OTAY WATER DISTRICT
LEGAL, LEGISLATIVE & CONSERVATION COMMITTEE MEETING
and
SPECIAL MEETING OF THE BOARD OF DIRECTORS

2554 SWEETWATER SPRINGS BOULEVARD
SPRING VALLEY, CALIFORNIA
BOARDROOM

WEDNESDAY
July 23, 2008
12:00 P.M.

This is a District Committee meeting. This meeting is being posted as a special meeting in order to comply with the Brown Act (Government Code Section §54954.2) in the event that a quorum of the Board is present. Items will be deliberated, however, no formal board actions will be taken at this meeting. The committee makes recommendations to the full board for its consideration and formal action.

AGENDA

1. ROLL CALL

2. PUBLIC PARTICIPATION – OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO SPEAK TO THE BOARD ON ANY SUBJECT MATTER WITHIN THE BOARD'S JURISDICTION BUT NOT AN ITEM ON TODAY'S AGENDA

DISCUSSION ITEMS

3. ADOPT THE 2008 LEGISLATIVE PROGRAM (BUELNA) [10 minutes]

4. AUTHORIZATION FROM THIS COMMITTEE TO TAKE AN "OPPOSE UNLESS AMENDED" POSITION ON AB 2986 (LENO) RELATING TO WASTE DISCHARGE REQUIREMENTS (BUELNA) [10 minutes]

5. UPDATE ON DROUGHT RESPONSE CONSERVATION PROGRAM (SARNO) [15 minutes]

6. AUTHORIZATION FROM THIS COMMITTEE TO "SUPPORT" SB 1XX - PERATA, WATER QUALITY, FLOOD CONTROL, WATER STORAGE AND WILDLIFE PRESERVATION (BUELNA) [10 minutes]

RECESS TO CLOSED SESSION

7. CLOSED SESSION

   a) CONFERENCE WITH LEGAL COUNSEL – POTENTIAL LITIGATION [GOVERNMENT CODE §54956.9(b)]

1 CASE

RETURN TO OPEN SESSION

8. ADJOURNMENT

BOARD MEMBERS ATTENDING:
Jaime Bonilla, Chair
Gary Croucher

All items appearing on this agenda, whether or not expressly listed for action, may be deliberated and may be subject to action by the Board.

If you have any disability which would require accommodation in order to enable you to participate in this meeting, please call the District Secretary at 670-2280 at least 24 hours prior to the meeting.

Certification of Posting

I certify that on July 18, 2008 I posted a copy of the foregoing agenda near the regular meeting place of the Board of Directors of Otay Water District, said time being at least 24 hours in advance of the meeting of the Board of Directors (Government Code Section §54954.2).

Executed at Spring Valley, California on July 18, 2008.

Connie Rathbone

Connie Rathbone, Assistant District Secretary

AGENDA ITEM 3

STAFF REPORT

TYPE MEETING:	Regular Board	MEETING DATE:	July 23, 2008
SUBMITTED BY:	Armando Buelna, Communications Officer	W.O./G.F. NO:	DIV. NO. All
APPROVED BY:			
SUBJECT:	2008 Legislative Program Guidelines		

GENERAL MANAGER'S RECOMMENDATION:

That the Board of Directors adopt the 2008 Otay Water District Legislative Program.

PURPOSE:

To provide direction to staff in the formulation of the District's response to legislative initiatives on issues affecting the District during the 2008 legislative session.

COMMITTEE ACTION:

See Attachment A

BACKGROUND

Each legislative session, representatives to the California legislature sponsor some 2,000 to 3,000 bills or significant resolutions. Many of these measures become law and affect special districts in substantive ways. The same is true with each session of the House of Representatives or the Senate.

Legislative programs establish guidelines and policy direction that can be used by staff in monitoring legislative activity, and facilitate actions that can be taken quickly in response to legislative initiatives.

The principles provided in the 2008 Legislative Program are meant to serve as guidelines for staff in formulating a consistent District response to legislative initiatives. This is particularly helpful in dealing with time sensitive matters such as last minute amendments should calls or letters to legislators be needed. Sensitive or controversial policy matters will nevertheless be brought to the full Board of Directors for deliberation and direction.

FISCAL IMPACT:

None.

LEGAL IMPACT:

None.

General Manager

Attachments

Attachment A - *Committee Action Report*

Attachment B - *2008 Otay Water District Legislative* Program

ATTACHMENT A

SUBJECT/PROJECT:	2008 Legislative Program Guidelines

COMMITTEE ACTION:

The Finance, Administration, and Communications Committee reviewed this item at a meeting held on April 22, 2008. The following comments were made:

- It was discussed that once yearly staff presents the Legislative Program for the boards review. The Legislative Program provides a guideline to staff when drafting responses to pending legislation.

- The Legislative Program was updated through discussions with staff on positions the board took on various legislative matters.

- The committee inquired with regard to *Bi-National Initiatives*, item "a" under "Oppose efforts to" on page 6 of the Legislative Program, if the district had any bi-national legislative issues that it is opposing. It was indicated that there were none at this time.

- Staff noted that any controversial or sensitive matters would be brought forward for the board to deliberate and provide direction to staff.

- The committee suggested that verbiage be added on page 1 under *Legislative Policy Guidelines* indicating that the District would have a more proactive approach in supporting legislation.

- The committee also discussed with regard to *Water Services*, item "d" under "Oppose efforts to" on page 2, that the District did not know the position of the full board on this item and suggested that the Legislative Program be

tabled for further discussion and brought back to the next committee meeting.

Following the discussion, the committee supported staffs' recommendations and presentation to the full board on the consent calendar.

Otay Water District 2008 Legislative Program

Legislative Policy Guidelines
Effective Date:

Legislative Policy Guidelines

The Otay Water Legislative Policy Guidelines for the 2007-2008 Legislative Sessions include the following:

Water Services

Support efforts to:

a. Provide a comprehensive plan to address Bay-Delta environmental issues.
b. Study and promote "Around-the-Delta" alternatives as a way to improve water quality or water transport and reduce the possibility of levee failure.
c. Support efforts to promote additional surface and underground water storage infrastructure to ensure water availability and quality.
d. Study Global Climate Change and its potential impact on the snow pack, rising sea levels, increased salinity in the Delta, the possibility of reduced precipitation or more severe storms.
e. Provide financial support to projects designed to mitigate the potential negative impacts of Global Climate Change on water supply reliability.
f. Provide ongoing federal and state funding for the California Bay-Delta.
g. Support implementation of the Quantitative Settlement Agreement.
h. Provide reliable water supplies to meet California's short and long-term needs.
i. Develop a comprehensive state water plan that balances California's competing water needs and results in a reliable supply of high-quality water for the San Diego region.
j. Provide conveyance and storage facilities that are cost effective, improve the reliability and quality of San Diego region's water supplies as well as the Bay-Delta region.
k. Equitably allocates costs of the Bay-Delta solution to all those benefiting from improvements.
l. Support agriculture to urban water transfers.
m. Promote desalination pilot studies and projects.
n. Reduce restrictions on recycled water usage.
o. Reduce restrictions on injecting recycled water into basins where there is no direct potable use.
p. Provide financial incentives for recharge of groundwater aquifers using recycled water.
q. Encourage feasibility studies of water resource initiatives.
r. Increase funding for infrastructure and grant programs for construction, modernization or expansion of water, wastewater treatment, reclamation facilities and sewer systems.
s. Provide funding for water recycling, groundwater recovery and recharge, surface water development projects and seawater desalination.

t. Mandate uniform or similar regulations and procedures by state agencies in the processing and administering of grants and programs.
u. Streamline grant application procedures.
v. Limit the availability, or prohibit the installation, of water softening appliances that discharge brine to the sewer systems feeding treatment plants that produce recycled water.
w. Improve the existing Sacramento-San Joaquin River Delta water conveyance system to increase flexibility and enhance water supply, water quality, levee stability and environmental protection.
x. Evaluate long-term threats to the Delta levee and conveyance system and pursue actions to reduce risks to the state's water supply and the environment.
y. Promote or assist voluntary water transfers between willing buyers and willing sellers.
z. Establish reasonable statewide approaches to sewer reporting standards.

Oppose efforts to:

a. Make urban water supplies less reliable or substantially increase the cost of imported water without also improving the reliability and/or quality of the water.
b. Create unrealistic or costly water testing protocol.
c. Create unrealistic or costly to obtain water quality standards for recycled water or storm water runoff.
d. Restrict use of recycled water for groundwater recharge.
e. Disproportionately apportion costs of water.
f. Establish new water or recycled water fees solely to recover State costs without also providing some benefit.
g. Create undo hurtles for seawater desalination projects.
h. Ban the use of or make the use of eminent domain for water infrastructure projects more costly or burdensome.
i. Create regulatory schemes that alter or limit the existing authority to reuse and recycle water.
j. Create unreasonable or confusing sewer reporting standards.

Financial

Support efforts to:

a. Support efforts to clarify procedures and provisions of Proposition 218 in the wake of the Bighorn decision.
b. Require the federal government and State of California to reimburse special districts for all mandated costs or regulatory actions.
c. Give special districts the discretion to cease performance of unfunded mandates.
d. Provide for fiscal reform to enhance the equity, reliability, and certainty of special district funding.
e. Provide incentives for local agencies to work cooperatively, share costs or resources.
f. Provide for the stable, equitable and reliable allocation of property taxes.
g. Continue to reform workers compensation.

h. Authorize financing of water quality, water security, and water supply infrastructure improvement programs.
i. Promote competition in insurance underwriting for public agencies.
j. Establish spending caps on State of California overhead when administering voter approved grant and disbursement programs.
k. Require disbursement decisions in a manner appropriate to the service in question.
l. Encourage funding infrastructure programs that are currently in place and that have been proven effective.
m. Produce tangible results, such as water supply reliability or water quality improvement.
n. Provide financial incentives to projects that increase reliability, diversity, and reduce green house gasses.

Oppose efforts to:

a. Impose new, unfunded state mandates on local agencies and their customers.
b. Undermine Proposition 1A - Protection of Local Government Revenues – and the comprehensive reform approved by voters in 2004.
c. Reallocate special district reserves in an effort to balance the state budget.
d. Reallocate special district revenues to fund infrastructure improvements in cities or counties.
e. Usurp special district funds, reserves, or other state actions that force special districts to raise rates, fees or charges.
f. Complicate existing conservation-based rate structures.
g. Establish funding mechanisms that put undue burdens on local agencies or make local agencies *de facto* tax collectors for the state.
h. Complicate compliance with SB 610 and SB 221.

Governance/Local Autonomy

Support efforts to:

a. Expand local autonomy in governing special district affairs.
b. Establish reasonable standards for reporting director expenditures.
c. Establish meaningful, targeted special district reform.
d. Create consistent definitions of types of meetings directors may use for purposes of compensation.
e. Set fair, consistent and reasonable standards for board member compensation.
f. Promote comprehensive long-range planning.
g. Assist local agencies in the logical and efficient extension of services and facilities to promote efficiency and avoid duplication of services.
h. Streamline the Municipal Service Review Process or set limits on how long services reviews can take or cost.
i. Establish clear and reasonable guidelines for appropriate community sponsorship activities.
j. Reaffirm the existing "all-in" financial structure, or protect the San Diego County Water Authority voting structure based on population.

Otay Water District 2008 Legislative Program

Oppose efforts to:

a. Assume the state legislature is better able to make local decisions that affect special district governance.
b. Create one-size-fits-all approaches to special district reform.
c. Unfairly target one group of local elected officials.
d. Usurp local control from special districts regarding decisions involving local special district finance, operations or governance.
e. Limit the board of directors' ability to govern the district.
f. Create unfunded local government mandates.
g. Create costly, unnecessary or duplicative oversight roles for the state government of special district affairs.
h. Change the San Diego County Water Authority Act regarding voting structure, unless it is based on population.
i. Shift the liability to the public entity and relieve private entities of reasonable due diligence in their review of plans and specifications for errors, omissions and other issues.
j. Place a significant and unreasonable burden on public agencies, resulting in increased cost for public works construction or their operation.

Conservation

Support efforts to:

a. Provide funding for water conservation programs.
b. Encourage the installation of water conserving fixtures in new and existing buildings.
c. Promote the environmental benefits of water conservation.
d. Enhance efforts to promote water awareness and conservation.
e. Offer incentives for landscape water efficiency devices such as ET controllers and soil moisture sensors.
f. Develop landscape retrofit incentive programs and/or irrigation retrofit incentive programs.
g. Permit local agencies adopting stricter ordinances requiring water wise landscaping for commercial and residential development.
h. Create tax credits for citizens or developers who install water wise landscapes.
i. Create tax credits for citizens who purchase high efficiency clothes washers, dual flush and high-efficiency toilets and irrigation controllers above the state standards.
j. Expand community-based conservation and education programs.
k. Develop incentives for developers to install water wise landscape in new construction.
l. Encourage large state users to conserve water by implementing water efficient technologies in all facilities both new and retrofit.
m. Create higher incentives for solar power.
n. Encourage large state water users to conserve water outdoors.

Otay Water District 2008 Legislative Program

o. Educate all Californians on the importance of water, and the need to conserve, manage, and plan for the future needs.

Oppose efforts to:

a. Weaken federal or state water efficiency standards.

Safety, Security and Information Technology

Support efforts to:

a. Provide funding for information security upgrades.
b. Provide incentives for utilities and other local agencies to work cooperatively, share costs or resources.
c. Provide funding for communication enhancements, wireless communications, GIS or other technological enhancements.
d. Encourage or promote compatible software systems.
e. Fund infrastructure and facility security improvements.
f. Protect state, local and regional drinking water systems from terrorist attack or deliberate acts of destruction, contamination or degradation.
g. Provide funds to support training or joint training exercises.
h. Equitably allocate security funding based on need, threats and/or population.
i. Encourage or promote compatible communication systems.

Oppose efforts that:

a. Create unnecessary, costly, or duplicative security mandates.

Optimize District Effectiveness

Support efforts to:

a. Continue to reform Workers Compensation.
b. Give utilities the ability to avoid critical peak energy pricing or negotiate energy contracts that save ratepayers money.
c. Develop reasonable Air Pollution Control District engine permitting requirements.
d. Reimburse or reduce local government mandates.
e. Allow public agencies to continue offering defined benefit plans.
f. Result in predictable costs and benefits for employees and taxpayers.
g. Eliminate abuses.
h. Retain local control of pension systems.
i. Be constitutional, federally legal and technically possible.
j. Establish practical limits on the use of eminent domain.

Oppose efforts to:

a. Restrict the use of, or reallocate, district property tax revenues to the detriment of special districts.
b. Create unrealistic ergonomic protocol.
c. Micromanage special district operations.

Otay Water District 2008 Legislative Program

d. Balance the state budget by allowing regulatory agencies to increase permitting fees.

Bi-National Initiatives

Support efforts to:

a. Promote and finance cross-border infrastructure development such as water pipelines, desalination plants or water treatment facilities.
b. Develop cooperative and collaborative solutions to cross-border issues.
c. Develop and enhance understanding of the interdependence of communities on both sides of the border with the goal of improved cross-border cooperation.

Oppose efforts to:

a. Usurp local control over the financing and construction of water supply and infrastructure projects in the San Diego/Baja California region.

AGENDA ITEM 4

STAFF REPORT

TYPE MEETING:	Legal, Legislative, and Conservation Committee	MEETING DATE:	July 23, 2008
SUBMITTED BY:	Armando Buelna, Communications Officer	W.O./G.F. NO:	DIV. NO. All
APPROVED BY:			
SUBJECT:	AB 2986 -Leno - Waste discharge requirements		

GENERAL MANAGER'S RECOMMENDATION:

That the Legal, Legislative, and Conservation Committee take the position of "Oppose unless Amended" on Assembly Bill 2986 (Leno) relating to Waste Discharge Requirements.

PURPOSE:

To seek authorization from the Legal, Legislative, and Conservation Committee to take an "Oppose unless Amended" position on AB 2986 (Leno) relating to Waste Discharge Requirements.

COMMITTEE ACTION:

See Attachment A

BACKGROUND

Assembly Bill 2986, relating to waste discharge requirements, is an effort to address aging sewer systems through the issuance of an annual report card. Specifically, the bill requires the State or Regional Water Quality Control Board to issue a report card to every collection system and every sewage treatment plant in California based on objective methodologies for measuring system performance.

The stated purpose of AB 2986 is to inform every community in California about the health of their sewer systems to ensure that problem systems will be clearly identified to voters and rate payers. The sponsors feel that by knowing the state of their sewer system, the public would be more supportive of actions such as rate increases or other measures that support upgrades to facilities with failing grades.

The sponsors of the bill are the Friends of the Earth and the San Francisco Baykeeper. The motivation was sewer spills in January 2008 into Richardson Bay in the Marin area.

The bill's public information provisions require state permits, monitoring data, inspection reports, enforcement orders and violations to be made available for public viewing and downloading on the State and Regional Water Board websites.

Opponents of AB 2986 are concerned that rather than encourage ratepayers to make an additional investment in infrastructure through increased fees and charges during difficult times, given competing priorities, a "D" or "F" grade will cause customers to question the wisdom of expending additional monies on a "failed" or "failing" systems. They are also concerned about how these letter grades will be used by investment bankers when preparing public bond issuances.

Moreover, AB 2896 would assign the entire cost of this program to local public agencies through new fees. Consequently, local ratepayers would be asked to fund the hiring of new state employees for a new grading program.

AB 2986 is opposed by ACWA, CASA, CSAC, CWEA, and the League of Cities have recommended amendments to the author that would eliminate the "Report Card" approach and replace it with a requirement that the state board development a Sewer System Infrastructure Rating methodology that takes into account the range of actors relevant to sewer system sustainability, not simply the number of overflows.

AB 2986 is currently in the Senate Appropriations Committee, however, no hearing date has been requested by the author.

FISCAL IMPACT:

None.

LEGAL IMPACT:

None.

General Manager

Attachments

Attachment A - Committee Action Report
B - Assembly Bill 2986 - Amended
C - AB 2986 Senate Committee Analysis
D - Letter of opposition from the Southern California Alliance of Publicly Owned Treatment Works (SCAP)
E - Draft Letter of opposition.

ATTACHMENT A

SUBJECT/PROJECT:	AB 2986 - Leno - Waste Discharge Requirements

COMMITTEE ACTION:

The Legal, Legislative and Conservation Committee reviewed this item at the meeting held on July 23, 2008. The Committee supported Staff's recommendation.

NOTE:

The "Committee Action" is written in anticipation of the Committee moving the item forward for board approval. This report will be sent to the Board as a committee approved item, or modified to reflect any discussion or changes as directed from the committee prior to presentation to the full board.

ATTACHMENT B

AMENDED IN ASSEMBLY MAY 23, 2008

AMENDED IN ASSEMBLY APRIL 8, 2008

AMENDED IN ASSEMBLY MARCH 25, 2008

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL No. 2986

Introduced by Assembly Member Leno
(Coauthor: Assembly Member Huffman)

February 22, 2008

An act to amend Section 75050.2 of the Public Resources Code, and to add Chapter 18 (commencing with Section 14080) to Division 7 of the Water Code, relating to water quality~~, and making an appropriation therefor~~.

LEGISLATIVE COUNSEL'S DIGEST

AB 2986, as amended, Leno. Waste discharge requirements.

(1) Under existing law, the State Water Resources Control Board and the California regional water quality control boards prescribe waste discharge requirements for publicly owned treatment works and other dischargers in accordance with the Porter-Cologne Water Quality Control Act (state act) and the federal Clean Water Act. Existing law, commencing the year in which funding is provided, requires the state board to develop a uniform overflow event report form to be used by the system owner or operator to report sanitary sewer system overflows. Existing law, commencing the year in which funding is provided, requires a database on sanitary sewer system overflows and spills to be developed and made available to the public.

This bill, by January 1, 2010, would require the state board and each regional board to post on their respective Internet Web sites, at a minimum, copies of specified water quality documents maintained in their files and generated on or after January 1, 2009. The state board and each regional board would be required to post on their respective Internet Web sites additional water quality documents generated between January 1, 2006, and December 31, 2008, if they have electronic copies of those documents.

The bill would require the state board, commencing January 1, 2011, to issue annually a letter grade, as specified, for each separate sanitary sewer system, ~~each~~ sewage treatment plant, ~~each~~ combined sewer system, and ~~each~~ combined sewer system treatment plant in the state *that is subject to waste discharge requirements* in accordance with letter grading methodologies that the state board would be required to establish. The state board would be required, by July 1, 2009, to establish a methodology for measuring "peaking factors," as defined, and to establish, as necessary, monitoring and reporting requirements to measure peaking factors.

The bill would require the state board, by July 1, 2010, and by July 1 of each year thereafter, to establish a list of all sewage treatment plants that treat waste collected from separate sanitary sewer systems and for which the state board makes specified findings relating to wet weather peak flows. A satellite sewer system, as defined, that discharges sewage to a sewage treatment plant that has been placed on that list would be required to install and operate flow meters *or employ another flow monitoring methodology approved by the state board or a regional board,* for at least 3 years, as described, unless the state board or the appropriate regional board makes a specified finding regarding the satellite sewer system.

The bill would require the state board to impose fees upon owners and operators of separate sanitary sewer systems, sewage treatment plants, combined sewer systems, and combined sewer system treatment plants and others subject to waste discharge requirements, as provided, to finance the *prudent* implementation of these provisions. The state board would be required to establish a fee schedule so that the total amount of fees collected equals the amount necessary to recover costs incurred in the implementation of these provisions. The bill would require the state board to deposit the fees in the California Clean Water Act Fund, which the bill would establish in the State Treasury. The moneys in the fund would be ~~continuously appropriated~~ *available, upon*

appropriation by the Legislature, to the state board for expenditure by the state board and for allocation to the regional boards, as necessary, to implement the bill's provisions.

(2) The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, approved by the voters at the November 7, 2006, statewide general election, makes available, upon appropriation by the Legislature, $90,000,000 to the state board for matching grants to local public agencies to reduce and prevent stormwater contamination of rivers, lakes, and streams. Existing law establishes a list of projects that are eligible to receive funding pursuant to this stormwater program.

This bill would specify that, under prescribed circumstances and upon appropriation for those purposes, projects to install flow meters *or implement other flow monitoring methods approved by the state board* to measure *specified* stormwater impacts and projects to assist with *certain* sanitary sewer system and combined sewer system improvements to reduce stormwater inflow and infiltration are eligible to receive funding pursuant to this stormwater program.

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

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

1 SECTION 1. This act shall be known, and may be cited, as the
2 California Clean Water Act.
3 SEC. 2. Section 75050.2 of the Public Resources Code is
4 amended to read:
5 75050.2. (a) The state board shall develop project selection
6 and evaluation guidelines for the allocation of funds made available
7 pursuant to subdivision (m) of Section 75050. Upon appropriation,
8 the funds shall be available for matching grants to local public
9 agencies, not to exceed five million dollars ($5,000,000) per
10 project, for projects to achieve any of the following purposes in
11 accordance with the requirements of that subdivision:
12 (1) Complying with total maximum daily load requirements
13 established pursuant to Section 303(d) of the Clean Water Act (33
14 U.S.C. Sec. 1313(d)) and this division where pollutant loads have
15 been allocated to stormwater, including, but not limited to, metals,
16 pathogens, and trash pollutants.

(2) Assistance in implementing low-impact development and other onsite and regional practices, on public and private lands, that seek to maintain predevelopment hydrology for existing and new development and redevelopment projects. Projects funded pursuant to this paragraph shall be designed to infiltrate, filter, store, evaporate, or retain runoff in close proximity to the source of water.

(3) Implementing treatment and source control practices to meet design and performance standard requirements for new development.

(4) Treating and recycling stormwater discharge.

(5) Implementing improvements to combined municipal sewer and stormwater systems.

(6) Implementing best management practices, and other measures, required by municipal stormwater permits issued by a California regional water quality control board or the state board.

(7) Assessing project effectiveness, including, but not limited to, monitoring receiving water quality, determining pollutant load reductions, and assessing improvements in stormwater discharge water quality.

(8) Installing flow meters, *or implementing other flow monitoring methods approved by the state board,* to measure stormwater impacts pursuant to Section 14083 of the Water Code in satellite sewer systems serving severely disadvantaged communities.

(9) Assistance for sanitary sewer systems and combined sewer systems that have received a grade of "F" pursuant to Section 14082 of the Water Code for improvements to reduce stormwater inflow and infiltration in severely disadvantaged communities.

(b) (1) For the purpose of implementing subdivision (a), the state board shall give preference to a project that does one or more of the following:

(A) Supports sustained, long-term water quality improvements.

(B) Is coordinated or consistent with any applicable integrated regional water management plan.

(2) The allocation of funds pursuant to this section shall be consistent with water quality control plans and Section 75072.

(c) The state board shall require grant recipients for projects described in subdivision (a) to assess and report on project effectiveness, which may include monitoring receiving water

quality, determining pollutant load reductions, and assessing improvements in stormwater discharge water quality resulting from project implementation.

SEC. 3. Chapter 18 (commencing with Section 14080) is added to Division 7 of the Water Code, to read:

CHAPTER 18. PUBLIC INFORMATION, SEWER SYSTEM GRADING, AND WET WEATHER FLOWS

14080. For the purposes of this chapter, all of the following terms shall have the following meanings:

(a) "Combined sewer system" means any wastewater collection system that conveys sanitary, commercial, and industrial wastewater and stormwater through a single-pipe collection system to a sewage treatment plant.

(b) "Combined sewer overflows" means sewage overflows from a combined sewer system, as defined by the United States Environmental Protection Agency Combined Sewer Overflow Control Policy (59 Fed. Reg. 18688, April 19, 1994).

(c) "Peaking factor" means the ratio of peak wet weather flows in sewer lines compared to average dry weather flows in sewer lines.

(d) "Sanitary sewer overflow" means any overflow, spill, release, discharge, or diversion ~~from a separate sanitary sewer system at a point prior to the sewage treatment plant. Sanitary~~ *of untreated or partially treated wastewater from a sanitary sewer system. Sanitary* sewer overflows include all of the following:

(1) Overflows or releases of untreated or partially treated wastewater that reach the waters of the United States.

(2) Overflows or releases of untreated or partially treated wastewater that do not reach the waters of the United States.

(3) Wastewater backups into buildings or private property that are caused by blockages or flow conditions within the system-maintained portion of a separate sanitary sewer system.

(e) "Sanitary sewer system" means any separate sanitary sewer system or any combined sewer system that is a system of pipes, pump stations, sewer lines, or other conveyances designed and used to collect and convey sanitary sewage to a sewage treatment plant. *Sanitary sewer systems include only those systems that are comprised of more than one mile of pipes or sewer lines.*

(f) "Satellite sewer system" means the portion, if any, of a sanitary sewer system that is owned or operated by an entity or public agency other than the entity or public agency that owns and operates the sewage treatment plant to which the sanitary sewer system is tributary.

(g) "Secondary treatment" means a level of treatment that complies with Section 133.102 of Title 40 of the Code of Federal Regulations.

(h) "Separate sanitary sewer system" means any system of pipes, pump stations, sewer lines, or other conveyances designed and used to collect and convey sanitary sewage, separate from stormwater, to a sewage treatment plant.

(i) "Sewage treatment plant" means any facility used for the treatment of sewage and capable of providing secondary treatment of sewage, unless the owner or operator of the facility has secured a modified permit pursuant to 33 U.S.C. Section 1311(h), in which case the plant is capable of achieving primary treatment or equivalent treatment, as defined in 33 U.S.C. Section 1311(h).

(j) "Waste discharge requirements" means waste discharge requirements prescribed pursuant to this division, including waste discharge requirements issued in accordance with the national pollutant discharge elimination system (NPDES) permit program, *or the state board's Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, Order No. 2006-0003-DWQ, adopted May 2, 2006* .

14081. (a) By January 1, 2010, the state board and each regional board shall post on their respective Internet Web sites, at a minimum, copies of the following documents maintained in their files and generated on or after January 1, 2009:

(1) All waste discharge requirements prescribed by the state board or a regional board.

(2) Any information, data, or report required to be submitted to the state board or a regional board pursuant to monitoring requirements set forth in waste discharge requirements.

(3) Any report addressing inspection, including, but not limited to, United States Environmental Protection Agency inspection reports, of any permitted facility by the state board, a regional board, or any contractor retained by the state board or a regional board.

(4) Any ~~proposed~~ *tentative* or final administrative enforcement order issued by the state board or a regional board, including any administrative compliance order, time schedule order, and final administrative civil liability order, and any administrative civil liability complaint issued by the state board or a regional board.

(5) Any judicial complaint filed by or against the state board or a regional board, or in which the state board or a regional board is a party, relating to a violation of this division or the federal Clean Water Act, and any settlement agreement, consent decree, or judgment resolving any judicial case relating to a violation of this division or the federal Clean Water Act in which the state board or a regional board is a party.

(6) Any list established pursuant to subdivision (b) of Section 14083.

(b) By January 1, 2010, the state board and each regional board shall post on their respective Internet Web sites copies of any of the documents described in subdivision (a), generated between January 1, 2006, and December 31, 2008, for which the state board or a regional board has electronic copies.

(c) For purposes of this section, "post" means placing the documents on the Internet Web site in a format that may be readily downloaded by the public.

(d) The state board or a regional board may require a person subject to waste discharge requirements to submit documents required by the waste discharge requirements in electronic form as prescribed by the relevant board.

(e) Documents sealed by a court, exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), or for distribution or consideration in a closed session under the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code), shall not be subject to posting on an Internet Web site pursuant to this section.

14082. (a) Commencing January 1, 2011, the state board shall issue a letter grade of "A," "B," "C," "D," or "F" annually for each ~~separate sanitary sewer system, each sewage treatment plant, each combined sewer system, and each combined sewer system treatment plant.~~ *of the following that is subject to waste discharge requirements:*

(1) A separate sanitary sewer system.
(2) A sewage treatment plant.
(3) A combined sewer system.
(4) A combined sewer system treatment plant.

(b) By July 1, 2009, the state board shall propose a letter grading methodology consisting of grades "A," "B," "C," "D," or "F" for each of the following:

(1) Separate sanitary sewer systems.
(2) Sewage treatment plants.
(3) Combined sewer systems.
(4) Combined sewer system treatment plants.

(c) By January 1, 2010, and after providing public notice and opportunity for public comment, the state board shall establish a letter grading methodology for each type of system or plant described in subdivision (b).

(d) The state board shall review the letter grading methodologies established pursuant to subdivision (c) every five years commencing with 2015, to determine whether advances in wastewater collection and treatment warrant revisions to impose more stringent methodologies. The state board shall provide public notice and opportunity for comment prior to making changes to a letter grading methodology.

(e) The letter grading methodology for separate sanitary sewer systems shall consist of the number, *volume, and cause* of sanitary sewer overflows for each 100 miles of sewer line.

(f) The letter grading methodology for sewage treatment plants shall reflect violations of waste discharge requirements~~, incidents of bypassing any portion of the treatment plants, and discharges of any sewage that has not received secondary treatment.~~.

(g) The letter grading methodology for each combined sewer system shall reflect the combined sewer system's adherence to the provisions set forth in the system's waste discharge requirements and long-term combined sewer system control plan.

(h) The letter grading methodology for each combined sewer system treatment plant shall reflect adherence to the requirements set forth in each treatment plant's waste discharge requirements.

14083. (a) By July 1, 2009, the state board shall establish a methodology for measuring peaking factors for purposes of this section. The state board shall also establish, as necessary, monitoring and reporting requirements to measure peaking factors.

(b) By July 1, 2010, and by July 1 of each year thereafter, the state board shall establish a list of all sewage treatment plants that treat waste collected from separate sanitary sewer systems and for which the state board finds both of the following:

(1) The sewage treatment plant has experienced a peaking factor that equals or exceeds a designation of "seven."

(2) Peak wet weather flows have either caused or contributed to discharges in violation of waste discharge requirements from the sewage treatment plant, or caused or contributed to a bypass of secondary treatment during a storm that does not exceed the rainfall depth duration frequency of 10 years and 24 hours as posted by the Department of Water Resources.

(c) The state board ~~shall~~ *may* review, and modify if necessary, the designated peaking factor established in paragraph (1) of subdivision (b) ~~every five years commencing with 2015,~~ to reflect current information about the levels of peak wet weather flow that correlate with increased risk of sanitary sewer overflows, or discharges in violation of waste discharge requirements. Before establishing the list pursuant to subdivision (b), the state board shall provide public notice and opportunity for comment.

(d) (1) Any satellite sewer system that discharges sewage to a sewage treatment plant that has been placed on the list pursuant to subdivision (b) shall, within two years of that placement, install and operate flow meters, ~~adequate to measure all~~ *or employ another flow monitoring methodology approved by the state board or a regional board, adequate to measure or accurately estimate* discharges to the sewage treatment plant, for at least three years.

(2) Paragraph (1) does not apply if the state board or a regional board finds, based on clear and convincing evidence, that the satellite sewer system's contribution of wet weather peak flows does not pose a risk of causing or contributing to discharges in violation of waste discharge requirements or causes or contributes to a bypass ~~or~~ *of* secondary treatment during a storm that does not exceed the rainfall depth duration frequency of 10 years and 24 hours as determined by the department.

(e) The satellite sewer system shall continue to operate the flow meters *or employ other flow monitoring methodologies* required pursuant to subdivision (d) unless either the sewage treatment plant to which it discharges is removed from the list established pursuant to subdivision (b) or the state board or a regional board finds, based

on clear and convincing evidence, that the satellite sewer system's additional contribution of wet weather peak flows no longer poses a risk of causing or contributing to discharges in violation of waste discharge requirements or causes or contributes to a bypass ~~or~~ *of* secondary treatment during a storm that does not exceed the rainfall depth duration frequency of 10 years and 24 hours as determined by the department. Before making that finding, the state board shall provide public notice and opportunity for comment.

14084. (a) The state board shall impose fees upon owners and operators of separate sanitary sewer systems, sewage treatment plants, combined sewer systems, and combined sewer system treatment plants, and on those persons subject to waste discharge requirements for the purposes of funding implementation of Section 14081 as determined by the state board, to finance the *prudent* implementation of this chapter. The state board shall establish a fee schedule so that the total amount of fees collected pursuant to this section equals the amount necessary to recover costs, including, but not limited to, administrative costs, incurred in the implementation of this chapter.

(b) The fees shall be deposited in the California Clean Water Act Fund, which is hereby established in the State Treasury. ~~Notwithstanding Section 13340 of the Government Code, the moneys in the fund are hereby continuously appropriated, without regard to fiscal year, to the state board for~~ *Moneys in the fund shall be available, upon appropriation by the Legislature, to the state board for* expenditure by the state board and for allocation to regional boards, as appropriate, to implement this chapter.

O

CURRENT BILL STATUS

MEASURE : A.B. No. 2986
AUTHOR(S) : Leno (Coauthor: Huffman).
TOPIC : Waste discharge requirements.
HOUSE LOCATION : SEN
+LAST AMENDED DATE : 05/23/2008

TYPE OF BILL :
Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 07/10/2008
LAST HIST. ACTION : In committee: Set, first hearing. Hearing canceled at the request of author.
COMM. LOCATION : SEN APPROPRIATIONS
HEARING DATE : 08/04/2008

TITLE : An act to amend Section 75050.2 of the Public Resources Code, and to add Chapter 18 (commencing with Section 14080) to Division 7 of the Water Code, relating to water quality.

ATTACHMENT C

AB 2986

SENATE COMMITTEE ON ENVIRONMENTAL QUALITY
Senator S. Joseph Simitian, Chairman
2007-2008 Regular Session

BILL NO:	AB 2986		
AUTHOR:	Leno		
AMENDED:	May 23, 2008		
FISCAL:	Yes	HEARING DATE:	June 23, 2008
URGENCY:	No	CONSULTANT:	Bruce Jennings

SUBJECT : WASTE DISCHARGE REQUIREMENT

SUMMARY :

Existing law , under the federal Water Pollution Control Act Amendments of 1972 and 1987, known as the Clean Water Act, establishes federal guidelines for surface water quality protection.

1) Authorizes water quality programs, requires federal effluent limitations and state water quality standards, requires permits for the discharge of pollutants into navigable waters, provides enforcement mechanisms, and authorizes funding for wastewater treatment works construction grants and state revolving loan programs, as well as funding to states and tribes for their water quality programs.

2) Authorizes state agencies to administer many of the Clean Water Act's provisions, including authorizing the State Water Resources Control Board (state board) and the Regional Boards to regulate proposed federally-permitted activities that may result in a discharge to water bodies.

3) Provides that states, their political subdivisions and interstate agencies are not preempted from adopting or enforcing standards, limitations or requirements as long as they are no less stringent than their federal counterparts.

4) Under the Porter-Cologne Water Quality Control Act, establishes a comprehensive state program to protect both surface and ground water quality and the beneficial uses of water. Grants regulatory authority to the SWRCB and the

nine semi-autonomous California regional water quality control boards as the "principal state agencies with primary responsibility for the coordination and control of water quality."

5) Under state law, requires that Proposition 84 Storm Water Grant Program funds be used to provide matching grants to local public agencies for the reduction and prevention of storm water contamination of rivers, lakes, and streams.

This bill :

1) Requires the state board and each regional board, by January 1, 2010, to post on their respective websites copies of all documents generated from 2006 through 2009 regarding waste discharge requirements (WDRs), WDR monitoring information, facility inspections, administrative enforcement orders, sewage treatment plants with peak wet weather flow problems (generated starting 2009), and administrative and judicial complaints.

2) Requires the state board, starting January 1, 2011, to issue a letter grade (A to F) annually for each sewer system, sewage treatment plant, combined sewer system, and combined sewer system treatment plant in the state subject to waste discharge requirements, using a letter grade methodology established by the board in 2010.

3) Requires the state board, by July 1, 2010 and by July 1 annually thereafter, to list central sewage treatment plants that experience a high incidence of peak wet weather flows that result in WDR violations or that bypass secondary treatment, as specified.

4) Requires the state board, starting in 2015, to review the methodologies for both its letter grade process and the peak wet weather flow factors.

5) Requires a satellite sewer system that discharges wastewater to a central treatment plant that is listed on the high peaking factor list to install and operate flow meters or another flow monitoring methodology approved by the state board or a regional board, unless the state board

or regional board deems the installation inappropriate.

6) Makes eligible for the state board's matching grant

program, funded by $90 million of bond proceeds from the Safe Drinking Water, Water Quality and Supply, Flood Control River and Coastal Protection Bond Act of 2006, earmarked for reduction and prevention of stormwater contamination of rivers, lakes, and streams, severely disadvantaged communities that install flow meters or to implement other flow monitoring methods approved by the state board, as specified.

7) Requires the state board to impose a fee on sewage system owners or operators and on WDR permit holders to fund implementation of the information systems developed and administered by the board and regional boards. Revenue generated by this fee must be deposited in the proposed California Clean Water Act Fund and is appropriated by the Legislature to be made available to the state board as well as for making allocations to regional boards for the purposes of this act.

COMMENTS :

1) Purpose of Bill . According to the author, "On January 25 and January 31, 2008, more than five million gallons of untreated and partially treated sewage was discharged into Richardson Bay from a public treatment plant run by the Sewerage Agency of Southern Marin. Thereafter, the U.S. Environmental Protection Agency released inspection reports showing that poorly maintained tributary sewer systems are overwhelming the Marin treatment plant with inflows of storm water.

The Marin spills are indicative of a statewide problem with sewage treatment plant capacities, sanitary sewer overflows, and system leaks that compromise health, safety, and water quality in our rivers, estuaries, bays, and the ocean.

When sewers fail, it is usually a surprise to the rate payers served by that system. The average voter has no easily understandable means of discerning the health and

performance of their wastewater treatment infrastructure. AB 2986 seeks to inform every community in California about the health of their sewer systems and ensures that problem systems will be clearly identified to voters and rate payers."

2) Aging sewage systems . The nation's million-mile network of sewage collection pipes is designed to carry roughly 50

trillion gallons of raw sewage daily to about 20,000 treatment plants. In 2001, however, the U.S. Environmental Protection Agency estimated there were 40,000 sanitary sewer overflows (SSO) and 400,000 backups of untreated sewage into basements. Many sewage pipes are between 50 and 100 years old and can develop cracks or joint openings from the weight and vibration of roads, soil, and structures above them, and from the corrosive actions of water, bacteria and chemicals from inside and out. Plant roots can widen these openings, allowing raw sewage to escape into groundwater. Rainwater entering the pipes through cracks and openings, or from illegal connections, can overwhelm the capacity of the system, forcing raw sewage to purge through manholes into streets and streams, back up into basements, or otherwise bypass treatment plants. Even during dry weather, clogged, malfunctioning, or overloaded systems can discharge raw sewage; during wet weather many of these aging systems are simply overwhelmed causing significant spills into California's waterways.

According to state board statistics, in the Bay Area alone there have been 276 sewage spills this year that either flowed into Bay Area waterways or contained at least 1,000 gallons of effluent. In total, these spills account for more than 14 million gallons of sewage entering the environment, the statistics show. These numbers don't include the Jan. 26 and Jan. 31 spills of 5.15 million gallons of raw and partially treated sewage by the Sewerage Agency of Southern Marin treatment plant in Mill Valley.

3) Impacts of sewage spills . A small drop of fecal matter can contain millions of microorganisms of many types, some of which are pathogenic. Microbial pathogens in raw or inadequately treated sewage can cause illnesses ranging from temporary stomach cramps to life-threatening

conditions such as inflammation of the heart. Inadequately treated human sewage can also contaminate edible filter-feeding shellfish, which filter viruses from water and can then infect humans with concentrations of viruses that are 100 to 900 times greater than in the surrounding water. High concentrations of infectious viruses can cause disease in unsuspecting consumers far from the spill.

Also in sewage are the myriad chemical wastes discharged into sewage collection systems from industrial, commercial, institutional, and household activities. Industrial chemicals include a wide range of substances, from heavy metals such as mercury, lead, and cadmium; to agents that

have been manufactured such as sodium hydroxide and sulfuric acid; to more recently engineered compounds such as the toxic plastic additive di(2-ethylhexyl)phthalate (DEHP).

Sewage spills can also damage homes and businesses and threaten waterways and beaches.

4) Support . According to Friends of the Earth, "Aging sewer systems, especially in the San Francisco Bay Area, regularly spill millions of gallons of raw or partially treated sewage into streets, homes, local creeks and the Bay. These spills pose a grave threat to human health and to the environment. Inadequately treated sewage contains high levels of disease-carrying microorganisms and toxic chemicals such as mercury, cyanide and PCBs. Large spills, like the Marin spills in January 2008, can also contaminate shellfish, weaken fish, and deplete water oxygen levels. Unfortunately, the adage "out of sight, out of mind" has applied to our sewers, and most Californians are unaware of how common sewage spills are or how their community's own system is performing. Baykeeper believes that AB 2986 will increase the public's understanding of the increase accountability for those agencies responsible for protecting our water."

5) Opposition . The opponents to AB 2986 speak to many points, but these might be summarized as follows:

a) Inappropriate Grading Metrics. The proposed criterion for

grading wastewater collection systems, such as the use of "peaking factor," not distinguishing between systems (e.g., size, topography, rainfall, age), evaluations based on number of SSOs per 100 miles - all of these provide misleading and inappropriate metrics for understanding system performance.

b) The Inappropriateness of a Grading System. "Rather than encourage ratepayers to make an additional investment in infrastructure through increased fees and charges during difficult times, we are very concern, given competing priorities, a "D" or "F" grade will cause customers to question the wisdom of expending additional monies on a "failed" or "failing" system?.We are also concerned about how these letter grades will be sued by investment bankers when preparing public bond issuances."

c) A System for Improvement has been Recently Established.

"Two years ago, the state board adopted a statewide permit requiring all public-owned wastewater collection systems in California to implement detailed reporting and sewer system management programs?the program?is designed to improve collection system management, maintenance and operations to achieve the goals of significantly reducing SSOs?"

d) The Grading System is Costly. "AB 2896?would assign the entire cost of this program to local public agencies through new fees?.[is it appropriate to require] local ratepayers to fund the hiring of new state employees for a new grading program [in the context of these agencies paying fees to the Water Boards for implementing a statewide permit]?

Several of the major opponents (ACWA, CASA, CSAC, CWEA, and the League of Cities) have recommended amendments to the author that would eliminate the "Report Card" approach and replace it with a requirement that the state board development a Sewer System Infrastructure Rating methodology that takes into account the range of actors relevant to sewer system sustainability, not simply the number of overflows.

SOURCE : Friends of the Earth and San Francisco

Baykeeper

SUPPORT : American Rivers, Bay Area Sea Kayakers, California Coastkeeper Alliance, Center on Race, Poverty & the Environment, Environment California, Environmental Defense Center, Inland Empire Waterkeeper, Marin Co. Bd. Of Supervisors, Monterey Coastkeeper, Natural Resources Defense Council, Ocean Conservancy, Orange County Coastkeeper, Pacific Coast Federation of Fishermen's Associations, Planning and Conservation League, Russian Riverkeeper, San Diego Coastkeeper, Santa Barbara Channelkeeper, Santa Monica Baykeeper, Save the Bay, Seaflow, Sierra Club California, Turtle Island Restoration Network

OPPOSITION : Assn. of CA Water Agencies, Bayshore Sanitary District, CA Assn of Sanitation Agencies, CA State Assn of Counties, CA Water Environment Association, Calaveras County Water District, Castro Valley Sanitary District, Central Valley Clean Water Association, Cities of: Corona,

Eureka, Palo Alto, Sanger, Thousand Oaks, Turlock, County Sanitation Districts of LA County, Covello Group, Delta Diablo Sanitation District, East Bay Dischargers Authority, Eastern Municipal Water District, El Dorado Irrigation District, Elsinore Valley Municipal Water District, Goleta Sanitary District, Goleta West Sanitary District, Ironhouse Sanitary District, Lake County Sanitation District, Las Gallinas Valley Sanitary District, Las Virgenes Municipal Water District, League of California Cities, Midway City Sanitary District, Novato Sanitary District, Oro Loma Sanitary District, Running Springs Water District, Sacramento Regional County Sanitation District and Sacramento Area Sewer District, Sanitation Districts of Los Angeles County, South Bayside System Authority, South Orange County Wastewater Authority, Southern CA Alliance of POTWs, Stege Sanitary

District, Turlock, West County Wastewater District, Western Municipal Water District

ATTACHMENT D

SCAP

SOUTHERN CALIFORNIA ALLIANCE OF PUBLICLY OWNED TREATMENT WORKS

May 15, 2008

Via Facsimile

The Honorable Mark Leno
California State Assembly
PO Box 942849
Room 2114
Sacramento, CA 94248-0001

SUBJECT: AB2986 (Leno) Relating to Wastewater Systems

Dear Assembly Member Leno:

The Southern California Alliance of Publicly Owned Treatment Works (SCAP) respectfully opposes your AB 2986 proposed legislation related to wastewater systems reporting unless amended to address the concerns of our public wastewater agencies.

SCAP represents 85 public agencies that provide both water and wastewater to nearly 18 million people in parts of Los Angeles, Orange, San Diego, Santa Barbara, Riverside, San Bernardino and Ventura counties. We treat and safely reuse or dispose of over 1 billion gallons of wastewater each day and deliver 1.7 billion gallons of drinking water per day.

We are aware that the California Association of Sanitation Agencies (CASA), the Association of California Water Agencies (ACWA) and the League of California Cities have been working closely with you and your staff to amend AB 2986 and we share their concerns as to the current language of the bill. While we very much appreciate your efforts in addressing the important issues raised in your bill, we do not feel that sufficient changes have been made to warrant our support at this time.

We join with the previously mentioned organizations in requesting that you consider significant amendments to AB 2986 that will eliminate the "Report Card" approach and replace it with a requirement that the State Water Resources Control Board, or another entity under contract, prepare a "State of the Infrastructure" report that identifies the strengths and shortcomings of our existing wastewater collection systems and provides recommendations for addressing key issues, such as funding needs.

Thank you for your consideration of our concerns.

Sincerely,

John Pastore
Executive Director

30200 Rancho Viejo Road, Suite B
San Juan Capistrano, CA 92675
Fax: 949/489-0150 Tel: 949/489-7676

ATTACHMENT E

July 17, 2008

The Honorable Tom Torlakson, Chair
Appropriations Committee
State Capitol, Room 4203
Sacramento, CA 95814

Re: AB 2986 (Leno) Relating To Wastewater Systems –Oppose Unless Amended

Dear Chair Torlakson:

The Otay Water District (OWD) opposes AB 2986 relating to wastewater systems unless the bill is amended to address the concerns of water and sewer agencies. The OWD is dedicated to protecting public health and water quality, and we share Assemblymember Leno's goal to reduce sanitary sewer overflows (SSOs) and prevent unauthorized discharges to our waters. Nevertheless, we are concerned the bill will not further these goals and instead will have unintended consequences.

Treatment facilities are already subject to comprehensive discharge permits and rating systems administered by State and federal regulators. Moreover, the State Water Board adopted a statewide permit two years ago that requires all publicly owned wastewater collection systems to implement detailed reporting and system management programs. The effort includes an ambitious schedule to improve collection system management and operations to significantly reduce SSOs. Among other things, the permit program requires a publicly accessible database that provides detailed information about SSOs. The program should have time to produce results before requiring the local agencies to comply with an additional and potentially incompatible regulatory program.

In addition, the grading system will not result in improved local infrastructure. Grades of "D" or "F" will not encourage the public to invest in necessary infrastructure as intended by the bill. Rather, the public will be reluctant to spend scarce resources on "failed" or "failing" infrastructure given competing priorities. The grades will encourage third party lawsuits that drain local funds to pay attorneys' fees of plaintiffs and monetary settlements. When agencies disclose their grades to investment bankers under the bill to prepare public bond issuances for infrastructure, the result may be higher costs of bonds and credits.

AB 2986 would base grades for wastewater collection systems on the number and volume of SSOs per 100 miles. This metric presumes that the facility size, topography, rainfall, age, etc. of all systems is sufficiently similar so as to allow regulators to fairly evaluate and compare systems. However, wastewater systems are far too complex for such a simplistic approach. A fair evaluation requires consideration of other factors that include, but are not limited to, water quality impact, containment, and cleanup.

AB 2986 applies a "peaking factor" of seven to all collection systems regardless of site-specific or system-specific factors and without technical or engineering support. The one-size-fits-all approach would disadvantage small systems since they do not have the same opportunities as their larger counterparts to equalize flows within the system. In addition, the requirement to meter all flows from all satellites is overly burdensome and unnecessary as well as infeasible for some systems. A single satellite system may connect to the treatment agency's system at multiple locations *and* have its own satellites. Large regional systems may require thousands of meters, which would need periodic maintenance.

AB 2896 would create a significant new program for the State and Regional Water Boards to implement. The bill would require local public agencies to bear the program's entire cost through new fees, yet does not establish an upper limit on the amount of staffing and other resources the Water Boards can devote to the program. Public agencies now face difficult economic times and already pay fees to the Water Boards to implement the statewide permit program previously discussed. It would be a better use of resources to focus on the existing program designed to reduce and provide meaningful public information about SSOs.

We appreciate the opportunity to provide you these comments and respectfully urge you to consider our concerns if and when AB 2986 comes before you for a vote.

Sincerely,

Mark Watton
General Manager

cc: Board of Directors
Senator Denise Ducheny
Senator Dennis Hollingsworth
Senator Christine Kehoe
Assemblymember Mark Leno

AGENDA ITEM 5

OTAY WATER DISTRICT ESTABLISHED 1956

STAFF REPORT

TYPE MEETING:	Legal/Legislative/Conservation Committee	MEETING DATE:	July 23, 2008
SUBMITTED BY:	Rom Sarno, Chief Adminstrative Services	W.O./G.F. NO:	DIV. NO. ALL
APPROVED BY: (Chief)			
APPROVED BY: (Asst. GM):	German Alvarez, Assistant GM		
SUBJECT:	UPDATE - OTAY DROUGHT RESPONSE CONSERVATION PROGRAM		

GENERAL MANAGER'S RECOMMENDATION:

This is informational only and does not require any Board action.

COMMITTEE ACTION: _____

See Attachment "A"

PURPOSE:

To provide an update on the District's Drought Response Conservation Program.

ANALYSIS:

The Board adopted the District's Drought Response Conservation Program on June 10, 2008.

The District's Drought Response Conservation Program as contained within Section 39 of the Code of Ordinance is broken into four levels: Level 1 Drought Watch, Level 2 Drought Alert, Level 3 Drought Critical, and Level 4 Drought Emergency.

The District's four levels of its Drought Response Plan are nearly identical to the Water Authority's model, as noted in Attachment D and E. Staff fully expects that the District will declare a level 2 Drought Alert within the next twelve months.

Monitoring and Enforcement:

Staff will return to the Board with recommendations and implementation plans as required. This will include proposals on enforcement, fines and public information. The language involving enforcement and fines will be included in the District's Code of Ordinances.

Drought Pricing:
Staff is planning for drought pricing to begin in Level 2. The intent of drought pricing is to be revenue neutral. The District's drought pricing will be presented to the Board in the fall. Finance staff has hired PBS&J, Karen Keese, to assist with evaluating and making recommendations on how to structure and implement the District's drought pricing.

FISCAL IMPACT: Unknown at this time. When drought pricing is implemented, the intent is to be revenue neutral. Recommendations and implementation will be presented to the Board for approval.

STRATEGIC GOAL:

District's FY 09-11 Strategic Plan related to implementation of the District's Drought Management Plan.

LEGAL IMPACT:

None

General Manager

Attachment A: Committee Staff Report
Attachment B: Ordinance 516
Attachment C: District Code of Ordinance - Section 39
Attachment D: Summary Table - District's Drought Conservation Program
Attachment E: Summary Table - Water Authority's Model Response Ordinance

ATTACHMENT A

SUBJECT/PROJECT:	Update - Otay Drought Response Conservation Program

COMMITTEE ACTION:

This item was presented to the Legal Legislative & Conservation Committee on July 23, 2008.

ATTACHMENT B

ORDINANCE NO. 516

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE OTAY WATER DISTRICT AMENDING SECTION 39, DROUGHT RESPONSE CONSERVATION PROGRAM, FORMERLY KNOWN AS "CONSERVATION AND WATER SHORTAGE RESPONSE PROGRAM," OF THE DISTRICT'S CODE OF ORDINANCES

WHEREAS, article 10, section 2 of the California Constitution declares that waters of the State are to be put to beneficial use, that waste, unreasonable use, or unreasonable method of use of water be prevented, and that water be conserved for the public welfare; and

WHEREAS, conservation of current water supplies and minimization of the effects of water supply shortages that are the result of drought are essential to the public health, safety and welfare; and

WHEREAS, regulation of the time of certain water use, manner of certain water use, design of rates, method of application of water for certain uses, installation and use of water-saving devices, provide an effective and immediately available means of conserving water; and

WHEREAS, California Water Code sections 375 et seq. authorize water suppliers to adopt and enforce a comprehensive water conservation program; and

WHEREAS, adoption and enforcement of a comprehensive water conservation program will allow the Otay Water District (District) to delay or avoid implementing measures such as water rationing or more restrictive water use regulations pursuant to a declared water shortage emergency as authorized by California Water Code sections 350 et seq.; and

WHEREAS, San Diego County is a semi-arid region and local water resources are scarce. The region is dependent upon imported water supplies provided by the San Diego County Water Authority, which obtains a substantial portion of its supplies from the Metropolitan Water District of Southern California. Because the region is dependent upon imported water supplies, weather and other conditions in other portions of this State and of the Southwestern United States affect the availability of water for use in San Diego County; and

WHEREAS, the San Diego County Water Authority has adopted an Urban Water Management Plan that includes water conservation as a necessary and effective component of the Water Authority's programs to provide a reliable supply of water to meet the needs of the Water Authority's 24 member public agencies, including the District. The Water Authority's Urban Water Management Plan also includes a contingency analysis of actions to be taken in response to water supply shortages. This ordinance is consistent with the Water Authority's Urban Water Management Plan; and

WHEREAS, as anticipated by its Urban Water Management Plan, the San Diego County Water Authority, in cooperation and consultation with its member public agencies, has adopted a Drought Management Plan, which establishes a progressive program for responding to water supply limitations resulting from drought conditions. This ordinance is intended to be consistent with and to implement the Water Authority's Drought Management Plan; and

WHEREAS, the Water Authority's Drought Management Plan contains three stages containing regional actions to be taken to lessen or avoid supply shortages. This ordinance contains drought response levels that correspond with the Drought Management Plan stages; and

WHEREAS, the District due to the geographic and climatic conditions within its territory and its dependence upon water imported and provided by the San Diego County Water Authority, may experience shortages due to drought conditions, regulatory restrictions enacted upon imported supplies and other factors. The District has adopted an Urban Water Management Plan that includes water conservation as a necessary and effective component of its programs to provide a reliable supply of water to meet the needs of the public within its service territory. The District's Urban Water Management Plan also includes a contingency analysis of actions to be taken in response to water supply shortages. This ordinance is consistent with the Urban Water Management Plan adopted by the District; and

WHEREAS the water conservation measures and progressive restrictions on water use and method of use identified by this ordinance provide certainty to water users and enable District to control water use, provide

water supplies, and plan and implement water management measures in a fair and orderly manner for the benefit of the public.

NOW, THEREFORE, BE IT RESOLVED DETERMINED AND ORDERED by the Board of Directors of the Otay Water District as follows:

1. The existing Section 39 of the District's Code of Ordinances is hereby amended as set forth in Exhibit 1 attached hereto; and

2. The General Manager and the District Secretary are hereby ordered to take any and all actions and steps necessary to carry out the provisions of this ordinance; and

3. This Ordinance shall become effective immediately upon adoption.

PASSED, APPROVED AND ADOPTED by the board of Directors of the Otay Water District at a regular meeting duly held this 10th day of June, 2008, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

_____
President

ATTEST:

_____
Secretary

ATTACHMENT C

SECTION 39. DROUGHT RESPONSE CONSERVATION PROGRAM

39.01 DECLARATION OF NECESSITY AND INTENT

(a) This Section establishes water management requirements necessary to conserve water, enable effective water supply planning, assure reasonable and beneficial use of water, prevent waste of water, prevent unreasonable use of water, prevent unreasonable method of use of water within the District in order to assure adequate supplies of water to meet the needs of the public, and further the public health, safety, and welfare, recognizing that water is a scarce natural resource that requires careful management not only in times of drought, but at all times.

(b) This Section establishes regulations to be implemented during times of declared water shortages, or declared water shortage emergencies. It establishes four levels of drought response actions to be implemented in times of shortage, with increasing restrictions on water use in response to worsening drought conditions and decreasing available supplies.

(c) The Level 1 drought response condition measures are voluntary and will be reinforced through local and regional public education and awareness measures that may be funded in part by the District. Beginning at the level 2 drought Response Condition, the District will begin to implement drought pricing. During drought response condition Levels 2, all conservation measures and water-use restrictions are mandatory and become increasingly restrictive in order to attain escalating conservation goals.

(d) During a Drought Response Level 3 condition or higher, the water conservation measures and water use restrictions established by this ordinance are mandatory and violations are subject to criminal, civil, and administrative penalties and remedies specified in Section 72 of this ordinance.

39.02 DEFINITIONS APPLICABLE TO THE PROGRAM

(a) The following words and phrases whenever used in this Section shall have the meaning defined in this subsection:

1. "Grower" refers to those engaged in the growing or raising, in conformity with recognized practices of husbandry, for the purpose of commerce, trade, or industry, or for use by public educational or correctional institutions, of agricultural, horticultural or floricultural products, and produced: (1) for human consumption or for the market, or (2) for the feeding of fowl or livestock produced for human consumption or for the market, or (3) for the feeding of fowl or livestock for the purpose of obtaining their products for human consumption or for the market. "Grower" does not refer to customers who purchase water subject to the Metropolitan Interim Agricultural Water Program or the Water Authority Special Agricultural Rate programs.

2. "Water Authority" means the San Diego County Water Authority.

3. "DMP" means the Water Authority's Drought Management Plan in existence on the effective date of this Section and as readopted or amended from time to time, or an equivalent plan of the Water Authority to manage or allocate supplies during shortages.

4. "Metropolitan" means the Metropolitan Water District of Southern California.

5. "Person" means any natural person, corporation, public or private entity, public or private association, public or private agency, government agency or institution, school district, college, university, or any other user of water provided by the District.

39.03 APPLICATION

(a) The provisions of this Section apply to any person in the use of any water provided by the District.

(b) This Section is intended solely to further the conservation of water. It is not intended to implement any provision of federal, State, or local statutes, ordinances, or regulations relating to protection of water quality or control of drainage or runoff. Refer to the local jurisdiction or Regional Water Quality Control Board for information on any stormwater ordinances and stormwater management plans.

(c) Nothing in this Section is intended to affect or limit the ability of the District to declare and respond to an emergency, including an emergency that affects the ability of the District to supply water.

(d) The provisions of this Section do not apply to use of water from private wells or to recycled water.

(e) Nothing in this Section shall apply to use of water that is subject to a special supply program, such as the Metropolitan Interim Agricultural Water Program or the Water Authority Special Agricultural Rate programs. Violations of the conditions of special supply programs are subject to the penalties established under the applicable program. A person using water subject to a special supply program and other water provided by the District is subject to this Section in the use of the other water.

39.04 DROUGHT RESPONSE LEVEL 1 - DROUGHT WATCH CONDITION

(a) A Drought Response Level 1 condition is also referred to as a "Drought Watch" condition. A Level 1 condition applies when the Water Authority notifies its member agencies that due to drought or other supply reductions, there is a reasonable probability there will be supply shortages and that a consumer demand reduction of up to 10 percent is required in order to ensure that sufficient supplies will be available to meet anticipated demands. The General Manager shall declare the existence of a Drought Response Level 1 and take action to implement the Level 1 conservation practices identified in this Section.

(b) During a Level 1 Drought Watch condition, the District will increase its public education and outreach efforts to emphasize increased public awareness of the need to implement the following water conservation practices. The same water conservation practices become mandatory if the District declares a Level 2 Drought Alert condition:

1. Stop washing down paved surfaces, including but not limited to sidewalks, driveways, parking lots, tennis courts, or patios, except when it is necessary to alleviate safety or sanitation hazards.

2. Stop water waste resulting from inefficient landscape irrigation, such as runoff, low head drainage, or overspray, etc. Similarly, stop water flows onto non-targeted areas, such as adjacent property, non-irrigated areas, hardscapes, roadways, or structures.

3. Irrigate residential and commercial landscape before 10 a.m. and after 6 p.m. only. Customers are encouraged to water no more than three days a week using the suggested watering schedule as found on the District's web page. New plantings and newly seeded areas are exempt for 30 days.

4. Use a hand-held hose equipped with a positive shut-off nozzle or bucket to water landscaped areas, including trees and shrubs located on residential and commercial properties that are not irrigated by a landscape irrigation system.

5. Irrigate nursery and commercial grower's products before 10 a.m. and after 6 p.m. only. Watering is permitted at any time with a hand-held hose equipped with a positive shut-off nozzle, a bucket, or when a drip/micro-irrigation system/equipment is used. Irrigation of nursery propagation beds is permitted at any time. Watering of livestock is permitted at any time.

6. Use re-circulated water to operate ornamental fountains.

7. Wash vehicles using a bucket and a hand-held hose with positive shut-off nozzle, mobile high

pressure/low volume wash system, or at a commercial site that re-circulates (reclaims) water on-site. Avoid washing during hot conditions when additional water is required due to evaporation.

8. Serve and refill water in restaurants and other food service establishments only upon request.

9. Offer guests in hotels, motels, and other commercial lodging establishments the option of not laundering towels and linens daily.

10. Repair all water leaks within forty-eight hours (48) of notification by the District unless other arrangements are made with the General Manager.

11. Use recycled or non-potable water for construction purposes when available.

39.05 DROUGHT RESPONSE LEVEL 2 - DROUGHT ALERT CONDITION

(a) A Drought Response Level 2 condition is also referred to as a "Drought Alert" condition. A Level 2 condition applies when the Water Authority notifies its member agencies that due to cutbacks caused by drought or other reduction in supplies, a consumer demand reduction of up to 20 percent is required in order to have sufficient supplies available to meet anticipated demands. The District Board of Directors shall declare the existence of a Drought Response Level 2 condition and implement the Level 2 conservation measures identified in this section of the ordinance.

(b) All persons using District water shall make every effort to comply with Level 1 Drought Watch water conservation practices during a Level 2 Drought Alert, and also to comply with the following additional conservation measures:

1. Limit residential and commercial landscape irrigation to no more than three (3) assigned days per week on a schedule established by the General Manager and posted by the District. During the months of November through April, landscape irrigation is

limited to no more than once per week on a schedule established by the General Manager and posted by the District. This section shall not apply to commercial growers or nurseries.

2. Limit lawn watering and landscape irrigation using sprinklers to no more than fifteen (15) minutes per watering station per assigned day. Watering times may need to be shortened to avoid run-off. This provision does not apply to landscape irrigation systems using water efficient devices, including but not limited to: weather based controllers, drip/micro-irrigation systems, rotating sprinkler nozzles and stream rotor sprinklers.

3. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system on the same schedule set forth above by using a bucket, hand-held hose with positive shut-off nozzle, or low-volume non-spray irrigation.

39.06 DROUGHT RESPONSE LEVEL 3 - DROUGHT CRITICAL CONDITION

(a) A Drought Response Level 3 condition is also referred to as a "Drought Critical" condition. A Level 3 condition applies when the Water Authority notifies its member agencies that due to increasing cutbacks caused by drought or other reduction of supplies, a consumer demand reduction of up to 40 percent is required in order to have sufficient supplies available to meet anticipated demands. The District Board of Directors shall declare the existence of a Drought Response Level 3 condition and implement the Level 3 conservation measures identified in this Section.

(b) All persons using District water shall comply with Level 1 Drought Watch and Level 2 Drought Alert water conservation practices during a Level 3 Drought Critical condition and shall also comply with the following additional mandatory conservation measures:

1. Limit residential and commercial landscape irrigation to no more than two (2) assigned days per week on a schedule established by the General Manager

and posted by the District. During the months of November through April, landscape irrigation is limited to no more than once per week on a schedule established by the General Manager and posted by the District. This section shall not apply to commercial growers or nurseries.

2. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system on the same schedule set forth above by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation.

3. Stop filling or re-filling ornamental lakes or ponds, except to the extent needed to sustain aquatic life, provided that such animals are of significant value and have been actively managed within the water feature prior to declaration of a drought response level under this Section.

4. Stop operating non-residential ornamental fountains or similar decorative water features unless recycled water is used.

5. Stop washing vehicles except at commercial carwashes that re-circulate water, or by high pressure/low volume wash systems. If a commercial car wash cannot accommodate the vehicle because of the vehicle size or type, RVs, horse trailers, boats and commercial vehicles will be allowed to wash vehicles using a bucket and a hand-held hose with positive shut-off nozzle, mobile high pressure/low volume wash system.

(c) Upon the declaration of a Drought Response Level 3 condition, no new potable water service shall be provided, no new temporary meters or permanent meters shall be provided, and no statements of immediate ability to serve or provide potable water service (such as, will serve letters, certificates, or letters of availability) shall be issued, except under the following circumstances:

1. A valid, unexpired building permit has been issued for the project; or

2. The project is necessary to protect the public's health, safety, and welfare; or

3. The applicant provides substantial evidence of an enforceable commitment that water demands for the project will be offset prior to the provision of a new water meter(s) to the satisfaction of the District.

This provision shall not be construed to preclude the resetting or turn-on of meters to provide continuation of water service or to restore service that has been interrupted.

(d) Upon the declaration of a Drought Response Level 3 condition, the District will suspend consideration of annexations to its service area.

(e) The District may establish a water allocation for property served by the District using a method that takes into consideration of the implementation of conservation methods or the installation of water saving devices. If the District establishes a water allocation, it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. Following the effective date of the water allocation as established by the District, any person that uses water in excess of the allocation shall be subject to a penalty for each billing unit of water in excess of the allocation. The penalty for excess water usage shall be cumulative to any other remedy or penalty that may be imposed for violation of this Section.

39.07 DROUGHT RESPONSE LEVEL 4 - DROUGHT EMERGENCY CONDITION

(a) A Drought Response Level 4 condition is also referred to as a "Drought Emergency" condition. A Level 4 condition applies when the Water Authority Board of Directors declares a water shortage emergency pursuant to California Water Code section 350 and notifies its member agencies that Level 4 requires a demand reduction of more than 40 percent in order for the District to have maximum supplies available to meet anticipated demands. The District shall declare a Drought Emergency in the manner

and on the grounds provided in California Water Code section 350.

(b) All persons using District water shall comply with conservation measures required during Level 1 Drought Watch, Level 2 Drought Alert, and Level 3 Drought Critical conditions and shall also comply with the following additional mandatory conservation measures:

1. Stop all landscape irrigation, except crops and landscape products of commercial growers and nurseries. *This restriction shall not apply to the following categories of use unless the District has determined that recycled water is available and may be lawfully applied to the use.*

A. Maintenance of trees and shrubs that are watered on the same schedule as noted in the Level 3 Drought Critical Condition, by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation;

B. Maintenance of existing landscaping necessary for fire protection as specified by the Fire Marshal of the local fire protection agency having jurisdiction over the property to be irrigated;

C. Maintenance of existing landscaping for erosion control;

D. Maintenance of plant materials identified to be rare or essential to the well being of rare animals;

E. Maintenance of landscaping within active public parks and playing fields, day care centers, school grounds, cemeteries, and golf course greens, provided that such irrigation does not exceed two (2) days per week according to the schedule established under the District's Level 3 Drought Critical Condition;

F. Watering of livestock; and

G. Public works projects and actively irrigated environmental mitigation projects.

2. Repair all water leaks within twenty-four (24) hours of notification by the District unless other arrangements are made with the District.

(c) The District may establish a water allocation for property served by the District. If the District establishes a water allocation it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. Following the effective date of the water allocation as established by the District, any person that uses water in excess of the allocation shall be subject to a penalty for each billing unit of water in excess of the allocation. The penalty for excess water usage shall be cumulative to any other remedy or penalty that may be imposed for violation of any provision of this Section.

39.08 CORRELATION BETWEEN DROUGHT MANAGEMENT PLAN (DMP) AND DROUGHT RESPONSE LEVELS

(a) The correlation between the Water Authority's DMP stages and the District's drought response levels identified in this Section of the Code of Ordinance is described herein. Under DMP Stage 1, the District would implement Drought Response Level 1 actions. Under DMP Stage 2, the District would implement Drought Response Level 1 or Level 2 actions. Under DMP Stage 3, the District would implement Drought Response Level 2, Level 3, or Level 4 actions.

(b) The drought response levels identified in this Section correspond with the Water Authority DMP as identified in the following table:

Drought Response Levels	Water Restrictions	Conservation Target	DMP Stage
1 - Drought Watch	Voluntary	Up to 10%	Stage 1 or 2
2 - Drought Alert	Mandatory	Up to 20%	Stage 2 or 3
3 - Drought Critical	Mandatory	Up to 40%	Stage 3
4 - Drought Emergency	Mandatory	Above 40%	Stage 3

39.09 PROCEDURES FOR DETERMINATION AND NOTICATION OF DROUGHT RESPONSE LEVEL

(a) The existence of a Drought Response Level 1 condition may be declared by the General Manager upon a written determination of the existence of the facts and circumstances supporting the determination. A copy of the written determination shall be filed with the Clerk or Secretary of the District and provided to the District Board of Directors. The General Manager may publish a notice of the determination of existence of Drought Response Level 1 condition in one or more newspapers, including a newspaper of general circulation within the District. The District will also post notice of the condition on their website.

(b) The existence of Drought Response Level 2 or Level 3 conditions may be declared by resolution of the District Board of Directors adopted at a regular or special public meeting held in accordance with State law. The mandatory conservation measures applicable to Drought Response Level 2 or Level 3 conditions shall take effect on the tenth (10) day after the date the response level is declared. Within five (5) days following the declaration of the response level, the District shall publish a copy of the resolution in a newspaper used for publication of official notices.

(c) The existence of a Drought Response Level 4 condition may be declared in accordance with the procedures specified in California Water Code sections 350 to 352 as note below:

350. *The governing body of a distributor of a public* ***water*** *supply, whether publicly or privately owned and including a mutual* ***water*** *company, may declare a* ***water*** *shortage emergency condition to prevail within the area served by such distributor whenever it finds and determines that the ordinary demands and requirements of* ***water*** *consumers cannot be satisfied without depleting the* ***water*** *supply of the distributor to the extent that there would be insufficient* ***water*** *for human consumption, sanitation, and fire protection.*

351. *Excepting in event of a breakage or failure of a dam, pump, pipe line or conduit causing an immediate emergency, the declaration shall be made only after a public hearing at which consumers of such* ***water*** *supply shall have an opportunity to be heard to protest against the declaration and to present their respective needs to said governing board.*

352. *Notice of the time and place of hearing shall be published pursuant to Section 6061 of the Government* ***Code*** *at least seven days prior to the date of hearing in a newspaper printed, published, and circulated within the area in which the* ***water*** *supply is distributed, or if there is no such newspaper, in any newspaper printed, published, and circulated in the county in which the area is located.*

The mandatory conservation measures applicable to Drought Response Level 4 conditions shall take effect on the tenth (10) day after the date the response level is declared. Within five (5) days following the declaration of the response level, the District shall publish a copy of the resolution in a newspaper used for publication of official notices. If the District establishes a water allocation, it shall provide notice of the allocation by including it in the regular billing statement for the fee or charge or by any other mailing to the address to which the District customarily mails the billing statement for fees or charges for on-going water service. Water allocation shall be effective on the fifth (5) day following the date of mailing or at such later date as specified in the notice.

(d) The District Board of Directors may declare an end to a Drought Response Level by the adoption of a resolution at any regular or special meeting held in accordance with State law.

Otay Drought Response Conservation Program- Section 39
Drought Response Levels and Water-Use Restrictions

Drought Response Levels		Trigger	Voluntary or Mandatory Restrictions	Customer Conservation Targets	Water Authority DMP Stage
Level 1	Drought Watch	• Level 1 applies when the Water Authority notifies its member agencies that due to drought or other supply reductions, there is a reasonable probability of supply shortages and that a consumer demand reduction of up to 10% is required in order ensure that sufficient supplies will be available to meet anticipated demands. • The District General Manager shall declare the existence of Level 1 and take action to implement the Level 1 conservation practices identified in this ordinance.	Voluntary	Up to 10%	Stage 1 or Stage 2
Level 2	Drought Alert	• Level 2 applies when the Water Authority notifies its member agencies that due to cutbacks caused by drought or other reduction in supplies, a consumer demand reduction of up to 20% is required in order to have sufficient supplies available to meet anticipated demands. • The District Board of Directors shall declare the existence of Level 2 condition. • Drought rates shall begin	Mandatory	Up to 20%	Stage 2 or Stage 3
Level 3	Drought Critical	• Level 3 applies when the Water Authority notifies its member agencies that due to increasing cutbacks caused by drought or other reduction of supplies, a consumer demand reduction of up to 40% is required in order to have sufficient supplies available to meet anticipated demands. • The District Board of Directors shall declare the existence of a Level 3 condition and implement the mandatory Level 3 conservation measures identified in this ordinance.	Mandatory	Up to 40%	Stage 3
Level 4	Drought Emergency	• A Level 4 condition applies when the Water Authority Board declares a water shortage emergency pursuant to Water Code Section 350 and notifies its member agencies that Level 4 requires a demand reduction of more than 40% in order for the District to have maximum supplies available to meet anticipated demands. • District shall declare a Drought Emergency in the manner provided in Water Code Section 350.	Mandatory	Above 40%	Stage 3

ATTACHMENT D

Drought Response Levels		Voluntary or Mandatory Use Restrictions	Retail Conservation Levels	Water Authority DMP Stage
Level 1	Drought Watch	Voluntary	Up to 10%	Stage 1 or Stage 2
Water-Use Restrictions	1. Stop washing down paved surfaces, including but not limited to sidewalks, driveways, parking lots, tennis courts, or patios, except when it is necessary to alleviate safety or sanitation hazards. 2. Stop water waste resulting from inefficient landscape irrigation, such as runoff, low head drainage, or overspray, etc. Similarly, stop water flows onto non-targeted areas, such as adjacent property, non-irrigated areas, hardscapes, roadways, or structures. 3. Irrigate residential and commercial landscape before 10 a.m. and after 6 p.m. only. Suggest that customers water no more than three days per week, using the watering schedule found on the District's web page. New plantings and newly seeded areas are exempt for 30 days. 4. Use a hand-held hose equipped with a positive shut-off nozzle or bucket to water landscaped areas, including trees and shrubs located on residential and commercial properties that are not irrigated by a landscape irrigation system. 5. Irrigate nursery and commercial grower's products before 10 a.m. and after 6 p.m. only. Watering is permitted at any time with a hand-held hose equipped with a positive shut-off nozzle, a bucket, or when a drip/micro-irrigation system/equipment is used. Irrigation of nursery propagation beds is permitted at any time. Watering of livestock is permitted at any time. 6. Use re-circulated water to operate ornamental fountains. 7. Wash vehicles using a bucket and a hand-held hose with positive shut-off nozzle, mobile high pressure/low volume wash system, or at a commercial site that re-circulates (reclaims) water on-site. Avoid washing during hot conditions when additional water is required due to evaporation. 8. Serve and refill water in restaurants and other food service establishments only upon request. 9. Offer guests in hotels, motels, and other commercial lodging establishments the option of not laundering towels and linens daily. 10. Repair all water leaks within forty-eight hours (48) of notification by the District unless other arrangements are made with the District. 11. Use recycled or non-potable water for construction purposes when available.			

Restrictions shall not apply to use of water from private wells or to the use of recycled water.

Drought Response Levels		Voluntary or Mandatory Use Restrictions	Retail Conservation Levels	Water Authority DMP Stage
Level 2	Drought Alert	Mandatory	Up to 20%	Stage 2 or Stage 3
Water-Use Restrictions	Level 1 water-use restriction, plus: 1. Limit residential and commercial landscape irrigation to no more than three assigned days per week on a schedule established by the General Manager and posted by the District. During the months of November through April, landscape irrigation is limited to no more than once per week on a schedule established by the General Manager and posted by the District. This section shall not apply to commercial growers or nurseries. 2. Limit lawn watering and landscape irrigation using sprinklers to no more than fifteen (15) minutes per watering station per day. This provision does not apply to landscape irrigation systems using water efficient devices, including but not limited to: weather based controllers, drip/micro-irrigation systems and stream rotor sprinklers. 3. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system on the same schedule set forth above, by using a bucket, hand-held hose with positive shut-off nozzle, or low-volume non-spray irrigation.			

Restrictions shall not apply to use of water from private wells or to the use of recycled water.

Drought rate pricing begins at Level 2

Drought Response Levels		Voluntary or Mandatory Use Restrictions	Retail Conservation Levels	Water Authority DMP Stage
Level 3	Drought Critical	Mandatory	Up to 40%	Stage 3
Water-Use Restrictions	Level 1 and 2 water-use restriction, plus: 1. Limit residential and commercial landscape irrigation to no more than two assigned days per week on a schedule established by the General Manager and posted by the District. During the months of November through April, landscape irrigation is limited to no more than once per week on a schedule established by the General Manager and posted by the District. This section shall not apply to commercial growers or nurseries. 2. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system, on the same schedule set forth above, by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation. 3. Stop filling or re-filling ornamental lakes or ponds, except to the extent needed to sustain aquatic life, provided that such animals are of significant value and have been actively managed within the water feature prior to declaration of a drought response level under this ordinance. 4. Stop operating non-residential ornamental fountains or similar decorative water features unless recycled water is used 5. Stop washing vehicles except at commercial carwashes that re-circulate water, or by high pressure/low volume wash systems. If a commercial car wash cannot accommodate the vehicle because its size or type, RVs, horse trailers, boats and commercial vehicles will be allowed to wash vehicles using a bucket and a hand-held hose with positive shut-off nozzle, mobile high pressure/low volume wash system.			
	* No new potable water service shall be provided, no new temporary meters or permanent meters shall be provided, and no statements of immediate ability to serve or provide potable water service (such as, will serve letters, certificates or letters of availability) shall be issued, except under the following circumstances: 1. A valid, unexpired building permit has been issued for the project; or 2. The project is necessary to protect the public's health, safety, and welfare; or 3. The applicant provides substantial evidence of an enforceable commitment that water demands for the project will be offset prior to the provision of a new water meter(s) to the satisfaction of the District. This provision shall not be construed to preclude the resetting or turn-on of meters to provide continuation of water service or to restore service that has been interrupted. * Upon declaration of Drought Response Level 3 condition, District will suspend consideration of annexations to its service area. * The District may establish a water allocation for property served by the District using a method that takes into consideration of the implementation of conservation methods or the installation of water saving devices.			

Restrictions shall not apply to use of water from private wells or to the use of recycled water.

Drought Response Levels		Voluntary or Mandatory Use Restrictions	Retail Conservation Levels	Water Authority DMP Stage
Level 4	Drought Emergency	Mandatory	Above 40%	Stage 3
Water-Use Restrictions	Level 1, 2, and 3 water-use restriction, plus: 1. Stop all landscape irrigation, except crops and landscape products of commercial growers and nurseries. This restriction shall not apply to the following categories of use unless the District has determined that recycled water is available and may be lawfully applied to the use. A. Maintenance of trees and shrubs that are watered on the same schedule set forth in as noted in the Level 3 Drought Critical Condition by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation; B. Maintenance of existing landscaping necessary for fire protection as specified by the Fire Marshal of the local fire protection agency having jurisdiction over the property to be irrigated; C. Maintenance of existing landscaping for erosion control; D. Maintenance of plant materials identified to be rare or essential to the well being of rare animals; Maintenance of landscaping within active public parks and playing fields, day care centers, school grounds, cemeteries, and golf course greens, provided that such irrigation does not exceed two (2) days per week according to the schedule established under the District's Level 3 Drought Critical Condition; E. Watering of livestock; and F. Public works projects and actively irrigated environmental mitigation projects. 2. Repair all water leaks within twenty-four (24) hours of notification by the District unless other arrangements are made with the District.				
	* The District may establish a water allocation for property served by the District.			

Restrictions shall not apply to use of water from private wells or to the use of recycled water.

Model Drought Response Ordinance

Drought Response Levels and Water-Use Restrictions

Drought Response Levels		Trigger	Voluntary or Mandatory Restrictions	Customer Conservation Targets	Water Authority DMP Stage
Level 1	Drought Watch	• Level 1 applies when the Water Authority notifies its member agencies that due to drought or other supply reductions, there is a reasonable probability of supply shortages and that a consumer demand reduction of up to 10% is required in order ensure that sufficient supplies will be available to meet anticipated demands. • The [AGENCY GENERAL MANAGER] shall declare the existence of Level 1 and take action to implement the Level 1 conservation practices identified in this ordinance.	Voluntary	Up to 10%	Stage 1 or Stage 2
Level 2	Drought Alert	• Level 2 applies when the Water Authority notifies its member agencies that due to cutbacks caused by drought or other reduction in supplies, a consumer demand reduction of up to 20% is required in order to have sufficient supplies available to meet anticipated demands. • The [AGENCY BOARD OF DIRECTORS] shall declare the existence of Level 2 condition and implement the mandatory Level 2 conservation measures identified in this ordinance.	Mandatory	Up to 20%	Stage 2 or Stage 3
Level 3	Drought Critical	• Level 3 applies when the Water Authority notifies its member agencies that due to increasing cutbacks caused by drought or other reduction of supplies, a consumer demand reduction of up to 40% is required in order to have sufficient supplies available to meet anticipated demands. • The [AGENCY BOARD OF DIRECTORS] shall declare the existence of a Level 3 condition and implement the Level 3 conservation measures identified in this ordinance.	Mandatory	Up to 40%	Stage 3
Level 4	Drought Emergency	• A Level 4 condition applies when the Water Authority Board declares a water shortage emergency pursuant to Water Code Section 350 and notifies its member agencies that Level 4 requires a demand reduction of more than 40% in order for the [AGENCY] to have maximum supplies available to meet anticipated demands. • [AGENCY] shall declare a Drought Emergency in the manner provided in Water Code Section 350.	Mandatory	Above 40%	Stage 3

Attachment E

March 27, 2008

Drought Response Levels		Voluntary or Mandatory Use Restrictions	Retail Conservation Levels	Water Authority DMP Stage
Level 1	Drought Watch	Voluntary	Up to 10%	Stage 1 or Stage 2
Water-Use Restrictions	1. Stop washing down paved surfaces, including but not limited to sidewalks, driveways, parking lots, tennis courts, or patios, except when it is necessary to alleviate safety or sanitation hazards. 2. Stop water waste resulting from inefficient landscape irrigation, such as runoff, low head drainage, or overspray, etc. Similarly, stop water flows onto non-targeted areas, such as adjacent property, non-irrigated areas, hardscapes, roadways, or structures. 3. Irrigate residential and commercial landscape before 10 a.m. and after 6 p.m. only. 4. Use a hand-held hose equipped with a positive shut-off nozzle or bucket to water landscaped areas, including trees and shrubs located on residential and commercial properties that are not irrigated by a landscape irrigation system. 5. Irrigate nursery and commercial grower's products before 10 a.m. and after 6 p.m. only. Watering is permitted at any time with a hand-held hose equipped with a positive shut-off nozzle, a bucket, or when a drip/micro-irrigation system/equipment is used. Irrigation of nursery propagation beds is permitted at any time. Watering of livestock is permitted at any time. 6. Use re-circulated water to operate ornamental fountains. 7. Wash vehicles using a bucket and a hand-held hose with positive shut-off nozzle, mobile high pressure/low volume wash system, or at a commercial site that re-circulates (reclaims) water on-site. Avoid washing during hot conditions when additional water is required due to evaporation. 8. Serve and refill water in restaurants and other food service establishments only upon request. 9. Offer guests in hotels, motels, and other commercial lodging establishments the option of not laundering towels and linens daily. 10. Repair all water leaks within five (5) days of notification by the [AGENCY] unless other arrangements are made with the General Manager. 11. Use recycled or non-potable water for construction purposes when available.			

Restrictions shall not apply to use of water from private wells or to the use of recycled water.

Drought Response Levels		Voluntary or Mandatory Use Restrictions	Retail Conservation Levels	Water Authority DMP Stage
Level 2	Drought Alert	Mandatory	Up to 20%	Stage 2 or Stage 3
Water-Use Restrictions	Level 1 water-use restriction, plus: 1. Limit residential and commercial landscape irrigation to no more than three assigned days per week on a schedule established by the General Manager and posted by the [AGENCY]. During the months of November through May, landscape irrigation is limited to no more than once per week on a schedule established by the General Manager and posted by the [AGENCY]. This section shall not apply to commercial growers or nurseries. 2. Limit lawn watering and landscape irrigation using sprinklers to no more than ten (10) minutes per watering station per day. This provision does not apply to landscape irrigation systems using water efficient devices, including but not limited to: weather based controllers, drip/micro-irrigation systems and stream rotor sprinklers. 3. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system governed by section 5 (b) (1), on the same schedule set forth in section 5 (b) (1) by using a bucket, hand-held hose with positive shut-off nozzle, or low-volume non-spray irrigation. 4. Repair all leaks within seventy-two (72) hours of notification by the [AGENCY] unless other arrangements are made with the General Manager. 5. Stop operating ornamental fountains or similar decorative water features unless recycled water is used.			

Restrictions shall not apply to use of water from private wells or to the use of recycled water.

Drought Response Levels		Voluntary or Mandatory Use Restrictions	Retail Conservation Levels	Water Authority DMP Stage
Level 3	Drought Critical	Mandatory	Up to 40%	Stage 3
Water-Use Restrictions	Level 1 and 2 water-use restriction, plus: 1. Limit residential and commercial landscape irrigation to no more than two assigned days per week on a schedule established by the General Manager and posted by the [AGENCY]. During the months of November through May, landscape irrigation is limited to no more than once per week on a schedule established by the General Manager and posted by the [AGENCY]. This section shall not apply to commercial growers or nurseries. 2. Water landscaped areas, including trees and shrubs located on residential and commercial properties, and not irrigated by a landscape irrigation system governed by section 6 (b) (1), on the same schedule set forth in section 6 (b) (1) by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation. 3. Stop filling or re-filling ornamental lakes or ponds, except to the extent needed to sustain aquatic life, provided that such animals are of significant value and have been actively managed within the water feature prior to declaration of a drought response level under this ordinance. 4. Stop washing vehicles except at commercial carwashes that re-circulate water, or by high pressure/low volume wash systems. 5. Repair all leaks within forty-eight (48) hours of notification by the [AGENCY] unless other arrangements are made with the General Manager.			
	* No new potable water service shall be provided, no new temporary meters or permanent meters shall be provided, and no statements of immediate ability to serve or provide potable water service (such as, will serve letters, certificates or letters of availability) shall be issued, except under the following circumstances: 1. A valid, unexpired building permit has been issued for the project; or 2. The project is necessary to protect the public's health, safety, and welfare; or 3. The applicant provides substantial evidence of an enforceable commitment that water demands for the project will be offset prior to the provision of a new water meter(s) to the satisfaction of [AGENCY]. This provision shall not be construed to preclude the resetting or turn-on of meters to provide continuation of water service or to restore service that has been interrupted for a period of one year or less. * Upon declaration of Drought Response Level 3 condition, [AGENCY] will suspend consideration of annexations to its service area. * The [AGENCY] may establish a water allocation for property served by the [AGENCY] using a method that does not penalize persons for the implementation of conservation methods or the installation of water saving devices.			

Restrictions shall not apply to use of water from private wells or to the use of recycled water.

Drought Response Levels		Voluntary or Mandatory Use Restrictions	Retail Conservation Levels	Water Authority DMP Stage
Level 4	**Drought Emergency**	**Mandatory**	**Above 40%**	**Stage 3**
Water-Use Restrictions	Level 1, 2, and 3 water-use restriction, plus: 1. Stop all landscape irrigation, except crops and landscape products of commercial growers and nurseries. This restriction shall not apply to the following categories of use unless the [AGENCY] has determined that recycled water is available and may be lawfully applied to the use. A. Maintenance of trees and shrubs that are watered on the same schedule set forth in section 6 (b) (1) by using a bucket, hand-held hose with a positive shut-off nozzle, or low-volume non-spray irrigation; B. Maintenance of existing landscaping necessary for fire protection as specified by the Fire Marshal of the local fire protection agency having jurisdiction over the property to be irrigated; C. Maintenance of existing landscaping for erosion control; D. Maintenance of plant materials identified to be rare or essential to the well being of rare animals; E. Maintenance of landscaping within active public parks and playing fields, day care centers, school grounds, cemeteries, and golf course greens, provided that such irrigation does not exceed two (2) days per week according to the schedule established under section 6 (b) (1); F. Watering of livestock; and G. Public works projects and actively irrigated environmental mitigation projects. 2. Repair all water leaks within twenty-four (24) hours of notification by the [AGENCY] unless other arrangements are made with the General Manager.			
	* The [AGENCY] may establish a water allocation for property served by the [AGENCY].			

Restrictions shall not apply to use of water from private wells or to the use of recycled water.

AGENDA ITEM 6

STAFF REPORT

TYPE MEETING:	Legal, Legislative, and Conservation Committee	MEETING DATE:	July 23, 2008
SUBMITTED BY:	Armando Buelna, Communications Officer	W.O./G.F. NO:	DIV. NO. All
APPROVED BY:			
SUBJECT:	SB 1XX - Perata, Water Quality, Flood Control, Water Storage and Wildlife Preservation.		

GENERAL MANAGER'S RECOMMENDATION:

That the Legal, Legislative, and Conservation Committee take the position of "Support" on SB 1XX - Perata relating to funding Water Quality, Flood Control, Water Storage and Wildlife Preservation projects.

PURPOSE:

To seek authorization from the Legal, Legislative, and Conservation Committee to "Support" SB 1XX - Perata relating to funding Water Quality, Flood Control, Water Storage and Wildlife Preservation projects.

COMMITTEE ACTION:

See Attachment A

BACKGROUND

Senate Bill 1XX (Second Extraordinary Session) would appropriate a total of $610,890,000 from voter approved Propositions 50, 1E, and 84 for a variety of water quality, flood control, water storage and wildlife preservation projects.

SB 1XX notes that California voters recognize the value of water to the economy, environment, and overall well-being of the state. It also recognizes that the state is facing challenges managing water due to climate change, uncertainty regarding the availability of water from the Sacramento-San Joaquin Bay Delta, an increase in state population, limitations on public funds, and other factors.

Of note, SB 1XX includes funding for emergency response actions that can provide ecosystem, water quality, fisheries enhancement, and water supply reliability benefits in the Sacramento-San Joaquin Bay Delta in the next two years (see Attachment D).

In total, about 60 percent of the funds appropriated in this bill are for flood protection related activities, and another 15-20 percent are for projects that protect or improve drinking water quality. The bill also funds completing the CalFed surface storage feasibility studies and environmental documents, improving regional water planning and groundwater management, and restoring critical environmental resources.

Supporters of SB 1XX note this bill will address the need for an immediate response to deal with the decline of the delta smelt, the issue of seismic stability of levies in the Delta, and the potential for disruption of water supplies due to emergencies such as earthquakes or floods.

Supporters note that while a comprehensive plan for the Delta is still necessary, it will take many years to implement. In the mean time, voters have approved funding for water resources projects. Moreover, they cite that specific projects have been identified that can be implemented immediately and will provide immediate benefits to water supply reliability and to the Delta. Lastly, such projects are consistent with recommendations proposed by the Bay-Delta Conservation Plan and the Delta Vision Blue Ribbon Task Force.

Acknowledging the bill would fund worthwhile actions, the primary opponent, the Department of Water Resources, opposes the bill because it is not part of a "Comprehensive approach to addressing California's water needs, which must include surface storage as a component to address future impacts on water availably due to climate change and population."

FISCAL IMPACT:

None.

LEGAL IMPACT:

None.

General Manager

Attachments

A - Committee Action Report
B - SB 1XX - Perata, Water quality, Flood Control, Water Storage and Wildlife Preservation
C - Senate Floor Analysis
D - California Urban Water Agencies Delta Near-Term/Emergency Response Actions
E - Sacramento Bee Editorial - New water bond? First, spend existing billions

ATTACHMENT A

SUBJECT/PROJECT:	SB 1XX Perata - Flood Control, Water Storage and Wildlife Preservation

COMMITTEE ACTION:

The Legal, Legislative and Conservation Committee reviewed this item at the meeting held on July 23, 2008. The Committee supported Staff's recommendation.

NOTE:

The "Committee Action" is written in anticipation of the Committee moving the item forward for board approval. This report will be sent to the Board as a committee approved item, or modified to reflect any discussion or changes as directed from the committee prior to presentation to the full board.

ATTACHMENT B

CALIFORNIA LEGISLATURE—2007–08 SECOND EXTRAORDINARY SESSION

SENATE BILL No. 1

Introduced by Senators Perata, Machado, and Steinberg

September 14, 2007

An act to add Division 33 (commencing with Section 83000) to the Water Code, relating to water, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1, as introduced, Perata. Water quality, flood control, water storage, and wildlife preservation.

(1) Under existing law, various bond acts have been approved by the voters to provide funds for water projects, facilities, and programs. The Disaster Preparedness and Flood Prevention Bond Act of 2006, a bond act approved by the voters at the November 7, 2006, statewide general election, authorizes the issuance of bonds in the amount of $4,090,000,000 for the purposes of financing disaster preparedness and flood prevention projects. The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative bond act approved by the voters at the November 7, 2006, statewide general election, authorizes the issuance of bonds in the amount of $5,388,000,000 for the purposes of financing a safe drinking water, water quality and supply, flood control, and resource protection program. The Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, approved by the voters at the November 5, 2002, statewide general election, authorizes, for the purposes of financing a safe drinking water, water quality, and water reliability program, the issuance of bonds in the amount of $3,440,000,000.

This bill, with regard to those bond funds, would appropriate $610,890,000 as follows: of the funds made available pursuant to the

Disaster Preparedness and Flood Prevention Bond Act of 2006, $50,000,000 to the Department of Water Resources for essential emergency preparedness supplies and projects, and $150,000,000 to the department for stormwater flood management project grants; of the funds made available pursuant to the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, $50,000,000 to the State Department of Public Health for grants and loans for small community drinking water systems infrastructure improvements and related actions, $50,400,000 to the State Department of Public Health for grants for projects to prevent or reduce the contamination of groundwater that serves as a source of drinking water, $40,000,000 to the department for administrative costs, planning grants, and local groundwater assistance grants, $50,000,000 to the department for projects to relocate existing Sacramento-San Joaquin Delta water intake facilities, $60,000,000 to the department for expenditures to increase the department's ability to respond to levee breaches and to reduce the potential for levee failure, $100,000,000 to the department for the acquisition, preservation, protection, and restoration of Sacramento-San Joaquin Delta islands, $12,000,000 to the department to complete planning and feasibility studies associated with new surface storage under the California Bay-Delta Program, $15,000,000 to the department for planning and feasibility studies to identify potential options for the reoperation of the state's flood protection and water supply systems , $10,000,000 to the department to update the California Water Plan, $10,000,000 to the department for planning and feasibility studies for projects to reduce ecosystem conflicts in the Sacramento-San Joaquin Delta, and $10,000,000 to the State Coastal Conservancy for projects on the Santa Ana River; and of the funds made available under the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, $3,490,000 to the department for planning and feasibility studies associated with surface storage under the California Bay-Delta Program.

The bill would provide that up to 5% of the funds appropriated by the bill may be expended to pay for the administrative costs of that program. The bill would provide that funds appropriated by the bill are available for encumbrance until June 30, 2009. On January 10, 2008, program recipients would be required to report to the fiscal committees of the Legislature with regard to the committed and anticipated expenditures of these funds.

(2) Under the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board and the California regional water quality control boards are the principal state agencies with authority over matters relating to water quality.

This bill would require the state board, in consultation with other agencies, to develop pilot projects in the Tulare Lake Basin and the Salinas Valley focused on nitrate contamination. The bill would require the state board to create an interagency task force, as needed, to oversee the pilot projects and submit a report to the Legislature on the scope and findings of the projects within 2 years of receiving funding. The state board would be required to implement recommendations for developing a groundwater cleanup program for the Central Valley Water Quality Control Region and the Central Coast Water Quality Control Region based upon pilot project results within 2 years of submitting the report to the Legislature.

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

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

SECTION 1. Division 33 (commencing with Section 83000) is added to the Water Code, to read:

DIVISION 33. INTEGRATED WATER SUPPLY AND FLOOD PROTECTION PLANNING, DESIGN, AND IMPLEMENTATION

83000. The Legislature hereby finds and declares all of the following:

(a) Water is vital to the economy, environment, and overall well-being of the state.

(b) California faces increasing challenges in managing its water supply due to climate change, uncertainty regarding the availability of water from the Sacramento-San Joaquin Delta and other sources, an increasing state population, limitations on public funds, and other factors.

(c) California must adopt a new, updated, and comprehensive set of water planning, design, and implementation policies that reflect these realities to protect its water supply future.

(d) In the past, state laws, funding schemes, and administrative actions have treated the planning, construction, and operation of water supply, groundwater, and flood control systems as separate and distinct activities, thereby reducing efficiency and water supply reliability.

(e) California has not taken full advantage of the cost savings, the environmental benefits, or the expediency of more efficient operations and usage of existing water supply, storage, and flood protection facilities.

(f) It is the policy of the state to more effectively integrate its flood protection systems with its water supply and conveyance systems in order to conserve limited public dollars, increase the available water supply, improve water quality, increase wildlife and ecosystem protections, protect public health and safety, and address the effects of climate change.

(g) The purpose of this division is to require the integration of flood protection and water systems to achieve multiple public benefits, including all of the following:

(1) Increasing water supply reliability in the least costly, most efficient, and most reliable manner to meet current and future state needs.

(2) Increasing use of water use efficiency and water conservation measures to increase and extend existing water supplies.

(3) Reducing energy consumption associated with water transport, thereby reducing state greenhouse gas emissions.

(4) Improving water management to protect and restore ecosystems and wildlife habitat.

83001. In order to provide the least costly, most efficient, and reliable water supply to a growing state, it is the intent of the Legislature that the department accomplish the following objectives:

(a) Integrate state flood protection and water supply systems.

(b) Promote conjunctive use of groundwater storage capacity to improve overall water supply and flood system operation.

(c) Promote increased water use efficiency through expanded use of water conservation, water recycling, and improvements in technology.

83002. The sum of six hundred ten million eight hundred ninety thousand dollars ($610,890,000) is hereby appropriated as follows:

(a) Of the funds made available pursuant to Chapter 1.699 (commencing with Section 5096.800) of Division 5 of the Public Resources Code, the sum of two hundred million dollars ($200,000,000) is hereby appropriated as follows:

(1) Pursuant to subdivision (c) of Section 5096.821 of the Public Resources Code, the sum of fifty million dollars ($50,000,000) to the department for the acquisition, design, and construction of essential emergency preparedness supplies and projects. Prior to the design or construction of any project funded pursuant to this paragraph, the California Bay-Delta Authority, or its successor, shall approve the specific project or program.

(2) Pursuant to Section 5096.827 of the Public Resources Code, the sum of one hundred fifty million dollars ($150,000,000) to the department for grants for stormwater flood management projects that reduce flood damage and provide other benefits, including groundwater recharge, water quality improvement, and ecosystem restoration. Not less than one hundred million dollars ($100,000,000) of this amount shall be available for projects that address immediate public health and safety needs, strengthen existing flood control facilities to address seismic safety issues. Twenty million dollars ($20,000,000) shall be available for local agencies to meet immediate water quality needs related to combined municipal sewer and stormwater systems to prevent sewage discharges into state waters. Twenty million dollars ($20,000,000) shall be available for stormwater flood protection projects in the northern San Francisco Bay area and Marin County for the purposes of protecting public safety and property from flood events.

(b) Of the funds made available pursuant to Division 43 (commencing with Section 75001) of the Public Resources Code, the sum of four hundred seven million four hundred thousand dollars ($407,400,000) is hereby appropriated as follows:

(1) Pursuant to Section 75022 of the Public Resources Code, the sum of fifty million dollars ($50,000,000) to the State Department of Public Health for grants for small community drinking water system infrastructure improvements and related action to meet safe drinking water standards. First priority for these funds shall be given to disadvantaged or severely disadvantaged communities lacking resources to provide safe drinking water to residents. Small community drinking water systems that are

dependent on surface water and are under orders from the State Department of Public Health to boil water from existing treatment systems for parasites, viruses, or giardia shall be eligible for grants for drinking water system infrastructure improvements.

(2) Pursuant to Section 75025 of the Public Resources Code, the sum of fifty million four hundred thousand dollars ($50,400,000) to the State Department of Public Health for grants for projects to prevent or reduce the contamination of groundwater that serves as a source of drinking water. Funds appropriated by this paragraph shall be available for immediate projects needed to protect public health by preventing or reducing the contamination of groundwater that serves as a major source of drinking water for a community.

(A) The State Department of Public Health shall prioritize project funding based on the following criteria:

(i) The threat posed by groundwater contamination to the affected community's overall drinking water supplies, including the need for the treatment or construction of alternative supplies if groundwater is not available due to contamination.

(ii) The potential for groundwater contamination to spread and reduce drinking water supply and water storage capacity for major population areas.

(iii) The potential of the project, if fully implemented, to enhance local water supply reliability.

(iv) The potential of the project to increase opportunities for groundwater recharge and optimization of groundwater supplies.

(B) The State Department of Public Health shall give additional consideration to projects that meet any of the following criteria:

(i) The project is implemented pursuant to a comprehensive basinwide groundwater quality management and remediation plan or is necessary to develop a comprehensive groundwater plan.

(ii) Affected groundwater provides a local supply that, if contaminated, will require the importation of additional water from the Sacramento-San Joaquin Delta or the Colorado River.

(iii) The project will serve an economically disadvantaged community.

(iv) Multiple contaminants affect more than one-third of the well capacity of a local water system.

(C) Of the funds appropriated by this paragraph, two million dollars ($2,000,000) shall be allocated to the State Department of

Public Health to contract with the State Water Resources Control Board for the purposes of Section 83002.5.

(3) Pursuant to Section 75026 of the Public Resources Code, the sum of forty million dollars ($40,000,000) to the department for administrative costs, planning grants, and local groundwater assistance grants.

(4) Pursuant to subdivision (d) of Section 75029 of the Public Resources Code, the sum of fifty million dollars ($50,000,000) to the department for projects that relocate existing Sacramento-San Joaquin Delta water intake facilities and that meet all of the following criteria:

(A) Have completed documentation required under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and a notice of determination has been filed prior to June 30, 2007.

(B) Have demonstrated multiple benefits in the environmental documentation, including a net benefit to delta pelagic fisheries and drinking water quality improvement.

(C) Are able to complete design and, if the project involves construction, commence construction within the 2007–08 fiscal year.

(D) Have local and federal cost sharing.

(5) Pursuant to Section 75033 of the Public Resources Code, the sum of one hundred sixty million dollars ($160,000,000) to the department as follows:

(A) Sixty million dollars ($60,000,000) to increase the department's ability to respond to levee breaches and to reduce the potential for levee failure, including, but not limited to, the following:

(i) Acquisition and positioning of emergency construction materials and equipment.

(ii) Emergency projects to prevent levee failure or repair levees or other flood control facilities to restore conveyance and flood protection.

(iii) Preparation for, and implementation of, a delta emergency operations plan.

(iv) Emergency contracts for activities relating to a flood fight or levee failure to prevent or mitigate loss of, or damage to, life, health, property, or essential public services.

(B) One hundred million dollars ($100,000,000) for the acquisition, preservation, protection, and restoration of Sacramento-San Joaquin Delta islands. Projects shall be selected to improve the stability of the delta levee system, reduce subsidence, and assist in restoring the ecosystem of the delta. Priority shall be given to projects that improve conditions for delta smelt and other native fish. Eligible projects include, but are not limited to, all of the following:

(i) Suisun Marsh tidal marsh restoration.

(ii) Dutch Slough tidal marsh restoration.

(iii) Decker Island restoration.

(iv) Exotic species control.

(6) Pursuant to Chapter 4 (commencing with Section 75041) of Division 43 of the Public Resources Code, the sum of forty-seven million dollars ($47,000,000) to the department as follows:

(A) (i) Twelve million dollars ($12,000,000) to complete the planning and feasibility studies associated with new surface storage under the California Bay-Delta Program.

(ii) The planning and feasibility studies shall include the following information:

(I) The identification of specific construction and operation conditions proposed for each surface storage facility, including consideration of climate change, an estimated schedule for the construction and completion of each project funded under Section 75041, and the total costs of constructing each project.

(II) A description of the estimated total costs to construct each project and an allocation of the costs to public and private beneficiaries.

(iii) Any feasibility study conducted by or funded by the state for new surface storage under the California Bay-Delta Program shall evaluate funded projects consistent with all statutory and other legally established requirements for protection of environmental and natural resources, including protections for the McCloud River pursuant to Section 5093.542 of the Public Resources Code.

(iv) The feasibility studies shall be prepared and submitted to the Governor and the Legislature no later than December 31, 2008.

(B) (i) Fifteen million dollars ($15,000,000) for planning and feasibility studies to identify potential options for the reoperation of the state's flood protection and water supply systems that will

optimize the use of existing facilities and groundwater storage capacity.

(ii) The studies shall incorporate appropriate climate change scenarios and be designed to determine the potential to achieve the following objectives:

(I) Integration of flood protection and water supply systems to increase water supply reliability and flood protection, improve water quality, and provide for ecosystem protection and restoration.

(II) Reoperation of existing reservoirs, flood facilities, and other water facilities in conjunction with groundwater storage to improve water supply reliability, flood control, and ecosystem protection and to reduce groundwater overdraft.

(III) Promotion of more effective groundwater management and protection and greater integration of groundwater and surface water resource uses.

(IV) Improvement of existing water conveyance systems to increase water supply reliability, improve water quality, expand flood protection, and protect and restore ecosystems.

(C) Ten million dollars ($10,000,000) to update the California Water Plan, including evaluation of climate change impacts, the development of strategies to adapt to climate change impacts, and the identification of strategies to reduce greenhouse gas emissions related to the storage, conveyance, and distribution of water.

(D) Ten million dollars ($10,000,000) for planning and feasibility studies for projects to reduce ecosystem conflicts in the Sacramento-San Joaquin Delta. The department shall commence these studies by January 1, 2008.

(7) Of the funds made available pursuant to subdivision (i) of Section 75050 of the Public Resources Code ten million dollars ($10,000,000) is appropriated to the State Coastal Conservancy for projects on the Santa Ana River.

(c) Of the funds made available pursuant to subdivision (a) of Section 79550 of the Public Resources Code, the sum of three million four hundred ninety thousand dollars ($3,490,000) is hereby appropriated to the department for planning and feasibility studies associated with surface storage under the California Bay-Delta Program.

83002.5. To improve understanding of the causes of groundwater contamination, identify potential solutions and funding sources to clean up or treat groundwater, and ensure the

provision of safe drinking water to all communities, the State Water Resources Control Board, in consultation with other agencies as specified in this section, shall develop pilot projects in the Tulare Lake Basin and the Salinas Valley that focus on nitrate contamination and do all of the following:

(a) (1) In collaboration with relevant agencies and utilizing existing data, including groundwater ambient monitoring and assessment results along with the collection of new information as needed, do all of the following:

(A) Identify sources, by category of discharger, of groundwater contamination due to nitrates in the pilot project basins.

(B) Estimate proportionate contributions to groundwater contamination by source and category of discharger.

(C) Identify and analyze options within the board's current authority to reduce current nitrate levels and prevent continuing nitrate contamination of these basins and estimate the costs associated with exercising existing authority.

(2) In collaboration with the State Department of Public Health, do all of the following:

(A) Identify methods and costs associated with the treatment of nitrate contaminated groundwater for use as drinking water.

(B) Identify methods and costs to provide an alternative water supply to groundwater reliant communities in each pilot project basin.

(3) Identify all potential funding sources to provide resources for the cleanup of nitrates, groundwater treatment for nitrates, and the provision of alternative drinking water supply, including, but not limited to, state bond funding, federal funds, water rates, and fees or fines on polluters.

(4) Develop recommendations for developing a groundwater cleanup program for the Central Valley Water Quality Control Region and the Central Coast Water Quality Control Region based upon pilot project results.

(b) Create an interagency task force, as needed, to oversee the pilot projects and develop recommendations for the Legislature. The interagency task force may include the board, the State Department of Public Health, the Department of Toxic Substances Control, the California Environmental Protection Agency, the Department of Water Resources, local public health officials, the

Department of Food and Agriculture, and the Department of Pesticide Regulation.

(c) Submit a report to the Legislature on the scope and findings of the pilot projects, including recommendations, within two years of receiving funding.

(d) Implement recommendations in the Central Coast Water Quality Control Region and the Central Valley Water Quality Control Region pursuant to paragraph (4) of subdivision (a) within two years of submitting the report described in subdivision (c) to the Legislature.

83002.6. Up to 5 percent of the funds appropriated by this division may be expended to pay the costs incurred in the administration of that program.

83002.7. Funds appropriated by this division shall only be available for encumbrance until June 30, 2009. On January 10, 2008, any program that is the recipient of an appropriation made by this division shall report to the fiscal committees of the Legislature on the details of all committed and anticipated expenditures of these funds. The report shall include all of the following information:

(a) Fiscal detail of state operations support and local assistance costs.

(b) A general description of the project and the project funding made available by an appropriation in the annual Budget Act for the 2007–08 fiscal year or proposed to be made available in the annual Budget Act for the 2008–09 fiscal year.

(c) A description of the manner in which funds have been expended and a plan for the future expenditure of funds.

(d) An anticipated timeframe for the full expenditure of the appropriation.

(e) An anticipated timeframe for the full completion of the designated project.

(f) The amount of total matching project funding that is being provided by an entity other than the state.

83003. The Legislature further finds and declares the following:

(a) At the November 7, 2006, statewide general election, the voters approved nine billion five hundred thousand dollars ($9,000,500,000) in general obligation bonding authority to improve flood protection, water supply reliability, water quality, fish and wildlife, parks and open space, and other natural resources.

This is in addition to the eleven billion one hundred thousand dollars ($11,000,100,000) previously authorized by the voters since 1996 for similar uses.

(b) The Legislative Analyst reports that at the end of the 2006–07 fiscal year, more than one billion two hundred thousand dollars ($1,000,200,000) of the previously authorized eleven billion one hundred thousand dollars ($11,000,100,000) will not have been appropriated or otherwise committed for voter-approved uses.

(c) The proceeds of bonds approved by the voters of the state for water and natural resources should be appropriated and expended for those uses, as directed by the voters.

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ATTACHMENT C

SENATE RULES COMMITTEE Office of Senate Floor Analyses 1020 N Street, Suite 524 (916) 651-1520 Fax: (916) 327-4478	SB 1XX

THIRD READING

Bill No: SB 1XX
Author: Perata (D), et al
Amended: As introduced
Vote: 21

SENATE NATURAL RES. & WATER COMMITTEE : 5-1, 10/08/07
AYES: Steinberg, Kehoe, Kuehl, Machado, Migden
NOES: Hollingsworth
NO VOTE RECORDED: Margett, Cogdill

SENATE APPROPRIATIONS COMMITTEE : Not available

SUBJECT : Water quality, flood control, water storage, and wildlife preservation

SOURCE : Author

DIGEST : This bill appropriates a total of $610.89 M from Propositions 50, 1E, and 84, for a variety of purposes.

ANALYSIS :

Existing law:

Propositions 50, 1E, and 84 authorized a total of $12.918 B in general obligation bonds, as follows:

Propositi	Ballo	Amount	Funded Programs

CONTINUED

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on	t		
50	11/02	$3.44 B	Water Security, Safe Drinking Water, Clean Water & Water Quality, Contaminant & Salt Removal Technology, CALFED Bay-Delta Program, Integrated Regional Water Management, Colorado River, & Coastal Watershed & Wetland Protection.
1E	11/06	$4.090 B	Levees, Weirs, Bypasses & State Plan of Flood Control Facilities, State Costs of Flood Control & Flood Prevention Projects, Protection, Reaction And Enhancement of Flood Protection Corridors & Bypasses, Stormwater Management Projects.
84	11/06	$5.388 B	Safe Drinking Water & Water Quality, Flood Control, Statewide Water Planning, Protection Of Rivers, Lakes & Streams, Forest & Wildlife Conservation, Protection Of Beaches, Bays, & Coastal Water, Park & Nature Education Facilities, & Sustainable Communities & Climate Change Reduction.

This bill appropriates a total of $610.89 M from Propositions 50, 1E, and 84, for a variety of purposes. The proposed appropriations are:

	Proposition 50

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$3.49 M	Complete CalFed surface storage studies.

	Proposition 1E
$50.0 M	Flood emergency preparedness.
150.0 M	Stormwater flood management projects:
	$100+MAddress immediate public health and safety needs and strengthen existing flood control facilities to address seismic safety issues.
	$20 MMeet immediate water quality needs related to combined municipal sewer and stormwater systems to prevent sewage discharges.
	$20 MStormwater flood protection projects in the northern San Francisco Bay area and Marin County.
$200.0 M	Total Proposition 1E

	Proposition 84
$50.0 M	Small community drinking water system

	improvements. Disadvantaged or severely disadvantaged communities lacking resources to provide safe drinking water to residents have first priority to the funds.
50.4 M	Prevent/reduce groundwater contamination that

	affects drinking water sources. Establishes criteria for prioritizing funds. Establishes and funds two pilot projects in the Tulare Lake Basin and the Salinas Valley to focus on nitrate contamination.
40.0 M	Regional water planning and local groundwater assistance.
50.0 M	Relocates existing Delta water intake facilities that meet specified criteria.
160.0 M	Flood control projects in the Delta:
	$60 MIncrease the Department of Water Resources' (DWR's) ability to respond to levee breaches and reduce the potential for levee failure.
	$100 MAcquire, preserve, protect, and restore Sacramento-San Joaquin Delta islands. Specifies eligible projects.
12.0 M	Completes CalFed surface storage studies. Specifies that the planning and feasibility studies are to identify the specific construction and operation conditions of the projects and the estimated total costs to construct each project, and be submitted to the Governor and the Legislature no later than 12/31/08.

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15.0 M	Study options for reoperating the state's flood protection and water supply systems to optimize the use of existing facilities and groundwater storage capacity. Specifies that the studies shall incorporate appropriate climate change scenarios, and requires that the studies be designed to determine the potential to achieve specific objectives.
10.0 M	Updating the California Water Plan, including

	evaluation of climate change impacts, the development of strategies to adapt to climate change impacts, and the identification of strategies to reduce greenhouse gas emissions related to the storage, conveyance, and distribution of water.
10.0 M	Planning and feasibility studies for projects to reduce ecosystem conflicts in the Delta. Requires DWR to begin these studies by 1/1/08.
10.0 M	Santa Ana River Parkway projects.
$407.4 M	Total Proposition 84

In addition, the bill:

1. Makes numerous findings and declarations regarding such things as:

   A. The value of the water to the economy, environment, and overall well-being of the state.

   B. The challenges facing the state in managing water due to climate change, uncertainty regarding the availability of water from the Delta and other

   sources, an increase in state population, limitations on public funds, and other factors.

   C. The need to adopt a new, updated, and comprehensive set of water planning, design, and implementation policies.

   D. Missed opportunities to manage our water more efficiently and to make our supplies more reliable.

   E. The need to require integrating flood protection and water systems to achieve multiple benefits.

2. Makes a number of additional findings about the amount of voter approved debt for water resources related bonds and the amount of unexpended bond funds still available for appropriation.

3. Provides that funds appropriated by this bill shall only be available for encumbrance until June 30, 2009.

4. Requires that on January 10, 2008, any program that is the recipient of an appropriation made by this bill shall report to the fiscal committees of the Legislature specific details of all committed and anticipated expenditures of these funds.

5. Allows up to five percent of the appropriated funds to pay the costs incurred in the administration of that program.

FISCAL EFFECT : Appropriation: Yes Fiscal Com.: Yes
Local: No

According to the Senate Appropriations Committee:

Fiscal Impact (in thousands)

Major Provisions	2007-08	2008-09	2009-10	Fund
Delta: emergency prep.	$110,000			Bond1
Stormwater flood	$150,000			Bond2

management projects				
Drinking water programs	$100,400			Bond3
SWRCB: groundwater	unknown, likely >$10,000			GF/BF4
cleanup program (cost pressure)				
Local groundwater assistance	$40,000			Bond3
Delta: water quality		$50,000		Bond3
Delta: flood control		$100,000		Bond3
Planning/feasibility studies:	$47,000			Bond3
water supply, conveyance, flood control systems				
SCC: Santa Ana Parkway	$10,000			Bond3
Planning/feasibility studies:	$3,490			Bond5
surface water storage				
Debt service: increased payment		$38,762	$38,762	

General6

1The Disaster Preparedness and Flood Prevention Bond Act of 2006 (Proposition 1E), and The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84)
2Proposition 1E
3Proposition 84
4Unknown
5Water Security Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Proposition 50)
6Assumes a 30-year bond sold at 4.783 percent interest and 3 percent inflation.

SUPPORT : (Verified 10/9/07)

Association of California Water Agencies
Audubon California
Big Sur Land Trust
Butte Environmental Council
California Coastal Coalition
California Council of Land Trusts

California League of Conservation Voters
California Native Plant Society
California Rural Legal Assistance Foundation
California Sportfishing Protection Alliance
California Trout
California Water Association
California Water Impact Network
California Watershed Network
City of Los Angeles
Clean Water Action
Community Water Center
Contra Costa Water District
Defenders of Wildlife
East Bay Municipal Utility District
Environmental Defense
Environmental Entrepreneurs
Environmental Justice Coalition for Water
Environmental Water Caucus
Federation of Fly Fishers
Forest Issues Group
Friends of the River
Friends of the Trinity River
High Sierra Rural Alliance
League of Women Voters of California
Los Angeles Department of Water and Power
Marin Municipal Water District
Metropolitan Water District of Southern California

Mountain Lion Foundation
Natural Resources Defense Council
Planning and Conservation League
Restore the Delta
Sierra Foothills Audubon Society
Sierra Nevada Alliance
The Nature Conservancy
TreePeople
Truckee River Watershed Council
Tulare Basin Wildlife PartnersPeople
Tuolumne River Trust
Urban Creeks Council
Winnemem Wintu Tribe

OPPOSITION : (Verified 10/9/07)

Department of Water Resources

Friant Water Authority
Valley Ag Water Coalition

ARGUMENTS IN SUPPORT : Supporters point out all of the important activities that would be funded by this bill. About 60 percent of the funds appropriated in this bill are for flood protection related activities, and another 15-20 percent are for projects that protect or improve drinking water quality. The bill also funds completing the CalFed surface storage feasibility studies and environmental documents, improving regional water planning and groundwater management, and restoring critical environmental resources.

ARGUMENTS IN OPPOSITION : While acknowledging that the bill funds worthwhile actions, DWR opposes the bill because it is not part of a "comprehensive approach to addressing California's water needs, which must include surface storage as a component to address future impacts on water availably due to climate change and population."

Other opponents raise concerns with the appropriateness of specific appropriations or conditions:

1. Studying options for reoperating the state's flood protection and water supply systems.

2. Requirements of the CalFed surface storage studies.

3. Pilot projects in the Tulare Lake Basin and the Salinas Valley to focus on nitrate contamination.

4.Flood emergency preparedness.

5.Regional water planning and local groundwater assistance.

CTW:nl 10/9/07 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

UNOFFICIAL BALLOT
MEASURE: SBX2 1
AUTHOR: Perata
TOPIC: Water quality, flood control, water storage,
DATE: 01/07/2008
LOCATION: SEN. FLOOR
MOTION: Senate 3rd Reading SB1 Perata
(AYES 23. NOES 11.) (PASS)

AYES
****

Alquist Calderon Cedillo Corbett
Correa Ducheny Florez Kehoe
Kuehl Lowenthal Machado Migden
Negrete McLeod Oropeza Padilla Perata
Romero Scott Simitian Steinberg
Torlakson Wiggins Yee

NOES
****

Aanestad Ackerman Ashburn Battin
Cogdill Cox Denham Dutton
Harman Hollingsworth McClintock

ABSENT, ABSTAINING, OR NOT VOTING
****

Maldonado Margett Ridley-Thomas Runner
Vincent Wyland

CURRENT BILL STATUS

MEASURE : S.B. No. 1 (2nd Ex. Sess.)
AUTHOR(S) : Perata, Machado, and Steinberg.
TOPIC : Water quality, flood control, water storage, and wildlife preservation.
HOUSE LOCATION : ASM

TYPE OF BILL :
Active
Non-Urgency
Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 05/29/2008
LAST HIST. ACTION : To Com. on WATER.
COMM. LOCATION : ASM WATER

TITLE : An act to add Division 33 (commencing with Section 83000) to the Water Code, relating to water, and making an appropriation therefor.

ATTACHMENT D

CALIFORNIA URBAN WATER AGENCIES

May 23, 2008

Mr. Lester Snow
Director
Department of Water Resources
P.O. Box 942836
Sacramento, CA 94236

Subject: Delta Near-Term/Emergency Response Actions

Dear Lester:

The California Urban Water Agencies (CUWA) Board has adopted a list of near-term/emergency response actions that should be implemented within 24 months to reduce flood risks, provide fisheries benefits, improve water supply reliability, and improve water quality. The enclosed CUWA Position Paper describes these actions. A long-term solution for the Delta will take many years to implement; however, with the declining fish populations, seismic and flooding risks, and the current unreliable nature of the Delta as a source of drinking water for more than 23 million people, we cannot afford to wait for the long-term solution. We must immediately begin to implement near-term/emergency response actions.

The CUWA Board has identified the following four high priority projects. We are prepared to work with the Department of Water Resources (DWR) to identify implementation and funding mechanisms that will allow these projects to proceed and be completed within 24 months.

Franks Tract-Middle River Corridor/Two Barrier Pilot Project – This pilot project involves testing two temporary barriers at two locations to partially isolate Middle River and Old River near Franks Tract. The temporary barriers would be tested together with preventive flow control actions and possibly modified Delta Cross Channel operations to maintain positive San Joaquin River outflow and reduce smelt and salmon migration toward the export pumps. Modeling studies have shown this project could provide equivalent or better protection for delta smelt compared to the December 2007 Federal Court delta smelt decision, while reducing water supply costs. The project will include monitoring the effect of these barriers on delta smelt, salmon, and other fish species of interest. This project has the potential to provide immediate benefits and will also provide data needed to evaluate dual conveyance as the long-term solution.

Franks Tract/Three Mile Slough – Franks Tract project alternatives will potentially reduce Delta salinity intrusion in the fall, reduce the water supply impacts resulting from the Federal Court decision, and provide protection for delta smelt. DWR is currently evaluating several alternative barriers around Franks Tract and plans to have a certified Environmental Impact Report/Environmental Impact Statement (EIR/EIS) by May 2010. We urge you to accelerate the pace of this study and to conduct a pilot study to evaluate the effectiveness of the Three Mile Slough barrier in the next two years.

455 Capitol Mall, Suite 705, Sacramento, CA 95814 916.552.2929 FAX 916.552.2931

City of Sacramento
Alameda County Water District
San Diego County Water Authority
Metropolitan Water District of Southern California
San Francisco Public Utilities Commission
City of San Diego Water Department
Santa Clara Valley Water District
Zone 7 Water Agency
Contra Costa Water District
East Bay Municipal Utility District
Los Angeles Department of Water & Power

Demonstration Fish Protection Screen at Clifton Court Forebay – Bond funding is available for a demonstration screen at Clifton Court Forebay. The pilot study will include monitoring data on the screen's effectiveness in reducing entrainment and predation losses in Clifton Court Forebay.

Levee and Conveyance Improvements – Bond funding is available for improvements to levees and to build new intakes and improve water supply aqueducts crossing the Delta that will improve water supply reliability; recently constructed interties expand the pool of beneficiaries from these improvements. Funding available in Proposition IE should be allocated to improve south Delta levees vital to the protection of critical infrastructure. To achieve improvements expeditiously, advance funding commitments are needed under agreements with an agency capable of carrying out the work in a timely manner.

The CUWA Position Paper includes a number of other actions we believe should be implemented in the near-term. Some of the projects that CUWA believes should be implemented quickly, such as the alternative intake for Contra Costa Water District and stockpiling of materials to deal with a Delta emergency are already proceeding at a fast pace. Many important ecosystem restoration projects that would provide critical habitat for delta smelt and salmon species are being evaluated by DWR. The schedules for these projects need to be accelerated.

CUWA's recommendations are consistent with the recommendations proposed by the Bay-Delta Conservation Plan and Delta Vision Blue Ribbon Task Force. We urge you to consider our recommendations for near-term actions. We would like to meet with you to discuss how CUWA can assist DWR in moving quickly to implement the projects identified in our Position Paper.

Sincerely,

Paul Piraino

Paul Piraino
Chair, CUWA Board of Representatives

CALIFORNIA URBAN WATER AGENCIES

POSITION PAPER REGARDING DELTA NEAR-TERM/EMERGENCY RESPONSE ACTIONS

POSITION

CUWA will assume a leadership role in advancing near-term/emergency response actions that can provide ecosystem, water quality and water supply reliability benefits in the next two years. There are projects identified for immediate implementation that would reconcile competing interests, improve and preserve all beneficial uses of the Sacramento/San Joaquin Delta (Delta) and address critical issues in a timely manner. These projects also lay a foundation for any of the long-term visions for the Delta.

BACKGROUND

The crashing populations of delta smelt and other species; the Federal Court delta smelt decision reducing statewide water supplies; and the lack of preparedness for a highly probable seismic, flood, or other event that will disrupt water supplies for an extended period have amplified the need for action to emergency levels.

IDENTIFICATION OF NEAR-TERM/EMERGENCY ACTIONS

Actions have been identified that require immediate implementation to protect the Delta. These projects can be built within 24 months and will immediately reduce flood risks; provide benefits for fisheries, water supplies, and water quality; and offer a solution to future water reductions. To qualify as near-term/emergency response projects, each must produce results within the next two years and meet the following criteria:

- Have a certified Environmental Impact Report (EIR) or the ability to obtain complete environmental documentation within six to eight months (e.g., Operations, Criteria, and Plan [OCAP] process, Bay Delta Conservation Plan [BDCP], agency partnerships, etc.);
- Have permits in place or the ability to obtain all necessary permits within six to eight months;
- Have funding through existing bonds, authorizations or local matches;
- Have construction completed and begin operating within 24 months.

The following is a list of emergency response actions that address the critical Delta issues. All of these projects have funding in place, can begin construction over the next year and can produce results in the next two years. These projects will bring over $500 million of construction combined, creating over 10,000 new jobs. Implementing these near-term/emergency response

projects does not foreclose or promote any future scenario for the Delta; rather they would make the decisions easier by providing science-based evidence of what works and what doesn't in improving Delta sustainability.

I. Flood and Levee Failure/Emergency Preparedness

- Freshwater flows in the Delta must be protected and quickly restored after a major emergency such as a seismic event or flood. Protection of the transportation corridors, aqueducts, gas pipelines, and railroads, and restoration of freshwater flows is essential. Stockpiling materials for repairs and channel barriers at key locations in the Delta will allow protection of critical infrastructure corridors (including Highway 4, aqueducts, gas pipelines, and railroads) and timely restoration of a freshwater pathway to export facilities. This would reduce the effects of salt water intrusion and water curtailments to the 23 million Californians dependent on the Delta for water. Costs are approximately $70 to $80 million and funding is available from voter approved Proposition 84.

- Allocate $10 million from Proposition 84 for improvements to water supply aqueducts that cross at least 10 miles of the Delta. This funding is for design and construction of interties among water supply aqueducts, such that lifeline water supplies may be maintained in the event of levee failure while repairs are made.

- Reduce the potential for levee failure by improving the level of flood protection afforded by various levees in the south Delta vital to the protection of water supply reliability, key transportation routes, gas and electric utility lines, agricultural lands, and south Delta water channels for fish, wildlife and recreation. The cost of these improvements is $120 million consisting of $100 million from Proposition 1E and $20 million in local matching funds. To achieve improvements expeditiously authorize advance funding commitments for this work under agreements with an agency capable of carrying out the work in a timely manner. Levees to be improved to provide added protection to water supply infrastructure include:

    - Lower Roberts Island
    - Lower Jones Tract
    - Upper Jones Tract
    - Woodward Island
    - Palm-Orwood Tract

II. Franks Tract Delta Quality and Smelt Recovery Pilot Projects: Middle River Corridor/Two Barrier Pilot Project and Three-Mile Slough Barrier Alternative

- The objective of these Delta pilot projects near Franks Tract is to provide equivalent or better protection for Delta smelt as compared to the December 2007 Federal Court decision, while reducing water supply costs to the State Water Project (SWP) and Central Valley Project (CVP), and protecting Delta water quality in the near-term.

- The Middle River Corridor/Two Barrier Pilot Project at Franks Tract includes testing the installation of two temporary barriers in the central Delta together with preventive flow control actions and modified Delta Cross Channel operations to maintain positive San Joaquin River outflow and impede smelt migration toward export pumps. Implementation of the pilot project will include monitoring the effect of the actions on delta smelt, all races of salmon and steelhead and other fish species of interest.

- Preliminary modeling studies have shown that the two barrier option, together with flow control actions, to maintain positive net flow on the San Joaquin River could potentially provide protection for delta smelt equivalent to the Federal Court delta smelt decision, while reducing the water supply impacts and Delta water quality degradation resulting from implementation of the court decision.

- A pilot project that includes two temporary barriers is estimated to cost $40 million.

- The Department of Water Resources (DWR) Franks Tract project alternatives (Three Mile Slough barrier and False River barrier) would potentially reduce Delta salinity intrusion in the fall, reduce the water supply impacts resulting from the Federal Court delta smelt decision, and provide protection for delta smelt. DWR should accelerate the Franks Tract/Three Mile Slough barrier project and include a near-term pilot project to test the Three Mile Slough barrier.

III. Alternative Intake for Contra Costa Water District (CCWD)

This CCWD water quality project provides Delta fishery benefits by reducing Delta diversions in the fish sensitive period from January through June, increasing screened diversion capacity and by allowing operational flexibility in pumping locations when sensitive fish species are present in the Delta.

- The alternative intake would protect water quality during emergencies by providing a separate intake to provide fresh, safe drinking water when other Delta intakes are impacted by crisis situations and unable to operate.

- The additional intake improves water quality for CCWD's 550,000 customers and improves water supply reliability for up to 6 million Bay Area residents through existing, permitted interties with other Bay Area water agencies. It would allow wheeling of high quality water through existing interties to Bay Area agencies to relieve drought or regulatory shortages.

- CCWD has begun construction. The total cost for this project is estimated at $110 million, $60 million pledged by CCWD and $50 million earmarked in voter approved Proposition 84 funding.

IV. Demonstration Fish Protection Screen at Clifton Court Forebay

- This project would reduce entrainment and predation losses of salmon, steelhead, and delta smelt in Clifton Court Forebay and at the Banks Pumping Plant with capacity of not less than 500 cubic feet per second.

- It would provide for monitoring to determine the screen's effectiveness in reducing entrainment, salvage and predation of aquatic species.

- It could also be used to evaluate the effectiveness of project implementation under partnership agreements.

V. Ecosystem Habitat Improvements

- ***Decker Island*** - Decker Island, in the western Delta, is composed of old dredged spoils and, unlike other Delta islands, is several feet above sea level. Material from Decker Island should be excavated and used to reinforce levees on nearby Delta islands such as Sherman and Jersey. Excavation of Decker Island could result in approximately 400 acres of restored tidal marsh along the main migration corridor for juvenile salmon and Sacramento splittail – two native species thought to benefit most from tidal marsh restoration. Thus, this project could contribute material to address Delta stability issues and create new habitat. Over 400,000 cubic yards of material was removed from thirty acres on the island and restored to tidal marsh and riparian habitat. The 473 acre parcel on the island was sold last July for approximately $9 million. The new owners have not disclosed their intentions for the island.

- ***Dutch Slough*** - The Dutch Slough site offers an opportunity for large-scale tidal marsh restoration, habitat enhancement and open space preservation in eastern Contra Costa County. The project is being implemented collaboratively by DWR, the California Bay Delta Authority, the California State Coastal Conservancy, and the City of Oakley.

  The 1,200 acre Dutch Slough site was acquired by DWR in 2003. DWR and its partners have completed a restoration plan that is designed both to restore habitat and generate information about how best to restore Delta habitat in the future. Information gained could be invaluable for long-term Delta management. The project is ready for implementation. DWR has completed an administrative draft EIR and is expected to release the draft EIR in the near future, as discussed in the Public Policy Institute of California (PPIC) report (p. 82).

- ***Meins Landing in Suisun Marsh*** - Meins Landing is a DWR restoration project being funded by the Delta Levee Program and the Suisun Marsh Preservation Agreement State/Federal interests. In 2005, 680 acres of land for tidal restoration was purchased to meet Suisun Marsh Plan goals, provide Assembly Bill 360 net habitat enhancement and offset impacts of levee projects on Van Sickle Island.

Preliminary modeling by DWR indicates that the Meins landing project may reduce salinity in the interior of the Delta.

Suisun Marsh has largely been managed as non-tidal seasonal wetlands for waterfowl and other birds. Levees and gates prevent tidal inundation of large areas of managed wetlands. Restoration of brackish tidal marsh would improve habitat for native fish in an area where they are less vulnerable to the Delta pumps. Brackish marsh restoration would reduce habitat for waterfowl, but these losses could be more then offset by creating and promoting managed freshwater marshes and wildlife friendly agriculture on central and western Delta Islands and in the Yolo Bypass. Unlike much of the central and western Delta, elevations in Suisun Marsh generally allow immediate restoration of tidal marsh habitat. Restoration could start immediately at the Meins Landing site purchased by DWR for that purpose. Agencies should proceed with restoration planning for the Suisun Marsh, as discussed in the PPIC report (pp. 79, 182).

- ***Restore Floodplain Habitat and Salmon Migration Through the Yolo Bypass*** - Authorize construction of fish passage and flow control facilities at the Fremont Weir. Inundation of the Yolo Bypass provides excellent rearing habitat for juvenile salmon and splittail and critical spawning habitat for the splittail. Presently the bypass is only inundated once every three years on average and sometimes goes for four to five years without inundation. Increasing the frequency of inundation on even a small portion of the bypass could substantially improve conditions for splittail and salmon by increasing food availability. Salmon growth and survival have been greater when they pass through the bypass rather than traveling down the Sacramento River. Providing these flows would require notching or gating the Fremont Weir to allow a controlled inflow of water into the bypass in years when the stage of the Sacramento River is below the crest of the weir. The goal would be to create inundated floodplain habitat on a publicly owned portion of the bypass - not privately owned land. Modification of the Fremont Weir could also allow improved fish migration through the bypass, permitting juvenile salmon to bypass the Delta Cross Channel and other hazards associated with migrating through the Delta. Permanent modifications to Fremont Weir would cost $10 to $30 million and a temporary pilot project would cost about $2 million. This restoration effort will also analyze the relocation of diversions in the southern Yolo Bypass/Cache Slough region to reduce aquatic ecosystem impacts. This project has been extensively studied by DWR and is called for by the PPIC report (p. 79) and the CALFED Ecosystem Restoration Program Plan.

This story is taken from Sacbee / Opinion.

Editorial: New water bond? First, spend existing billions

Proposition 84 funds should be the first choice for improving state water supplies

-

Published 12:00 am PDT Wednesday, July 16, 2008

Following the driest spring in recorded history, California faces a water challenge of epic dimensions.

Reservoirs are low. Hundreds of fires have ravaged dozens of watersheds. Salmon, smelt and other fish are in trouble, adding to the complexity of moving water through the Sacramento-San Joaquin Delta.

Under pressure from worried farmers and business leaders, Gov. Arnold Schwarzenegger and U.S. Sen. Dianne Feinstein last week unveiled their latest multibillion-dollar bond proposal to finance water projects and river restoration efforts. This latest plan is an improvement over previous versions, reducing the total debt down to $9.7 billion and creating a more level playing field for water investments of all types.

But before state leaders restart discussion on new water bonds, they should take full advantage of bonds that voters already have approved. In 2006, voters passed Proposition 84, a $5.4 billion bond initiative that included billions of dollars for water projects and watershed protection. To date, lawmakers have appropriated only $2.8 billion of those funds, leaving billions that could be spent immediately.

What is holding up that investment?

Schwarzenegger bears much of the responsibility. Last year, he vetoed a bill by Senate leader Don Perata that would have appropriated unspent funds from Proposition 84 and other water bonds, including Proposition 50 in 2002 and Proposition 13 in 2000. At the time, the governor wanted Perata's help in advancing a water bond to build reservoirs, so he vetoed the appropriations bill in a naked attempt to apply pressure on the Senate leader.

That gambit didn't work, and one year later, the state's water problems have worsened. So this week, Perata and Assembly Speaker Karen Bass came back with a new bill that would allocate $812 million in past bond funds for water supply, conservation and flood control projects.

Of this money, $50 million would go to cleaning up groundwater basins, an essential source

of supply in Southern California. $200 million would go to integrated water management, including regional efforts to share supplies and reduce water waste. Nearly $200 million would go into efforts to restore the Delta, improve water quality and help water districts avoid impacts on fish. More than $15 million would go toward studies of new reservoir projects.

While critics say they are tired of spending state money on studies of reservoirs, there's no getting around these reviews. No reservoir project will get permits, or approval from taxpayers, if the state can't say how much water will result, what it will cost, who will benefit and what the environmental impacts will be.

Indeed, if Schwarzenegger had signed last year's legislation, he and the state would be one step closer toward getting those answers.

The governor and Feinstein deserve credit for noting the urgency of a shrinking Sierra snowpack and working to secure a long-term response.

But in twisting arms to get a water bond passed, they shouldn't be taking hostages. Water bond monies approved by voters deserve to be spent now, before a calamity turns into a crisis.

Go to: Sacbee / Back to story

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