

**A REGULAR MEETING OF THE BOARD OF DIRECTORS
UPPER SAN GABRIEL VALLEY MUNICIPAL WATER DISTRICT
602 E. HUNTINGTON DRIVE, SUITE B, MONROVIA, CA 91016
8:00 A.M. – FEBRUARY 24, 2021**

**SPECIAL NOTICE
Teleconference Accessibility**

Pursuant to Executive Order N-29-20 issued by Governor Newsom in response to the COVID-19 pandemic, the Upper District will hold its board meeting via teleconference or the most rapid means of communication available at the time. Instructions to participate in the teleconference are below:

Attendee Join Zoom Meeting

<https://us02web.zoom.us/j/86976557620>

Meeting ID: 869 7655 7620

Telephone Dial:

1 (669) 900 - 6833

Meeting ID: 869 7655 7620

Public comments may be made through teleconference when prompted by the President during the public comment period. Public comments may also be provided by emailing christy@usqvmwd.org in advance of 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@usqvmwd.org. It may take a few minutes to join Zoom or connect via telephone so please join early.

AGENDA

1. PLEDGE OF ALLEGIANCE
2. ROLL CALL OF BOARD OF DIRECTORS
3. ADOPTION OF AGENDA [1]
4. PUBLIC COMMENT
Anyone wishing to discuss items should do so now. The Board of Directors may allow additional input during the meeting. A three-minute time limit on remarks is requested.
5. CONSENT CALENDAR [1]
 - (a) Approve minutes of a regular meeting of the Board of Directors held on February 10, 2021 at 8:00 a.m.
6. ACTION/DISCUSSION ITEMS [1]
 - (a) Approve Recommended Legislative Positions and Legislative Update. *(Staff memorandum enclosed.)*

Recommendation

The Government Affairs and Community Outreach Committee recommends that the Board approve staff recommendations for legislative bill positions: H.R. 535, SB 45 and SB 230 which are consistent with Upper District's 2021-22 Legislative Policy Principles adopted by the Board in January 2021.

(b) Strategic Plan Review.

Recommendation

This item is for information only. No action is anticipated.

7. INFORMATION ITEMS (These items are for the information of the Board of Directors and require no action) [2]
 - (a) Press Releases and News Articles.
8. ATTORNEY'S REPORT [2]
9. GENERAL MANAGER'S REPORT [2]
10. DIRECTOR'S COMMENTS [2]
11. FUTURE AGENDA ITEMS [1]
12. ADJOURN TO CLOSED SESSION – None.
13. ADJOURNMENT - To a regular meeting of the Board of Directors to be held on March 10, 2021 at 8:00 a.m. via teleconference or the most rapid means of communication available at the time.

LEGEND: [1] INDICATES ACTION ANTICIPATED BY BOARD OF DIRECTORS ON THIS ITEM
[2] INDICATES INFORMATION ITEM - NO BOARD ACTION NECESSARY

PRESIDENT ED CHAVEZ, PRESIDING

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 or Valeria@usgvmwd.org at least 24 hours prior to meeting.



**A REGULAR MEETING OF THE BOARD OF DIRECTORS
OF THE UPPER SAN GABRIEL VALLEY MUNICIPAL WATER DISTRICT
602 E. HUNTINGTON DRIVE, SUITE B, MONROVIA, CALIFORNIA 91016
8:00 A.M. – February 10, 2021**

Pursuant to Executive Order N-29-20 issued by Governor Newsom in response to the COVID-19 pandemic, the Upper District held a regular meeting of the Board of Directors via Zoom teleconference on February 10, 2021 at the hour of 8:00 a.m.

ROLL CALL

DIRECTORS PRESENT: Chavez, Santana, Treviño, Garcia, and Fellow.

DIRECTORS ABSENT: None.

STAFF PRESENT: Tom Love, General Manager; Steve O’Neill, District Counsel; Steve Johnson, Consulting Engineer; Evelyn Rodriguez, Director of Finance and Administration; Patricia Cortez, Director of Government and Community Affairs; Nichol Delgado, Government and Community Affairs Representative; Christy Hawkins, Executive Assistant; Venessa Navarrette, Administrative Assistant; Ruben Gallegos, Project Assistant; Elena Layugan, Conservation Coordinator; and Valeria Rodriguez, Secretary/Receptionist.

OTHERS PRESENT

Jenny Savron, David Muse, Javier Vargas, Lynda Noriega, Paul DiMaggio, Paul Zampiello, Tony Zampiello, Dan Arrighi, Lenet Pacheco, Che Venegas, Jose Martinez, Jazmin Lopez, Stephanie Moreno, Jorge Marquez, Anteneh Tesfaye, Ben Lewis, Anthony Alberti, and Marty Zvirbulis.

ADOPTION OF AGENDA

On motion by Director Fellow, seconded by Secretary Garcia, the agenda was unanimously adopted by the following roll call vote:

FELLOW: AYE
GARCIA: AYE
TREVIÑO: AYE
SANTANA: AYE
CHAVEZ: AYE

PUBLIC COMMENT

None.

CONSENT CALENDAR

On motion by Treasurer Treviño, seconded by Director Fellow, the consent calendar was unanimously approved by the following roll call vote:

FELLOW: AYE
GARCIA: AYE
TREVIÑO: AYE
SANTANA: AYE
CHAVEZ: AYE

- (a) Minutes of a regular meeting of the Board of Directors held on January 13, 2021 at 9:00 a.m.
- (b) List of Demands.
- (c) Financial Reports – December 2020.
 - 1. Financial Statements.
 - 2. Quarterly Report on Investments.
 - 3. Director’s Public Outreach.

**APPROVE UPPER DISTRICT'S 2021
MEETING SCHEDULE**

Vice President Santana moved to approve the Administration and Finance Committee's recommendation that the Board of Directors reschedule board and/or committee meetings affected by holidays and annual conferences:

May 2021

- a. Hold only one Board meeting on Wednesday, May 26th.

November 2021

- a. Hold only one Board meeting on Wednesday, November 17th.
- b. Reschedule the Water Resources and Facility Management Committee meeting from November 23rd to Tuesday, November 16th.
- c. Reschedule the Administration and Finance Committee meeting from November 25th to Thursday, November 18th.

December 2021

- a. Hold only one Board meeting on Wednesday, December 8, 2021.
- b. Cancel the Water Resources and Facility Committee and Administration and Finance Committee meetings.

Secretary Garcia seconded the motion, which was unanimously approved by the following vote:

FELLOW: AYE
GARCIA: AYE
TREVIÑO: AYE
SANTANA: AYE
CHAVEZ: AYE

Director Fellow requested to consider rescheduling committee meetings so that important items may be addressed earlier by the Board.

**AWARD THE INTERIOR DEMOLITION
CONTRACT FOR UPPER DISTRICT'S
NEW HEADQUARTERS TO TELACU
CONSTRUCTION MANAGEMENT**

Treasurer Treviño moved to approve staff's recommendation that the Board of Directors award a construction contract and authorize the General Manager to execute an interior demolition contract with TELACU Construction Management (TELACU) for Upper District's new headquarters for an amount not to exceed \$160,000.

Vice President Santana seconded the motion which was unanimously approved by the following roll call vote:

FELLOW: AYE
GARCIA: AYE
TREVIÑO: AYE
SANTANA: AYE
CHAVEZ: AYE

INFORMATION ITEMS

The following items listed on the agenda for the information of the Board were read and ordered received and filed:

- (a) Press Releases and News Articles

ATTORNEY'S REPORT

District Counsel reported on transactional matters and recent consultations with staff regarding a resolution for the meeting time change. He also reported working with Metropolitan Water District regarding Upper District's new representative to the Metropolitan Board. He then discussed the ongoing litigation and hearings for the San Diego vs Metropolitan 2014 and 2016 cases.

ENGINEER'S REPORT

The District Engineer provided a report on hydrologic conditions, basin deliveries, reservoir storage and rainfall averages. He stated that the Baldwin Park Key Well groundwater elevation was 198.9 feet as of February 5, 2020. He also reported that no notices of wells shutdown due to contamination were received during the month of January 2021.

The following is a summary of contamination ranges found in samples under Title 22 from 12 wells during December 2020.

<u>Contaminant</u>	<u>Range (ppb)</u>	<u>MCL (ppb)</u>
PCE	ND - 1	5*
TCE	ND	5*

A detailed written report was also provided to the Board.

GENERAL MANAGER'S REPORT

A detailed written report was provided to the Board.

METROPOLITAN REPORT

Director Fellow reported on a recent hack that occurred at a Florida water utility agency and the Metropolitan Board discussion regarding additional cyber security measures.

WQA REPORT

A summary report was provided in the Board's agenda packet.

WATERMASTER REPORT

A summary report was provided in the Board's agenda packet.

AB 1234 COMPLIANCE REPORT

A summary report was provided in the Board's agenda packet.

DIRECTORS COMMENTS

Director Fellow reported on a recent meeting of the ACWA Region 8 Federal Affairs Committee where he proposed the discussion of the Regional Recycled Water Program at a seminar session. He asked Upper District's General Manager to be one of the spokespersons at the seminar.

Secretary Garcia commended Metropolitan for its online resources and promotion of Solar Cup via its website. She also promoted a local coffee shop and emphasized the importance of supporting local small businesses.

Vice President Santana reported on her recent participation on a presentation regarding the Regional Recycled Water Project hosted by the Water Education for Latino Leaders. She also discussed recently giving a State of the District to the City of Duarte.

President Chavez thanked the Board, staff, and the public for participating in the board meeting.

FUTURE AGENDA ITEMS

None.

ADJOURN TO CLOSED SESSION

None.

ADJOURNMENT

President Chavez asked if there were other business to come before the Board. There being none, the meeting was adjourned to a regular meeting of the Board of Directors to be held on February 24, 2021 at 8:00 a.m. via teleconference or the most rapid means of communication available at the time.

PRESIDENT

ATTEST

SECRETARY

SEAL

DRAFT

MEMORANDUM



**6. (a)
ACTION**

DATE: February 9, 2021
TO: Government and Community Affairs Committee and Board of Directors
FROM: General Manager
SUBJECT: Federal and State Legislative Bill Summaries

RECOMMENDATION

Approve staff recommendations for legislative bill positions: H.R. 535, SB 45 and SB 230 which are consistent with Upper District's 2021-22 Legislative Policy Principles adopted by the Board in January 2021.

Background on Governor Newsom's Executive Orders Regarding the Brown Act

In response to the pandemic, Governor Newsom issued several executive orders – N-25-20, N-29-20, N-35-20 – suspending or loosening major provisions of the Brown Act to protect public health and safety while ensuring the delivery of critical services. Currently, the following executive orders only apply to the current health pandemic. So, in anticipation of the eventual lifting of the executive orders, legislative proposals have circulated to make lasting changes to the Brown Act.

Executive Order N-25-20 - March 12, 2020

Allowed agencies to hold public meetings telephonically, or otherwise electronically, and waived requirements for the physical presence of members in order to participate or establish quorum.

Executive Order N-29-20 - March 17, 2020

Further loosened by this subsequent order which no longer requires that a physical location be made available for members of the public to observe the meeting and offer public comment.

Executive Order N-35-20 - March 21, 2020

Allowed local legislative bodies to receive updates from federal, state, and local officials related to the COVID-19 declared emergency. However, the legislative body still must abide by applicable requirements of the Brown Act to take action or to discuss amongst themselves any item of business.

2021 Brown Act related bills in response to the Executive Orders

- Assemblymember Blanca Rubio has proposed bill language that would enhance public access through teleconference. This bill, sponsored by Three Valleys Municipal Water District, would essentially codify the intent of Executive Order N-29-20, allowing a legislative body of a local agency to use teleconferencing for the benefit of the public for any meeting or proceeding authorized by law. The teleconferenced meeting, however, must still comply with all other requirements issued under this bill and existing provisions of the Brown Act. Bill language has been submitted to legislative counsel and

waits approval and introduction. Staff will monitor the bill's progress once it has been assigned.

- AB 361 (Rivas, R): Open meetings: local agencies: teleconferences. This bill is sponsored by the California Special Districts Association (CSDA). It was introduced on February 1, 2021 and is pending committee referral in the Assembly. Similarly, this bill would allow public agencies to meet remotely to continue providing services to the public. However, this bill specifies that teleconference would be allowed only if a specified state or local emergency is declared, which differs from Rubio's bill. Staff is part of the CSDA working group and will continue to provide direction on the bill provisions and closely monitor its progress.

\$125 million Proposition 68 Funding for Habitat Improvement Projects

Upper District signed onto a coalition letter in support of a budget change proposal requesting an appropriation of \$125 million in Proposition 68 funds for the "Protecting California's Rivers, Streams and Watershed Program" for the fiscal year 2021-22. This "Proposition 68: Habitat Improvement" proposal was submitted by the California Natural Resources Agency and supported by ACWA, MWD, California Farm Bureau, CMUA, California Chamber of Commerce and countless others. This appropriation would help ensure that the early implementation actions proposed by the Voluntary Agreements can be funded. The success of these Voluntary Agreement efforts is critical and can provide long-term statewide benefits by improving and protecting wildlife habitats while still meeting the water needs of all Californians.

Governor's Budget

On January 8th, Governor Newsom submitted his \$227.2 billion budget for 2021-22. Among the critical COVID expenditures included are \$14 billion for economic investments, \$372 million for vaccine administration, \$575 million for small business grants, and the highest-level funding for K-14 schools with almost \$90 billion to help schools safely open. In addition, due to the statewide fires, included in the budget is \$143 million in funding to invest in the state's firefighting capabilities. The Rainy-Day Fund is \$15.6 Billion The budget is operating under a surplus of \$15 Billion.

- Climate Change - \$1 B
 - **Resilient Forests and Landscapes - \$512 M – programs include support for post-fire watershed recovery and forest health grant**
 - **Restoration of Natural Areas and Ecosystems - \$204.9 M – support watershed protection and restoration projects**
 - **Delta Resilience - \$43.7 M – support ecosystem restoration and watershed resilience in the Delta**
- California Natural Resources Agency - \$187 M (\$110 million increase compared to estimated current-year expenditures)
 - Habitat restoration - \$125 M
- Department of Water Resources - \$2.9 B (7% decrease compared to estimated current-year expenditures)
 - State Water Project - \$15 M
- California Department of Fish and Wildlife - \$632 M (17% increase)

Federal Bill Analysis

H.R. 535 (Garamendi): Special Districts Provide Essential Services Act.

Introduced: 1/28/21

Summary: H.R. 535, Special Districts Provide Essential Services Act, authored by Congressman Garamendi would amend the Social Security Act to include special districts in any future COVID-19 relief funds. If passed,

states would be required to distribute no less than 5% of future COVID-19 relief allocations within 60 days of receiving the funds. Special districts applying for funding would submit to their state information demonstrating how severely they have been impacted by COVID-19 in terms of revenue losses and other revenue shortfalls. Additionally, special districts would be considered “eligible users” of the Federal Reserve’s Municipal Liquidity Facility (MLF), meaning special districts and local governments with populations greater than 250,000 and counties with populations greater than 500,000 would have access to purchase bonds and revenue anticipation notes. To be clear, there is no federal statute defining special districts; therefore, the author added a provision defining the term as a “political subdivision, formed pursuant to general law or special act of a State, for the purpose of performing one or more governmental or propriety functions.”

Analysis: This bill is a reintroduction of last year’s bill H.R. 7073 by Rep. Garamendi and sponsored by California Special Districts Association (CSDA). The Board supported the bill on June 9, 2020 and signed onto a coalition letter. This bill seeks to amend the shortfalls of the four COVID-19 emergency response packages passed last year by including special districts into funding consideration. This would help special districts recover some losses and offset unexpected revenue shortfalls experienced during this pandemic. For these reasons, Upper District has a vested interest in the passage of this legislation and recommends a continued support position. Having access to federal relief resources would help our district and others throughout California confront potential revenue losses associated with COVID-19.

STAFF RECOMMENDATION: Support

State Bill Analysis

SB 45 (Portantino): Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2022.

Introduced: 12/7/20; **Location:** Sen. Natural Resources and Water

Summary: The bill would enact the Wildfire, Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2022, which would authorize \$5.51 billion in bonds. If passed, the initiative would appear on the November 2022 ballot.

- \$2.2 B – Reducing wildfire risk, enhancing wildfire response, forest and habitat restoration, state parks climate adaptation, state conservancies, regional climate change planning, reduction of climate impacts on DACs
- \$1.47 B – Safe drinking water, groundwater and wildlife habitat, **restorations of rivers, lakes, and streams**, groundwater plans, recycled water, water infrastructure upgrades, San Joaquin River Settlement Agreement, flood management
 - **\$65 million would be made available for multi-benefit river projects which include the protection and restoration of watersheds.**
- \$620 M – protecting fish and wildlife from climate change, climate resilience of habitat
- \$190 M – resiliency of agricultural lands, protection of farm
- \$970 M – Protection of oceans resources, San Francisco Bay Restoration, State Coastal Conservancy, Fisheries Management, California Ocean Protection Trust Fund, Dam upgrades and dam removals
- \$60 M – Workforce development

Analysis: SB 45 was introduced last year by Senator Ben Allen. The bill garnered statewide support from Metropolitan Water District (MWD), Association of California Water Agencies (ACWA), WaterReuse, California Special Districts Association (CSDA), and a number of other Southern California water agencies. The committee voted to support the bill on June 11, 2019. Prioritizing the needs of the San Gabriel Valley, staff will create its own policy asks to secure additional funding to support local watershed rehabilitation and advance infrastructure improvements/Delta habitat protections and the Delta Conveyance project. Staff will actively engage with the bill’s author and its coalition, keeping the committee and board updated as it progresses through the legislature.

RECOMMENDATION: Support if Amended

SB 230 (Portantino): State Water Resources Control Board: Constituents of Emerging Concern (CEC) Program.

Introduced: 1/19/21; **Location:** Sen. Environmental Quality

Summary: This bill would 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 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 would establish in the State Treasury the CEC Action Fund administered by the SWRCB. Ultimately this 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 230 is sponsored by Metropolitan Water District and California Municipal Utilities Association. It was introduced last year as SB 996 by the same author, Senator Portantino, but because of the restricted number of bills that members were allowed to carry last year, it was tabled. The committee voted to support the bill on April 14, 2020 and Upper District signed onto a coalition letter. Staff recommends the committee support this bill again. These synthetic and naturally occurring chemicals are still a growing concern despite the pandemic. And rather than having state legislators pushing for regulatory mandates without fully evaluating its public health risks, this bill would be proactive and forward thinking without interfering with any existing regulations or CEC focused programs.

RECOMMENDATION: Support



The Metropolitan Water District of Southern California

NEWS RELEASE

P. O. Box 54153, Los Angeles, California 90054-0153 • (213) 217-6485 • www.mwdh2o.com

Note to editors: Photos of Metropolitan's new directors are available upon request.

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Feb. 9, 2021

DIRECTORS REPRESENTING FULLERTON, SANTA ANA, UPPER SAN GABRIEL VALLEY MUNICIPAL WATER DISTRICT JOIN METROPOLITAN BOARD

Three new directors representing the cities of Fullerton and Santa Ana as well as the Upper San Gabriel Valley Municipal Water District were seated today on the board of directors of the Metropolitan Water District of Southern California.

Fullerton City Councilmember Fred Jung replaces Adan Ortega, who served on the 38-member board for the last year. Santa Ana City Councilmember Thai Viet Phan succeeds Jose Solorio, who was the city's representative since February 2019. Upper San Gabriel Valley Municipal Water District board member Dr. Anthony Fellow will replace three-year director Charles Treviño.

"It is my pleasure to welcome my new colleagues to the Metropolitan board," said board Chairwoman Gloria D. Gray. "They bring a breadth of expertise and experience, and diverse ideas that will help us address some of the most pressing challenges we face to Southern California's water reliability. I look forward to working with them."

Jung was elected to the Fullerton City Council in November, becoming the city's first Asian-American city councilmember in more than two decades. He serves as the vice chair of the Orange County Power Authority, a partnership between the cities of Buena Park, Huntington Beach, Irvine, and Lake Forest. He also is a member of the boards of directors of the Orange County Housing Finance Trust and the North Orange County Cities Joint Powers Authority.

Prior to joining the council, he served on the city's parks and recreation and traffic and circulation commissions.

Jung is a small business owner who attended the University of Southern California. Born in Seoul, South Korea, he came to the United States when he was 5 years old.

Phan is a municipal law attorney with Orange County-based firm Rutan & Tucker, and currently serves as the assistant city attorney for the cities of Duarte and Menifee. The first

Vietnamese-American and first Asian woman elected to the Santa Ana City Council, she was previously a Santa Ana planning commissioner.

Phan serves on the board of directors of the Vietnamese American Bar Association of Southern California and on the Leadership, Equity, Advocacy, & Diversity Advisory Board for the Rancho Santiago Community College District.

She holds a bachelor's degree in communications studies from the University of California, Los Angeles, and dual Law/Master of Public Policy degree from USC. Phan was born near a refugee camp in Thailand after her parents fled the aftermath of the Vietnam War. They settled in Santa Ana in 1989 after months of living in camps in Thailand and the Philippines.

Fellow returns to the Metropolitan board after previously serving as a director for a total of 17 years during two terms between 1993 and 2011.

Elected to the Upper San Gabriel Valley Municipal Water District in 1990, he helped establish the district's first water recycling program, conservation education programs, and a reforestation project in the Angeles National Forest. He is currently the agency's representative for the Main San Gabriel Basin Watermaster and contributed to the formation of the San Gabriel Basin Water Quality Authority.

Fellow is a 35-year communications professor at California State University, Fullerton, where he received a master's degree in communications. He also holds master's and doctorate degrees in communications from USC and a bachelor's degree in journalism and history from California State University, Los Angeles. Fellow was born in Bridgeport, Conn., and resides in El Monte.

Phan will serve on the Metropolitan board's Legal and Claims committee; Fellow was appointed to the Conservation and Local Resources, Legal and Claims, and Organization, Personnel and Technology committees; and Jung will serve on the Audit and Ethics, Finance and Insurance, and Organization, Personnel and Technology committees.

###

The Metropolitan Water District of Southern California is a state-established cooperative that delivers water to 26 member agencies serving 19 million people in six counties. The district imports water from the Colorado River and Northern California to supplement local supplies, and helps develop increased water conservation, recycling, storage and other resource-management programs.

P R E S S R E L E A S E

FOR IMMEDIATE RELEASE

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Bronson Mack, SNWA, (702) 249-5518, bronson.mack@lvvwd.com

Dec. 9, 2020

METROPOLITAN WATER DISTRICT, SOUTHERN NEVADA WATER AUTHORITY
COLLABORATE TO EXPLORE DEVELOPMENT OF RECYCLED WATER PROJECT
Supply augmentation project could improve Colorado River sustainability

In a bold step toward a new kind of collaboration in the Colorado River Basin, the Metropolitan Water District of Southern California and Southern Nevada Water Authority are partnering to explore development of a drought-proof water supply that could reduce reliance on the over-stressed river.

Under an [agreement](#) approved Tuesday by Metropolitan’s Board of Directors and SNWA’s Board of Directors last month, SNWA will contribute up to \$6 million for environmental planning of the [Regional Recycled Water Program](#), a proposed large-scale project to produce high quality water from purified wastewater.

Metropolitan has been developing the RRWP for more than a decade in partnership with the Sanitation Districts of Los Angeles County. Last month, Metropolitan’s board [voted to initiate](#) environmental planning work for the project, at a cost of about \$30 million. SNWA’s contribution will help offset these costs.

“We’re exploring a new way of working together in the Colorado River Basin,” Metropolitan General Manager Jeffrey Kightlinger said. “We’re still in the planning and testing phase, but if this water recycling project is ultimately built, the initial investment by SNWA could lead to an interstate exchange of new locally produced water, increasing resiliency for both agencies.”

While the RRWP would provide a valuable drought-proof water supply within the region, the cost to develop the program would require a significant financial investment. Partnerships with agencies in California and beyond would reduce the impacts of that full financial burden on Metropolitan, Kightlinger explained, and help ensure that full build out of the RRWP would be achievable.

more

“For more than two decades, our communities have jointly advocated for increased flexibility in how we use and share the Colorado River, and there is significant potential to further expand these efforts and help address water supply challenges through joint investments like the RRWP,” said SNWA General Manager John Entsminger.

If fully realized, the RRWP would produce up to 150 million gallons of water daily – the amount used by more than 500,000 homes – by taking cleaned wastewater and purifying it using innovative treatment processes. It would be one of the largest advanced water treatment plants in the world.

The project could help address an imbalance on the Colorado River, where demands from cities and farms outstrip supplies. This imbalance could increase as climate change is projected to reduce the river’s flows. The issue will be center stage when Colorado River Basin states begin renegotiating the river’s operating guidelines, set to expire in 2026. Coordination and collaboration among the basin states will be critical during these negotiations, including the potential of supply augmentation projects like the RRWP.

The funding agreement for environmental planning of the project does not obligate Metropolitan or SNWA to a long-term exchange, nor does it commit either agency to move forward with the program in the future. Any terms of a future exchange agreement or allocation would be developed at a later date through a separate agreement. If the agencies do not enter such an agreement, SNWA’s financial contributions to the RRWP’s environmental planning would be returned.

###

About the Metropolitan Water District

The Metropolitan Water District of Southern California is a state-established cooperative that delivers water to 26 member agencies serving 19 million people in six counties. The district imports water from the Colorado River and Northern California to supplement local supplies, and helps develop increased water conservation, recycling, storage and other resource-management programs.

About Southern Nevada Water Authority

The SNWA is a wholesale water provider that manages water conservation, water quality and water resource issues in a sustainable, adaptive and responsible manner for Southern Nevada. The regional entity that consists of seven water and wastewater agencies that collectively serve more than 2.2 million residents through reliable, cost-effective systems. Visit snwa.com for more information.

Water Tech – 2-18-21

Industrial wastewater treatment market set to grow through 2027, report finds.



The global industrial wastewater treatment market, valued at around \$89 billion in 2018, is anticipated to expand at a compound annual growth rate (CAGR) of more than 5% between 2019 and 2027, according to a report from Transparency Market Research.

The power end-use industry segment accounted for a prominent share of the global industrial wastewater treatment market in 2018. This led to an increase in the adoption of industrial wastewater treatment in the power industry in 2018.

The Asia Pacific industrial wastewater treatment market is anticipated to be one of the high-growth regions of the global industrial wastewater treatment market, led by the rise in scarcity of freshwater sources and increase in water pollution.

Rise in water pollution has resulted in a decline in the availability of freshwater for drinking and other human consumption purposes. Increasing scarcity of freshwater sources, rise in pollution, and industrialization have led to a water crisis across the globe, especially in developing and under-developed nations. Wastewater treatment and reuse of recycled water in industries can lower the pressure on existing freshwater sources from industrial applications. This can boost the availability of water for other purposes.

Increase in awareness about the environment and rising water scarcity have compelled authorities to implement stringent rules and regulations regarding industrial wastewater treatment across the globe. Countries are compelling industries to focus on wastewater treatment and recycling to reduce the burden on water sources.

Regulatory authorities are now making it essential for industries to opt for zero liquid discharge (ZLD) to recover 95% to 99% of water from waste streams and reuse the water for industrial applications. The implementation of new technologies such as Forward Osmosis (FO) membranes and electro-separation systems in the field of ZLD presents new opportunities for the industrial wastewater treatment.

In terms of application, in the industrial wastewater treatment market, the boiler feed water segment constituted a prominent share of the global industrial wastewater treatment market in

2018. Boilers find application in almost every industry, either for power generation or steam generation, or for both. However, the cooling towers segment is anticipated to expand at a rapid pace during the forecast period.

The power end-use industry segment dominated the global industrial wastewater treatment market in 2018. However, the paper & pulp segment is estimated to expand at a rapid pace during the forecast period. The paper & pulp industry consumes large quantities of water. It also generates vast quantities of wastewater. Water is a major raw material in the pulp & paper industry; therefore, treating wastewater and reusing it can significantly lower the dependency of the industry on other sources of water.

The Press-2-18-21

Delta study examines climate change effect.



By: Tony Kukulich

According to a new study by the Delta Stewardship Council, global warming could present the largest future threat to the Delta.

For the better part of the last two centuries, the Sacramento-San Joaquin Delta has been modified in any number of ways to meet the demands of Californians.

But a new wide-ranging study looks at what might be the most serious Delta threat that does not come in the form of an excavator – global warming.

“Delta Adapts: Creating a Climate Resistant Future” was released by the Delta Stewardship Council (DSC) with an overarching goal of building climate resilience in the Delta by improving the understanding of the region’s vulnerabilities to worldwide climate change. The DSC is seeking public comments on the report. Comments will be accepted until March 16.

“We recognized that we needed to study the climate change effects on the Delta specifically,” said Harriet Ross, assistant planning director for the DSC. “There have been a lot of studies that have been done regarding climate change on a particular asset or resource or a particular part of the Delta, but never comprehensively included the entire legal Delta and Suisun Marsh. This is the first climate change study that covers this large study area. We’re looking at it more holistically, regionally and comprehensively”.

The 199-page vulnerability assessment is the first of two planned phases. Work on the second phase, adaption, is expected to begin shortly and be completed in about a year. Once complete, it will detail strategies and tools that governments and other agencies can use to help communities and ecosystems thrive in the face of climate change, while protecting critical infrastructure and economic assets.

“The Delta environment is pretty important,” said Roger Mammon, an Oakley resident and secretary of Restore the Delta. “I think the study is important, and it got a lot of young people involved.”

An estimated 27 million Californians depend on the Delta for at least a portion of their drinking water. Water from the Delta is the life blood for much of the state’s \$3 trillion economy including the critical agriculture sector. Given the importance of the Delta, the findings of the vulnerability assessment are concerning.

“Climate change is already altering the physical environment of the Sacramento-San Joaquin Delta and Suisun Marsh, and we will continue to experience its effects through hotter temperatures, more severe wildfires and prolonged droughts,” reads the report’s executive summary. “Over the long term, climate change in the Delta is expected to harm human health and safety, disrupt the economy, diminish water supply availability and usability, shift ecosystem function, compromise sensitive habitats, and increase the challenges of providing basic services. Many of these impacts will disproportionately affect vulnerable communities.”

Among the report’s key findings are that flooding will continue to worsen. By 2050, 10% of the Delta’s population and 33% of Delta land will be exposed to flooding from a 100-year flood event, which is a severe type of flood that has a 1% chance of occurring in any given year.

By 2085, significant flood exposure will increase to 21% of Delta residents and 68% of Delta land. Additionally, the report finds that Delta water exports will be less reliable as dry years become drier, wet years become wetter and years with average rainfall become less frequent.

Noting the report’s finding, Kathryn Phillips, director of Sierra Club California, questioned the logic of the \$15.9 billion Delta Conveyance Project that proposes the construction of a tunnel through the Delta to improve the reliability of water delivery to the Central Valley and Southern California.

“The report notes that climate change will significantly reduce river flows off the Sierra snowpack and into the Delta,” wrote Phillips. “In other words – our words – there won’t be water to capture upstream of the Delta to send elsewhere in a climate changed world. Better to invest in local and regional projects to reduce, conserve and recycle.”

The DSC also noted that there appears to be an inherent social inequity in the effects of climate change in the Delta. Residents who lack a vehicle will have trouble evacuating in the event of a major flood, while extreme heat days will disproportionately affect people who work outdoors, older adults, people with chronic illness and those experiencing homelessness.

“Climate change does not affect everyone equally,” Ross said. “People with resources are able to adapt to climate change, while people without resources or with limited resources can’t adapt as well.”

Public workshops to discuss the planning for the adaptation phase of Delta Adapts are planned for Feb. 25. and March 1.

“Climate change is here, and it’s happening,” Ross said. “We’re going to have to understand exactly how those impacts are going to play out in our communities. We all have a part in addressing how we respond to those impacts. That is our call to action, to get folks involved in our process. Climate change is happening, no matter what. It’s going to take everyone at the federal, state and local government, as well as the general public, to pitch in together and come up with a strategy that works.”

AP News -2-18-21

US needs to brace itself for more deadly storms, experts say



People line up to collect firewood from a wood heap opened to the public Wednesday, Feb. 17, 2021, in Dallas. Groups of thirteen were allowed six minutes to load as much wood as they could carry away from the recycling center. (AP Photo/LM Otero)

By: Matthew Daly & Ellen Knickmeyer

Deadly weather will be hitting the U.S. more often, and America needs to get better at dealing with it, experts said as

Texas and other states battled winter storms that blew past the worst-case planning of utilities, governments, and millions of shivering residents.

This week's storms — with more still heading east — fit a pattern of worsening extremes under climate change and demonstrate anew that local, state and federal officials have failed to do nearly enough to prepare for greater and more dangerous weather.

At least two dozen people have died this week, including from fire or carbon monoxide poisoning while struggling to find warmth inside their homes. In Oklahoma City, an Arctic blast plunged temperatures in the state capital as low as 14 degrees below 0 (-25 Celsius).

"This is a different kind of storm," said Kendra Clements, one of several businesspeople in Oklahoma City who opened their buildings to shelter homeless people, some with frostbite, hypothermia and icicles in their hair. It was also a harbinger of what social service providers and governments say will be a surge of increased needs for society's most vulnerable as climate and natural disasters worsen.

Other Americans are at risk as well. Power supplies of all sorts failed in the extreme cold, including natural gas-fired power plants that were knocked offline amid icy conditions and, to a smaller extent, wind turbines that froze and stopped working. More than 100 million people live in areas under winter weather warnings, watches or advisories, and blackouts are expected to continue in some parts of the country for days.

The crisis sounded an alarm for power systems throughout the country: As climate change worsens, severe conditions that go beyond historical norms are becoming ever more common. Texas, for example, expects power demand to peak in the heat of summer, not the depths of winter, as it did this week.

The dire storms come as President Joe Biden aims to spend up to \$2 trillion on infrastructure and clean energy investment over four years. Biden has pledged to update the U.S. power grid to be carbon-pollution free by 2035 as well as weatherize buildings, repair roads, and build electric vehicle charging stations.

“Building resilient and sustainable infrastructure that can withstand extreme weather and a changing climate will play an integral role” in creating jobs and meeting Biden’s goal of “a net-zero emissions future,” White House press secretary Jen Psaki said Wednesday.

The storms are big news this week, especially in light of their effect on COVID-19 vaccinations as well as freezing Americans, but that doesn’t mean they won’t become more common, experts say.

“This definitely was an anomaly, ” but one that is likely to occur more frequently because of climate change, said Sara Eftekharnjad, assistant professor of electrical engineering and computer science at Syracuse University.

“There probably needs to be better planning, because we are starting to see more extreme weather events across the country, ” she said, whether it’s severe cold in Texas or the intense heat wave in California last year that fueled deadly wildfires.

Better forecasting — both short-term and long-term — would help avoid catastrophic failures such as the current outages in Texas and other states, as would large-scale storage systems that can supply electricity when demand spikes and a greater diversity of power sources, Eftekharnjad and other experts said.

Climate change also is hurting military readiness. Damage from a 2018 hurricane at Tyndall Air Force Base in Florida and 2019 flooding at Nebraska’s Offutt Air Force Base, for example, led the Pentagon to send service members as far away as Britain to train.

Another 2018 hurricane that hit North Carolina’s Camp Lejeune, home to one-third of the U.S. Marine Corps’ capability, caused enough damage to degrade training overall, senior U.S. military authorities concluded.

Hardening military installations against worsening natural disasters will cost trillions. But it must be done, said Joan VanDervort, a former longtime Defense Department climate expert now with the Center for Climate and Security think tank. “We have eyes overseas that are looking at our vulnerability and seeing how we respond. ... There are enemies out there that will certainly take advantage of it.”

Michael Craig, an assistant professor of energy systems at the University of Michigan, said the events in California and Texas show that “what we have now is not going to do it in the face of climate change. It is only going to get worse from here. ”

The disaster in Texas and other states “is a reminder that our nation’s critical infrastructure is vulnerable to extreme weather events and we can no longer turn a blind eye to the resiliency investments needed to protect it, ” said Sen. Tom Carper, D-Del., chairman of the Senate Environment and Public Works Committee, who met with Biden at the White House last week. “The cost associated with addressing climate change and improving our infrastructure’s resilience is always going to be less than the cost of rebuilding or failing to act, ” Carper said.

Meanwhile, federal regulators are looking into the operations of the bulk-power system during the severe winter storm that affected states from Louisiana to Minnesota.

In Texas, where wind power is a growing source of electricity, the wind turbines generally are not equipped to withstand extended low temperatures, as they are in Iowa and other cold-weather states. Modifying the turbines slightly to withstand freezing temperatures is one step needed to confront climate change, said Roy McCann, professor of electrical engineering at the University of Arkansas.

While some Republican politicians, including Texas Gov. Greg Abbott, have tried to pin blame on wind and solar power for the outages, traditional thermal power plants, which rely mostly on natural gas, provide the bulk of power in the state and were the larger problem.

“The entire system was overwhelmed,” said Joshua Rhodes, a research associate on energy issues at the University of Texas.

CA Water News -2-17-21

State Water Board awards \$97.9 million in Prop 1 funds

The State Water Resources Control Board (SWRCB) has announced the award of \$97.9 million in Proposition 1 funds for 24 stormwater projects to cities, counties, and special districts statewide to capture stormwater and put it to beneficial use for communities.

According to SWRCB, the stormwater projects will improve regional water self-reliance, and adaptation to water supply challenges arising from climate change.

The list of projects receiving grant funds are:

- Mendota – Stormwater Improvement Project \$3,822,800
- Twain Harte Community Services District – Twain Harte Community Stormwater Enhancement Project \$3,748,732
- Sand City – West End Stormwater Improvement Project on Contra Costa Street \$2,735,202
- Oceano Community Services District – Stormwater Capture and Groundwater Recharge Project \$2,450,733
- South Lake Tahoe – Tahoe Valley Stormwater and Greenbelt Improvement Project \$6,922,904
- Chowchilla – Urban Runoff Management Project \$3,349,635
- San Pablo – Sutter Avenue Green Street Project \$1,560,000
- South El Monte – Merced Avenue Greenway Improvement Project \$2,589,214
- Modesto – JM Pike Park Stormwater to Sanitary Cross Connection Removal Project \$10,000,000
- Newman – Newman Environmental Wetland System (NEWS) \$6,410,777
- Santa Margarita Water District – Upper San Juan Creek Storm Water Capture, Infiltration, and Potable Reuse Project \$5,967,691
- County of Los Angeles – Walnut Park Pocket Park and Stormwater Infiltration Project \$2,096,000
- Kern County Public Works – Phase 1 Caliente Creek Flood Mitigation \$724,670
- Central California Irrigation District – Orestimba Creek Recharge and Recovery Project \$5,597,986

- Santa Monica – Stormwater Harvesting & Treatment Project for Groundwater Injection \$8,770,000
- Fortuna – 12th Street Integrated Stormwater Project \$945,850
- Pueblo Unido CDC – St. Anthony Stormwater Capture Project \$1,141,336
- Salinas – Salinas Project to Enhance Stormwater Supply \$6,263,327
- County of Los Angeles – Alondra Park Multi-Benefit Stormwater Capture Park \$2,101,061
- City of Los Angeles – Valley Village Park Stormwater Capture Project \$3,000,000
- County of San Diego – Maplevue Street Green Infrastructure and Water Quality Improvement Pilot Project \$1,500,000
- San Elijo Joint Powers Authority – Stormwater Capture and Reuse Phase 2 Project \$1,530,080
- San Bernardino County Flood Control – Grove Basin Outlet \$4,650,000
- McMullin Area Groundwater Sustainability Agency – McMullin On-Farm Flood Capture Projects, Phase 2 \$10,000,000

Approved by California voters in 2014, Proposition 1 authorizes general obligation bonds for water projects, including surface and groundwater storage, ecosystem and watershed protection, restoration and drinking water protection. The selected projects will lead to environmental benefits like pollutant removal, groundwater recharge, flood management, habitat protection and creation of greenspace.

SGV Tribune – 2-16-21

Key state environmental council approves initiatives to reduce plastic waste.

Single-use plastic foodware, cigarette butts and plastic fishing nets are among the targets.



The state Ocean Protection Council voted unanimously Tuesday, Feb. 16, on a host of initiatives aimed at reducing plastic waste, which washes into storm drains before littering the ocean and beaches. A week of storms left trash and debris at the Seal Beach jetty in Seal Beach, CA on Friday, January 18, 2019. (File photo by Paul Bersebach, Orange County Register/SCNG)

By: Martin Wiscol

With state legislators failing to pass plastic-reduction proposals two years running and Californians continuing to pour plastics into the sea, the state's Ocean Protection Council approved a host of fact finding, technical assistance and policy promotion initiatives Tuesday, Feb. 16, aimed at turning the tide on such waste.

Targets include reducing single-use plastic foodware, increasing recycled content in newly manufactured plastic, a possible ban of cigarette filters, establishing a United Nations plastics-waste measure, and reducing plastic content in commercial fishing gear, which is frequently lost at sea.

"It's time to say, 'Enough is enough,'" said state Environmental Protection Secretary Jared Blumenfeld, one of the council's seven members. "We haven't been as forward looking on this as we have on other issues."

The council — a cabinet-level body composed of top state environmental officials, two environment-minded legislators and two community activists — is the state's primary science-based advisor and coordinator for ocean-related issues. The state Coastal Commission, meanwhile, serves as a regulating and enforcement agency.

Twelve million tons of plastic enters the ocean worldwide annually, according to a study by Pew Charitable Trusts. It has been found in fish worldwide, including bottom dwelling marine life, and it is found in people eating those animals.

That is if the animals do not die in the ocean first. Of 1,792 plastic-related deaths of sea turtles and marine mammals examined in an Oceana study last year, the most common cause was plastic ingestion, which disrupts digestion and leads to starvation. Of those deaths, 80% were threatened or endangered species, with the actual number of ocean fatalities caused by plastics believed to be much higher.

Butts, fishing nets

While the state has banned plastic bags and some coastal cities have banned straws and other single-use plastics, the Ocean Protection Council would like to a broader ban on disposable

foodware. But before enacting such a ban the council's initiative calls for analyzing the cost of alternative foodware, setting a "break-even" point, and providing state agencies and local governments with technical and logistical assistance in phasing out such plastics.

While disposable foodware is common among coastal and ocean trash, the most common plastic documented in 2019 California coastal cleanup data was cigarette butts. Pending research commissioned by the state Department of Health on whether cigarette filters reduce the harm of smoking, the council is prepared to promote a ban of those filters.

"All of the science shows that filters do nothing," said Assemblyman Mark Stone, D-Monterey Bay, a council member. "It was all a marketing ploy."

Another key goal is reducing the amount of plastic in fishing gear, such as nets, which can be inadvertently lost at sea and pose an ongoing threat to marine life. Such fishing equipment "makes up at least 10% of all plastic pollution and as much as 70% of microplastic pollution by weight," according to the council staff report recommending the measures approved Tuesday.

Ballot initiative

Sweeping state legislation that would reduce single-use plastic waste by 75% went before the Legislature each of the last two years but failed to come up for a final vote. A lead author, Sen. Ben Allen, D-Santa Monica, has reintroduced the bill this year. Additionally, an even stricter initiative has been submitted for the 2022 ballot and is awaiting signature verification.

Opponents to the bill have included the California Chamber of Commerce, which complained the measure did not sufficiently address the need for a radical increase in recycling infrastructure, that funding was inadequately detailed, and that the state's recycling agency was given too much authority. In its opposition letter, the chamber said the bill "will result in substantial negative repercussions for California businesses and the millions of Californians who will see higher prices or even some products disappearing entirely."

At Tuesday's online council meeting, a representative of the plastics industry noted that the council's proposal was only made public Friday and asked for more time to respond.

But the council went ahead and unanimously approved the plan.

"We're up against some very powerful and monied interests that are vested in the status quo," Stone said. "California is very clear on what we need to be doing, but we just haven't been able to get it done. We need the Legislature to take these issues more seriously."

Allen, also a member of the council, described the state as having a "dysfunction of plastics management."

"The problems are getting worse," he said. "The amount of plastic ... is skyrocketing and that's being felt by our oceans and streams. We face the consequences of our boneheaded practices every day."

Nossaman LLP-2-11-21

Regulatory Changes on the Horizon for California State Water Resources Control Board

On December 17, 2020, the Sacramento County Superior Court issued a ruling limiting the ability of the California State Water Resources Control Board (“State Board”) to implement its adopted statewide wetlands and Waters of the State (“WOTS”) regulations. The State Board enacted the WOTS regulations on a statewide basis as amendments to the State Board’s statewide water quality control plan. The court ruled that the State Board could not implement statewide regulations through a statewide water quality control plan for non-federal waters because the Porter Cologne Water Quality Act does not authorize the State Board to do so. This aspect of the decision potentially has broader implications for other regulations that the State Board has adopted as amendments to the statewide water quality control plan. Those broader implications are important to consider now because the State Board issued a Notice on February 3, 2021 stating that it will reconsider the WOTS regulations in response to the court’s ruling in a hearing scheduled for April 6, 2021.

The Notice also states that the State Board will confirm in the hearing that the State Board may apply the WOTS regulations to federal and non-federal waters as a *water quality policy* without violating the court’s ruling. The Notice further states that the State Board will consider whether the State Board may implement the WOTS regulations with respect to federal and non-federal waters as *water quality control requirements* without violating the court’s ruling. While the Notice does not state how the State Board might be able to implement the WOTS regulations as water quality control requirements, members of the homebuilding industry should be aware that the noticed action provides an opportunity to request State Board consideration of the increased costs for housing development resulting from implementation of the WOTS regulations. The Notice indicates the State Board is accepting written comments on its proposed action through noon on **March 8, 2021**.

Background

The State Board’s WOTS regulations require that anyone proposing to discharge dredge or fill material to WOTS (which encompass Waters of the United States (“WOTUS”), as well as a variety of other aquatic features) must obtain a state water quality certification and/or a state discharge permit in accordance with the new, quite stringent regulations. The court’s decision restricts the ability of the State Board to implement the WOTS regulations through a statewide water quality plan, allowing the State Board to apply the regulations only to discharges of dredged or fill material to WOTUS, a subset of WOTS. If the discharge is to WOTS, but not to WOTS features that are also WOTUS, then the State Board cannot require a permit for the discharge. If the ruling is not appealed or overturned, the State Board lacks authority to regulate discharges of dredge and fill to features such as unvegetated wetlands, wetlands not adjacent to otherwise jurisdictional WOTUS and ephemeral streams. Under the court’s ruling, the authority to enact water quality control plan regulations for discharges of dredge and fill to aquatic features that

are WOTS, but not WOTUS or ocean waters, rests with the Regional Water Quality Control Boards (“Regional Boards”). It is critical for the regulated community to know that even under the court’s ruling, the Regional Boards retain full authority to regulate discharges of dredge and fill to WOTS and/or WOTUS under existing regional water quality control plan provisions. Regional Boards could also amend their regional water quality control plans to include the WOTS regulations in some form.

Based on the court’s reasoning, the case may have broader effects beyond the WOTS regulations. The court reasoned that the Porter-Cologne Act restricts the State Board’s ability to establish statewide water quality control plan policies, regulations and provisions to those areas specifically identified in the statute as being within the State Board’s jurisdictional authority. The court found that the State Board lacks authority to implement the WOTS regulations as to WOTS that are not also WOTUS, and so eliminated the ability of the State Board to implement the regulations with respect to those features.

Broader Implications

Since approximately 2015, the State Board has increasingly implemented its regulatory objectives by amending the statewide water quality control plan. Like the WOTS regulations, some of those amendments involve regulations that the Porter-Cologne Act places within the purview of the Regional Boards, rather than the State Board. One example of a State Board statewide water quality control plan amendment potentially impacted by this ruling is the State Board’s adoption of the mercury provisions. The provisions establish very low numeric water quality objectives for mercury for all WOTS throughout the state. Water Code section 13223(a) states that it is within the Regional Boards’ authority to issue, modify or revoke water quality objectives for waters within their regions. Water Code section 13142(b) states that the State Board has limited authority to establish water quality objectives only at “key locations for planning and operation of water resource development projects and for water quality control activities.” Thus, the State Board’s adoption of numeric mercury water quality objectives for all inland surface waters, enclosed bays, and estuaries statewide through amendment of the state water quality control plan arguably runs afoul of the court’s ruling. Accordingly, if the court’s ruling stands, the State Board’s mercury provisions and other similar regulations enacted via amendment of the statewide water quality control plan, but addressing matters within the Regional Boards’ purview, arguably exceed the limits of the State Board’s policy-making authority under the statute.

Either the State Board or the plaintiff may appeal the court’s decision. The court entered its judgment on January 5, 2021, and the deadline for a party to file a notice of appeal is March 1, 2021. If no party files a notice of appeal by that date, then the ruling will stand, removing the authority for regulating discharges of dredge and fill material to WOTS that are not WOTUS or oceans from the State Board’s purview and potentially limiting the State Board’s authority to adopt and implement other statewide regulations through amendments to the statewide water quality control plan. Based on the State Board’s issuance of the February 4, 2021 Notice, it appears that the State Board may be poised to determine that it need not appeal the court’s decision.

April 6, 2021 State Board Hearing

The Notice indicates that the State Board intends to confirm that the WOTS regulations as adopted into the state water quality control plan constitute a statewide *policy* under Water Code section 13140, applicable to all federal and non-federal waters. The Notice also indicates that the State Board will consider whether it may also implement the WOTS regulations for all federal and non-federal waters as *water quality control requirements* under the Porter-Cologne Act. This second reference appears to signal, without overtly stating, that the State Board intends to re-adopt the WOTS regulations at its April 6th hearing as binding “principles and guidelines deemed essential by the state water board for *water quality control*” under Water Code section 13142.2, subdivision (c). The State Board may believe that re-adoption of the WOTS regulations under this section of the Porter-Cologne Act (in addition to their prior adoption of the regulations under sections 13140 and 13170) would allow the State Board to implement the regulations with respect to both federal and non-federal waters as “*water quality control requirements*.”

The State Board action could remedy the problem created by the court’s ruling for implementation of the WOTS regulations for non-federal waters. However, this action would not address questions regarding the ruling’s application to other State Board regulations adopted via amendments to the statewide water quality control plan. In addition, the homebuilding industry should note that adoption of the WOTS regulation under Water Code section 13142, subdivision (c), specifically requires the State Board to consider whether the WOTS regulations are consistent with “providing a decent home. . .for every Californian.” In its initial adoption of the WOTS regulations, the State Board did not consider any housing construction cost increases associated with the new, more stringent WOTS regulations, nor the impact of those cost increases on housing production. Comments regarding the additional costs of compliance imposed on housing development and construction would appear to be an important topic for comments submitted to the State Board, which are due on March 8, 2021.

LA Times -2-10-21

California's aging dams face new perils, 50 years after Sylmar quake crisis.

A top federal priority in Southern California is spending an estimated \$600 million to upgrade the 62-year-old Whittier Narrows Dam.

By: Louis Sahagun

It was a harrowing vision of the vulnerability of aging California dams — crews laboring feverishly to sandbag and drain the lower San Fernando Reservoir, as billions of gallons of Los Angeles drinking water lapped at the edge of a crumbling, earthquake-damaged embankment that threatened catastrophe on the neighborhoods below.

Although the 1971 San Fernando earthquake and the near failure of the Lower Van Norman Dam have given rise to construction improvements — the much newer Los Angeles Dam survived an equivalent shaking in the 1994 Northridge quake — most California dams are decades past their design life span.

And while earthquakes still loom as the greatest threat to California's massive collection of dams, experts warn that these aging structures will be challenged further by a new and emerging hazard: "whiplashing shifts" in extreme weather due to climate change.

"The biggest issue facing dam safety in California is aging infrastructure and lack of money to fund repairs and retrofits of dams," said Sharon K. Tapia, who leads the Division of Safety of Dams at the California Department of Water Resources. "Many older dams were built using construction methods considered outdated by today's standards."

Federal engineers have found that three major dams in Southern California — Whittier Narrows, Prado and Mojave River — are structurally unsafe and could collapse in a significant flood event and potentially inundate millions of people downstream.

Federal engineers have found that the Mojave River Dam could collapse in an extreme flowing event and flood nearby communities.

Each has been reclassified as "high urgency structures" amid growing concerns that they were designed and built on 20th century assumptions and hydrological records that did not anticipate

the region being hit more frequently by storms that were previously regarded as once-in-a-lifetime events.

“Even if engineers had made risk assessments that were accurate at the time these structures were built, they aren’t accurate now, and won’t be any more due to climate change,” said Daniel Swain, a UCLA climatologist.

These extreme weather events compound problems posed by earthquakes, which are inherently unpredictable and can cause safety problems that remain hidden or hard to identify.

Such was the case when the San Fernando, or Sylmar, quake struck before dawn 50 years ago this week and nearly collapsed the Lower Van Norman Dam in Granada Hills.



The 1,100-foot dam, which began construction in 1912, held 3.6 billion gallons of water on the morning of Feb. 9, 1971. Due to earthquake concerns identified five years earlier, the reservoir was ordered to be kept below full capacity, and on that morning the water level measured 36 feet below the lip of the dam.

The top 30 feet of the rolled earth dam crumbled and sank into the reservoir, leaving the water only six feet from the top with fresh chunks of earth falling off with each aftershock. Not since 1925, when a 6.8-magnitude quake destroyed the Sheffield Dam and sent 30 million gallons of water coursing through Santa Barbara, had California faced such a seismic-related crisis.

Authorities ordered the evacuation of 80,000 people living below the dam in an area bounded by the San Diego Freeway on the east, Victory Boulevard on the south, Balboa Boulevard on the west and Rinaldi Street on the north.

Engineers spent the next three days pumping water from the dam through a 24-inch hole cut in an aqueduct pipe.

Scientists later estimated that collapse of the dam would have killed as many as 123,400 people.

The brush with catastrophe prompted seismic reevaluations and retrofits of dams throughout the state, most of them built for a 50-year life span. The average age of a California dam, state dam safety officials say, is 70.

Today, about 75% of the 1,250 dams regulated by the state Department of Safety of Dams are more than 50 years old. In addition, 250 are classified as “extremely high hazard,” indicating that their failure or mis operation is expected to result in loss of life and economic damage.

A scenario published by the U.S. Geological Survey warns that a rare mega-storm, or what experts call an Arkstorm, could last for weeks, causing structural and economic damage that would amount to \$725 billion statewide.

Until only recently, it was thought that a flood of the magnitude like the one that hit California during the rainy season of 1861-62 and dropped 36 inches of rain on Los Angeles, could only occur every 1,000 to 10,000 years.

Recent studies, however, suggest that the chances of seeing another flood of that size over the next 40 years are about 50-50.

The U.S. Army Corps of Engineers has determined that the aging Whittier Narrows Dam could fail in the event of heavy rains, placing 1.25 million people in 25 working-class, mostly Latino communities downstream at risk of catastrophic flooding.

Now, the U.S. Army Corps of Engineers’ top priorities in Southern California include spending an estimated \$600 million to upgrade the 62-year-old Whittier Narrows Dam, built in a natural gap in the hills about 11 miles east of downtown Los Angeles.

The earthen dam was placed in the agency’s highest risk category when it determined three potential failure modes threatened more than 1 million people downstream from Pico Rivera to Long Beach. They included the premature opening of the San Gabriel River Spillway gates, erosion resulting from water piping through the foundation of the dam and overtopping during an extreme flood event.

Federal engineers say that while the first would result in downstream flooding, the latter two could result in catastrophic failure of a structure built to rein in one of the steepest rivers in the U.S. From its boulder-strewn forks in the San Gabriel Mountains, the river plunges some 9,900 feet to Irwindale.

The modifications to prevent the dam from failing if overtopped include placing roller-compacted concrete on the crest and downstream slope of the embankment and improving the seepage control system with trench drains and other features.

The project is expected to be completed by 2026, officials said, with environmental monitoring extending through 2031.

In 2019, the Army Corps determined that a significant flood event could compromise the concrete slab of the spillway of the 80-year-old Prado Dam on the Santa Ana River, potentially flooding an estimated 1.4 million people in dozens of Orange County communities from Disneyland to Newport Beach.

Untamed, the Santa Ana River has been as fickle as it has been destructive.

It took what has been called the “storm of the century” in March of 1938 to spur action. Devastating rains lashed Southern California, leaving 119 people dead, 2,000 homeless and 68,400 acres under water, and bringing President Roosevelt west to survey the wreckage.

Prado Dam, located next to the 91 Freeway on the border of Riverside and Orange counties, was originally designed to control a flood 2½ times the size of a major inundation in 1938. (Allen J. Schaben / Los Angeles Times)

Prado Dam, located next to the 91 Freeway on the border of Riverside and Orange counties, was originally designed to control a flood 2½ times the size of the 1938 inundation.

The risk factor for the 50-year-old Mojave River Dam protecting the high desert communities of Victorville, Hesperia, Apple Valley and Barstow was heightened from “low” to “high urgency action” in 2019 because of “performance concerns.”

Federal engineers say failure of the 200-foot-tall earthen dam on the northern flanks of the San Bernardino Mountains could send water rushing down the Mojave River channel, inundating 16,000 people and \$1.5 billion in property as far as Baker, more than 100 miles northwest.

The Army Corps is evaluating risk-reduction measures including hardening the dam to prevent erosion and collapse if water flows over the top.

Storm water flows down the Santa Ana River channel from Prado Dam while hydrologic technicians conduct high-flow velocity and volume measurements in Corona in 2016.

The lessons of dam vulnerabilities are often written in lost lives and economic devastation.

One of California's worst disasters was the collapse of the St. Francis Dam in northern Los Angeles County on March 12, 1928. Its failure prompted the creation of the California Dam Safety Program.

A muddy wall of water as high as 70 feet carved a 70-mile path of destruction in a 5½-hour rampage from San Francisquito Canyon to the Pacific Ocean near Oxnard, killing more than 450 people.

More than 900 buildings were destroyed, 300 heavily damaged and almost 24,000 acres of agricultural land were washed away.

The dam was full to the spillway from spring rains when two sides of the 700-foot-long dam collapsed, spewing out 12 billion gallons of water.

A state commission reported the dam failed because it was poorly constructed and located on a geologically unstable site.

The Baldwin Hills Reservoir, which was constructed by the Los Angeles Department of Water and Power, was not subject to state safety oversight when nearly 250 million gallons of water burst through its northern wall in late 1963.

Five people were killed and \$15 million in property damages occurred because of the breach, which was attributed to subsidence beneath the dam that allowed water to seep into the shear zones in the underlying rock causing erosion to worsen rapidly.

The clues to the spillway failure at Oroville Dam in 2017, however, were embedded deep in the record files and unrecognized by officials before the structure broke apart.

A chronicle of problems when the spillway was used — cracking in the concrete surface and unexpectedly large amounts of water exiting drains under the deck — suggested something was wrong.

But annual inspections gave the state false confidence that the spillway could handle a big flood event.

Water flows past the main spillway of the Oroville Dam on Feb. 19, 2017, 12 days after it was breached.

On Feb. 7, 2017, the concrete spillway of the 700-foot-tall dam fell apart during the release of water after heavy rains.

The erosion of its emergency spillway, which was basically a hill of dirt that federal engineers believed would rarely, if ever, be used, triggered the evacuation of more than 180,000 people.

The head of the California Water Resources Department, which operates the dam, was removed after an independent probe found the failure was the result of a lax safety culture.

“Emerging data of massive simulations of flooding suggest that existing flood control systems are a ticking time bomb,” said Brett Sanders, a professor of civil engineering at UC Irvine. “Southern California, in particular, is completely unprepared to deal with the consequences.”

“Once the water goes outside of the structures intended to rein it in, it will go everywhere,” he said, “and there will be little time to get out of its way.”

“Unfortunately, much of the ongoing research is focused on climate change and engineering strategies,” he added. “We ought to start spending more time studying the potential catastrophic risks to working-class communities in the floodplains.”

KQED -2-10-21

Chevron Richmond Refinery Spill: As Crews Mop Up, Investigators Move In



Frame grab from drone video shows oily sheen that spread across bay waters to Point Richmond after a pipeline began leaking at Chevron's Richmond refinery on Tuesday. *(San Francisco Baykeeper)*
This post has been updated.

By: Ted Goldberg

Federal, state, and local agencies are continuing to investigate a spill from a wharf at Chevron's Richmond refinery that spread for several miles across San Francisco Bay, prompted a health advisory for nearby residents and led to the closure of a local beach.

A California Department of Fish and Wildlife spokesman said late Wednesday that up to 750 gallons of low sulfur diesel fuel mixed with water was released from a pipeline on the Chevron Long Wharf on Tuesday. The wharf extends 4,000 feet into the bay from the refinery complex.

In a brief incident report, the Bay Area Air Quality Management District said refinery officials were alerted to a sheen on the water at 2:32 p.m. that afternoon by someone from the local community. The substance was spurting from a quarter-inch hole in the pipeline and continued leaking for as long as two and a half hours before the line was clamped shut.

Contra Costa County officials issued a temporary advisory, warning residents of Richmond, North Richmond and San Pablo who have "respiratory sensitivities" to stay indoors. Health authorities lifted the advisory at 9 p.m. Tuesday.

Helicopter and drone video showed the sheen from the spill spread more than a mile along the Point Richmond shoreline by nightfall Tuesday. By Wednesday morning, responding agencies said the sheen was visible in the water from Point Molate to Brooks Island, about four miles.

The spill prompted East Bay Regional Park District to close Keller Beach at Point Richmond's Miller-Knox Regional Shoreline. The beach remained closed Wednesday afternoon.

Chevron, the California Department of Fish and Wildlife's Office of Spill Prevention and Response, the U.S. Coast Guard and Contra Costa County health officials are working to contain the spill.

A CDFW spokesman, Eric Laughlin, said crews have not yet observed any oiled wildlife. Laughlin said crews were trying to prevent oil from reaching some of the area's more ecologically sensitive sites, including at least one that houses eelgrass beds.

In a text message Wednesday evening, Laughlin said lab analysis and technical review of the substance in the bay determined it was a mix of diesel and water, and between 500 and 750 gallons had spilled.

In public statements Tuesday, Chevron described the oily liquid as "hydrocarbons." In its preliminary report to the state's hazardous materials spill database, the company said a "mixture of recovered oil and gasoline" was leaking from a pipeline on the refinery wharf at a rate of 5 gallons a minute.

A later statement from the "unified command" of Chevron and government agencies said, "the line in question is used to transport a variety of oil and products that are returned to the refinery for reprocessing."

"There was a failure," said Contra Costa County Supervisor John Gioia, whose district includes the refinery and surrounding neighborhoods, in an interview Wednesday. "It's extremely frustrating to see any spill into the bay. Understanding what caused this will be key to preventing this in the future."

Gioia said Chevron would most likely have to pay for the cleanup and Contra Costa County will require the company to perform a root cause analysis into the incident.

The county supervisor said the pipeline that ruptured was not under high pressure at the time it began leaking.

The diesel smelled bad. Though both the air district and county health authorities said ground-level monitors had picked up no elevated levels of air pollution, there were at least two public complaints about the spill's odor.

Gioia, who also sits on the board that oversees the Bay Area Air Quality Management District, said agency officials planned to brief members of the board about the spill next Wednesday.

The spill prompted Assembly member Buffy Wicks, D-Oakland, to start working on a potential proposal to increase fines for certain refinery oil releases.

"It's infuriating. We cannot tolerate a single drop of oil in our bay," Wicks, who represents the area of the Chevron facility, said in an interview Wednesday afternoon.

After seeing the images of the spill, Wicks reached out to Gioia, other state legislators and state fish and wildlife officials. Those talks centered on ways lawmakers could deter future similar releases.

Wicks says a future proposal would build off of legislation signed by the governor last year, authored by Assembly member Monique Limón, D-Santa Barbara, that increased fines for oil

spills in state waters. She said it could be part of a series of proposed reforms focusing on energy and climate change coming from several state lawmakers.

"We need a holistic look at how the fossil fuel industry impacts our public health across the board. This is one piece of a larger conversation," Wicks said. "I'm ready for the fight."

San Francisco Baykeeper, which has long advocated for stronger environmental protections for the bay, says Chevron's initial efforts to control the spill were weak.

"Chevron's initial response to contain the spill was pathetic," said Sejal Choksi-Chugh, the group's executive director.

She said spills like Tuesday's "add life-threatening exposure to toxic pollutants" for nearby residents.

"The people of Richmond already carry a disproportionate environmental burden," Choksi-Chugh said.

"The whole area smells like a gas station. And then there is the possibility of long-term, unknown damage to the bay itself, and to all the wildlife that depend on it," she said.