

NOTICE AND AGENDA

Regular Meeting of the Board of Trustees

SANTA YNEZ RIVER WATER CONSERVATION DISTRICT, IMPROVEMENT DISTRICT NO.1

will be held at **3:00 P.M., Tuesday, August 16, 2022**

In-Person - 1070 Faraday Street, Santa Ynez, CA - Conference Room

OR

VIA TELECONFERENCE

TELECONFERENCE PHONE NUMBER: 1-669-900-9128

MEETING ID: 929 0039 9487#

PARTICIPANT ID No.: 180175#

MEETING PASSCODE: 180175#

Important Notice Regarding Public Participation in This Meeting: For those who may not attend the meeting in person or teleconference but wish to provide public comment on an Agenda Item, please submit any and all comments and written materials to the District via electronic mail at general@syrwd.org. All submittals should indicate "**August 16, 2022 Board Meeting**" in the subject line. Public comments and materials received by the District will become part of the post-meeting Board packet materials available to the public and posted on the District's website. In the interest of clear reception and efficient administration of the meeting, all persons participating via teleconference are respectfully requested to mute their voices after dialing-in and at all times unless speaking.

1. **CALL TO ORDER AND ROLL CALL**
2. **PLEDGE OF ALLEGIANCE**
3. **REPORT BY THE SECRETARY TO THE BOARD REGARDING COMPLIANCE WITH THE REQUIREMENTS FOR POSTING OF THE NOTICE AND AGENDA**
4. **CONSIDERATION OF RESOLUTION NO. 824 - A Resolution of the Board of Trustees of the Santa Ynez River Water Conservation District, Improvement District No.1 Authorizing Remote Teleconference Meetings Under the Ralph M. Brown Act in Accordance with AB 361**
5. **ADDITIONS OR CORRECTIONS, IF ANY, TO THE AGENDA**
6. **PUBLIC COMMENT - Any member of the public may address the Board relating to any non-agenda matter within the District's jurisdiction. The total time for all public participation shall not exceed fifteen (15) minutes and the time allotted for each individual shall not exceed three (3) minutes. The District is not responsible for the content or accuracy of statements made by members of the public. No action will be taken by the Board on any public comment item.**
7. **CLOSED SESSION:**

To accommodate the teleconferencing format of this meeting, the public participation access will be closed for up to sixty (60) minutes while the Board of Trustees convenes into closed session. Upon the conclusion of the closed session, the public participation teleconference access will be reopened for the remaining Agenda items.

 - A. **PUBLIC EMPLOYEE PERFORMANCE EVALUATION:** Title - General Manager
[Section 54957 of the Government Code]
 - B. **CONFERENCE WITH LABOR NEGOTIATOR:** Jeff Dinkin - Stradling, Yocca, Carlson & Rauth;
Unrepresented Employee - General Manager [Section 54957.6 of the Government Code]
8. **RECONVENE INTO OPEN SESSION:**

[Sections 54957.1 and 54957.7 of the Government Code]

 - A. Consideration of General Manager Cost of Living Adjustment Increase
 - B. Consideration and Approval of General Manager Compensation Adjustment

9. **CONSIDERATION OF THE MINUTES OF THE REGULAR MEETING OF JULY 19, 2022**
10. **CONSENT AGENDA** - All items listed on the Consent Agenda are considered to be routine and will be approved or rejected in a single motion without separate discussion. Any item placed on the Consent Agenda can be removed and placed on the Regular Agenda for discussion and possible action upon the request of any Trustee.
 - CA-1. Water Supply and Production Report
 - CA-2. Central Coast Water Authority Update
11. **MANAGER REPORTS - STATUS, DISCUSSION, AND POSSIBLE BOARD ACTION ON THE FOLLOWING SUBJECTS:**
 - A. DISTRICT ADMINISTRATION**
 1. Financial Report on Administrative Matters
 - a) Presentation of Monthly Financial Statements – Revenues and Expenses
 - b) Approval of Accounts Payable
 - c) Series 2004A COMB Bond Update
 2. Employee Recognitions
 - a) Eric Tambini – 25 Years of Service
 - b) Karen King – 20 Years of Service
 - B. OPERATIONS AND MAINTENANCE**
 1. Motor Control Center and Service Upgrades – Phase 2
 - a) Bid Results Summary
 - b) Award of Contract and Authorization to Execute Contract Documents
12. **REPORT, DISCUSSION, AND POSSIBLE BOARD ACTION ON THE FOLLOWING SUBJECTS:**
 - A. SUSTAINABLE GROUNDWATER MANAGEMENT ACT**
 1. Eastern Management Area Update
 - B. CENTRAL COAST WATER AUTHORITY**
 1. Update Regarding CCWA Water Quality
 2. Update Regarding CCWA Mixing with Downstream Water Right Releases
 - C. CALIFORNIA ENDANGERED SPECIES ACT**
 1. California Endangered Species Act Decisions Affecting Statewide Water Supplies
13. **REPORTS BY THE BOARD MEMBERS OR STAFF, QUESTIONS OF STAFF, STATUS REPORTS, ANNOUNCEMENTS, COMMITTEE REPORTS, AND OTHER MATTERS AND/OR COMMUNICATIONS NOT REQUIRING BOARD ACTION**
14. **CORRESPONDENCE: GENERAL MANAGER RECOMMENDS FILING OF VARIOUS ITEMS**
15. **REQUESTS FOR ITEMS TO BE INCLUDED ON THE NEXT REGULAR MEETING AGENDA:** Any member of the Board of Trustees may place an item on the meeting Agenda for the next regular meeting. Any member of the public may submit a written request to the General Manager of the District to place an item on a future meeting Agenda, provided that the General Manager and the Board of Trustees retain sole discretion to determine which items to include on meeting Agendas.
16. **NEXT MEETING OF THE BOARD OF TRUSTEES:** The next Regular Meeting of the Board of Trustees is scheduled for **September 20, 2022 at 3:00 p.m.**

17. CLOSED SESSION:

To accommodate the teleconferencing component of this meeting, the public access line will be closed for up to forty-five (45) minutes while the Board of Trustees convenes into closed session. Upon the conclusion of the closed session, the public participation teleconference access will be reopened for the remaining Agenda Items.

The Board will hold a closed session to discuss the following items:

A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

[Subdivision (d)(1) of Section 54956.9 of the Government Code – 2 Cases]

1. Name of Case: Adjudicatory proceedings pending before the State Water Resources Control Board regarding Permit 15878 issued on Application 22423 to the City of Solvang, Petitions for Change, and Related Protests
2. Name of Case: Central Coast Water Authority, et al. v. Santa Barbara County Flood Control and Water Conservation District, et al., Santa Barbara County Superior Court Case No. 21CV02432

18. RECONVENE INTO OPEN SESSION

[Sections 54957.1 and 54957.7 of the Government Code]

19. ADJOURNMENT

This Agenda was posted at 3622 Sagunto Street, Santa Ynez, California, and notice was delivered in accordance with Government Code Section 54950 et seq., specifically Section 54956. This Agenda contains a brief general description of each item to be considered. The Board reserves the right to change the order in which items are heard. Copies of the staff reports or other written documentation relating to each item of business on the Agenda are on file with the District and available for public inspection during normal business hours at 3622 Sagunto Street, Santa Ynez. Such written materials will also be made available on the District's website, subject to staff's ability to post the documents before the regularly scheduled meeting. Questions concerning any of the Agenda items may be directed to the District's General Manager at (805) 688-6015. If a court challenge is brought against any of the Board's decisions related to the Agenda items above, the challenge may be limited to those issues raised by the challenger or someone else during the public meeting or in written correspondence to the District prior to or during the public meeting. In compliance with the Americans with Disabilities Act, any individual needing special assistance to review Agenda materials or participate in this meeting may contact the District Secretary at (805) 688-6015. Notification 72 hours prior to the meeting will best enable the District to make reasonable arrangements to ensure accessibility to this meeting.

RESOLUTION NO. 824

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE SANTA YNEZ RIVER WATER
CONSERVATION DISTRICT, IMPROVEMENT DISTRICT NO.1
AUTHORIZING REMOTE TELECONFERENCE MEETINGS UNDER THE RALPH M.
BROWN ACT IN ACCORDANCE WITH AB 361**

WHEREAS, the Santa Ynez River Water Conservation District, Improvement District No.1 (District) is committed to promoting and preserving complete public access and participation in meetings of the District's Board of Trustees, as required and set forth by the Ralph M. Brown Act (Gov. Code § 54950 et seq.) (Brown Act); and

WHEREAS, the Brown Act contains special provisions for remote teleconference participation in meetings when the Governor of the State of California has declared a state of emergency pursuant to Government Code section 8625 and either state or local officials have imposed or recommended measures to promote social distancing, or where in-person meetings would present imminent risks to the health and safety of attendees; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom issued a Proclamation of a State of Emergency for the COVID-19 pandemic, which state of emergency has not been rescinded; the County Health Officer for the County of Santa Barbara has issued numerous Health Orders regarding health and safety requirements and protocols since the beginning of and throughout the COVID-19 pandemic, including recent Health Officer Order No. 2022-10.1, effective February 16, 2022, which incorporates guidance issued on February 7, 2022 by the California Department of Public Health (CDPH) requiring unvaccinated persons to wear masks in all indoor public settings, requires universal masking in only specified settings, and recommends continued indoor masking when the risk of COVID-19 transmission is high; and

WHEREAS, on April 20, 2022, CDPH issued updated Guidance for the Use of Face Masks which provides, among other things, that effective March 1, 2022, the requirement that unvaccinated individuals mask in indoor public settings will move to a strong recommendation that all persons, regardless of vaccine status, continue indoor masking, and that universal making shall remain required in specified high-risk settings, and that after March 11, 2022, the universal masking requirement for K-12 and Childcare settings will terminate, and that CDPH strongly recommends that individuals in these settings continue to mask in indoor settings when the universal making requirement lifts; and

WHEREAS, on September 28, 2021 the County Health Officer and County Public Health Director issued a Health Official AB 361 Social Distance Recommendation which states, among other things, that utilizing teleconferencing options for public meetings is an effective and recommended social distancing measure to facilitate participation in public affairs and encourage participants to protect themselves and others from COVID-19, and that such recommendation is further intended to satisfy the requirements of the Brown Act which allows local legislative bodies in the County of Santa Barbara to use certain available teleconferencing options set forth in the Brown Act, where such recommendation is also based in part on the increased case rate of the highly transmissible Delta variant of COVID-19 within the nation and the County; and

WHEREAS, the District finds that the current circumstances relating to COVID-19 and variants thereof can cause, and can continue to cause, risks to the health and safety of persons within the County, and therefore the District may conduct its meetings to allow remote teleconference participation in the manner authorized by AB 361, specifically including Government Code section 54953(e); and

WHEREAS, this Resolution is exempt from review under the California Environmental Quality Act (CEQA) pursuant to the exemption set forth under Section 15061(b)(3) of Title 14 of the California Code of Regulations (CEQA Guidelines) because remote teleconference meetings during a declared state of emergency do not have the potential for causing a significant effect on the environment.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Santa Ynez River Water Conservation District, Improvement District No.1, as follows:

1. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.
2. The District may conduct its meeting to allow remote teleconference participation in the manner authorized by AB 361, specifically including Government Code Section 54953(e).
3. This Resolution shall take effect immediately upon its adoption and shall remain in effect for up to thirty (30) days as provided in Government Code section 54953(e)(3).

WE, THE UNDERSIGNED, being the duly qualified President and Secretary, respectively, of the Board of Trustees of the Santa Ynez River Water Conservation District, Improvement District No.1, do hereby certify that the above and foregoing Resolution was duly and regularly adopted and passed by the Board of Trustees of said District at a Regular meeting held on August 16, 2022 by the following roll call vote:

ATTEST:

Mary Martone, Secretary to the Board of Trustees

SANTA YNEZ RIVER WATER CONSERVATION DISTRICT,
IMPROVEMENT DISTRICT NO.1
JULY 19, 2022 REGULAR MEETING MINUTES

A Regular Meeting of the Board of Trustees of the Santa Ynez River Water Conservation District, Improvement District No.1, was held at 3:00 p.m. on Tuesday, July 19, 2022, in-person at 1070 Faraday Street and via teleconference.

Trustees Present:	Brad Joos Jeff Holzer	Lori Parker Michael Burchardi
Trustees Absent:	Jeff Clay	
Others Present:	Paeter Garcia Gary Kvistad Eric Tambini	Mary Martone Karen King

1. CALL TO ORDER AND ROLL CALL:

Vice President Joos called the meeting to order at 3:00 p.m., he stated that this was a Regular Meeting of the Board of Trustees. Ms. Martone conducted roll call and reported that four Trustees were present, and Trustee Clay was absent.

2. PLEDGE OF ALLEGIANCE:

Vice President Joos led the Pledge of Allegiance.

3. REPORT BY THE SECRETARY TO THE BOARD REGARDING COMPLIANCE WITH THE REQUIREMENTS FOR POSTING OF THE NOTICE AND AGENDA:

Ms. Martone presented the affidavit of posting of the Agenda, along with a true copy of the Agenda for this meeting. She reported that the Agenda was posted in accordance with the California Government Code commencing at Section 54953, as well as District Resolution No. 340. The affidavit was filed as evidence of the posting of the Agenda items contained therein.

4. CONSIDERATION OF RESOLUTION NO. 823: A Resolution of the Board of Trustees of the Santa Ynez River Water Conservation District, Improvement District No.1 Authorizing Remote Teleconference Meetings Under the Ralph M. Brown Act in Accordance with AB 361

Mr. Garcia presented Resolution No. 823 and explained that pursuant to amendments to the Brown Act (Assembly Bill 361), public agencies are authorized to conduct remote meetings via video/teleconference during the COVID-19 pandemic, provided certain conditions exist and findings are made. He stated that in order for the Board to continue to meet under the provisions of AB 361, either remotely or under a hybrid approach of remote and in-person attendance, the Board is required to review and reconsider its determinations at least every 30 days. Mr. Garcia reported that because the State of California remains in a declared state of emergency related to the COVID-19 pandemic and because state and local recommendations remain in place to reduce the transmission of COVID-19, approval of Resolution No. 823 would allow the Board to hold meetings under the provisions of AB 361.

No Public Comment was provided.

It was **MOVED** by Trustee Parker, seconded by Trustee Burchardi, to adopt Resolution No. 823, a Resolution of the Board of Trustees of the Santa Ynez River Water Conservation District, Improvement District No.1 Authorizing Remote Teleconference Meetings Under the Ralph M. Brown Act in Accordance with AB 361.

1 The Resolution was adopted and carried by the following 4-0-0 roll call vote:
2

3 AYES, Trustees: Michael Burchardi
4 Jeff Holzer
5 Brad Joos
6 Lori Parker
7

8 NOES, Trustees: None
9 ABSTAIN, Trustees: None
10 ABSENT, Trustees: Jeff Clay
11

12 5. ADDITIONS OR CORRECTIONS, IF ANY, TO THE AGENDA:

13 There were no additions or corrections to the Agenda.
14

15 6. PUBLIC COMMENT:

16 Vice President Joos welcomed any members of the public participating remotely and offered time
17 for members of the public to speak and address the Board on matters not on the agenda. There
18 was no public comment. Mr. Garcia reported that no written comments were submitted to the
19 District for the meeting.
20

21 7. CONSIDERATION OF THE MINUTES OF THE REGULAR MEETING OF JUNE 21, 2022:

22 The Regular Meeting Minutes from June 21, 2022 were presented for consideration.
23

24 Vice President Joos asked if there were any changes or additions to the Regular Meeting Minutes
25 of June 21, 2022 as presented. Trustee Parker requested one minor correction.
26

27 It was MOVED by Trustee Parker, seconded by Trustee Burchardi, and carried by a 4-0-0 roll call
28 vote, with Trustee Clay absent, to approve the June 21, 2022 Minutes as corrected.
29

30 8. CONSENT AGENDA:

31 The Consent Agenda Report was provided in the Board packet.
32

33 Mr. Garcia reviewed the Consent Agenda materials for the month of June.
34

35 It was MOVED by Trustee Parker, seconded by Trustee Burchardi, and carried by a 4-0-0 roll call
36 vote to approve the Consent Agenda.
37

38 9. MANAGER REPORTS - STATUS, DISCUSSION, AND POSSIBLE BOARD ACTION ON THE FOLLOWING
39 SUBJECTS:

40 A. DISTRICT ADMINISTRATION

41 1. Financial Report on Administrative Matters

42 a) Presentation of Monthly Financial Statements – Revenues and Expenses

43 Ms. Martone announced that the Financial Statements were emailed to the Board
44 members earlier that afternoon and posted on the District’s website in the Board packet
45 materials for any members of the public wishing to follow along or receive a copy.
46

47 Ms. Martone reviewed the Statement of Revenues and Expenses for the month of June.
48 She highlighted various line-items related to revenue and expense transactions that
49 occurred during the month and also referenced the Fiscal Year to Date Statement of
50 Revenues and Expenses that provided a budget to actual snapshot from July through
51 June. Ms. Martone reported that District revenues for the month of June exceed the
52 expenses by \$379,162.30 and the year-to-date net income was \$3,119,963.48.

1 She explained that the reports represent the unaudited close of the Fiscal Year
2 2021/2022. Ms. Martone indicated that the year-end total will be adjusted as invoices
3 from vendors and consultants continue to be submitted for work that was completed
4 prior to June 30th. She also announced that the annual audit field work conducted by
5 Bartlett, Pringle, Wolf, LLP will be conducted at the beginning of September.
6

7 b) Approval of Accounts Payable

8 Ms. Martone announced that the Warrant List was emailed to the Board members this
9 afternoon and posted on the District's website in the Board packet materials for any
10 member of the public wishing to follow along or receive a copy.
11

12 The Board reviewed the Warrant List which covered warrants 24591 through 24650 in
13 the amount of \$443,209.60.
14

15 It was **MOVED** by Trustee Parker, seconded by Trustee Burchardi, and carried by a 4-
16 0-0 roll call vote, with Trustee Clay absent, to approve the Warrant List for June 22,
17 2022 through July 19, 2022.
18

19 2. 2021 Consumer Confidence Report – Annual Water Quality Report Required by Federal
20 and State Regulations to Protect Public Drinking Water

21 The Board packet included the 2021 Annual Water Quality Report (Consumer Confidence
22 Report).
23

24 Mr. Eric Tambini, Water Resources Manager, explained that the District is required by state
25 and federal drinking water regulations to prepare and distribute a Consumer Confidence
26 Report, also known as the Annual Water Quality Report. He stated that certain content
27 must be included in the report and water agencies are required to distribute these reports
28 to all of their customers annually by July 1st. Mr. Tambini noted that the report includes
29 information based on the 2021 calendar year with regard to the District's sources of water,
30 the levels of any contaminants detected in the water, compliance with other drinking water
31 rules, and other educational information. He indicated that the District met and exceeded
32 all applicable water quality standards. Mr. Tambini reported that the Consumer
33 Confidence Report was submitted to the California Division of Drinking Water, posted on
34 the District's website, noticed on the customer water bills, sent electronically to all
35 customers with email accounts, and made available at the customer counter at the District
36 office in accordance with State requirements.
37

38 10. **REPORT, DISCUSSION, AND POSSIBLE BOARD ACTION ON THE FOLLOWING SUBJECTS:**
39

40 A. **SUSTAINABLE GROUNDWATER MANAGEMENT ACT**

41 1. Eastern Management Area Update

42 The Board packet included a June 30, 2022 Agenda and Board packet materials for the
43 Special Meeting of the Eastern Management Area Groundwater Sustainability Agency.
44

45 Mr. Garcia stated that he and Trustee Joos attended the June 30, 2022 Special Meeting of
46 the Eastern Management Area (EMA) Groundwater Sustainability Agency (GSA) and
47 reported on the topics discussed. He referred to the Board packet materials which
48 contained a Draft EMA Process and Criteria for Administering Written Verifications per
49 the Governor's Executive Order N-7-22 and other documents relating to how the EMA
50 GSA will administer its process under the Executive Order. Mr. Garcia also reviewed
51 other documents that were presented at the GSA meeting, including a Draft
52 Indemnification Agreement, Draft Deposit and Reimbursement Agreement, Draft Well-
53 Permit Acknowledgement form, and Draft GSI Scope of Work and Cost Proposal. He

1 stated that the next Special Meeting of the EMA GSA is scheduled for July 21, 2022; where
2 the GSA Committee will receive, discuss, and consider approval of the draft documents
3 for Administering Written Verifications under Executive Order N-7-22, and will also
4 consider adoption of a fee for administering requests for written verifications.
5

6 **B. CENTRAL COAST WATER AUTHORITY**

- 7 1. Update Regarding CCWA's Temporary Warren Act Contract for the Cachuma Project
8 The Board packet included a copy of the US Department of the Interior Bureau of
9 Reclamation - Cachuma Project Temporary Contract between the United States and the
10 Central Coast Water Authority providing for Storage and Conveyance of Non-Project
11 Water.
12

13 Mr. Garcia referred to the Board packet materials and stated that a Temporary Warren Act
14 Contract between the United States Bureau of Reclamation (USBR) and the Central Coast
15 Water Authority (CCWA) Providing for Storage and Conveyance of Non-Project Water in
16 the Cachuma Project was finalized and became effective on June 21, 2022. He reported that
17 the Temporary Contract expires on September 30, 2024. Mr. Garcia summarized the
18 Temporary Contract and indicated that the National Marine Fishers Services imposed new
19 restrictions on the mixing of CCWA water with downstream water rights releases, which
20 give rise to downstream water quality impacts that will need to be addressed and resolved.
21 He reported that discussions among various parties have been initiated and updates will
22 be provided to the Board as they develop.
23

24 **11. REPORTS BY THE BOARD MEMBERS OR STAFF, QUESTIONS OF STAFF, STATUS REPORTS,**
25 **ANNOUNCEMENTS, COMMITTEE REPORTS, AND OTHER MATTERS AND/OR COMMUNICATIONS**
26 **NOT REQUIRING BOARD ACTION:**
27

28 The Board packet included a July 13, 2022 Los Olivos Community Services District Regular
29 Meeting Agenda and the July 2022 Family Farm Alliance Monthly Briefing. Mr. Garcia reviewed
30 the topics discussed at the Los Olivos Community Services District July 13, 2022 meeting.
31

32 **12. CORRESPONDENCE: GENERAL MANAGER RECOMMENDS FILING OF VARIOUS ITEMS:**
33 The Correspondence List was received by the Board.
34

35 **13. REQUESTS FOR ITEMS TO BE INCLUDED ON THE NEXT REGULAR MEETING AGENDA:**
36 There were no requests from the Board.
37

38 **14. NEXT MEETING OF THE BOARD OF TRUSTEES:**
39 Vice President Joos stated that the next Regular Meeting of the Board of Trustees is scheduled for
40 August 16, 2022 at 3:00 p.m.
41

42 **15. CLOSED SESSION:**
43 The Board adjourned to closed session at 4:25 p.m.
44

45 **A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

46 [Subdivision (d)(1) of Section 54956.9 of the Government Code - 2 Cases]

- 47 1. Name of Case: Adjudicatory proceedings pending before the State Water Resources
48 Control Board regarding Permit 15878 issued on Application 22423 to the City of
49 Solvang, Petitions for Change, and Related Protests
50

1 2. Name of Case: Central Coast Water Authority, et al. v. Santa Barbara County Flood
2 Control and Water Conservation District, et al., Santa Barbara County Superior Court
3 Case No. 21CV02432
4

5 **B. CONFERENCE WITH LEGAL COUNSEL - POTENTIAL INITIATION OF LITIGATION BY THE AGENCY**
6 [Subdivision (d)(4) of Section 54956.9 of the Government Code - 1 Matter]
7

8 **16. RECONVENE INTO OPEN SESSION:**
9 [Sections 54957.1 and 54957.7 of the Government Code]
10

11 The public participation phone line was re-opened, and the Board reconvened to open session
12 at approximately 5:32 p.m.
13

14 Mr. Garcia announced that the Board met in closed session concerning Agenda Items 15.A.1.,
15 15.A.2., and 15.B., and that there was no reportable action from closed session.
16

17 **17. ADJOURNMENT:**

18 Being no further business, it was **MOVED** by Trustee Parker, seconded by Trustee Burchardi, and
19 carried by a 3-0-0 roll call vote, with Trustees Clay and Holzer absent at the time of the vote, to
20 adjourn the meeting at approximately 5:35 p.m.
21

22 **RESPECTFULLY SUBMITTED,**
23

24
25
26 _____
27 Mary Martone, Secretary to the Board
28

29 **ATTEST:** _____
30 Brad Joos, Vice President
31

32 **MINUTES PREPARED BY:**

33
34
35
36 _____
37 Karen King, Board Administrative Assistant

**BOARD OF TRUSTEES
SANTA YNEZ RIVER WATER CONSERVATION DISTRICT,
IMPROVEMENT DISTRICT NO.1
August 16, 2022**

Consent Agenda Report

CA-1. Water Supply and Production Report. Total water production in **July 2022 (521 AF)** was 52 AF greater than total production in June (469 AF), nearly identical to the most recent 3-year running average (2019-2021) for the month of **July (519 AF)**, yet noticeably less than the most recent 10-year running average (2012-2021) for the month of **July (599 AF)**. These recent and long term averages for the month of July illustrate that generally the District's overall demands and total production have been trending well below historic levels for domestic, rural residential, and agricultural water deliveries due to water conservation, changing water use patterns, and private well installations.

For the month of **July**, approximately **296 AF** was produced from the Santa Ynez Upland wells, and approximately **225 AF** was produced from the 4.0 cfs and 6.0 cfs Santa Ynez River well fields. As reflected in the Monthly Water Deliveries Report from the Central Coast Water Authority (CCWA), the District did not request or take delivery of any SWP supplies for the month. **Unfortunately, this is a direct result of inferior water quality being conveyed by CCWA.** Direct diversions to the County Park and USBR were **3.06 AF**.

The USBR Daily Operations Report for Lake Cachuma in **July** (ending July 31, 2022) recorded the end of month lake elevation at **704.49'** with the end of month storage of **79,541 AF**. USBR recorded total precipitation at the lake of **0.0 inches in July**. For the month, reservoir storage was supplemented with **579.7 AF** of SWP deliveries for South Coast entities. Reservoir evaporation in **July** was **1,090.3 AF**.

Based on the **updated maximum storage capacity of 192,978 AF** (previously 193,305 AF), Cachuma reservoir currently (as of **August 8, 2022**) is at approximately **40.3%** of capacity, with current storage of **77,780 AF** (Santa Barbara County Flood Control District, Rainfall and Reservoir Summary). At a point when reservoir storage exceeds 100,000 AF, the Cachuma Member Units typically have received a full allocation. Conversely, a 20% pro-rata reduction from the full allocation is scheduled to occur in Water Years beginning at less than 100,000 AF, where incremental reductions may occur (and previously have occurred) at other lower storage levels. For the federal WY 2021-2022 (October 1, 2021 through September 30, 2022), the Cachuma Member Units jointly requested an allocation of approximately 83% of the Project's annual operational yield of 25,714 AF. By letter dated September 24, 2021, USBR issued a 70% allocation decision for WY 2021-2022, which equates to 18,000. ID No.1's 10.31% share of this allocation amounts to 1,855 AF (current water year balance is approximately 1,727 AF). In addition to its 2021-2022 allocation, ID No.1 currently holds approximately 2,168 AF of previous years carryover water in the reservoir, subject to evaporation. **As noted previously, the Cachuma Member Units have been working with USBR and the County Water Agency to evaluate the current and projected amounts of unallocated water in the reservoir and will soon issue a joint allocation request to USBR for federal WY 2022-2023.**

Water releases for the protection of fish and aquatic habitat are made from Cachuma reservoir to the lower Santa Ynez River pursuant to the 2000 Biological Opinion issued by the National Marine Fisheries Service (NMFS) and the 2019 Water Rights Order (WR 2019-0148) issued by the State Water Resources Control Board (SWRCB). These releases are made to Hilton Creek and to the stilling basin portion of the outlet works at the base of Bradbury Dam. The water releases required under the NMFS 2000 Biological Opinion to avoid jeopardy to steelhead and adverse impacts to its critical habitat are summarized as follows:

NMFS 2000 Biological Opinion

- *When Reservoir Spills and the Spill Amount Exceeds 20,000 AF:*
 - 10 cfs at Hwy 154 Bridge during spill year(s) exceeding 20,000 AF
 - 1.5 cfs at Alisal Bridge when spill amount exceeds 20,000 AF and if steelhead are present at Alisal Reach
 - 1.5 cfs at Alisal Bridge in the year immediately following a spill that exceeded 20,000 AF and if steelhead are present at Alisal Reach
- *When Reservoir Does Not Spill or When Reservoir Spills Less Than 20,000 AF:*
 - 5 cfs at Hwy 154 when Reservoir does not spill and Reservoir storage is above 120,000 AF, or when Reservoir spill is less than 20,000 AF
 - 2.5 cfs at Hwy 154 in all years when Reservoir storage is below 120,000 AF but greater than 30,000 AF
 - 1.5 cfs at Alisal Bridge if the Reservoir spilled in the preceding year and the spill amount exceeded 20,000 AF and if steelhead are present at Alisal Reach
 - 30 AF per month to "refresh the stilling basin and long pool" when Reservoir storage is less than 30,000 AF

The water releases required under the SWRCB Water Rights Order 2019-0148 for the protection of fish and other public trust resources in the lower Santa Ynez River and to prevent the waste and unreasonable use of water are summarized as follows:

SWRCB Order WR 2019-0148

- *During Below Normal, Dry, and Critical Dry water years (October 1 – September 30), releases shall be made in accordance with the requirements of the NMFS 2000 Biological Opinion as set forth above.*
- *During Above Normal and Wet water years, the following minimum flow requirements must be maintained at Hwy 154 and Alisal Bridges:*
 - 48 cfs from February 15 to April 14 for spawning
 - 20 cfs from February 15 to June 1 for incubation and rearing
 - 25 cfs from June 2 to June 9 for emigration, with ramping to 10 cfs by June 30
 - 10 cfs from June 30 to October 1 for rearing and maintenance of resident fish
 - 5 cfs from October 1 to February 15 for resident fish
- *For purposes of SWRCB Order WR 2019-0148, water year classifications are as follows:*
 - Wet is when Cachuma Reservoir inflow is greater than 117,842 AF;
 - Above Normal is when Reservoir inflow is less than or equal to 117,842 AF or greater than 33,707 AF;
 - Below Normal is when Reservoir inflow is less than or equal to 33,707 AF or greater than 15,366 AF;
 - Dry is when Reservoir inflow is less than or equal to 15,366 AF or greater than 4,550 AF
 - Critical Dry is when Reservoir inflow is less than or equal to 4,550 AF

For the month of July, water releases for fish were approximately 47.4 AF to Hilton Creek and approximately 600.0 AF to the outlet works, for a total of 647.4 AF. As of the end of July 2022, a total of approximately 47,964.3 AF of Cachuma Project water has been released under regulatory requirements for the protection of fish and fish habitat below Bradbury Dam since the year after the last spill in 2011.

CA-2. State Water Project (SWP) and Central Coast Water Authority (CCWA) Updates.

As previously reported, on January 20, 2022, the California Department of Water Resources (DWR) issued a Notice to SWP Contractors that the 2022 SWP Table A allocation was increased from 0 percent to 15 percent.¹ That increased allocation translated to 105 AF for ID No.1's 2022 share of Table A supplies through CCWA. **However, by Notice to SWP Contractors dated March 18, 2022, DWR reduced the Table A allocation from 15 percent down to 5 percent. This decreased allocation equates to 35 AF for ID No.1's share of Table A supplies through CCWA.** The District also holds approximately 181 AF of prior years carryover in San Luis Reservoir.

As indicated in the July 28, 2022 meeting agenda for the CCWA Board of Directors (attached), CCWA is engaged in a variety of matters relating to the SWP, including but not limited to: SWP supplies and ongoing drought conditions; SWP operations; the 2022 Supplemental Water Purchase Program; a potential alternative release point for CCWA mixing with downstream water right releases; and pending litigation against the Santa Barbara County Flood Control and Water Conservation District. The CCWA Board of Directors for the month of August has been cancelled and their next regular meeting is currently scheduled for September 22, 2022.

¹ By way of background, on December 1, 2021, DWR issued an Initial 2022 SWP Table A allocation stating that DWR would be allocating 2022 SWP available supplies on a basis that ensures the SWP Contractors can meet their outstanding minimum human health and safety demands for water. According to DWR, that initial "Health and Safety" allocation was to be based on minimum unmet water demands for domestic supply, fire protection, and sanitation needs during the year, which the SWRCB has established as not more than 55 gallons per capita per day. Because no CCWA agencies identified unmet health and safety demands, DWR's December 2021 Notice translated to an Initial 0 percent Table A allocation for CCWA and its participants.

UNITED STATES DEPARTMENT OF THE INTERIOR
 U.S. BUREAU OF RECLAMATION-CACHUMA PROJECT-CALIFORNIA

JULY 2022

LAKE CACHUMA DAILY OPERATIONS

RUN DATE: August 1, 2022

DAY	ELEV	STORAGE		COMPUTED* INFLOW AF.	CCWA INFLOW AF.	PRECIP ON RES. SURF. AF.	RELEASE - AF.				EVAP AF.	PRECIP INCH INCHES	
		IN LAKE	CHANGE				TUNNEL	HILTON CREEK	OUTLET	SPILLWAY			
1	706.13	82,339											
1	706.08	82,235	-104	-19.8	26.6	.0	54.1	1.7	19.0	.0	36.0	.310	.00
2	706.03	82,166	-69	7.4	22.5	.0	45.8	1.6	19.0	.0	32.5	.280	.00
3	705.99	82,098	-68	10.8	22.4	.0	48.0	1.7	19.0	.0	32.5	.280	.00
4	705.94	82,011	-87	-8.6	22.4	.0	48.7	1.6	18.0	.0	32.5	.280	.00
5	705.90	81,942	-69	11.9	22.4	.0	48.8	1.7	18.0	.0	34.8	.300	.00
6	705.85	81,856	-86	9.6	22.4	.0	65.0	1.6	19.0	.0	32.4	.280	.00
7	705.80	81,770	-86	13.0	21.6	.0	68.8	1.6	19.0	.0	31.2	.270	.00
8	705.74	81,667	-103	-0.1	17.6	.0	68.4	1.7	18.0	.0	32.4	.280	.00
9	705.69	81,581	-86	6.4	22.4	.0	64.2	1.6	19.0	.0	30.0	.260	.00
10	705.64	81,495	-86	11.0	22.4	.0	67.5	1.6	18.0	.0	32.3	.280	.00
11	705.59	81,409	-86	-6.0	22.4	.0	49.3	1.6	18.0	.0	33.5	.290	.00
12	705.56	81,358	-51	28.3	22.4	.0	46.3	1.6	18.0	.0	35.8	.310	.00
13	705.51	81,273	-85	9.1	22.4	.0	51.9	1.6	18.0	.0	45.0	.390	.00
14	705.46	81,188	-85	5.3	18.1	.0	55.4	1.6	18.0	.0	33.4	.290	.00
15	705.42	81,120	-68	27.8	22.3	.0	57.0	1.6	18.0	.0	41.5	.360	.00
16	705.35	81,001	-119	-23.4	22.2	.0	55.8	1.6	19.0	.0	41.4	.360	.00
17	705.33	80,967	-34	55.7	22.3	.0	55.6	1.6	18.0	.0	36.8	.320	.00
18	705.28	80,882	-85	6.7	22.2	.0	55.2	1.6	18.0	.0	39.1	.340	.00
19	705.24	80,814	-68	14.5	22.2	.0	55.5	1.5	19.0	.0	28.7	.250	.00
20	705.18	80,712	-102	8.8	16.2	.0	64.9	1.6	18.0	.0	42.5	.370	.00
21	705.12	80,610	-102	12.5	22.2	.0	74.8	1.6	19.0	.0	41.3	.360	.00
22	705.06	80,508	-102	1.4	19.1	.0	75.7	1.6	20.0	.0	25.2	.220	.00
23	704.98	80,372	-136	2.9	10.2	.0	75.2	1.5	22.0	.0	50.4	.440	.00
24	704.91	80,253	-119	1.1	12.5	.0	76.9	1.5	21.0	.0	33.2	.290	.00
25	704.84	80,134	-119	-1.4	10.9	.0	75.3	1.5	22.0	.0	29.7	.260	.00
26	704.77	80,015	-119	3.7	12.5	.0	76.2	1.5	21.0	.0	36.5	.320	.00
27	704.71	79,913	-102	13.3	10.6	.0	74.1	.0	21.0	.0	30.8	.270	.00
28	704.64	79,794	-119	0.2	12.5	.0	74.0	1.5	22.0	.0	34.2	.300	.00
29	704.59	79,709	-85	18.6	10.9	.0	60.1	1.5	21.0	.0	31.9	.280	.00
30	704.53	79,608	-101	3.3	10.4	.0	55.9	1.5	22.0	.0	35.3	.310	.00
31	704.49	79,541	-67	35.0	12.5	.0	54.6	1.4	21.0	.0	37.5	.330	.00
TOTAL (AF)			-2,798	259.0	579.7	.0	1,899.0	47.4	600.0	.0	1,090.3	9.480	.00
(AVG)		80,968											

COMMENTS:

* COMPUTED INFLOW IS THE SUM OF CHANGE IN STORAGE, RELEASES, AND EVAPORATION MINUS PRECIP ON THE RESERVOIR SURFACE AND CCWA INFLOW.

DATA BASED ON 24-HOUR PERIOD ENDING 0800.

INDICATED OUTLETS RELEASE INCLUDE ANY LEAKAGE AROUND GATES.



Santa Barbara County - Flood Control District

130 East Victoria Street, Santa Barbara CA 93101 - 805.568.3440 - www.countyofsb.org/pwd

Rainfall and Reservoir Summary

Updated 8am: 8/8/2022

Water Year: 2022

Storm Number: NA

Notes: Daily rainfall amounts are recorded as of 8am for the previous 24 hours. Rainfall units are expressed in inches. All data on this page are from automated sensors, are preliminary, and subject to verification.

*Each Water Year (WY) runs from Sept 1 through Aug 31 and is designated by the calendar year in which it ends
County Real-Time Rainfall and Reservoir Website link: ➤ <http://www.countyofsb.org/hydrology>

Rainfall	ID	24 hrs	Storm Oday(s)	Month	Year*	% to Date	% of Year*	AI
Buellton (Fire Stn)	233	0.00	0.00	0.00	9.11	55%	55%	
Cachuma Dam (USBR)	332	0.00	0.00	0.00	12.69	65%	64%	
Carpinteria (Fire Stn)	208	0.00	0.00	0.00	10.03	59%	58%	
Cuyama (Fire Stn)	436	0.00	0.00	0.00	4.51	60%	59%	
Figueroa Mtn. (USFS Stn)	421	0.00	0.00	0.00	13.17	62%	61%	12.5
Gibraltar Dam (City Facility)	230	0.00	0.00	0.00	17.70	68%	67%	12.5
Goleta (Fire Stn-Los Cameros)	440	0.00	0.00	0.00	11.88	65%	64%	
Lompoc (City Hall)	439	0.00	0.00	0.00	9.94	69%	68%	12.5
Los Alamos (Fire Stn)	204	0.00	0.00	0.00	9.30	61%	61%	
San Marcos Pass (USFS Stn)	212	0.00	0.00	0.00	26.77	80%	79%	
Santa Barbara (County Bldg)	234	0.00	0.00	0.00	13.38	73%	73%	
Santa Maria (City Pub. Works)	380	0.00	0.00	0.00	7.95	60%	60%	
Santa Ynez (Fire Stn /Airport)	218	0.00	0.00	0.00	10.13	65%	64%	
Sisquoc (Fire Stn)	256	0.00	0.00	0.00	7.47	50%	49%	

County-wide percentage of "Normal-to-Date" rainfall : 64%

County-wide percentage of "Normal Water-Year" rainfall : 63%

County-wide percentage of "Normal Water-Year" rainfall calculated assuming no more rain through Aug. 31, 2022 (End of WY2022).

AI (Antecedent Index / Soil Wetness)

- 6.0 and below = Wet (min. = 2.5)
- 6.1 - 9.0 = Moderate
- 9.1 and above = Dry (max. = 12.5)

Reservoirs

Reservoir Elevations referenced to NGVD-29.

**Cachuma is full and subject to spilling at elevation 750 ft. However, the lake is surcharged to 753 ft. for fish release water. (Cachuma water storage is based on Dec 2013 capacity revision)

Click on Site for Real-Time Readings	Spillway	Current	Max.	Current	Current	Storage	Storage
	Elev. (ft)	Elev. (ft)	Storage (ac-ft)	Storage (ac-ft)	Capacity (%)	Change Mo.(ac-ft)	Change Year*(ac-ft)
<u>Gibraltar Reservoir</u>	1,400.00	1,384.19	4,693	1,677	35.7%	-100	1,403
<u>Cachuma Reservoir</u>	753.**	704.03	192,978	77,780	40.3%	-691	-21,490
<u>Jameson Reservoir</u>	2,224.00	2,206.46	4,848	2,918	60.2%	-25	-167
<u>Twitchell Reservoir</u>	651.50	NA	194,971	NA		NA	NA

California Irrigation Management Information System (CIMIS)

CIMIS Daily Report

Rendered in ENGLISH Units.

Friday, July 1, 2022 - Sunday, July 31, 2022

Printed on Monday, August 1, 2022

Santa Ynez - Central Coast Valleys - Station 64

Date	ETo (In)	Precip (In)	Sol Rad (Ly/day)	Avg Vap Pres (mBars)	Max Air Temp (°F)	Min Air Temp (°F)	Avg Air Temp (°F)	Max Rel Hum (%)	Min Rel Hum (%)	Avg Rel Hum (%)	Dew Point (°F)	Avg Wind Speed (mph)	Wind Run (miles)	Avg Soil Temp (°F)
7/1/2022	0.23	0.00	702	13.8	84.6	52.3	63.5	100	36	69	53.1	3.0 Y	72.5 Y	80.1
7/2/2022	0.21	0.00	677	13.8	76.8	53.9	62.1	94	44	72	53.1	3.2 Y	76.8 Y	80.0
7/3/2022	0.22	0.00	711	13.1	75.5	54.6	62.3	92	45	69	51.8	3.4	82.0	79.7
7/4/2022	0.24	0.00	723	14.4	83.4	54.2	65.8	91	37	66	54.3	3.4	82.5	79.6
7/5/2022	0.24	0.00	719	17.1	83.3	58.1	69.4	98	49	70	59.0	3.2 Y	76.1 Y	79.6
7/6/2022	0.19	0.00	597	16.3	81.7	58.3	66.1	99	46	74	57.8	3.0 Y	71.6 Y	79.9
7/7/2022	0.23	0.00	693	15.9	86.2	53.7	66.8	98	40	71	57.0	3.1 Y	73.8 Y	79.9
7/8/2022	0.25	0.00	725	15.6	90.3	53.5	67.9	100	1	67	56.5	3.2 Y	76.1 Y	80.1
7/9/2022	0.24	0.00	692	14.4	87.2	55.1	66.4	100	1	65	54.3	3.2 Y	75.7 Y	80.3
7/10/2022	0.24	0.00	712	15.5	84.6	54.3	65.6	100	42	72	56.4	3.1 Y	74.7 Y	80.4
7/11/2022	0.24	0.00	700	15.9	92.0	54.8	68.2	100	35	67	57.0	3.1 Y	73.8 Y	80.4
7/12/2022	0.24	0.00	707	15.8	86.5	54.0	66.7	100	39	70	56.8	3.0 Y	71.6 Y	80.6
7/13/2022	0.23	0.00	692	15.8	86.3	56.7	67.0	100	38	70	56.9	2.9 Y	68.5 Y	80.8
7/14/2022	0.23	0.00	672	15.8	88.6	56.0	68.1	100	37	68	56.9	3.0	71.9	80.9
7/15/2022	0.25	0.00	709	15.1	92.0	54.2	69.7	100	32	61	55.6	3.0	71.4	81.0
7/16/2022	0.26	0.00	694	15.3	99.0 Y	55.0	72.2	100	25	57	56.0	2.9	70.1	81.1
7/17/2022	0.26	0.00	696	15.1	100.5 Y	54.6	74.1	98	23	53	55.7	2.8 Y	67.8 Y	81.5
7/18/2022	0.17	0.00	458	15.2	98.5	57.7	73.1	88	20	55	55.9	2.4 Y	57.5 Y	81.8
7/19/2022	0.27	0.00	713	14.9	98.6 Y	55.9	74.9 Y	94	26	50 Y	55.3 Y	2.9	68.7	81.7
7/20/2022	0.25	0.00	699	14.9	94.4	53.9	70.6	100	30	58	55.2	3.1	74.9	82.0 Y
7/21/2022	0.25	0.00	713	14.7	91.5	54.2	67.6	100	32	64	54.9	3.0	72.1	82.1 Y
7/22/2022	0.24	0.00	698	14.5	87.6	52.7	65.5	100	35	67	54.5	3.0	72.3	82.1 Y
7/23/2022	0.23	0.00	692	14.1	83.4	50.5	63.4	100	39	71	53.8	3.0	71.5	81.9 Y
7/24/2022	0.22	0.00	673	14.4	85.9	53.1	64.8	97	37	69	54.4	2.9	69.5	81.6
7/25/2022	0.23	0.00	700	14.9	86.3	52.8	65.7	98	40	69	55.3	3.0	71.1	81.5
7/26/2022	0.23	0.00	696	15.1	87.8	51.3	65.7	100	40	70	55.7	2.9	69.0	81.5
7/27/2022	0.22	0.00	666	14.9	86.8	53.4	65.4	100	35	70	55.3	2.9	69.0	81.6
7/28/2022	0.23	0.00	657	15.6	88.2	53.6	66.8	100	37	69	56.5	2.9	69.4	81.5
7/29/2022	0.24	0.00	662	15.4	93.2	56.4	69.6	100	25	62	56.2	3.0	70.9	81.5
7/30/2022	0.24	0.00	638	16.2	94.1	56.8	71.6	100	31	61	57.5	2.8 Y	68.3 Y	81.7
7/31/2022	0.23	0.00	600	16.6	99.7 Y	62.5 Y	76.3 Y	85 H	26 H	53 Y	58.2 Y	2.7 Y	65.7 Y	82.0
Tots/Avg	7.25	0.00	680	15.2	88.9	54.8	67.8	98	33	65	55.7	3.0	71.8	81.0

Flag Legend		
A - Historical Average	I - Ignore	R - Far out of normal range
C or N - Not Collected	M - Missing Data	S - Not in service
H - Hourly Missing or Flagged Data	Q - Related Sensor Missing	Y - Moderately out of range
Conversion Factors		
Ly/day/2.065=W/sq.m	inches * 25.4 = mm	(F-32) * 5/9 = c
mph * 0.447 = m/s	mBars * 0.1 = kPa	miles * 1.60934 = km



CENTRAL COAST WATER AUTHORITY

MEMORANDUM

TO: Ray Stokes, Executive Director
Dessi Mladenova, Controller

August 3, 2022

FROM: Christine Forsyth, Administrative Assistant

SUBJECT: Monthly Water Deliveries

According to the CCWA revenue meters at each turnout, the following deliveries were made during the month of July 2022:

<u>Project Participant</u>	<u>Delivery Amount (acre-feet)</u>
Chorro	187.68
López.....	227.66
Shandon.....	0.00
Guadalupe.....	0.96
Santa Maria.....	282.15
Golden State Water Co.....	0.42
Vandenberg.....	0.00
Buellton	9.97
Solvang	82.26
Santa Ynez ID#1	0.00
Bradbury.....	568.94
TOTAL	1,360.04

In order to reconcile these deliveries with the DWR revenue meter, which read 1401 acre-feet, the following delivery amounts should be used for billing purposes:

<u>Project Participant</u>	<u>Delivery Amount (acre-feet)</u>
Chorro	197
López	239
Shandon.....	0
Guadalupe.....	1
Santa Maria.....	287*
Golden State Water Co.....	10*
Vandenberg	0
Buellton	11
Solvang	87
Santa Ynez ID#1	0
Bradbury	569
TOTAL	1,401

*Golden State Water Company delivered 10 acre-feet into its system through the Santa Maria turnout. This delivery is recorded by providing a credit of 10 acre-feet to the City of Santa Maria and a charge in the same amount, to the Golden State Water Company.

Notes: Santa Ynez ID#1 water usage is divided into 0 acre-feet of Table A water and 0 acre-feet of exchange water.

The exchange water is allocated as follows

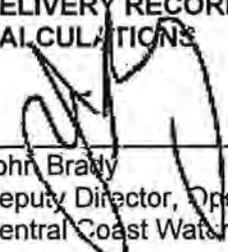
<u>Project Participant</u>	<u>Exchange Amount (acre-feet)</u>
Goleta	0
Santa Barbara	0
Montecito	0
Carpinteria	0
TOTAL	0

Bradbury Deliveries into Lake Cachuma are allocated as follows:

<u>Project Participant</u>	<u>Delivery Amount (acre-feet)</u>
Carpinteria	0
Goleta	359
La Cumbre	100
Montecito	0
Morehart	10
Santa Barbara	100
Raytheon	0
TOTAL	569

cc: Tom Bunosky, GWD
Mike Babb, Golden State WC
Rebecca Bjork, City of Santa Barbara
Janet Gingras, COMB
Craig Kesler, San Luis Obispo County
Paeter Garcia, Santa Ynez RWCD ID#1
Shad Springer, City of Santa Maria
Shannon Sweeney, City of Guadalupe
Robert MacDonald, Carpinteria Valley WD
Mike Alvarado, La Cumbre Mutual WC
Pernell Rush, Vandenberg AFB
Nick Turner, Montecito WD
Jose Acosta, City of Solvang
Rose Hess, City of Buellton

**REVIEW AND APPROVAL OF
DELIVERY RECORDS AND ASSOCIATED
CALCULATIONS**



John Brady
Deputy Director, Operations and Engineering
Central Coast Water Authority



A Meeting of the
**BOARD OF DIRECTORS
 OF THE
 CENTRAL COAST WATER AUTHORITY**

will be held at 9:00 a.m., on Thursday, July 28, 2022

Via URL: <https://meetings.ringcentral.com/j/1456830058>
 or by dialing 1(623)404-9000 and entering access Code/Meeting ID: # 145 683 0058

In response to the spread of the COVID-19 virus, Governor Newsom declared a state of emergency which directly impacts the ability of legislative bodies and the public to meet safely in person. To help minimize the potential spread of the COVID-19 virus, the CCWA Board of Directors shall consider whether to hold this public meeting telephonically pursuant to the requirements of Government Code section 54953(e), as amended by Assembly Bill 361 (2021). The CCWA Board of Directors and public will participate in this meeting by video call or telephone.

Eric Friedman
 Chairman

Ray A. Stokes
 Executive Director

Brownstein Hyatt
 Farber Schreck
 General Counsel

Member Agencies

City of Buellton

Carpinteria Valley
 Water District

City of Guadalupe

City of Santa Barbara

City of Santa Maria

Goleta Water District

Montecito Water District

Santa Ynez River Water
 Conservation District,
 Improvement District #1

Associate Member

La Cumbre Mutual
 Water Company

Public Comment on agenda items may occur via video call or telephonically, or by submission to the Board Secretary via email at lwf@ccwa.com no later than 8:00 a.m. on the day of the meeting. In your email, please specify (1) the meeting date and agenda item (number and title) on which you are providing a comment and (2) that you would like your comment read into the record during the meeting. If you would like your comment read into the record during the meeting (as either general public comment or on a specific agenda item), please limit your comments to no more than 250 words.

Every effort will be made to read comments into the record, but some comments may not be read due to time limitations. Please also note that if you submit a written comment and do not specify that you would like this comment read into the record during the meeting, your comment will be forwarded to Board members for their consideration.

Pursuant to Government Code section 54957.5, non-exempt public records that relate to open session agenda items and are distributed to a majority of the Board less than seventy-two (72) hours prior to the meeting will be available on the CCWA internet web site, accessible at <https://www.ccwa.com>.

- I. **Call to Order and Roll Call**
- II. * **Resolution No. 22-06 of the Board of Directors of the Central Coast Water Authority Authorizing Remote Teleconference Meetings of the Board of Directors And All Subordinate Bodies Under the Ralph M. Brown Act**
Staff Recommendation: Adopt Resolution No. 22-06 of the Board of Directors of the Central Coast Water Authority Authorizing Remote Teleconference Meetings of the Board of Directors and All Subordinate Bodies under the Ralph M. Brown Act.

- III. **CLOSED SESSION**
 - A. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
 Government Code section 54956.9(d) (1)
 Name of case: Central Coast Water Authority, et al. v. Santa Barbara County
 Flood Control and Water Conservation District, et al. (Case No. 21CV02432)

Agenda Item II, the Closed Session, is anticipated to take 20 minutes. The remainder of the Meeting will start no earlier than 9:20 am.

- IV. **Return to Open Session**
 - A. Report on Closed Session Actions (if any)
- V. **Public Comment – (Any member of the public may address the Board relating to any matter within the Board’s jurisdiction. Individual Speakers may be limited to five minutes; all speakers to a total of fifteen minutes.)**

255 Industrial Way
 Buellton, CA 93427
 (805) 688-2292
 Fax (805) 686-4700
www.ccwa.com

- * Indicates attachment of document to original agenda packet.
- ★ Documents will be posted at CCWA.com prior to the meeting.
- ◆ Indicates enclosure of document with agenda packet.

Continued

VI. Election of Officers and Committee Appointments

Staff Recommendation: Take nominations from Board

[Motion: Elect Chairperson]

[Motion: Elect Vice Chairperson]

[Motion: Elect Treasurer]

[Motion: Elect Secretary]

VII. Consent Calendar

* A. Minutes of the May 26, 2022 Regular Meeting and June 9, 2022 Special Meeting

* B. Bills

* C. Controller's Report

* D. Operations Report

* E. Budget Transfer

Staff Recommendation: Approve the Consent Calendar

VIII. Executive Director's Report

* A. Resolution No. 22-07 of The Board Of Directors of The Central Coast Water Authority Expressing The Board's Appreciation To Ewald (Ed) Andrisek For His Service To The Authority And The Central Coast

Staff Recommendation: Approve Resolution No. 22-07

B. Water Supply Situation Report and 2022 Supplemental Water Purchase Program

Staff Recommendation: Informational item only.

C. Planning for a Dry 2023 Water Year: Water Supply and Operational Challenges and Possible Mitigation Measures

Staff Recommendation: Informational item only.

* D. 2022 CCWA/San Luis Obispo County Flood Control and Water Conservation District Transfers

Staff Recommendation: Adopt Resolution No. 22-08 of the Board of Directors of the Central Coast Water Authority Approving The 2022 Agreement For The Transfer And Treatment Of State Water Project Water Between The Central Coast Water Authority And The San Luis Obispo County Flood Control And Water Conservation District

E. 2022 CCWA/San Geronimo Pass Water Agency Transfer

Staff Recommendation: Informational item only

* F. Proposal for Alternative Release Point for State Water at the Lake Cachuma Penstock Facilities

Staff Recommendation:

1. Subject to the Parent District agreeing to pay 50% of the costs of the proposed project, authorize the Executive Director to request USBR approval to install facilities on the USBR's penstock facilities to allow CCWA State water deliveries directly into the stilling basin at the base of the Cachuma Project spillway, which will allow the continued blending of CCWA State water during downstream releases.

2. Direct the Executive Director to return to the Board for consideration of the proposed project, subject to compliance with the California Environmental Quality Act.

* G. Amendment to Chemical Contract: Univar USA Inc. for Sodium Hypochlorite at a unit price of \$6.97 per gallon, Estimated \$79,737 per year Expenditure

Staff Recommendation: Approve the contract amendment with Univar incorporating changes to the terms and conditions of the Univar chemical contract.

* H. DWR Calendar Year 2023 Statement of Charges

Staff Recommendation: Informational item only.

♣ I. Finance Committee

1. FY 2021/22 Fourth Quarter Investment Report

Staff Recommendation: Approve the Fourth Quarter FY 2021/22 Investment Report.

J. State Water Contractors Update

Staff Recommendation: Informational item only.

* K. Legislative Report

Staff Recommendation: Informational item only.

Continued

- IX. Reports from Board Members for Information Only**
- X. Items for Next Regular Meeting Agenda**
- XI. Date of Next Regular Meeting: August 25, 2022**
- XII. Adjournment**



CENTRAL COAST WATER AUTHORITY

MEMORANDUM

August 1, 2022

TO: CCWA Board of Directors

FROM: Ray Stokes
Executive Director

SUBJECT: Cancellation of August 25, 2022 Board of Directors Meeting

This memo is notice that the CCWA Board meeting scheduled for August 25, 2022 has been canceled.

The next regular meeting of the CCWA Board of Directors is scheduled for September 22, 2022.

Please call me if you have any questions.

RAS

cc: Operating Committee
Stephanie Hastings, Brownstein Hyatt Farber and Schreck, LLP



To: Board of Trustees
Santa Ynez River Water Conservation District, Improvement District No.1

From: Paeter Garcia, General Manager
Eric Tambini, Water Resources Manager

Date: August 16, 2022

Subject: Motor Control Center (MCC) and Service Upgrades – Phase 2
Project Description and Bid Results

Staff Report

Several of the District's well and booster pump stations have pump control equipment that has reached the end of its useful life and needs to be replaced. In some cases, the pump controls date back to the original equipment installed in the 1960s and can no longer be repaired without upgrading the entire system of electrical controls including circuit breakers, power disconnects, motor starters, power bus, etc., collectively referred to as the Motor Control Center (MCC). Upgrade and replacement of electrical equipment at a number of pumping locations (4 sites) was initiated in FY21/22 as Phase 1 of the MCC and Service Upgrades project. This project follows the previous work as Phase 2 of the MCC and Service Upgrades project.

PROJECT DESCRIPTION:

The purpose of this project is to upgrade, replace, and/or install new motor control equipment at five remote pumping facilities within the District's distribution system. Two booster pump stations and one well site will be completely outfitted with modernized motor control equipment, including solid state "soft" starters for pump/motor sizes ranging from 30 to 100 hp in size. New equipment will integrate with the existing SCADA communication and control equipment at each site. Newly upgraded 4-wire utility power feed connections will be integrated into the new and existing power panels at all five sites. Upgrades at four of the sites will include the addition of a new portable generator connection cabinet and manual transfer switch (MTS). One site with an existing generator hook-up will be upgraded with a new cabinet and MTS. The Contractor will supply all materials and labor required to complete the project.

PROJECT BIDDING AND RESULTS:

Prior to going out for bid for the Phase 2 project work, engineered specifications and drawings were developed for each site with assistance from the District's electrical engineering consultant. Upon completion of the project drawings, specifications, and contract documentation, the Request for Bids (RFB) was advertised on July 10, 2022. Six contractors attended the mandatory pre-bid meeting on July 27, 2022. Five bids were received on the due date of August 10, 2022 (see attached bid summary).

The bid prices range from \$746,270 to \$974,540. Evaluation of the bid results and required submittals has been completed and all requirements have been met by the low bidder.

RECOMMENDATION:

Authorize award of the MCC and Service Upgrades and Replacement Project – Phase 2 to Smith Mechanical-Electrical-Plumbing (Smith MEP) as the lowest responsive and responsible bidder and authorize the General Manager to execute applicable contract documents with Smith MEP in the amount of \$746,270 to complete the Phase 2 project.

Santa Ynez River Water Conservation District, Improvement District No.1

Motor Control Center and Service Upgrades - Phase 2							
Bid Summary							
		Moreland Thompson, Inc.	Taft Electric Company	Smith MEP	Electricraft, Inc.	P.C. Inc.	Endelos Energy
Item	Description						
1.	Mobilization/Demobilization	\$76,168	\$48,000	\$7,541	\$2,500	\$100,000	---
2.	Meadowlark Booster Pump Station						
	Materials	165,052	230,000	236,857	223,514	180,000	---
	Labor	85,339	117,700	53,245	60,000	64,000	---
3.	Well 28 Pump Station						
	Materials	74,461	86,000	113,517	95,803	80,000	---
	Labor	42,613	67,800	24,063	35,000	40,000	---
4.	Refugio 2 Booster Pump Station						
	Materials	20,619	21,000	24,788	20,533	34,000	---
	Labor	13,278	25,000	11,969	15,000	20,000	---
5.	6.0 CFS Well Field						
	Materials	146,853	189,500	181,340	187,002	170,000	---
	Labor	71,757	100,200	30,189	45,000	50,000	---
6.	4.0 CFS Well Field						
	Materials	46,417	58,000	44,818	49,111	50,000	---
	Labor	19,119	31,200	17,943	25,000	32,000	---
	Total	\$761,675	\$974,400	\$746,270	\$758,463	\$820,000	No Bid

NOTICE AND AGENDA OF SPECIAL MEETING

**GROUNDWATER SUSTAINABILITY AGENCY
FOR THE EASTERN MANAGEMENT AREA
IN THE SANTA YNEZ RIVER GROUNDWATER BASIN**

**SPECIAL MEETING WILL BE HELD
REMOTE PARTICIPATION ONLY
AT 06:30 P.M., THURSDAY, JULY 21, 2022**

Remote public participation available via ZOOM

Pursuant to AB361, Directors may participate in this meeting via teleconference.
The public can only participate via teleconference. There will be no public meeting location.

To access the meeting via telephone, please dial: 1-669-900-6833
And/or via the Web at: <http://join.zoom.us>

“Join a Meeting” - Meeting ID: 851 5007 2885 - Meeting Passcode: 825869

- You do NOT need to create a ZOOM account or login with email for meeting participation.
- If your device does not have a microphone or speakers, you can call in for audio with the phone number and Meeting ID listed above to listen and participate.
- In the interest of clear reception and efficient administration of the meeting, all persons participating remotely are respectfully requested to mute their line after logging or dialing-in and remain muted at all times unless speaking.

Video/Teleconference Meeting During Coronavirus (COVID-19) State of Emergency: As a result of the COVID-19 pandemic, this meeting will be available via video/teleconference as recommended by Santa Barbara County Public Health and authorized by Government Code section 54953(e) (State Assembly Bill 361).

Important Notice Regarding Public Participation in Video/Teleconference Meeting: Those who wish to provide public comment on an Agenda Item, or who otherwise are making a presentation to the GSA Committee, may participate in the meeting using the remote access referenced above. **Those wishing to submit written comments instead, please submit any and all comments and materials to the GSA via electronic mail at bbuelow@syrwcd.com.** All submittals of written comments must be received by the GSA no later than **Wednesday, July 20, 2022**, and should indicate **“July 21, 2022 GSA Meeting”** in the subject line. To the extent practicable, public comments and materials received in advance pursuant to this timeframe will be read into the public record during the meeting. Public comments and materials not read into the record will become part of the post-meeting materials available to the public and posted on the SGMA website.

AGENDA ON NEXT PAGE

GROUNDWATER SUSTAINABILITY AGENCY
FOR THE EASTERN MANAGEMENT AREA
IN THE SANTA YNEZ RIVER GROUNDWATER BASIN

THURSDAY, JULY 21, 2022, 6:30 P.M.

AGENDA OF SPECIAL MEETING

- I. Call to Order and Roll Call
- II. Consider findings under Government Code section 54953(e) to authorize continuing teleconference meetings under Resolution EMA-2021-001
- III. Additions or Deletions to the Agenda
- IV. Public Comment (Any member of the public may address the Committee relating to any non-agenda matter within the Committee's jurisdiction. The total time for all public participation shall not exceed fifteen minutes and the time allotted for each individual shall not exceed five minutes. No action will be taken by the Committee at this meeting on any public item.) *Staff recommends any potential new agenda items based on issues raised be held for discussion under Agenda Item "EMA GSA Committee requests and comments" for items to be included on the next Agenda.*
- V. Consider Approval of Final Documents for providing EMA GSA verification of new well permits under Executive Order N-7-22
 - a) EMA Process and Criteria for Administering Written Verifications Per Executive Order Number-7-22
 - b) Indemnification Agreement
 - c) Reimbursement Agreement
 - d) Well-Permit Acknowledgement
- VI. Consider Resolution EMA-2022-003 Setting Fee Under Water Code Section 10730 for Written Verifications Pursuant to Executive Order N-7-22
- VII. Consider Requesting the Santa Ynez River Water Conservation District Contract with GSI Water Solutions to Evaluate Verification Requests
- VIII. Consider Setting Regular Monthly EMA GSA Meetings Through End of 2022
- IX. Next Regular EMA GSA Meeting, Thursday, August 25, 2022, at 6:30 p.m.
- X. EMA GSA Committee reports and requests for future agenda items
- XI. Adjournment

[This agenda was posted 24 hours prior to the scheduled special meeting at 3669 Sagunto Street, Suite 101, Santa Ynez, California, and <https://www.santaynezwater.org> in accordance with Government Code Section 54954. In compliance with the Americans with Disabilities Act, if you need special assistance to review agenda materials or participate in this meeting, please contact the Santa Ynez River Water Conservation District at (805) 693-1156. Notification 24 hours prior to the meeting will enable the GSA to make reasonable arrangements to ensure accessibility to this meeting.]

Paeter Garcia

From: John L. Brady <jlb@ccwa.com>
Sent: Friday, August 5, 2022 12:25 PM
Subject: Update on Nitrification Event on CCWA Pipeline
Attachments: CCWA 2022 Nitrification Event Update 080522.pdf

WARNING: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Everyone,

Please find attached an update to the Nitrification Event on the Southern portion of the CCWA pipeline

Respectfully,

John Brady, PE
Deputy Director
Central Coast Water Authority
255 Industrial Way
Buellton, CA 93427-9565
Office (Buellton) 805-688-2292, ext 228
Office (Polonio Pass WTP) 805- 463-2122, ext 312
Cell Phone (805) 680-2116

Nitrification Event – Update on August 4, 2022

The purpose of this notice is to update you on CCWA's response to a nitrification event that began in early July 2022. Very early indications of the onset of a nitrification event were observed during routine monitoring of the pipeline on July 5, 2022. CCWA staff responded immediately, using the same techniques that proved to be effective during last year's nitrification event, which occurred early last summer.

Please note that water delivered by CCWA remained potable at all times. Although nitrite concentration increased, they were well below the nitrite MCL of 1.0 mg/l. The issue with nitrification is its effects on maintaining disinfectant residual over time.

Early Detection and Response

Both the inlet and outlet of Tank 5 had nitrite concentrations of 0.03 mg/l and chlorine residuals of 2.21 mg/l for the inlet and 1.91 mg/l at the outlet. Although the monitoring data on July 5 alone does not reflect a significant nitrification issue, CCWA staff observed that the chlorine residual at the Tank 5 outlet dropped from 2.49 mg/l as measured on June 30 to the 1.91 mg/l on July 5. Consequently, CCWA implemented immediate action at Tank 5 on July 6 to increase chlorine residual to near 4.0 mg/l through a batch dosing technique.

Initial Response Measures

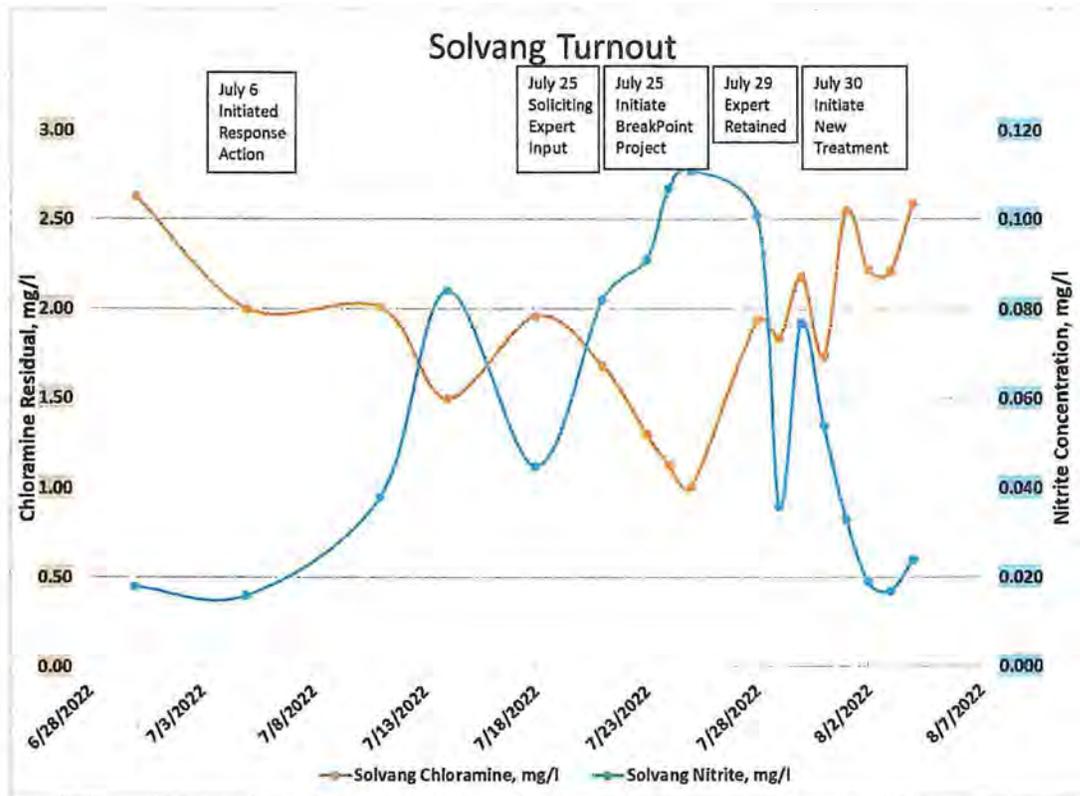
CCWA staff utilized its chloramine booster trailer to increase chloramine residuals at Tank 5 and 7 as one measure to maintain chloramine residual throughout the event. This response requires coordinated action to lower Tank levels prior to each dosing event. This process requires a 24 hour period of time, in order to avoid significant reduction of flow rate within the pipeline. The Tanks are subsequently refilled quickly during the dosing of the Tank, then kept full after the dosing process. The purposes of this include:

- The quick filling of the tank facilitates full mixing within the Tank and also draws younger water from upstream with higher chlorine residual into the zone of the pipeline that is producing nitrites.
- The Tanks are designed to provide full mixing when water passes through the Tank. When the dosed Tanks are kept full, this essentially lengthens the amount of time water with high chlorine residual will remain within the pipeline downstream of the Tank.

Tank 5 and 7 were dosed in this manner in an alternating pattern. Also, both chlorinators at Tank 5 and 7 were operated to reduce free ammonia concentrations before and during the nitrification event. The Water Treatment Plant also maximized the chloramine residual leaving the plant during the nitrification event. Also, the Santa Ynez Pumping Plant remained in operation, with only very brief shutdowns during the quick filling phase of Tank 7 dosing.

Monitoring Data

To provide insight into the nitrification event, the monitoring data for the Solvang Turnout is presented in the graph below, as it was the only turnout to remain online through the duration of the event. In general, nitrite would sharply rise between the Santa Maria Turnout and Tank 5 to concentrations as high as 0.126 mg/l on 7/25, then nitrite concentrations would either increase or remain in the same general concentration as water moved downstream, with a high of 0.152 mg/l on 7/25 at the Tank 7 inlet.



Heightened Concern

This nitrification event occurred just prior to Santa Ynez ID#1’s plans to activate their Turnout. Due to the elevated nitrite concentration, Santa Ynez ID#1 did not activate their Turnout. Solvang continued to take CCWA water through their Turnout and indicated that their system demand was high and they needed CCWA water or water from Santa Ynez ID#1 to meet the high demand for water supply. Consequently, it was critical to quickly find a solution to resolve the increasing nitrite concentrations within the CCWA pipeline. CCWA staff also recognized that pipeline flows were anticipated to be reduced in the coming months, which could exasperate the situation.

Additional Response Measures

Friday July 21st, the nitrite concentrations began to escalate despite the dosing of Tank 5 and 7 through the weekend. By Monday July 25th, the nitrite concentration reached historic levels. After extensive deliberation among CCWA staff, three additional measures were launched as follows:

- Initiate work on constructing a breakpoint chlorination system at the Golden State Water Company Turnout. The strategy was to conduct breakpoint chlorination treatment upstream of the portion of the pipeline that was generating nitrite. Then, to re-chlorinate the water at Tank 5 to cease disinfection byproduct formation and establish a stable chloramine residual.

Status: CCWA staff identified a vender that could provide a 5,000 gallon Tank, with secondary containment. CCWA staff prepared the pad upon which the Tank was installed and worked with the vender to install the Tank. Staff also constructed an eyewash/safety shower and electrical conduit to provide power and communication to the dosing system. A high pressure dosing system skid was sourced, with a two week lead time. CCWA staff also discussed the concept with the Division of Drinking Water and they took no exception.

- Retain chloramination experts to help resolve the nitrification event. CCWA staff reached out to two firms and one responded quickly and agreed to review the technical information with CCWA on Friday July 29.

Status: Dr. Issam Najm of Water Quality & Treatment Solutions, Inc. met virtually with CCWA staff on Friday July 29. Dr. Najm was briefed on monitoring data and all response measures. A key conclusion was that chloramine residuals have essentially been maintained, but nitrite concentrations remained high. Dr. Najm discussed the reaction kinetics of nitrite oxidation by free chlorine. He indicated that the reaction rate is on the same order of magnitude as the chloramination reaction and that the breakpoint chlorination reaction requires 20 to 30 minutes to reach conclusion. Using this information, the dosing rates of the chlorinators at Tank 5 and 7 were adjusted to accommodate oxidation of the elevated nitrite concentrations. This was first carefully tested at Tank 7 in the morning of Saturday 7/30. Following successful testing, the technique was quickly implemented the same day at both Tank 5 and 7.

- Evaluate treating the entire length of the pipeline with chlorine dioxide. A scientific literature review of this technique had mixed results and did not reveal clear indications this method would successfully resolve the current situation. Dr. Najm was asked about the use of chlorite in the pipeline. He indicated that it would not solve the current situation, but could be used to attenuate future nitrification events. He also notes that chlorite has an MCL, established due to acute health hazards.

Current Status

The nitrite concentrations at the Solvang Turnout have been reduced this week, with a low of 0.017 mg/l on Wednesday 8/3 and a current nitrite measured today Thursday 8/4 of 0.024 mg/l. Chloramine residuals at the Solvang Turnout have also climbed this week to as high as 2.59 mg/l as measured today Thursday 8/4.

Plan Moving Forward

The plan moving forward includes:

- To improve communication of project status through continuing reporting daily monitoring at Solvang Turnout (started on 7/29), continue biweekly expanded south pipeline water quality monitoring report (two early July reports were missed) and issuing periodic status updates.

- Modify treatment protocol at the Tank 5 and 7 chlorinators. The treatment records spreadsheets have been modified to include the appropriate calculations to accommodate nitrite oxidation.
- Batch dosing of Tank 5 and 7 will continue as dictated by water quality.
- Meet again with Dr. Najm to refine monitoring protocol and any other improvements. CCWA staff will likely use Dr. Najm services to provide training to Water Treatment Plant and Distribution staff during winter shutdown.
- Continue to develop the Golden State Turnout Breakpoint System on a non-expedited basis. The storage tank is leased and CCWA intends to call off the Tank lease after one month, if conditions continue to improve.
- Continue with completing the Tank 5 Chloramine Boosting Station Design and construct the system. This system will provide continuous 24/7 operation to boost chloramine residual and will also be used for nitrite oxidation when conditions merit.

DIRECTORS:

DIVISION 1
CYNTHIA ALLEN, President
Lompoc

DIVISION 2
STEPHEN E. JORDAN
Lompoc

DIVISION 3
MARK ALTSHULER
Vandenberg Village - Mission
Hills

DIVISION 4
ART HIBBITS
Buellton - Lompoc

DIVISION 5
J. BRETT MARYMEE
Solvang - Santa Ynez

Santa Ynez River

WATER CONSERVATION DISTRICT

P.O. Box 719 - 3669 Sagunto Street, Suite 101

Santa Ynez, California 93460

Telephone: (805) 693-1156

FAX: (805) 693-4607

GENERAL MANAGER:

KEVIN D. WALSH

SECRETARY:

AMBER M. THOMPSON

TREASURER:

WILLIAM J. BUELOW, PG

CONSULTANTS:

STEVE TORIGIANI
General Counsel

STETSON ENGINEERS
Engineer

April 22, 2022

Via Mail and Email

Rain L. Emerson, M.S.
Environmental Compliance Branch Chief
Bureau of Reclamation
Interior Region 10 - California-Great Basin
South-Central California Area Office
1243 N Street
Fresno, CA 93727
remerson@usbr.gov

Re: Parent District Comments on Draft Environmental Assessment (EA) for Central Coast Water Authority (CCWA) Temporary Warren Act Contract [CGB-EA-2022-023]

The Santa Ynez River Water Conservation District (Parent District) submits the following comments on the above-referenced EA for the CCWA Temporary Warren Act Contract (Project). The Parent District just learned of this EA and associated Biological Evaluation (BE) yesterday as they were included as part of CCWA's Board Packet¹ for its April 28, 2022 Board meeting. The Parent District is disappointed that it was not advised of the EA being out for public review and comment by the United States Bureau of Reclamation (Reclamation), and also notes that the BE is not referred to in the EA and has not been made publicly available by Reclamation during the EA comment period or otherwise. Be that as it may, as explained below, the Project appears to include additional restrictions on the mixing of CCWA's SWP supplies with downstream water rights releases contrary to the 2002 Settlement Agreement, the 2000 Biological Opinion

¹ Available at: <https://www.ccwa.com/files/acb8a110f/BoardPacket04282022.pdf>.

(Biological Opinion), WRO 2019-0148², and Reclamation's Cachuma Project water rights permits. As you know, mixing is critical to ensuring that the Cachuma Project is not impairing downstream water quality. There is no evidence that exclusion of November from the months in which mixing can occur – even when the flow is discontinuous in the mainstem, among other restrictions, is warranted³, and imposing such additional restrictions through the EA does not follow required procedures. Any modification to the Biological Opinion to add restrictions on mixing should be evaluated as part of the ongoing formal reinitiation of consultation – not by de facto amendment.⁴ If further pursued, any additional unmitigated restrictions on mixing should be discussed with relevant stakeholders and evaluated as part of the ongoing consultation before being approved or implemented.

The Parent District covers approximately 180,000 acres, principally downstream of the Cachuma Project. The Parent District's constituents rely upon regular water rights releases being made from the Project's Bradbury Dam of sufficient quality and quantity to serve downstream beneficial uses, which include agricultural and domestic users of Santa Ynez River water. Such releases replenish downstream alluvial aquifers and groundwater basins. The Parent District's constituents include Santa Ynez River Water Conservation District, Improvement District No. 1, the cities of Solvang, Buellton and Lompoc, and various communities. The City of Lompoc, in particular, consists of various disadvantaged communities, who rely on Santa Ynez River releases as their sole source of supply and replenishment. The City of Lompoc previously raised claims with the State Water Resources Control Board (State Water Board) regarding the Cachuma Project's impairment of downstream water quality.

On December 17, 2002, the Cachuma Conservation Release Board (CCRB), the Parent District, Improvement District No. 1 and the City of Lompoc entered into a Settlement Agreement relating to the operation of the Cachuma Project (Cachuma Project Settlement Agreement). The Cachuma Project Settlement Agreement resolved 50 years of disputes relative to operation of the Project, including litigation and claims regarding downstream water quality impacts raised by the City of Lompoc. The Cachuma Project Settlement Agreement's provisions are incorporated by reference, discussed in, and attached as Appendix 2 to the State Water Board's WR Order 2019-0148 (WRO 2019-1048 or Order) In the Matter of Permits 11308 and 11310 (Applications 11331 and 11332) held by the United States, Bureau of Reclamation for the Cachuma Project on the Santa Ynez River. (Order, §§ 6.1-6.5, pp. 100-110.)

As explained in WRO 2019-0148 (Order, § 6.2.1, pp. 102-103), the following recited provision (Subparagraph 1.5 – Deliveries During Releases) of the Settlement Agreement, which

² Available at: https://www.waterboards.ca.gov/waterrights/water_issues/programs/hearings/cachuma/docs/wro2019_0148_withagreement_final.pdf

³ In fact, the EA indicates that per the draft 2016 biological opinion additional restrictions on mixing do not appear to be necessary: "*the effects of... Central Coast Water Authority state water project deliveries and releases are expected to be avoided by measures that are currently in place and are expected to continue.*" (Board Packet, pdf p. 106; BE, p. 12.)

⁴ U.S. Fish & Wildlife Service and NMFS, Consultation Handbook (March 1998 Final), p. 4-63, 64; 50 CFR §402.16.

provides for commingling of SWP water imported by CCWA, is a key component of resolving the City of Lompoc's Cachuma Project water quality concerns, returning the groundwater quality in the Lompoc Plain Groundwater Basin to a no project condition, and avoiding impairment to senior groundwater rights:

"The parties to this Agreement will, as provided in Exhibit D, make best efforts to maximize the delivery by ... [CCWA of SWP] water with lower concentrations of total dissolved solids ('TDS') into the outlet works at Bradbury Dam during WR 89-18 water rights releases consistent with the NMFS BO. This will be accomplished through the commingling of SWP water with WR 89-18 water rights releases in the Outlet Works at Bradbury Dam when downstream water rights releases are being made. Generally, SWP deliveries by CCWA are of lower TDS concentrations compared to water releases from Lake Cachuma under WR 89-18. The objective of such commingling operations is to maximize the delivery of SWP Water to lower the TDS in the lower Santa Ynez River and at the Narrows. Such coordinated program shall be carried out as set forth in Exhibit "D" hereto." (Emphasis added.)

Reclamation approved of and supported the Cachuma Project Settlement Agreement in the WRO 2019-0148 proceedings as a way of resolving 50 years of disputes between the Cachuma Project Member Units and the downstream parties, including the Parent District and the City of Lompoc, with respect to the operation of the Project. This included disputes relating to water rights and water quality issues among them, including key hearing issues 4, 5 and 6, and resolution of the City of Lompoc's litigation and claims regarding the Project's injury to its senior water rights including water quality impairment caused by the Project. (Order, p. 100.)

Key Hearing Issue 4 was:

"Has any senior, legal user of water been injured due to changes in water quality resulting from the operation of the Cachuma Project? (Order p. 101.)"

According to the Order, the City of Lompoc owns 9 domestic wells providing the sole source of water to 39,000 people including disadvantaged communities. (*Ibid.*) Lompoc asserted that historic operation of the Cachuma Project impaired the water quality in the groundwater basin in such a manner as to injure the city's senior downstream water rights. (*Ibid.*) In WRO 2019-0148, the State Water Board concluded that under the current operating regime under the **2000 Biological Opinion**, "which includes the **downstream water rights releases as required by Order WR 89-18 and the commingling of SWP water that is imported by the CCWA**, the groundwater quality in the eastern portion of the Lompoc Plain Groundwater Basin will return to a no project condition, and should ensure that the Cachuma Project does not impair the City of Lompoc's senior groundwater rights." (Order, pp. 102-103, emphasis added.)

The State Water Board found that "operation of the Cachuma Project in accordance with the Settlement Agreement will protect senior water right holders from injury due to either changes in **water quality** or a reduction in the quantity of water available to serve prior rights." (Order, p.

109, emphasis added.) The State Water Board further found that “Reclamation should operate the Cachuma Project pursuant to the new accounting, monitoring, and operating procedure set forth in the Settlement Agreement, and the Permits should be amended as proposed by Reclamation and agreed to by the parties to the agreement.” (*Ibid.*) In making these findings, the State Water Board recognized that the 2000 Biological Opinion (Biological Opinion) limited the amount of SWP water that can be “mixed” and referenced the only other restrictions related to the delivery of SWP water as stated in the Final EIR for the Order, as follows:

“2.4.4.3 Restrictions of State Water Project Releases

The Biological Assessment described restrictions on the delivery of SWP water to the reservoir. SWP water will not exceed 50 percent of the amount of water released from Bradbury Dam at any given time. In addition, SWP water will not enter the stilling basis with a temperature over 18 degrees Celsius. Finally, the Biological Opinion requires that releases of SWP water to the mainstem in conjunction with water rights and fish enhancement releases shall not occur during the migration period of **December through June, unless flow in the mainstem is discontinuous**. This requirement has been met since 2001. (Order, p. 102, fn. 65; FEIR, Vol. II⁵, p. 2.0-38, emphasis added.)

In contrast to the above, the Project adds significant additional restrictions on mixing of SWP deliveries with downstream water rights releases. In particular, the EA adds the following restrictions on CCWA deliveries through the Bradbury Dam outlet works:

“Releases of CCWA water to the mainstem only occurs during water right releases from **May to October**, with the bulk of releases occurring July through September;” (EA, p. 4, emphasis added.)

These additional restrictions are not part of the Biological Opinion’s reasonable and prudent measures, and they are not referenced in the Settlement Agreement or WRO 2019-0148. Neither the EA nor any other relevant document, to our knowledge, evaluates the need for such additional restrictions on mixing. Presently, there is no limit on mixing during any particular months whatsoever when the mainstem flow is discontinuous, and when it is not discontinuous mixing can still occur in **November**, as is sometimes necessary and as may be necessary more often in the future due to climate change.

The Parent District was not consulted regarding the need for these additional unmitigated mixing restrictions, which represent a significant departure from the baseline and will cause water quality impacts to the Parent District’s constituents, including the City of Lompoc and its disadvantaged citizens. These additional restrictions are conflict with the Biological Opinion and WRO 2019-0148, including its underlying environmental review and the State Water Board’s

⁵ Available at: https://www.waterboards.ca.gov/waterrights/water_issues/programs/hearings/cachuma/feir/cachuma_feir_vol2.pdf.

conclusions regarding water quality impacts of the Project meant to be addressed by the Cachuma Project Settlement Agreement.

If these additional restrictions are not removed the Project, they represent a new impairment to water quality and possible injury to downstream water rights. To our knowledge, no evaluation whatsoever of the environmental impacts of adding such additional restrictions and making associated changes to Project's release operations has been performed, as would be necessary for the Project to comply with NEPA and CEQA, as applicable. CCWA's approval of the Project, along with the significant new additional unmitigated restrictions on mixing, would represent a substantial change to existing conditions and constitute a Project as defined by CEQA that may result in significant water quality impacts to downstream resources including groundwater in the Lompoc Plain Groundwater Basin; thus, a mitigated negative declaration or environmental impact report (or subsequent or supplemental EIR) would be required prior to consideration of Project approval. (Public Resources Code, § 21065; Cal Code Regs, § 15064.)

For the above reasons, the Parent District urges that Reclamation delete the additional restrictions on mixing from the Project. The Parent District does not support the Project with such additional restrictions for the reasons expressed herein. These additional restrictions will likely degrade water quality conditions downstream, without any environmental analysis (or mitigation) and at the worst possible time – during a multi-year drought emergency. All the while, downstream GSAs have to comply with SGMA including avoidance of undesirable results including significant and unreasonable degraded water quality. The Parent District also fears that modifying Cachuma Project operations so as to impair downstream water quality and possibly injure downstream water rights, contrary to the Cachuma Project Settlement Agreement, the Biological Opinion, WRO 2019-1048 and **Reclamation's water rights permits**, presents a significant risk of resumption of litigation and/or regulatory or administrative proceedings regarding the Project's impact on downstream water quality and water rights. This would be very unfortunate after decades were spent resolving disputes regarding Cachuma Project operations and on development of appropriate downstream release permits terms and conditions.

The Parent District recognizes the importance of and supports CCWA obtaining a temporary Warren Act Contract and has no desire to obstruct, complicate or delay that worthy endeavor. The simple solution here is to delete the additional restrictions on mixing from the Project, and if Reclamation desires to pursue them further, they should be considered and evaluated as part of the ongoing reinitiation of consultation as required by the federal Endangered Species Act.

Sincerely,



Kevin Walsh
General Manager

Ms. Rain L. Emerson, M.S.
April 22, 2022
Page 6

Cc: (Email only)

CCWA
Attn: Ray Stokes
RAS@ccwa.com

Ernest A. Conant, USBR, Regional Director
econant@usbr.gov

Michael Jackson, P.E., USBR, Area Manager
mjackson@usbr.gov

City of Lompoc
Attn: Kristin Worthley
kworthley@ci.lompoc.ca.us

City of Buellton
Attn: Rose Hess
roseh@citybuellton.com

City of Solvang
Attn: Xenia Bradford
xeniab@cityofsolvang.com

Improvement Dist. No. 1
Attn: Paeter Garcia
pgarcia@syrwd.org

Paeter Garcia

From: Worthley, Kristin <k_worthley@ci.lompoc.ca.us>
Sent: Friday, July 15, 2022 5:26 PM
To: Peter Cattle; Kevin Walsh; Paeter Garcia
Cc: Ryan, Shaun; Nick Jacobs; mchester@somachlaw.com
Subject: Settlement Agreement discussion request--mixing
Attachments: 12-17-02SettlementAgmt.pdf; Meeting Request-Settlement Agreement.pdf

WARNING: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Re: Settlement Agreement Between Cachuma Conservation Release Board, Santa Ynez River Water Conservation District, Santa Ynez River Water Conservation District Improvement District No.1, and City of Lompoc Relating to Operation of the Cachuma Project

Dear Parties to the December 17, 2002 Settlement Agreement:

Pursuant to Section 1.6 of the above-referenced 2002 Settlement Agreement, I write to request your participation in a meeting to discuss review of the same. In particular, the City of Lompoc (Lompoc) is increasingly concerned that the water mixing provisions of Section 1.5 are simply not happening. Statements in recent environmental review associated with the Central Coast Water Authority's Warren Act Contract renewal suggest that the National Marine Fisheries Service (NMFS) and the Bureau of Reclamation (Reclamation) continue to take iterative steps to restrict future opportunities for water mixing.

The mixing of State Water Project water with Cachuma releases is a fundamental and material term of the 2002 Settlement. The mixing provides an important water quality benefit to the Santa Ynez River and, in turn, to recharge of the Lompoc Plain. Lompoc's preferred approach on this matter is a renewed effort by the parties to the 2002 Settlement Agreement to cooperatively engage with NMFS and Reclamation and work together on a solution that allows for consistent water mixing during Cachuma releases. If water mixing will no longer occur in any significant manner, however, Lompoc may invoke the provisions of Section 1.6 of the Settlement Agreement and seek to negotiate additional water releases and/or BNA account benefits.

This initial meeting is intended to focus on efforts to work cooperatively with NMFS and Reclamation to restore mixing. At your convenience, please send me preferred dates for a meeting in early August 2022. To allow for full participation we propose a teleconference meeting, but are also open to an in-person meeting with limited teleconference participation if desired.

Thank you for your anticipated cooperation, and I look forward to working with you on efforts to address important issues.

Kristin Worthley
Administrative Analyst
City of LOMPOC
100 Civic Center Plaza
Lompoc, CA 93436
Phone (805)875-8297
Cell (805) 315-7865
K_worthley@ci.lompoc.ca.us



Re: Settlement Agreement Between Cachuma Conservation Release Board, Santa Ynez River Water Conservation District, Santa Ynez River Water Conservation District Improvement District No.1, and City of Lompoc Relating to Operation of the Cachuma Project

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Thank you for your anticipated cooperation, and I look forward to working with you on efforts to address important issues.

A handwritten signature in cursive script that reads "Kristin Worthley".

Thanks,

Kristin Worthley
Administrative Analyst
City of Lompoc, CA

100 CIVIC CENTER PLAZA, LOMPOC, CA 93436
PHONE: 805-736-1261 FAX: 805-736-5347



CENTRAL COAST WATER AUTHORITY

MEMORANDUM

Agenda Item VIII.F.
Board of Directors
July 28, 2022

July 21, 2022

TO: CCWA Board of Directors

FROM: Ray A. Stokes
Executive Director 

SUBJECT: Proposal for Alternative Release Point for State Water at the Lake Cachuma Penstock Facilities

SUMMARY

During the recent negotiations between CCWA and the United States Bureau of Reclamation (USBR) for a new CCWA Temporary Warren Act Contract to allow continued delivery of State water into Lake Cachuma for delivery to the CCWA South Coast Participants, the USBR received a comment letter on the USBR Environmental Assessment (EA) for the Temporary Warren Act Contract from the Santa Ynez River Water Conservation District (Parent District). The comment letter raised concerns about conditions in the EA that could limit the ability to blend CCWA State water with releases from Lake Cachuma into the Santa Ynez River.

CCWA staff have reviewed these comments and believe we have a relatively simple way to address these concerns if the USBR agrees.

RECOMMENDATION

Staff recommends that the Board of Directors:

1. Subject to the Parent District agreeing to pay 50% of the costs of the proposed project, authorize the Executive Director to request USBR approval to install facilities on the USBR's penstock facilities to allow CCWA State water deliveries directly into the stilling basin at the base of the Cachuma Project spillway, which will allow the continued blending of CCWA State water during downstream releases.
2. Direct the Executive Director to return to the Board for consideration of the proposed project, subject to compliance with the California Environmental Quality Act.

DISCUSSION

Prior to approving CCWA's Temporary Warren Act Contract, the USBR consulted with the National Marine Fisheries Service (NMFS) to obtain the NMFS's concurrence that the proposed project (the contract) was not likely to adversely impact listed species under the federal Endangered Species Act.

NMFS provided its concurrence, but subject to certain new conditions, in addition to all conditions previously occurring, related to the release of CCWA State water during those periods when the Parent District makes releases into the Santa Ynez River. The effect of the new conditions is to prohibit the blending of State water with releases of Cachuma Project water into the Santa Ynez River during the period of the Temporary Warren Act Contract.

Board Report-Request to USBR for Alternative Release Point during downstream releases-July 2022 (BHFS edits)(24465561.2)
(002) (002)
RAS

After further discussions with the Parent District staff, CCWA staff determined that a relatively minor modification to the existing delivery facilities at the Cachuma Project could potentially address the Parent District's concerns and allow for the continued blending of State water delivering during the downstream releases. Essentially, the proposed modification entails the installation of a T fitting within the CCWA HDPE bypass pipeline to facilitate a temporary connection of a short section of pipe that will convey State water directly into the Stilling Basin. The proposed modification to the existing delivery facilities at the Cachuma Project requires USBR approval.

CCWA is not a party to the December 17, 2002 Settlement Agreement Between Cachuma Conservation Release Board, Santa Ynez River Water Conservation District, Santa Ynez River Water Conservation District Improvement District No. 1, and the City of Lompoc, Relating to Operation of the Cachuma Project (the Settlement Agreement) and does not have an obligation to blend State water deliveries during downstream releases. However, the parties to the Settlement Agreement agreed to make their "best efforts" to maximize deliveries of State water into Cachuma during those months when water rights releases are scheduled.

Project Costs:

CCWA staff believes the total cost of installing and uninstalling the temporary facilities to deliver directly to the stilling basin will be between \$10,000 and \$15,000.

Cost Sharing:

CCWA staff contacted the General Manager for the Parent District and proposed that the Parent District contribute at least 50% of the cost of installing and uninstalling the temporary facilities. The Parent District General Manager agreed to consider the proposal and it is unknown if the Parent District will have an answer on the proposed cost sharing agreement prior to the CCWA Board meeting on July 28, 2022.

Cost Allocation:

Subject to CCWA Board approval and compliance with all laws, including but not limited to the California Environmental Quality Act, CCWA staff proposes the following allocation of costs among CCWA Participants.

It is proposed that the CCWA portion of the costs (approximately \$7,500) be charged as a Santa Ynez I financial reach cost as follows:

Additional Lake Cachuma Stilling Basin Facilities

Project Participant	Table A	Percentage	Cost Allocation
Guadalupe	-	0.00%	\$ -
Santa Maria	-	0.00%	-
Golden State Water Co.	-	0.00%	-
VAFB	-	0.00%	-
Buellton	578	3.54%	265
Santa Ynez (Solvang) ⁽³⁾	1,500	9.19%	689
Santa Ynez ⁽³⁾	500	3.06%	230
Goleta	4,500	27.56%	2,067
Morehart	200	1.22%	92
La Cumbre	1,000	6.12%	459
Raytheon	50	0.31%	23
Santa Barbara	3,000	18.37%	1,378
Montecito	3,000	18.37%	1,378
Carpinteria	2,000	12.25%	919
TOTAL:	16,328	100.00%	\$ 7,500
Parent District		-	7,500
TOTAL:			\$ 15,000

ENVIRONMENTAL REVIEW

N/A – after further discussion with USBR and the Parent District, the Executive Director would return to the Board for consideration of the proposed project, subject to compliance with the California Environmental Quality Act.

RAS

Paeter Garcia

From: ACWA <acwabox@acwa.com>
Sent: Monday, August 8, 2022 9:41 AM
To: Paeter Garcia
Subject: Legal Advisory: ACWA Asks High Court to Review Case that Would Define Bees as Fish Under CESA

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ACWA ADVISORY

LEGAL
Aug. 8, 2022

ACWA Asks High Court to Review Case that Would Define Bees as Fish Under CESA

ACWA filed a [letter](#) last week asking the California Supreme Court to review a recent decision that extends protections under the state's endangered species law to bumblebees and other insects. The case opens the door, for the first time, to listing any invertebrate under the California Endangered Species Act (CESA) and ultimately result in increased regulatory requirements and compliance costs for ACWA's member agencies.

The case, *Almond Alliance of California v. Fish and Game Commission*, has hinged on whether bees and other terrestrial invertebrates fit within the statutory definition of fish under CESA. Fish are eligible for listing under CESA, and Fish and Game Code Section 45 defines fish as "a wild fish, mollusk, crustacean, *invertebrate*, amphibian, or part, spawn, or ovum of any of those animals" (emphasis added). While the court acknowledged that the statutory definition was ambiguous and that fish is commonly understood to refer to aquatic species, it ultimately reached the conclusion that the Legislature intended the definition to encompass any invertebrate, including terrestrial insects, such as bumblebees.

In seeking California Supreme Court review, ACWA argues that the lower court's decision "upends the wide-held, decades-old understanding that CESA does not apply to terrestrial invertebrates, including insects." This decision would greatly expand the number of species that may be listed as endangered or threatened, resulting in significant burdens for ACWA members.

Water agencies and their water users would be required to seek certain permits for infrastructure, agricultural and conservation activities that will include strict measures to address potential adverse impacts. ACWA notes that this will add time and expense to efforts to remain in compliance with CESA, and increase the likelihood of projects and activities being curtailed or prohibited altogether.

Background

In June 2019, the California Fish and Game Commission (Commission) accepted petitions to list four subspecies of native California bees for protection CESA. This decision resulted in the bumblebee subspecies being designated a candidate species, thereby receiving full protection under CESA, while the Commission determined whether to permanently list the subspecies as endangered or threatened.

A group of agricultural trade associations challenged that decision by filing a petition for writ of mandate in Sacramento Superior Court, arguing that CESA does not authorize the Commission to designate insects, such as bumblebees, as endangered, threatened, or candidate species.

While the trial court sided with the agricultural interests and ordered the Commission to rescind its decision, the Third District Court of Appeal reversed the lower court's decision, finding that insects can be listed as an endangered, threatened, or candidate species under CESA.

The agricultural interests argued that even if Section 45 applied to CESA, the term invertebrate only covers aquatic invertebrates and not terrestrial invertebrates, given that fish are connected to aquatic environments. The court rejected this argument, as well, noting that CESA's legislative history supported a liberal interpretation of the term.

ACWA will notify members when the California Supreme Court decides whether to review the case.

ACWA provides assistance on legal matters of significance to member agencies and their counsel, including amicus support and referrals to specialists. Requests for Assistance are reviewed by ACWA's Legal Affairs Committee, which makes a recommendation to the Board of Directors.

Questions

For questions or to submit a Request for Assistance, please contact ACWA Legislative Advocate [Kristopher Anderson](#), who is the staff liaison to the Legal Affairs Committee, at (916) 441-4545.

Disclaimer: ACWA's Legal Advisories are prepared for general information purposes only and offer you the opportunity to learn more about current events impacting ACWA members. The information presented is not legal advice, is not to be acted on as such, may not be current, and is subject to change without notice. Readers should consult with legal counsel for specific advice.

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Via TrueFiling

August 3, 2022

The Honorable Tani G. Cantil-Sakauye, Chief Justice
Supreme Court of California
350 McAllister Street
San Francisco, CA 94102

Re: *Almond Alliance of California, et al. v. Fish and Game Commission, et al.*
California Supreme Court, Case No. S275412
Third Appellate District, Case No. C093542
Sacramento County Superior Court, Case No. 34-2019-80003216-CU-WM-GDS
Association of California Water Agencies Amicus Curiae Letter in Support of
Petitioner Almond Alliance et al.'s Petition for Review

Dear Chief Justice Cantil-Sakauye and Associate Justices:

Pursuant to Rule 8.500(g) of the California Rules of Court, Amicus Curiae Association of California Water Agencies ("ACWA") respectfully submits this letter in support of Petitioner Almond Alliance et al.'s Petition for Review of the Third District Court of Appeal's opinion in *Almond Alliance of California, et al. v. Fish & Game Commission, et al.* (2022) 79 Cal.App.5th 337 ("the Opinion"). This case raises an important question of statewide interest as to the California Endangered Species Act ("CESA"), more specifically whether the term "fish," as used in CESA, authorizes the California Fish & Game Commission ("Commission") to list terrestrial invertebrates, such as the bumble bees at issue in this case, as "candidate," "threatened," or "endangered" species under CESA.

I. Interest of Amicus Curiae

ACWA, with over 460 members, is the largest statewide coalition of public water agencies in the country. Its members are a diverse group of water associations and public water agencies engaged in municipal, agricultural, and wildlife refuge water supply service. Collectively, ACWA's members are responsible for more than 90% of the water delivered to cities, farms, and businesses in California.

ACWA's member agencies as well its members' water users are regularly engaged in an array of infrastructure, agricultural, and conservation activities throughout the state. They depend upon the reasonable and consistent application of federal and state environmental regulatory requirements, including those prescribed by CESA. As explained in *Almond Alliance et al.'s* Petition for Review, the Opinion upends the wide-held understanding that CESA does not apply to terrestrial

invertebrates. (Petition for Review at pp. 19-22, 24.) The Opinion, if left intact, could dramatically increase the number of projects and activities subject to CESA's regulatory requirements and, thus, increase the regulatory burden and expense of CESA compliance for ACWA's member agencies and their water users.

II. Review is Necessary to Settle an Important Question of Law

Rule 8.500(b)(1) of the California Rules of Court provides that the Supreme Court may order review of a Court of Appeal decision “[w]hen necessary to secure uniformity of decision or to settle an important question of law.” This case raises an important question of statewide interest as to CESA. The question of whether the term “fish,” as used in CESA, authorizes the Commission to list terrestrial invertebrates, including insects, as candidate, threatened, or endangered species is important because it has broad implications.

A. General Implications

CESA prohibits the “take” of any species listed as a candidate, threatened, or endangered species under CESA without prior authorization. (Fish & G. Code, § 2080; Cal. Code Regs., tit. 14, § 783.1.) One form of prior authorization that allows for take of a listed species is an incidental take permit issued by the California Department of Fish & Wildlife (“Department”). (Fish & G. Code, § 2081(b).) A permittee must implement the species-specific minimization and avoidance measures specified in their incidental take permit and, in turn, may take a listed species within the parameters of the permit.

The process for obtaining an incidental take permit and implementing the permit's measures can be lengthy and costly. It can take months or years to obtain a permit, depending on the scope of the permitted activity and availability of Department technical and regulatory staff. The Fish & Game Code specifies permit fees; for example: “For a project where the estimated project cost is less than one hundred thousand dollars (\$100,000), the department shall assess either of the following amounts: (A) Seven thousand five hundred dollars (\$7,500) [or] (B) Six thousand dollars (\$6,000), if the project uses a department-approved conservation or mitigation bank” (Fish & G. Code, § 2081.2.) In addition, if the Department determines that the permit application fee paid is insufficient to complete permitting work, it “shall collect an additional fee of up to ten thousand dollars (\$10,000) from the permittee to pay for its estimated costs.” (*Ibid.*) These fees, already substantial for some permittees, only represent a portion of the compliance cost borne by permittees. Mitigation in the form of habitat restoration and conservation can run into millions of dollars to acquire and restore land and to fund a non-wasting endowment for monitoring and enforcement in perpetuity. In addition, such planning requires substantial work from technical consultants and attorneys.

Last, a violation of the take prohibition, i.e., take without prior authorization such as a permit, can result in civil and criminal prosecution, including penalties of between \$25,000 and \$50,000 for each violation, and imprisonment of up to one year. (Fish & G. Code, § 12008.1(a).)

The Opinion greatly expands the number of species that may be listed under CESA. As the Department or interested persons petition to list other terrestrial invertebrates, the burden on the regulated community will grow. Permits for incidental take of listed invertebrate species will add time and expense to efforts to remain in compliance with the law, and the likelihood of projects and activities being prohibited or curtailed altogether will increase.

B. Implications Specific to Listing the Bumble Bee Species at Issue in This Case

The Opinion, if left intact, has immediate implications. Under CESA, the take prohibition applies as soon as a species is determined to be a “candidate” for listing. (Fish & G. Code, §§ 2080, 2085.) That is, even if the Commission ultimately decides that listing the species as threatened or endangered is not warranted, the candidate species will be afforded the same protection as threatened and endangered species during its candidacy. As long as the Opinion remains intact, there are immediate implications for the regulated community because the four bumble bee species at issue in this case will remain candidates for listing and, thus, will be subject to the same regulatory requirements as those that apply to threatened and endangered species.

The bumble bees at issue are widely distributed. Maps in the petition to list the four bumble bee species filed by The Xerces Society et al. in October 2018 (“Petition to List”) show the wide distribution of the bumble bees in California, especially the Western bumble bee and the Crotch bumble bee. (Petition to List at pp. 114 (Crotch), 115 (Franklin’s), 116 (Western), and 118 (Suckley Cuckoo).) The Western bumble bee has been documented in 38 counties in California and the Crotch bumble bee has been documented throughout much of the southern two-thirds of California. (*Id.* at pp. 9, 16; Department Eval. of Petition (Apr. 2019) at pp. 15-16.)

Listing the bumble bees could have weighty implications for public water agencies. According to the Petition to List, bumble bee nests can be underground or on the surface of the ground. (Petition to List at p. 30.) Thus, allegedly, “any near-surface or subsurface disturbance of the ground can be disastrous for bumble bee colonies or overwintering queens. This includes mowing, fire, tilling, grazing, and planting. Having large areas of land free from such practices is essential for sustaining bumble bee populations.” (*Id.* at p. 31.) This means that basic maintenance and repair practices that disturb soil, including excavation of soil to reach pipelines and other water/wastewater infrastructure, clearing land for fuel management to protect critical infrastructure from wildfire, application of federally approved pesticides, and potentially limitless other activities throughout California, could inadvertently result in take of the candidate bumble bees. Extensive preconstruction surveys and incidental take permits are now required prior to such activities, and public agencies are now exposed to potential civil and criminal liability, for conduct that is part and parcel of providing essential utility services throughout California. Lastly, listing the bumble bees would set a precedent for listing other terrestrial invertebrates, including other pollinators found throughout California such as honey bees, butterflies, beetles, ants, moths, wasps etc. As the Department or interested persons petition to list other terrestrial invertebrates, the burden on the regulated community—indeed all Californians who tend gardens or apply pesticides—will grow—in a manner that the Legislature does not appear to have contemplated.

C. The Opinion Is Contrary to the Plain Meaning of CESA, the Commission and Departments' Practices Under CESA, and the Legislative History of CESA

Almond Alliance et al.'s Petition for Review provides a thorough analysis and discussion of the plain meaning of CESA, the Commission and Department's practices under CESA, and the legislative history of CESA. ACWA will not repeat that analysis here but emphasizes that the question for review in this case is important because the Opinion is contrary to the plain meaning of CESA, the Commission and Departments' practices under CESA, and the legislative history of CESA. The Opinion upends the wide-held, decades-old understanding that CESA does not apply to terrestrial invertebrates, including insects. For example, in 1998, the California Attorney General issued a formal opinion reaffirming that insects cannot be listed under CESA, and that same year, the Department promulgated a regulation—a regulation that is still in effect today—that states, "Take of insects. The take of insects and other invertebrates that are not fish as defined in the Fish and Game Code is not prohibited." (Cal. Code Regs., tit. 14, § 783.1.) Because the Opinion departs from the previous, widely-held understanding of the law and that departure has weighty implications for the regulated community, Supreme Court review is merited. The question whether CESA should be extended to terrestrial invertebrates is one the Legislature has answered in the negative; it is in that policy arena that the issues involved must be addressed.

III. Conclusion

The Opinion has significant implications for ACWA's member agencies and the municipal, agricultural, and wildlife refuge water supply purposes they serve. Increasing the number of projects and activities subject to CESA's regulatory requirements will increase the regulatory burden and expense of CESA compliance for ACWA's member agencies and their water users. The question in this case is important, in part, because of these implications and merits Supreme Court review.

Respectfully Submitted,



Dave Eggerton, Executive Director
Association for California Water Agencies

PROOF OF SERVICE

Almond Alliance of California v. Fish and Game Commission, et al.
California Supreme Court Case No. S275412
Court of Appeal, Third Appellate District Case No. C093542
Sacramento County Superior Court Case No. 34-2019-80003216-CU-WM-
GDS

STATE OF CALIFORNIA, COUNTY OF SACRAMENTO

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Sacramento, State of California. My business address is 1331 Garden Hwy, 2nd Floor, Sacramento, CA 95833.

On August 3, 2022, I served true copies of the following document(s) described as **ASSOCIATION OF CALIFORNIA WATER AGENCIES AMICUS CURIAE LETTER IN SUPPORT OF PETITIONER ALMOND ALLIANCE ET AL.'S PETITION FOR REVIEW** on the interested parties in this action as follows:

SEE ATTACHED LIST FOR METHOD OF SERVICE

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the practice of Kronick, Moskovitz, Tiedemann & Girard for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am a resident or employed in the county where the mailing occurred. The envelope was placed in the mail at Sacramento, California

BY EMAIL OR ELECTRONIC FILING: Based on a court order or an agreement of the parties to accept service by email or electronic transmission, by causing the documents to be sent to the persons at the e-mail addresses listed on the service list on August 3, 2022, from the court authorized e-filing service at TrueFiling.com. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on August 3, 2022, at Sacramento, California.



Terri Whitman

SERVICE LIST

Almond Alliance of California v. Fish and Game Commission, et al.
California Supreme Court Case No. S275412
Court of Appeal, Third Appellate District Case No. C093542
**Sacramento County Superior Court Case No. 34-2019-80003216-CU-WM-
GDS**

Via Email Through TrueFiling.com

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Attorneys for Intervenors/Appellants

Xerces Society for Invertebrate

Conservation, Defenders of Wildlife,

and Center for Food Safety

Via TrueFiling

California Court of Appeal

Third Appellate District

Via U.S. Mail

Clerk of the Court

Sacramento County Superior Court

720 Ninth Street

Sacramento, CA 95814

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: James Chalfant

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11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 FOR THE COUNTY OF LOS ANGELES

14 UNITED WATER CONSERVATION
15 DISTRICT

16 Petitioner,

17 vs.

18 CALIFORNIA FISH AND GAME
19 COMMISSION, a California Public
Agency; and DOES 1-20

20 Respondents.

Case No. 22STCP02661

PETITION FOR WRIT OF MANDATE

Date Action Filed: July 18, 2022

21
22 **I. INTRODUCTION**

23 Petitioner United Water Conservation District (“United”) respectfully requests that
24 the Court issue a Writ of Mandate directing the California Fish and Game Commission
25 (the “Commission”) to vacate its (1) recent approval of California Trout’s petition
26 (“CalTrout Petition”) to list southern California Steelhead (*Oncorhynchus mykiss* or *O.*
27 *mykiss*) as a “candidate species” under the California Endangered Species Act (Fish & G.
28 Code, § 2050 *et seq.* [“CESA”]) (the “Listing Decision”); and (2) approval of an

1 unnecessarily strict Section 2084 exception that does not allow for incidental take of the
2 candidate species even for legally mandated projects (the “2084 Decision,” collectively the
3 Listing Decision and the 2084 Decision shall be referred to as the “Commission’s
4 Decisions”).

5 United seeks to require the Commission to comply with the clear and mandatory
6 legal rules set out in CESA and the Commission’s own regulations. CESA expressly
7 requires a listing petition to meet substantial requirements before the Commission can
8 exercise its jurisdiction or authority to make candidacy determinations. Substantively, at
9 the first stage of the listing process, CESA requires the Commission to review whether a
10 listing petition includes scientific information sufficient to demonstrate that a particular
11 species’ candidacy “may be warranted.” (Fish & G. Code, §§ 2072.3, 2074.2(e); Cal. Code
12 Regs., tit. 14, § 670.1(b).)

13 The Commission must exercise its authority within the boundaries of twelve
14 specific scientific data sets. (*Id.* at § 2072.3; *see also* Cal. Code Regs., tit. 14, §§ 670.1(b),
15 670.1(d).) The Commission does not have jurisdiction or authority to waive the inclusion
16 of these critical data sets required by CESA when determining whether listing may be
17 warranted. (Cal. Code Regs., tit. 14, § 670.1(e)(1).)

18 As shown in this Petition for Writ of Mandate (“Writ Petition”), the Commission
19 acted in excess of its jurisdiction and abused its discretion by ignoring these key
20 informational requirements. Specifically, the CalTrout Petition confused two life-histories
21 of *O. mykiss* by seeking protection of both anadromous (ocean migratory) *O. mykiss*
22 (currently protected by the Federal Endangered Species Act) and freshwater resident *O.*
23 *mykiss* (also known as rainbow trout—a plentiful and abundant fish that no evidence
24 suggests is endangered or threatened). To be clear, anadromous and resident *O. mykiss*
25 belong to the same species and are not segregated by sub-species and “the boundary
26 between [anadromous] steelhead and resident coastal rainbow trout is fuzzy because it is
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1 not biologically based, but a distinction of convenience for management.”¹ Despite
 2 clarifying that the CalTrout Petition sought to protect both of these life-histories, the
 3 CalTrout Petition, in clear violation of CESA and the Commission’s regulations, provided
 4 little to no evidence related to resident *O. mykiss* for the twelve specifically required
 5 scientific data sets. The Department of Fish and Wildlife (“Department”), in both the
 6 Department’s October 29, 2021 evaluation (“Evaluation”) and in oral testimony before the
 7 Commission, confirmed the lack of this critical information. In their evaluation, the
 8 Department relied upon information it possessed to fill these information gaps; however,
 9 the information added by the Department was incomplete and does not meet the standards
 10 under CESA. The Department neglected to evaluate all readily available information to
 11 determine the accurate distribution of resident *O. mykiss* within the region. Without
 12 reasonable consideration of this readily available information, the evaluation of the petition
 13 is insufficient to inform the Commission regarding whether the proposed listing is
 14 warranted.

15 The CalTrout Petition and the Department’s Evaluation demonstrated that neither
 16 presented the Commission with an accurate representation of readily available information
 17 related to resident *O. mykiss* and instead presented limited data relevant only to
 18 anadromous *O. mykiss*. United and others provided information to the Department and the
 19 Commission regarding resident *O. mykiss* in summary form as well as numerous reference
 20 citations as part of the administrative record. The disregard for “relevant information the
 21 department possesses or receives” (FGC § 2073.5(a)) by the Department regarding resident
 22 *O. mykiss* is patently not “sufficient scientific information” supporting a decision to list
 23 both anadromous *and* resident *O. mykiss* as a candidate species. The CalTrout Petition,
 24 therefore, does not include sufficient information to allow the Commission to exercise its
 25 jurisdiction and authority in accordance with CESA. Thus, the Commission acted in excess
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27 ¹ Moyle P.B, Lusardi R.A., Samuel P.J., Katz J.V.E. August 2017. State of the Salmonids:
 28 Status of California’s Emblematic Fishes 2017.

1 of its jurisdiction and authority by waiving statutorily mandated requirements when
2 approving the CalTrout Petition.

3 The Commission further abused its discretion because its findings are in violation of
4 the *Topanga* Rule as they do not, and cannot, bridge the analytical gap between the
5 evidence presented in the record and the Commission's decision. (*Scenic Cmty. v. County*
6 *of Los Angeles* (1974) 11 Cal.3d 506, 515 [*"Topanga"*].) Simply put, the CalTrout Petition
7 and its proponents presented little to no evidence to the Commission—and little to no
8 evidence was otherwise included in the administrative record before the Commission—to
9 support the candidacy of resident *O. mykiss*, yet the Commission's decision nonetheless
10 lists resident *O. mykiss* as a candidate species without any justification or evidentiary
11 support. (*See id.* at 514-515 [*"[A]t minimum, the reviewing court must determine both*
12 *whether substantial evidence supports the administrative agency's findings and whether*
13 *the findings support the agency's decision."*].)

14 Finally, the Commission abused its discretion by refusing to consider a reasonably
15 proposed exception under Section 2084 of the Fish and Game Code and instead adopting a
16 strict exception that does not allow for incidental take of the candidate species even when a
17 project is legally mandated to occur.

18 **II. PARTIES AND STANDING**

19 1. United is a California special district dedicated to protecting and maintaining
20 water resources in an environmentally balanced manner. United's primary purpose is to
21 conserve, protect and enhance the region's water supply for beneficial use pursuant to
22 Article X, section 2 of the California Constitution. As one of only a handful of water
23 conservation districts in California, United's unique role of water conservation and
24 management is distinctly different than that of a wholesale or retail water purveyor.
25 United's management focuses on long-term stewardship of water resources over the course
26 of decades to preserve water for future use, including treated drinking water and critical
27 agricultural irrigation. As part of United's mission of water conservation and management
28 it operates the Santa Felicia Dam and the Freeman Diversion. Both facilities are operated

1 consistent with applicable federal mandates, including those from the National Marine
 2 Fisheries Service (“NMFS”) with respect to the federally endangered status of southern
 3 California steelhead under the Endangered Species Act (“ESA”). Furthermore, in the case
 4 of the Freeman Diversion², United also operates under NMFS’ 2016 mandate for
 5 compliance with the ESA, as confirmed by subsequent order of the United States District
 6 Court for the Central District of California.³ Under the supervision of the federal court, and
 7 with both NMFS and CDFW oversight, United is under very tight timelines to design and
 8 construct a new state-of-the-art fish passage facility to replace its current fish ladder that
 9 was approved and built to CDFW criteria. These projects and others are directly threatened
 10 by the Commission’s Decisions.

11 2. United is integrally involved in the management of waters and watersheds
 12 throughout Southern California and is entrusted with continuously providing for the water
 13 supply needs of California’s communities and farmland, including during the ongoing

14 _____
 15 ² United operates the Freeman Diversion to conserve, maintain, and put to beneficial use the
 16 waters of the Santa Clara River watershed, with one of the primary goals being to combat seawater
 17 intrusion in the Oxnard Plain. United has diverted water from the Santa Clara River at the
 18 Freeman Diversion to provide for surface water deliveries and groundwater recharge in
 19 accordance with water right license 10173 and permit 18908. CDFW protested the original
 20 application to the water rights permit in 1980, citing a remnant steelhead resource in the river.
 21 Through much coordination and consultation between United, CDFW, the State Water Resources
 22 Control Board (SWRCB), and the Department of Water Resources (DWR), a steelhead study was
 23 completed in the river in the early 1980s, which resulted in the installation of a Denil fish ladder
 24 and implementation of bypass flows for fish passage at the request of and based on specifications
 25 provided by CDFW. SWRCB issued water right permit 18908 to United in 1987 and subsequently
 26 amended it in 1992. The permit incorporated CDFW’s recommended fish ladder and bypass flow
 27 provisions, which were notably protested by DWR due to the importance of combating the severe
 28 seawater intrusion experienced in the Oxnard Plain. Nevertheless, United accepted the fish
 passage provisions and began implementation when the Freeman Diversion became operational in
 1991. Over the years, United has modified bypass flows several times for the benefit of steelhead,
 each time decreasing diversion yield compared to its water rights license and permit. As a result,
 the seawater intrusion conditions have been magnified by the ongoing drought conditions and
 limited diversion yield.

³ Attached as Exhibit 1 is a true and correct copy of the December 1, 2018 Order of Judge David
 O. Carter in *Wishtoyo Foundation, et al v. United Water Conservation District* (U.S. District Court
 for the Central District of California, Case No. 2:16-cvg-03869 GHK.

1 drought emergency. Nor is United solely concerned with water supply, indeed, United is
2 significantly invested in the proactive resolution of fishery and other aquatic species
3 resource management issues, including undertaking recovery work and habitat restoration
4 activities to protect anadromous steelhead as well as other native aquatic species and their
5 habitats as required by both federal and state law. United has a vested interest in the
6 conservation of southern California steelhead and a well-documented history of monitoring
7 southern California steelhead. In fact, the work of United comprises significant portions of
8 the monitoring conducted on *O. mykiss* in southern California and through this monitoring
9 and data analysis, United has developed an understanding of *O. mykiss* in its respective
10 watershed that has been leveraged in extensive consultations with state and federal
11 agencies over the years. The Commission's Listing Decision, by unlawfully granting
12 immediate CESA protections to southern California steelhead, jeopardizes, among other
13 things, United's ability to manage and operate critical water resource management
14 operations, restoration, and recovery work.

15 3. United has standing to bring this Petition because Fish and Game Code
16 section 2076 specifically authorizes this remedy, and United has a beneficial interest in the
17 issuance of the writ requested in this Petition over and above the interest held in common
18 with the public at large (Code Civ. Proc., § 1086), for the following reasons:

- 19 a. United manages and operates a significant water and special district within
20 the geographic area affected by the Commission's Decisions. The
21 Commission's Decisions extended immediate CESA protections to southern
22 California steelhead (including plentiful and non-ESA-protected *resident*
23 *O. mykiss*, or rainbow trout), which will restrict United's continued operation
24 of its district, with direct impacts to the supply of water for both community
25 and agricultural use during a period of extreme drought. The imposition of
26 CESA protections in the absence of a sound scientific basis, and in violation
27 of the law, will irreparably harm United's members and constituents and the
28 communities those members serve. These interests are germane to United's

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purpose and will be directly and adversely affected by the Commission's Decisions, which violate provisions of law as set forth herein.

b. The Commission's Decisions trigger immediate CESA protections, which impose additional, Department-administered processes redundant of existing management obligations under Federal and state regulations and court-ordered and court-supervised restoration projects. These redundant processes will cause United to incur significant increases to operating and mitigation costs or will force United to cease activities or operations on some or all of their operations, even though such activities or operations are ongoing and authorized under Federal law and/or court-ordered decrees.

c. United has an ongoing beneficial interest in the Commission's compliance with CESA when reviewing listing petitions. United has already expended significant resources to challenge the Commission's unlawful decision and will experience significant harm resulting from the decision as described above. United has an interest in preventing the Commission from making similar unlawful decisions in the future, each of which could result in harm to United.

4. United also has public interest standing because the proper application of CESA to the Commission's species listing determinations is a matter of public right, with implications for future petitions that list species absent statutorily required information, and United is seeking to procure the enforcement of the Commission's duty to comply with CESA.

5. United has standing to bring this action on behalf of its members because each of United's members would otherwise have standing to sue in their own right, the interests United seeks to protect are germane to its purpose, and neither the claim asserted, nor the relief requested, in this Petition requires the participation of individual members in this action.

6. United participated in the Commission's administrative process leading to

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1 the Commission's Decisions challenged in this Petition.

2 7. Respondent California Fish and Game Commission is an agency of the State
3 of California, authorized to, among other things, accept and consider listing petitions
4 consistent with CESA.

5 8. United does not know the true names and capacities of Respondents named
6 as DOES 1 through 20 and therefore sues them by fictitious names. United is informed and
7 believe that DOES 1 through 20 are in some way responsible for the events described in
8 this Petition. United will seek to amend this Petition when the true names and capacities
9 have been ascertained.

10 **III. JURISDICTION AND VENUE**

11 9. This Court has jurisdiction to issue the requested Writ of Mandate pursuant
12 to Code of Civil Procedure sections 1085 *et seq.*, in particular Section 1094.5, and Fish and
13 Game Code section 2076. Fish and Game Code section 2076 states, specifically, that
14 "[a]ny finding pursuant to this section is subject to judicial review under Section 1094.5 of
15 the Code of Civil Procedure."

16 10. Venue for this action properly lies in the Superior Court of the State of
17 California in and for the County of Los Angeles, pursuant to Code of Civil Procedure
18 sections 395 and 401(1), because the Commission is a state agency based in Sacramento
19 County and the California Attorney General has an office in Los Angeles.

20 11. This Writ Petition has been filed within the time limits imposed for this
21 action under Fish and Game Code section 2076 and Code of Civil Procedure section
22 1094.5.

23 **IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

24 12. United, as stated above, participated in the Commission's administrative
25 process leading to the decisions challenged in this Petition. No further administrative
26 remedies exist for United to challenge the Commission's Decisions. United has thus
27 performed all conditions precedent to filing this action and has exhausted all available
28 administrative remedies.

1 **V. FACTS**

2 **A. Overview of Listing Process Under the California Endangered Species Act**

3 13. The California State Legislature enacted CESA “to conserve, protect, restore,
4 and enhance any endangered species or any threatened species and its habitat.” (Fish & G.
5 Code, § 2052.)

6 14. Section 2070 of the Fish and Game Code provides that “[t]he [C]ommission
7 shall establish a list of endangered species and a list of threatened species.” (Fish & G.
8 Code, § 2070.)

9 15. CESA defines “endangered species” to mean “a native species or subspecies
10 of a bird, mammal, fish, amphibian, reptile, or plant which is in serious danger of
11 becoming extinct throughout all, or a significant portion, of its range due to one or more
12 causes, including loss of habitat, change in habitat, overexploitation, predation,
13 competition, or disease.” (Fish & G. Code, § 2062.)

14 16. CESA defines “threatened species” to mean “a native species or subspecies
15 of bird, mammal, fish, amphibian, reptile, or plant that, although not presently threatened
16 with extinction, is likely to become an endangered species in the foreseeable future in the
17 absence of the special protection and management efforts required by this chapter.” (Fish
18 & G. Code, § 2067.)

19 17. CESA defines “candidate species” to mean “a native species or subspecies of
20 a bird, mammal, fish, amphibian, reptile, or plant that the commission has formally noticed
21 as being under review by the department for addition to either the list of endangered
22 species or the list of threatened species, or a species for which the commission has
23 published a notice of proposed regulation to add the species to either list.” (Fish & G.
24 Code, § 2068.)

25 18. A species becomes a “candidate species” upon the Commission’s publication
26 of notice of findings that the petition is accepted for consideration. (Fish & G. Code, §
27 2074.2(e)(2).)

28 19. Any interested party can submit a petition to list a species under CESA. (Fish

1 & G. Code, §§ 2070, 2072.7.) However, to be accepted, a petition must comply with the
2 strict multi-step processes required by both CESA and Commission regulations, including:

3 a. The petition must include “sufficient scientific information,” in each of the
4 following twelve data sets:

- 5 i. Population trend;
- 6 ii. Range;
- 7 iii. Distribution;
- 8 iv. Abundance;
- 9 v. Life history of a species;
- 10 vi. Factors affecting the ability to survive and reproduce;
- 11 vii. Degree and immediacy of threat;
- 12 viii. Impact of existing management efforts;
- 13 ix. Suggestions for future management;
- 14 x. Availability and sources of information;
- 15 xi. Kind of habitat necessary for survival; and
- 16 xii. A detailed distribution map.

17 (Fish & G. Code, §§ 2072.3, 2074.2; Cal. Code Regs., tit. 14, §§ 670.1(b), 670.1(d),
18 670.1(e)(1).)

19 20. Upon receipt of a listing petition, the Commission forwards the listing
20 petition to the Department. CESA requires the Department to prepare an “evaluation
21 report,” which must “contain an evaluation of whether or not the petition provides
22 sufficient scientific information” on each of the twelve required informational data sets to
23 indicate that listing “may be warranted.” (Fish & G. Code, § 2073.5; Cal. Code Regs., tit.
24 14, § 670.1(d)(1).)

25 21. The Department’s evaluation report must make one of two recommendations
26 to the Commission: (1) reject the listing petition, on grounds that the petition does not
27 present sufficient information to indicate that listing may be warranted; or (2) accept the
28 listing petition for consideration, on grounds that the petition does present sufficient

1 information to indicate that listing may be warranted. (*Ibid.*)

2 22. The Commission must next hold a noticed public hearing to receive the
3 Department's evaluation report, and to "consider the petition, the department's written
4 report, written comments received, and oral testimony provided during public hearing,"
5 and decide whether to reject the petition or accept the petition for consideration. (Fish &
6 G. Code, § 2074.2; Cal. Code Regs., tit. 14, § 670.1(e).)

7 23. Commission regulations *require* the Commission to reject a listing petition if
8 the petition fails to include sufficient scientific information *in each* of the twelve data sets
9 set out in Fish and Game Code section 2072.3. (Cal. Code Regs., tit. 14, § 670.1(b),
10 (e)(1).)

11 24. The Commission's powers are defined and limited by the petition and the
12 Department's report and comments received. Under CESA, the Commission—after
13 "consider[ing] the petition, the [D]epartment's written report, [and] written comments
14 received"—shall make one of two "findings": (1) a finding that the petition does not
15 provide sufficient information to indicate that the petitioned action may be warranted; or
16 (2) a finding that sufficient information indicates that the petitioned action may be
17 warranted. (Fish & G. Code § 2074.2(e)(2).) Case law addressing the parameters of the
18 Commission's determination has clarified that "sufficient information" means:

19 that amount of information when considered with the
20 Department's written report and the comments received, that
21 would lead a reasonable person to conclude the petitioned
22 action may be warranted. The phrase "may be warranted" is
23 appropriately characterized as a 'substantial possibility that
24 listing could occur.' [citation] "Substantial possibility," in turn,
25 means something more than the one-sided "reasonable-
26 possibility" test for an environmental impact report but does
27 not require that listing be more likely than not. (*Center for Bio*
28 *Diversity v. Cal. Fish & Game Commission* (2008) 166 Cal.
App. 4th 597, 609-10.)

25 25. A species does not qualify for candidate status if there is not sufficient
26 information that would lead a reasonable person to conclude that the petitioned action may
27 be warranted. (*Natural Res. Def. Council v. Fish & Game Commission* (1994) 28 Cal. App.
28 4th 1104, 1119.)

1 26. The Department and the Commission have the legal obligation to evaluate
2 the information in a petition and other available information to determine whether the
3 petition's claims are accurate and credible. (*Id.* at pp. 1119, 1125.) The Commission's
4 decisions must be based on substantial evidence. In other words, the Commission must
5 "bridge the analytic gap between the raw evidence and the ultimate decision or order."
6 *Topanga*, 11 Cal. 3d at 515. A connection between evidence and conclusion is necessary to
7 minimize the likelihood that an agency will "randomly leap from evidence to conclusions."
8 (*Young v. City of Coronado* (2017) 10 Cal. App. 5th 408, 420-21.)

9 27. If the Commission approves a listing petition for consideration, the subject
10 species becomes a "candidate species," and is immediately granted CESA protections
11 during the twelve-month "candidacy period" following the Commission's approval, even
12 though the species has not been formally listed as either threatened or endangered. (Fish &
13 G. Code, § 2085.)

14 28. However, the Commission has the authority to craft exceptions to this broad
15 protection for candidate species. Specifically, the Commission may also authorize (under
16 Section 2084 of the Fish and Game Code) the taking of any candidate species "subject to
17 terms and conditions it prescribes and based on the best available scientific information"
18 ("2084 Exceptions"). (Fish & G. Code, § 2084.)

19 29. As to an accepted petition, CESA then requires the Department, within
20 twelve months after the Commission accepts a listing petition for consideration, to prepare
21 a more detailed and peer reviewed evaluation report and to recommend to the Commission,
22 whether, based on the best scientific information available to the Department, permanent
23 listing is warranted. (Fish & G. Code, § 2074.6; Cal. Code Regs., tit. 14, § 670.1(f).)

24 30. Following the Department's detailed report, CESA requires the Commission
25 to hold another noticed public hearing for "final consideration" of the listing petition. (Fish
26 & G. Code, § 2075.) After receiving evidence and testimony from Commission and
27 Department staff and the public, CESA requires the Commission to decide whether or not
28 to permanently list the species as threatened or endangered. (Fish & G. Code, § 2075.5;

1 Cal. Code Regs., tit. 14, § 670.1(i).)

2 **B. CalTrout Submitted a Petition that Confuses Two Life Histories of *O. mykiss***

3 31. On June 7, 2021, California Trout (“CalTrout”) submitted the CalTrout
4 Petition to the Commission to list “Southern California steelhead (*Oncorhynchus mykiss*)”
5 as an endangered species under CESA.

6 32. As the CalTrout Petition acknowledges, *Oncorhynchus mykiss* (“*O. mykiss*”)
7 encompasses two life history forms: (1) the anadromous form called steelhead or steelhead
8 trout; and (2) the resident form, often called rainbow trout. The anadromous steelhead
9 spends a portion of its life history in the ocean before returning to freshwater for spawning,
10 whereas the resident form (rainbow trout) spends its entire life in freshwater. A true and
11 correct copy of the CalTrout Petition is attached hereto as Exhibit 2.

12 33. Because of rainbow trout’s ability to express an anadromous life history, the
13 CalTrout Petition expressly admits that “the freshwater form, or rainbow trout, are an
14 integral part of the steelhead population . . . [and] play a central role to the continued
15 existence of Southern steelhead.” (Exhibit 2 at pp. 6-7.) For these reasons, the CalTrout
16 Petition notes that rainbow trout “could support re-establishing viable anadromous
17 populations.” (Exhibit 2 at p. 7.)

18 34. The distinction between anadromous steelhead and rainbow trout is crucially
19 important because rainbow trout are plentiful. This fact has direct implications on the
20 status of the species. As presented in the Administrative Record, readily available data and
21 literature provides evidence that resident *O. mykiss* (rainbow trout) are significantly more
22 abundant than anadromous *O. mykiss*, have more viable populations than anadromous *O.*
23 *mykiss* in the region (and statewide), and contribute substantially to the persistence of the
24 overall species. (E.g., February 3, 2022 Letter from Orange County Water District to
25 California Fish and Game Commission; August 17, 2021 Letter from United to Dep’t of
26 Fish and Wildlife. A true and correct copy of the February 3, 2022 and August 17, 2021
27 letters are attached hereto as Exhibit 3.) For this reason, as the CalTrout Petition
28 acknowledges, the listing of *O. mykiss* under the ESA includes only anadromous steelhead.

1 (Exhibit 2 p. 3.) Indeed, in relation to the ESA listing of steelhead, CalTrout expressly
2 admitted that the segregation of rainbow trout from anadromous steelhead was “necessary
3 to maintain the ESA listing because if Rainbow numbers were added in with steelhead, the
4 counts would be too high to qualify for the needed ESA protections.” (A true and correct
5 copy of United’s April 21, 2022 presentation to the Commission is attached hereto as
6 Exhibit 4.)

7 35. Yet, despite the crucial distinctions between anadromous steelhead and
8 rainbow trout, the CalTrout Petition improperly conflated the two life histories—arguing
9 for protection of *O. mykiss* as a whole, but submitting evidence relevant only to the
10 anadromous form, with little to no information on the resident form. (Exhibit 2.)

11 36. Indeed, the CalTrout Petition was so confused on this point that on October
12 4, 2021, the Department was forced to ask CalTrout to clarify whether it sought to list both
13 anadromous and resident *O. mykiss*. (October 29, 2021 Evaluation of the Petition to List
14 Southern California Steelhead at p. 6. A true and correct copy of the Department’s
15 Evaluation is attached hereto as Exhibit 5.) CalTrout replied that “CalTrout defines
16 Southern California steelhead as all *Oncorhynchus mykiss* including anadromous and
17 resident life histories, below manmade and natural complete barriers to anadromy”
18 (Exhibit 5 at p. 6.) And, although CalTrout so clarified, it did not submit any additional
19 evidence demonstrating any threat to resident *O. mykiss*.

20 37. The CalTrout Petition, as required by CESA and Commission regulations,
21 purports to provide “sufficient scientific information” in each of the twelve data sets set
22 out in Fish and Game Code section 2072.3. However, each of these data sets fails to
23 provide sufficient information because it provides little to no information as to any of the
24 twelve data sets for resident *O. mykiss*. Instead, the CalTrout Petition relies almost entirely
25 on evidence related to anadromous *O. mykiss*. (Exhibit 2.)

26 **C. The Department’s Evaluation Ignored CalTrout Petition’s Complete Lack of**
27 **Evidence as to Resident *O. mykiss***

28 38. Following receipt of the CalTrout Petition, Commission staff transmitted it

1 to the Department, and on October 29, 2021, the Department (approximately three weeks
2 after requesting clarification as to what life histories the CalTrout Petition sought to
3 protect) issued its required Evaluation. The Evaluation determined that “there is sufficient
4 scientific information available at this time to indicate that the petitioned action may be
5 warranted” and recommended that the CalTrout Petition be accepted and considered.
6 (Exhibit 5 at p. 3.) Notably, the Department’s Evaluation stated that:

- 7 • The CalTrout Petition did not provide citations for some statements and “[t]o
8 the extent the Petition makes assertions without citing specific support, the
9 Department assumes these statements to be true for purposes of the Petition
10 Evaluation If the Commission accepts the Petition for further
11 consideration, the Department will need to verify these statements during the
12 status review period.” (Exhibit 5 at p. 9.)
- 13 • “Much of the information presented in the Petition is focused on the
14 anadromous life history of Southern Steelhead, particularly the population
15 abundance and trend information. Information on population abundance and
16 trends of resident *O. mykiss* below barriers in southern California is limited,
17 though the Department has internal data on resident *O. mykiss* observation in
18 various southern Californian streams However these *O. mykiss*
19 observations do not equate to total estimates of population abundance in
20 streams for which they are available.” (Exhibit 5 p. 10.)

21 39. The Evaluation did not provide additional evidence pertaining to resident *O.*
22 *mykiss* as to any of the twelve data sets set out in Fish and Game Code section 2072.3. The
23 one reference that the Evaluation added regarding resident *O. mykiss* did not include
24 “sufficient information” to fill any of the outstanding data gaps. The fact that the
25 Evaluation “assumes” specific statements to be true does not meet the Department and
26 Commissions legal obligation to evaluate the information in a petition and other available
27 information to determine whether the petition’s claims are accurate and credible. Despite
28 the clear lack of evidence and lack of citations that the Evaluation observed, the Evaluation

1 nonetheless recommended that the Commission accept the Petition. (Exhibit 5 at p. 3.)

2 **D. The Commission Ignored Submitted Evidence Resulting in the Listing of**
3 **Southern California Steelhead and the Rejection of Reasonable Proposals for**
4 **Exceptions**

5 40. Significant written comments and evidence were submitted by a number of
6 interested parties, including United, in response to the CalTrout Petition and Evaluation.
7 United has made requested the preparation of the Administrative Record concurrently with
8 the filing of this Petition. Those materials and evidence raised many issues, but the
9 majority focused on the CalTrout Petition's failure to meet CESA's basic informational
10 requirements, including the lack of "sufficient information" as to resident *O. mykiss*. In the
11 Evaluation, CDFW included mention of the Santa Monica Mountains Resource
12 Conservation District (SMMRCD) data on resident *O. mykiss*; however, the Evaluation
13 states that even with this data, key information is still lacking. For example, in reference to
14 the SMMRCD data, the Evaluation states that "these *O. mykiss* observations do not equate
15 to total estimates of population abundance in streams for which they are available" under
16 the Population Trend category. (Exhibit 5 at p. 11.) This statement is repeated in the
17 Abundance category and indicates that the Evaluation is lacking "sufficient information"
18 necessary to inform their listing recommendation and ultimately the Commission's
19 decision on whether listing "may be warranted". (Exhibit 5 at p. 13.) Additionally, CDFW
20 apparently only assessed the information contained in the Petition (FGC 2073.5(a)(1))
21 when developing their recommendation, seemingly disregarding "relevant information"
22 United (and others) submitted (FGC 2073.5(a)) on this subject that indicate an abundant
23 and resilient resident *O. mykiss* population. It is unclear whether the information submitted
24 by United was fully considered both by CDFW in their development of the Evaluation and
25 by the Commission in their decision whether listing "may be warranted". Information
26 submitted by United is included in the administrative record.

27 41. The Commission held a noticed public hearing on the CalTrout Petition on
28 February 17, 2022. During the Hearing, the Department gave an approximately sixteen-

1 minute presentation of the Department’s recommendation, during which the Department’s
 2 representative cited no evidence related to resident *O. mykiss* and relied only on evidence
 3 related to anadromous steelhead. (A true and correct copy of the Department’s February
 4 17, 2022 Presentation is attached hereto as Exhibit 6.) CalTrout then presented for
 5 approximately ten minutes with five minutes of questions following the presentation.
 6 Notably, the CalTrout representative stated that anadromous and resident varieties are
 7 “distinct” and “acknowledge[d] that there are healthy RBT populations within the range
 8 but that anadromous fish have been pushed to extinction.” (A true and correct copy of
 9 CalTrout’s February 17, 2022 Presentation is attached hereto as Exhibit 7.) Despite having
 10 been pre-approved to speak, United was limited to just two minutes.

11 42. Notwithstanding the extensive evidence submitted by United and others, the
 12 Commission showed no indication that it understood—or even cared to understand—the
 13 distinction between anadromous and resident *O. mykiss*; nor did it address the lack of
 14 “sufficient information” submitted on resident *O. mykiss* under any of the twelve data sets
 15 required by CESA Section 2072.3 and the Commission’s Regulations. (Fish & G. Code, §§
 16 2072.3, 2074.2; Cal. Code Regs., tit. 14, §§ 670.1(b), 670.1(d), 670.1(e)(1).)

17 43. Following public comments, the Commission passed a motion to close the
 18 public hearing and administrative record and to continue the decision until the
 19 Commission’s next meeting on April 20-21, 2022. In so doing, the Commission made clear
 20 their decision was to allow time to consider 2084 Exceptions.

21 44. In advance of the April 2022 meetings, United and other interested parties
 22 submitted a proposal for a 2084 Exception that would authorize the take of Southern
 23 California Steelhead during the CESA candidacy period for certain activities, including
 24 those (a) necessary for public health, safety, and welfare or essential water projects; (b)
 25 where the project proponent is either not required to have federal take authorization or has
 26 a valid federal take authorization under the ESA for Southern California Steelhead; or (c)
 27 where the project proponent is legally mandated to perform the activity. (A true and
 28 correct copy of United’s April 7, 2022 letter describing the 2084 Proposal is attached

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hereto as Exhibit 8.)

45. Also in advance of the April 21 hearing, United requested 15 minutes to present at the hearing. The Commission initially approved that request, but shortly before the hearing, revoked that approval and instead limited United's representative to five minutes of presentation time.

46. At its April 21, 2022 hearing, the Commission approved the CalTrout Petition, finding sufficient information to indicate the petitioned action may be warranted. The Commission also rejected a Proposed 2084 Exception and instead authorized take of Southern California Steelhead only under more limited circumstances: requiring four separate requirements to be met and disallowing incidental take on projects and activities where the proponent is legally mandated to perform the activity but does not have federal incidental take authorization.⁴

47. Under the Commission's more limited 2084 Exception, projects which currently are required by court decree and supervised by federal and state agencies, but which nevertheless do not have a federal incidental take authorization under the ESA, are in danger of having to reduce operations or violate a court order. For instance, United

⁴ The Commission's 2084 Exception was added to Title 14 Cal. Code. Regulations § 749.13 and allows take of Southern California steelhead only where a project meets four separate criteria. First, that the project must relate to flood control, a "highway" or the diversion, impoundment, or discharge of water. Second, the project must provide flood protection necessary to prevent flood damage to communities or infrastructure and is therefore immediately necessary to avoid serious harm to the public peace, health, safety, or general welfare; or public safety benefits through highway maintenance or improvements and is therefore immediately necessary to avoid serious harm to the public peace, health, safety or general welfare; or water supply or water treatment for essential domestic, agricultural, industrial, or other commercial uses and is therefore immediately necessary to avoid serious harm to the public peace, health, safety or general welfare. Third, the project must have valid take authorization from the National Marine Fisheries Service through a federal incidental take statement or incidental take permit under the federal Endangered Species Act for the Southern California steelhead Distinct Population Segment. And, finally, the project must not require the proponent of the project or activity to submit a written notification pursuant to Fish and Game Code Section 1602 or the proponent of the project or activity has submitted a notification pursuant to Section 1602 and has either received a final agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code or paid the applicable fees pursuant to Section 1609.

1 operates its Freeman Diversion in accordance with a 2016 mandate from the National
 2 Marine Fisheries Service (“NMFS”) and a subsequent federal court order and permanent
 3 injunction, which imposes standards from a final (but unadopted) 2008 Biological Opinion
 4 (“BiOp”) issued by NMFS. The 2008 BiOp includes incidental take of two adults and
 5 ninety juvenile steelhead per year. Current operations for the Freeman Diversion, including
 6 operation of the current fish ladder, are also in accordance with Streambed Alteration
 7 Agreement No. 5-443-89 and the terms and conditions of Clean Water Act Section 404
 8 permit 86-116-TS. In other words, water diversion and fish ladder operations at United’s
 9 Freeman Diversion are highly regulated and controlled by a federal court order and
 10 permanent injunction as supervised by federal and state agencies. And, as required under
 11 the permanent injunction, United is required to design and construct a new fish passage
 12 facility under the supervision of the federal court and oversight of NMFS and the
 13 Department. This new fish passage requires United’s coordination with NMFS, the U.S.
 14 Fish and Wildlife Service, and the Department on a Habitat Conservation Plan (HCP) and
 15 Incidental Take Permit under Section 10 of the ESA. The federal court’s permanent
 16 injunction imposes a very tight schedule for designing and constructing the new fish
 17 passage facility, and as even the Department and Commission staff noted during the
 18 hearings, these types of projects will not be covered under the Commission’s 2084
 19 Exception due to their refusal to include projects that are legally mandated. The
 20 Commission’s Decisions are thus likely to cause significant delay to United’s court
 21 ordered (and agency supervised) project and any similar court-ordered or legally mandated
 22 projects.

23 48. Moreover, implementing the proposal for a 2084 Exception to allow
 24 authorization of restoration projects is critical to implementing the Governor’s initiative to
 25 “cut the green tape.” The take prohibition is a prime example of “green tape” that will
 26 further delay steelhead recovery, contrary to the purpose of the listing, unless the 2084 rule
 27 is amended to provide a pathway for authorization of restoration projects.
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E. The Commission Findings Did Not Provide Any Additional Evidence or Support for the Decisions

49. The Commission provided a notice of its findings to the Office of Administrative Law on May 11, 2022.

50. The Office of Administrative Law published the Commission's findings in Notice Register 2022, Number 19-Z, May 13, 2022 ("Findings"), thereby designating southern California Steelhead as a candidate species, immediately extending full CESA protections. (A true and correct copy of the Commission's findings are attached hereto as Exhibit 9; see Cal. Fish & G. Code, §§ 2074.2(e)(2), 2085.)

51. The Commission's Findings do not include any explicit statement of the underlying facts of record supporting the Commission's Decisions. (Exhibit 9.)

FIRST CAUSE OF ACTION

(Writ of Mandate under Code of Civil Procedure Section 1094.5

Violation of the California Endangered Species Act.)

52. United incorporates by this reference the allegations set out above, as though they were set forth fully herein.

53. The Commission's decision is subject to judicial review under Code of Civil Procedure section 1094.5. (Fish & G. Code, § 2076.) Section 1094.5 provides a remedy to vacate the Commission's decision when the Commission acts in excess of its jurisdiction or abuses its discretion. (Code Civ. Proc., § 1094.5(b).)

54. The Commission acted in excess of its jurisdiction and authority when it approved the CalTrout Petition with no evidence as to resident *O. mykiss*'s population trend, a category of information expressly required by Fish and Game Code section 2072.3. The Commission does not have legal jurisdiction or authority to waive these required elements of data when deciding whether listing may be warranted.

55. The Commission acted in excess of its jurisdiction and authority when it approved the CalTrout Petition with insufficient evidence as to resident *O. mykiss*'s range,

1 a category of information expressly required by Fish and Game Code section 2072.3. The
2 Commission does not have legal jurisdiction or authority to waive these required elements
3 of data when deciding whether listing may be warranted.

4 56. The Commission acted in excess of its jurisdiction and authority when it
5 approved the CalTrout Petition with no evidence as to resident *O. mykiss*'s distribution, a
6 category of information expressly required by Fish and Game Code section 2072.3. The
7 Commission does not have legal jurisdiction or authority to waive these required elements
8 of data when deciding whether listing may be warranted.

9 57. The Commission acted in excess of its jurisdiction and authority when it
10 approved the CalTrout Petition with no evidence as to resident *O. mykiss*'s abundance, a
11 category of information expressly required by Fish and Game Code section 2072.3. The
12 Commission does not have legal jurisdiction or authority to waive these required elements
13 of data when deciding whether listing may be warranted.

14 58. The Commission acted in excess of its jurisdiction and authority when it
15 approved the CalTrout Petition with insufficient evidence as to the life history of resident
16 *O. mykiss*, a category of information expressly required by Fish and Game Code section
17 2072.3. The Commission does not have legal jurisdiction or authority to waive these
18 required elements of data when deciding whether listing may be warranted.

19 59. The Commission acted in excess of its jurisdiction and authority when it
20 approved the CalTrout Petition with no evidence as to the factors affecting the ability of
21 resident *O. Mykiss* to survive and reproduce, a category of information expressly required
22 by Fish and Game Code section 2072.3. The Commission does not have legal jurisdiction
23 or authority to waive these required elements of data when deciding whether listing may be
24 warranted.

25 60. The Commission acted in excess of its jurisdiction and authority when it
26 approved the CalTrout Petition with no evidence as to the degree and immediacy of threat
27 to resident *O. mykiss*, a category of information expressly required by Fish and Game Code
28 section 2072.3. The Commission does not have legal jurisdiction or authority to waive

1 these required elements of data when deciding whether listing may be warranted.

2 61. The Commission acted in excess of its jurisdiction and authority when it
3 approved the CalTrout Petition with no evidence as to the impact of existing management
4 on resident *O. mykiss*, a category of information expressly required by Fish and Game
5 Code section 2072.3. The Commission does not have legal jurisdiction or authority to
6 waive these required elements of data when deciding whether listing may be warranted.

7 62. The Commission acted in excess of its jurisdiction and authority when it
8 approved the CalTrout Petition with no evidence as to suggestions for future management
9 for resident *O. mykiss*, a category of information expressly required by Fish and Game
10 Code section 2072.3. The Commission does not have legal jurisdiction or authority to
11 waive these required elements of data when deciding whether listing may be warranted.

12 63. The Commission acted in excess of its jurisdiction and authority when it
13 approved the CalTrout Petition with no evidence as to the availability and sources of
14 information for resident *O. mykiss*, a category of information expressly required by Fish
15 and Game Code section 2072.3. The Commission does not have legal jurisdiction or
16 authority to waive these required elements of data when deciding whether listing may be
17 warranted.

18 64. The Commission acted in excess of its jurisdiction and authority when it
19 approved the CalTrout Petition with insufficient evidence as to the kind of habitat
20 necessary for resident *O. mykiss*'s survival, a category of information expressly required
21 by Fish and Game Code section 2072.3. The Commission does not have legal jurisdiction
22 or authority to waive these required elements of data when deciding whether listing may be
23 warranted.

24 65. The Commission acted in excess of its jurisdiction and authority when it
25 approved the CalTrout Petition with no detailed distribution map for resident *O. mykiss*, a
26 category of information expressly required by Fish and Game Code section 2072.3. The
27 Commission does not have legal jurisdiction or authority to waive these required elements
28 of data when deciding whether listing may be warranted.

1 66. The Department's reference to small-scale studies of resident *O. mykiss*
 2 (which studies were not even included within the administrative record) that show limited
 3 evidence related to resident *O. mykiss* do not, as a matter of law, provide sufficient
 4 information for any of the required informational data sets listed above. The Commission
 5 does not have legal jurisdiction or authority to waive a required element of data when
 6 deciding of whether listing maybe warranted.

7 67. The Commission abused its discretion by proceeding contrary to CESA's
 8 requirements and by making findings that listing may be warranted, when such findings
 9 were wholly lacking information relating to resident *O. mykiss* on any of the twelve
 10 required data sets of information under Fish and Game Code Section 2072.3. The
 11 Commission's Findings are merely conclusory and inadequate to support its decision.

12 68. The Commission further abused its discretion because its Findings are in
 13 violation of the *Topanga* Rule as they do not, and cannot, bridge the analytical gap
 14 between the evidence presented in the record and the Commission's decision, as critical
 15 sets of data elements are missing. (Code Civ. Proc., § 1094.5; *Topanga, supra*, at 515.)

16 69. Specifically, the Findings fail to include any explicit statement of the
 17 underlying facts of record supporting the Commission's decision. (Exhibit 9.)

18 70. The Findings further fail to: (1) show orderly analysis by the Commission;
 19 (2) provide information that would enable a reviewing court to trace and examine the
 20 Commission's analysis; (3) enable parties to determine whether and on what basis to seek
 21 judicial review; (4) show that the Commission's decision making is careful, reasoned, and
 22 equitable. (Exhibit 9; *Topanga, supra*, at 516.)

23 71. The Commission acted in excess of its jurisdiction and authority by issuing a
 24 2084 Exception which does not allow for any take on projects that are legally mandated to
 25 proceed. Specifically, the Findings fail to include any explicit statement of the underlying
 26 facts of record supporting the Commission's decision. (Exhibit 9.)

27 72. The Findings further fail to: (1) show orderly analysis by the Commission;
 28 (2) provide information that would enable a reviewing court to trace and examine the

1 Commission's Section 2084 analysis; (3) enable parties to determine whether and on what
2 basis to seek judicial review; (4) show that the Commission's decision making is careful,
3 reasoned, and equitable. (Exhibit 9; *Topanga, supra*, at 516.)

4 73. United seeks the writ requested in this Petition because Fish and Game Code
5 section 2076 specifically authorizes this remedy and United has no plain, speedy, and
6 adequate remedy in the ordinary course of law. (Code Civ. Proc., § 1086.)

7 74. United is beneficially interested in the Commission's compliance with the
8 clear and mandatory rules set out in CESA and the Commission's own regulations with
9 regard to this Petition and with regard to future listing petitions that may come before the
10 Commission.

11
12 **SECOND CAUSE OF ACTION**

13 **(Writ of Mandate under Code of Civil Procedure Section 1085)**

14 75. United incorporates by this reference the allegations set out above, as though
15 they were set forth fully herein.

16 76. United has exhausted its administrative avenues regarding this Petition.
17 Moreover, United does not have a plain, speedy, and adequate remedy in the ordinary
18 course of law.

19 77. The Commission's Decisions constitute a failure to perform a legal duty and
20 are invalid because they were taken without statutorily required evidence and procedures
21 and are thus arbitrary and capricious pursuant to Code of Civil Procedure section 1085.

22 78. United is beneficially interested in the Commission's compliance with the
23 clear and mandatory rules set out in CESA and the Commission's own regulations with
24 regard to this Petition and with regard to future listing petitions that may come before the
25 Commission.

26 **PRAYER FOR RELIEF**

27 WHEREFORE, United prays for the following relief:

28 1. That this Court, upon United's application, stay the operation of the

ATKINSON, ANDELSON, LOYA, RUUD & ROMO
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
12800 CENTER COURT DRIVE SOUTH, SUITE 300
CERRITOS, CALIFORNIA 90703-93641
TELEPHONE: (562) 453-3200
FAX: (562) 653-3333

1 Commission's action under 1094.5(g), pending a decision on the merits;

2 2. That this Court issue a Writ of Mandate compelling the Commission to
3 vacate its approval of the CalTrout Petition for consideration, and to vacate the
4 Commission's designation of southern California Steelhead as a candidate species; or in
5 the alternative, that this Court issue a Writ of Mandate compelling the Commission to
6 vacate its approval of the 2084 Exception;

7 3. For a judgment to be entered in favor of United consistent with the Writ of
8 Mandate;

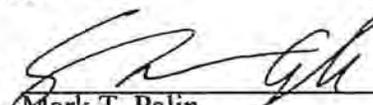
9 4. For reasonable attorneys' fees pursuant to Code of Civil Procedure section
10 1021.5 and/or Government Code section 800;

11 5. For costs of suit; and

12 6. For such other relief as the Court may deem just and proper.

13
14 Dated: July 18, 2022

ATKINSON, ANDELSON, LOYA, RUUD &
ROMO

15
16 By: 

17 Mark T. Palin
18 David D. Boyer
19 Brian M. Wheeler
20 Shawn M. Ogle
21 Christopher M. Francis
22 Attorneys for Petitioner
23
24
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Paeter Garcia

From: SYRWCD <syrwcd@specialdistrict.org>
Sent: Friday, July 29, 2022 4:17 PM
To: Paeter Garcia
Subject: Water Rights Release 2022

WARNING: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Santa Ynez River

WATER CONSERVATION DISTRICT

Bradbury Dam Scheduled to Make Downstream Releases

Santa Barbara County, California

July 29, 2022 - P R E S S R E L E A S E

FOR IMMEDIATE RELEASE

The Santa Ynez River Water Conservation District would like the Public to be aware that water will soon be released into the Santa Ynez River from Lake Cachuma's Bradbury Dam. The U.S. Bureau of Reclamation will release water from Bradbury Dam starting at approximately 8:00 a.m. on August 8, 2022. The release is being scheduled in order to provide water to recharge the groundwater basins along the Santa Ynez River downstream of the Dam. These groundwater basins provide an essential source of water for the cities, towns and farming interests along the Santa Ynez River and on the Lompoc Plain.

Initially released at about 20 cubic feet per second (cfs) and ramping up to 180 cfs (360 acre-feet per day), the water will move downstream to provide recharge as far as the Lompoc Valley. It will be confined to the "low flow" channel of the river. The release is expected to continue for about three months. The flow may impede traffic on low river crossings and caution is always advised near moving water.

The release is consistent with State water rights orders as well as agreements among users who store water in Lake Cachuma. About 10,000 acre-feet of water is expected to be released. This release will not impact water deliveries to the South Coast and has been coordinated with the Cachuma Operations and Maintenance Board (COMB). Although the Lake will be lower, facilities at Cachuma County Park, including the boat ramps, are expected to remain in full operation.

Follow the flow of the river at SYRWCD.com

News Media Contact:

Amber Thompson, District Administrator

Santa Ynez River Water Conservation District

805-693-1156, ext. 405 athompson@syrwcd.com



2021: Where is the water front today?

2021: Tracking of water released from Lake Cachuma down the Santa Ynez River toward Lompoc.

[View the map](#)

SYRWCD
P.O. Box 719, Santa Ynez, CA, 93460

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August 11, 2022

Eric Friedman
Chairman

Ray Stokes
Executive Director

Brownstein Hyatt
Farber Schreck
General Counsel

Member Agencies

City of Buellton

Carpinteria Valley
Water District

City of Guadalupe

City of Santa Barbara

City of Santa Maria

Goleta Water District

Montecito Water District

Santa Ynez River Water
Conservation District,
Improvement District #1

Associate Member

La Cumbre Mutual
Water Company

Mr. Matt Young
Santa Barbara County Water Agency
130 E. Victoria Street
Suite 200
Santa Barbara, CA 93101

Subject: Notice of Disputed Costs in Santa Barbara County Department of Public Works Water Resources Invoice No. 642 and Commencement of Audit

I have received and reviewed the Santa Barbara County, Department of Public Works Water Resources (County) Invoice No. 642 requesting reimbursement of \$324,460.51. I am writing to notify you of the Central Coast Water Authority (CCWA)'s objections to Invoice No. 642 and to each of the cost items for which reimbursement is requested, and CCWA's commencement of an audit of Invoice No. 642. Please provide your response to CCWA's audit within ten days of the date of this letter.

Pursuant to the 1991 Transfer of Financial Responsibility Agreement (TFRA), CCWA agreed to reimburse the District for

“the District’s costs of discharging its duties under the SWP [State Water Project] Contract to the extent those costs (including overhead costs) have been actually incurred and are reasonable in amount (‘Administrative Costs’).”¹

The TFRA also provides that the

“District shall provide such detail as CCWA may reasonably request and shall maintain and preserve records sufficient to enable CCWA to conduct periodic audits of Administrative Costs billed to CCWA, and CCWA may undertake such audits in such manner as it may reasonably request.”²

¹ TFRA, ¶ 2.A.

² TFRA, ¶ 2.B.

Objections:

As an initial matter, nearly all of the costs listed in County Invoice No. 642 appear³ to be unrelated to the District “discharging its duties under the SWP Contract” and therefore CCWA has no obligation to reimburse the District for such costs.

Further, even if one or more costs listed on Invoice No. 642 are Administrative Costs, as defined by the TFRA, Invoice No. 642, fails to comply with the TFRA and CCWA’s reasonable requests regarding the timing of delivery of all District invoices for reimbursement and the detail to be included in such invoices. Lastly, Invoice No. 642 provides no justification or substantiation for the imposition of a multiplier (“Indirect Cost Rate Proposals”) of 52.91% on all County Counsel staff time and 51.52% on all Water Resources staff time.

As a result, CCWA objects to both the form and substance of Invoice No. 642.

1. Not “Administrative Costs”:

Invoice No. 642 appears to include more than \$300,000 in costs unrelated to the District’s discharge of its duties under the SWP Contract. Rather, such costs appear to be related to the District’s breach of its obligations pursuant to the TFRA, as alleged in CCWA’s and CCWA members’ April, 2020 complaint against the District (Case No. 21CV02432), and the District’s defense of that action,⁴ none of which are reimbursable as Administrative Costs or any other theory.⁵ As such, it appears that the purpose of Invoice No. 642 is merely to harass CCWA and its members—further evidence of the District’s breach of the District’s obligations pursuant to the TFRA, including, but not limited to, the covenant of good faith and fair dealing, as alleged in CCWA’s and CCWA members’ complaint.

CCWA objects to Invoice No. 642 on the grounds that it includes costs that are not Administrative Costs, as defined by the TFRA.

2. Improper “Indirect Cost Rate Proposal” Charges:

Invoice No. 642 includes a multiplier, which is identified as “Indirect Cost Rate Proposal” or “ICRP,” for all County Counsel staff time and County Water Resources staff time invoiced at differing rates—52.91% and 51.52% respectively. Invoice No. 642 provides no substantiation for how or why such a multiplier applies, whether it is reasonable, or why different rates apply to County Counsel staff time and Water Resources staff time.

³ As described further below, Invoice No. 642 does not provide sufficient detail to allow for CCWA’s evaluation of the costs for which reimbursement is sought.

⁴ For example, Lina Somait, whose time in the amount of 1,039 hours is included in Invoice No. 642, is lead counsel for the District in defense of CCWA’s breach of contract action. Similarly, according to its website, Driven is a litigation support vendor specializing in e-discovery.

⁵ As described in detail in CCWA’s letter dated March 29, 2022, CCWA has no obligation to indemnify and defend the District from its breaches of the TFRA. Accordingly, on April 28, 2022, CCWA rejected the District’s claims for indemnification and defense.

CCWA objects to Invoice No. 642 on the grounds that it includes costs that are not Administrative Costs, as defined by the TFRA.

3. Improper Invoice Period:

On numerous occasions, including most recently on July 14, 2020,⁶ CCWA staff has reasonably requested that the County provide all requests for reimbursement of expenditures on at least a quarterly basis and County staff has agreed to do so. County Invoice No. 642, which includes cost items for the period July 1, 2021 through June 30, 2022, conflicts with CCWA's reasonable requests and the District's prior agreements to provide quarterly invoices.

CCWA objects to the Invoice No. 642 on the grounds that it includes costs alleged to have been incurred prior to the most recent quarter and fails to comply with the TFRA. Accordingly, any obligation CCWA may have to reimburse the County for any costs included in Invoice No. 642 has not arisen.

4. Insufficient Detail:

Also on numerous occasions, including most recently on July 14, 2020,⁷ CCWA staff has requested that the County provide sufficient detail regarding the time expended and the tasks performed on all invoices for reimbursement to allow CCWA to determine whether such costs are within the scope of CCWA's agreement to reimburse the District for Administrative Costs. Invoice No. 642 provides no detail whatsoever. The only description provided in Invoice No. 642 is "Contract extension, assignment meetings," which is woefully inadequate and insufficient to be able to determine whether the more than \$300,000 in costs identified were related to the District's discharge of its duties under the SWP Contract, actually incurred, and reasonable in amount. Moreover, I am not aware of any "assignment meetings" that have occurred in the most recent quarter, or even in the past year.

CCWA objects to the Invoice No. 642 on the grounds that it fails to provide sufficient detail and description and fails to comply with the TFRA. As a result, any obligation CCWA may have to reimburse the County for any costs included in Invoice No. 642 has not arisen.

Audit:

With reference to Invoice No. 642, please provide all of the following to me:

1. Copies of all invoices identified in Invoice 642, specifically all "Driven," and "Crossroads Staffing Services" invoices;
 - a. For each invoice, if not otherwise specified on the invoice itself, identify: the specific SWP Contract duty discharged, the tasks undertaken, the persons who performed the tasks, and the time associated with each task;
 - b. For each invoice, provide copies of all associated work-product;
2. For all County Counsel staff time:

⁶ Email correspondence from T. Fayram to R. Stokes.

⁷ Email correspondence from T. Fayram to R. Stokes.

- a. Identify the specific SWP Contract duty discharged, the tasks undertaken, the dates on which the County Counsel staff time was performed, and the amount of time associated with each task;
 - b. Provide copies of all associated work product;
 - c. Provide justification and substantiation for the District's imposition of an "Indirect Cost Rate Proposal" on all County Counsel staff time at 52.91%;
3. For all County Water Resources⁸ staff time:
- a. Identify the specific SWP Contract duty discharged, the tasks undertaken, the dates on which the County Water Resources staff time was performed, and the amount of time associated with each task;
 - b. Provide copies of all associated work product; and
 - c. Provide justification and substantiation for the District's imposition of an "Indirect Cost Rate Proposal" on all County Water Resources staff time at 51.52%.

Please deliver all information and documents responsive to this audit to me by email within 10 days of the date of this letter.

Without waiving any of the objections stated herein, in the event CCWA's audit demonstrates that any cost identified in Invoice No. 642 is an Administrative Cost, as defined by the TFRA, CCWA will promptly reimburse the District for such cost.

Partial Payment Made Under Protest:

Without waiving any of the objections stated herein, I have authorized CCWA's payment of \$13,607.10 for costs listed on Invoice No. 642 as "County Water Resources staff time." Such payment is made under protest and is subject to the District's compliance with CCWA's audit of Invoice No. 642 and CCWA's subsequent determination that the costs associated with such County Public Works staff time, and any associated overhead, was related to the District's discharge of its duties under the SWP Contract, actually incurred in the most recent quarter, and reasonable in amount.

If you have any questions regarding this letter, please contact me at 805-698-5923.



Ray Stokes
Executive Director

cc: Eric Friedman, Chair of the CCWA Board of Directors
Paeter Garcia, Santa Ynez River Water Conservation District, ID#1
Josh Haggmark, City of Santa Barbara
Rose Hess, City of Buellton
Robert McDonald, Carpinteria Valley Water District
John McInnes, Goleta Water District
Shannon Sweeney, City of Guadalupe
Nick Turner, Montecito Water District

⁸ Invoice No. 642 also refers to the same staff persons as "Public Works" staff.

INVOICE



SANTA BARBARA COUNTY DEPARTMENT OF PUBLIC WORKS WATER RESOURCES

130 E. Victoria St., Suite 200
Santa Barbara, CA 93101

Please make checks payable to:
Santa Barbara County Water Resources

Central Coast Water Authc
Attn: Ray Stokes
255 Industrial Way
Buellton, CA 93427-9565

Invoice Date: 7/5/2022
Invoice No: 642
Invoice Due: 8/6/2022

STATE WATER PROJECT CONTRACT EXTENSION	AMOUNT
Description: Contract extension, assignment meetings	
Water Resources staff time for the period of 7/1/21 - 6/30/22	\$ 13,607.10
County Counsel staff time for the period of 7/1/21 - 6/30/22	252,367.16
Driven Invoice 2/28/22	21,175.00
Driven Invoice 4/14/22	19,270.25
Driven Invoice 5/25/22	5,874.25
Driven Invoice 6/15/22	3,910.75
Crossroads Staffing Services Invoice 2/7/22	384.00
Crossroads Staffing Services Invoice 2/14/22	960.00
Crossroads Staffing Services Invoice 2/21/22	960.00
Crossroads Staffing Services Invoice 2/28/22	960.00
Crossroads Staffing Services Invoice 3/7/22	960.00
Crossroads Staffing Services Invoice 3/14/22	960.00
Crossroads Staffing Services Invoice 3/21/22	960.00
Crossroads Staffing Services Invoice 3/28/22	768.00
Crossroads Staffing Services Invoice 4/4/22	960.00
Crossroads Staffing Services Invoice 5/12/22	384.00
Total Amount Due	\$324,460.51

Questions regarding payment arrangements may be emailed to Kimberly Ruiz at kruiz@countyofsb.org
Questions regarding invoice charges may be addressed to Matt Young at mcyoung@countyofsb.org

Labor Summary (Real-Time)

From 7/1/2021 to 6/30/2022

Selection Criteria: PayPeriod = 202115-202214; Project = SWPCEX, WA8202

Layout Options: Summarized By = Department

Employee ID	Employee Name	Amount	Prod Hours	Prod Rate
Department 054 -- Public Works				
1708	FAYRAM, THOMAS DAVID	608.67	4.00	152.17
15114	YOUNG, MATTHEW C	8,371.73	73.00	114.68
Total Public Works		8,980.40	77.00	116.63
		+ 4,626.40 Flood Control ICRP @ 51.52%		
		\$ 13,607.10 Total Water Resources staff labor		





Office of the Auditor-Controller

County of Santa Barbara

One Office. One County. One Future.

Betsy M. Schaffer, CPA
Auditor-Controller

C. Edwin Price, Jr., CPA
Assistant Auditor-Controller

CERTIFICATE OF INDIRECT COSTS

Public Works Flood Control

This is to certify that I have reviewed the indirect cost rate proposal submitted herewith and to the best of my knowledge and belief:

(1) All costs included in this proposal of March 9, 2022 to establish billing or final indirect cost rates for use in fiscal year 2021-2022 are allowable in accordance with the requirements of the Federal award(s) to which they apply and 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards." Unallowable costs have been adjusted for in allocating costs as indicated in the cost allocation plan.

Indirect Cost Rate Proposal 51.52%
Apply to Direct Salaries & Benefits

(2) All costs included in the proposal are properly allocable to Federal awards on the basis of a beneficial or causal relationship between the expenses incurred and the agreements to which they are allocated in accordance with applicable requirements. Further, the same costs that have been treated as indirect costs have not been claimed as direct costs. Similar types of costs have been accounted for consistently and the Federal Government will be notified of any accounting changes that would affect the predetermined rate.

I declare that the foregoing is true and correct.

DocuSigned by:

825AE342FF78425

Betsy M. Schaffer, CPA
Auditor-Controller

3/9/2022 | 3:10 PM PST

Date

Labor Summary (Real-Time)

From 7/1/2021 to 6/30/2022

Selection Criteria: PayPeriod = 202115-202214; EmployeeID = 1-; Fund = 0001; Department = 013; Project = 8999

Layout Options: Summarized By = Project

Employee ID	Employee Name	Amount	Prod Hours	Prod Rate
Fund 0001 -- General				
Department 013 -- County Counsel				
Project 8999 -- State Water Proj				
21401	CARROLL, BARBARA	93.49	0.70	133.56
14775	HARTLEY, JOHANNAH LYNN	6,326.88	41.30	153.19
15076	HOLDERNESS, AMBER RAE	32,911.51	232.50	141.55
19588	SOMAIT, LINA	125,711.06	1,039.90	120.89
Total State Water Proj		165,042.94	1,314.40	125.57
Total County Counsel		165,042.94	1,314.40	125.57
Total General		165,042.94	1,314.40	125.57
		+ 87,324.22	County Counsel ICRP @ 52.91%	
		\$ 252,367.16	Total County Counsel staff labor	

Expenditure Transactions (Real-Time)

From 7/1/2021 to 6/30/2022

Selection Criteria: DocumentTypeAbbrevlation = IAUT; Fund = 2400; Project = SWPCEX

Layout Options: Summarized By = Fund; Page Break At = Fund

Fund 2400 -- Flood Ctrl/Wtr Cons Dst Mt

Document	Post On	Dept	LIAcct	Description	Amount	Proj
JE - 0233835	5/20/2022	054	7650	Reimburse CC for CCWA Costs - Driven Inv 2/28/22	21,175.00	SWPCEX
JE - 0233835	5/20/2022	054	7650	Reimburse CC for CCWA Costs - Driven Inv 4/14/22	19,270.25	SWPCEX
JE - 0233835	5/20/2022	054	7650	Reimburse CC for CCWA - Crossroads Inv 2/7/22	384.00	SWPCEX
JE - 0233835	5/20/2022	054	7650	Reimburse CC for CCWA - Crossroads Inv 2/14/22	960.00	SWPCEX
JE - 0233835	5/20/2022	054	7650	Reimburse CC for CCWA - Crossroads Inv 2/21/22	960.00	SWPCEX
JE - 0233835	5/20/2022	054	7650	Reimburse CC for CCWA - Crossroads Inv 2/28/22	960.00	SWPCEX
JE - 0233835	5/20/2022	054	7650	Reimburse CC for CCWA - Crossroads Inv 3/7/22	960.00	SWPCEX
JE - 0233835	5/20/2022	054	7650	Reimburse CC for CCWA - Crossroads Inv 3/21/22	960.00	SWPCEX
JE - 0233835	5/20/2022	054	7650	Reimburse CC for CCWA - Crossroads Inv 3/28/22	768.00	SWPCEX
JE - 0233835	5/20/2022	054	7650	Reimburse CC for CCWA - Crossroads Inv 4/4/22	960.00	SWPCEX
JE - 0233835	5/20/2022	054	7650	Reimburse CC for CCWA - Crossroads Inv 5/12/22	384.00	SWPCEX
CLM - 0684892	5/26/2022	054	7650	Driven Invoice 5/25/22- CCWA	5,874.25	SWPCEX
CLM - 0684195	5/31/2022	054	7650	COUNTY COUNSEL SCANNING PROJECT FOR CCWA	960.00	SWPCEX
CLM - 0689703	6/27/2022	054	7650	DRIVEN INVOICE 6/15/22- CCWA	3,910.75	SWPCEX
Total Flood Ctrl/Wtr Cons Dst Mt					<u>58,486.25</u>	



Monthly Briefing

A Summary of the Alliance's Recent and Upcoming Activities and Important Water News

Alliance Advocates for Western Farms As Global Food Insecurity Concerns Mount

Driven by concerns of rising food prices and the Russian invasion of Ukraine, the Family Farm Alliance board of directors at its meetings in Reno last February prioritized the need to improve communications on what rising inflation and the Ukraine crisis means to American consumers.

The Global Agricultural Productivity (GAP) Report in 2010 first quantified the difference between the current rate of agricultural productivity growth and the pace required to meet future world food needs.

That report predicted that total global agricultural output would have to be doubled by the year 2050 to meet the food needs of a growing global population.

The Alliance in the past month continued its efforts to educate the public and policy makers, as global realization of the looming food crisis grows every day.

Record Hunger on the Rise

Last month, the State of Food and Nutrition in the World 2022 (SOFI) report showed that after years of seeing global hunger numbers drop, it is back – and at record levels and rising.

“The numbers released last week... were incredibly disheartening,” said Ernie Shea, President of Solutions from the Land (SfL), a long-time ally of the Family Farm Alliance.

The report shows that an unprecedented count of up to 828 million people went hungry in 2021, an increase of 46 million from the previous year and a leap of 150 million people since the start of the COVID-19 pandemic. World leaders fear global price spikes in food, fuel and fertilizers will lead to widespread famine, prompting global destabi-



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Record Hunger on the Rise (Cont'd from Pg. 1)

lization, starvation and mass migration on an unprecedented scale.

SfL continues to be actively involved in finding answers to the ongoing global food security issues. SfL board member, Lois Wright Morton, a northeast Ohio specialty crop grower, provided input in a meeting last month on the second draft of a key document for the Global Strategy for Sustainable Consumption and Production, one of 17 UN Sustainable Development Goals (SDGs).

The only farmer taking part in this discussion, Ms. Morton called attention to the fact that farmers are the beginning of the food system and essential workers necessary to successfully address hunger, ensure healthy diets and protect the environment.

She reminded delegates that food and nutrition security “begins with farmers who have resources, knowledge, and technologies, and are able to make a living for their households using climate-neutral and nature-positive strategies while producing an abundance of food and quality nutrition.”

“70% of the crops are gone” in Italy’s Po River Delta

Italy’s Po River observatory has reported that the waterway is suffering its worst drought since 1952, *Forbes* reports. Italian Authorities told CNN that “70% of the crops are gone” in the Po River Delta. The river basin accounts for about 30 percent of Italy’s national agricultural output by market value.

Millions in Sri Lanka Face Food Crisis

Sri Lankan President Gotabaya Rajapaksa fled the country last month, just days after thousands of protesters stormed his residence over the nation’s crippling economic crisis. This came after months of demonstrations against Sri Lankan officials as the South Asian country grapples with severe food and fuel shortages and skyrocketing inflation.

Canadian Broadcasting Association reports that domestic food production also took a hit by the government of Sri Lanka’s April 2021 decision to ban the importation of chemical fertilizers and agrichemicals, including herbicides and pesticides, in an apparent shift to organic agriculture. But the move was abrupt, with no plan to import organic fertilizers and no boost in domestic production.

By the time the ban was partially reversed in November, farmers reported a 40 to 50 per cent loss in rice paddy crops. Fruit, vegetable and tea crops also suffered.

“Low-income households are the hardest hit and [are] adopting negative coping strategies,” the UN’s Resident Coordinator in Sri Lanka, Hanaa Singer-Hamdy, told the *Daily Mirror* last month.

The cost of chemical fertilizer has also risen dramatically since that time, amid a global shortage, leaving farmers in the lurch.

When Farmers Revolt

Farmers in the Netherlands are taking to the streets in anger, protesting sweeping environmental policy change that threatens to upend the extraordinary agricultural productivity

of the tiny country, which ranks second only to the U.S. in global exports. Amazingly, the Netherlands accomplished that impressive output with a land base that is approximately 270 times smaller than that of the U.S. – roughly one-third the size of Wisconsin.

In December 2021, the Netherlands Environmental Assessment Agency released a 13-year, 25-billion-euro plan to cut nitrogen oxide and ammonia emissions by 50% by 2030. The plan in its current state would reduce the Netherlands’ population of cattle, pigs, and poultry by roughly 30%. The potential methods of doing so include voluntary buy-outs, relocation, and even expropriation – forced sale of emission rights and even land itself to the state (*Dairy Herd Management*).

Farmers have taken their frustrations to the streets by blocking highways, storming a provincial assembly and driving a caravan of tractors into the heart of the country’s administrative and royal capitol city, The Hague. The protests have ensued for nearly three years, with a massive “freedom convoy” of trucks, tractors, and other farm implements currently rolling across the country (*Farm Progress*).

Why is the Netherlands, of all places, experiencing such unrest?

“Americans need to understand what’s happening over there because the ruinous climate policies that triggered these protests are precisely what President Joe Biden and the Democrats have in mind for the United States,” writes John Daniel Davidson in *The Federalist*. “Specifically, Dutch farmers are protesting a government plan to cut fertilizer use and reduce livestock numbers so drastically that it will force many farms out of business.”

“U.S. farmers need to make sure they still can keep producing food for the world and maintain national security,” adds *Farm Progress* policy editor Jacqui Fatka. “Let’s hope U.S. farmers continue to have strong advocates...to keep U.S. farmers in business. Otherwise, U.S. farmers might be next storming the streets of our capitol to object to policy decisions.”

Development Taking U.S. Ag Lands Out of Production

Back in the U.S.A., a bewildering set of forces appear to be aligned against keeping domestic agricultural lands in production.

Western Farmer Stockman recently reported on the latest study from American Farmland Trust (AFT) which shows that two Western states are paving over and compromising productive farmland at the fastest rate in the U.S.

In a recent report titled “Farms under threat 2040,” Arizona and California top the list of states that continue to face high urbanization rates and the impacts of climate change.

According to the AFT report, Maricopa County, Arizona – which includes Phoenix and its many suburbs - is losing farmland at a faster rate than any other county in the nation.

Late last year farmers in at least one Pinal County water district south of Maricopa were warned that their irrigation allotments would be cut by over 50% because of declining

Continued on Page 3

Record Hunger on the Rise (Cont'd from Pg. 2)

levels at Lake Mead and curtailments of access to irrigation supplies through the Central Arizona Project, *Western Farmer Stockman* reports.

In California, Riverside and San Bernardino counties are said to be the two fastest in the state to be losing farmland. Fresno County, the nation's leading agricultural county by gross value, is in third place, and the 17th fastest in the nation.

"If we continue to develop land as usual, we will continue to lose the most important farmland in the world, and that will affect our local food supply," Kara Heckert, AFT's resilience agriculture advisor from the West, told *Western Farmer Stockman*.

Eco Groups Buying Up Ag Land

Elsewhere, the American Prairie (AP), a conservation project in Montana, has quietly scooped up more than 450,000 acres of land with the help of its billionaire donors and the federal government, *Fox News* recently reported.

The group has recorded 34 transactions spanning roughly 453,188 acres of land throughout central Montana — much of which were once used for farming and grazing — since 2004 and continues to aggressively expand.

Chuck Denowh, who represents a group made up of local ranchers opposed to AP's plans, told *Fox News Digital* that the vast majority of locals throughout the surrounding counties who have looked after and conserved the land for decades are opposed to the AP's plans. The region is almost entirely dependent on the agriculture industry.

"It's really concerning that we have such an amount of foreign money coming into AP to buy up our ag land," he said. "For the future of food security of this country, we need to take a close look at that."

Drought Impacts to the Nation's #1 Ag Economy

Nearly the entire state of California, which has the nation's largest agricultural economy by far (and is ranked in the top 10 in the world) is currently in the "severe" drought category or worse, and three-quarters is experiencing "extreme" to "exceptional" drought, according to U.S. Drought Monitor.

The drought is impacting a variety of agricultural products in California. Olive oil production is expected to drop significantly in the 2022/23 crop year compared with the previous harvest. And, higher milk prices are not helping dairy producers as production drops.

According to the Olive Oil Commission of California

(OCCC), which represents 90 percent of the Golden state's production, its members will produce 1.8 million gallons in the current crop year. Last year, OCCC members combined to produce three million gallons in 2021/22

Producers faced a range of challenges, from high winds damaging trees during blossoming to the state's unrelenting drought.

Producer Zach Thorp recently told *Olive Oil Times* how "the climate is not the same as it was five years ago and we are constantly needing to network with other California growers in order to problem solve an ever-growing issue."

Elsewhere in the Golden State, higher milk prices are not bringing good news for California dairy farmers, according to a recent article in *Ag Alert*. Amid price spikes, demand for dairy products is slipping and production is dropping. At the same time, feed costs are rising and supplies are tightening amid the drought.

Input costs have increased exponentially thanks to inflation. Farming necessities such as fertilizer, hay, and even power bills for needing to pump water have all increased.

"All things considered, the margins would be positive," Tulare County dairy farmer Joey Airosso said. "When you overlay the water situation over the top, it becomes negative."

As a result, dairies are milking fewer cows. Meanwhile, a stronger cattle market is incentivizing some dairies to raise more bulls for beef than dairy replacement heifers, *Ag Alert* reports. Across the country, that

is lowering U.S. cow numbers.

Even if California gets rain to offset the drought, Jim Ricker, who owns Prather Ranch in Shasta County, said the effects of it will be felt long after it's gone.

"It needs to rain, that's what it needs to do," Mr. Ricker told KRCR TV in Redding. "We need more precipitation. And when we get that done we'll be back on board but we aren't going to be through it. You're going to have to rebuild the herds and that takes time."

AccuWeather reports that farmers in California are becoming increasingly worried about how the prolonged drought will impact consumers around the country.

"Hundreds of thousands of acres of farmland have been fallowed across California," said Fresno County Farm Bureau CEO Ryan Jacobsen. "Some farmers say even more fields could go dry and out of production by next year."

California's agricultural economy last year shouldered \$1.2



Ryan Jacobsen, Fresno County, California Farm Bureau Chief Executive Officer. Photo courtesy of Fresno County Farm Bureau.

Continued on Page 14

Crisis on the Colorado River

Tensions intensify as immediate solutions are sought

Colorado River Basin states and water users in the past month have been both posturing and scrambling to find ways to respond Bureau of Reclamation Commissioner Camille Touton's June 2022 message to a Senate Committee: the seven states must come up with an emergency deal by mid-August to conserve between 2 and 4 million acre-feet of water in the next year in order to protect the entire system.

"The honest answer is there's an active conversation happening right now," Interior Department Assistant Secretary for Water and Science Tanya Trujillo said at a July Western Governors' Association meeting, where she spoke on a Western drought panel. "We've been engaging in a dialogue to think creatively about what additional conservation we can do."

If unsatisfied with the voluntary commitments, Reclamation and the Interior Department are prepared to use their federal authority to implement mandatory water conservation actions, Commissioner Touton said before the Senate Energy and Natural Resources Committee last June.

"Commissioner Camille Touton's description earlier today regarding conditions on the Colorado River system should remove any remaining doubt that the Colorado River States and our federal partners have a duty to take immediate action – no matter how painful – to protect the system from crashing," said Arizona Department of Water Resources Director Tom Buschatzke at the time.

Increased Federal Agency Coordination

Additional federal resources are being brought to bear in the Colorado River Basin and other parts of the West as the Army Corp of Engineers is now poised to delve into the Western "drought resilience" arena.

Assistant Secretary of the Army for Civil Works Michael Connor, a fellow panelist of Assistant Secretary Trujillo's at the WGA conference, last month issued an order that directs the Army Corps to submit a report within 45 days detailing ongoing, planned, and additional potential civil works projects addressing drought impacts.

"Clearly, we're thinking and implementing an expanded federal approach in the area of drought resilience, bringing new resources, new tools, to work with the agencies that have

historically been primarily dealing with drought issues," said Assistant Secretary Connor.

Grim Hydrology

The Colorado River Compact of 1922 divided the Colorado River between seven Western states and the Country of

Mexico and designated how to share 16.5- million acre-feet of water. However, recent estimates say the Basin produces a total volume more like 11- million acre-feet of water. The Lower Basin has experienced Tier 1 shortages cutting water supply deliveries to Arizona (-18%) and Nevada (-7%) beginning last year.

Reduced Colorado River flows are evident in record low levels in the Lake Powell (backed up by Glen Canyon Dam) and Lake Mead (behind Hoover Dam) reservoirs. Lake Powell is now at 28% of its 24 million acre-ft. In March, water levels fell below elevation 3,525 feet for the first time. If the lake drops just another 32ft, Glen Canyon

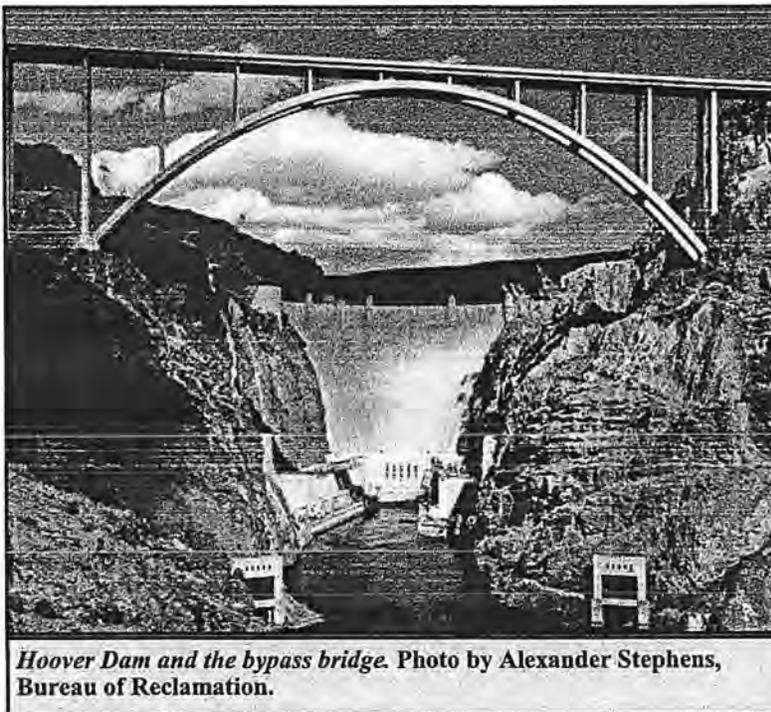
Dam will no longer be able to generate power for the millions of Westerners who rely on it.

Commissioner Touton told the Senate ENR Committee that shortages on the Colorado River system need at least 2 million acre-feet of reduction in water use by 2023 just to keep Lake Mead functioning and physically capable of delivering drinking water, irrigation and power to millions of people.

"The science of the system across the West and especially in the Colorado River basin indicate one of immediate action," she said. "But in the Colorado River basin, more conservation and demand management are needed in addition to the actions already underway."

Wyoming rancher and Family Farm Alliance President Patrick O'Toole told the Senate committee that farmers and ranchers are always the first ones asked to make sacrifices.

"Here's the reality ... we're in an unprecedented situation," Mr. O'Toole said during the hearing. "We're about to do with agriculture what we did with manufacturing, let it go overseas. We cannot give up our production to the Third World."



Hoover Dam and the bypass bridge. Photo by Alexander Stephens, Bureau of Reclamation.

Continued on Page 5

Crisis on the Colorado River (*Cont'd from Page 4*)

Lower Basin State Efforts

In the Lower Colorado River Basin, 4.4 million acre-feet of water is available to California. Arizona gets about 2.8 million acre-feet, the country of Mexico receives 1.5 million acre-feet, Southern Nevada gets 300,000 acre-feet.

John Enstminger (Southern Nevada Water Authority) emphasized urban efforts to reduce per-capita water use at the June Senate ENR Committee hearing and suggested that agriculture must also cut its consumption. He also noted that SNWA is planning to serve a population that will swell to 3.8 million by 2072.

Bronson Mack, spokesperson and Outreach Manager for SNWA, also recently pitched a similar message in an interview with KVVU.

"Since 2002, when this drought started, our community has reduced its consumption of water from Lake Mead by 26% and we did that at the same time that our community increased in population by more than 750,000 people," Mr. Mack said.

Arizona lawmakers are also moving forward with efforts to solve the crisis. One of the final bills that was signed into law by Governor Doug Ducey provides \$1.2 billion over three years to find new sources of water and further lower water demand in the state.

Some of the project ideas are big, such as building a desalination plant in the Gulf of California or importing piped water from major rivers to the east, such as the Missouri or Mississippi.

Sharon Megdal, director of The University of Arizona Water Resource Research Center, told KUNC that her mind was changed about those ideas when she heard that the notion was to only take water when those rivers are at flood stage.

"They're talking about the potential for a win-win, not that Arizona is going to make a grab for some other state's water and that other state doesn't want that to happen," she said. "There may be opportunity for collaboration."

Concerns of Lower Basin Water Users

Since Commissioner Touton's announcement at the Senate hearing, there's been a flurry of forums and meetings of agriculture landowners and organizations in the Lower Basin to discuss the crisis and how to respond to it.

Irrigation districts, farm organizations, and producers in California's Imperial Valley and Yuma, Arizona are working on a variety of proposals that could eventually be merged and used to work with the states and Congress to provide additional resources, tools, and authorization to address the grim Colorado River hydrology.

A local meeting hosted by Yuma agricultural water users in June drew several hundred people to see a presentation on one proposal that asks for several billion dollars to be paid in a large-scale fallowing program that could take hundreds of thousands of acres of farmland out of production.

There are several proposals that have been floated since late June, and key issues that are being addressed include potential costs to compensate growers for limiting water use, costs associated with mitigating for economic and social impacts to communities, agencies and service providers, and

addressing additional environmental and community safety concerns associated with the shrinking Salton Sea, which receives much of its inflow from Imperial Irrigation District return flows.

Farmers along the Lower Colorado River are bracing for severe reductions next year in their river water supplies — cuts they say could lead to widespread crop production cutbacks, major economic dislocation and, possibly, food shortages.

Bart Fisher, a governing board member for the Palo Verde Irrigation District, outside Blythe, California, told Tucson.com that the district already agreed in 2021 to fallow up to 19,461 of its 94,000 acres for three years starting this year, in return for \$38 million in compensation from state and federal agencies.

"Then, if they come and say we need significantly more fallowing, what's left to farm? What about our farmworkers? What about rural communities? When people don't have employment, they are going to find employment somewhere else. We don't want to be depopulated," Mr. Fisher told Tucson.com.

Upper Basin: New Cuts Should Come From Lower Basin

States in the Upper Colorado River Basin (Wyoming/Colorado/Utah/New Mexico) through the Upper Colorado River Commission (UCRC) last month told Reclamation that persistent drought in the Basin has already diminished their available water supplies through state water right cuts under the prior appropriation doctrine (aka Western water law), and that any additional water use cuts in the Basin should focus on water used by the Lower Basin states of Arizona, California and Nevada.

"We stand ready to participate in and support efforts, across the Basin, to address the continuing dry hydrology and depleted storage conditions," Upper Colorado River Commission Executive Director Charles Cullom stated in the July 18 letter to Reclamation. "The options the Upper Division States have available to protect critical reservoir elevations are limited."

The UCRC letter called for enhanced water measurement, monitoring, and reporting infrastructure to improve water management, but stopped short of identifying any water cutbacks in the Upper Basin.

"The challenges in the Colorado River Basin affect us all and require collaboration across the entire Basin," the letter states, but adds that the lower basin states and Mexico should bear the brunt of additional reductions.

In a conversation on CPR's *Colorado Matters*, Becky Mitchell (the commissioner of the Colorado Water Conservation Board) echoed that sentiment, and said most of that responsibility should be on the states in the lower part of the river basin: Arizona, Nevada and California.

"They're using more than mother nature provides," Ms. Mitchell said.

Andy Mueller, the general manager of the Colorado River Conservation District and a member of the Family Farm Alli-

Continued on Page 5

Crisis on the Colorado River (Cont'd from Page 5)

ance Advisory Committee, said that Western Slope farmers and ranchers have “born almost the entire burden” of water cuts in the state over the last 20 years of drought.

“Those cuts have not necessarily been to the cities or to industry. It’s really taken water directly out of agriculture,” Mr. Mueller said.

He said Colorado farmers and ranchers are obligated to continue to conserve water but noted that water users in Denver and other Front Range communities that use Colorado River water also share that obligation.

Wyoming joined the three other Upper Colorado River Basin states last month in telling federal officials they will take on additional water conservation efforts but cannot commit to sending specific volumes of water to downstream states in 2023.

“The System Conservation Pilot Program is nothing more than a delay tactic by the upper states to hold off any action by Reclamation,” said one Western Slope critic who wished to remain anonymous. “It will not result in any water making it to Lake Powell. Even if it does, the volumes will be minute and insignificant.”

Skeptics of the Systems Conservation program say there is no agreement among the Upper Basin states to shepherd the other states’ conserved water to Lake Powell. The states lack the ability to actually administer a voluntary “random” program, and unless the federal government pays for it, there is not adequate funding.

BOR Seeks Input on Long-Term Operating Guidelines

While the short-term actions are front and center, Reclamation does not want to put the long-term Colorado River operating guidelines – which expire in 2026 - on the back burner.

Reclamation published a *Federal Register* notice on June 24 seeking public input on how to foster meaningful participation by all stakeholders in preparation for beginning the National Environmental Policy Act process to develop post-

2026 operating approaches for the Colorado River, and operating strategies to address post-2026.

The public input period ends September 1, 2022.

Family Farm Alliance Engagement

The Family Farm Alliance board of directors on March 11 formally adopted a policy brief that sets forth Colorado River principles developed in collaboration with several key agricultural interests.

“We believe this group can play a major role as the seven Colorado River Basin States and Basin stakeholders engage to replace the 2007 Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead,” said Alliance Executive Director Dan Keppen.

The Alliance policy brief urges Colorado

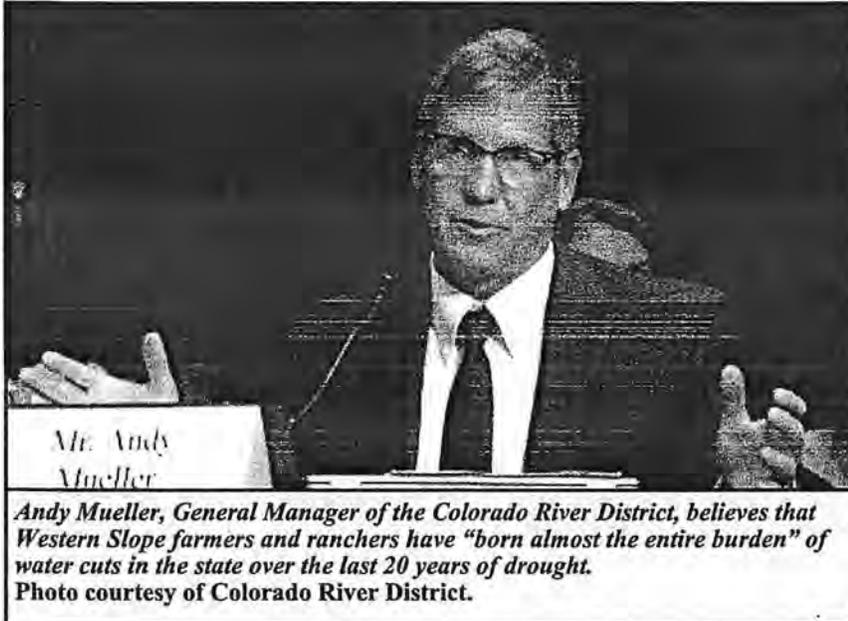
River Compact decision makers to incorporate 8 principles into new operating guidelines. At the top of the list is a demand that Colorado River decision-makers recognize that Western irrigated agriculture is a strategic and irreplaceable national resource.

The Alliance policy brief has already been adopted by IID, Palo Verde Irrigation District, Dolores Water Conservancy District, Yuma County Ag Water Coalition, Wellton-Mohawk Irrigation & Drainage District, Central Arizona Irrigation and Drainage District and the Maricopa Stanfield Irrigation and Drainage District.

Other agricultural water districts throughout the Colorado River Basin are also considering adopting the policy brief.

The Alliance has been monitoring meetings with several of its member districts in Arizona and California in the past month.

“We believe that the myriad of diverse Colorado River Basin interests can and will successfully work through future droughts and water shortages in a collaborative and effective way,” said Alliance President O’Toole. “The future of millions of people in urban areas, millions of acres of farms and ranches and the food and fiber they produce, and the many rural communities that dot the landscape in the Basin rest on this belief.”



Extreme July Weather Batters the West

California and Klamath Basin Water Users Continue to Face Challenges

Drought persisted across much of the West in July, while flash drought over parts of the Great Plains continued to intensify and cause agricultural problems.

Heavy rains in south-central and southwest South Dakota, and in southern Nebraska, northern Kansas, and east-central Kansas, led to locally improved drought and dryness conditions. Meanwhile, south of the heavier rains, flash drought continued to take hold in southern Kansas, where a combination of dry and hot weather worsened conditions.

Some fear that the severe drought and the brutal heat that are threatening the Texas beef cattle production could soon make their way to Kansas (KWCH 12).

“Luckily, we have a couple of circles of hay to get us by for the winter. For now, like down in Texas, they don’t have no grass,” Beau Schauvliege, a rancher from Wilmore (KANSAS), told KWCH 12 TV. “Stuff is starting to burn up. It ain’t no good, and it ain’t going to be good neither.”

Extreme drought expanded in parts of southwest Nebraska, where short- and long-term precipitation deficits worsened conditions amid poor crop health. Drought also expanded in northeast Nebraska and southeast South Dakota, where soil moisture deficits continued to mount amid warm temperatures and dry weather. Extreme drought also developed in western Wyoming.

Rainfall from the North American Monsoon occurred in parts of southern, central, and eastern Colorado, locally easing drought conditions in the eastern part of the state. Monsoon rainfall over the last few weeks led to some improvements in the drought situation across Arizona and New Mexico. Rain also fell in parts of Nevada, Utah, and eastern California in the latter half of the month.

Monsoonal rains and thunderstorms overtook Las Vegas on successive evenings in late July, causing flash flooding that turned parts of the Strip into rivers.

The Washington State Department of Ecology (Ecology) canceled their drought declaration for central and eastern Washington because of cool, wet weather conditions in May and June of this year.

“All areas of the state, including the five watersheds specified in the drought declaration, have received significantly above-normal precipitation,” Jeff Marti, Ecology’s statewide drought coordinator, told the *Tacoma News Tribune*. “The outlook is much better than forecast back in May.”

Washington had the second wettest May through June since 1895, according to Ecology, in contrast to last year’s second driest spring on record. As a result, no part of the state is experiencing drought conditions.

Elsewhere, widespread drought continued across a large portion of the Western U.S.

Some Good News for California

A recent environmental poll found that Californians believe the state’s water supply is their number one environmental worry, topping wildfires and climate change. The *Mercury News* reported that 68% of adults say it’s a big problem – up from 63% a year ago.

Despite the crippling damage the drought is inflicting up-

on California agriculture (see headline story, *Page 1*), there have been some positive developments on the Golden State water scene.

Shasta Lake – the state’s largest storage reservoir and the crown jewel of the federal Central Valley Project – sits at 38% capacity heading into the hottest months of the year. State Water Project reservoirs across Northern and Central California remain below historical averages after three consecutive years of drought. But with a combination of people cutting water use, curtailments, farmers fallowing fields and a focus on storage, the reservoirs in the State Water Project are either above or near where they were last year. By the end of September, the reservoirs are forecast to be below historical averages but higher than 2021 (*Courthouse News*).

On July 20, the Bureau of Reclamation (Reclamation) announced it would increase the water supply delivered to contractors along the eastern side of the San Joaquin Valley to 30%, doubling the original allocation of 15% announced in February. It was the second time in July that Reclamation increased its allocation for water contractors along the 152-mile canal stretching from Fresno to Bakersfield. On July 8, USBR announced Friant contractors would receive 20% of its 2022 water allocation.

Friant Water Authority communications manager Alex Biering, who serves on the Family Farm Alliance Advisory Committee, told the *Sun-Gazette* said it is common for Reclamation to revise its allocations throughout the year, especially during a drought. In a wet year, like 2019, Friant contractors get a full allocation of Class 1 water, or 800,000 acre-feet. Class 1 contractors are those who receive water before anyone else while Class 2 contractors only receive water when there is more than enough to supply Class 1.

“Based on our analysis from Reclamation, we calculated there should be up to 40% of Class 1 water,” Ms. Biering said, “but still nothing for Class 2. This gets us a little closer to that so we are thankful for Reclamation’s decision to continually revise the number.”

Draft EIR Released for Delta Conveyance Project

A new plan to reroute how water moves from wetter Northern California to drier Southern California would convey it through a single, 45-mile underground tunnel, skirting the state’s existing water delivery system in the Bay-Delta, and dumping the water straight into the main aqueduct that sends it south to supply millions of acres of farmland and millions of people.

The California Department of Water Resources (DWR) has released and is now accepting comments on the proposed Delta Conveyance Project Draft Environmental Impact Report (EIR) through October 27, 2022. The Draft EIR was prepared by DWR as the lead agency to comply with the requirements of the California Environmental Quality Act by evaluating a range of alternatives to the proposed project and disclosing potential environmental effects of the proposed project and

Continued on Page 8

Draft EIR Released for Delta Conveyance Project *(Cont'd from Pg 7)*

alternatives, and associated mitigation measures for potentially significant impacts.

"Today's release of the Draft EIR for the proposed Delta Conveyance Project represents an important step to advance these efforts and the needed dialogue that can safeguard a vital source of water for millions of Californians," the Metropolitan Water District of Southern California said in a public statement.

California PPIC Report Questions Environmental Flows, Calls for More Storage

A new policy brief from the Public Policy Institute of California (PPIC) addresses the role environmental regulations play in increased outflows from the Bay-Delta.

Policy changes since the 1990s set pumping limits and regulated water flow to protect endangered species, a topic covered in "The 2014 drought and water management policy impacts on California's Central Valley food production," co-authored by Family Farm Alliance Executive Director Dan Kepen and Dr. Tricia Dutcher and published by the Journal of Environmental Studies and Sciences in 2015.

"Despite these changes, populations of many native species and the health of Delta ecosystems continue to decline," the PPIC brief reads.

The report also concludes that wet years are increasingly important for supply.

"Expanding above- and below-ground storage capacity could increase Delta exports without changing current regulations," the brief reads. "In [wetter] years, more water could also be captured and stored upstream. Managers also need to adapt how they manage water storage in the watershed in a warming climate, where the snowpack is storing less water than it has historically."

Klamath Project Woes Continue

After a year in which no water flowed through the Klamath Project "A" Canal for the first time in over a century, Klamath Project irrigators continue to face water supply uncertainty in the second year of serious drought.

Earlier this year, Reclamation announced it would provide a limited water allocation for the Project, which serves roughly 200,000 acres of farmland in Southern Oregon and Northern California. That included zero water for districts with junior rights.

In a ten-page letter to Ernest Conant, Regional Director for Reclamation, Klamath Water Users Association (KWUA) last month expressed its strong objection to the potential extension of the Interim Operations Plan (IOP) that was adopted for the Klamath Project in 2020. KWUA Executive Director Paul Simmons wrote that the IOP is "unfair, ineffective, and dysfunctional," and identified several deficiencies in the IOP.

Project irrigators are not alone in their criticism of the IOP. The Klamath Tribes joined KWUA in a July 21 letter to Reclamation and the Department of Interior, urging the federal government to complete a new Endangered Species Act consultation.

"Everyone agrees the IOP is flawed, unworkable, and that an extension would be neither in the public interest nor conducive to reducing conflict in the Klamath Basin," the letter reads. "We do not presume that a new consultation will be perfect or that we will find nothing objectionable in the outcome. But it does not serve the Klamath Basin, its communities, or its fish and wildlife to continue...to operate under the IOP."

Earlier in the month, the United States filed a lawsuit against Klamath Drainage District (KDD) for allegedly making illegal water diversions in the midst of the multi-year drought that has left the basin exceptionally dry.

The Department of Justice, on behalf of Reclamation, filed a complaint against the district alleging there is no "Project Supply" available for the district and further alleging the district is making "unauthorized diversions" in breach of its contract.

Scott White, KDD's General Manager, contends that this is not a contract issue at all and points to the district's existing water rights of record.

"The Bureau has literally acknowledged and affirmed KDD's water rights in the past and encouraged us to exercise them when there is no Project Supply available," said Mr. White. "It's incredible that they claim we are in breach of contract for doing the very thing they asked of us for years."



Dry Canal, Klamath Irrigation Project.
Photo courtesy of Klamath Water Users Association.

Manchin, Schumer Introduce “Inflation Reduction Act of 2022” *Reconciliation package includes \$20 billion for climate-smart ag practices*

After holding back support for a massive reconciliation package for months, Senator Joe Manchin (D-WV) buoyed the hopes of Congressional Democrats last month when he and Senate Majority Leader Chuck Schumer (D-NY) announced an agreement that would provide \$444 billion for climate and health care programs.

“The *Inflation Reduction Act of 2022* will make a historic down payment on deficit reduction to fight inflation, invest in domestic energy production and manufacturing, and reduce carbon emissions by roughly 40 percent by 2030,” Senators Manchin and Schumer said in a prepared statement. “The bill will finally allow Medicare to negotiate for prescription drugs and lower health care costs for millions of Americans.”

Climate-Smart Agriculture Provisions

The new agreement includes over \$20 billion for “climate smart agricultural practices, with most of the money going to U.S. Department of Agriculture (USDA) conservation programs that focus on reducing greenhouse gases, improving soil carbon or reducing nitrogen losses.

“From climate-smart agriculture, to supporting healthy forests and conservation, to tax credits, to biofuels, infrastructure and beyond, this agreement provides USDA with significant additional resources to continue to lead the charge,” said USDA Secretary Tom Vilsack.

All Eyes on Senator Sinema

Democrats are using a process called budget reconciliation that allows a bill to advance in the Senate with a simple majority, rather than the 60-vote supermajority usually needed. To become law before the Senate escapes for its August break, the proposed reconciliation package needs all 50 Democrats and a tie-breaking vote from Vice President Harris as well as approval by the House.

Many Senate Democrats have signaled they will support the deal, but one key Western moderate – Krysten Sinema (D-ARIZONA), who has opposed past reconciliation moves (e.g., President Biden’s “Build Back Better” plan) - is holding out until she has studied the legislation. In past public statements, Senator Sinema has repeatedly said that she has opposed tax increases that she thinks would harm U.S. economic growth.

“Recession”...or not?

The plan was also announced within days of new data released by the Commerce Department showing that the U.S. gross domestic product (GDP) shrunk for the second-straight quarter this year. GDP fell at a yearly pace of 0.9 percent.

Two straight quarters of negative economic growth have been used as an indicator to determine when the U.S. is in recession and is the formal threshold for a recession in other countries.

President Biden sought to reassure the country that the economy is not currently in a recession, pointing to claims of strong job creation and wages in the first half of the year.

“That doesn’t sound like recession to me,” he said.

Republicans blasted the new plan, saying it will only cause further financial pain to Americans, especially in light of the trillion-dollar coronavirus relief package and infrastructure bills passed by Congress last year.

“The definition of insanity? Doing the same thing over and over and expecting different results,” the Republican congressman Vern Gale Buchanan of Florida wrote on Twitter. “Yet here we are now entering a recession and Democrats are trying to spend hundreds of billions of dollars on Green New Deal priorities and raise taxes on America’s job creators.”

However, some Democrats say they think passing a reconciliation bill that increases taxes on some high earners would help reduce inflation.

“What we’re doing is cutting costs for consumers. That has a real anti-inflationary impact, cutting medical costs, cutting energy costs, paying down debt,” Senate Finance Committee Chairman Ron Wyden (D-OR) told *The Hill*. “That is the anti-inflationary ‘cutting costs for consumers point’ of our bill.”

What About the Western Drought?

Many regions in the Western U.S. are currently facing the worst drought in the last 1,200 years, a crisis that was the topic of a critically important Energy and Natural Resources Committee hearing conducted by Chairman Manchin in June.

A coalition of Western ag and water organizations- including the Family Farm Alliance - sent a letter to Senate leaders last month, expressing “surprise and concern” about how climate legislation fails to include meaningful provisions to address water security and emergency drought response.

“There is a clear and undebatable link between reduced water availability, escalating food prices and shortages, and the climate crisis,” the organizations wrote. “Failing to address these critically important water challenges in any reconciliation package or other legislative vehicle will be a missed opportunity, and in a year where the impacts of drought are being so acutely felt, citizens across the West would view this as a glaring omission.”

None of the nine organizations signing the letter – which also included the Agribusiness and Water Association of Arizona, the Association of California Water Agencies, National Water Resources Association, Western Growers Association, and four Western state Farm Bureaus – have formally supported the Inflation Reduction Act.

“The overall reconciliation proposal being considered will impact our members in different ways and our positions on the legislation vary,” the letter states. “Nevertheless, if a reconciliation package is considered- we strongly urge you to include provisions to provide immediate drought relief to the Western United States.”

House Passes Large Drought, Wildfire Package in Partisan Vote

House Democrats late last month passed the "Wildfire Response and Drought Resiliency Act," H.R. 5118, a package of 48 bills related to wildfire, forest management and drought.

"For families across the country who have lost their homes due to these devastating wildfires and for the neighborhoods impacted by drought, we know that we need to apply a whole-of-government approach to support community recovery and bolster environmental resiliency," said Rep. Joe Neguse (D-COLORADO). "This is a bill that we believe meets the moment for the West."

One Republican, Pennsylvania Rep. Brian Fitzpatrick, voted in favor of the bill, while Oregon Rep. Kurt Schrader was the only Democrat to oppose it.

The authorizing legislation would boost spending on wildland firefighting, forest management projects that make federal forests more fire resilient, and several near-term water projects like reuse, recycling, desalination, and conservation to increase drought resiliency in the West.

Over 40 amendments were filed with the House Rules Committee, but only a handful were approved for consideration prior to the floor vote.

House Republicans believe the package fails to increase the pace and scale of critical forest management projects to reduce wildfire risk and does not deliver regulatory streamlin-

ing or construct the kind of long-term infrastructure needed to make communities resilient to drought.

"The title of this sham legislation tells you everything you need to know: instead of preventing wildfires and drought, Democrats merely want to respond to it," said House Committee on Natural Resources Ranking Member Bruce Westerman (R-Ark.). "Americans living in fear of their homes burning down, wildlife whose habitat may be lost forever, and firefighters putting their lives on the line deserve better."

Committee Republicans also believe H.R. 5118 does nothing for long-term water solutions in the West, where much of the nation's food supply is produced, claiming the package "channels billions of dollars of federal funding toward unnecessary research and restoration projects that don't deliver water to communities in need".

"Bottom line, this is a spending-centric package that is devoid of necessary regulatory reforms and streamlining, adds red tape, and authorizes unnecessary and duplicative programs in the name of environmental justice," House Natural Resources Committee Republicans said in a statement prior to the House floor vote.

While the House package passed along mainly party lines, it faces an uphill battle in the Senate, although parts of the bill may become part of a future negotiated bipartisan House-Senate natural resource title later this year.

SCOTUS 'Major Questions' Ruling Opens EPA to Future Rule Challenges

The Supreme Court of the United States (SCOTUS) used the "major questions" doctrine in its June 30 6-3 decision in *West Virginia v. EPA* that limited the EPA from mandating energy sources that reduce greenhouse gas emissions to combat climate change.

The "major-questions doctrine," said the Court, responds to "the danger posed by the growing power of the administrative state." It rests on "two overlapping and reinforcing presumptions" — that Congress "intends to make major policy decisions itself," and that Congress should make those choices under a "separation of powers-based" default against delegating "major lawmaking authority."

The ruling was cheered by many in the business, industry and agricultural communities, as well as Republican lawmakers.

"Let's be clear: In no way, shape, or form does the Clean Air Act authorize the EPA to cap carbon dioxide emissions in such a way that forces a nationwide transition away from the

largest energy-producing industry we have," Rep. Doug LaMalfa (R-CALIFORNIA) recently wrote in the *Washington Examiner*. "Those elected by the people to represent the will

of the people are the only ones who have the authority to determine decisions of this economic and political magnitude — not unelected bureaucrats."

The decision could open the door to other future rule challenges at the agency.

The major questions doctrine essentially would push to the courts any agency decision that is either not explicitly backed by statutory language in the law or that fundamentally changes the statute, putting many agency regulations at risk

of litigation and nationwide injunctions.

One case that could be impacted by the SCOTUS' use of the major decisions doctrine is in *Sackett v. EPA* over how to define "waters of the U.S." that would set the reach of federal agency jurisdiction under the Clean Water Act. *Sackett* is scheduled to be heard by the SCOTUS on October 3 of this year.



Senate ENR Committee Passes Four Western Water Bills

The Senate Energy and Natural Resources (ENR) Committee last month marked up a handful of Western water bills that were passed by a voice vote. The Family Farm Alliance has been engaged in the development of several of these bills over the past 18 months.

S. 2693, sponsored by Senator Padilla (D-CALIFORNIA), is a bill to authorize projects related to the Salton Sea. Senators Barrasso (R-WYOMING) and Hickenlooper (D-COLORADO) offered an amendment to this bill that would extend the Colorado River Drought Contingency Plan conservation authorities.

"This is the first step in a collaborative plan to restore the Colorado River. We need more programs where water users are empowered to conserve water where and when it makes sense for them," said Senator Hickenlooper. "If we just sit around suing each other over a hundred-year-old agreement, we'll watch the river run dry."

The committee also passed by a voice vote Senator Daines' (R-MONTANA) S. 3450, a bill to authorize the construction, operation, and maintenance of facilities in the Sun River project, Montana, for the purpose of hydroelectric power generation. S. 4176, sponsored by Senator Risch (R-IDAHO), was also approved by the committee. It would amend the Infrastructure Investment and Jobs Act (IIJA) to modify the eligibility requirements for certain small water storage and groundwater storage projects and to authorize the use of funds for certain additional CARE Act projects, and for other purposes.

The Family Farm Alliance has been advocating to expand the eligibility of this program to include reregulating reservoirs by changing the minimum reservoir capacity size from the 2,000 acre-ft limit (as directed in the 2021 IIJA) to 2 acre-ft. The amendment proposes a minimum of 200 acre-ft.

"This change should allow most of the expensive reregulating reservoirs to qualify while pushing the smaller projects to WaterSMART and other programs," said Mark Limbaugh with The Ferguson Group, the Alliance's voice in Washington, D.C.

H.R. 5001, an act to implement endangered fish recovery

programs for the Upper Colorado and San Juan River Basins, also passed the committee. The Alliance worked with the offices of Senator Hickenlooper and Romney (R-UTAH) to help secure bipartisan leadership on this bill.

S. 2568, a bill introduced by Rep. Cortez-Masto (D-NEVADA) to establish the Open Access Evapotranspiration (OpenET) Data Program was pulled from the markup, in part due to concerns raised by the Family Farm Alliance and other Western agricultural organizations.

"Working with American Farm Bureau, California Farm Bureau and Western Growers Association, we submitted proposed comments and suggestions on this bill to the ENR Committee earlier in the month," said Alliance executive director Dan Keppen. "Our intent has been to scale this down to a pilot scale program, with assurances included that protect private landowners."

The ag groups are also trying to expand the focus of this program to look beyond just irrigated agriculture and apply the technology to evapotranspiration associated with urban landscapes, forest lands, and areas recently impacted by wildfires.

"We're working with committee staff on this matter, and we'll have a call with them and Senator Cortez Masto's staff to discuss our edits in the coming month," said Mr. Keppen.

Oregon Democrat Senator Ron Wyden's Watershed Results Act (WRA) is still in play but was also not in the July 21 markup.

"The Committee is planning another markup this fall and we fully expect to engage with committee staff over the next few weeks to get the WRA and other bills we support in shape to be in that markup," said Mr. Limbaugh. "So, while we are experiencing a bit of a delay, we'll start to see some progress."

Senator Barraso's S. 4233 is a bill to amend the IIJA to provide for critical maintenance and repair of certain Bureau of Reclamation reserved or transferred works, was also withdrawn from the agenda and will likely be marked up this fall.

"We've also been working Senator Risch's office on another bill that would incentivize addressing aging canal reaches in urbanizing areas," said Mr. Limbaugh. "That is still in the running for a markup in the fall, so stay tuned."

House Passes First FY 2023 Spending Minibus

The House last month passed a \$402 billion, six-bill appropriations minibus, H.R. 8294, which contains the FY 2023 Interior-EPA, Energy-Water, Transportation-Housing and Urban Development, Agriculture-Rural Development, Financial Services-General Government, and Military Construction-Veterans Affairs spending bills. The final vote was 220-207, along party lines.

GOP members offered numerous amendments to decrease spending levels and add policy riders, but all were defeated by House Majority Democrats.

House leadership is hoping to pass another spending package soon that could include the Commerce-Justice-Science, State-Foreign Operations, and Labor, Health & Human Ser-

vices-Education spending bills. Defense and Homeland Security bills are expected to be delayed due to disagreements over spending levels and immigration policies.

The Senate, meanwhile, has yet to move any spending bills but Majority Democrats released their draft versions of FY 2023 spending bills last month, since no bipartisan agreement has been reached between House and Senate Democrats and Republicans on overall FY 2023 spending levels.

"We expect a temporary continuing resolution to be taken up before the end of the fiscal year on September 30, 2022 to allow the government to continue to function," said Mark Limbaugh with The Ferguson Group, the Family Farm Alliance's representative in Washington, D.C.

Biden Administration Tackles Reforestation, Wildfire Challenges

House Republicans Urge More Aggressive Forest Management

As wildfires this summer burn at double the 10-year average, the Biden Administration announced a series of actions intended to plan for and mitigate wildland fire risks, expand reforestation and nursery capacity, and implement climate adaptation strategies. House Republicans, meanwhile, hosted a forum on water on wildfire prevention and long-term forest health.

The National Interagency Fire Center (NIFC) last month reported catastrophic wildfires have burned more than 5 million acres in 2022, double the 10-year average for wildfires.

"It's devastating to see so much of America up in smoke before we've even reached peak wildfire season," said House Committee on Natural Resources Ranking Member Bruce Westerman (R-Ark). "These fires burn hotter, faster, and longer every single year, destroying lives, property, and wildlife at an alarming rate."

USDA Announces New Reforestation Strategy

Agriculture Secretary Tom Vilsack last month announced a strategy for how the Biden Administration, through the U.S. Department of Agriculture (USDA), will address a reforestation backlog of four million acres on national forests and plant more than one billion trees over the next decade.

With new resources made available through the Infrastructure Investments and Jobs Act (IIJA), combined with support from state, local, and Tribal governments as well as other partners, the Forest Service aims to eliminate the backlog over the next 10 years and develop the infrastructure, such as nurseries, to keep up with increasing needs.

According to Forest Service Chief Randy Moore, the reforestation strategy will serve as a framework to understand reforestation needs, develop shared priorities with partners, expand reforestation and nursery capacity, and ensure the trees planted grow to support healthy, resilient forests.

"Our reforestation efforts on national forests only increase through strong partnerships with other federal agencies, tribes, state and local governments, communities and organizations," Moore said. "We recognize that successfully increasing reforestation on national forests is dependent on these strong partnerships."

Sec. Vilsack Rolls Out Wildfire Defense Grant Program

Secretary Vilsack on July 26 launched a new \$1 billion Community Wildfire Defense Grant program. This new, five-

year, competitive program funded by the IIJA is designed to assist at-risk communities, including Tribal communities, non-profit organizations, state forestry agencies and Alaska Native corporations with planning for and mitigating wildfire risks.

The program launch comes at an important time as shifting development patterns, land and fire management decisions, and climate change have turned fire "seasons" into fire "years" with increasingly destructive fires. Applications will be available in the coming days.

Secretary Vilsack made the announcement during his keynote address at the Western Governors' Association's 2022 annual meeting where discussions focused on wildfire threats, restoring burned landscapes and the effects of drought in the West.

"These investments are crucial to tackling the wildfire crisis, climate change and public safety," said Secretary Vilsack.

GOP Wildfire and Forest Health Forum

Rep. Westerman has championed his own legislation that

would improve national forest health and mitigate wildfire risk, such as the *Trillion Trees Act* and the *Resilient Federal Forests Act*. Some Western House Republicans claim congressional Democrats have advanced no meaningful action on wildfires this Congress. They joined Rep. Westerman at a July 21 forum to hear from witnesses across the country on the impacts of catastrophic wildfire and the need for long-term forest health.

"The sobering fact remains that we are completely and utterly failing to turn the tide against this crisis," Rep. Westerman said during the forum. "Contrary to the ridiculous fear-mongering promulgated by out-of-touch activists, active forest management does not lead to indiscriminate logging, but instead requires land managers to follow the science to meet the individual challenges facing the unique ecosystems seen in our nation's forests."

Forest Service Employs Emergency NEPA Powers

Just days following the GOP forum, the Forest Service announced it would use emergency powers under the National Environmental Policy Act (NEPA) to take immediate action on protecting Giant Sequoias, as first proposed by the biparti-



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White House Releases Report on Breaching Lower Snake River Dams

Last month, the Biden White House released a new draft scientific report from NOAA finding that breaching the four lower Snake River dams in Washington State would be "paramount" in restoring salmon runs in the Pacific Northwest, but did not endorse the action.

The reports were released by the White House Council on Environmental Quality (CEQ).

"Business as usual will not restore salmon," said Brenda Mallory, CEQ chair. "The Columbia River system is the lifeblood of the Pacific Northwest."

The White House also referenced a second report, commissioned by the Bonneville Power Administration (BPA), that found that removing the four dams could result in annual costs of as much as \$860 million by 2045, and increase household electric bills by as much as 18 percent in that same period. That analysis found that breaching the four federal dams would require other energy sources to replace between 2,300 and 2,700 megawatts of non-carbon emitting base-load power which could increase greenhouse gas emissions in the short term.

House GOP lawmakers led by Washington Rep. Dan

Newhouse and Northwest agricultural groups argue against the removal of hydropower on the Snake River, saying it would harm the local economy.

The National Association of Wheat Growers cites that the CEQ reports fails to highlight any benefits of the dams, notably "transportation, navigation, and energy benefits of the river system and the negative impacts dam breaching would have throughout the entire agricultural industry and rural communities."

A draft of the report, "Lower Snake Dams Benefit Replacement Report" requested by Washington's U.S. Sen. Patty Murray and Gov. Jay Inslee last fall, recently was released to the public. Oregonians for Food & Shelter (OFS) joined the Oregon Farm Bureau and Food NW in submitting comments on the draft report, arguing that breaching the dams will result in increased costs

to transport and process goods, irrigate crops, and pay for energy.

"Oregon is one of the most farm-reliant states, and we are already grappling with supply chain issues, inflation, drought, labor costs and climate regulations," OFS recently noted in a call to action.



Four dams are at the center of a fight over salmon recovery in the Lower Snake River basin. Map courtesy of the Columbia-Snake River Irrigators Association.

Alliance Discussion with Forest Service Chief (Cont'd from Pg. 12)

san Save Our Sequoias (SOS) Act. The SOS Act was introduced by Rep. Westerman (R-Ark.), and a bipartisan group of California Congressmen on June 23.

"The Forest Service's action today is an important step forward for Giant Sequoias, but without addressing other barriers to protecting these groves, this emergency will only continue," the Members said in a statement. "Now it's time to codify this action by establishing a true comprehensive solution to fireproof every grove in California through the SOS Act and save our sequoias."

The bill sponsors believe the announcement from the Forest Service helps change the trajectory by activating emergency authority to streamline the NEPA reviews.

Alliance Meeting with Forest Service Chief Moore

Family Farm Alliance President Pat O'Toole recently had a very frank conversation with U.S. Agriculture Secretary Tom Vilsack about the U.S. Forest Service's inability to move forward with large-scale forest restoration projects.

"What we need to be doing is moving into the forest on a much bigger scale," he said.

In meetings with leaders of various land management agencies such as the Forest Service, Bureau of Land Management and U.S. Fish and Wildlife Service, Mr. O'Toole said

managers are saying they have "so much money and don't know how to spend it."

Mr. O'Toole is working to bring the Family Farm Alliance and other partners together on a project called the Headwaters of the Colorado River Project. Planned activities would include forest thinning, strategic burning and aspen regeneration.

"We're all starting to think about ramping up next year," O'Toole said. "If you give nature a chance, nature will heal itself, but we haven't really given nature as much of a chance as we need to."

One hour after hanging up with the Secretary, Mr. O'Toole received a phone call from Forest Service Chief Moore, who later in the month participated in a one-hour discussion with Alliance representatives, spokesmen from Solutions from the Land, and other senior level Forest Service officials. Discussion focused on what would be needed to kick-start meaningful, large-scale forest restoration work in Colorado River and other Western headwater areas.

"This fits right in line with where we are at as an agency," said Chief Moore. "Local support is important. Let's get out on the ground."

Mr. O'Toole has planned a tour of the project with Chief Moore, state forestry officials from Colorado and Wyoming, project partners, and elected officials in mid-August.

Senate Passes Water Resources Development Act

The Senate on June 28 passed the bipartisan *Water Resources Development Act of 2022* (WRDA), which authorizes key Army Corps of Engineers (Corps) projects and studies to tackle water resources challenges across the country. The bill also makes important revisions to the Civil Works policies and programs of Corps to increase the agency's responsiveness to national and local priorities.

"WRDA 2022 will help the Corps protect the lives and livelihoods of millions of Americans and facilitate commerce throughout this country and internationally," said Senator Shelly Moore Capito, Ranking Member of the Environment and Public Works (EPW) Committee. "I'm proud the Senate recognized the EPW Committee's quality work by passing this bill, and look forward to the difference it will make in our communities."

The WRDA legislation would provide the Army Corps of

Engineers with new climate-focused policies and authorize about \$37 billion worth of new water and environmental projects.

"Recent versions of WRDA have also included provisions for Bureau of Reclamation projects, something the 2022 WRDA does not provide," said Family Farm Alliance Executive Director Dan Keppen. "The 2022 WRDA being advanced in each chamber of Congress are more Corps-centric, although there are provisions that focus on the Western U.S."

The Senate WRDA legislation S. 4137 was unanimously approved by the Senate EPW Committee earlier this year. The House last month passed their version of WRDA that differs from the Senate version, so it will be amended by the Senate vote to reflect those changes. The House must then take up and pass the Senate version once approved to send it to the President's desk.

California Drought Impacts (Cont'd from Pg. 3)

billion in direct costs due to drought. California Farm Water Coalition estimates that up to 690,000 acres of California farmland will go fallow this year.

Drought Policies Hurt Western Food Production

As fields continue to dry up and farms go out of production, Mr. Jacobsen told *AccuWeather* the current situation is turning into the absolute "last case scenario."

"You're talking about a multi-year, multi-decade investment that, unfortunately, because of the water rules of California, have put us into this scenario," he said. "This does affect everybody in this nation. Because California produces in the neighborhood of about two-thirds of the nation's fruits, about one-third of its vegetables."

Undoubtedly, the Western drought has reduced the amount of water for many users, including irrigated agriculture. However, in places like California and Oregon, much of the water that once flowed to farms and ranches is currently being redirected by the federal government for environmental purposes.

"In other words, federal water policy is shutting down water availability for hundreds of thousands of acres of productive farmland," said Alliance President Patrick O'Toole. "At a time when the future of Ukraine's ability to help feed the outside world is at risk, our ability to increase productivity is being further curtailed. The grim global hunger conditions we once expected to encounter in 2050 may now hit us decades sooner."

Family Farm Alliance Engagement

Family Farm Alliance leaders continue to advocate for Western irrigated agriculture and American food security.

The Alliance in March released a brief report – "A Wake-up Call to Our National Leaders from an American Rancher" –

which further describes current and projected food shortages resulting from the Russia-Ukraine war. Alliance President Patrick O'Toole emphasizes that food security is something that Alliance leaders have warned policymakers about for over fifteen years.

Mr. O'Toole – who was recently inducted into the Wyoming Agriculture Hall of Fame, along with his wife Sharon – last month participated in the closing panel of the University of Arizona's Water Resources Research Center (WRRC) 2022 Annual Conference, *Arizona's Agricultural Outlook: Water, Climate and Sustainability*. Mr. O'Toole was joined on the panel by Meghan Scott (Noble Law) and Grady Gammage Jr. (Gammage & Burnham). Dr. Sharon Megdal, WRRC Director, moderated the discussion.

Former Alliance board member Ron Rayner (A Tumbling T Ranch) participated in a "storytelling" panel, and his son, Ross, provided the "Next Generation" farmers' perspective on another panel. Alliance Advisory Committee Member Tom Davis (Yuma County Water Users Association) provided a historical account of irrigated agriculture in the Yuma area.

A video of the conference proceedings can be accessed by the public on the conference website: <https://wrrc.arizona.edu/conference/2022>.

July was Smart Irrigation month, and Jim Lauria (Mazzei Injector Company) and Adam Tank (Transcend Water) conducted an interview with Dan Keppen, Family Farm Alliance Executive Director, entitled "Expanding Your Solution Story To Reach Diverse Stakeholders". This was the second in the Smart Irrigation Voices series, sponsored by Water Online.

The trio on the podcast "Water We Talking About?" discuss a variety of topics, including why food security starts with water security.

Mr. Keppen will also be addressing food security concerns in his keynote speech to the Arizona Agribusiness and Water Council annual conference in Phoenix in September.

A Big Thank You to Our New and Supporting Members!

MAY-JUNE 2022

CHAMPION (\$10,000 and Above)

San Luis & Delta-Mendota Water Authority (CALIFORNIA)

ADVOCATE (\$5,000 - \$9,999)

**Central California Irrigation District
Kittitas County Irrigators Association (WA)
Minidoka Irrigation District (ID)
Roza Irrigation District (WA)
San Luis Water District (CA)
Washington State Water Resources Association
Water District #1 (ID)**

DEFENDER (\$1000-\$4999)

**A & B Irrigation District (ID)
Ag Water Board of Whatcom County (WA)
Bair Farms, LLC (OR)
Buckeye WCDD (AZ)
Central Oregon Irrigation District
Del Puerto Water District (CA)
Elephant Butte ID (NM)
Farwell Irrigation District (NE)
Ferguson Farming LLC (CA)
Fresno Irrigation District (CA)
Glenn-Colusa ID (CA)
Grand Valley Water Users Assoc. (CO)
Harvey A. Bailey (CA)
Kings River Conservation District (CA)
Meyers Farms Family Trust (CA)
Nebraska State Irrigation Association
North Platte Valley Irrigators Assoc. (NE)
Palo Verde ID (CA)
Roosevelt Irrigation District (AZ)
Santa Ynez River WCD (CA)
Tehama-Colusa Canal Authority (CA)
Tulare Basin WSD (CA)
Yuma County Water Users Assoc. (AZ)**

- Continued on Page 16 -

A Big Thank You to Our New and Supporting Members!

MAY-JUNE 2022

PARTNER (\$500-\$999)

Arizona Farm and Ranch Group (AZ) Bailey Brothers (CA) Benson Farms LLC (CA)
 Bransford Farms (CA) Central District Water Users Assoc. (NE) Circle G Farms (CA)
 County of Siskiyou (CA) Farmers Conservation Alliance (OR) Isler Group (OR)
 Jordan Ramis PC (OR) Linneman Ranches, Inc. (CA) Maricopa-Stanfield ID (AZ)
 New Magma Irrigation & Drainage District (AZ) North Side Canal Company (ID)
 North Unit Irrigation District (OR) Oregon Potato Commission Owyhee Irrigation District (OR)
 Rubicon Water (CO) United Water Conservation District (CA) Walla Walla River Irrigation Dist-
 rict (OR) Wheat Land, Inc. (CA) Klamath Water Users Association (OR) CALCOT, Ltd (CA)
 Fresno Equipment (CA) Provident Irrigation District (CA) Somach, Simmons & Dunn (CA)
 Truckee Carson Irrigation District (NV) Tualatin Valley Irrigation District (OR)
 Heart Mountain Irrigation District (WY) West Extension ID (OR) Pine River ID (CO)
 Sargent Irrigation District (NE)

SUPPORTER (\$250—\$499)

Arizona Cotton Growers Association BE Giovanetti & Sons (CA) Brian Werner (CO)
 Davis & Weber Counties Canal Company (UT) Duyck Ranches (WY)
 Falls Irrigation Company (ID) Farmers ID (NE) Flying R Farms (AZ) Gary W. Robertson (CA)
 Montpelier Farming Corp. (CA) Orton Management Assoc. (NE) Princeton-Cordora-Glenn ID (CA)
 Robbins, Browning, Godwin & Marchini (CA) Schroeder Law Offices (NV)
 Thomason Tractor Co. (CA) Trinchera Water Conservancy District (CO)

OTHER CONTRIBUTORS

Kirwin-Webster ID (KS)

DONOR SUPPORT

Make your tax-deductible gift to the Alliance today! Grassroots membership is vital to our organization. Thank you in advance for your loyal support.

If you have questions, please call our fundraising coordinator, Jane Townsend, at (916)206-7186 OR EMAIL jane@familyfarmalliance.org

OR EMAIL jane@familyfarmalliance.org



Contributions can also be mailed directly to:
 Family Farm Alliance
 P.O. Box 1705
 Clearlake Oaks, CA 95423

CORRESPONDENCE LIST**AUGUST 2022**

1. July 13, 2022 – Letter from District to Lake Havasu City Water District regarding customer letter of good standing
2. July 15, 2022 – Notice and Agenda received from the Citizen Advisory Group for the Eastern Management Area in the Santa Ynez River Groundwater Basin for the July 18, 2022 Special Meeting
3. July 15, 2022 – Notice and Agenda received from Santa Ynez Community Services District for the July 20, 2022 Regular Board Meeting
4. July 19, 2022 – Notice and Agenda received from the Groundwater Sustainability Agency for the Eastern Management Area in the Santa Ynez River Groundwater Basin’s July 21, 2022 Special Meeting
5. July 20, 2022 – Board packet materials received from the Groundwater Sustainability Agency for the Eastern Management Area in the Santa Ynez River Groundwater Basin’s July 21, 2022 Special Meeting
6. July 20, 2022 – Letter from District regarding customer payment plan for water service account
7. July 21, 2022 – Notice and Agenda received from Cachuma Operations and Maintenance Board (COMB) for the July 25, 2022 Regular Board of Directors Meeting
8. July 26, 2022 – Notice and Agenda received from Santa Barbara LAFCO for the August 11, 2022 Board of Directors Meeting
9. July 26, 2022 – Notice and Agenda received from Central Coast Water Authority for the July 28, 2022 Board of Directors meeting
10. July 29, 2022 – Press Release received from the Santa Ynez River Water Conservation District regarding Bradbury Dam Scheduled Downstream Releases
11. August 1, 2022 – Notice and Agenda received from Los Olivos Community Services District for the August 5, 2022 Finance Committee Meeting
12. August 2, 2022 – Can and Will Serve Letter from District for APN 141-330-009
13. August 2, 2022 – Letter received from Clerk of the Board of Supervisors regarding 2022 Conflict of Interest Biennial Review Notice
14. August 2, 2022 – Letter from Santa Barbara County LAFCO regarding FY 2022-2023 Net Operating Costs and FY 2022-23 Billing
15. August 3, 2022 – Two Letters from District regarding customer payment plans for water service accounts
16. August 3, 2022 – Agenda packet materials received from Los Olivos Community Services District for the August 5, 2022 Finance Committee Meeting
17. August 5, 2022 - Notice and Agenda received from Los Olivos Community Services District for the August 10, 2022 Regular Board Meeting

18. August 8, 2022 - Agenda packet materials received from Los Olivos Community Services District for the August 10, 2022 Regular Board Meeting
19. August 9, 2022 - Letter from District regarding customer payment plan for water service account