

**BROOKTRAILS TOWNSHIP
COMMUNITY SERVICES DISTRICT
Board of Directors
Regular Meeting Agenda**

Board of Directors:
President Rick Williams
Vice-President Tim Ramming
Director Edward Horrick
Director Tony Orth
Director Ralph Santos

August 8, 2017

**Regular Session
Brooktrails Township Community Center
24850 Birch Street
7:00 PM to 10:30 PM***

A. PLEDGE OF ALLEGIANCE

The Presiding Officer will lead Board members and the audience in the Pledge of Allegiance

B. ROLL CALL

The Presiding Officer will call the meeting to order and call the roll of members to determine the presence of a quorum.

C. ADDITIONS/ADJUSTMENTS TO THE AGENDA/REPORT ON CLOSED SESSION

1. The Presiding Officer will determine if Board members wish to add an item or make an adjustment to the agenda.
2. Report on closed session.

D. MINUTES OF PREVIOUS MEETINGS

3. The Board may approve, or amend and approve, the minutes of previous meetings, including: the meeting of July 25, 2017

E. SPECIAL PRESENTATIONS: None

F. PUBLIC HEARINGS: None

G. REPORTS

From Directors:

From District Counsel:

From General Manager:

H. PUBLIC COMMENTS

Audience members will be invited to speak regarding matters not on the Agenda. The Board cannot act on items brought up at this time. Speakers may be limited to five minutes.

I. DIRECTORS RESPONSE TO PUBLIC COMMENTS

(Responses will generally be brief, Directors may call upon General Manager to respond. Items may be placed on a future agenda for a more in-depth response)

J. CONSENT CALENDAR

4. Review of Accounts Payable report and authorization of payments to be issued on August 9, 2017.

K. ACTION AGENDA

5. Consideration of ballot - Association of California Water Agencies (ACWA) Region One Election
6. Consideration of a letter in opposition to SB 623 (Monning)

L. ADJOURNMENT

The Board will consider a motion to adjourn.

UPCOMING BOARD MEETINGS

September 12, 2017
September 26, 2017

UPCOMING HOLIDAYS

Labor Day September 4, 2017

UPCOMING AGENDA ITEMS

Last Resolution Adopted: 2017-16
Last Ordinance Adopted: 156

IMPORTANT INFORMATION ABOUT BOARD MEETINGS:

RIGHT OF APPEAL. People who are dissatisfied with decisions of the Board of Directors may have the right of review of that decision by a state court. The District has adopted Section 1094.6 of the Code of Civil Procedure, which generally limits to 90 days the time within which decisions of the District's Board and agencies may be judicially challenged in state court.

***MANDATORY ADJOURNMENT.** Pursuant to Section 3.18 of Ordinance No. 93, if consideration of all matters on the agenda is not complete by 10:30 p.m., the President shall adjourn to the next regular meeting, at which time those matters shall be taken up for consideration first; except that upon motion of the Board, the meeting may be extended beyond 10:30 p.m. to a stated time.

AGENDA MATERIALS: The agendas for Board meetings contain a brief general description of those items to be considered at the meetings. Agendas and materials related to an item on an agenda (including materials distributed to the Board after the agenda is posted) are available in the District Office, 24860 Birch Street, Willits, CA 95490, during normal business hours (8:00 a.m. – 5:00 p.m. Monday-Friday) and on the Township Website Home Page site on the internet at <http://www.btcSD.org> (click on "Board Agenda & Minutes").

NOTE: The meeting room is wheelchair accessible and disabled parking is available. If you are a person with a disability and you need disability-related modifications or accommodations to participate in this meeting, please contact the District Office at (707) 459-2494 or FAX (707) 459-0358. Requests for such modifications or accommodations must be made at least two full business days before the start of the meeting.

**BROOKTRAILS TOWNSHIP COMMUNITY SERVICES DISTRICT
BOARD OF DIRECTORS
July 25, 2017**

The Board of Directors of Brooktrails Township Community Services District met in regular session July 25, 2017 at 7:00 p.m. at the Brooktrails Community Center.

- A. PLEDGE OF ALLEGIANCE**
- B. ROLL CALL**

Roll call showed the following directors present: Santos, Orth, Horrick, Williams. Vice President Ramming was absent with leave. Also present was Counsel Neary and General Manager Rose.

C. ADDITIONS/ADJUSTMENTS TO THE AGENDA/REPORT ON CLOSED SESSION:

- 1. President Williams asked if any Board member wished to add an item or make an adjustment to the agenda. There were no additions or adjustments to the agenda.
- 2. There was no closed session to report.

D. MINUTES OF PREVIOUS MEETINGS:

- 3. Director Orth moved to approve the minutes of July 11, 2017; Director Horrick seconded. The motion to approve the minutes passed unanimously.

E. SPECIAL PRESENTATIONS:

- 4. Fire Chief Daryl Schoeppner gave a visual presentation of recent Fire Abatement grant-funded projects throughout the District.

F. PUBLIC HEARINGS: None

G. REPORTS

From Directors: There were no reports.

From District Counsel: None

From General Manager: General Manager Rose gave an oral update with regard to daily staff functions.

H. PUBLIC COMMENTS: Paul Trexel addressed the Board concerning audio clarity of the Board meetings.

I. DIRECTORS RESPONSE TO PUBLIC COMMENTS:

None

J. CONSENT CALENDAR

- 5. Director Orth moved to approve the Accounts Payable report and authorize payments to be issued July 26, 2017; Director Santos seconded. After a discussion, the motion passed unanimously.

K. ACTION AGENDA

6. Director Orth moved to approve the 'Annual Report to Mendocino County concerning 'Changes to the Assessments'; Director Horrick seconded. The report details properties that will be deleted from the tax rolls due to lot mergers resulting in a reduction of assessments totaling \$2,685.00. A discussion ensued. Upon roll call vote, the motion passed unanimously.

7. The Board discussed the Fire Abatement program for the 2017 fire season. Chief Schoeppner gave an update on the progress. Overall, he is pleased with the compliance of property owners who received abatement notices. He estimated there are twenty-five to thirty lots yet to be completed which are of concern. He explained that non-compliant properties near structures are a top priority. He advised abatement providers to concentrate on those lots first. A discussion ensued. The Board thanked Chief Schoeppner and the members of the department for their dedication and service to the community.

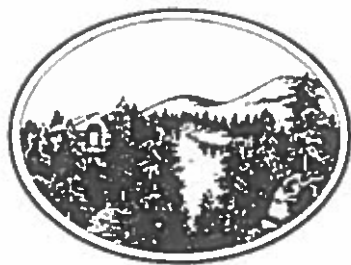
L. ADJOURNMENT

Upon Director Horrick's motion to adjourn the regular meeting, President Williams adjourned the regular meeting to closed session.

R. Richard Williams, President

ATTEST:

Denise M. Rose, Secretary



BROOKTRAILS TOWNSHIP

COMMUNITY SERVICES DISTRICT

24860 BIRCH STREET

Brooktrails, California 95490

Phone: 707-459-2494

Fax: 707-459-0358

btcsd@btcsd.org

AGENDA ITEM K-5

TO: Board of Directors
FROM: Denise Rose, General Manager
DATE: August 3, 2017
SUBJECT: Association of California Water Agencies Region One Election

Brooktrails Township Community Services District is a member of long-standing of the Association of California Water Agencies, which provides comprehensive training, regulatory and legislative support services to the district.

All seats of the region one Board are open. I have enclosed a copy of the region one ballot for your review. President Williams is the authorized representative for Brooktrails and may cast a vote on behalf of the Board.

Possible action:

Authorize President Williams to cast a vote for the recommended slate of candidates or authorize voting for one or more proposed candidates.



Sent via email August 1, 2017

TO: ACWA REGION 1 MEMBER AGENCY BOARD PRESIDENT
AND GENERAL MANAGER

Ballot for Region 1 Board Election for the 2018-2019 Term

It is time to elect the 2018-2019 ACWA Region 1 Chair, Vice Chair and board members who will represent and serve the members of Region 1. Attached, you will find the official ballot which includes the Region 1 Nominating Committee's recommended slate as well as individual candidates running for the Region 1 Board.

Your agency is entitled to cast only one vote. Please review the attached ballot and have your agency's authorized representative cast its vote for the slate as recommended by the Region 1 Nominating Committee or cast its vote for an individual Region 1 chair, vice chair and three to five board members.

2018-2019 ACWA Region 1 Ballot is located [HERE](#).
Region 1 Rules and Regulations are located [HERE](#).

Submit the electronic ballot to ACWA by **September 29, 2017**.
(Ballots received after September 29 will not be accepted.)

REMEMBER, YOUR VOTE IS IMPORTANT. Region 1 Board members are elected to represent the issues, concerns and needs of your region. The Region 1 chair and vice chair will serve on ACWA's board of directors for the next two-year term beginning January 1, 2018. Additionally, the newly elected chair and vice chair will make the Region 1 committee appointment recommendations to the ACWA president for the 2018-2019 term. Also, either the chair or vice chair will hold a seat on the ACWA Finance Committee.

If you have questions, please contact your Regional Affairs Representative, Brian Sanders, at brians@acwa.com or call 916-441-4545.

Thank you for your careful consideration and participation in the Region 1 election process.

OFFICIAL

REGION 1 Board Ballot

2018-2019
TERM

CLEAR FORM



**Please return completed ballot
by September 29, 2017**

E-mail: anaj@acwa.com
Mail: ACWA
910 K Street, Suite 100
Sacramento, CA 95814

General Voting Instructions:

- 1 You may either vote for the slate recommended by the Region 1 Nominating Committee or vote for individual region board members. Please mark the appropriate box to indicate your decision.
- 2 Please complete your agency information. The authorized representative is determined by your agency in accordance with your agency's policies and procedures.

1 Nominating Committee's Recommended Slate

I concur with the Region 1 Nominating Committee's recommended slate below

CHAIR:

- **Brad Sherwood**, Community & Government Affairs Manager, Sonoma County Water Agency

VICE CHAIR:

- **Dennis Mayo**, Board President, McKinleyville Community Services District

BOARD MEMBERS:

- **David L. Bentley**, Auditor-Controller, North Marin Water District
- **Jennifer Burke**, Deputy Director of Water and Engineering Resources, City of Santa Rosa
- **Matthew D. Froneberger**, General Manager, Forestville Water District
- **Marvin Talso**, Director, Redwood Valley County Water District
- **Vacant**

Individual Board Candidate Nominations

I do not concur with the Region 1 Nominating Committee's recommended slate. I will vote for individual candidates below as indicated.

CANDIDATES FOR CHAIR: (CHOOSE ONE)

Brad Sherwood, Community & Government Affairs Manager, Sonoma County Water Agency

CANDIDATES FOR VICE CHAIR: (CHOOSE ONE)

Dennis Mayo, Board President, McKinleyville Community Services District

Brad Sherwood, Community & Government Affairs Manager, Sonoma County Water Agency

CANDIDATES FOR BOARD MEMBERS: (MAX OF 5 CHOICES)

David L. Bentley, Auditor-Controller, North Marin Water District

Jennifer Burke, Deputy Director of Water and Engineering Resources, City of Santa Rosa

Matthew D. Froneberger, General Manager, Forestville Water District

Marvin Talso, Director, Redwood Valley County Water District

Brad Sherwood, Community & Government Affairs Manager, Sonoma County Water Agency

2

AGENCY NAME

AGENCY/EDWARDS COUNTY

DATE



REGION 1 RULES AND REGULATIONS

Each region shall organize and adopt rules and regulations for the conduct of its meetings and affairs not inconsistent with the Articles of Incorporation or bylaws of the Association (ACWA Bylaw V, 6.).

OFFICERS

The chair shall appoint a secretary to the Board if one is deemed necessary.

MEETINGS

Region 1 will meet quarterly, subject to call of the chair, with two of those meetings to be held at ACWA spring and fall conferences.

ATTENDANCE

If a region chair or vice chair is no longer allowed to serve on the Board of Directors due to his / her attendance, the region board shall appoint from the existing region board a new region officer. (ACWA Policy & Guideline Q, 1.)

If a region chair or vice chair misses three consecutive region board / membership meetings, the same process shall be used to backfill the region officer position. (ACWA Policy & Guideline Q, 1.)

If a region board member has three consecutive unexcused absences from a region board meeting or general membership business meeting, the region board will convene to discuss options for removal of the inactive board member. If the vacancy causes the board to fail to meet the minimum requirement of five board members, the region must fill the vacancy according to its rules and regulations. (ACWA Policy & Guideline Q, 3.)

VACANCY

If the chair's position becomes vacant, the vice chair will fill the chair's position.

If the vice chair's position becomes vacant, the alternate chair will fill the vice chair's position

SEND FEEDBACK

ELECTIONS

All nominations received for the region chair, vice chair and board positions must be accompanied by a resolution of support from each sponsoring member agency, signed by an authorized representative of the Board of Directors. Only one individual may be nominated from a given agency to run for election to a region board. Agencies with representatives serving on the nominating committees should strive not to submit nominations for the region board from their agency. (ACWA Policy & Guideline P, 2.)

Election ballots will be e-mailed to ACWA member agency general managers and presidents.

The nominating committee shall consist of three to five members.

The nominating committee should pursue qualified members within the region to run for the region board, and should consider geographic diversity, agency size and focus in selecting a slate.

See the current region election timeline for specific dates.

ENDORSEMENTS

ACWA, as a statewide organization, may endorse potential nominees and nominees for appointment to local, regional, and statewide commissions and boards. ACWA's regions may submit a recommendation for consideration and action to the ACWA Board of Directors to endorse a potential nominee or nominee for appointment to a local, regional or statewide commission or board. (ACWA Policy & Guideline P, 3.)

COMMITTEE RECOMMENDATIONS & REPRESENTATION

All regions are given equal opportunity to recommend representatives of the region for appointment to a standing or regular committee of the Association. If a region fails to provide full representation on all ACWA committees, those committee slots will be left open for the remainder of the term or until such time as the region designates a representative to complete the remainder of the term. (ACWA Policy & Guideline P, 4. A.)

At the first region board / membership meeting of the term, regions shall designate a representative serving on each of the standing and regular committees to serve as the official reporter to and from the committee on behalf of the region to facilitate input and communication. (ACWA Policy & Guideline P, 4. B.)

TOURS

ACWA may develop and conduct various tours for the regions. All tour attendees must sign a "release and waiver" to attend any and all region tours. Attendees agree to follow environmental guidelines and regulations in accordance with direction from ACWA staff; and will respect the rights and privacy of other attendees. (ACWA Policy & Guideline P, 6.)

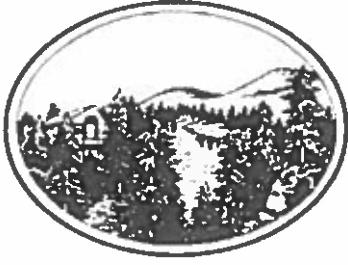
FINANCES

See "Financial Guidelines for ACWA Region Events" document.

AMENDING THE REGION RULES & REGULATIONS

ACWA policies and guidelines can be amended by approval of the ACWA Board of Directors.

The Region 1 Rules & Regulations can be amended by a majority vote of those present at any Region 1 meeting as long as a quorum is present.



Brooktrails Township

COMMUNITY SERVICES DISTRICT

24860 Birch Street

Brooktrails, California 95490

Phone: 707-459-2494

Fax: 707-459-0358

drose@btcsd.org

DATE: August 3, 2017
TO: Board of Directors
FROM: Denise Rose
RE: Consideration of a letter in opposition to SB623

AGENDA ITEM K-6

The Association of California Water Agencies (ACWA) has requested that water agencies submit a letter of opposition to SB 623 (Monning) Water quality: Safe and Affordable Drinking Water Fund.

This is a multi-faceted bill concerning the establishment of a fund to ensure the provision of Safe Drinking Water to disadvantaged communities who, due to a variety of factors, are unable to meet the requirements of the drinking water regulations and standards. It provides the opportunity to obtain grant or loan funding for those who meet the state's criteria enumerated in the legislation, including, but not limited to the following:

Community's whose median household income is at 80 percent of the state median household income, and whose drinking water tests positive for one or more contaminants.

There are a number of concerns regarding this legislation which are enumerated in the attached ACWA letter, of particular concern is that the legislation does not address those disadvantaged communities that are able to maintain compliance, but due to a limited customer base are unable to access capital markets or state grants to address urgent system and capital needs. Of even greater concern is that the bill's author, Sen. William Monning plans to insert language into the bill imposing a tax on water as one of two funding sources for the measure. The other funding source would be an ag-related fee(s) such as a fertilizer fee and a dairy fee to assist with nitrate-contamination of drinking water. Water systems would be required to collect this assessment from rate payers as part of the monthly billing and remit the same to the state. The amount of the assessment is not known at this point, however in communities such as Brooktrails it would seem that any such fee would be an undue burden on both our residents and the Township itself in added costs and administrative reporting.

I have attached a letter for your consideration as well as a copy of ACWA's correspondence concerning SB623 and the most recent analysis of the bill from legislative staff. The following is a link to the most recent version of the bill:

http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB623

Date of Hearing: July 11, 2017

ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS

Bill Quirk, Chair

SB 623 (Monning) – As Amended July 3, 2017

SENATE VOTE: 39-0

SUBJECT: Water quality: Safe and Affordable Drinking Water Fund

SUMMARY: Creates the Safe and Affordable Drinking Water Fund, administered by the State Water Resources Control Board (State Water Board), to assist communities and individual domestic well users to address contaminants in drinking water that exceed safe drinking water standards. Specifically, **this bill:**

- 1) Finds that to ensure that the right of every Californian to have sufficient clean, safe, affordable, and accessible water, it is in the interest in the State of California to identify water quality threats in the state's drinking water supply, whether those supplies serve a public water system, state small water system, or an individual domestic well.
- 2) Defines "individual domestic well" as a groundwater well used to supply water for the domestic needs of an individual residence or small water systems of four or less service connections.
- 3) Requires the State Water Board, by January 1, 2019, to promulgate regulations to require state small water systems and individual domestic wells to test their water supply wells for contamination. Requires the State Water Board to prioritize testing based on local water quality conditions and requires the State Water Board to review these regulations at least every five years.
- 4) Defines "Disadvantaged community" as an entire service area of a community water system, or a community therein, in which the median household income is less than 80 percent of the statewide average.
- 5) Creates the Safe and Affordable Drinking Water Fund (Fund) in the State Treasury and continuously appropriates all moneys in the Fund to the Office of Sustainable Water Solutions within the State Water Board, without regard to fiscal years.
- 6) Requires the State Water Board to administer the Fund to provide a stable source of funding to assist communities and individual domestic well users to address contaminants in drinking water that exceed safe drinking water standards. Requires the State Water Board to prioritize the use of this funding to assist low-income communities and low-income individual domestic well users, and to prioritize funding for costs other than those related to capital construction costs. Requires expenditure of the fund to be consistent with the annual fund implementation plan developed by the State Water Board.
- 7) Requires the State Water Board to expend moneys in the fund for grants, loans, contracts, or services to assist those communities and individual domestic well owners that rely on contaminated drinking water to have access to safe and affordable drinking water. Expenditures can be any of the following: replacement water; long-term solutions to

replacing or treating contaminated wells; testing drinking water quality of individual domestic wells serving low-income households; and, identifying those Californians without access to safe drinking water who are eligible to receive assistance from the Fund and provide outreach to them.

- 8) Eligible applicants for receiving funds include public agencies, nonprofit organizations, public utilities, federally recognized Indian tribes, state Indian tribes listed on the Native American Heritage Commission's California tribal consultation list, groundwater sustainability agencies, and mutual water companies.
- 9) States the intent of the Legislature to further amend this bill to subsequently seek specific funding from agricultural operations to assist in providing emergency, interim, and long-term assistance to community water systems and individual domestic wells users whose wells have been impacted by nitrate contamination and whose wells are located in agricultural areas.
- 10) Requires the State Water Board, annually, to do all of the following:
 - a) Prepare and make available a report of expenditures from the Fund;
 - b) Adopt, after a public hearing, an assessment of funding needed to ensure all Californians have access to safe drinking water; and,
 - c) Adopt, after a public hearing, a Fund implementation plan (Plan) with priorities and guidelines for expenditures of the Fund.
- 11) Requires the State Water Board to work with a multi-stakeholder advisory group that shall be open to participation by representatives of entities paying into the Fund, public water systems, technical assistance providers, local agencies, affected persons, nongovernmental organizations, and the public, to establish priorities for the Plan. Requires the Plan to prioritize eligibility for expenditures from the Fund based on the following:
 - a) A water system, that qualifies as a disadvantaged community, and whose current or projected water rates needed to ensure safe drinking water exceed or will exceed 1.5 percent of the median household income for that water system; and,
 - b) An individual domestic well owner, whose costs of providing potable water exceed or will exceed 1.5 percent of its household's income and its household's income is less than 80 percent of the statewide household median income.
- 12) Defines an "agricultural operation" as either a discharger that is an owner, operator, or both, of land that is irrigated to produce crops or pasture for commercial purposes or a nursery, and is enrolled or named in an irrigated lands regulatory program order adopted by the State Water Board or Regional Water Quality Control Board (Regional Water Board); or a discharger that is an owner, operator, or both, of a facility that is used for the raising or harvesting of livestock, and is enrolled or named in an order regulating discharges of water from a facility to protect ground and surface water, adopted by the State Water Board or Regional Water Board.

- 13) States that an "agricultural operation" does not include a facility that processes crops or livestock; a facility that manufactures, synthesizes, or processes fertilizer; or, any portion of land or activities occurring on those portions of land that are not covered by an order adopted by the State Water Board or Regional Water Board.
- 14) States that discharges of nitrate from agricultural operations could reach groundwater and could cause or contribute to exceedances of drinking water standards for nitrate, and could cause conditions of pollution of or nuisance in those waters.
- 15) States that nitrate contamination of groundwater impacts drinking water sources for hundreds of thousands of Californians and it is necessary to protect current and future drinking water users from the impacts of nitrate contamination.
- 16) Requires the Regional Water Boards to continue to regulate discharges to reduce nitrogen loading and protect beneficial uses of water and groundwater basins.
- 17) Requires the State Water Board, Regional Water Boards, and courts to ensure compliance with orders to regulate discharges to reduce nitrogen loading and to protect beneficial uses of water and groundwater basins.
- 18) Requires dischargers to pay for mitigation of pollution by funding replacement water for affected communities.
- 19) States that this bill will be subsequently amended to establish an agricultural assessment to be paid by agricultural operations for a period of 15 years to provide funding, as a portion of the Fund, for alternative supplies of safe drinking water to persons affected by discharges of nitrogen from agricultural operations.
- 20) States the intent of the Legislature to limit enforcement actions that a Regional Water Board or the State Water Board could otherwise initiate, during a period of 15 years, against an agricultural operation paying the agricultural assessment.
- 21) Prohibits the State Water Board or Regional Water Boards from undertaking or initiating an enforcement action against an agricultural operation for causing or contributing to an exceedance of a water quality objective for nitrate in groundwater or for causing or contributing to a condition of pollution or nuisance for nitrates in groundwater if an agricultural operation that discharges or threatens to discharge, or has discharged or previously threatened to discharge, nitrate to groundwater demonstrates that it has satisfied all of the following mitigation requirements:
 - a) The agricultural operation has timely paid any fee, assessment, or charge into the Fund, or, an applicable agricultural assessment is providing funding into the Fund;
 - b) The agricultural operation is in compliance with all applicable provisions prescribed in an order adopted by the State Water Board or Regional Water Board, including but not limited to: requirements to implement best practicable treatment or control; best efforts, monitoring, and reporting requirements; and, timelines.
 - c) The agricultural operation is in compliance with an applicable program of implementation for achieving groundwater quality objectives for nitrate that is part of an

applicable water quality control plan adopted by the State Water Board or Regional Water Board.

- 22) Provides that within the mitigation requirement for an agricultural operation to comply with an order by the State Water Board or Regional Water Board, the order shall not include a prohibition on causing or contributing, or threatening to cause or contribute, to an exceedance of a water quality objective for nitrate in groundwater or a condition of pollution or nuisance for nitrate in groundwater.
- 23) Provides that an agricultural operation does not meet the mitigation requirements needed for the enforcement exemption if the agricultural operation has been the subject to an enforcement action within the preceding twelve months for any violation of an order authorizing discharges from agricultural operations.
- 24) Provides that an agricultural operation does meet the mitigation requirements needed for the enforcement exemption if it was subject to an enforcement action commenced after January 1, 2016, and before January 1, 2018, alleging that a discharge from an agricultural operation caused or contributed, or threatened to cause or contribute, to an exceedance of a water quality objective for nitrate in groundwater, conditions of pollution or nuisance for nitrate in groundwater, or both.
- 25) Prohibits an agricultural operation, that maintains a continuance of a farming operation, from qualifying for the enforcement exemption if it fails to continue to make payments into the Fund.
- 26) Provides that both of the following apply to a discharge of nitrogen by an agricultural operation that occurs when the discharge is in full compliance with the mitigation requirements:
 - a) The discharge shall not be admissible in a future enforcement action against the agricultural operation by the State Water Board or Regional Water Board to support a claim that the agricultural operation is causing or contributing, or threatening to cause or contribute, to an exceedance of a water quality objective for nitrate in groundwater or a condition of pollution or nuisance for nitrate in groundwater; and,
 - b) The discharge shall not be considered by the State Water Board or a Regional Water Board to apportion responsibility and shall not be used by any person to diminish responsibility in any enforcement action initiated with respect to discharges of nitrogen, regardless of source, that did not occur in compliance with the mitigation requirements.
- 27) Provides that the enforcement exemption to agricultural operations does not alter the State Water Board's or Regional Water Board's authority to require or conduct investigations, to require reports on or to establish other requirements for best practicable treatment or control, or to require monitoring and reporting requirements to protect water quality.
- 28) Provides that the enforcement exemption to agricultural operations does not change or alter a water quality objective that is part of a water quality control plan adopted by the State Water Board or Regional Water Board.

- 29) Provides that enforcement relief for agricultural operations and mitigation requirements will no longer be in effect as of January 1, 2028.
- 30) Provides that nothing in the bill limits the liability of a discharger under any other law, including, but not limited to, the state's nuisance laws.
- 31) Provides for more limited enforcement relief, beginning on January 1, 2028 and ending on January 1, 2033, for agricultural operations, if those agricultural operations meet specified mitigation requirements.

EXISTING LAW:

- 1) Establishes the California Safe Drinking Water Act (California SDWA) and requires the State Water Board to maintain a drinking water program. (Health & Safety Code (HSC) § 116270, *et seq.*)
- 2) Requires, pursuant to the federal SDWA and California SDWA, drinking water to meet specified standards for contamination (maximum contaminant levels, or MCLs) as set by the United States Environmental Protection Agency (US EPA) or the State Water Board. (HSC § 116270, *et seq.*)
- 3) Establishes as the policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. (Water Code (WC) § 106.3)
- 4) Establishes the Porter-Cologne Water Quality Control Act, which prohibits the discharge of pollutants to surface waters unless the discharger obtains a permit from the State Water Board. (WC § 1300 *et seq.*)
- 5) Requires a person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the state, to report the discharge to the Regional Water Board. (WC § 13260).
- 6) Authorizes the State Water Board and Regional Water Boards to waive discharge requirements as to a specific discharge or type of discharge if the State Water Board or Regional Water Board determines that the waiver is consistent with any applicable state or regional water quality control plan and is in the public interest. (WC § 13269)
- 7) Establishes MCLs for the various forms of nitrate. (California Code of Regulations § 63341)

FISCAL EFFECT: Unknown.

COMMENTS:

Need for the bill: According to the author,

"Section 106.3 of the Water Code declares that every Californian has the right to sufficient clean, safe, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. However, drinking water safety and affordability issues currently affect

California communities across the state, with low-income communities and communities of color experiencing the greatest impact.

Recent data by the State Water board identified roughly 300 California public water systems serving communities and schools that are currently out of compliance with drinking water standards, some of which have been unable to provide safe drinking water for years, including some for more than a decade. These systems serve 692,807 people, or almost 1.8% of all Californians.

The lack of a sustainable funding source means disadvantaged communities and others have no outside support to draw upon, forcing their typically small, rural and/or socioeconomically disadvantaged ratepayer bases to bear the entire cost of ongoing drinking water treatment. As a result, disadvantaged communities and others in need of drinking water treatment may be unable to meet drinking water standards because they are unable to afford the cost of drinking water treatment, or their drinking water rates may be over 1.5% of median household income (MHI), which is the level of affordability incorporated into California's SDWSRF loan forgiveness eligibility standards. What is more, families in these disadvantaged communities may be forced to purchase bottled water in addition to paying their monthly water bill, creating a doubled financial burden.

Ongoing source of operations and maintenance funding for drinking water treatment for disadvantaged communities needs to be stable and sustainable, since communities, particularly disadvantaged communities, cannot afford to build drinking water treatment plants and then have funding disappear. SB 623 seeks to provide an ongoing funding stream to ensure that disadvantaged communities have access to clean, safe, affordable, drinking water."

Human right to water: In 2012, California became the first state to enact a Human Right to Water law, AB 685 (Chapter 524, Statutes of 2012). Public policy continues to be focused on the right of every human being to have safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitation. Water supply, contaminants, costs of treatment and distribution systems, the number and nature of small public water systems (PWS), especially in disadvantaged communities, and many other factors will continue to challenge progress in addressing the Human Right to Water.

Drinking water contamination in disadvantaged communities: According to the State Water Board report, "Communities that Rely on Contaminated Groundwater," released in January 2013, 682 community public water systems, which serve nearly 21 million people, rely on contaminated groundwater as a primary source of drinking water. The report points out that an additional two million Californians rely on groundwater from either a private domestic well or a smaller groundwater-reliant system that is not regulated by the state, the water quality of which is uncertain. The findings from State Water Board report, and a 2012 University of California at Davis study, "Addressing Nitrate in California's Drinking Water," suggest that drinking water contamination in California disproportionately affects small, rural, and low-income communities that depend mostly on groundwater as their drinking water source.

Nitrates: Nitrate is commonly used in fertilizers because plants need nitrates to live and grow. Once consumed, nitrate is converted into nitrite in the body. Nitrogen is applied to cropland in the form of synthetic fertilizers or as animal manure. The nitrogen in these fertilizers transforms

to nitrate and is carried to groundwater by the percolation of water through the soil column, any time water from irrigation or rainfall percolates below the root zone.

The problem with nitrates is that nitrite can interfere with the ability of red blood cells to carry oxygen to the tissues of the body, producing a condition called methemoglobinemia. The greatest threat is to infants, whose immature stomach environment enables conversion of nitrate to nitrite, which is then absorbed into the blood stream. The effects of nitrite are often referred to as the "blue baby syndrome" because their bodies are not absorbing enough oxygen. High nitrate levels may also affect the oxygen-carrying ability of the blood of pregnant women.

Legal limits on nitrates: The current state MCLs for nitrates were adopted by the California Department of Health Services in 1994 based on the US EPA's MCLs promulgated in 1991.

The Office of Environmental Health Hazard Assessment (OEHHA) established its public health goals (PHGs) for nitrate and nitrite in 1997. The PHGs, based on methemoglobinemia in infants, are 45 parts per million (ppm) for nitrate (equivalent to 10 ppm nitrate-nitrogen), 1 ppm for nitrite-nitrogen and 10 ppm for joint nitrate/nitrite (expressed as nitrogen) in drinking water. The PHGs are the same as the drinking water MCLs. Typically PHGs inform the development of MCLs. In this case, the MCL predated the PHG.

Causes of nitrate contamination: High concentrations of nitrate in groundwater are primarily caused by human activities, including fertilizer application (synthetic and manure), animal operations, industrial sources (wastewater treatment and food processing facilities), and septic systems. Agricultural fertilizers and animal wastes applied to cropland are by far the largest regional sources of nitrate in groundwater, although other sources can be locally important.

Where is nitrate contamination?: Nitrate in drinking water is widespread in numerous areas of the state. PWSs, because they are regulated by the State Water Board (unlike private wells), are required to analyze drinking water sources for nitrates and report the results to the State Water Board's Division of Drinking Water. Among regulated contaminants detected at levels greater than their MCLs in California, nitrates rank high.

The 2012 University of California at Davis (UC Davis) report, "*Addressing Nitrate in California's Drinking Water*," indicated that about 2.6 million people in the four-county Tulare Lake Basin and the Monterey County portion of the Salinas Valley rely on groundwater for drinking water, including those in some of the poorest communities in California. The report found that nitrate contamination is increasing and currently poses public health concerns for about 254,000 people in the study area.

According to the report, *Communities That Rely on a Contaminated Groundwater Source For Drinking Water*, most of the community PWSs with violations of drinking water standards are located in the Southern California Inland Empire, the east side of San Joaquin Valley, the Salinas Valley, and the Santa Maria Valley. In the Salinas Valley, 58% of raw groundwater has been found to be contaminated with nitrates, along with other contaminants including arsenic. Nitrate levels in the groundwater are particularly high south of Salinas, with levels as high as 690 ppm.

An additional two million Californians rely on groundwater from either a private domestic well or a smaller groundwater-reliant system that is not regulated by the state. Most of these residents lack an assessment of their water because they are not required to test its quality.

Costs for nitrate cleanup: The 2012 UC Davis nitrate report calculated that up to \$36 million per year is needed for safe drinking water solutions to address nitrate contamination. The report elaborated that, "Costs for safe drinking water solutions to nitrate contamination in the Tulare Lake Basin and Salinas Valley are roughly \$20 and \$36 million per year for the short- and long-term solutions, respectively. About \$17 to \$34 million per year will be needed to provide safe drinking water for 85 identified community public and state small water systems in the study area that exceed the nitrate drinking water MCL (serving an estimated 220,000 people). The annualized cost of providing nitrate-compliant drinking water to an estimated 10,000 affected rural households (34,000 people) using private domestic wells or local small water systems is estimated to be at least \$2.5 million for point-of-use treatment for drinking use only. The total cost for alternative solutions translates to \$80 to \$142 per affected person per year, \$5 to \$9 per irrigated acre per year, or \$100 to \$180 per ton of fertilizer nitrogen applied in these groundwater basins."

State Water Board settlement with Salinas Valley growers: On April 6, 2017, the State Water Board announced a temporary program to produce a replacement drinking water plan for Salinas Valley residents whose groundwater supplies are contaminated with unsafe levels of nitrate. The program will be organized and funded by the members of the Salinas Basin Agricultural Stewardship Group, a coalition of local agricultural owners and operators, and it will run for up to two years while the parties work toward permanent solutions to respond to the challenges of nitrate accumulation in the Salinas basin groundwater. The temporary program, also known as the Interim Replacement Water Settlement Agreement (Agreement), covers small water systems and some domestic wells used by about 850 residents in the rural area.

The State Water Board's Office of Enforcement and the Central Coast Regional Water Quality Control Board are suspending their current replacement water enforcement actions against parties that join the stewardship group for as long as two years while this new Agreement is instituted. Landowners who wish to become a member of the stewardship group are still able to join. Furthermore, the goal of the Agreement is for the Salinas Basin Agricultural Stewardship Group and State Water Board to work cooperatively towards the development and implementation of a funding mechanism and solutions for the provision of long-term replacement water.

Lack of clean safe drinking water: Although most of the state's residents receive drinking water that meets federal and state drinking water standards, many drinking water systems in the state consistently fail to provide safe drinking water to their customers. Lack of safe drinking water is a problem that disproportionately affects residents of California's disadvantaged communities. More than 300 drinking water systems in disadvantaged communities, serving approximately 200,000 people, are unable to provide safe drinking water. These systems include 30 schools and daycare centers that serve over 12,000 children.

Disadvantaged communities often lack the rate base, as well as the technical, managerial, and financial capacity to show they can afford and effectively manage operations and maintenance costs related to water treatment. Without being able to pay for maintenance, these communities are effectively barred from accessing capital improvement funding. In contrast, larger water systems have the financial capacity both to pay treatment costs and to provide for a well-trained and technically competent workforce of water system operators. SB 623 seeks to provide an on-going funding source specifically to address the drinking water needs in disadvantaged communities.

Identifying Communities Struggling to Provide Clean Drinking Water: In an effort to make the public aware of the problems public water systems are facing when it comes to providing clean and reliable drinking water, the State Water Board has developed a Human Right to Water web portal. This new web portal includes downloadable information and a map that shows water systems that may not meet primary drinking water standards. The site also includes a link to the draft Safe Drinking Water Operations and Maintenance Needs Estimate spreadsheet, and an explanation document which lays out the methodology. Total needs are estimated at \$45 million annually, with 309 public water systems included in the analysis, serving approximately 200,000 people statewide.

Irrigated lands regulatory program: Water discharges from agricultural operations in California include: irrigation runoff, flows from tile drains, and storm water runoff. These discharges can affect water quality by transporting pollutants, including pesticides, sediment, nutrients, salts (including selenium and boron), pathogens, and heavy metals, from cultivated fields into surface waters. Many surface water bodies are impaired because of pollutants from agricultural sources. Groundwater bodies have suffered pesticide, nitrate, and salt contamination.

To prevent agricultural discharges from impairing the waters that receive these discharges, the Irrigated Lands Regulatory Program (ILRP), administered by the State Water Board and Regional Water Boards, regulates discharges from irrigated agricultural lands. This is done by issuing waste discharge requirements (WDRs), or conditional waivers of WDRs (Orders), to growers. These Orders contain conditions requiring water quality monitoring of receiving waters and corrective actions when impairments are found. The number of acres of agricultural land enrolled in the ILRP is about six million acres. The number of growers enrolled is approximately 40,000.

Waiver of waste discharge requirements: State law authorizes the State Water Board and Regional Water Boards to conditionally waive WDRs if this is in the public interest. Over the years, the Regional Water Boards issued waivers for more than 40 categories of discharges. Although waivers are always conditional, the historic waivers had few conditions. In general, they required that discharges not cause violations of water quality objectives, but did not require water quality monitoring. Senate Bill 390 (Alpert, Chapter 686, Statutes of 1999), required the Regional Water Boards to review their existing waivers and to renew them or replace them with WDRs. Under SB 390, waivers not reissued automatically expired on January 1, 2003. To comply with SB 390, the Regional Water Boards adopted revised waivers. The most controversial waivers were those for discharges from irrigated agriculture.

Outstanding issues: While SB 623 is very comprehensive, there are still a few issues to work on. The bill identifies, in a few sections, that there will be subsequent changes to impose some type of fee or assessment on agricultural operations as a fund source for the grant/loan program the bill creates. However, it is also likely there will be additional sources of revenue this bill would seek to raise. Additionally, this bill requires the State Water Board to develop regulations, within one year, to test small water systems and individual domestic wells. There may be challenges with meeting this timeframe that the author and the Administration may wish to address. Also, the bill authorizes enforcement relief, which takes effect on January 1, 2018; however, that enforcement relief is contingent upon an agricultural operation making timely payments on a fee or assessment that may not be imposed until 2019 or later. The author may wish to consider syncing up these two timeframes in some manner. Additionally, when providing this enforcement relief, it is important to ensure that the wording correct, so that the

enforcement relief is not broader than intended, preserving all rights of a person to bring a civil claim today, should the bill become law.

SB 623 contains two major provisions, creating a fund source and grant/loan program to provide assistance to small and domestic water wells, in order for them to have clean, safe, affordable drinking water; and providing enforcement relief from the State Water Board and Regional Water Boards for agricultural operations, if they meet certain requirements and pay an assessment that is used to support the new grant/loan program for small and domestic wells that this bill creates. Ensuring that everyone in California has access to clean, safe, affordable drinking water has been a subject of bills heard before this committee in the past and has been a goal shared by many. However, the provision of the bill that provides enforcement relief is a bit more complicated. While an agricultural operation will have to meet many requirements of the State Water Board and Regional Water Board, as well as paying some type of fee or assessment, it is important to understand that this bill will restrict certain enforcement actions by the State Water Board and Regional Water Boards. SB 623 takes a very comprehensive approach to tackle the very challenging issue of nitrate contamination in drinking water and groundwater. This is a very laudable goal.

Related legislation:

AB 1605 (Caballero, 2017). Provides legal relief for signatories participating in a state program to provide drinking water. This bill was held in the Assembly Judiciary Committee as a two-year bill.

REGISTERED SUPPORT / OPPOSITION:

Support

Alliance of Child and Family Services
American Heart Association
American Rivers
American Stroke Association
Arvin Community Services District
Asian Pacific Environmental Network
Asociacion de Gente Unida por el Agua
Black Women for Wellness
California Audubon
California Bicycle Coalition
California Environmental Justice Alliance
California Food Policy Advocates
California League of Conservation Voters
California Rural Legal Assistance Foundation
California Pan-Ethnic Health Network
California Water Service
Catholic Charities, Diocese of Stockton
Central California Environmental Network
Center for Race Poverty and the Environment
City of Arvin
City of Porterville

Clean Water Action
Comité Civico del Valle
Community Alliance for Agroecology
Community Water Center
Council for a Strong America
County of Tulare
Cultiva la Salud
Dolores Huerta Foundation
El Quinto Sol de America
Environmental Defense Fund
Esperanza Community Housing Corporation
Faith in the Valley
Friends Committee on Legislation in California
Friends of Calwa
Fresno Building Healthy Communities
Latino Coalition for a Healthy California
Leadership Counsel for Justice and Accountability
League of Women Voters
Lutheran Office of Public Policy
Mission: Readiness
Pacific Institute
Pacific Water Quality Association
Physicians for Social Responsibility Los Angeles
Planning and Conservation League
PolicyLink
Public Health Advocates
Pueblo Unido CDC
Self-Help Enterprises
Service Employees International Union (SEIU)
Strategic Actions for a Just Economy
Strategic Concepts in Organizing & Policy Education
Sunflower Alliance
RCAC
The Nature Conservancy
TransForm
Water Quality Association
Western Center on Law & Poverty
Western Growers Association
Wholly H2O

Opposition

Alameda County Water District
American Water Works Association, California-Nevada Section
Association of California Water Agencies
Bella Vista Water District
California Sportfishing Protection Alliance
California Water Impact Network
Calleguas Municipal Water District

City of Fairfield
City of Indio
City of Roseville
Cucamonga Valley Water District
Desert Water Agency
East Valley Water District
Eastern Municipal Water District
Elsinore Valley Municipal Water District
El Dorado Irrigation District
Foresthill Public Utility District
Humboldt Baykeeper
Humboldt Bay Municipal Water District
Indian Wells Valley Water District
Indio Water Authority
Inland Empire Waterkeeper
Kern County Water Agency
La Canada Irrigation District
Las Virgenes Municipal Water District
Mesa Water District
Monte Vista Water District
Monterey Coastkeeper
Pacific Coast Federation of Fishermen's Association
Padre Dam Municipal Water District
Placer County Water Agency
Regional Water Authority
Rincon del Diablo Municipal Water District
Rowland Water District
Russian Riverkeeper
San Gabriel County Water District
San Juan Water District
Santa Barbara Channelkeeper
Santa Margarita Water District
Southern California Water Committee
The Otter Project
Three Valleys Municipal Water District
Valley Center Municipal Water District
Vista Irrigation District
Western Municipal Water District
Yorba Linda Water District

Analysis Prepared by: Josh Tooker / E.S. & T.M. /

May 30, 2017

The Honorable William W. Monning
Senate Majority Floor Leader
California State Senate
State Capitol, Room 313
Sacramento, CA 95814

Re: SB 623 (Monning): Funding for Safe Drinking Water
Position: OPPOSE UNLESS AMENDED

Dear Senator Monning:

On behalf of the Association of California Water Agencies (ACWA), I am writing to express ACWA's "Oppose Unless Amended" position on SB 623 (Monning). ACWA represents about 430 public water systems across the state. Together, they provide approximately 90 percent of the water that is delivered in California for the public, agriculture and the business community. ACWA agrees with the intent of the bill which is to help fund solutions for disadvantaged communities (DACs) that do not have safe drinking water. The lack of safe drinking water in certain DACs in California is a public health issue and a social issue that needs to be addressed. SB 623 would provide needed funding for replacement water and for the funding of operation and maintenance (O&M) costs. However, as currently drafted, **SB 623 has fundamental flaws:**

1) **SB 623 would include private wells and "state small water systems"¹ as eligible funding categories even though data is lacking to support a credible needs assessment.** As noted by the State Water Resources Control Board (SWRCB), the state does not require owners of private wells to sample their wells, and "consequently a comprehensive database for these groundwater sources does not exist."² The SWRCB also notes that state small systems "are typically regulated at the local or county level; therefore, a comprehensive database for these groundwater sources does not exist."³ Where data does exist, it may not include an overlay of household income data. Some

¹ Subdivision (n) of California Health and Safety Code Section 116275 defines a "state small water system" as a system for the provision of piped water to the public for human consumption that serves at least five, but no more than 14, service connections and does not regularly serve drinking water to more than an average of 25 individuals daily for more than 60 days out of the year.

² *Communities that Rely on a Contaminated Groundwater Source for Drinking Water*, SWRCB, January 2013, at Page 5.

³ *Id.*, at page 31.



well-intended organizations are attempting to create very rough statewide estimates using limited data for some counties and then making extrapolations. This is not a credible approach to estimating the needs for these categories. **ACWA suggests that these categories be deleted from the eligible categories in the bill, and the bill instead require the SWRCB, in consultation with the counties and relevant stakeholders, to develop a report to the Legislature with recommendations for how the drinking water data could be collected and evaluated for private wells and state smalls systems in rural, unincorporated areas.**

2) The bill would include capital costs of implementing long-term solutions as a category eligible for funding even though other funding sources have proven effective for funding capital needs. General Obligation (G.O.) bond funding is an effective way to fund capital for safe drinking water projects. In 2014, ACWA supported and the voters approved Proposition 1 with \$260 million for safe drinking water projects and \$260 million for wastewater projects with focus on projects in disadvantaged communities. SB 5 by Senate President pro Tempore Kevin de León proposes another \$250 million for safe drinking water projects with focus on projects in disadvantaged communities. The federally-funded Safe Drinking Water State Revolving Fund (SRF) also provides funding for capital. (The President's proposed budget would increase current SRF funding.) ACWA suggests that the proposed eligibility for capital costs be deleted. Then the bill would focus on replacement water and the category which has been the most challenging – O&M funding. (Bonds generally cannot fund O&M, and the SRF cannot fund O&M.)

3) The bill would not limit the funding to disadvantaged communities. The current version would have the SWRCB make the funding available to those without access to safe and affordable drinking water. To be clear about eligibility, ACWA suggests that the funding be limited to disadvantaged communities in rural, unincorporated areas that do not have safe drinking water.

4) The bill would authorize the SWRCB to take incidental action as may be appropriate for adequate administration and operation of the fund (at Page 3, Line 17). Instead of simply including this rather vague provision, the bill should be specific as to what this proposed provision is intended to cover.

I very much appreciate the May 26, 2017 meeting to discuss the need for the bill and your intentions for the bill. ACWA understands that future amendments will add funding sources. As I noted in the meeting, ACWA opposes a public goods charge/tax on water. ACWA will be glad to work with you on the amendments suggested above and on the development of amendments for a mutually-agreeable funding source(s).

In the meantime, however, and for the reasons stated above, ACWA has an "Oppose-Unless-Amended" position on the bill in its current form. I am available to answer questions at (916) 441-4545 or at cindy@acwa.com.

Sincerely,

Cindy Tuck

Cindy Tuck
Deputy Executive Director for Government Relations

cc: Ms. Kathy Smith, Senior Legislative Consultant, Office of Senator Monning
Mr. Rob Egel, Legislative Director, SWRCB