



**A REGULAR MEETING OF THE BOARD OF DIRECTORS
UPPER SAN GABRIEL VALLEY MUNICIPAL WATER DISTRICT
248 E. FOOTHILL BLVD. ROOM #103, MONROVIA, CA 91016
4:00 P.M. – JANUARY 24, 2024**

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. COMMITTEE REPORTS [2]
 - (a) Government Affairs and Community Outreach (*Fellow, Chair – Chavez, Vice-Chair*)
Minutes of meeting held on January 16, 2024 enclosed.
 - (b) Water Resources and Facility Management (Treviño, Chair – Garcia, Vice-Chair)
Cancelled due to lack of attendance.
6. CONSENT CALENDAR [1]
 - (a) Minutes of a regular meeting of the Board of Directors held on January 10, 2024 at 4:00 p.m.
 - (b) Joint Tax Transfer Resolution – City of Monrovia Reorganization No. 2023-02
7. ACTION/DISCUSSION ITEMS [1]
 - (a) Appointment of a Representative and an Alternate to the Association of California Water Agencies Joint Powers Insurance Authority (JPIA) (*Staff memorandum enclosed for items a through d.*)
 - (b) Appointment of a Representative and an Alternate to the San Gabriel Valley Water Association (SGVWA).
 - (c) Appointment of a Representative to the San Gabriel Valley Protective Association (SGVPA).
 - (d) Appointment of a Delegate to the San Gabriel Valley Council of Governments (SGVCOG).
 - (e) AB1234 Ethics Overview (*Steve O'Neill, District Counsel, will provide a presentation.*)

8. INFORMATION ITEMS [2]

(a) Press Releases and News Articles.

9. ATTORNEY'S REPORT [2]

10. ENGINEER'S REPORT [2]

11. GENERAL MANAGER'S REPORT [2]

12. DIRECTOR'S COMMENTS [2]

13. FUTURE AGENDA ITEMS [1]

14. ADJOURN TO CLOSED SESSION – None.

15. ADJOURNMENT - To a regular meeting of the Board of Directors to be held on February 14, 2024 at 4:00 p.m. at 248 E. Foothill Blvd. Room #103, Monrovia, CA 91016.

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

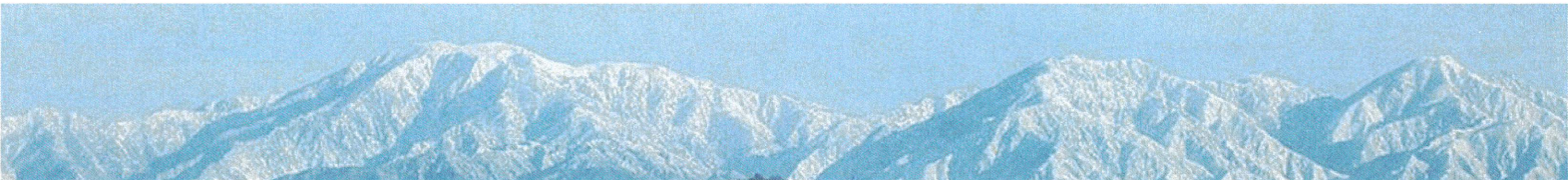
PRESIDENT JENNIFER SANTANA, PRESIDING



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 venessa@usgvmwd.org at least 24 hours prior to meeting.



MEMORANDUM



5. (a) COMMITTEE REPORTS

January 16, 2024

TO: BOARD OF DIRECTORS

FROM: GOVERNMENT AFFAIRS AND COMMUNITY OUTREACH COMMITTEE

SUBJECT: MINUTES OF THE GOVERNMENT AFFAIRS AND COMMUNITY OUTREACH COMMITTEE AND SPECIAL MEETING OF THE BOARD OF DIRECTORS – January 16, 2024

ATTENDANCE:	Anthony Fellow (Chair)	Christopher Keosian
	Tom Love	Lowry Crook
	Ruben Gallegos	Steve Baker
	Venessa Navarrette	Steven O'Neill
	Jennifer Aguilar	Kelly Gardner
	Katherine Vazquez	Lenet Pacheco

1. **Call to Order.**
2. **Public Comment.** None.
3. **Legislative Update.**

a. Washington D.C.

Lowry Crook, of Best, Best and Krieger (BB&K) introduced their new employee, Christopher Keosian, Assistant Director of Government Affairs. Christopher Keosian provided a brief background of his work experience. Lowry Crook proceeded to provide an update on the Washington D.C. report. He stated that there are two different Continuing Resolutions that are expiring, which are on January 19th and February 2nd. Due to inclement weather, legislation has been struggling to obtain votes. The House will attempt to hold votes on January 16th to move forward with the two Continuing Resolutions that would defer both sets of appropriations bills to March.

He stated there has been an agreement among the principles on a topline number for appropriations and non-defense appropriations, which has halted items because they could not allocate individual bills at a topline

number. There will also be negotiations on items such as policy writers for appropriations and individual bills, such as in energy and water bills.

BB&K are also monitoring the U.S. EPA to determine if they will finalize regulations on PFAS. Lowry Crook stated there is one proposed rule and it is currently in review in the Office of Management and Budget. He mentioned this would finalize the level of PFAS in drinking water. Additionally, there is a proposal to regulate certain PFAS substances as a hazardous substance under CERCLA.

Lowry Crook stated that the bi-annual process for the Water Resources Development Act (WRDA) has resumed. The House met the deadline to submit proposals for its members and conducted a series of hearings to initiate the process. The members are mostly from the Army Corps of Engineers. He mentioned that it will be Congresswoman Napolitano's last WRDA bill and has prioritized making water supply a core mission of the Army Corps of Engineers.

Tom Love, General Manager, stated that Patty Cortez, Assistant General Manager, External Affairs, wants to schedule a meeting with BB&K to discuss work at the Santa Fe Dam that Upper District would like to do with the Army Corps of Engineers.

b. Sacramento

Steve Baker, of Aaron Read and Associates, provided the Sacramento report. Steve Baker stated the new session began in the beginning of January. The Senate has announced the new Pro Tem and will start in the beginning of February. He also stated that the new Speaker is Assemblymember Rivas from Salinas. The Assemblymember has selected new Committee Chairs as well as Committee members for the upcoming session. Assemblywoman Diane Papan has been selected as the new Chair of the Assembly Water, Parks & Wildlife Committee.

Steve Baker presented the state budget that was released by the Governor on January 10, 2024. He stated that the Governor projects there to be a \$38 billion state budget deficit, however, the Legislative Analyst projected it would be a deficit of \$68 billion. Steve Baker stated that the Governor has proposed ways to address the budget deficit, including taking \$13 billion out of the State's "rainy day fund", which has \$30 billion. The Governor proposes to cut \$8.5 billion out of the budget, which was money that was included in the previous budgeted funding for climate, but there is also funding being cut from a variety of flood control and water projects, including \$71 million for PFAS clean up that the Governor is proposing to defer.

Steve Baker discussed the water bonds that were introduced – one in the Assembly and another in the Senate - which would put a \$15 billion bond on the November ballot. He stated that the legislatures who are carrying the bond had been asked by the administration to cut back the size of it significantly. It is to be determined if there will be a bond included in the November ballot. He stated he has a meeting scheduled with Senator Allen's office to obtain more information on the bonds.

Steve Baker mentioned the deadline to introduce new bills is February 16, 2024. He mentioned there were 2,700 bills introduced in the legislature and anticipates receiving a similar number of bills this year. Additionally, he indicated that the deadline for a new budget is on June 30, 2024. This takes place against an election year, in which there are a total of 36 vacancies. The vacancies primarily exist in the Senate, with around 20 Assemblymembers opting to run for higher office or retire.

Director Anthony Fellow asked Steve Baker if he can provide more background on Assemblywoman Diane Papan and if she has experience in water.

Tom Love stated that Assemblywoman Rubio is inviting Assemblywoman Papan to attend Upper District's San Gabriel Valley tour.

4. **Review of 2-year state bill positions**

Katherine Vazquez, Government and Community Affairs Assistant, stated that Upper District staff is working with Aaron Read and Associates to monitor the two-year bills, including two bond measures, SB 867 and AB 1567. Staff will provide an update on the two-year bills at the next committee meeting.

5. **Update on UD Community Events**

Katherine Vazquez provided a short presentation of the list of community events confirmed for 2024.

6. **Other Matters**

Tom Love stated that President Santana will be appointing board members to committees, and staff will review and adjust the committee meeting schedule so that Director Fellow can attend the MWD meetings.

NEXT MEETING: Monday, February 5, 2024, at 4:00 p.m.

cc: General Manager

**A REGULAR MEETING OF THE BOARD OF DIRECTORS
OF THE UPPER SAN GABRIEL VALLEY MUNICIPAL WATER DISTRICT
248 E. FOOTJILL BLVD, SUITE 200, MONROVIA, CALIFORNIA 91016
4:00 P.M. – January 10, 2024**

6. (a)
Minutes

A regular meeting of the Board of Directors was held in the office of the District, 248 E. Foothill Blvd, Rm. 103, City of Monrovia, County of Los Angeles, State of California, within said Water District, on January 10, 2024 at the hour of 4:00 p.m.

ROLL CALL

DIRECTORS Chavez, Treviño, Santana (AB 2449), and Fellow.
PRESENT:

DIRECTORS Garcia.
ABSENT:

STAFF Tom Love, General Manager; Steve O'Neill, District Counsel;
PRESENT: Patty Cortez, Assistant General Manager, External Affairs; Evelyn Rodriguez, Chief Financial Officer/Chief Administrative Officer; Venessa Navarrette, Executive Assistant; Jennifer Aguilar, Water Use Efficiency Analyst; Katherine Vazquez, Government and Community Affairs Assistant; and Jessica Hernandez, Administrative Assistant.

OTHERS PRESENT

David Muse, Lenet Pacheco, Tara Robinson, Lynda Noriega, Ernesto Venegas

ADOPTION OF AGENDA

On motion by Vice President Fellow, seconded by Director Treviño, the agenda was adopted as presented by the following roll call vote:

SANTANA: AYE (AB 2449)
FELLOW: AYE
CHAVEZ: AYE
TREVIÑO: AYE
GARCIA: ABSENT

**ELECTION OF OFFICERS FOR
CALENDAR YEAR 2024**

President Santana declared the election of Upper District officers to serve one-year terms for calendar year 2024 open.

Vice President Fellow moved to keep the current slate of officers for calendar year 2024. Secretary Chavez seconded the motion which was approved by the following roll call vote:

SANTANA: AYE (AB 2449)
FELLOW: AYE
CHAVEZ: AYE
TREVIÑO: AYE
GARCIA: ABSENT

PUBLIC COMMENT

None.

COMMITTEE REPORTS

None.

CONSENT CALENDAR

On motion by Director Treviño, seconded by Secretary Chavez, the consent calendar was approved by the following roll call vote:

SANTANA: AYE (AB 2449)
FELLOW: AYE
CHAVEZ: AYE
TREVIÑO: AYE
GARCIA: ABSENT

- (a) Minutes of a special meeting of the Board of Directors held on December 6, 2024 at 4:00 p.m.
- (b) List of Demands
- (c) Financial Reports – November 2023
 - 1. Financial Statements
 - 2. Director's Public Outreach
- (d) Negotiated Tax Exchange Resolution - Annexation of Petition No. 56-1221 to County Lighting Maintenance District 1687
- (e) Receive and file the Annual Comprehensive Financial Report for the fiscal year ended June 30, 2023

UPPER DISTRICT'S 2024 MEETING SCHEDULE

The General Manager presented staff's recommendation to reschedule board and/or committee meetings affected by holidays and conferences in 2024. He added that further changes may be needed to accommodate the Metropolitan Water District's meetings, as the length of those meetings may cause a conflict with some committee meetings.

On motion by Director Treviño, seconded by Vice President Fellow, the recommendation to reschedule the affected board and/or committee meetings was approved by the following roll call vote:

SANTANA:	AYE (AB 2449)
FELLOW:	AYE
CHAVEZ:	AYE
TREVIÑO:	AYE
GARCIA:	ABSENT

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 working with staff on transactional matters including preparation of some agreement templates.

ENGINEER'S REPORT

A detailed written report was provided to the Board.

GENERAL MANAGER'S REPORT

The General Manager reported that Key Well as of Dec. 29, 2023 was at 224.1 ft., about 40 ft. higher than a year ago. He stated that it has been going down since the flow rate of USG-3 was reduced in late October. He then provided a brief update on MWD water supply conditions. He stated that MWD may have an opportunity to get extra water from the State Water Project, ranging between 10,000 – 18,000 acre feet.

Director Garcia arrived at 4:13 p.m.

The General Manager reported that the elevator work in the building is complete, and that the Department of Industrial Relations has signed off on the inspection as of January 5, 2024. He reported there are still minor things that need to be fixed but the elevator is now fully functional. The General Manager stated that the electric charging stations have been delivered and installation will begin on January 11, 2024. He added that the charging stations will be ready for employee use by the end of January, and it may take a while longer for public use pending additional configurations for self-pay functions.

The General Manager gave a brief update on the upcoming Women in Water event to be held on January 25, 2024, at the Pomona Valley Mining Company.

Lynda Noriega and the General Manager discussed the potential for additional cyclic delivery which would be in addition to the firm purchase deliveries.

METROPOLITAN REPORT

Vice President Fellow reported on two issues that currently overshadow MWD actions - a \$450 million shortfall from not selling enough water and the impact of climate change.

The General Manger commented on the upcoming presentation by Bill Hasencamp regarding the Colorado River Quantification Settlement Agreement on February 28, 2024.

The District Attorney and the General Manager discussed MWD's most recent assessed valuation report.

A Metropolitan summary report was also provided in the agenda packet.

WATER QUALITY AUTHORITY REPORT

Director Chavez reported that the WQA was awarded a Proposition 1 Implementation Grant funding for the purpose of expanding groundwater extraction system to improve the effectiveness of the Whitmore Street Groundwater Remediation Facility.

He also reported that Ms. Munoz was elected as WQA Board Member and Ms. Clark was elected Alternate Representative for cities without pumping rights for the next four-year term beginning January 2024.

A Water Quality Authority summary report was provided in the agenda packet.

WATERMASTER REPORT

Director Fellow acknowledged Lynda Noriega for being re-elected as Chairman/Chairwoman. He also reported that the Board adopted a resolution of expressing appreciation, commemorating and inviting public attention to honor David De Jesus for his tenure as a board member and producer member of Watermaster.

A Watermaster summary report was also provided in the agenda packet.

AB 1234 COMPLIANCE REPORT

A summary report was provided in the agenda packet.

DIRECTORS COMMENTS

Director Garcia expressed her excitement for the upcoming Women in Water event. She stated that she enjoyed the previous Women in Water event and is looking forward to hearing from the guest speaker.

Vice President Fellow requested adjourning the meeting in honor of Terrance Williams and his cousin William Fellow.

President Santana commented on micro plastics and nano plastics that have been reported in public news.

FUTURE AGENDA ITEMS

None.

ADJOURN TO CLOSED SESSION

None.

ADJOURNMENT

President Santana asked if there was any other business to come before the Board. There being none, the meeting was adjourned in memory of Terrance Williams and William Fellow to a regular meeting of the Board of Directors to be held on January 24, 2024, at 4:00 p.m. via teleconference or the most rapid means of communication available at the time.

PRESIDENT

ATTEST

SECRETARY

SEAL

DRAFT

Attachment 1
Consent Item 7 (b)
January 10, 2024

Demands numbered 22253 through 22293 on the General Fund Account of the Upper District at Citizens Business Bank, in the amount of \$944,406.81 and demands numbered 1201 through 1206 on the Water Fund Account at the same bank in the amount of \$360,647.46.

22253	Charles Treviño	Director's Compensation, November 2023 10 Days District Business Meeting/Travel Expenses/Allowance Less Deferred Comp. Less Taxes Withheld <i>(Previously paid 12/12/23)</i>	2,550.00 516.87 (500.00) (525.65)	\$ 2,041.22
22254	GMS Elevator Service, Inc.	Inv. 118131, Building Elevator Modernization, Payment No. 3 <i>(Previously paid 12/12/23) (Board approved 5/24/23)</i>		28,747.20
22255	Aleshire & Wynder, LLP	Professional Services, November 2023 Inv. 82635, Retainer Inv. 82569, Transactional Fees Inv. 82568, Transactional Fees <i>(Previously paid 12/12/23) (Board approved 04/13/22)</i>	4,404.00 40.60 2,253.70	6,698.30
22256	Department of Water & Power	Inv. GA433934, Recycled Water Program Permit Fees <i>(Previously paid 12/22/23)</i>		83.33
22257	Registrar-Recorder/County Clerk	Inv. 23-2201, General Election Costs, November 2022 <i>(Previously paid 12/22/23)</i>		535,795.76
22258	789, Inc.	Inv. USGV-328121, Marketing and Creative Services, January 2024 <i>(Board approved 7/12/23)</i>		5,575.00
22259	Accent Computer Solutions, Inc.	Inv. 160166, IT Management Support, November 2023 <i>(Board approved 02/09/22)</i>		2,891.27
22260	ACWA/JPIA	Inv. 0701300, Health Insurance Premium - January 2024		27,945.12
22261	Azusa Light & Water	Inv. 4578, MAA Program Reimbursement		1,970.00
22262	Bassett High School	Inv. GRNT 23-24, Water Education Grant FY 2023-24 Inv. GRNT 23-24A, Water Education Grant FY 2023-24 Inv. GRNT 23-24B, Water Education Grant FY 2023-24 <i>(Board approved 12/06/23)</i>	1,000.00 1,000.00 1,000.00	3,000.00
22263	Best Best & Krieger, LLP	Inv. 983250, Federal Legislative Advocacy Services through 11/30/23 <i>(Board approved 10/12/22)</i>		7,500.00
22264	Bright Horizon Landscape	Inv. 2023206, Charging Port Base Construction		1,530.00
22265	City of Covina Parks & Rec. Dept.	Inv. 2024UD, Year Round Sponsorships		1,000.00
22266	Coronado High School	Inv. GRNT 23-24, Water Education Grant FY 2023-24 Inv. GRNT 23-24A, Water Education Grant FY 2023-24 Inv. GRNT 23-24B, Water Education Grant FY 2023-24 <i>(Board approved 12/06/23)</i>	1,000.00 1,000.00 976.50	2,976.50
22267	Cuong Luu	Inv. GRNT 23-24, Water Education Grant FY 2023-24 <i>(Board approved 12/06/23)</i>		1,000.00
22268	EcoTech Services, Inc.	Inv. 2874, Home Leak Repair Kits, November 2023 Inv. 2888, Landscaping Maintenance, January 2024 <i>(Board approved 06/08/22)</i>	945.00 900.00	1,845.00
22269	Image Property Services, LLC	Inv. MCS-11122, Janitorial Services, December 2023		1,907.59
22270	Jim Hague	Inv. GRNT 23-24, Water Education Grant FY 2023-24 <i>(Board approved 12/06/23)</i>		980.00
22271	Joey C. Soto	Inv. 2023-UD-GA-NOV-110, Grant Writing Services, November 2023 <i>(Board approved 06/08/22)</i>		720.00
22272	John Robinson Consulting, Inc.	Inv. UD202301-07, As-needed Engineering Support Services, November 2023		825.00
22273	Mariah Heller	Inv. GRNT 23-24, Water Education Grant FY 2023-24 <i>(Board approved 12/06/23)</i>		1,000.00
22274	Media Marketing Services, Inc.	Inv. USG W23127, Bottle Water Program, December 2023		3,422.00

22275	Michael Naka	Inv. GRNT 23-24, Water Education Grant FY 2023-24 Inv. GRNT 23-24A, Water Education Grant FY 2023-24 (Board approved 12/06/23)	600.00 338.17	938.17
22276	Occu-Med, LTD	Inv. 1223788OA, Pre-employment Medical		184.50
22277	Rogers, Anderson, Malody & Scott, LLP	Inv. 74007, Progress Payment for FY 22/23 Audit (Board approved 2/09/22)		2,500.00
22278	Spectrum Reach/Charter	Inv. 280021672, Public Information, July 2023 Inv. 280021673, Public Information, July 2023	1,782.50 1,500.00	3,282.50
22279	SPUSD	Inv. GRNT 23-24, Water Education Grant FY 2023-24 (Board approved 12/06/23)		1,000.00
22280	Stetson Engineers, Inc.	Inv. 2533-211, General Engineering Support Services, October 2023		22,968.21
22281	St. Luke Catholic School	Inv. GRNT 23-24, Water Education Grant FY 2023-24 Inv. GRNT 23-24A, Water Education Grant FY 2023-24 Inv. GRNT 23-24B, Water Education Grant FY 2023-24 Inv. GRNT 23-24C, Water Education Grant FY 2023-24 Inv. GRNT 23-24D, Water Education Grant FY 2023-24 Inv. GRNT 23-24E, Water Education Grant FY 2023-24 Inv. GRNT 23-24F, Water Education Grant FY 2023-24 Inv. GRNT 23-24G, Water Education Grant FY 2023-24 Inv. GRNT 23-24H, Water Education Grant FY 2023-24 (Board approved 12/06/23)	886.00 995.00 542.00 688.50 637.00 857.00 721.00 700.00 727.00	6,753.50
22282	Sierra Vista High School	Inv. GRNT 23-24, Water Education Grant FY 2023-24 (Board approved 12/06/23)		1,000.00
22283	The House of Printing, Inc.	Inv. 169354, UD Logo Items Inv. 169924, UD Logo Items	599.23 147.94	747.17
22284	True Intent USA	Inv. 12/21/23UD, True Intent USA Day Sponsorship		1,500.00
22285	Upper District Payroll Fund	Inv. NOV 23, Reimbursement of Payroll and Payroll Taxes for Employees Inv. NOV 23D, Reimbursement of Payroll Taxes for Directors Inv. NOV 23DA, Reimbursement of Payroll Taxes for Directors	152,448.81 13,559.53 1,798.52	167,806.86
22286	Upper District Revolving Fund	Inv. DEC 23, Revolving Fund Account Replenishment - December 2023 Office Supplies Computer Systems/Equipment/Maintenance/Insurance/Outside Service Directors's Outreach Telephone/Utilities/Building Maintenance Meeting/Travel/Conferences/Dues/Assessments/Membership Water Conservation Program Expenses WRP Operation & Maintenance/Permits/Water Purchases/PM/Public Info Medical/ODA Reimbursement/Processing Fee/Others	1,308.26 1,398.62 750.00 3,610.12 105.95 1,216.24 48,673.47 8,789.61	65,852.27
22287	U.S. Bank Corporate Payment System	CalCard Changes through 12/22/23 Meetings, Travel, Conferences Computer Systems/Office Equipment/Supplies/Maintenance & Service/Utilities Conservation Program Expenses, Education and Outreach	8,759.80 736.27 4,443.09	13,939.16
22288	Water Education for Latino Leaders	Inv. 2022-42, Membership Dues CY 2024		10,000.00
22289	Ed Chavez	Director's Compensation, December 2023 10 Days District Business Meeting/Travel Expenses/Allowance Less Deferred Comp. Less Taxes Withheld	2,550.00 908.89 (600.00) (1,824.45)	1,034.44
22290	Charles Treviño	Director's Compensation, December 2023 8 Days District Business Meeting/Travel Expenses/Allowance Less Deferred Comp. Less Taxes Withheld	2,040.00 516.87 (500.00) (405.85)	\$ 1,651.02
22291	Jennifer Santana	Director's Compensation, December 2023 5 Days District Business Meeting/Travel Expenses/Allowance Less Deferred Comp. Less Taxes Withheld	1,275.00 516.87 (500.00) (188.29)	1,103.58
22292	Katarina Garcia	Director's Compensation, December 2023 5 Days District Business Meeting/Travel Expenses/Allowance Less Deferred Comp. Less Taxes Withheld	1,275.00 516.87 (500.00) (175.33)	1,116.54
22293	Anthony Fellow	Director's Compensation, December 2023 6 Days District Business 4 MWD Business Meeting/Travel Expenses/Allowance Less Deferred Comp. Less Taxes Withheld	1,530.00 1,020.00 516.87 (500.00) (991.27)	1,575.60
TOTAL				\$ 944,406.81

			13324
1201	Central Basin MWD	Invoice No. USGV-NOV23, Purchase of 3.4 AF of Recycled Water in October 2023 (Previously paid 01/04/24)	\$ 2,448.30
1202	City of Industry City Hall	Invoice No. R11302023-D, Purchase of 36.2 AF of Recycled Water in November 2023	12,489.00
1203	City of Industry City Hall	Invoice No. R11302023-E, CIP Charge for November 2023 @ \$98 per AF	3,547.60
1204	Metropolitan Water District	Invoice No. 11338, Purchase of 270.9 AF of Treated Water in November 2023	321,627.00
1205	San Gabriel Valley MWD	Invoice No. 559, 85.27 AF of Water Delivered through the Alhambra/MWD Exchange Agreement in November 2023 @ \$220 per AF	18,759.40
1206	Suburban Water Svstem	Invoice No. 6745, Phase IIB Normal Operatina Charge, December 2023	1,776.16
TOTAL			<u>\$ 360,647.46</u>

DRAFT

**BOARD OF
SUPERVISORS**

Hilda L. Solis
First District

Holly J. Mitchell
Second District

Lindsey P. Horvath
Third District

Janice Hahn
Fourth District

Kathryn Barger
Fifth District



COUNTY OF LOS ANGELES

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, CA 90012
(213) 974-1101 ceo.lacounty.gov

CHIEF EXECUTIVE OFFICER

Fesia A. Davenport

October 4, 2023

Tom Love, General Manager
Upper San Gabriel Valley Municipal Water District
248 E. Foothill Blvd., Suite 200
Monrovia, CA 91016

Dear Mr. Love:

**JOINT TAX TRANSFER RESOLUTION
CITY OF MONROVIA REORGANIZATION NO. 2023-02**

Enclosed is a Joint Tax Transfer Resolution (Resolution) for adoption by your agency. Included are six (6) original signatures pages for agency execution.

The original signature pages are required to ensure that each affected agency receives a fully executed Resolution with original signatures. Please assist our office in facilitating the processing of the enclosed Resolution by executing and returning signature pages to:

Julia Orozco
County of Los Angeles, Chief Executive Office
Policy Implementation and Alignment Branch
500 West Temple Street, Room 750
Los Angeles, CA 90012

In addition, please provide scans of the fully executed signature pages to Doyle Chow of the Chief Executive Office at dchow@ceo.lacounty.gov. For any questions on the matter, please contact Doyle Chow by email or at 213-893-0055.



"To Enrich Lives Through Effective And Caring Service"

Tom Love
October 4, 2023
Page 2

Sincerely,

FESIA A. DAVENPORT
Chief Executive Officer



Julia F. Orozco
Manager
Policy Implementation and Alignment Branch

JFO:DC:pp

Enclosure

**JOINT RESOLUTION OF THE BOARD OF SUPERVISORS, AS THE GOVERNING
BODY OF THE COUNTY OF LOS ANGELES, THE CONSOLIDATED FIRE
PROTECTION DISTRICT OF LOS ANGELES COUNTY, AND THE LOS ANGELES
COUNTY FLOOD CONTROL DISTRICT,
AND THE
CITY COUNCIL OF THE CITY OF MONROVIA, CITY COUNCIL OF THE CITY OF
ARCADIA, THE BOARD OF DIRECTORS OF THE COUNTY SANITATION DISTRICT
NO. 15 OF LOS ANGELES COUNTY AND UPPER SAN GABRIEL VALLEY
MUNICIPAL WATER DISTRICT, APPROVING AND ACCEPTING THE NEGOTIATED
EXCHANGE OF PROPERTY TAX REVENUE RESULTING FROM THE ANNEXATION
OF TERRITORY KNOWN AS REORGANIZATION 2023-02 TO THE CITY OF
MONROVIA AND DETACHMENT FROM THE CITY OF ARCADIA**

WHEREAS, the applicant initiated proceedings with the Local Agency Formation Commission for Los Angeles County (LAFCO) for the annexation of territory identified as Reorganization 2023-02 to the City of Monrovia (City);

WHEREAS, pursuant to Section 99 of the California Revenue and Taxation Code, for specified jurisdictional changes, the governing bodies of affected agencies shall negotiate and determine the amount of property tax revenue to be exchanged between the affected agencies;

WHEREAS, the area proposed for annexation is identified as Reorganization 2023-02 and approximately 0.46± acres of uninhabited territory will annex to the City of Monrovia and detach from the City of Arcadia; and affected territory is located at the terminus of El Norte Avenue and 10th Avenue, all within the City of Arcadia;

WHEREAS, the Board of Supervisors of the County of Los Angeles (County), as governing body of the County, the Consolidated Fire Protection District of Los Angeles County, the Los Angeles County Flood Control District; the City Council of the City of Monrovia; the City Council of the City of Arcadia; and the governing bodies of the Upper San Gabriel Valley Municipal Water District and the County Sanitation District No. 15 of Los Angeles County, have determined the amount of property tax revenue to be exchanged between their respective agencies as a result of the annexation of the unincorporated territory identified as Reorganization 2023-02, detachment from City of Arcadia, is as set forth below:

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The negotiated exchange of property tax revenue between the County and the City, resulting from Reorganization 2023-02 is approved and accepted for the reorganization of territory to the City of Monrovia in Tax Rate Area 01887.

2. For the fiscal year commencing in the year after the filing of the statement of boundary change for Reorganization 2023-02 with the Board of Equalization pursuant to Government Code sections 54902 and 57204, and every fiscal year thereafter, a base of Fifty-four Dollars and twenty-two cents (\$54.22) in base property tax revenue attributable to Reorganization 2023-02, and 0.096022462 of annual property tax

increment attributable to Reorganization 2023-02 shall be transferred from the City of Arcadia to the City of Monrovia.

PASSED, APPROVED AND ADOPTED this _____ day of _____,
2023 by the following vote:

AYES: ABSENT:

NOES: ABSTAIN:

Mayor
City of Monrovia, California

ATTEST:

City Clerk
City of Monrovia

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(Signed in Counterpart)

The foregoing resolution was on the _____ day of _____, 2023, adopted by the Board of Supervisors of the County of Los Angeles and ex officio the governing body of all other special assessment and taxing districts, agencies and authorities for which said Board so acts.

**CELIA ZAVALA, Executive Officer
Clerk of the Board of Supervisors
of the County of Los Angeles**

By _____
Deputy

APPROVED AS TO FORM:

DAWYN R. HARRISON
County Counsel

By _____
Deputy

/ /

(Signed in Counterpart)

2023 by the following vote:

ABSENT:

ABSTAIN:

City of Arcadia, California

ATTEST:

City of Arcadia

[illegible]

(Signed in Counterpart)

PASSED, APPROVED AND ADOPTED this _____ day of _____,
2023 by the following vote:

AYES:

ABSENT:

NOES:

ABSTAIN:

Upper San Gabriel Valley Municipal Water District

Signature

Print Name and Title

ATTEST:

Secretary

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(Signed in Counterpart)

PASSED, APPROVED AND ADOPTED this _____ day of _____,
2023 by the following vote:

AYES:

ABSENT:

NOES:

ABSTAIN:

Upper San Gabriel Valley Municipal Water District

Signature

Print Name and Title

ATTEST:

Secretary

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(Signed in Counterpart)

PASSED, APPROVED AND ADOPTED this _____ day of _____,
2023 by the following vote:

AYES:

ABSENT:

NOES:

ABSTAIN:

Upper San Gabriel Valley Municipal Water District

Signature

Print Name and Title

ATTEST:

Secretary

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(Signed in Counterpart)

2023 by the following vote:

ABSENT:

ABSTAIN:

Upper San Gabriel Valley Municipal Water District

Signature

Print Name and Title

ATTEST:

Secretary

/ /

(Signed in Counterpart)

PASSED, APPROVED AND ADOPTED this _____ day of _____,
2023 by the following vote:

AYES: ABSENT:

NOES: ABSTAIN:

Upper San Gabriel Valley Municipal Water District

Signature

Print Name and Title

ATTEST:

Secretary

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(Signed in Counterpart)

PASSED, APPROVED AND ADOPTED this _____ day of _____,
2023 by the following vote:

AYES:

ABSENT:

NOES:

ABSTAIN:

Upper San Gabriel Valley Municipal Water District

Signature

Print Name and Title

ATTEST:

Secretary

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(Signed in Counterpart)

PASSED, APPROVED AND ADOPTED this _____ day of _____,
2023 by the following vote:

AYES:

ABSENT:

NOES:

ABSTAIN:

County Sanitation District No. 15
of Los Angeles County

Signature

Print Name and Title

ATTEST:

Secretary

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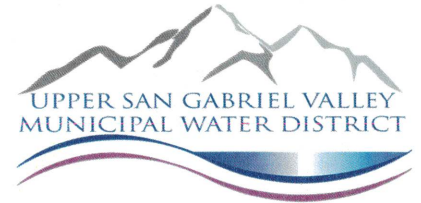
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(Signed in Counterpart)

MEMORANDUM



7. (a-d) ACTION

DATE: January 18, 2024
TO: Board of Directors
FROM: General Manager
SUBJECT: 2024 Appointments

Recommendation

The attached list of current appointments is provided for the Board's review and consideration.

Background

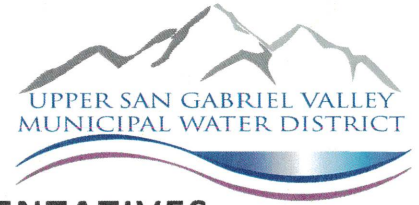
The Board annually considers appointments of Upper District representatives to various organizations.

Director Garcia served as Upper District's representative to the San Gabriel Valley Council of Governments (SGVCOG) in calendar year 2023. Pursuant to a 2013 letter agreement between Upper District, San Gabriel Valley Municipal Water District and Three Valleys Municipal Water District establishing a three-year rotation for SGVCOG representative/alternate, Upper District will serve as the designated representative for calendar year 2024 while TVMWD will serve as the designated alternate to SGVCOG.

The attached table lists the current district appointees and the regular meeting dates for the positions.

//Attachment


MEMORANDUM



2023 APPOINTMENTS AND AT-WILL REPRESENTATIVES

APPOINTMENT	CURRENT APPOINTEE	MEETINGS
Association of California Water Agencies Joint Powers Insurance Authority (JPIA)	Jennifer Santana - Rep Tony Fellow - Alt <i>Appointed and effective 1-25-23.</i>	February – ACWA DC Conference April – ACWA Legislative Symposium May – ACWA Spring Conference December – ACWA Fall Conference
San Gabriel Valley Water Association (SGVWA)	Katarina Garcia – Rep Tony Fellow – Alt <i>Appointed and effective 1-25-23.</i> At-Will	4 th Monday every month at 11:30 a.m.
San Gabriel Valley Protective Association (SGVPA)	Jennifer Santana – Rep <i>Appointed and effective 1-25-23.</i> At-Will	Annually in April
San Gabriel Valley Council of Governments (SGVCOG) 2021 – USGVMWD (Rep) / TVMWD (Alt) 2022 – TVMWD (Rep) / SGVMWD (Alt) 2023 – SGVMWD (Rep) / USGVMWD (Alt)	Katarina Garcia – Rep <i>Appointed and effective 1-25-23.</i> At-Will	<u>Board Meeting</u> 3 rd Thursday of each month at 4:00 p.m. <u>Water Committee and Water Working Group</u> 1 st Wednesday of each month at 1:00 p.m.

FEATURE: Delta Conveyance Project update covers updated timeline, reliability of the State Water Project beyond 2040

 mavensnotebook.com/2024/01/18/feature-delta-conveyance-project-update-covers-updated-timeline-reliability-of-the-state-water-project-beyond-2040/

Maven Meetings and Events January 18, 2024 0 111

January 18, 2024

The January meeting of Metropolitan Water District's One Water and Stewardship Committee included an informational update on the Delta Conveyance Project, which proposes to construct intake facilities in the North Delta to deliver water via a tunnel to existing infrastructure in the South Delta. The update was given by Nina Hawk, Chief of Bay-Delta Resources; Dee Bradshaw, Environmental Program Manager; and Jennifer Nevills, Principal Resource Specialist. The agenda item included an update on the final EIR, an updated timeline, and an analysis requested by Metropolitan on the reliability of the State Water Project beyond 2040.

Delta Conveyance Project Final EIR

The purpose of CEQA is to inform decision-makers and the public about the potential significant effects on the physical environment of a proposed project and methods to avoid or substantially reduce the significant environmental effects to the extent feasible.

The final EIR is 27,000+ pages long. It was to the public on December 8 and certified on December 21. DWR chose the Bethany alignment, which has two new 3000 cubic feet per second intakes in the North Delta and a 45-mile 140-170 feet below ground that connects to the Bethany Reservoir in the South Delta.

DWR also adopted the CEQA findings of fact, the mitigation monitoring and reporting program, and the statement of overriding considerations. DWR filed the Notice of Determination with the state Clearing House, starting a 30-day statute of limitation for CEQA litigation, which will close on Monday, January 22.

Dee Bradshaw described the Delta Conveyance Project as an essential climate adaptation project to update the State Water Project. A climate-resilient and reliable State Water Project is a core component of Metropolitan's water supply portfolio, including supporting local water supply projects. Metropolitan's infrastructure is designed and built to benefit from a climate-resilient and reliable State Water Project.

The draft EIR was released in July of 2022. During the 142-day comment period, DWR received 7300 individual comments from 729 letters and other communications from the public. The comments received covered a broad range of policy and environmental technical

topics, including the reasonable range of alternatives, fish and aquatic resources, impact analysis, groundwater analysis, climate change, and impacts on tribal cultural resources.

While many comments to the draft EIR requested changes, in most cases, the environmental analysis was found to be sufficient, or the change requests were unsupported by the data, and therefore no changes were warranted. However, some changes and refinements were made to the proposed project description regarding the footprint and construction activities. Refinements were also made to clarify the operations of the proposed project.

The final EIR includes a new water quality mitigation measure, which requires implementing the July 2023 settlement agreement between Contra Costa Water District and DWR. The final EIR includes modeling refinements based on engineering clarifications and uses newer versions of analysis models. Resulting updates are provided in the air quality and greenhouse gases chapter and accompanying appendices.

Recirculation of the EIR is only required where significant new information, as defined by CEQA, is added to the EIR after public notices are given of the availability of the draft EIR for public review but prior to certification of the final EIR. As the CEQA lead agency, DWR found that these refinements did not trigger recirculation.

Project permitting timeline

DWR released and certified the final EIR as was anticipated in the project timeline; however, the final EIS, being prepared by the Army Corps, is expected in the upcoming months, with certification expected in the summer of 2024.

DWR has released and certified the final EIR. On the federal side, the Final EIS and certification are expected around the middle of this year.

For the federal endangered species processes, the biological assessment applications were submitted to the federal fishery agencies in November as part of the reinitiation of consultation on the long-term operations of the State Water Project and Central Valley Project.

“The combined application was something the federal fish agencies requested to help streamline their workload and manage staffing a bit,” said Ms. Bradshaw. “As a result, Delta Conveyance Project operations were included in the long-term operation applications as a programmatic element so that the agencies could weigh in on any jeopardy concerns.

Ultimately, this programmatic look at operations will be merged with a product-level consultation for construction happening in parallel.”

For the California Endangered Species Act compliance, the Incidental Take Permit application is on track to be submitted to the California Department of Fish and Wildlife in March or April of this year, with a final permit expected in late summer or early fall of 2024.

The process at the State Water Board for the petition for a change in the point of diversion is anticipated to take about two years. DWR estimates about a year for the petition and hearing process and a year for the state board to issue its order.

The process for consistency with the Delta Stewardship Council's Delta Plan is anticipated to begin in late 2025 and wrap up in early to mid-2027. DWR and the Stewardship Council are currently engaged in early consultation to support that effort.

Ms. Bradshaw noted that other permitting efforts, such as the Clean Water Act 404 and 401 permits, are ongoing. Planning and permitting are expected to continue through 2027.

This year, significant deliverables related to cost and financing are expected, including an updated project cost estimate with the costs for the community benefits program, the approved project and project refinements, the updated planning timeline, and updated finance assumptions. Based on that updated project cost estimate, a statewide cost-benefit analysis will follow around the middle of this year.

State Water Project reliability beyond 2040

As part of Metropolitan's comment letter on the draft EIR, Metropolitan requested additional analysis from DWR analyzing conditions with and without Delta conveyance at least 50 years into the future. Although DWR had included a qualitative discussion of future conditions beyond 2040 in the draft EIR, the associated modeling used for that analysis was unavailable. So, in response, DWR developed a technical memo complete with modeling results, looking specifically at those future conditions centered around 2070.

Compared to the 2040-centered scenario used in the draft EIR and the final EIR, the 2070 median scenario is hotter and drier. It uses a 3.5-foot sea level rise at Golden Gate instead of the 1.8 feet in the 2040 analysis. Overall, it shows a more compressed winter runoff season with less snow and more rain, resulting in increased runoff variability. As a result, compared to the 2040-centered scenario, the 2070 look shows more significant reductions in state water project supplies.

The x-axis shows 2020 existing conditions (for the purposes of this analysis, with the Delta Conveyance Project in place), the 2040 climate scenario with 1.8 feet of sea level rise, and the technical memo's analysis for the 2070 climate scenario with 3.5 feet of sea level rise.

"Without the Delta Conveyance Project in place, the 2070 scenario shows reductions in State Water Project supplies beyond the 2040 scenarios, so approximately 650,000 acre-feet are lower than those 2020 existing conditions," said Ms. Nevills. "With the Delta Conveyance Project, supplies still decline over time due to climate change, but the change compared to current conditions is much smaller – about 200,000 acre-feet, rather than 650,000 acre-feet.

So, in other words, the Delta conveyance project provides roughly 200,000 acre-feet less than current conditions, but 450,000 acre-feet of additional supply reliability on average, without Delta convenience in the long term.”

“So without the Delta conveyance project, supplies continued to decline due to a hotter and drier future with longer drought periods, more rain, and less snow. And with the Delta Conveyance Project, the decline in state water project reliability is slowed because the Delta Conveyance Project can capture high flows during the shorter and more intense runoff events.”

Next steps

The CEQA and NEPA are nearly complete, so the big takeaway today is that major milestones have been hit on the planning side, said Nina Hawk. The project is starting to evolve into the more substantive permitting portions of development, which will undergo many public processes defining how operations will occur and solidifying benefits related to the project.

Planning costs have been funded by Metropolitan and other state water contractors participating in the project; that funding extends through 2025. By the end of 2025, DWR will need certainty on continued funding to complete the process.

The upcoming project cost estimate will be critical; Ms. Hawk said such an estimate couldn't be done until the environmental documents were complete. After the project cost estimate, a cost-benefit analysis will be prepared. Ms. Hawk clarified that the cost-benefit analysis is specific to the statewide benefits of this project and will include layers of information to better understand how this project performs statewide. An economic analysis of the State Water Project was provided by the state and released in December. While it differs from this project's cost-benefit analysis, it is still highly relevant.

Funding for construction won't be needed until closer to the end of the permitting processes, currently expected to be in mid-2027.

“Some state water contractors, given the momentum of the final EIR, are looking to bring to their boards resolutions of support and continued funding on their own accord, given that they see the project has made substantive headway and would like to see the project continue to move forward with expedience given the nature of the importance of state water project to their agencies,” said Ms. Hawk.

Discussion

During the discussion period, Slide 16 was a topic of discussion. Somewhat confusing was the label “2020 Existing Conditions”, which for the purposes of this analysis, is analyzed as if the project were already in place. Deven Upadhyay, Assistant General Manager, said the

graphic is one way of capturing the benefits of this project. “We’re going to see, in the next six months, several things that come out that capture the cost of the project, and then you can mesh those two up and see whether this thing is a reasonable deal or not.”

“We told DWR when they released the draft EIR that looking at effects in 2040 wasn’t long enough; that’s like the beginning of when this project would be online,” continued Mr. Upadhyay. “So go out further in time and tell us what it looks like. If you look at the situation without DCP, this paints a picture of the declining reliability of the State Water Project and the reliability of flows we would see largely because of the rising sea level. As the seas get higher, dealing with salinity in the Delta gets harder and harder. So, you’re going to see lower and lower amounts that you can pump from the south of Delta. So this graphic then shows you that with this design for the Delta Conveyance Project, it improves, although it’s still declining over time. That will be important for us to evaluate is if you’re still seeing declines over time, but to a degree 450,000 acre-feet in 2070, you’re better able to manage than the current system that’s in place right now.”

Director Fong Sakai asked about the 450,000 acre-feet deficit. Is that for the entire state, not just Metropolitan?

“That’s correct,” said Nina Hawk.

“So what we would be short would probably be about half of that,” added Ms. Nevills.


“Our current planning investment is 47.2%. So assuming if the board advanced in the project, approximately half,” said Ms. Hawk.

Director Fong Sakai noted that Slide 3 states the decision-making on the tunnels will be delivered by the **CAMP4** (Climate Adaptation Master Plan) process, but she hasn’t seen where in the report how that’s going to happen. “I’d like some clarification as to how that process will happen. May we ask General Manager Hagekhalil for staff to bring us a specific timeline and when the board will be asked to take action, not only on this potential project, but also on the other potential projects? So the tunnel, Sites reservoir, the voluntary agreements, and how all of that will be addressed together in the CAMP 4 process before we take positions on the potential projects.”

General Manager Adel Hagekhalil agreed. “We’ll bring that holistic approach. And we’ll give you at least the timelines of the VAs, Sites, and the Delta Conveyance Project.”

“Because I think we need to look at them all together rather than in a piecemeal fashion,” said Director Fong-Sakai.

COURTHOUSE NEWS: California judge rules state can't issue bonds to finance Delta tunnel project

 mavensnotebook.com/2024/01/17/courthouse-news-california-judge-rules-state-cant-issue-bonds-to-finance-delta-tunnel-project/

Courthouse News Service News and Features January 17, 2024 0 216

January 17, 2024

The so-called “Delta Conveyance Project” would include a 36-foot wide tunnel extending about 45 miles to divert enough water from the Sacramento River for 5.2 million people to use.

By Alan Riquelmy, Courthouse News Service

The controversial Delta Conveyance Project took a major financial hit this week, after a Sacramento County judge ruled California can't issue bonds to fund the project.

Sacramento County Superior Court Judge Kenneth C. Mennemeier issued a narrow ruling Tuesday about the bonds for the project, which would put a massive tunnel to convey water under the Sacramento-San Joaquin River Delta. Mennemeier found the California Department of Water Resources' definition of the “delta program” isn't linked to the Feather River Project.

A bureaucratic connection between the two is essential for the bonds, the judge ruled in the case *Sierra Club v. California Department of Water Resources*.

The department has the power to issue bonds to finance projects under the Central Valley Project Act. The Feather River Project falls under that act. However, for the department to issue bonds for the delta project, it must be a modification of the Feather River Project.

Mennemeier ruled it isn't an modification, meaning the department can't issue bonds to finance the delta project.

“For (the department) to act, it must have delegated authority,” Mennemeier writes. “Although the Legislature plainly delegated broad authority to (the department), it did not delegate infinite authority.”

He added “In plain words, the problem with (the department's) definition of the ‘delta program’ is that its definition is untethered to the objectives, purposes, and effects of the Feather River Project.”

John Buse, senior counsel for the Center for Biological Diversity, praised the judge's decision.

“The court was right to recognize that the state’s scheme to finance the environmentally disastrous delta tunnel project was unlawful,” Buse said in a statement. “Without the bonds to fund this boondoggle, the project’s future is bleak, and that’s very good news for people and wildlife in the San Joaquin Delta.”

However, Buse doesn’t think the department will shelve the project, despite the ruling. He said an appeal from the department is likely, as the delta project is doomed without financing.

Buse said his organization and others involved in the suit now plan on filing a complaint challenging the delta project’s approval and environmental review.

Governor Gavin Newsom’s office deferred comment to the department.

“This ruling is specific to the question of revenue bond authorization; it does not refer to the validity of the Delta Conveyance Project,” said Margaret Mohr, the department’s deputy director of communications, in a statement. “DWR disagrees with the court’s decision and is determining how to best move forward, including whether to appeal the decision to the court of appeal.”

The bonds would have raised \$16 billion or more to plan and build the delta project, which officials in 2022 estimated would take 12 to 15 years to build. Buse said it would divert billions of gallons of water each year from the Sacramento River, hurting the ecosystem and farming communities.

State officials have said they expect to lose 10% of their water supply by 2040 due to climate change. The delta project is a critical aspect of Newsom’s water supply strategy.

The strategy involves capturing more water during the wet season, helping stave off future climate-caused losses. It would move more water and help during earthquakes, which could cut community water connections.

The ruling this week comes about a month after the project passed two key thresholds — the release of an environmental impact report and approval from the state Department of Water Resources.

Officials have said the delta project would include a 36-foot wide tunnel extending about 45 miles. Two facilities south of Sacramento would pump 3,000 cubic feet of water a second from the Sacramento River into the tunnel, drawing 500,000 acre-feet of water a year — enough for 5.2 million people.

Solano County ready to sue state over Delta tunnel EIR

Daily Republic Staff Jan 11, 2024 Updated Jan 11, 2024

FAIRFIELD — Solano County will be working with three other counties and a couple of water districts to "initiate litigation challenging the final environmental impact report and project approval for the Delta Conveyance Project."

The Solano County Board of Supervisors, on a unanimous vote taken during a closed session Tuesday, approved the action.

County Counsel Bernadette Curry reported that the county will be coordinating with outside counsel on the litigation: Osha Meserve, from the Soluri Meserve firm; Tom Keeling, from the Freeman law firm; and Roger Moore, from the Law Office of Roger Moore. No formal budget has been set but the county is anticipating a cost of \$75,000.

The county, in its most recent letter to the state Department of Water Resources, called the impact report "inadequate" in its response to the county's concerns and how the project will mitigate a host of potential impacts.

"The (Final Environmental Impact Report) fails as an environmental document because DWR has failed to properly analyze and mitigate the project's impacts. The project would result in significant impacts in a number of resources, including to agriculture, biological resources, groundwater, and traffic that DWR failed to properly disclose, analyze, and mitigate," states the county letter signed by James Besek, the assistant director of the Department of Resource Management, and as of the new year, director of the agency.

"In addition, many of the mitigation measures relied upon by the FEIR are improperly deferred, or their effectiveness is not supported by sufficient evidence. As a result, the county continues to oppose certification of the FEIR and approval of the project," the letter concludes.

The state certified the impact report on Dec. 21.

The county has even called the project a threat to national security because of the potential impacts on Travis and "its emergency response preparedness efforts."

"The county's comments on the DEIR included evidence supporting the argument that those projects described in the CMP, along with other restoration projects that are planned or completed within the county, have the potential to impact the county's water quality, biological resources, and critical flood control infrastructure. Many of these restoration projects, the county noted, convert agricultural properties to other uses, and the cumulative impacts of the loss of these agricultural properties are likely significant. The Draft EIR failed to provide essential information regarding these restoration projects and their associated impacts," the letter states.

The other counties involved are Contra Costa, San Joaquin and Yolo. The water districts involved were not identified.

The project calls for two intake areas of about 150 acres each at Hood and Courtland — census designated areas in Sacramento County — that can each draw as much as 3,000 cubic feet of fresh water per second from the Sacramento River above the Delta.

County officials have said that at its peak, the water pull would be greater than half the river flow. The water would be funneled into a single tunnel, located between 100 and 150 feet below the Delta, that runs 45 miles to a point south of the Delta.

It is estimated that it will take 16 years to complete. The cost estimate is close to \$20 billion.

CEQA Developments

Third District Rejects CEQA and Other Challenges to Department of Water Resources' EIR for Amendments Extending Long-Term State Water Project Supply Contracts Through 2085

By Arthur F. Coon on January 8, 2024

In a 51-page published opinion filed January 5, 2024, and resolving consolidated appeals, the Third District Court of Appeal rejected baseline, piecemealing/segmentation, impact analysis, project description, alternatives analysis, and failure-to-recirculate challenges to the EIR for the Department of Water Resources' ("DWR") approval of amendments to long-term water supply contracts with local government agencies receiving water through the State Water Project ("SWP"). The amendments extended the contracts, which were originally entered into in the 1960s for 75-year terms, so as to end in the year 2085, and made other amendments to their financial provisions. In the course of affirming the trial court's judgment upholding the EIR and contract amendments against CEQA, Delta Reform Act, public trust doctrine, and other challenges, the Court of Appeal applied numerous well-established CEQA principles in the enormously significant and complex context of continuing long-term SWP contracts. *Planning and Conservation League, et al v. Department of Water Resources, et al, etc.* (2023) ____ Cal.App.5th ____ (Ct. App. Nos. C096304, C096316, C096384).

Factual and Procedural Background

California's well-documented water supply and distribution problems have for many decades been addressed by an extensive water supply system including the SWP and the Sacramento-San Joaquin Delta ("Delta") as important components. The SWP, which DWR began operating in 1967, annually extracts millions of acre feet of Delta water and conveys it through a system of reservoirs and canals to other parts of the state for primarily urban and agricultural uses, serving millions of residents and irrigating hundreds of thousands of acres of farmland. (California's other "great water project" is the Central Valley Project ("CVP") operated by the United States Bureau of Reclamation ("USBR"), which stores and distributes water to the Central Valley primarily for agricultural use.) Complicating the SWP's operations are ever-growing and competing concerns for the ecological health of the Delta, which is the only saltwater estuary anywhere used to deliver fresh water for export.

The SWP employs 21 dams and reservoirs, 5 power plants, and 16 pumping plants to move water flowing from the Feather River to the Sacramento River to the Delta, where it is pumped into the California Aqueduct and conveyed south. Its capital costs are financed primarily – following an initial period of bonds issued under the Burns Porter Act – through revenue bonds authorized by DWR pursuant to the Central Valley Project Act. DWR has long-term contracts with 29 local government contractors giving each of them rights to receive a certain portion of available SWP water supplies, and imposing obligations to pay for water received, and also to pay a proportional share of SWP development, operation and maintenance costs regardless of the amount of water received. "Table A" of each contract sets forth the maximum amounts of SWP water DWR will provide to each contractor if available. Since the available SWP water in any given year is affected by numerous constraints, the Table A amounts are obviously not guaranteed, and are commonly referred to as "paper water"; in reality, reliable SWP supply is typically about half of the Table A amounts.

The contracts also contain an "evergreen clause" that allows contractors to receive continued service of water following expiration of the contract term under the same physical conditions, at the same cost, and in annual amounts up to the Table A amount, if they provide DWR with six months' advance written notice before their terms end. Other terms must be equitable, reasonable, and mutually agreed between the contractor and DWR.

As amended in 1987, the contracts provide for the limited recovery of certain costs, including the costs of constructing certain specified SWP facilities, and of repairing, maintaining and bettering all then-existing SWP facilities; such costs are financed through DWR's issuance of

revenue bonds, as discussed above.

The Project and Litigation

Spurred by “evergreen clause” notices given early by 9 contractors in 2009, DWR began publicly negotiating amendments with contractors in 2013-2014, and presented proposed amendments to extend the contracts’ terms to 2085, and to modify various outdated financial provisions, to various legislative committees in 2018, as required by law. DWR explained that the shorter impending contract termination dates constrained its ability to issue revenue bonds with maturity dates beyond 17 years, as opposed to the customary 30 years, and that this created an undesirable “debt compression problem” with the shorter repayment period increasing annual repayment costs and adversely impacting the contractors and other ratepayers. DPW also indicated that the SWP needed many capital upgrades and repairs and would benefit from 30-year or longer bond funding.

The project at issue totaled eight amendments, one extending the contract terms to 2085 and seven affecting financial provisions. The provisions primarily at issue in the litigation on appeal were (1) the term extension to 2085 and (2) an amendment that eliminated the 1987 limitations on repairs, additions and betterments, and added costs for capital improvements approved by DWR and 80% of the contractors.

Following certification of its 2018 Final EIR (“FEIR”), which found the project would not have a significant environmental impact, DWR approved the contract amendments and filed a validation action in which various public agencies filed answers (both opposing and in support of validation). North Coast Rivers Alliance, et al (“NCRA”) and Planning and Conservation League, et al (“PCL”) filed separate actions challenging the project under CEQA and other laws, in which some contractors intervened. The trial court related the three actions, heard the merits, and then rejected all challenges to the project, entering judgment in favor of DWR in all three cases. Appellants timely appealed and the Court of Appeal affirmed.

The Court of Appeal’s Opinion

Appellants PCL and NCRA unsuccessfully argued on appeal that DWR violated CEQA because: (1) the EIR’s impact analysis is deficient; (2) the EIR’s project description is inaccurate and unstable; (3) the EIR’s alternatives analysis is flawed; and (4) DWR erred in not recirculating the DEIR. As discussed below, the Court of Appeal rejected all these arguments.

The EIR’s Impact Analysis Is Sufficient

The Court of Appeal rejected all of Appellants’ baseline, segmentation, and impact analysis arguments.

Baseline Issue

The Court first rejected the argument that the EIR improperly used a baseline that did not *exclude* the SWP’s continuing diversions of water from the Delta. Noting CEQA’s general rule that the baseline must reflect physical conditions at the time environmental analysis begins (citing CEQA Guidelines, § 15125; *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 320, 323), the Court observed that for projects involving ongoing operations and continuations of past activity, “the established levels of a particular use and the physical impacts thereof are considered to be part of the existing environmental baseline.” (Quoting *North Coast Rivers Alliance v. Westlands Water Dist.* (2014) 227 Cal.App.4th 832, 872.) “This rule applies to renewal of a permit or other approval for an existing facility even though the facility and its operations have not been previously reviewed under CEQA.” (Citing *Citizens for East Shore Parks v. State Lands Com.* (2011) 202 Cal.App.4th 549, 561 (“*Citizens*”), a decision analyzed in this blog’s [2/9/12 post](#).)

Finding *Citizens* to be controlling authority dispositive of Appellants’ baseline arguments, the Court stated: “The baseline is the environmental setting under the current contract conditions. We do not use a baseline that imagines a world in which the contracts are not in place.” After noting that Appellants offered no persuasive reason for departing from *Citizens*’ controlling authority on the CEQA baseline, the Court further rejected their related contention that the EIR failed to discuss alleged inconsistencies of the project with any applicable general, specific or regional plans.

The EIR Does Not Engage in Improper Segmentation

The Court next rejected the argument that the EIR improperly “piecemealed” or “segmented” the project by adopting a “truncated project description” and failing to consider the impacts of allegedly related projects, such as a potential new Delta conveyance project or the previously approved and rescinded “WaterFix” project. CEQA’s prohibition on segmentation means that environmental review “must

encompass the whole of an action affecting the environment” and that an agency can’t “chop up” a large project into many little ones to minimize its total environmental impact. Thus, “an EIR must include an analysis of the environmental effects of future expansion or other action that: (1) is a reasonably foreseeable consequence of the initial project and (2) will likely change the scope or nature of the initial project or its environmental effects.” (Citing *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 396 (“*Laurel Heights I*”).) Courts have found “improper piecemealing ‘when the reviewed project legally compels or practically presumes completion of another action.’” (Quoting *Banning Ranch Conservancy v. City of Newport* (2012) 211 Cal.App.4th 1209, 1224, a decision analyzed in this blog’s [1/23/13 post](#).) There may be improper piecemealing if a proposed project is “a crucial functional element” of a larger project that could not proceed without it, or if its purpose “is to be the first step or to provide a catalyst for future development.” (Citing *id.* at 1223.) However, piecemealing may not be found where the project under review “is only a baby step toward another project” (citing *id.* at 1225) or where the two projects “have different proponents, serve different purposes, or can be implemented independently.” (Citing *id.* at 1223.)

Here, while some of the contract amendments could be viewed as a “first step” toward a future Delta conveyance, or used to finance WaterFix, the Court concluded based on its independent review of the record that the EIR did not engage in piecemealing. The amendments serve an independent purpose from a Delta conveyance – i.e., to fix the bond “debt compression problem” – and also a broader purpose as a potential financing mechanism for DWR’s lengthy “to do” list of other potential projects. Even if the contract amendment is a *necessary* step toward such projects, it is also a “distant step,” and based on its history any Delta conveyance project “lacks certainty and would require an enormous undertaking” to overcome numerous hurdles. The Court also rejected Appellants’ other piecemealing arguments as lacking evidentiary support and based on the faulty assumption that separate projects occurring closely in time must be the same project.

The EIR’s Analyses of Direct, Indirect and Cumulative Impacts Are Adequate

The Court rejected Appellants’ contention that DWR “was required to consider the impacts of an additional 50 years of existing [SWP] operations” for the same reasons it rejected their baseline arguments – i.e., such operations are part of the baseline and not impacts of the contract amendments. Nor was the EIR required to engage in speculative analysis regarding a potential future Delta conveyance, for reasons the Court expressed in rejecting Appellants’ segmentation arguments. Regarding other potential future SWP projects, such were not shown to be *caused* by the project under review, as required for direct or indirect impacts; in sum, the link between them and the project is too “attenuated” and the project is merely a funding mechanism excluded from CEQA (see Guidelines, § 15378(b)(4)) that neither *causes* nor *commits* DWR to such future projects, and no improper deferral of CEQA analysis of such projects was demonstrated.

As to cumulative impacts, the EIR did not need to analyze them because, by definition, the project had none; since the project itself had no significant impacts, it necessarily had no “incremental impact” that could be “cumulatively considerable.”

The EIR’s Project Description Is Not Inaccurate or Unstable

The Court rejected Appellants’ three arguments alleging the EIR’s project description was not “accurate and stable,” a challenge presenting a question of law subject to de novo review. (Citing *Save Our Capitol! v. Department of General Services* (2023) 87 Cal.App.5th 655, 673, a decision analyzed in this blog’s [1/2/23](#) and [1/23/23 posts](#).) The Court’s review of the record did not support Appellants’ claim of inconsistency due to the FEIR’s portrayal of the project as separate and independent from the Delta conveyance project. Nor was the EIR faulty for failing to disclose DWR’s expectation that individual contracts would be extended under the “evergreen clause” even without the project’s long-term extension across the entire pool of contractors. Nor was the EIR’s project description inaccurate in its description of the project’s enhanced funding mechanisms, including their elimination of the restriction on bond eligibility for new facilities.

The EIR’s Range of Alternatives Is Reasonable

CEQA requires a lead agency to initially determine the project’s purpose and objectives (CEQA Guidelines, § 15124(b)), and that the EIR “describe a range of reasonable alternatives to a project that would feasibly attain most of the project’s basic objectives while avoiding or substantially lessening any of the project’s significant effects.” (Citing CEQA Guidelines, § 15126.6(a).) DWR’s listed objectives were: ensuring its ability to finance SWP expenditures beyond 2035 for a sufficiently extended period to provide for a reliable revenue stream from the contractors and facilitate SWP planning; maintaining appropriate reserves and funds to meet SWP needs and purposes; simplifying the SWP billing process; and increasing DPW/contractors coordination on SWP financial matters.

DPW considered seven alternatives: (1) no-project; (2) shorter extension with financial amendments; (3) longer extension with financial amendments; (4) extension to 2085 only (without financial amendments); (5) extension to 2085 while delaying implementation of financial

amendments until 2035; (6) selling bonds with maturity dates beyond current contract expiration dates; and (7) not requiring all contractors to sign the amendments. DWR considered and rejected an alternative reducing the contracts' Table A amounts and an alternative implementing new water conservation management provisions.

The Court first rejected Appellants' cursory one-sentence argument that none of the alternatives are sufficiently different from the amendments to provide a reasonable range, as being unsupported by citation to authority or analysis. Per the Court: "We defer to [DWR's] selection of alternatives unless [Appellant] (1) demonstrates the alternatives are manifestly unreasonable and do not contribute to a reasonable range of alternatives and (2) identifies evidence of a potentially feasible alternative that meets most of the basic project objectives." (Citing *Save Our Access, etc. v. Watershed Conservation Authority* (2021) 68 Cal.App.5th 8, 32, a decision analyzed in this blog's [8/23/21 post](#).)

Second, DWR's omission of an alternative excluding only the revenue bond amendment did not violate CEQA, which "is not an economic protection statute" (citing *Porterville Citizens for Responsible Hillside Development v. City of Porterville* (2007) 157 Cal.App.4th 885, 903), and does not treat economic effects alone as significant effects on the environment. (CEQA Guidelines, § 15064(e).) Nor must an EIR "consider every conceivable alternative" (Guidelines, § 15126.6(a)), and when an EIR discusses a reasonable range it need not discuss additional alternatives substantially similar to those already discussed. Here, the Court found that exclusion of the revenue bond amendment could be sufficiently understood from the EIR's discussions of the no-project and extension-only alternatives.

Finally, DWR's rejection of the Table A amount reduction and water conservation management alternatives for detailed discussion in the EIR did not violate CEQA. Those alternatives did not address the limited problems that DWR set out to solve based on its project objectives, which addressed financial issues with the SWP contracts and were not challenged as unduly narrow for not attempting to tackle bigger issues.

The EIR's Discussion of the No-Project Alternative Complies With CEQA

Under the no-project alternative, SWP operations would continue under the existing contract terms until the end of 2035; those terms would be extended under the evergreen clause of each contract; DWR would not sell bonds with post-2035 maturity dates; and the debt compression problem would worsen. This alternative, like the amendments, would not cause direct physical environmental impacts because it would not create new water management measures, alter existing construction authority, or change contractual water allocations.

The Court rejected Appellants' various arguments that the no-project alternative was faulty for relying on application of the evergreen clause and not considering a scenario in which the contracts are allowed to expire. It also rejected their challenges to DWR's financial model distinguishing the amendments and the no-project scenario. Per the Court, the no-project analysis must discuss existing conditions and what would be reasonably expected to occur in the foreseeable future absent the project based on current plans and consistent with available infrastructure. (CEQA Guidelines, § 15126.6(e)(2).) A court's task in reviewing a no-project alternative "is extraordinarily limited" and its "focus is narrow" – i.e., "[d]id the EIR adequately describe existing conditions and offer a plausible vision of the foreseeable future?" (Cleaned up, citations omitted.) "Where the EIR is reviewing an existing operation or changes to that operation, the no project alternative is that existing operation." (Quoting *Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 234 Cal.App.4th 214, 253, a decision discussed in this blog's [2/18/15 post](#).)

Applying these standards, and the deferential substantial evidence test, in reviewing DWR's "factually based forecast" of the no-project condition, the Court upheld the EIR's discussion as sufficiently distinguishing between the no-project alternative and the amendments and also "offer[ing] a plausible view of a future in which the amendments are not approved." Per the Court: "Given the long history of the [SWP] and its critical role in distributing water to millions of residents in the state and hundreds of thousands of acres of farmland, [DWR] was not required to envision a world in which the contracts terminate and the [SWP] comes to a halt. ... Thus, it is reasonably foreseeable that the contractors would extend the terms of their contracts through the evergreen clause." Nor was the no-project alternative discussion required to speculate on whether all contract terms would be extended as to each contractor, or about the state reducing SWP deliveries (CEQA Guidelines, § 15126.6(f)(3).)

Finally, DWR did not need to analyze "the environmental advantage of not facilitating the expansion of the [SWP]," because that argument of Appellants improperly assumed the project would have an environmental impact, which (as the Court already held) is not the case.

DWR's Decision Not to Recirculate the EIR Does Not Violate CEQA

A lead agency must recirculate an EIR for public comment and agency consultation when it adds “significant new information” to the FEIR, i.e., changes the EIR “in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project’s proponents have declined to implement.” (Citing *Save Our Capitoll*, 87 Cal.App.5th at 706, CEQA Guidelines, § 15088.5(a).) “New information that clarifies or amplifies the previously circulated draft EIR does not require recirculation.” (*Ibid.*; Guidelines, § 15088.5(b).) An agency’s decision not to recirculate is presumed to be correct and the challenger bears the burden of showing no substantial evidence supports its determination that the added information was not significant. (*Save Our Capitoll*, at 707.) Recirculation may also be required when the DEIR was “so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.” (See CEQA Guidelines, § 15088.5(a)(4).)

The Court held Appellants’ arguments were unsupported and meritless under these applicable standards, as they failed to describe and demonstrate the allegedly significant new information and disclosures requiring recirculation or to show that the EIR was inadequate and conclusory. Additional analysis provided for informational purposes in the FEIR in response to public comments regarding potential reduction of Table A amounts and resulting effects did not disclose new or increased project effects, and at most merely clarified or amplified the Table A amount reduction alternative that DWR rejected.

Non-CEQA Claims Also Lack Merit

On independent review, the Court rejected Appellants’ claim that DWR’s project approval violated the Delta Reform Act (Wat. Code, § 85000, et seq) because DWR did not prepare a written certification of consistency with the Delta Plan. Per the Court, the amendments did not constitute a “covered action” under that Act requiring a certification for numerous reasons, including but not limited to “the Legislature’s clear intent to exempt the existing [SWP] from [the definition of] a covered action.”

The Court also rejected Appellants’ arguments that DWR “violated its duty of continuing supervision under the public trust doctrine” in approving the amendments, conducting substantial case law analysis and concluding that duty applies to water diversions outside DWR’s purview and “that the amendments do not impact a public trust resource.” Further, DWR’s conclusions in this regard were properly based on the EIR’s findings and did not require a separate public trust analysis.

Finally, the Court rejected Appellants’ arguments that the validation action was prematurely brought (an argument doomed by the Court’s earlier rejection of the segmentation argument); that the amendments failed to comply with bond repayment priorities under the Burns Porter Act (Wat. Code, § 12930 et seq); that DWR failed to comply with the pre-approval legislative committee presentation requirements of Water Code § 147.5; that the amendments were unconscionable because they improperly “reauthorized” un-amended contract terms (such as water delivery amounts) that were impossible or impracticable to perform; and that DWR lacked authority to assume “unbounded” contracts assuming “paper water” deliveries and flouting statewide policy to reduce reliance on Delta water exports.

Conclusion and Implications

The complex and often imprecise contours of CEQA, combined with the myriad other laws and often conflicting policies applicable to California’s efforts to solve its “great water problem,” provide a fertile environment for litigation, as well illustrated by the many claims made and issues raised in this case. Key to the Court’s rejection of many of Appellant’s CEQA arguments is CEQA’s baseline rule that existing facilities and continuing operations are considered part of the existing environmental baseline, meaning that their impacts are not considered to be environmental impacts of a project approving their continuation even if – as is the case here with the 1960’s-era SWP – they have never previously been reviewed under CEQA. While I have noticed that many CEQA plaintiffs appear to find this rule hard to accept, it is actually one of CEQA’s clearer principles and has been consistently applied even to continuing operations having very significant environmental impacts.

The Court also applied well-established rules and principles in the areas of piecemealing/segmentation, project description, alternatives analysis, and recirculation in rejecting Appellants’ myriad claims. Applying piecemealing precedents can be a bit murky (to say the least), but the Court here consistently rejected Appellants’ attempts to tie the contract amendments to specific (albeit speculative) major infrastructure projects DWR may (or may not) pursue at some point in the future. While common sense counsels that the contract amendments here provide an enhanced *financing mechanism* that can more readily *facilitate* such future DWR projects, the Court was unpersuaded that any such projects are the *consequence* of the amendments. Hence, they were not required to be described and analyzed in the EIR as part of the contract amendment project.

While California's solutions to its "great water problem" remain – after well over a half-century – a work in progress, this case plays its part in that continuing saga by helping to ensure, at least for the time being, that the grand project will continue and the spigots won't run dry.

Questions? Please contact **Arthur F. Coon** of Miller Starr Regalia. Miller Starr Regalia has had a well-established reputation as a leading real estate law firm for more than fifty years. For nearly all that time, the firm also has written *Miller & Starr, California Real Estate 4th*, a 12-volume treatise on California real estate law. "The Book" is the most widely used and judicially recognized real estate treatise in California and is cited by practicing attorneys and courts throughout the state. The firm has expertise in all real property matters, including full-service litigation and dispute resolution services, transactions, acquisitions, dispositions, leasing, financing, common interest development, construction, management, eminent domain and inverse condemnation, title insurance, environmental law and land use. For more information, visit www.mslegal.com.

CEQA DEVELOPMENTS



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