Act, DWR is required to obtain an ITP to minimize, avoid and fully mitigate impacts to threatened or endangered species as a result of State Water Project operations. In past years, DWR obtained coverage for SWP operations under CESA by securing a consistency determination from DFW based on federal biological opinions issued by federal regulatory agencies. In 2018, as federal agencies were working to update biological opinions, President Trump issued a Presidential Memorandum to greatly accelerate their completion. In February 2019, state agencies announced they would for the first time pursue a separate state permit to ensure SWP's compliance with CESA. Pursuing a separate permit enables the state to avoid relying on federal permits but may create conflicting standards for delta operations.

In response to this order, the State Water Contractors issued a statement expressing their disappointment with DWR and believes the latest ruling does not support best adaptive management activities and imposes restrictions far beyond the impacts of SWP operations. Jennifer Pierre, General Manager of the State Water Contractors stated the permit conditions “fail to incorporate the best available science, burden ratepayers with obligations far exceeding the impacts of water operations and will make compliance with the Sustainable Groundwater Management Act and climate change adaptation substantially more difficult.”