



NORTH BAY WATER REUSE PROGRAM

Expanding Water Supplies with Regional Reuse



BOARD OF DIRECTORS MEETING

AGENDA

Monday, August 22, 2016

9:30 AM

Novato City Hall Council Chambers

901 Sherman Avenue, Novato, CA 94945

Consultants unable to attend in person may call in: Phone: +1 (602) 567-4030 Access code: 2231; <https://conferencing.brwncaid.com/conference/2231>

1. Call to Order (1 minute)

2. Roll Call (1 minutes)

3. Public Comment (3 minutes)

(Any member of the public may address the Board at the commencement of the meeting on any matter within the jurisdiction of the Board. This should not relate to any item on the agenda. It is the policy of the Authority that each person addressing the Board limit their presentation to three minutes. Any member of the public desiring to provide comments to the Board on an agenda item should do so at the time the item is considered. It is the policy of the Authority that oral comments be limited to three minutes per individual or ten minutes for an organization. Speaker's cards will be available in the Boardroom and are to be completed prior to speaking.)

4. Introductions (2 minutes)

Action
Pages 3 - 6

5. Board Meeting Minutes of July 26, 2016 (1 minute)

(The Board will consider approving the minutes from the July 26, 2016 Board meeting.)

Information
Pages 7 - 12

6. Report from the Program Manager (2 minutes)

6.a Consultant Progress Reports

(The Board will review the Report from the Program Manager and Consultant Progress Reports.)

Information
Pages 13 - 14

7. Financial Reports for the Period Ending June 30, 2016 and July 31, 2016 (5 minutes)

(The Board will review the financial reports for the period ending June 30 and July 31, 2016.)

Information

8. FY2016/17 Budget Update (10 minutes)

(The Board will review the status of the FY2016/17 Budget.)

**North Bay Water Reuse Authority • c/o Sonoma County Water Agency • 404 Aviation Boulevard, Santa Rosa, CA 95403
707-235-8965 • NBWRA.org**

- Information** **9. Program Development, Federal, and State Advocacy Status Reports (10 minutes)**
Pages 15 - 61 (The Board will be updated on the status of Program Development, Federal Advocacy, and State Advocacy.)
- Information** **10. Outreach Program Update (5 minutes)**
 (The Board will be updated on the Outreach Program.)
- Information** **11. Engineering, Environmental, and Public Involvement Services Report (10 minutes)**
 (The Board will be updated on the Engineering, Environmental, and Public Involvement Services Report.)
- Discussion** **12. Follow Up on Recommendations from Governance Task Force (30 minutes)**
Pages 61 - 94 (The Board will review the status of Phase 2 projects, possible other organizations and projects, and the future decision making process.)
- Information** **13. Comments from Chair and Board Members (5 minutes)**
 (The Chair and Board members may make brief announcements or reports on his or her own activities, pose questions for clarification, and/or request that items be placed on a future agenda. Except as authorized by law, no other discussion or action may be taken.)
- 14. Adjournment (1 minute)**

<p style="text-align: center;">Next Board Meeting Monday, September 19, 2016, 9:30 A. M., Novato Sanitary District</p>
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**North Bay Water Reuse Authority
Board of Directors Meeting
Minutes
July 26, 2016**

1. Call to Order

Chair Rabbitt called the meeting to order at 1:39 p.m. on Tuesday, July 26, 2016 at the City of Petaluma Ellis Creek Water Recycling Facility. 3890 Cypress Drive, CA 94954. Consultants and others who were unable to attend participated via telephone, 1 (602) 567-4030, passcode 1980; <https://conferencing.brwnncald.com/conference/1980>.

2. Roll Call

PRESENT:	David Rabbitt, Chair	Sonoma County Water Agency
	Bill Long, Vice Chair	Novato Sanitary District
	Jack Baker	North Marin Water District
	Keith Caldwell	Napa County
	Grant Davis	Sonoma Valley County Sanitation District
	Rabi Elias	Las Gallinas Valley Sanitary District
	David Glass	City of Petaluma
	Larry Russell	Marin Municipal Water District (by telephone)
	Jill Techel	Napa Sanitation District

ABSENT: City of American Canyon, Marin County

OTHERS

PRESENT:	Chuck Weir, Program Manager	Weir Technical Services
	Kevin Booker	Sonoma County Water Agency
	Ginger Bryant	Bryant & Associates
	Chris DeGabriele	North Marin Water District
	David Graves	Napa Sanitation District
	Tim Healy	Napa Sanitation District
	Pam Jeane	Sonoma Valley County Sanitation District
	Susan McGuire	Las Gallinas Valley Sanitary District
	Mark Millan	Data Instincts
	Pilar Oñate-Quintana	The Oñate Group (by telephone)
	Dan St. John	City of Petaluma
	Mike Savage	Brown and Caldwell
	Brad Sherwood	Sonoma County Water Agency
	Jake Spaulding	Sonoma County Water Agency
	Dawn Taffler	Kennedy Jenks Consultants (by telephone)
	Jeff Tucker	Napa Sanitation District
	Leah Walker	City of Petaluma

3. Public Comments

There were no comments from the public

4. Introductions

Introductions were not made.

5. Board Meeting Minutes of April 25, 2016.

A motion by Director Techel, seconded by Director Baker to approve the April 25, 2016 minutes was unanimously approved.

6. Report from the Program Manager

The Board reviewed the consultant progress reports for June 2016. The Program Manager highlighted the remaining agenda items.

a. Consultant Progress Reports

The Board reviewed the consultant progress reports for June 2016.

7. Financial Report for the Period Ending June 30, 2016

The Board reviewed the Financial Report for the period ending June 30, 2016 and noted expenses for Fiscal Year 2015/16 are tracking within budget. The Board was informed of a needed correction of \$24,000 for The Ferguson Group should be charged to Phase 2 and not split 30%/70% between Phase 1 and Phase 2. A final corrected Financial Report for FY2015/16 will be presented at the next meeting.

8. Program Development, Federal, and State Advocacy Update

The following items were discussed: State Advocacy, Program Development and Federal Advocacy and related outreach efforts.

Pilar Oñate-Quintana discussed State Advocacy and noted that SB163 Hertzberg has been pulled from this session due to water and wastewater agency opposition to SB163. She also noted that Senator Hertzberg will reintroduce a similar bill next year. The Board requested a copy of the CASA letter. She also noted that the remaining Prop. 1 funds, \$320,000,000, will be appropriated to the State Water Board per the State budget as passed in June.

Ginger Bryant provided an update on Program Development and Federal Advocacy, including \$21,500,000 for Title XVI projects through the Senate energy and Water Appropriations bill. The bill includes an additional \$100,000,000 for drought relief projects in the West. She also discussed Western Water Drought Bill will include expansion of WaterSMART Grants, Title XVI reform, and the RIFIA program. She also described NBWRA efforts related to Phase 2 authorization language. Lastly she noted there are three pages of support letters for the Feinstein Bill on the Western Water Priorities website, <http://westernwaterpriorities.org/>.

9. Outreach Program Update.

Mark Millan gave an update on the Western Water Priorities and NBWRA websites and that they were preparing for the next trip to Washington D.C. in September.

10. Engineering, Environmental, and Public Involvement Services Report

Mike Savage gave an update on the production and comment schedule for the chapters in the Feasibility Study Report.

11. Phase 2 Agencies Present Revised List of Projects for Phase 2 Environmental Analysis, Discussion of Impacts of Revisions, and Consideration of approval of a Final List of Projects

Representatives from the Phase 2 member agencies provided updates on their projects as follows:

- Novato Sanitary District – Leave Options 1 & 2 in the Programmatic Column.
- City of Petaluma – Their projects are okay as listed and there is no need for analysis on storage.
- Napa Sanitation District – They have two small projects in the EIR/EIS and no Programmatic projects
- Sonoma County Water Agency and Sonoma Valley County Sanitation District – Their projects are okay as listed.

Mike Savage made note of the changes. Chair Rabbitt noted that the list would be revisited in August pending approval of changes recommended in Item No. 12.

12. Update and Recommendations from Governance Task Force

Chair Rabbitt gave a presentation on issues related to the Phase 2 Project list, communication, decision making, and governance flaws. He stressed that NBWRA is a very successful program that is lauded by USBR and the Obama Administration. He expressed concern that the current list of Phase 2 projects will not utilize the full \$80,000,000 available and that efforts should be made to include additional projects to better spread costs and make the program as competitive for federal funding as possible. He described recommendations to address the identified issues, including not having separate Board and TAC meetings, revisions to the meeting schedule, and placing a hold on the EIR/EIS process for six months while additional projects and or members were sought.

Director Techel noted that agencies were encouraged to add lots of projects at the beginning of the Feasibility Study and that her agency has eliminated those projects that will not work. She also suggested that a flow chart detailing how the recommended changes would work would be helpful for the Board to better understand the recommendations. Director Long inquired about possible additional projects and requested a list of organizations and possible projects at the next meeting. He also noted that the Board would be best at bringing in additional agencies and managing consultant expenses. Grant Davis spoke in support of the TAC having properly represented their agencies and that NBWRA needs to support Title XVI and develop a better spread of operating costs. Directors Elias and Glass spoke in support of improving how NBWRA functions. Director Caldwell stated that the recommendations are consistent with the Governance Task Force discussions.

Following additional discussion, on a motion by Director Glass, seconded by Director Elias, to approve Chair Rabbitt's recommendations was approved by a vote of 8 – 1, with Director Techel voting no. The approved recommendations are:

Changes in Board/TAC meeting process

- 6 joint Board/TAC meetings a year (January, March, May, July, September, and October)
- Alternating months off for individual agency work
- Items will be presented for Discussion and scheduled for Action at the following meeting
- Board Member's report agency preferences at meetings
- New Meeting Dates to accommodate NBWRA Business through 2016:

August 22, 2016 (new meeting date)
 September 19, 2016 (current TAC only changed to new Joint Board/TAC)
 October 24, 2016 (regularly scheduled Board meeting, now joint Board/TAC)
 December 19, 2016 (current TAC only changed to new Joint Board/TAC)

Actions on Phase 2 Studies

- Freeze initiation of the EIR/EIS at this time for six months
- Investigate options for moving forward with an expanded Phase 2 Program
- Report back on options at the October 24, 2016 meeting

It was also agreed to develop a list of organizations and projects and a flow chart outlining the decision making process for the August 22, 2016 meeting.

13. Comments from Chair and Board Members

Chair Rabbitt described his participation in two panel discussions at the recent National Association of Counties meeting. State Water Board Chair Felicia Marcus and representatives from USBR were also included. David Graves noted that Los Carneros Water District's recycled water project had its ribbon cutting ceremony and that the system was now in operation using recycled water from Napa Sanitation District.

14. Adjournment

Chair Rabbitt adjourned the meeting at 3:30 p.m. The next meeting will be Monday, August 22, 2016 at 9:30 a.m. at a location to be determined.

Minutes approved by the Board _____.

Charles V. Weir
 Program Manager

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Agenda Explanation
North Bay Water Reuse Authority
Board of Directors
August 22, 2016

ITEM NO. 6 REPORT FROM THE PROGRAM MANAGER

The July 2016 Report from the Program Manager includes the following item:

Item No. 6.a. Consultant Progress Reports

Attached are the consultant progress reports for July 2016. The consultants will be available to respond to any questions from the Board.

Following is a brief description of other Agenda items:

Item No. 7. Financial Report for the Period Ending June 30, 2016 and July 31, 2016

Sonoma County is in the process of completing fiscal year end tasks. As a consequence, the correction for FY2015/16 and the set up for FY16/17 have not yet been completed. The consultant cost summary for July 31, 2016 is attached. A full financial report will be provided in the September packet.

Item No. 8. FY2016/17 Budget Update

There will be no separate report for this item. It has been combined with Item No. 12.

Item No. 9. Program Development, Federal, and State Advocacy Status Reports

Ginger Bryant and Pilar Oñate-Quintana will provide a presentation on these topics. Also note the packet of information related to SB163 Hertzberg. This was requested by the Board at the last meeting

Item No. 10. Outreach Program Update

Mark Millan will provide an update for the Board.

Item No. 11. Engineering, Environmental, and Public Involvement Services Report

There is no specific report on this standing agenda item this month.

Item No. 12 Follow Up on Recommendations from governance Task Force

Please refer to the separate report for this item. Chair Rabbitt will lead the discussion.

Item No. 13. Comments from Chair and Board Members

The Chair and Board members may make brief announcements or reports on his or her own activities, pose questions for clarification, and/or request that items be placed on a future agenda. Except as authorized by law, no other discussion or action may be taken.

**North Bay Water Reuse Authority
Program Development, Federal and State Advocacy
July 2016 Activity Summary's**

Bryant & Associates ~ Program Development

- Participated in Program Management, Federal and State Advocacy Management Call
- Participated in consulting team planning call
- Prepared for and participated in TAC conference call
- Prepared for and participated in Board meeting
- Activities in coordination with The Ferguson Group:
 - Planning for Washington DC trip September 20-22
 - Discussions regarding conference of House and Senate water bills
 - Posted new S.2533 support to Western Water Priorities site

The Ferguson Group ~ Federal Advocacy

- **Drought Bill/RIFIA Proposal.**—TFG continued to work with House and Senate drought bill negotiators to build support for drought relief legislation that includes key components advocated by the Authority: RIFIA, an expansion of WaterSMART grants and Title XVI reform to allow currently unauthorized projects to compete for Title XVI competitive construction dollars. Meetings were held with Senators Feinstein and Boxer's offices, as well as the offices of key House offices negotiating drought relief legislation to authorize additional federal assistance for non-federal investments in water reuse and small-scale storage, and for other purposes. Negotiations are expected to continue through August and September.
- **Phase 2 Authorization.**—Work continued on options to address the Phase 2 authorization ambiguities. TFG followed up on discussions that occurred last month regarding the dispute with the Department of the Interior, with senior advisors to the Deputy Secretary. Those discussions are on-going.
- **Western Water Priorities.**—TFG continued to work with Ginger Bryant and the Western Water Priorities social media effort to provide content in support of federally backed financing and expanded grant assistance through the WaterSMART program.
- **Fiscal Year 2017 Budget Request and FY 2016 Work Plan.**—TFG continued work to support extra funds in the Fiscal Year 2017 appropriations process to support Title XVI water reuse projects and similar authorities. As reported earlier, on May 12, the Senate passed its version of the FY 2017 Energy and Water Development (E&W) funding on a vote of 90-8. The Senate E&W bill includes \$21.5 million for Title XVI projects and an additional \$100 million for drought relief projects west-wide, a portion of which is expected to be allocated to accelerate work on high priority water reuse projects.
- On May 26th, again, as reported earlier, the House rejected their \$37.4 billion Energy and Water Development Appropriations bill, H.R. 5055, after two days of debate that had seemingly put it on a path to final passage. House and Senate leaders have already begun discussions about the continuing resolution, a bill that will continue funding programs at the Fiscal Year 2016 levels beyond October 1, 2016, the start of Fiscal Year 2017. Final passage of an E&W Fiscal Year 2017 spending bill will not occur until after the November election during a lame duck session, at the earliest.

The Onate Group ~ State Advocacy

Note: July is legislative summer break, which resulted in a very light month – no ACWA/WateReuse meetings, etc.

- Prepared state advocacy slides and presented via phone during the July 25 board meeting. Topics included SB 163, bond funding status, etc.



AGREEMENT FOR ENGINEERING, ENVIRONMENTAL, AND PUBLIC OUTREACH SERVICES FOR NORTH BAY WATER REUSE AUTHORITY

ACTIVITIES: JULY 1, 2016 THROUGH JULY 28, 2016

TASK 1 WORKSHOPS/PUBLIC OUTREACH/MGT

1.1 Workshops

- Preparation and attendance at July 18, 2016 TAC meeting
- Preparation and attendance at July 26, 2016 Board of Directors meeting

1.3 Public Involvement

- Conference calls and planning meetings with project team members for collaboration and preparation of upcoming August 16, 2016 Task Force Workshop.
- Develop and format meeting agenda drafts based on team discussions.
- Prepare draft outline of Contact Manager Database effort and Data Management system coordination of for DCP Project Team and an information hub or “web portal” for use by stakeholders and the public.
- Request and collect contact information on various Task Force members and key stakeholders.

1.4 Administration

- Performed project invoicing and developed activities report

TASK 2 TITLE XVI FEASIBILITY STUDY/REPORT

- Completed draft Section 9.
- Updated cost and benefit streams for economic analysis
- Completed internal review of Section 2, 6, and 9.
- Uploaded Sections 2, 6, and 9 to SharePoint for Member Agency Review
- Maintained report status table.
- Compiled comments from Sections 4 and 5 and began addressing Member Agency comments.
- Responded to Member Agency questions on various Sections.
- Review Technical Appendices
- Team conference calls

Activities cover the following subtasks:

- Task 2.4 Analysis of Alternatives

TASK 3 ENVIRONMENTAL EVALUATION

3.1 Environmental Constraints Analysis

- No Activity

3.2 Environmental Compliance – NEPA/CEQA

- No Activity

TASK 4 FINANCIAL CAPABILITIES DETERMINATION

- No Activity

TASK 5 PHASE 2 GRANT APPLICATION AND MANAGEMENT

- No Activity

TASK 6 PHASE 1 SERVICES

6.1 Program Support and Coordination

- No Activity

6.2 State Grant Support

- No Activity

6.3 Federal Grant Support

- No Activity

Additional Services

- No Activity

Weir Technical Services
Program Management Services for North Bay Water Reuse Authority (FY 2014/2015, FY
2015/2016, FY 2016/2017)

Sonoma County Water Agency Order Number 7630A1

July 2016 Progress Report

2.1 Task 1: Authority Board of Directors (Board) and Technical Advisory Committee (TAC) Meeting Management

- Sent April and May 2016 Consultant Progress Reports to Board.
- Reviewed and edited draft retrospective document from consultant for TAC agenda packet and returned to consultants for further review. Reviewed and edited document for second time.
- Participated in consultant conference call to discuss upcoming TAC meeting.
- Prepared and distributed July 18, 2016 TAC Agenda packet.
- Prepped for and participated in July 18, 2016 TAC web conference meeting.
- Reviewed and responded to email from Chair regarding cancelling and rescheduling July 25, 2016 Board meeting. Created and monitored Doodle poll for new Board meeting date. Cancelled July 25, 2016 meeting, including with City of Novato. Communicated poll results with Chair, who selected July 26, 2016. Notified Board and TAC and sent updated Outlook appointment. Communicated with City of Novato and TAC members regarding location for meeting and selected City of Petaluma.
- Drafted Board agenda and sent to Chair and consultants for review. Modified same based on input. Sent agenda to agencies for Brown Act posting. Received item from Chair that required modification to Agenda to allow action on recommendations. Revised Agenda and resent for Brown Act posting.
- Participated in consultant telephone call regarding Board agenda.
- Prepared TAC meeting minutes for June 27, and July 18, 2016 web conference meetings.
- Prepared and distributed Board and TAC agenda packets for July 26, 2016 meetings.
- Telephone calls with TAC members regarding Phase 2 projects, including lower Novato Creek project.
- Researched Memorandum of Understanding prior to Board meeting. Traveled to and from office to attend July 26, 2016 Board and TAC meetings in Petaluma.
- Set up April, June, and July Board and TAC agendas and minutes to be ADA compliant and sent to outreach consultant for website posting. Responded to subsequent emails regarding meeting dates listed on website.
- Sent email to Agency staff regarding email communication related to lower Novato Creek project.
- Sent email to Board list regarding revisions to meeting schedule to Board and TAC lists. Sent updated Outlook appointments to Board list regarding revised schedule through rest of 2016. Checked with City of Novato to see if room was available on August 22, 2016.
- Updated distribution lists.
- Reviewed news articles distributed by Outreach Consultant.

2.2 Task 2: Financial Management

- Developed various Phase 2 cost sharing options for review by TAC and Board.
- Reviewed FY2016/17 invoices to member agencies.
- Updated consultant cost tracking spreadsheet and reconciled with Agency trust worksheet.

2.3 Task 3: Project Support and Review

- Participated in email and phone conversations regarding Phase 2 projects.

2.4 Task 4: Program Planning

- Prepared and submitted June and July 2016 invoices and progress reports. Set up invoice for FY2016/17. Updated accounting records accordingly.

2.5 Task 5: Governance Issues

- No activity was conducted on this task during the reporting period.

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Agenda Explanation
North Bay Water Reuse Authority
Board of Directors
August 22, 2016

ITEM NO. 7 FINANCIAL REPORTS FOR THE PERIODS ENDING JUNE 30 2016 AND JULY 31, 2016

Action Requested: None at this time.

The following item is attached for the Board's information: Consultant Cost Tracking for FY2016/17 through July 31, 2016.

As noted previously, Sonoma County is in the process of completing fiscal year end tasks. As a consequence, the correction for FY2015/16 and the set up for FY16/17 have not yet been completed. A full financial report will be provided in the September packet

Recommendation

None at this time

North Bay Water Reuse Authority

August 19, 2016

Consultant Cost Tracking

Fiscal Year 2014/15 through Fiscal Year 2016/17

Only FY2014/15 and FY2015/16 have been approved	May-16	Jun-16	Jul-16	FY14/15 Final	FY15/16 YTD	FY16/17 YTD	3 FY Total	Amount Remaining	Percent Remaining	Approved 5/19/14	Approved 4/27/15	Approved 4/25/16	Proposed
Phase 1 Support										FY2014/15	FY2015/16	FY2016/17	3-Year Total
Grant Applications and Management - CDM Smith	-	-		20,122	-	-	20,122	49,682	39.75%	125,000	-	-	-
Grant Applications and Management - B&C	4,039	4,645	258	36,495	72,241	258	108,994	88,625	44.85%	72,628	77,998	46,993	197,619
Program Development (40% of \$190,200 total) - Bryant	6,007	6,007	6,084	81,743	76,346	6,084	164,174	64,066	28.07%	76,080	76,080	76,080	228,240
Federal Advocacy (30% of \$88,000 total) - TFG sub to Bryant	2,615	2,718	2,951	27,979	32,042	2,951	62,973	64,227	50.49%	26,400	50,400	50,400	127,200
Total Costs for Phase 1 Support	12,660	13,369	9,294	166,340	180,629	9,294	356,263	216,918	39.22%	175,108	204,478	173,473	553,059

Note: CDM Smith had an agreement for \$125,000 that spanned more than one fiscal year and ran through June 30, 2015.

Note: \$24,000 moved from B&C approved FY2015/16 budget and added to TFG (FY16/17 too but not from B&C) per modification to Bryant agreement. Split 30% P1 and 70% P2.

Note: June 2015 also includes a charge from ESA of \$2948.75 for environmental analysis not included in the totals above. It was charged to a previously approved agreement and budget.

Phase 2 Support										FY2014/15	FY2015/16	FY2016/17	3-Year Total
Program Development (60% of \$190,200 total) - Bryant	9,010	9,010	9,127	112,885	114,519	9,127	236,530	105,830	30.91%	114,120	114,120	114,120	342,360
Federal Advocacy (70% of \$88,000 total) - TFG sub to Bryant	6,101	6,341	6,047	59,228	74,765	6,047	140,039	68,761	32.93%	61,600	85,600	61,600	208,800
Total Costs for Phase 2 Support	15,111	15,351	15,173	172,112	189,284	15,173	376,570	174,590	31.68%	175,720	199,720	175,720	551,160

Note: See note above regarding B&C, Bryant, and TFG.

Phase 2 Feasibility Study - Three Years										FY2014/15	FY2015/16	FY2016/17	3-Year Total
Engineering, Environmental, and Outreach Services - B&C	73,640	77,051	33,669	460,660	874,799	33,669	1,369,128	1,425,632	51.01%	823,335	907,636	1,063,789	2,794,760
SCWA Administration, Grants, and EIR/EIS	3,111	5,801		32,013	41,447	-	73,460	326,540	24.87%	116,836	132,205	150,958	400,000
Total Costs for Study	76,750	82,852	33,669	492,673	916,245	33,669	1,408,919	1,785,841	58.67%	940,171	1,039,841	1,214,747	3,194,760
Total Costs for Phase 2	91,861	98,203	48,843	664,786	1,105,530	48,843	1,819,158	536,295	22.77%	1,115,891	1,239,561	1,390,467	3,745,920

Joint Use										FY2014/15	FY2015/16	FY2016/17	3-Year Total
Program Management - Weir	690	3,880	7,810	46,917	51,582	7,810	106,309	115,191	52.01%	70,500	75,500	75,500	221,500
State Advocacy - The Onate Group (Sub to Bryant)	3,000	3,000	3,700	36,000	36,000	3,700	75,700	40,700	34.97%	36,000	36,000	44,400	116,400
SCWA Administration	14,694	17,740		73,702	152,302	-	226,004	178,996	56.93%	135,000	135,000	135,000	405,000
Total Costs for Joint Use	18,384	24,620	11,510	156,619	239,884	11,510	408,013	334,887	62.90%	241,500	246,500	254,900	742,900

Note: Weir costs for July - September, 2014, \$10,650, are under prior agreement through Sept. 30, 2014.

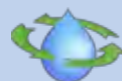
Note: \$8,400 added to State Advocacy for FY16/17.

Total Costs										FY2014/15	FY2015/16	FY2016/17	3-Year Total
Weir	690	3,880	7,810	46,917	51,582	7,810	106,309	115,191	52.01%	70,500	75,500	75,500	221,500
Bryant & Associates	26,732	27,075	27,909	308,725	333,672	27,909	670,307	352,693	34.48%	314,200	362,200	346,600	1,023,000
Brown & Caldwell	77,679	81,695	33,927	494,736	947,040	33,927	1,475,703	1,516,676	50.68%	895,963	985,634	1,110,782	2,992,379
CDM Smith	-	-	-	20,122	-	-	20,122	29,560	23.65%	-	-	-	-
SCWA Administration, Grants, and EIR/EIS	17,804	23,541	-	105,715	193,749	-	299,463	505,537	62.80%	251,836	267,205	285,958	805,000
Total Costs for NBWRA	122,905	136,192	69,646	956,093	1,526,043		2,482,136	2,490,097	49.39%	1,532,499	1,690,539	1,818,840	5,041,879

Note: CDM Smith costs not included in fiscal year totals as they were previously approved in prior fiscal years.

Program Development, Federal and State Advocacy Report

NBWRA Board Meeting
August 22, 2016

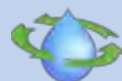


Today's Topics

- 💧 State Advocacy
- 💧 Program Development and Federal Advocacy



State Advocacy



State Advocacy

- 💧 July is legislative summer break, which resulted in a very light month for Capitol activities
- 💧 **In response to Board Member Russell's request last month for information pertaining to SB 163, please find attached a supplemental file on the issue that contains:**
 - A copy of SB 163
 - Assembly committee analysis that is very good
 - A Press Release from Sen. Hertzberg
 - End of Session letter from Sen. Hertzberg
 - Opposition letters from CASA, NBWRA and WaterReuse



Program Development and Federal Advocacy



Program Development and Federal Advocacy

- 💧 Washington DC – September 20-22
 - This month House and Senate Drought bills are being conferenced
 - We are one of the primary advocates of key aspects in this legislation and need to make sure the issues we care about; grants, loans, Title XVI and the authorization fix language are all in the legislation
- 💧 **Congress adjourns at the end of September and won't be back in session until after the election**
- 💧 It is anticipated the Western Drought Bill will be voted on during the lame duck session after the election



💧 Questions?



AMENDED IN ASSEMBLY JUNE 8, 2016

AMENDED IN ASSEMBLY SEPTEMBER 3, 2015

AMENDED IN SENATE JUNE 2, 2015

SENATE BILL

No. 163

Introduced by Senator Hertzberg

February 4, 2015

An act to add Section 13557.5 to the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 163, as amended, Hertzberg. Wastewater treatment: recycled water.

The California Constitution requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable and that the waste or unreasonable use or unreasonable method of use of water be prevented. Existing law declares that the use of potable domestic water for certain nonpotable uses is a waste or an unreasonable use of water if recycled water is available, as determined by the State Water Resources Control Board, and other requirements are met.

Under existing law, the state board and the 9 California regional water quality control boards prescribe waste discharge requirements in accordance with the federal national pollutant discharge elimination system (NPDES) permit program established by the federal Clean Water Act and the Porter-Cologne Water Quality Control Act.

~~This bill would declare that the discharge of treated wastewater from ocean outfalls, that, except in compliance with the bill's provisions, it is a waste and unreasonable use of water in light of the cost-effective opportunities to recycle this water for further beneficial use. This bill,~~

~~on or before January 1, 2026, would require a wastewater treatment facility discharging through an ocean outfall to achieve at least 50% reuse of the facility's actual annual flow, as defined, for beneficial purposes. This bill, on and after January 1, 2036, would prohibit the discharge of treated wastewater through ocean outfalls, except as backup discharge, as defined, and would require a wastewater treatment facility to achieve 100% reuse of the facility's actual annual flow for beneficial purposes. This bill, on and after January 1, 2022, would authorize a NPDES permitholder subject to these requirements to petition the state board for a partial exemption to the above-described requirements. This bill would require the state board to determine, after notice and opportunity for comment, whether the petition demonstrates that the NPDES permitholder cannot comply with these reuse requirements and would provide that an exemption from these reuse requirements is valid for a period of no more than 5 years, at which point the NPDES permitholder is required to reapply for an exemption or comply with these reuse requirements. This bill would prohibit a NPDES permitholder subject to these provisions from being eligible for state grants or loans if they receive a partial exemption to these reuse requirements, unless the state grant or loan is solely for the purpose of achieving compliance with these reuse requirements.~~ *water to discharge treated wastewater from an ocean or bay outfall, or for a water supplier or water replenishment district to not take treated wastewater made available for certain purposes. The bill would require the state board to promulgate regulations, on or before January 1, 2020, that would require each NPDES permitholder, on or before January 1, 2023, to submit to the state board the permitholder's plans to achieve beneficial reuse, to the maximum extent possible, of treated wastewater that would otherwise be discharged through ocean or bay outfalls. The bill would require these regulations to require, on or before January 1, 2033, the beneficial reuse of at least 50% of treated wastewater that the NPDES permitholder would otherwise discharge though ocean or bay outfalls relative to the inflow to the treatment plant. The bill would require the regulations to provide operational and compliance flexibility, as specified. The bill would authorize the state board to convene an advisory group and to consider any other recommendations or testimony provided during the regulation adoption process. The bill would authorize the state board to adopt reasonable fees payable by a holder of an NPDES permit to recover costs incurred in administering these provisions.*

~~This bill would require a holder of a NPDES permit authorizing the discharge of wastewater through an ocean outfall as of January 1, 2016, to submit, on or before July 1, 2020, a prescribed plan to meet these provisions, directly or by contract, to the executive director of the state board and would require the plan to be updated on or before January 1, 2024. This bill, on or before January 1, 2017, and by January 1 every 5 years thereafter, would require the holder of a NPDES permit authorizing the discharge of wastewater through an ocean outfall to submit a report to the executive director of the state board summarizing the actions accomplished to date and the actions remaining and proposed to meet the requirements of these provisions. This bill would require the state board to submit a report to the Governor and the Legislature on the implementation of these provisions on or before July 1, 2021, and by July 1 every 5 years thereafter.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 13557.5 is added to the Water Code, to
2 read:
3 13557.5. (a) The Legislature hereby finds and declares that,
4 except in compliance with the provisions of this section, it is a
5 waste and unreasonable use of water within the meaning of Section
6 2 of Article X of the California Constitution to discharge treated
7 wastewater from an ocean or bay outfall, or for a water supplier
8 or water replenishment district to not take treated wastewater
9 made available to the supplier or district for groundwater
10 recharge, surface water augmentation, or landscape irrigation.
11 (b) On or before January 1, 2020, the state board shall
12 promulgate regulations to require both of the following:
13 (1) On or before January 1, 2023, each holder of an NPDES
14 permit to submit to the state board the permitholder's plans to
15 achieve beneficial reuse, to the maximum extent possible, of treated
16 wastewater that would otherwise be discharged through ocean or
17 bay outfalls.
18 (2) On or before January 1, 2033, the beneficial reuse of at
19 least 50 percent of treated wastewater that the NPDES
20 permitholder would otherwise discharge through ocean or bay
21 outfalls relative to the inflow to the treatment plant.

1 (c) The regulations promulgated pursuant to subdivision (b)
2 shall provide operational and compliance flexibility in the event
3 of an emergency, scheduled maintenance or repairs, extreme
4 weather events, or any other factor that the board determines
5 warrants consideration.

6 (d) In developing the regulations pursuant to subdivision (b),
7 the state board may convene an advisory group for the purpose
8 of preparing a report or recommendations to the state board about
9 how to implement this section and the state board may consider
10 any other recommendations or testimony provided during the
11 regulation adoption process.

12 (e) Consistent with Section 3 of Article XIII A of the California
13 Constitution, the state board may adopt reasonable fees payable
14 by a holder of an NPDES permit to recover costs incurred in
15 administering this section.

16 ~~SECTION 1. The Legislature finds and declares all of the~~
17 ~~following:~~

18 ~~(a) Severe drought conditions have persisted for the last three~~
19 ~~years in California, and 2013 was the state's driest calendar year~~
20 ~~on record.~~

21 ~~(b) California's water supplies have dipped to alarmingly low~~
22 ~~levels indicated by the very limited snowpack in the Sierra Nevada~~
23 ~~Mountains, declining water levels in the state's largest water~~
24 ~~reservoirs, reduced surface water flows in major river systems,~~
25 ~~and historically low groundwater levels. These water supplies~~
26 ~~continue to be severely depleted despite a limited amount of winter~~
27 ~~precipitation in 2014.~~

28 ~~(c) The duration of the drought is unknown, but based on the~~
29 ~~projected impact of climate change on California's snowpack,~~
30 ~~extremely dry conditions will likely continue beyond this year and~~
31 ~~occur more regularly in the future.~~

32 ~~(d) Continuous severe drought conditions present urgent~~
33 ~~challenges across the state, including, but not limited to, water~~
34 ~~shortages in communities and for agricultural production, increased~~
35 ~~risk of wildfires, degraded habitat for fish and wildlife, and threat~~
36 ~~of saltwater contamination in large fresh water supplies.~~

37 ~~(e) Water reuse is one of the most efficient and cost-effective~~
38 ~~ways to improve the drought resilience of California communities.~~

39 ~~(f) The State Water Resources Control Board has established~~
40 ~~goals of recycling 1,500,000 acre-feet of wastewater by 2020 and~~

1 2,500,000 acre-feet of wastewater by 2030. However, California
2 is not on track to meet the board's goals:

3 (g) ~~The discharge of treated wastewater from ocean outfalls~~
4 ~~constitutes waste and unreasonable use of water within the meaning~~
5 ~~of Section 2 of Article X of the California Constitution, in light of~~
6 ~~the opportunities to recycle this water for further beneficial use.~~

7 (h) ~~By prohibiting ocean discharges from wastewater treatment~~
8 ~~plants, California could dramatically accelerate the adoption of~~
9 ~~water recycling and thus increase water supply available for~~
10 ~~beneficial use.~~

11 (i) ~~Water recycling can reduce California's dependence on~~
12 ~~diversions from surface rivers and streams that are subject to~~
13 ~~variable climate and regulatory conditions.~~

14 (j) ~~In addition to water supply benefits, requiring water recycling~~
15 ~~for further beneficial use eliminates ocean wastewater discharges,~~
16 ~~decreasing pollutant loadings to ocean waters and improving~~
17 ~~coastal water quality, thereby benefitting the aquatic environment~~
18 ~~and local economies that depend on those coastal resources.~~

19 SEC. 2. ~~Section 13557.5 is added to the Water Code, to read:~~

20 13557.5. (a) ~~The Legislature hereby finds and declares that~~
21 ~~the discharge of treated wastewater from ocean outfalls, except in~~
22 ~~compliance with the provisions of this section, is a waste and~~
23 ~~unreasonable use of water within the meaning of Section 2 of~~
24 ~~Article X of the California Constitution in light of the cost-effective~~
25 ~~opportunities to recycle this water for further beneficial use,~~
26 ~~including both potable and nonpotable uses.~~

27 (b) ~~On or before January 1, 2026, each wastewater treatment~~
28 ~~facility that discharges through an ocean outfall shall achieve at~~
29 ~~least 50 percent reuse of the facility's actual annual flow for~~
30 ~~beneficial purposes.~~

31 (c) ~~On and after January 1, 2036:~~

32 (1) ~~A wastewater treatment facility shall not discharge treated~~
33 ~~wastewater through ocean outfalls, except as a backup discharge.~~
34 ~~A backup discharge may occur only during periods of reduced~~
35 ~~demand for reclaimed water in the reuse system, such as a period~~
36 ~~of wet weather.~~

37 (2) ~~Each wastewater treatment facility shall achieve 100 percent~~
38 ~~reuse of the facility's actual annual flow for further beneficial use.~~

39 (d) (1) ~~A holder of a NPDES permit authorizing the discharge~~
40 ~~of wastewater through an ocean outfall as of January 1, 2016, shall~~

1 submit, on or before July 1, 2020, a plan to meet the requirements
2 of this section, directly or by contract, to the executive director of
3 the state board that contains all of the following:

4 (A) ~~An identification of all land acquisition and facilities~~
5 ~~necessary to provide for treatment, transport, and reuse of treated~~
6 ~~wastewater.~~

7 (B) ~~An analysis of the costs to meet the requirements of this~~
8 ~~section.~~

9 (C) ~~A financing plan for meeting the requirements of this~~
10 ~~section, including identifying any actions necessary to implement~~
11 ~~the financing plan, such as bond issuance or other borrowing,~~
12 ~~assessments, rate increases, fees, charges, or other financing~~
13 ~~mechanisms.~~

14 (D) ~~A detailed schedule for the completion of all necessary~~
15 ~~actions.~~

16 (E) ~~Supporting data and other documentation accompanying~~
17 ~~the plan.~~

18 (2) ~~On or before January 1, 2024, the plan described in~~
19 ~~paragraph (1) shall be updated and submitted to the executive~~
20 ~~director of the state board by the permit holder to include any~~
21 ~~refinements or changes in the costs, actions, or financing necessary~~
22 ~~to achieve full recycling of all wastewater and thereby eliminate~~
23 ~~the ocean outfall discharge in accordance with this section or a~~
24 ~~written statement that the plan is current and accurate.~~

25 (e) ~~On or before January 1, 2017, and by January 1 every five~~
26 ~~years thereafter, the holder of a NPDES permit authorizing the~~
27 ~~discharge of wastewater through an ocean outfall shall submit to~~
28 ~~the executive director of the state board a report summarizing the~~
29 ~~actions accomplished to date and the actions remaining and~~
30 ~~proposed to meet the requirements of this section. The report shall~~
31 ~~include progress toward meeting the deadlines set forth in~~
32 ~~subdivisions (b) to (d), inclusive, and specifically include the~~
33 ~~detailed schedule for, and status of, the following:~~

34 (1) ~~Evaluation of reuse and disposal options.~~

35 (2) ~~Preparation of preliminary design reports.~~

36 (3) ~~Preparation and submission of permit applications.~~

37 (4) ~~Construction initiation.~~

38 (5) ~~Construction progress milestones.~~

39 (6) ~~Construction completion.~~

40 (7) ~~Initiation of operation.~~

1 ~~(8) Continuing operation and maintenance.~~

2 ~~(f) (1) On or before July 1, 2021, and by July 1 every five years~~
3 ~~thereafter, the state board shall submit a report to the Governor~~
4 ~~and the Legislature on the implementation of this section. The~~
5 ~~report shall summarize the progress up to date, including the~~
6 ~~increased amount of reclaimed water provided and potable water~~
7 ~~offsets achieved, and shall identify any obstacles to continued~~
8 ~~progress, including all instances of substantial noncompliance.~~

9 ~~(2) A report to be submitted pursuant to paragraph (1) shall be~~
10 ~~submitted in compliance with Section 9795 of the Government~~
11 ~~Code.~~

12 ~~(g) (1) On and after January 1, 2022, a NPDES permitholder~~
13 ~~subject to the requirements of this section, may petition the state~~
14 ~~board for a partial exemption to the requirements of this section.~~
15 ~~The petition shall include the information required in subdivisions~~
16 ~~(d) and (e), and shall demonstrate that the NPDES permitholder~~
17 ~~cannot comply with the requirements of this section for one of the~~
18 ~~following reasons:~~

19 ~~(A) The state board has failed to adopt regulations that approve~~
20 ~~the indirect potable reuse of wastewater.~~

21 ~~(B) Upgrading the wastewater treatment plant to achieve~~
22 ~~recycled water standards produces recycled water that costs more~~
23 ~~than twice the cost per acre foot as compared with other new~~
24 ~~surface and groundwater supplies.~~

25 ~~(C) The wastewater treatment plant has achieved water quality~~
26 ~~standards for recycled water, but there is not sufficient demand~~
27 ~~for this water within the region.~~

28 ~~(2) The state board shall determine, after notice and opportunity~~
29 ~~for comment, whether the petition demonstrates that the NPDES~~
30 ~~permitholder cannot comply with the requirements of this section~~
31 ~~pursuant to paragraph (1). If the state board approves the partial~~
32 ~~exemption to the requirements of this section, that exemption shall~~
33 ~~be valid for a period of no more than five years, at which point the~~
34 ~~NPDES permitholder shall reapply for an exemption or comply~~
35 ~~with the requirements of this section.~~

36 ~~(3) A NPDES permitholder subject to the requirements of this~~
37 ~~section shall not be eligible for state grants or loans if they receive~~
38 ~~a partial exemption to the requirements of this section pursuant to~~
39 ~~this subdivision, unless the state grant or loan is solely for the~~

1 ~~purpose of achieving compliance with the requirements of this~~
2 ~~section.~~

3 ~~(h) As used in this section:~~

4 ~~(1) “Actual annual flow” means the annual average flow of~~
5 ~~treated wastewater discharging through a facility’s ocean outfall~~
6 ~~as determined by the state board using monitoring data available~~
7 ~~for calendar years 2009 to 2014, inclusive.~~

8 ~~(2) “Backup discharge” means a surface water discharge that~~
9 ~~occurs as part of a functioning reuse system that has been permitted~~
10 ~~in accordance with the rules of the state board and that provides~~
11 ~~reclaimed water for irrigation or public access areas, residential~~
12 ~~properties, edible food crops, sea water barrier injection to protect~~
13 ~~groundwater resources, groundwater replenishment, industrial~~
14 ~~cooling, or other acceptable reuse purposes. “Backup discharge”~~
15 ~~may also include releases to the ocean on an emergency basis, as~~
16 ~~approved by a regional board, for a duration not to exceed 90 days~~
17 ~~and only in the quantities as are necessary in the event of a storm~~
18 ~~or other cause that impedes groundwater replenishment.~~

Date of Hearing: June 14, 2016

ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS

Luis Alejo, Chair

SB 163 (Hertzberg) – As Amended June 8, 2016

SENATE VOTE: 28-12

SUBJECT: Wastewater treatment: recycled water

SUMMARY: Requires, by January 1, 2023, holders of National Pollutant Discharge Elimination System (NPDES) permits to submit a plan to the California State Water Resources Control Board (State Water Board) for the beneficial reuse of treated wastewater that would otherwise be discharged through ocean or bay outfalls and requires, by January 1, 2033, NPDES permit holders to beneficially reuse at least 50% of treated wastewater that would otherwise be discharged through ocean or bay outfalls. Specifically, **this bill**:

- 1) Makes legislative findings that it is a waste and an unreasonable use of water within the California Constitution to discharge treated wastewater from an ocean or bay outfall or for a water supplier or water replenishment district to not take treated wastewater made available to the supplier or district for groundwater recharge, surface water augmentation, or landscape irrigation.
- 2) Requires, on or before January 1, 2020, the State Water Board to promulgate regulations that require both of the following:
 - a. On or before January 1, 2023, each holder of an NPDES permit to submit to the State Water Board the permitholder's plans to achieve beneficial reuse, to the maximum extent possible, of treated wastewater that would otherwise be discharged through ocean or bay outfalls; and,
 - b. On or before January 1, 2033, the beneficial reuse of at least 50% of treated wastewater that the NPDES permitholder would otherwise discharge through ocean or bay outfalls relative to the inflow to the treatment plant.
- 3) Requires the regulations promulgated by the State Water Board to provide operational and compliance flexibility in the event of an emergency, scheduled maintenance or repairs, extreme weather events, or any other factor that the State Water Board determines warrants consideration.
- 4) Authorizes the State Water Board, in developing the regulations for the beneficial reuse of treated wastewater, to convene an advisory group for the purpose of preparing a report or recommendations to the State Water Board about how to implement the plan to beneficially reuse treated wastewater, authorizes the State Water Board to consider any other recommendations or testimony provided during the regulation adoption process.
- 5) Authorizes the State Water Board to adopt reasonable fees payable by a holder of an NPDES permit to recover the costs of developing and implementing the regulations for beneficially reusing treated wastewater that would otherwise be discharged through an ocean or bay outfall, including the convening of an advisory group.

EXISTING LAW:

- 1) Declares that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare. (Section 2 of Article X of the California Constitution)
- 2) Establishes state policy goal to increase the use of recycled water in the state over 2002 levels by at least 1,000,000 acre-feet per year by 2020 and by at least 2,000,000 acre-feet per year by 2030. (State Water Board Resolution No. 2009-0011)
- 3) Defines “direct potable reuse” as the planned introduction of recycled water either directly into a public water system or into a raw water supply immediately upstream of a water treatment plant. (WC § 13561 (b))
- 4) Defines “indirect potable reuse for groundwater recharge” as the planned use of recycled water for replenishment of a groundwater basin or an aquifer that has been designated as a source of water supply for a public water system. (WC § 13561 (c))
- 5) Defines “surface water augmentation” as the planned placement of recycled water into a surface water reservoir used as a source of domestic drinking water supply. (WC § 13561 (d))
- 6) Requires, on or before December 31, 2016, the State Water Board to investigate and report to the Legislature on the feasibility of developing uniform water recycling criteria for direct potable reuse. Requires the State Water Board to complete a public review draft of its report by September 1, 2016. Requires the State Water Board to provide the public not less than 45 days to review and comment on the public review draft. (WC § 13563)
- 7) States that no person shall recycle water or use recycled water for any purpose for which recycling criteria have been established until water recycling requirements have been established or a regional board determines that no requirements are necessary. (WC § 13524)
- 8) Makes legislative findings that the use of potable domestic water for nonpotable uses, including, but not limited to, cemeteries, golf courses, parks, highway landscaped areas, and industrial and irrigation uses, is a waste or an unreasonable use of the water within the California Constitution if recycled water is available which meets certain conditions, as determined by the State Water Board, after notice to any person or entity who may be ordered to use recycled water or to cease using potable water and a hearing. (WC § 13550)
- 9) Makes legislative findings that the use of potable domestic water for the irrigation of residential landscaping is a waste or an unreasonable use of water within the California Constitution if recycled water, for this use, is available to the residents and meets specified requirements as determined by the State Water Board after notice and a hearing. (WC § 13552.2)

- 10) Makes legislative findings that the use of potable domestic water for floor trap priming, cooling towers, and air-conditioning devices is a waste or an unreasonable use of water within the California Constitution if recycled water, for these uses, is available to the user, and the water meets specified requirements as determined by the State Water Board after notice and a hearing. (WC § 13552.6)
- 11) Makes legislative findings that the use of potable domestic water for toilet and urinal flushing in structures is a waste or an unreasonable use of water within the California Constitution if recycled water, for these uses, is available to the user and meets specified requirements as determined by the State Water Board after notice and a hearing. (WC § 13553)
- 12) Declares that the people of the state have a primary interest in the development of facilities to recycle water containing waste to supplement existing surface and underground water supplies and to assist in meeting the future water requirements of the state. (WC § 13510)
- 13) Makes legislative findings that a substantial portion of the future water requirements of this state may be economically met by beneficial use of recycled water. Finds that the utilization of recycled water by local communities for domestic, agricultural, industrial, recreational, and fish and wildlife purposes will contribute to the peace, health, safety and welfare of the people of the state. Use of recycled water constitutes the development of “new basic water supplies” as defined. (WC § 13511)
- 14) Declares that it is the intent of the Legislature that the state undertake all possible steps to encourage development of water recycling facilities so that recycled water may be made available to help meet the growing water requirements of the state. (WC § 13512)

FISCAL EFFECT: Unknown.

COMMENTS:

Need for the bill: According to the author, “California remains in a historic drought. Scientists predict our changing climate will increase the frequency, length, and severity of droughts. California has watched as water supplies have dwindled with less snow and fewer significant rain events. The severe drought conditions that grip more than 90 percent of the state have brought the issue of water conservation to the forefront of political discussions and policymaking.

However, we in California continue to let millions of gallons of treated wastewater – water that is useable and valuable – pour into the ocean every day. It is estimated that the state of California lets more than 1.5 billion gallons of treated fresh water go out to the ocean per day. The Los Angeles area alone is responsible for some 650 million gallons per day going out to the ocean. Even in a drought, we are letting enormous quantities of highly treated fresh water flow into the ocean. This is unsustainable.”

National Pollutant Discharge Elimination System (NPDES): As authorized by the federal Clean Water Act (CWA), the NPDES Permit Program controls water pollution by regulating point sources that discharge pollutants into waters of the United States. Point sources are discrete conveyances such as pipes or man-made ditches. Examples of pollutants include, but are not limited to, rock, sand, dirt, and agricultural, industrial, and municipal waste.

The NPDES Program is a federal program which has been delegated to the State of California for implementation through the State Water Board and the nine Regional Water Quality Control Boards (Regional Water Boards). In California, NPDES permits are also referred to as waste discharge requirements (WDRs) that regulate discharges to waters of the United States.

Waste and unreasonable use of water: SB 163 states that the Legislature finds and declares that, except in compliance with SB 163, it is a waste and unreasonable use of water within the meaning of Section 2 of Article X of the California Constitution to discharge treated wastewater from an ocean or bay outfall, or for a water supplier or water replenishment district to not take treated wastewater made available to the supplier or district for groundwater recharge, surface water augmentation, or landscape irrigation.

This section would become effective on January 1, 2017, meaning that beginning on January 1, it would be considered a waste and unreasonable use of water to discharge treated wastewater from an ocean or bay outfall. Is it possible to not have any ocean discharges by January 1, 2017? It's possible, given the nature of the 2033 goal, that this section was not meant to take effect right away.

This section also states that it's a waste and unreasonable waste of water for a water supplier or water replenishment district to not take treated wastewater made available to the supplier or district for groundwater recharge, surface water augmentation, or landscape irrigation. What is meant by "made available"? If a holder of a NPDES permit treats its wastewater water for beneficial reuse, and "makes it available" at any price the NPDES permit holder chooses, is the supplier or district required to take the water, even if it can't use the water? Lastly, it is not clear what happens to a NPDES permit holder or a supplier or district if they fail to comply with this section.

Given the uncertainty of how to comply with this section and the overall goal of the bill the Committee may wish to consider whether or not this section should be kept or amended out of the bill.

Regulations by the State Water Board: The bill requires, by January 1, 2020, the State Water Board to adopt regulations that require both of the following:

- a. On or before January 1, 2023, each holder of an NPDES permit to submit to the State Water Board the permit holder's plans to achieve beneficial reuse, to the maximum extent possible, of treated wastewater that would otherwise be discharged through ocean or bay outfalls; and,
- b. On or before January 1, 2033, the beneficial reuse of at least 50% of treated wastewater that the NPDES permit holder would otherwise discharge through ocean or bay outfalls relative to the inflow to the treatment plant.

These requirements are not consistent. First, the bill requires NPDES permit holders to submit a plan to the State Water Board to achieve beneficial reuse, to the maximum extent possible, of treated wastewater otherwise discharged to the ocean or bay outfalls. The phrase "maximum extent possible" does not take into account feasibility, either financial feasibility or technological feasibility. This is simply a plan; it does not speak of what percent of treated wastewater should be recycled.

The second requirement of the section requires a NPDES permit holder to reuse at least 50% of treated wastewater relative to the inflow to the treatment plant. It is not clear, what the actual target is. Is the goal to reduce 50% of treated wastewater discharged as of 2017? Or a different date? Or is the goal a 50% reduction based on inflow into the wastewater system, which could fluctuate each year due to rainfall?

The bill makes a strong point that it could be beneficial to the state to have statutory goals. These goals can drive innovation and technology in order to achieve environmental and public health benefits. In this case, the goal is designed to provide greater supplies of clean, safe drinking water to all Californians in wet or dry years and to have the ability to have surplus water to store in groundwater aquifers and surface storage reservoirs. However, the State Water Board is currently working with an expert panel to develop regulations for surface water augmentation with recycled water. It is on target to adopt these regulations by December 31, 2016.

The (water) elephant in the room: In California there are several legally allowable uses for recycled water, such as for groundwater recharge, landscape and agricultural irrigation, and upon adoption of regulations by the State Water Board at the end of this calendar year, surface water augmentation. However, there is one key recycling option not currently on the table: direct potable reuse. This could one day be a component of the state's water recycling portfolio, however many questions remain. First, there would need to be greater public outreach to dispel concerns over using "toilet to tap" water. Second, before this option is used on a wide scale in this state, it's important to thoroughly investigate the ability to effectively treat this water so that would be a safe option for drinking water. The State Water Board will be releasing a feasibility study for direct potable reuse at the end of this calendar year. Finally, before this is an option, the State Water Board would need to first develop and adopt regulations for direct potable reuse in California, a process that could take a year or more.

Given all of the uncertainties over the feasibility of beneficially reusing 50% of treated wastewater by 2033, the Committee may wish to consider replacing this section with the following:

(b) On or before January 1, 2020, each holder of an NPDES permit shall submit to the state board a plan (Plan) for beneficially reusing treated wastewater that would otherwise be discharged through ocean or bay outfalls. The Plan shall include, but not be limited to, the average annual ocean or bay outfalls by the permit holder, the average annual water that is recycled and the beneficial use of that recycled water, all current and future options of beneficially reusing treated wastewater, including the feasibility of those options, steps the permit holder is current taking to beneficially reuse treated wastewater and the percentage of the treated wastewater currently being reused.

Advisory group: This bill authorizes the State Water Board to convene an advisory group for the purpose of preparing a report or recommendations to the State Water Board about how to beneficially reuse at least 50 percent of treated wastewater that would otherwise be discharged to the ocean or bay outfalls. Given the complexities of this issue allowing the affected permit holders, suppliers and districts to provide input to the State Water Board is a good idea.

Given the importance of this issue, the Committee may wish to consider whether or not this advisory group should be required (not simply authorized) and should provide for broad

stakeholder input as well as have a date certain by which they must produce recommendations to the State Water Board.

Arguments in support: According to the Natural Resources Defense Council,

“Water recycling is a critically important part of California’s water portfolio for cities, farms, and the environment. The 2009 statewide survey concluded that agencies were recycling 669,000 acre feet per year, with agricultural irrigation the single largest user of recycled water. However, California did not meet the State’s objective of recycling 1 million acre feet per year by 2010 (*see* Water Code § 13577), nor is the State on track to meet the objectives of recycling 1.5 million acre feet per year by 2020 and 2.5 million acre feet per year by 2030 (*see* SWRCB Water Recycling Policy). SB 163 focuses on the coast because water that is discharged to the ocean cannot be beneficially reused. The State estimates that more than 1.3 million acre feet of water was discharged into the ocean and bays in 2014. Instead of recycling this water so it can be beneficially reused, agencies are diverting water from California’s overtapped rivers and the Bay-Delta estuary, transporting that water hundreds of miles (often using significant amounts of energy), treating it, using it once, treating it again, and dumping it in the ocean. This is a waste of water that we cannot afford.

SB 163 would provide agencies more than fifteen years to achieve the requirement of recycling 50% of the water that would otherwise be wastefully discharged to oceans and bays, with local agencies determining how best to achieve this requirement. The bill also allows the State Water Resources Control Board to grant exceptions from the requirement for exigent circumstances like extreme weather events, emergencies, or repairs.

Agencies such as the Orange County Water District (OCWD) have demonstrated that SB 163 will be feasible, particularly with such a long timeline for achieving compliance. According to OCWD, with its recent expansion in 2015 their Groundwater Replenish Project now recycles 100 million gallons per day, at a lower cost than imported water and using half of the energy involved in importing water to Southern California.”

Arguments in opposition: According to a coalition of associations and individual water and wastewater agencies,

“This measure would impose an unworkable mandate on ocean and bay dischargers to achieve 50 percent beneficial reuse of discharge to bay or ocean outfalls by 2033....The coalition strongly supports water recycling and reuse, but SB 163 would disrupt existing efforts to promote recycled water production and use as well as innovative reuse projects currently being implemented throughout the state.

The cost to implement a 50 percent reuse mandate on all ocean and bay dischargers in the state would be staggering, regardless of whether the mandate is imposed agency by agency or on a statewide aggregate basis. Initial estimates are in the billions of dollars (and potentially tens of billions), and would include massive treatment facility upgrades, significant infrastructure costs (as well as billions of dollars in stranded infrastructure investments), and a fundamental shift in how wastewater operations with ocean and bay outfalls are managed today. These costs would be borne, in part or in whole by local ratepayers.

The mandate proposed in SB 163 as amended is premature in light of pending regulatory efforts intended to lay the foundation for additional recycled water production and beneficial

uses moving forward. Specifically, an existing “regulatory gap” needs to be filled before wastewater agencies can determine what methods, processes and types of reuse make the most sense for the increase in use of recycled water in their service areas. Of particular note is the need for regulations permitting effective Direct Potable Reuse (DPR), which is absolutely necessary for achieving anything close to what SB 163 proposes.

The State Water Board is currently receiving input from an expert panel and an advisory group on the feasibility of developing criteria for direct potable reuse (DPR), the results of which could dramatically change the suite of options for wastewater agencies to beneficially reuse their water. The availability of DPR is essential for maximizing recycled water production and beneficial use in the state, yet SB 163 would impose a mandate before that process has been completed.”

Related legislation:

- 1) AB 1738 (McCarty) would require the Department of Housing and Community Development (Department) to develop building standards for the construction, installation, and alteration of dark graywater systems, as defined. This bill is currently pending before the Senate Transportation and Housing Committee.
- 2) AB 2022 (Gordon) would authorize the bottling of advanced purified demonstration water, as defined, for educational purposes and to promote water recycling. This bill is pending before the Senate Environmental Quality Committee.
- 3) SB 918 (Pavley, Chapter 700, Statutes of 2010) requires the Department of Public Health (the responsibility for recycled water has since been shifted to the State Water Board) to adopt uniform water recycling criteria for indirect potable water reuse for groundwater recharge by December 31, 2013; to develop and adopt uniform water recycling criteria for surface water augmentation by December 31, 2016; and, to investigate and report on the feasibility of developing uniform water recycling criteria for direct potable reuse.

Double-referral: Should this bill pass Environmental Safety and Toxic Materials Committee, it will be referred to the Assembly Water Parks and Wildlife Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Natural Resources Defense Council

Opposition

Association of California Water Agencies
 California Association of Sanitation Agencies
 California Chamber of Commerce
 California Manufacturers & Technology Association
 California Municipal Utilities Association
 California Special Districts Association
 City of San Diego, Public Utilities Department
 Delta Diablo

Dublin San Ramon Services District
East Bay Municipal Utility District
Goleta West Sanitary District
Irvine Ranch Water District
Las Gallinas Valley Sanitary District
League of California Cities
Leucadia Wastewater District
Monterey Peninsula Water Management District
Napa Sanitation District
Oro Loma Sanitary District
Partnership for Sound Science in Environmental Policy
San Francisco Public Utilities Commission
Sanitation Districts of Los Angeles County
Sausalito-Marín City Sanitary District
Selma-Kingsburg-Fowler County Sanitation District
Silicon Valley Clean Water
Southern California Alliance of POTWs
Southwest California Legislative Council
Vallejo Sanitation and Flood Control District
Victor Valley Wastewater Reclamation Authority
WaterReuse California
West Bay Sanitary District
West County Wastewater District
Western State Petroleum Association

Analysis Prepared by: Josh Tooker / E.S. & T.M. / (916) 319-3965

SB 163 takes aim at a common practice that wastes billions of gallons of usable water throughout the state every single day

June 13, 2016

SACRAMENTO – Sen. Bob Hertzberg, D-Van Nuys, unveiled legislation today to stop the wasteful dumping of treated water into the ocean and instead find ways to reuse the water as part of efforts to better manage the precious resource during California’s historic drought.

SB 163 requires agencies that dump treated water to come up with plans on how to beneficially reuse the water and sets a goal of reusing half of the discharged water within a decade of the agencies submitting their plans.

“California’s drought has forced us to rethink everything we do with water and consider how to be more intelligent in how we manage it,” Hertzberg said. “This legislation is a no-brainer. Let’s find a way to reuse treated water instead of dumping it into the ocean. We have to stop thinking of treated water as a waste product – it’s a valuable resource to be utilized.”

California discharges an estimated 1.5 billion gallons of treated water – the equivalent of 18 Rose Bowls filled with water – into the ocean every day. In Los Angeles County alone, 650 million gallons of treated water goes into the Pacific daily.

This is water that has been used once and flows from homes and businesses through drains, pipes and water treatment centers, where the water is purified to meet federal standards and is nearly clean enough to drink. Instead of wasting the water, it could be used for irrigation, recharging groundwater or other important purposes.

The bill is supported by the California Coastal Protection Network, California League of Conservation Voters, Heal the Bay, the Natural Resources Defense Council and the Sierra Club.

“Each day, wastewater treatment plants send hundreds of millions of gallons of highly treated water into the ocean. This inefficient practice is not good for ocean health, and it’s certainly not helping us combat drought,” said Sarah Sikich, vice president for Heal the Bay. “SB 163 will greatly increase the amount of water recycled throughout the state, and greatly benefit the Los Angeles region where we rely heavily on imported water.”

The bill requires wastewater permit holders to submit plans by 2023 to reuse treated wastewater, to the maximum extent possible, that would otherwise be discharged into the ocean or a bay, and they must reuse at least 50 percent at all facilities by 2033. The bill directs the State Water Resources Control Board to consider convening an advisory group to develop recommendations and regulations to achieve the goal.

“It’s clear that recycled water has a significant place in California’s plan to be more drought-resistant and self-reliant,” said Steve Fleischli, water program director for the Natural Resources Defense Council. “But our current, voluntary program isn’t getting us close enough to meeting water recycling targets. Sen. Hertzberg’s bill could change that and make recycled water a reality for all of California. It’s a cost-effective and smart solution to California’s ongoing water challenges.”

SB 163 is part of a package of bills Sen. Hertzberg has authored to use natural resources more wisely and cope with changes brought by climate change and a punishing drought.

Hertzberg's SB 919 requires the state to better coordinate its power by directing excess renewable energy that can occur during the middle of the day toward water agencies that recycle or purify water. SB 1298 makes changes in state law to help local governments finance stormwater projects and provides options for water agencies to develop different rates to encourage conservation.

"Recycling wastewater from coastal outfalls," said Kyle Jones, water policy advocate for Sierra Club California, "is a smart way to create new water supplies without harming the environment. Sen. Hertzberg's bill will help get more water recycling projects going while keeping a regulatory process in place to make these projects safe."

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Bob Hertzberg, chair of the Senate Committee on Governance and Finance, represents nearly 1 million San Fernando Valley residents of Senate District 18, which includes part of Burbank and the following communities in Los Angeles: Arleta, Granada Hills, Hansen Dam, Lake View Terrace, Mission Hills, North Hills, North Hollywood, part of Northridge, Pacoima, Panorama City, Sherman Oaks, Studio City, part of Sun Valley, Sylmar, Toluca Lake, Valley Glen, Valley Village, Van Nuys, the City of San Fernando and Universal City. See a district map at <http://sd18.senate.ca.gov/district>. After serving in the Assembly from 1996-2002, including two years as Speaker, Hertzberg invested in solar, wind and electric-car projects; and worked for structural changes in government through the Think Long Committee of California. Learn more at www.senate.ca.gov/hertzberg

MEDIA CONTACT: Andrew LaMar
Communications Director
Senator Robert M. Hertzberg
Capitol Building, Room 4038
Sacramento, CA 95814
(916) 651-4018

CAPITOL OFFICE
STATE CAPITOL, ROOM 4038
SACRAMENTO, CA 95814
TEL (916) 651-4018
FAX (916) 651-4918

DISTRICT OFFICE
6150 VAN NUYS BLVD., #400
VAN NUYS, CA 91401
TEL (818) 901-5588
FAX (818) 901-5562

SENATOR.HERTZBERG@SENATE.CA.GOV

California State Senate

SENATOR
ROBERT M. HERTZBERG
EIGHTEENTH SENATE DISTRICT
REPRESENTING LOS ANGELES COUNTY

COMMITTEES
GOVERNANCE AND FINANCE
CHAIR
ELECTIONS AND
CONSTITUTIONAL AMENDMENTS
ENERGY, UTILITIES
AND COMMUNICATIONS
JUDICIARY
NATURAL RESOURCES
AND WATER



June 24, 2016

To the Supporters of Senate Bill 163:

I am writing to thank you for your support and assistance on Senate Bill 163 this year. I also want to let you know that I will be introducing legislation next year, building on this and requiring coastal wastewater dischargers to eliminate the practice of throwing good water into the ocean.

Senate Bill 163 was an attempt to preserve a precious resource – fresh water – by setting a reasonable goal for treated water reuse while offering relief for those entities that need it. Unfortunately, we were unable to work with the opposition on technical aspects of the bill and they remained opposed to any mandate. This is unacceptable to me, and when faced with weakening the bill for this week's hearing in the Assembly, I chose to shelve it for the year and begin with a fresh bill next year.

As you know, California and the world are rapidly urbanizing. Coastal cities and towns will bear the brunt of this future growth. Coupled with California's cyclical droughts and changing climate, local governments will struggle to keep pace with increased demands to provide sufficient drinking water. Yet one good resource is going to waste every day as California water agencies pour between 1 and 3 billion gallons of treated water into the ocean daily – enough for 3-8 million California households!

We face a real challenge about how to address water reliability and supply issues in the future. Solutions will require us to upset some preconceived notions; starting with the notion that treated water is not a waste product, but a valuable resource to be protected.

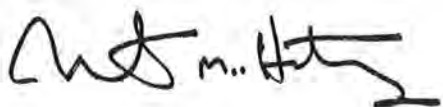
Getting to solutions will require institutional changes at the state and local level, as well as system redesigns to ensure new alternatives for water supply and reliability are available in the next ten to 15 years. Historically – and unfortunately – there is a strong preference in government to focus on immediate spending and benefits, rather than the long-term.

My bill next year will begin to recreate that framework on a few levels. First, we will protect treated water as a valuable resource. Second, we will build up the expectation that local

governments will be held accountable for long-term investments in sustainable water supplies. And third, we will develop a coalition of partners to inform members and the public about the importance and benefits of water reuse. Because the current model of praying for rain and moving water across vast deserts is unsustainable.

I look forward to working with you next year to set California on a path to a more sustainable water future.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob M. Hertzberg". The signature is stylized with a large initial "R" and a long horizontal stroke at the end.

ROBERT M. HERTZBERG
Senator, Eighteenth District



June 17, 2016

The Honorable Luis Alejo, Chair
 Assembly Environmental Safety and Toxic Materials Committee
 State Capitol, Room 2117
 Sacramento, CA 95814

Subject: **SB 163 Hertzberg): Recycled Water Mandate for Ocean and Bay Dischargers – OPPOSE As Amended (June 8, 2016)**

Dear Assembly Member Alejo,

The coalition of undersigned associations and individual water and wastewater agencies continue to respectfully oppose SB 163 (Hertzberg) as amended on June 8, 2016. This bill was heard in the Assembly Environmental Safety and Toxic Materials Committee (Committee) on June 14, 2016. At that time the Committee postponed a vote on the bill one week to allow the author and stakeholders review and digest amendments that were discussed conceptually in Committee but had not been presented to our coalition. **We now understand that no such amendments are in print nor are they anticipated before the Committee hears this bill again on June 21, 2016. Thus, our coalition must respectfully remain opposed to the bill for the reasons outlined in our original opposition letter and for the reasons identified in our testimony provided at the June 14, 2016 hearing.**

This measure would impose an unworkable mandate on ocean and bay dischargers to achieve 50 percent beneficial reuse of discharge to bay or ocean outfalls by 2033. The bill, as amended, has been completely rewritten, but at this late date still contains an unachievable mandate without necessary exemptions or financing for the billions of dollars in new infrastructure that would be needed. The coalition strongly supports water recycling and reuse, but SB 163 would disrupt existing efforts to promote recycled water production and use as well as innovative reuse projects currently being implemented throughout the state.

Our coalition represents nearly all of the ocean dischargers who would be directly impacted by the mandates contained in the bill, as well as many other water and wastewater agencies. As a community we are highly supportive of developing recycled water projects and increasing recycled water production and use in the future. Unfortunately, even as amended, our coalition believes that SB 163 remains unworkable and counterproductive to recycled water efforts in the state.

The amendments do nothing to alleviate the concerns expressed in the coalition's comments on the previous version of the bill, including the billions of dollars in cost to implement the mandate and the feasibility of achieving the mandate in a number of areas across the state. Other significant issues have been raised by the amendments, including a drastic expansion of the concept of "waste and unreasonable use" under the California Constitution and requiring all dischargers to achieve beneficial reuse "to the maximum extent possible" without appropriate consideration of the cost, feasibility or burden for local agencies and their ratepayers.

SB 163 Continues to Impose a Multi-Billion Dollar Mandate With No Funding Mechanism

The cost to implement a 50 percent reuse mandate on all ocean and bay dischargers in the state would be staggering, regardless of whether the mandate is imposed agency by agency or on a statewide aggregate basis. Initial estimates are in the billions of dollars (and potentially tens of billions), and would include massive treatment facility upgrades, significant infrastructure costs (as well as billions of dollars in stranded infrastructure investments), and a fundamental shift in how wastewater operations with ocean and bay outfalls are managed today. These costs would be borne, in part or in whole, by local ratepayers. This could result in wastewater bills that are substantial increases (as much as five times current wastewater rates). In some cases, this would have a significant impact on disadvantaged communities within the jurisdiction of the local wastewater agency. In the absence of any significant financial assistance, SB 163 as amended is guaranteed to have serious financial impacts on California ratepayers.

As amended, SB 163 contains no consideration of these costs on local agencies or their ratepayers. In order to comply with this mandate, ocean and bay dischargers would be required to add advanced treatment infrastructure such as filtration, microfiltration, reverse osmosis, and/or ultraviolet disinfection with advanced oxidation. Nearly all agencies would be required to develop expansive additional distribution and storage infrastructure to deliver this new water. The current level of state and federal financial assistance for these projects is nowhere near enough to make the mandate feasible or affordable for local ratepayers. SB 163 offers no practical solutions to address this funding shortfall.

Mandating Beneficial Reuse "To the Maximum Extent Possible" Is Counterproductive and Would Interfere With Existing Water Recycling Efforts

California has more than fifty ocean dischargers, and they vary dramatically in terms of treatment capacity, discharge and the amount of recycling that occurs. Every watershed, region, treatment facility and outfall is different, and the capability to beneficially reuse the water varies widely as well. Reliable and feasible end uses for recycled water are not always available, and depend on factors other than simply the ocean discharger's technical ability to supply recycled water.

As amended, SB 163 would require the State Water Board to develop regulations that require NPDES permittees with bay or ocean outfalls to achieve beneficial reuse "to the maximum extent possible." This is an inappropriate standard to use and belies the type of conflicts, costs and improper prioritization inherent in the mandate approach. There are a host of other considerations and decisions agencies must make when prioritizing capital expenditures, including projects critical to public health and environmental protection, not all of which should be subservient to the reuse of wastewater. Mandating 50 percent reuse will necessarily constrain agency decision-making and force agencies to decide between achieving core functions and other priorities versus meeting the mandate to reduce ocean discharge.

The mandate approach is also unworkable for a myriad of reasons raised in our previous comments on the bill, including the fact that regional demand may not exist to reuse 50 percent of an agency's ocean discharge. In addition, recharge and reuse options may be infeasible, distribution can require complex arrangements between water recyclers and water purveyors, brine management may present significant issues in some areas, and public acceptance of beneficial reuse of wastewater remains an obstacle. Ignoring these realities in pursuit of a "maximum extent possible" standard as SB 163 does is a fundamentally flawed approach to the management of recycled water supplies in the state.

California Agencies Are Aggressively Pursuing Reuse

The specter of a 50 percent statewide mandate, as prescribed in the bill as amended, could also interfere with existing water recycling efforts currently underway. Water and wastewater agencies are already actively planning for the future and looking for opportunities to maximize recycled water production and beneficial reuse. Coalition member agencies are producing hundreds of thousands of acre-feet of recycled water each year, and innovative new reuse projects are being implemented in San Diego, Los Angeles, Orange County and other areas across the state. As a result, California is well on its way to meeting the recycled water goals set forth by the State Water Resources Control Board (State Water Board). The mandate in SB 163 would undermine these efforts. Many agencies already have capital projects planned for long-term time horizons, are pursuing joint projects with other agencies, and are otherwise managing and balancing their water supply goals. If the mandate in SB 163 goes into effect, agencies would be forced to significantly modify their long-term planning and budgeting priorities and spend billions of ratepayer dollars to focus solely on achieving this arbitrary ocean discharge prohibition.

The agencies in this coalition are the very agencies that would be responsible for implementing the mandate. These entities are among the most progressive in the world when it comes to advanced wastewater treatment, beneficial reuse, and the future of resource recovery for our state. The mandate in SB 163 would directly hinder their current efforts to maximize beneficial reuse in a measured, responsible manner.

The Bill's Expansion of the "Waste and Unreasonable Use" Doctrine is Inconsistent and Legally Questionable

As previously amended, SB 163 contained language declaring that the discharge of treated wastewater from ocean outfalls, except in compliance with the provisions of this section, is a waste and unreasonable use of water within the meaning of Section 2 of Article X of the California Constitution. The bill as amended still contains references to the waste and unreasonable use doctrine, but now goes even farther outside the bounds of how that provision is traditionally understood. The bill states that it is a waste and unreasonable use of water not only to discharge treated wastewater from a bay or ocean outfall, but also for a water supplier or replenishment district not to take treated wastewater made available to that supplier for specified uses. Recycled water is still defined in some parts of state and federal law as a waste, adding further confusion and irony to this proposal. The waste and unreasonable use doctrine is a complex area of California water law and water rights, and the re-definition of the parameters of that doctrine could have far-reaching ramifications.

There are a wide variety of reasons why discharge through an ocean or bay outfall might be necessary and certainly not wasteful or unreasonable, including brine disposal and lack of adequate beneficial reuse opportunities. There is an even broader set of justifications as to why a water supplier may be unable to accept recycled wastewater for reuse. Under this bill, both would be Constitutional violations. It is questionable how such a standard could even be properly interpreted. How can failure to accept recycled water be a wasteful or unreasonable use of water? If the statute imposes a 50 percent mandate, how can the state simultaneously declare that the remaining permitted discharge to oceans and bays is somehow

a violation of the Constitutional waste and unreasonable use doctrine? Using this doctrine to justify a mandate on ocean dischargers and acceptance of recycled water by water suppliers is inappropriate and legally questionable.

SB 163 is Premature in Light of Pending Regulatory Efforts, Particularly the Availability of Direct Potable Reuse (DPR) and Surface Water Augmentation Regulations

The mandate proposed in SB 163 as amended is premature in light of pending regulatory efforts intended to lay the foundation for additional recycled water production and beneficial uses moving forward. Specifically, an existing "regulatory gap" needs to be filled before wastewater agencies can determine what methods, processes and types of reuse make the most sense for the increase in use of recycled water in their service areas. Of particular note is the need for regulations permitting effective Direct Potable Reuse (DPR), which is absolutely necessary for achieving anything close to what SB 163 proposes.

The State Water Board is currently receiving input from an expert panel and an advisory group on the feasibility of developing criteria for direct potable reuse (DPR), the results of which could dramatically change the suite of options for wastewater agencies to beneficially reuse their water. The availability of DPR is essential for maximizing recycled water production and beneficial use in the state, yet SB 163 would impose a mandate before that process has been completed.

The State Water Board is also currently developing regulations regarding surface water augmentation with recycled water. That process will inform available options for those agencies not in close proximity to groundwater basins conducive to replenishment with recycled water, and could change the dynamics of decision making at certain agencies. Again, as amended, SB 163 instructs the State Water Board and individual dischargers to begin preparing to meet a 50 percent mandate without knowing where this process will end up. Adopting a mandate in advance of the completion of these regulations and processes would require agencies to pursue paths that might not be the most beneficial to the agency, the ratepayers, or water supply in the region or state.

The "Compliance Flexibility" Provisions in the Amended Bill Are Ill-Defined

As amended, SB 163 contains a provision which would allow the regulations promulgated by the State Water Board to provide "operational and compliance" flexibility for discharges burdened by the new mandate. There is no reference in the bill to using cost-effectiveness as a consideration, or any of the other issues that the coalition explicitly identified as major barriers and impediments to implementing a recycled water mandate. Even those terms that are specifically referenced in the amended language, such as "extreme weather events" and "emergency" are not properly scoped or defined. For water and wastewater agencies operating under strict water quality standards and other federal and state regulatory compliance regimes, many of these terms have defined and specific meanings that may not correspond to the flexibility the bill purports to provide. While we agree that agencies would clearly need some kind of operational flexibility when faced with a recycled water mandate, the items to be considered should be far broader in scope and the bill should contain genuine acknowledgment regarding circumstances and challenges local agencies may face. Leaving these concerns to the State Water Board to determine as part of a future regulatory proceeding is inappropriate.

The Coalition Supports a Meaningful Task Force to Examine These Issues

In response to the previous iteration of the bill, our coalition suggested a reasonable alternative that would help advance recycled water production by identifying key barriers to recycled water production

The Honorable Luis Alejo
June 17, 2016
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and charting a path forward for the state. We prepared a detailed task force proposal that would be statewide in scope, focusing on both ocean dischargers and inland dischargers, examining both potable and non-potable reuse, and identifying water-recycling issues relevant to inland and coastal areas as well as agricultural and urban interests. The task force would ultimately produce an action plan designed to increase recycled water production in California, meet the statewide water recycling goals and overcome any barriers preventing increases in recycled water production and beneficial use from being realized. This proposal is referenced only tangentially in the bill as amended, as an optional "advisory group" to weigh in with the State Water Board on its mandate regulations.

Though the coalition is still interested in a genuine and separate task force, the bill does not satisfy our concerns for all of the reasons described.

The water and wastewater community is fully supportive of recycled water projects where they make sense, are financially viable, where there are opportunities for beneficial use, and watershed conditions are present to maximize supplies of this water. However, the drivers for this progress will be a vision for local water supply reliability and cooperative, beneficial partnerships between water and wastewater agencies with funding and regulatory support from the state.

For the above reasons we continue to oppose SB 163 (Hertzberg).

Sincerely,



California Association of Sanitation Agencies



Association of California Water Agencies



City of San Diego, Public Utilities Department



California Municipal Utilities Association



Irvine Ranch Water District



San Francisco Public Utilities Commission



East Bay Municipal Utility District



The Honorable Luis Alejo
June 17, 2016
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League of California Cities



Sanitation Districts of Los Angeles County



Municipal Water District of Orange County

California Special Districts Association



Southern California Alliance of POTWs



Las Virgenes-Triunfo Joint Powers Authority



June 8, 2016

The Honorable Luis Alejo, Chair
 Assembly Environmental Safety and Toxic Materials Committee
 State Capitol, Room 2117
 Sacramento, CA 95814

Subject: **SB 163 Hertzberg): Recycled Water Mandate for Ocean and Bay Dischargers – OPPOSE As Proposed to be Amended**

Dear Assembly Member Alejo,

The coalition of undersigned associations and individual water and wastewater agencies continue to respectfully oppose SB 163 (Hertzberg) as proposed to be amended. This measure would impose an unworkable mandate on ocean and bay dischargers to achieve 50 percent beneficial reuse of discharge to bay or ocean outfalls by 2033. The bill, as proposed to be amended, has been completely rewritten, but at this late date still contains an unachievable mandate without necessary exemptions or financing for the billions of dollars in new infrastructure that would be needed. The coalition strongly supports water recycling and reuse, but SB 163 would disrupt existing efforts to promote recycled water production and use as well as innovative reuse projects currently being implemented throughout the state.

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The proposed amendments do nothing to alleviate the concerns expressed in the coalition's comments on the previous version of the bill, including the billions of dollars in cost to implement the mandate and the feasibility of achieving the mandate in a number of areas across the state. Other significant issues have been raised by the new proposed amendments, including a drastic expansion of the concept of "waste and unreasonable use" under the California Constitution and requiring all dischargers to achieve beneficial reuse "to the maximum extent possible" without appropriate consideration of the cost, feasibility or burden for local agencies and their ratepayers.

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The agencies in this coalition are the very agencies that would be responsible for implementing the mandate. These entities are among the most progressive in the world when it comes to advanced wastewater treatment, beneficial reuse, and the future of resource recovery for our state. The mandate in SB 163 would directly hinder their current efforts to maximize beneficial reuse in a measured, responsible manner.

The Bill's Expansion of the "Waste and Unreasonable Use" Doctrine is Inconsistent and Legally Questionable

As previously amended, SB 163 contained language declaring that the discharge of treated wastewater from ocean outfalls, except in compliance with the provisions of this section, is a waste and unreasonable use of water within the meaning of Section 2 of Article X of the California Constitution. The bill as proposed to be amended still contains references to the waste and unreasonable use doctrine, but now goes even farther outside the bounds of how that provision is traditionally understood. The proposed amendments to the bill state that it is a waste and unreasonable use of water not only to discharge treated wastewater from a bay or ocean outfall, but also for a water supplier or replenishment district not to take treated wastewater made available to that supplier for specified uses. Recycled water is still defined in some parts of state and federal law as a waste, adding further confusion and irony to this proposal. The waste and unreasonable use doctrine is a complex area of California water law and water rights, and the re-definition of the parameters of that doctrine could have far-reaching ramifications.

There are a wide variety of reasons why discharge through an ocean or bay outfall might be necessary and certainly not wasteful or unreasonable, including brine disposal and lack of adequate beneficial reuse opportunities. There is an even broader set of justifications as to why a water supplier may be unable to accept recycled wastewater for reuse. Under this bill, both would be Constitutional violations. It is questionable how such a standard could even be properly interpreted. How can failure to accept recycled water be a wasteful or unreasonable use of water? If the statute imposes a 50 percent mandate, how can the state simultaneously declare that the remaining permitted discharge to oceans and bays is somehow a violation of the Constitutional waste and unreasonable use doctrine? Using this doctrine to justify a mandate on ocean dischargers and acceptance of recycled water by water suppliers is inappropriate and legally questionable.

SB 163 is Premature in Light of Pending Regulatory Efforts, Particularly the Availability of Direct Potable Reuse (DPR) and Surface Water Augmentation Regulations

The mandate proposed in SB 163 as amended is premature in light of pending regulatory efforts intended to lay the foundation for additional recycled water production and beneficial uses moving forward. Specifically, an existing "regulatory gap" needs to be filled before wastewater agencies can determine what methods, processes and types of reuse make the most sense for the increase in use of recycled water in their service areas. Of particular note is the need for regulations permitting effective Direct Potable Reuse (DPR), which is absolutely necessary for achieving anything close to what SB 163 proposes.

The State Water Board is currently receiving input from an expert panel and an advisory group on the feasibility of developing criteria for direct potable reuse (DPR), the results of which could dramatically change the suite of options for wastewater agencies to beneficially reuse their water. The availability of DPR is essential for maximizing recycled water production and beneficial use in the state, yet SB 163 would impose a mandate before that process has been completed.

The State Water Board is also currently developing regulations regarding surface water augmentation with recycled water. That process will inform available options for those agencies not in close proximity to groundwater basins conducive to replenishment with recycled water, and could change the dynamics of decision making at certain agencies. Again, as proposed to be amended, SB 163 instructs the State Water Board and individual dischargers to begin preparing to meet a 50 percent mandate without knowing where this process will end up. Adopting a mandate in advance of the completion of these regulations and processes would require agencies to pursue paths that might not be the most beneficial to the agency, the ratepayers, or water supply in the region or state.

The "Compliance Flexibility" Provisions in the Amended Bill Are Ill-Defined

As proposed to be amended, SB 163 contains a provision which would allow the regulations promulgated by the State Water Board to provide "operational and compliance" flexibility for discharges burdened by the new mandate. There is no reference in the bill to using cost-effectiveness as a consideration, or any of the other issues that the coalition explicitly identified as major barriers and impediments to implementing a recycled water mandate. Even those terms that are specifically referenced in the amended language, such as "extreme weather events" and "emergency" are not properly scoped or defined. For water and wastewater agencies operating under strict water quality standards and other federal and state regulatory compliance regimes, many of these terms have defined and specific meanings that may not correspond to the flexibility the bill purports to provide. While we agree that agencies would clearly need some kind of operational flexibility when faced with a recycled water mandate, the items to be considered should be far broader in scope and the bill should contain genuine acknowledgment regarding circumstances and challenges local agencies may face. Leaving these concerns to the State Water Board to determine as part of a future regulatory proceeding is inappropriate.

The Coalition Supports a Meaningful Task Force to Examine These Issues

In response to the previous iteration of the bill, our coalition suggested a reasonable alternative that would help advance recycled water production by identifying key barriers to recycled water production and charting a path forward for the state. We prepared a detailed task force proposal that would be statewide in scope, focusing on both ocean dischargers and inland dischargers, examining both potable and non-potable reuse, and identifying water-recycling issues relevant to inland and coastal areas as well as agricultural and urban interests. The task force would ultimately produce an action plan designed to increase recycled water production in California, meet the statewide water recycling goals and overcome any barriers preventing increases in recycled water production and beneficial use from being realized. This proposal is referenced only tangentially in the bill as proposed to be amended, as an optional "advisory group" to weigh in with the State Water Board on its mandate regulations.

The Honorable Luis Alejo
 June 8, 2016
 Page 5 of 5

Though the coalition is still interested in a genuine and separate task force, the bill as proposed does not satisfy our concerns for all of the reasons described.

The water and wastewater community is fully supportive of recycled water projects where they make sense, are financially viable, where there are opportunities for beneficial use, and watershed conditions are present to maximize supplies of this water. However, the drivers for this progress will be a vision for local water supply reliability and cooperative, beneficial partnerships between water and wastewater agencies with funding and regulatory support from the state.

For the above reasons we continue to oppose SB 163 (Hertzberg).

Sincerely,



California Association of Sanitation Agencies



Association of California Water Agencies



California Municipal Utilities Association



San Francisco Public Utilities Commission



East Bay Municipal Utility District



League of California Cities



California Special Districts Association



Sanitation Districts of Los Angeles County



Southern California Alliance of POTWs



NORTH BAY WATER REUSE PROGRAM

Expanding Water Supplies with Regional Reuse



May 5, 2016

The Honorable Robert Hertzberg
California State Senate
State Capitol, Room 4038
Sacramento, CA 95814

RE: SB 163 – OPPOSE UNLESS AMENDED

Dear Senator Hertzberg:

On behalf of the North Bay Water Reuse Authority (NBWRA), I am writing regarding your SB 163.

As you may recall from our January 12, 2016 letter expressing concerns regarding the bill (attached), we urged your careful consideration of the very substantial regulatory, financial and feasibility issues that pose barriers to compliance with a proposed eventual ban on ocean discharge.

Moreover, the attached letter emphasized some of the specific factors that would make such a ban infeasible in our region, including the extremely high cost of storage, infeasibility of discharge through irrigation during wet periods and the lack of distribution system capacity to accommodate the volume of water contemplated in SB 163.

While we join WaterReuse in continuing to urge you to consider other alternatives to move toward the maximization of recycled water use and the further reduction of ocean discharge – such as amending the bill to allow for careful and updated examination of the barriers to recycled water via a statewide task force - we must also regretfully join CASA and WaterReuse in registering our opposition to your measure at this time.

We agree with WaterReuse's position that mandates and the punitive measures are not appropriate given the significant expansion of water recycling in recent years. Again, as our initial letter indicated, the North Bay Water Reuse Authority was formed for the

**North Bay Water Reuse Authority • c/o Sonoma County Water Agency • 404 Airport Boulevard, Santa Rosa, CA 95403
707-235-8965 • NBWRA.org**

Las Gallinas Valley Sanitary District • Napa County • Napa Sanitation District • North Marin Water District • City of Petaluma • Marin County
Novato Sanitary District • Sonoma County Water Agency • Sonoma Valley County Sanitation District • Marin Municipal Water District • City of American Canyon

The Honorable Robert Hertzberg
May 5, 2016
Page 2

specific, focused purpose of maximizing recycled water in our three-county area for urban, agricultural and environmental purposes (including wetlands restoration). Yet imposing unworkable mandates on agencies such as ours would only add regulatory burdens and impose enormous cost onto our ratepayers.

While we are moving to an “oppose unless amended” position at this time based on the current version of SB 163, we remain open to further conversation with respect to the mutually desired goal of recycled water use maximization.

Please do not hesitate to contact me at (707) 656-2241 or NBWRA state lobbyist Pilar Onate-Quintana at (916) 498-7736 with any questions regarding our perspective on issues raised by SB 163.

Sincerely,



David Rabbitt, Chair, North Bay Water Reuse
Authority Director, Sonoma County Water Agency
Supervisor, Sonoma County 2nd District



NORTH BAY WATER REUSE PROGRAM

Expanding Water Supplies with Regional Reuse



June 10, 2016

The Honorable Luis Alejo
Chair, Environmental Safety and Toxic Materials Committee
State Capitol, Rm. 2117
Sacramento, CA 95814

RE: SB 163 Oppose Unless Amended

Dear Assembly Member Alejo:

On behalf of the North Bay Water Reuse Authority (NBWRA), I am writing regarding SB 163 for purposes of communicating NBWRA's opposition to the measure - unless it is amended to: require substantive study by a task force to comprehensively assess the regulatory hurdles, cost implications, practical feasibility, regional and individual agency considerations, and other factors critical to the shared state-wide goal of maximizing the use of recycled water.

As you may be aware, NBWRA is a coordinated effort in portions of Marin, Napa and Sonoma counties and includes 10 water and sanitation agencies, working together as one entity, to address water supply shortages from a watershed perspective. NBWRA's member agencies are investing in a number of diverse recycled water projects to offset potable demands and provide water supply reliability throughout the North Bay region. This innovative, regional approach has resulted in the delivery of high-quality recycled water for parks and landscaping, premium wine grape production and restoration of tidal wetlands and wildlife habitat.

Given that we are an entity whose core mission is to maximize recycled water use; we clearly share the broad goals of decreasing ocean discharge through increased use of recycled water.

Our ongoing investigations have identified both the need for water reuse projects and the enormous costs associated with implementing them. Therefore, we are quite sure it would be financially impossible for local agencies to implement these projects without a combination of substantial federal and state funding assistance. It is this unfunded top-down state mandate that is most egregious to local agencies who are already doing their best to meet the intent of your proposed legislation.

Overall, we have shared the views expressed by the California Association of Sanitation Agencies and WaterReuse in the months since SB 163 was amended at the end of last year's legislative session.

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The Honorable Luis Alejo
 June 10, 2016
 Page 2

Now, with the newly amended version, we continue to share these associations concerns (as expressed in the June 8, 2016 CASA coalition letter) regarding SB 163's lack of funding mechanism, counterproductive mandate, bill's expansion of the "waste and unreasonable use" doctrine, the premature nature of the effort and other concerns.

We will not repeat those CASA letter concerns here, rather we wish to again emphasize our commitment to maximizing recycled water use and NBWRA's years of past and ongoing planning to fulfill its mission. In fact, NBWRA was honored at the recent White House Water Summit for its innovative work to develop recycled water for urban, agricultural and environmental purposes.

To date, Phase I of the NBWRA Program is nearing completion and will reduce ocean discharge among NBWRA agencies by 13 percent – with a total cost of \$104 million in federal (25percent), state (8 percent) and local (66 percent) funding. It should be noted that a substantial amount of the recycled water produced under Phase I (1,700 acre-feet) is provided for environmental use in wetlands restoration.


Phase 2 of the Program is still undergoing study, but – again assuming sufficient funding – is expected to reduce ocean discharge by an additional 18 percent (for a Program total of 31 percent). The total estimated cost of Phase 2 is \$86 million.

Based on initial estimates, to then get from 31 percent ocean discharge reduction (at the Phase 1/Phase 2 total of \$190 million) to 50 percent would take well over an additional \$210 million dollars to achieve – with the proportionate cost going up enormously due to the fact that the most economically and technically feasible projects have already been completed or identified.

The intensive NBWRA Program work clearly reflects a longstanding and ongoing commitment to recycled water in our region and reflects the fact that top-down mandates are not needed to spur local innovation and progress in our area.

In summary, imposing mandates paired with the threat of potentially punitive consequences for wastewater and water agencies is not a productive path for success and, we strongly urge the author to provide leadership on the type of expert-driven analysis that is needed to illuminate the best next steps on this issue and to amend the bill accordingly.

Sincerely,



David Rabbitt, Chair, North Bay Water Reuse Authority
 Director, Sonoma County Water Agency
 Supervisor, Sonoma County 2nd District



December 11, 2015

The Honorable Robert Hertzberg
California State Senate
State Capitol, Room 4038
Sacramento, CA 95814

Dear Senator Robert Hertzberg:

On behalf of WaterReuse California (WRCA) I want to thank you for your leadership on water recycling and, through your introduction of SB 163, for initiating a policy discussion about increased use of recycled water through the treatment and reuse of wastewater that would otherwise be discharged to the ocean. WRCA wants to work with you on increasing recycling, but does not believe a state mandated ban on ocean discharge can be implemented in the foreseeable future.

The WRCA mission statement is to maximize the beneficial use of all types of recycled water and - consistent with statewide recycling goals - we view the wastewater discharged to the ocean as a source of potential new recycled water. Many of our member agencies along the coast already capture much of the potential discharge and are working on many fronts towards redirecting ocean discharge for potable reuse, environmental benefits such as transitional wetlands and other projects.

However, we urge you to consider the substantial regulatory, financial and feasibility factors that we believe pose barriers to compliance with a ban on ocean discharge. Detailed below is the history and status of issues related to the regulatory environment, project funding and public acceptance barriers and we would ask that you consider:

- The regulatory uncertainty of potable reuse must be fully resolved through the adoption of statewide regulations for both surface water augmentation and direct potable reuse (DPR) before some agencies can utilize such systems to capture and reuse ocean discharge.
- In other areas where potable reuse is neither feasible nor planned, the infeasibility of constructing sufficient storage to capture the volume of water released by California's large storms is a clear barrier to implementation. It would be both impractical and hugely expensive to have that much coastal storage.

- In many areas of the state, the only alternative to discharge or storage would be irrigation, and irrigating in the winter when the ground is saturated means all the recycled water runs-off, which is prohibited by regional boards.
- Non-potable, “purple pipe” projects, while providing key benefits in different communities in California, cannot efficiently and economically be expanded to accommodate the volume of water contemplated in SB 163.
- Billions of dollars in state and local funding would be needed for new advanced water treatment plants, expansions of existing plants and tremendous storage capacity to achieve a blanket requirement that ocean discharge be eliminated.

Additionally, we note that some agencies intend to use discharge into the ocean (and bays) for critical environmental purposes – such as transitional wetlands – and that the value of such uses should not be lost in any forthcoming discussions regarding your legislation.

Potable Reuse Regulatory Progress Since 2010

Since the passage of SB 918 (Pavley) in 2010, the first bill on potable reuse in California, a great deal of progress has been made in making potable reuse a major component of California’s water supply. This includes:

- Statewide groundwater Indirect Potable Reuse (IPR) regulations were adopted by the Drinking Water Division (DDW) of the State Water Resources Control Board (SWRCB) in 2014. As a result we have seen approximately 20 additional groundwater IPR projects initiated, which when approved, built and funded will provide drinking water for 1.6 million Californians.
- DDW is working on the development of surface water augmentation regulations to allow local water supply reservoirs to be augmented with advanced treated water. Many planned projects, each with its unique local circumstances are under consideration.
- DDW is preparing a report to the Legislature due in December 2016 on the feasibility of developing statewide regulations for Direct Potable Reuse (DPR). While we expect the report to be submitted on time, DDW is not expected to immediately adopt statewide DPR regulations. The permitting of these projects is initially expected to happen on a case-by-case basis and then be followed by the adoption of DPR regulations.
- The WaterReuse Research Foundation (WRRF) initiated 26 independent DPR-related research projects totaling over \$11.5 million to evaluate and demonstrate the feasibility of DPR opportunities. This independent research is being provided to the Expert Panel advising DDW on its DPR report to the Legislature.

While this progress is exceptional, we still do not have a clear pathway for approval of DPR projects, which we believe would be necessary to significantly reduce ocean discharges in those coastal communities without readily accessible groundwater basins or a surface water reservoir of sufficient capacity.

Funding for Potable Reuse Projects

In order to implement SB 163, funding in the billions would be needed from state and local sources. Every project is different, but in general groundwater IPR or surface water augmentation projects using the three-step purification process (microfiltration, reverse osmosis and UV light with advanced oxidation) range in cost from \$820 AF to \$2,000 an AF. The higher estimate would include the conveyance of the water to the groundwater basins or surface water reservoirs and the construction of a brine disposal system. The lower estimate assumes the brine would be discharged through an existing ocean outfall (*Opportunities and Economics of Direct Potable Reuse, Raucher and Tchobanoglous, 2014*). While we don't know what the DPR regulations will require; additional, expensive treatment may be mandated.

In addition, development of potable reuse projects will require a cooperative effort between water suppliers and ocean dischargers. The most likely projects would result in delivery of recycled water to the nearest local water supplier, but only if there is a need for the project and it is cost-effective. Customers are experiencing rate increase fatigue, particularly low income customers that have a limit to what they can afford. Therefore, public agencies are driven to provide the most cost-effective water supplies and environmental solutions.

Public Acceptance of Potable Reuse Water

One of the primary missions of WRCA is to promote potable reuse in California. While we have made a great deal of progress since 2010, some communities do not even have non-potable recycled programs and generally are less willing to consider potable reuse as a water supply option.

WRCA, the Water Reuse Research Foundation and some individual member agencies have done extensive polling on potable reuse and DPR in particular. In general, without knowing any additional information about DPR, these types of projects initially poll in the 40% support range. Once the public is made aware of the extensive treatment process support rises to around 58%. IPR projects, with their "environmental buffer," generally poll more favorably.

While we are waiting for the surface water augmentation regulations to become public, early drafts indicate that these regulations may allow projects only in larger reservoirs and other smaller reservoir projects might be considered DPR for purposes of the regulations. With the public generally less comfortable with DPR projects, this is a major concern for our state's potable reuse future. WRCA is actively working with DDW on this issue.

Summary

WRCA agrees with the objectives behind your bill and thinks the time is right to maximize the use of wastewater that is currently discharged to the ocean for use as

recycled water. To that end, WRCA is working on the regulatory, research and public opinion front to address the existing barriers to potable reuse and DPR in California, noting that even indirect potable reuse projects in California has taken extensive, ongoing public outreach to overcome what the media often calls the “yuck factor” and “toilet to tap.”

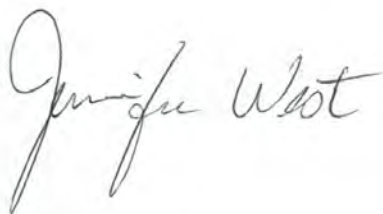
While generally speaking, Southern California is much further ahead of the rest of the state in terms of public acceptance of potable reuse, but it is not immune to these issues. Through its “no discharge” mandate, SB 163 in effect forces an inappropriate “one size fits all” potable reuse solution on all coastal communities in California.

Further, we do not believe SB 163 as written can be implemented without the full completion of the potable reuse regulations, a massive infusion of state and local monies and much more support throughout all parts of California for potable reuse projects.

We encourage you and your staff to avail yourselves of the opportunity to visit agencies along the coast to learn of the different circumstances they face as they seek to maximize recycled water use and minimize discharge. We would be happy to facilitate such opportunities for your office as the SB 163-related conversations continue.

Please do not hesitate to contact me at (916) 669-8401 or (916) 496-1470 if you have questions regarding information contained in this letter or need more information about potable and non-potable reuse projects in California.

Sincerely,

A handwritten signature in dark ink, reading "Jennifer West". The signature is fluid and cursive, with the first name "Jennifer" written in a larger, more prominent script than the last name "West".

Jennifer West
Managing Director



April 20, 2016

The Honorable Robert Hertzberg
California State Senate
State Capitol, Room 4038
Sacramento, CA 95814

RE: SB 163 – OPPOSE UNLESS AMENDED

Dear Senator Hertzberg:

It is with regret that we must oppose your bill, SB 163 unless the statewide mandate to ban the discharge of wastewater into the ocean is removed from the measure. However, we do support the stated goal of SB 163, which is to foster greater recycling along the coast. For this reason we urge you to consider other approaches that are feasible and do not contain a one-size-fits-all solution for all of California's coastal communities.

In our view, mandates and the punitive measures in SB 163 are not appropriate given the significant expansion of water recycling in California, including potable reuse, which has greatly accelerated since 2010. (See attachments) Communities in record numbers are implementing water recycling programs as state funding has become available, indirect potable reuse regulations have been completed and community acceptance has increased. SB 163 ignores this progress and presumes that legislating an ocean discharge ban, with severe regulatory consequences for failure to comply, are needed in order to maximize water recycling in the state. We disagree.

We urge you to consider other approaches that would foster water recycling such as reinstating a statewide taskforce on water recycling that would focus on all the barriers to water recycling in California. We believe it is critical to plan the state's water recycling future, especially with the acceleration of potable reuse, the reduced wastewater supply as a result of conservation and the ongoing water supply needs of fish and wildlife. As discussed with you and your staff, we are also open to other more targeted legislative approaches that do not include a ban on ocean discharge and foster water recycling.

Please do not hesitate to call me at (916) 669-8401, or Richard Harris our legislative advocate at (916) 930-7743, if you have questions regarding the WaterReuse California position on SB 163.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jennifer West", with a stylized, flowing script.

Jennifer West
Managing Director

NBWRA Board Meeting

August 22, 2016



Today's Items

- 💧 NBWRA Governance and Consultant Management
- 💧 Preliminary Discussion: Phase 2 Projects
- 💧 Review and Discussion: FY 2016/17 Budget
- 💧 Items for Future Discussion and Action
- 💧 Closing Remarks and Questions



NBWRA Governance and Consultant Management

Past and Proposed Management Structures



Budget & Scope Management Process Remains the Same

Item No. 12

**Board Approves
Budgets/SCWA
Approves Contracts**

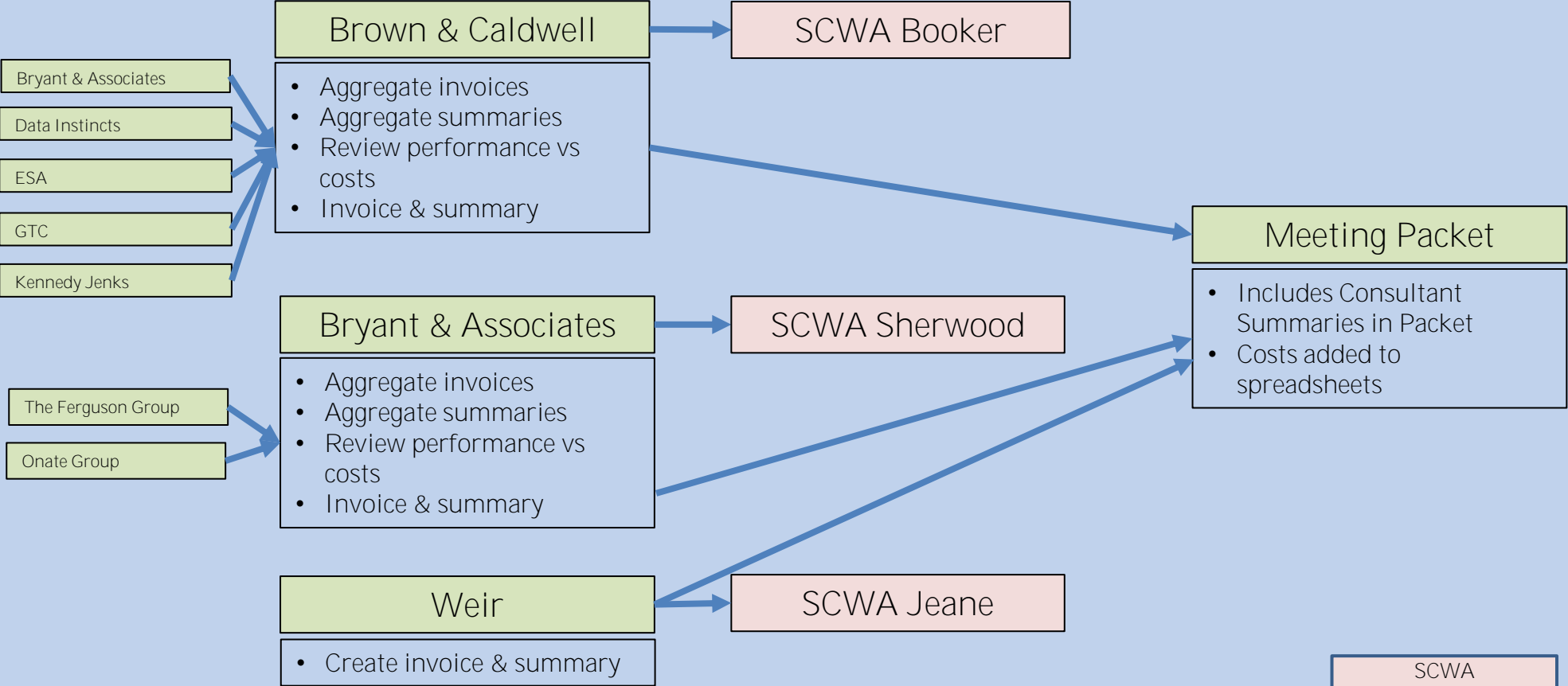
**Prime Consultant
Invoices & Monthly
Summaries**

**SCWA Reviews &
Approves Monthly
Invoices & Summaries**

**Monthly Summaries &
Summary of Costs in
Meeting Packets**

NBWRA Board of Directors

- Approved contracts in 2014 that included FY14/15 budget
- Subsequent year budgets contingent upon approval of funds
- FY15/16 budget approved in April 2015
- FY16/17 budget approved in May 2016: proceed for 6 months until amendments can be approved in October



Legend:

SCWA
Administrative
Agency Action

65 of 94

Consultant Action

Change in Governance of the Program

Why make changes?

- 💧 It has become clear that all decisions regarding how the NBWRA moves forward need to be done as one entity
- 💧 Restructuring the organization will support studies and budget to keep the viability of the NBWRA intact
 - Provides more transparency to NBWRA decision-making
 - Improves communication within each Member Agency and within the NBWRA as a whole
 - Addresses historical variability of Member Agency costs
 - Focuses on regional reliability perspective over an independent utility interest

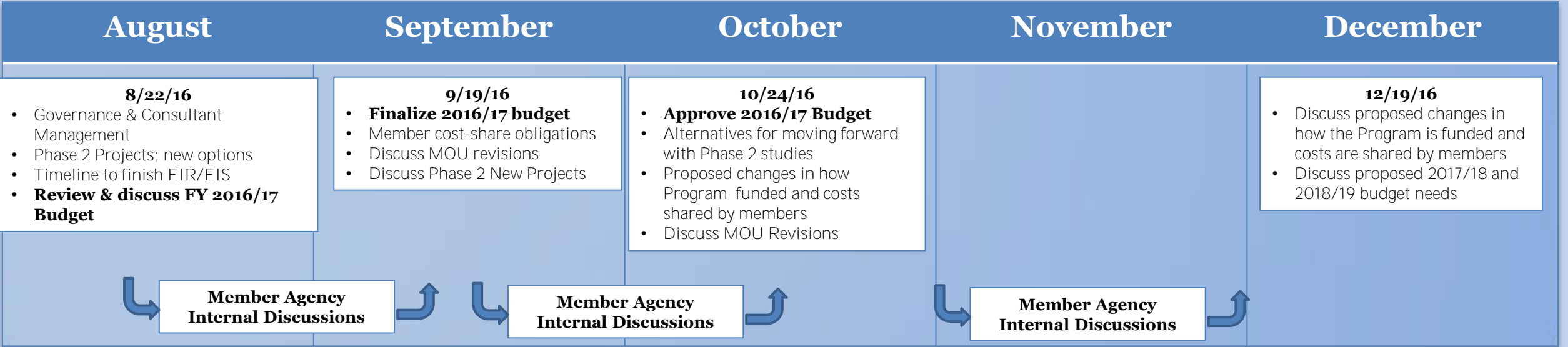
Change in Governance of the Program con't.

What are the Changes

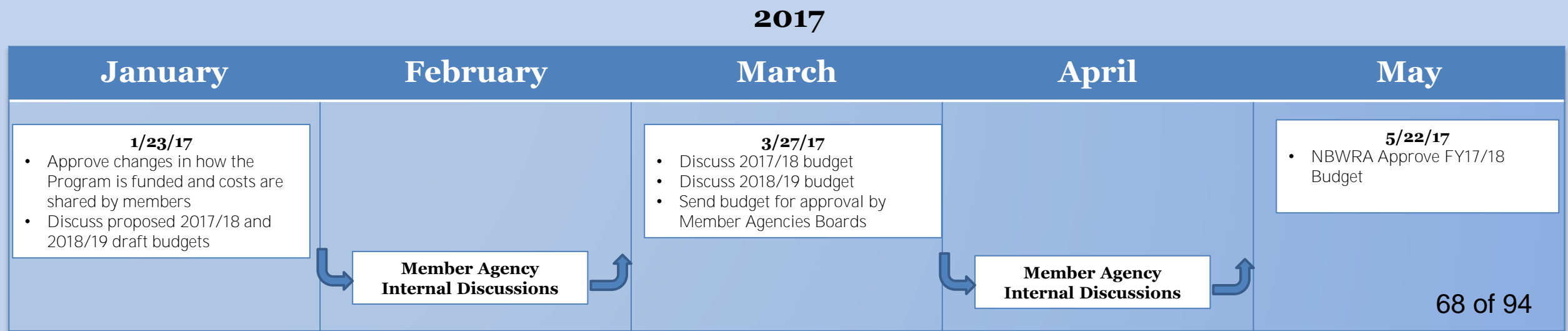
- 💧 Program Direction from the Board
 - Discuss and define the Program direction
 - Define activities that need to be budgeted
 - Direct fiscal agency staff & consultants
- 💧 Budget Oversight by Board
 - Review and discuss budget for requested activities
 - Work with their own Agency staff for input
 - Each Member Agency discuss and approve budget and respective cost-share
 - Board discuss and approve NBWRA Program budget

New Meeting Sequence and Process for Decisions

2016



Source: NBWRA Meeting July 26, 2016



Preliminary Discussion of Phase 2 Projects



Phase 2 Program List - July 25, 2016

💧 The Program includes Title XVI, Non-Title XVI and Program Level projects

💧 Under Title XVI

- \$55.2 million in projects
- \$13.8 million in grant funding

💧 Available under Title XVI

- \$24.8 million in projects
- \$6.2 million in grant funding (25% federal cost-share)

NBWRP Phase 2 Program FeasibilityLevel Estimates of Costs for Program Selection								
Agency	Project Type	Project Title	Total Project Capital Costs (\$ mil)	Title XM Project		Item No. 12 Non-Title XM Project	Program Level	
Novato SD²	Treatment	Novato SD WRP Capacity - 1 st Expansion (+0.85 MGD)	\$4.8	\$4.8				
		Novato SD WRP Capacity - 2 nd Expansion (+0.85 MGD)	\$4.8			\$4.8		
	Seasonal Storage	Option 1: Site Near Highway 37 (Tertiary) 150 AF	\$5.6		\$6.3		\$5.6	
		Option 2: Site Near Highway 37 (Secondary) 150 AF	\$8.0				\$8.0	
		Option 3: Hamilton Site (Secondary) 150AF	\$14.2				\$14.2	
	Environmental Enhancement	Marin CountyLower Novato Creek Project – Distribution	\$0.9	\$0.9				
		Marin CountyLower Novato Creek Project – Restoration	\$21.5				\$21.5	
		Turnout to Transitional Wetlands	\$0.6	\$0.6				
SVCSD³	Seasonal Storage	Option 1: Mulas Site (Tertiary) 49 AF	\$2.4		\$6.2		\$2.4	
		Option 2: Robledo Site (Tertiary) 49 AF	\$2.6	\$2.6				
	Distribution	Napa Road Pipeline	\$3.6	\$3.6				
SONVA³	Seasonal Storage	Valley of the Moon ASR	\$3.4	\$3.4	\$7.0			
		Sonoma ASR	\$3.6	\$3.6				
	Groundwater Management	Sonoma Valley Groundwater Management and Recharge Study	TBD					TBD
Petaluma³	Treatment	Increase EO/WRF Capacity	\$9.0	\$9.0				
	Seasonal Storage	Option 1a: Site Southeast of EO/WRF (Secondary) 300 AF	\$14.3				\$14.3	
		Option 1b: Site Southeast of EO/WRF (Secondary) 150 AF	\$7.3				\$7.3	
	Distribution	Urban Recycled Water Expansion	\$11.4	\$11.4	\$30.6			
		Agricultural Recycled Water Expansion Phase 1	\$4.2	\$4.2				
		Agricultural Recycled Water Expansion Phase 2	\$6.0	\$6.0				
		Agricultural Recycled Water Expansion Phase 3	\$6.5					\$6.5
Napa SD¹	Treatment	Soscol WRF Increased Filter Capacity	\$2.2	\$2.2				
	Operational Storage	Additional Soscol WRF Covered Storage	\$2.9	\$2.9				
		Napa State Hospital Storage Tank	\$7.4				\$7.4	
	Seasonal Storage	Option 1a: Raise Existing Pond Levees (Secondary) 300 AF	\$9.9		\$33.2	\$9.9		
		Option 1b: Raise Existing Pond Levees (Secondary) 1,100 AF	\$30.2					
		Option 2: Somky Ranch Site (Secondary) 300 AF	\$15.3					
		Option 3a: Jameson Ranch Site (Tertiary) 600 AF (Phase 1)	\$17.3	\$17.3				
		Option 3b: Jameson Ranch Site (Tertiary) 300 AF	\$11.8					
	Distribution	MSTNorthern Loop	\$6.9	\$6.9				
MSTEastern Extension		\$3.9	\$3.9					
Total			\$242.0	\$55.2		\$9.8	\$44.0	

Options to Use Full Phase 2 Title XVI Capacity

- 💧 Consider new NBWRA Member Agency projects
- 💧 Outreach to potential partners in the region
- 💧 Manage schedule for current Member Agency project implementation

Review of NBWRA Budget



Budget Topics Addressed

- 💧 What was proposed in the original 3-year budget
- 💧 Amendments that were made and why
- 💧 Status of remaining funds in existing 3-year budget
- 💧 Additional tasks and funds needed through the end of FY 2016/17

Proposed NBWRA Budget Amendments

Item No. 12

Item Date Approved	FY14/15 5/19/14	FY15/16 4/27/15	FY16/17 4/25/16 (includes amendments scheduled for action October 2016)	Total	FY16/17 Amendments (scheduled for action October 2016)
Program Development	190,200	190,200	190,200	570,600	
Federal Advocacy	88,000	112,000	112,000	312,000	24,000
State Advocacy	36,000	36,000	44,400	116,400	8,400
Program Manager	70,500	75,500	75,500	221,500	
Administrator & Fiscal Agent	251,836	267,205	285,958	805,000	
Engineering & Outreach	895,963	985,634	1,162,654	3,044,252	51,872
Total	1,532,499	1,666,539	1,870,712	5,069,752	84,272

Engineering & Planning

Brown and Caldwell Team



Current Budget with Approved Amendment #1 ¹

Task		Total Original Contract	Amendment #1 Changes	Total Amended Contract
1	Workshops/Public Outreach/Management	694,289		744,288
1.1	Workshops	171,860	25,000	196,860
1.3	Public Involvement	291,276	25,000	316,276
1.4	Administration	231,152		231,152
2	Title XVI Feasibility Study/Report	1,184,777		1,135,778
2.1	Introductory Information	34,728		34,728
2.2	Statement of Problems/Needs	43,231		43,231
2.3	Water Reclamation/Reuse Opps	54,257		54,257
2.4	Analysis of Alternatives/FS Report	1,052,562	-49,000	1,003,562
3	Environmental Evaluation	796,450		796,450
3.1	Environmental Constraints Analysis	279,178		279,178
3.2	Environmental Compliance-NEPA/CEQA	517,272		517,272
4	Financial Capabilities Determination	56,590		56,590
5	Phase 2 Grant Applications & Management	92,655	-25,000	67,655
6	Phase 1 Grant Application & Management	197,619		197,619
6.1	Program Support and Coordination	61,340		61,340
6.2	State Grant Support	38,254		38,254
6.3	Phase 1 Grant Application & Management	92,655		92,655
6.4	Additional Services	5,370		5,370
TOTAL		3,022,380	-24,000	2,998,380

¹Approved by NBWRA Board of Directors

The Program Evolved: Scope and Budget Amended

Deletion of TBL from Phase 2 studies resulted in \$229,100 being reallocated for expanded Study and Program tasks:

💧 Expanded Engineering Planning

- FY 15/16 \$139,169 Extended Storage Studies
- \$40,931 for additional effort
 - Report section rewrites to address multiple project change
 - Additional agency meetings, webmeetings, conference calls
 - Additional feasibility level analysis of Non-Title XVI project

💧 Public Involvement Support to Program Development/Federal Advocacy in FY15/16

- \$25,000 to support Drought bill and Western Water Priorities outreach & webpage

💧 Funds Deleted from Engineering

- \$24,000 to Program Development/Federal Advocacy to support Drought bill activities

Status of Remaining Funds

	Task	Total Amended Contract	Spent Through July 28, 2016	Remaining Through June 30, 2017	Activities Remaining
1	Workshops/Public Outreach/Management	744,288	534,179	210,109	
1.1	Workshops	196,860	162,229	34,631	Now must address 7 Board/TAC workshops, 14 workshop preparation meetings & conference calls
1.3	Public Involvement	316,276	219,061	97,215	Does not include drought bill outreach in budget
1.4	Administration	231,152	152,889	78,263	12 months subconsultant management (5) & reporting to SCWA
2	Title XVI Feasibility Study/Report	1,135,778	821,348	314,430	Complete Report Redraft and Final. Support engineering questions for EIR/EIS
3	Environmental Evaluation	796,450	0	796,450	Not initiated
4	Financial Capabilities Determination	56,590	0	56,590	Occurs after the EIR/EIS
5	Phase 2 Grant Applications & Management	67,655	32,138	35,517	Support reporting to Reclamation, support Program closeout
6	Phase 1 Grant Application & Management	197,619	130,575	67,044	Resolve grant issues, support reporting to Reclamation, support Program closeout
	TOTAL	2,998,380	1,518,240	1,480,140	

Additional Tasks & Funds Through end of FY16/17

Task	FY 16/17 Changes	Additional Costs
1 Workshops/Public Outreach/ Management		
1.1 Workshops	<ul style="list-style-type: none">Add Board Workshops: (4 Board meetings in original contract)Additional meetings to support Board Management	<ul style="list-style-type: none">\$26,872
1.3 Public Involvement	<ul style="list-style-type: none">Add funding to continue Drought bill outreach	<ul style="list-style-type: none">\$25,000 (Same as FY15/16)
1.4 Administration	<ul style="list-style-type: none">No Change	
Total FY 16/17 Amendment		<ul style="list-style-type: none">\$51,872

Program Development

Bryant & Associates Team



Current Budget with Approved Amendment ¹

Retainer-based contracts with expense allowances

Task	Total Original Contract	Amendments through FY15/16	Total Amended Contract	
Program Development	570,600		570,600	
Federal Advocacy	288,600	24,000	312,600	Support work on the Drought Bill that can bring substantial funding to NBWRA projects
State Advocacy	108,000		108,000	
Total	967,200	24,000	991,200	

Status of Remaining Funds

Task	Total Amended Contract	Spent Through July 28, 2016	Remaining Through June 30, 2017	Activities Remaining
Program Development	570,600	378,538	192,062	
Federal Advocacy	312,600	195,343	117,257	Support work on Drought Bill that can bring substantial funding to NBWRA projects, finalize Phase 2 Authorization tasks
State Advocacy	108,000	72,000	36,000	
Total	991,200	645,881	345,319	Address legislation and funding for water reuse

¹Approved by NBWRA Board of Directors

Additional Tasks & Funds Through End of FY16/17

Task	FY16/17 Changes	Additional Costs
Program Development	NA	
Federal Advocacy	Support work on the Drought Bill and future Implementation Guidance	24,000
State Advocacy	Additional Legislative Activities (e.g., Hertzberg)	8,400
Total		32,400

Proposed 3-year budget

Task	Total Original Contract	Amendments through FY15/16	Proposed Amendment for FY 16/17	Total Proposed Amended Contract
Program Development	570,600			570,600
Federal Advocacy	288,600	24,000	24,000	336,600
State Advocacy	108,000		8,400	116,400
Total	967,200	24,000	32,400	1,023,600

Program Manager

Weir Technical Services



Current Budget

Task	Total Original Contract	Amendments through FY15/16	Total Amended Contract	
Program Management	221,500		221,500	

Status of Remaining Funds

Task	Total Contract	Spent Through July 28, 2016	Remaining Through June 30, 2017	Activities Remaining
Program Management	221,500	95,659	125,841	Sufficient to carryover for a 4 th year if needed

Additional Tasks & Funds Through End of FY16/17

- 💧 Propose to split current budget costs for FY16/17 equally between FY16/17 and FY17/18
- 💧 Agencies have been billed for 50% of FY16/17 and no additional funding for this year is required

Administrator and Fiscal Agent

Sonoma County Water Agency



SCWA Administration

- 💧 No Changes for FY16/17 as there is adequate funding from FY15/16 that will rollover
- 💧 Primary factors used for the estimates:
 - Potential changes in number of members, scope, jurisdiction for NBWRA
 - Beginning of Phase 1 closeout process
 - Potential addition of members and/or projects for Phase 2
 - MOU Modification and cost share changes
 - Level of Environmental review required for Feasibility Study

Current Budget & Status of Remaining Funds:

Task	Total Contract	Spent Through July 28, 2016	Remaining Through June 30, 2017	Activities Remaining
Joint Use	405,000	151,175	253,825	Agreement Oversight, Agreement Amendments, Board Items, Correspondence, MOU revisions, Board/TAC Meetings
Phase 1	0	0	0	No General Phase 1 administration budget * Phase 1 construction administration tracked within Phase 1 grant
Phase 2	400,000	41,447	358,553	Agreement Oversight, Grant Oversight, Compliance, Management, Correspondence, Feasibility Study Review
EIR/EIS	0	0	0	Potential for additional costs in 17/18 due to full EIR/EIS requirement
Total	805,000	192,622	612,378	

NBWRA Budget Summary



Proposed NBWRA Budget Amendments

Item No. 12

Item Date Approved	FY14/15 5/19/14	FY15/16 4/27/15	FY16/17 4/25/16 (includes amendments scheduled for action October 2016)	Total	FY16/17 Amendments (scheduled for action October 2016)
Program Development	190,200	190,200	190,200	570,600	
Federal Advocacy	88,000	112,000	112,000	312,000	24,000
State Advocacy	36,000	36,000	44,400	116,400	8,400
Program Manager	70,500	75,500	75,500	221,500	
Administrator & Fiscal Agent	251,836	267,205	285,958	805,000	
Engineering & Outreach	895,963	985,634	1,162,654	3,044,252	51,872
Total	1,532,499	1,666,539	1,870,712	5,069,752	84,272

Next-Steps to Approve FY 2016/17 Budget

- 💧 In September, the proposed amendments to the FY 2016/17 budget and associated member cost-share obligations will be discussed
- 💧 Approval of the FY 2016/17 budget will be scheduled for action at the October meeting

Items for Future Discussion & Action



Items for Future Discussion and Action

September

- Finalize 2016/17 budget and member cost-share obligations
- Begin discussion on MOU Revisions

October

- Approve 2016/17 Budget
- Report on alternatives for moving forward with Phase 2 studies
- Discuss proposed changes in MOU and how Program costs are shared by members

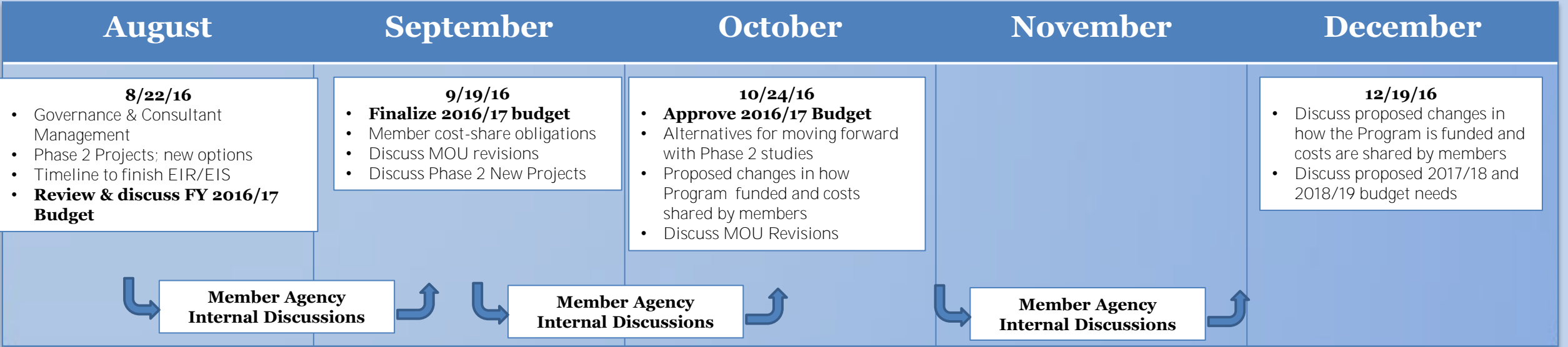
December

- Discuss proposed 2017/18 and 2018/19 budgets
- Discuss proposed changes in MOU and how Program costs are shared by members

New Meeting Sequence and Process for Decisions

2016

Item No. 12



Source: NBWRA Meeting July 26, 2016



Summary

- 💧 Provides more transparency to NBWRA decision-making
- 💧 Improves communication within each Member Agency and within the NBWRA as a whole
- 💧 Addresses historical variability of Member Agency costs
- 💧 Focuses on regional reliability perspective over an independent utility interest
- 💧 Keeps us on schedule