



REGULAR BOARD MEETING

AUGUST 8, 2023



STOCKTON EAST WATER DISTRICT

PROVIDING SERVICE SINCE 1948
www.sewd.net

DIRECTORS

Richard Atkins
President
Division 1

Andrew Watkins
Division 2

Alvin Cortopassi
Division 3

Melvin Panizza
Division 4

Paul Sanguinetti
Division 5

Loralee McGaughey
Division 6

Thomas McGurk
Vice President
Division 7

STAFF

Justin M. Hopkins
General Manager

Juan M. Vega
Assistant General Manager

LEGAL COUNSEL

Jeanne M. Zolezzi
General Counsel

Phone 209-948-0333
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E-mail sewd@sewd.net

6767 East Main Street
Stockton, CA 95215

Post Office Box 5157
Stockton, CA 95205

MEETING NOTICE

THE REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE STOCKTON EAST WATER DISTRICT WILL BE HELD AT 12:30 P.M., TUESDAY, AUGUST 8, 2023 AT THE DISTRICT OFFICE, 6767 EAST MAIN STREET STOCKTON, CALIFORNIA 95215

Assistance for the Disabled: If you are disabled in any way and need accommodation to participate in the meeting, please contact Administrative Staff at (209) 948-0333 at least 48-hours in advance for assistance so the necessary arrangements can be made.

FOR CONTINUED CONVENIENCE STOCKTON EAST WATER DISTRICT BOARD MEETINGS WILL BE AVAILABLE BY TELECONFERENCE.

Please call (669) 444-9171/Meeting ID: 876 5902 3782#/Passcode: 847846# to be connected to the Regular Board Meeting, to begin at 12:30 p.m. Agendas and minutes are located on our website at www.sewd.net.

AGENDA

Page No

- A. Pledge of Allegiance (Director McGurk) & Roll Call**
- B. Consent Calendar (None)**
- C. Public Comment (Non-Agenda Items)**
- D. Scheduled Presentations and Agenda Items**
 - 1. Minutes 08/01/23 Regular Meeting 01
 - 2. Warrants – California Public Employees’ Retirement System 09
 - 3. Greater Stockton Chamber of Commerce – Ag Hall of Fame Nomination Request 11
 - 4. Association of California Water Agencies – Candidate Statements for Board Officers’ Election for President & Vice President for the 2024-25 Term 13
- E. Committee Reports**
- F. Report of the General Manager**
 - 1. Water Supply Report as of 08/01/23 15
 - 2. Information Items
 - a. Material Included, but Bound Separately from Agenda Packet:
 - 1. SWC Partners With DWR To Award \$4 Million In Funding For Bay-Delta Research, ACWA News, 08/02/23
 - 2. CSDA 2024 Legislative Proposal Submission Forms Due September 12, CSDA eNews, 08/01/23

- F. Report of the General Manager – continued**
3. Report on General Manager Activities
 - a. CVP Water Association – Executive and Financial Affairs Committee Meeting, 08/04/23 17
 - b. Stockton East Water District Activities Update
- G. Director Reports**
1. Stockton East Water District Election Costs Meeting – Supervisor Ding & Stockton East Water District, 08/02/23
- H. Communications**
1. State Water Resources Control Board Order WR 2023-0038-EXEC Letter 19
- I. Agenda Planning/Upcoming Events**
1. Congressman Josh Harder – Summer Open House, 4:00 p.m., 08/08/23 29
 2. Eastern San Joaquin Groundwater Authority Steering Committee Meeting, 8:30 a.m., 08/09/23 31
This meeting was cancelled
 3. Eastern San Joaquin Groundwater Authority Board Meeting, 10:30 a.m., 08/09/23
 4. Stockton Area Water Suppliers (SAWS) Meeting, 1:00 p.m., 08/11/23
- J. Closed Session**
1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Potential exposure to litigation – Government Code Section 54956.9 – one case
- K. Adjournment**

Certification of Posting

I hereby certify that on August 3, 2023 I posted a copy of the foregoing agenda in the outside display case at the District Office, 6767 East Main Street, Stockton, California, said time being at least 72 hours in advance of the meeting of the Board of Directors of the Stockton East Water District (Government Code Section 54954.2).

Executed at Stockton, California on August 3, 2023.



Morgiana Celestine, Administrative Services Manager
Stockton East Water District

THE REGULAR MEETING OF THE BOARD OF DIRECTORS
OF STOCKTON EAST WATER DISTRICT WAS HELD AT THE DISTRICT OFFICE
6767 EAST MAIN STREET, STOCKTON, CA
ON TUESDAY, AUGUST 1, 2023 AT 12:30 P.M.

A. PLEDGE OF ALLEGIANCE AND ROLL CALL

President Atkins called the regular meeting to order at 12:30 p.m., and President Atkins led the Pledge of Allegiance.

Present at roll call at the District were Directors Atkins, Cortopassi, McGaughey, McGurk, Sanguinetti and Watkins. Director Panizza arrived at 12:37 p.m. Also present were Manager Hopkins, Assistant Manager Vega, Finance Director Ram, District Engineer Evensen, Administrative Assistant Wood and Legal Counsel Zolezzi. Administrative Services Manager Celestine was present via teleconference. Consultant Barkett was absent.

B. CONSENT CALENDAR (None)

C. PUBLIC COMMENT

D. SCHEDULED PRESENTATIONS AND AGENDA ITEMS

1. DCSE, Inc – 2022 GROWMAS Technical Report Draft

Manager Hopkins introduced Ali Diba, the Chief Technology Officer at DCSE, Inc. Mr. Diba provided the Board with a presentation regarding the Geospatial Resources of Water Management for Agricultural System (GROWMAS) Technical Report. The subject of the technical report is the application of Net-To-From Groundwater (NTFGW) to estimate annual and monthly groundwater pumping and recharge for three of the water districts in the East San Joaquin subbasin: Stockton East Water District (SEWD), North San Joaquin Water Conservation District (NSJWCD), and Central San Joaquin Water Conservation District (CSJWCD). The report provided parcel and district-level NTFGW results for 2022 and a comparative analysis between district-level NTFGW results for 2021 and 2022. DCSE, Inc. used various sources of data which include; surface water delivery data for over 400 agricultural parcels within SEWD and CSJWCD boundaries, gridded precipitation data from the PRISM Climate Group and OpenET, an online platform that provides evapotranspiration (ET) estimates for defined geographic boundaries.

Mr. Diba reported the total NTFGW for SEWD in 2022 is -104,754. The negative NTFGW value indicates that more pumping occurred than recharge. Thus, the district had a net groundwater use of 104,753 AF, with annual pumping being 117,947 AF and annual recharge being 13,193 AF. NTFGW becomes increasingly negative between April and July, a period when ET increases. By November and December, NTFGW is positive, signaling a period of groundwater recharge or percolation. These two months are characterized by high precipitation and low ET. The 2022 NTFGW estimate for CSJWCD is -137,985 AF. Net groundwater consumption is 137,985 AF, with an annual pumping of 140,059 AF and recharge is 2,074 AF. NTFGW declines from March to July, a period of high ET (Figure 6). Like SEWD, NTFGW becomes positive in November and December due to the intense rainfall and low ET. NTFGW for NSJWCD is -88,676 AF. Thus, net pumping for 2022 is estimated to be 88,676 AF, with annual pumping being 100,325 AF and recharge being 11,649 AF. In June, there was a decrease in ET.

For 2022, all districts have negative NTFGW values, indicating that more groundwater was extracted than recharged across the board. However, despite being a larger area, NSJWCD net

consumption of groundwater was lower than SEWD and CSJWD. Two factors potentially contributed to this outcome: 1) NSJWCD received more rainfall than CSJWCD and SEWD in 2022, and 2) total annual ET for NSJWCD in 2022 is similar to the other districts. An analysis of district-wide annual NTFGW results shows a reduction in net groundwater consumption for SEWD from 2021 to 2022. According to the current NTFGW estimates, SEWD is the only district to have reduced groundwater consumption in 2022. Mr. Diba reported this may be due to increased surface water deliveries and a lower total annual ET for SEWD in that year. While NSJWCD extracted less groundwater in 2022 than any other district, their groundwater consumption was higher in 2022 than in 2021. The increase in groundwater consumption may be attributed to a decrease in precipitation for 2022.

Director McGurk inquired if the data shows the consumptive use of groundwater and surface water by crop. Mr. Diba responded the ET is the representation of the consumptive use of the crops. Director Cortopassi inquired if the ET shows the same data for various types of crops. Mr. Diba responded there is an infrared band present in the satellite imagery which determines the ET regardless of the type of crop irrigated.

President Atkins inquired how often will the satellites produce images for analysis. Mr. Diba responded there are two satellites; Landsat 8 and Landsat 9 that provide four images per month.

The Board thanked Mr. Diba for his presentation.

2. Minutes 07/25/23

A motion was moved and seconded to approve the July 25, 2023 Regular Board Meeting Minutes, as presented.

Roll Call:

Ayes: Atkins, Cortopassi, McGaughey, McGurk, Panizza, Sanguinetti, Watkins

Nays: None

Abstain: None

Absent: None

3. Warrants

- a. Fund 68 – Municipal & Industrial Groundwater Fund
- b. Fund 70 – Administration Fund
- c. Fund 71 – Water Supply Fund
- d. Fund 91 – Vehicle Fund
- e. Fund 94 – Municipal & Industrial Fund
- f. Payroll
- g. Summary
- h. SEWD Vehicles & Heavy Equipment
- i. Short Names/Acronym List

A motion was moved and seconded to approve the August 1, 2023 Warrants, as presented.

Roll Call:

Ayes: Atkins, Cortopassi, McGaughey, McGurk, Panizza, Sanguinetti, Watkins

Nays: None

Abstain: None

Absent: None

4. Stockton East Water District – Installation of New Extraction Well No. 2 and Proposed Budget Amendment Memo

Manager Hopkins presented the Board with a memo regarding the installation of a new extraction well and a proposed budget amendment. Manager Hopkins reported the District has planned the construction of a new extraction well to supplement the available surface water with banked groundwater as part of the District’s 2020 Urban Water Management Plan (UWMP).

As part of the District’s 2022-2023 budget, the Board approved \$750,000 for the drilling and installation of a new extraction well. District staff solicited a proposal from Purviance Drillers Inc. (Purviance) and procured a quote of \$217,905.52 for drilling, casing installation and pump testing the new extraction well. The Board approved execution of the contract with Purviance Drillers Inc. (Purviance) on July 5, 2022 for a project amount of \$261,487 and the District executed a contract with Purviance. Due to adverse weather conditions and Purviance sustaining damage to their drilling equipment that required repairs, the project was delayed into the new Fiscal Year (FY), 2023-2024 and FY 2023-2024 did not include the extraction well project.

The FY 2023-2024 budget included \$960,000 for Ozonation Design. Although discussions are ongoing with the Urban Contractors about the desire to design and build an ozone addition to the District’s Treatment Plant, the likelihood of approval and expenditure of those funds are low this fiscal year. Staff recommends the Board authorize the General Manager to approve proposed budget transfer from account 10-5323-0 Maintenance and Repair TP – Ozonation Design in the amount of \$605,000 to account 10-5323-0 Maintenance and Repair TP – Extraction Well No. 2 to construct a new well and other project related costs and contingencies.

Director Cortopassi inquired why the budget transfer is in the amount of \$605,000 and not \$261,487 for the project price. Manager Hopkins clarified the budget transfer is an estimate which includes the contract amount, PGE expenses, well pump, valving, electrical equipment and other equipment needed to install an extraction well.

A motion was moved and seconded to approve a budget transfer from account 10-5323-0 Maintenance and Repair TP – Ozonation Design in the amount of \$605,000 to account 10-5323-0 Maintenance and Repair TP – Extraction Well No. 2 to construct a new well and other project related costs and contingencies, as presented.

Roll Call:

Ayes: Atkins, Cortopassi, McGaughey, McGurk, Panizza, Sanguinetti, Watkins

Nays: None

Abstain: None

Absent: None

5. Stockton East Water District – Budget Amendment for Variable Frequency Drives for P1 Pump Replacement and P27 and Associated Installation Costs as well as Purchase of VFD for P27 Memo

Manager Hopkins provided the Board with a memo regarding a budget amendment for a Variable Frequency Drives (VFD) for P1 Pump Replacement and P27. Manager Hopkins reported the District’s Fiscal Year (FY) 2023-2024 approved budget includes funding for the replacement of the Low Lift Pump Station’s (LLPS) Pump P-1. Currently, the District has purchased the replacement pump, check valve and butterfly valve for the P-1 Replacement Project. The VFDs for the P-1 Replacement Project and P27, a previously purchased but yet to be delivered VFD, were not included in this fiscal year’s budget.

Manager Hopkins reported District Staff received a quote from Wille Electric Supply Company for an ABB VFD in the amount of \$68,264. The District has standardized on ABB VFDs for their quality and availability. The installation of LLPS P-1 is tentatively scheduled for the end of February 2024 based upon the lead time given by the manufacturer of the previously purchased 250 HP pump. The installation of the pump and associated piping will need to be contracted later this fiscal year, but staff has obtained preliminary estimates for the work to be done to install the pump. These preliminary estimates have been above the original engineering estimate of the cost to install the pump and new piping in LLPS and the need for more funding has been identified.

In addition to the above listed VFD purchase and funding of installation of P-1, the VFD for P-27 was ordered last fiscal year under its own approved budget in the amount of \$125,374 and, due to industry delays, was not delivered last fiscal year. The current delivery date for the VFD is estimated for November 2023.

The original budget for the LLPS Pump P-1 Replacement project was \$380,000. Thus far the District has purchased the 250 HP replacement pump, check valve and butterfly valve, leaving \$46,302 in the budget for all other electrical materials, appurtenances, and installation. The cost of the VFD for pump P-1 plus a 10% contingency will be \$75,090. The preliminary estimate of the installation of the pump plus a 10% contingency will be approximately \$165,000, and the estimated cost of all other electrical materials for P-1 is \$20,000. These three items total in the amount of \$260,090. The current project budget will not be sufficient to cover the expected costs for the electrical, installation and VFD. The Budget amendment required to cover these costs will be \$213,789. Additionally, the cost of the VFD for P-27 from Rexel is \$125,374.

President Atkins inquired on the estimated delivery time for the VFD's. Manager Hopkins replied the lead time is 20 weeks.

A motion was moved and seconded to approve a budget transfer from account 10-5323-0 Maintenance and Repair TP – Ozonation Design to account 10-5323-0 Maintenance and Repair TP – P27 VFD in the amount of \$125,400 and to account 10-5323-0 Maintenance and Repair TP – LLPS1 Replacement in the amount of \$214,000 and authorize the General Manager to approve a purchase of the VFD from Willie Electric in the amount of \$68,264 plus a 10% contingency for a total of \$75,090 and make all necessary approvals, as presented.

Roll Call:

Ayes: Atkins, Cortopassi, McGaughey, McGurk, Panizza, Sanguinetti, Watkins

Nays: None

Abstain: None

Absent: None

6. Water Year 2022 – Accounts Receivable Credits for Refund for AG and Municipal & Industrial (M&I)

Manager Hopkins provided the Board with a list of Accounts Receivable Credits for reimbursement. Manager Hopkins reported the refunds are a result of overpayment of the groundwater assessment.

Manager Hopkins directed the Board's attention to line item 4 under the M&I Credit Refund table for City of Stockton's refund in the amount of \$837,928.34. Manager Hopkins reported the groundwater assessment was based off of 2021 pumping. However, in 2022 the City of Stockton

started taking water from the North Stockton Pipeline resulting in a decrease in groundwater pumping.

Finance Director Ram reported the total refund amount for the 2022 water year is less than previous years, excepting the City of Stockton's refund.

Director Cortopassi inquired if there are meters installed on these customer's pumps. Manager Hopkins responded there are meters installed for surface water users however not for all groundwater users.

Director McGurk inquired if we can apply a credit balance instead of processing a refund. Manager Hopkins replied the District's rules state a refund will be issued for any overpayments.

A motion was moved and seconded to approve payment of the Accounts Receivable Credits for Refund for Water Year 2022, as presented.

Roll Call:

Ayes: Atkins, Cortopassi, McGaughey, McGurk, Panizza, Sanguinetti, Watkins
Nays: None
Abstain: None
Absent: None

7. Statement of Consistency Pursuant to Execute Order N-7-22 and Findings of Fact Stockton East Water District Groundwater Sustainability Agency Statement of Consistency Pursuant to Executive Order N-7-22 – Well Permit Application for 6699 E Route 88, Stockton, CA. San Joaquin County – Statement of Consistency Pursuant to Execute Order N-7-22 6699 E Route 88, Stockton CA Agreement

Manager Hopkins provided the Board with a Statement of Consistency and Well Permit Application. Manager Hopkins reported the District received the well permit application from the San Joaquin Environmental Health Department. The District is required to submit a statement of consistency to San Joaquin County stating the replacement well would be consistent with the District's Groundwater Sustainability Plan.

Director McGurk reported the application incorrectly lists the GSA as South Delta Water Agency. Manager Hopkins replied staff will reach out to San Joaquin County to correct the error.

Director Panizza inquired if any other GSA's need to approve this well application. Manager Hopkins replied only the district the address resides within.

A motion was moved and seconded to approve the Statement of Consistency Pursuant to Execute Order N-7-22 and Findings of Fact Stockton East Water District Groundwater Sustainability Agency Statement of Consistency Pursuant to Executive Order N-7-22 – Well Permit Application for 6699 E Route 88, Stockton, CA. San Joaquin County – Statement of Consistency Pursuant to Execute Order N-7-22 6699 E Route 88, Stockton CA Agreement, as presented.

Roll Call:

Ayes: Atkins, Cortopassi, McGaughey, McGurk, Panizza, Sanguinetti, Watkins
Nays: None
Abstain: None
Absent: None

8. Stockton East Water District – Eight Mile Dam Replacement NEPA Compliance Services Memo

Manager Hopkins provided the Board with a memo regarding the Eight Mile Dam Replacement Project. Manager Hopkins reported the District’s FY 2023-2024 approved budget includes funding for the Eight Mile Dam Replacement Project in the amount of \$280,000. Subsequent to budget approval, the District was awarded a United States Bureau of Reclamation (USBR) WaterSMART grant for \$100,000. In order to comply with the grant agreement, National Environmental Policy Act (NEPA) permitting must be completed.

NEPA permitting requires a cultural and biological report. Staff reached out to three environmental consultants (Dokken Engineering, ECORP Consulting, Inc., and Condor Environmental Inc.) to receive quotes for the cultural report, biological report, and the necessary NEPA correspondence. Dokken Engineering and ECORP Consulting, Inc. responded to the District’s request. Dokken Engineering provided a significantly lower quote in the amount of \$25,990.

Staff recommends the Board authorize the General Manager to approve the scope of work with Dokken Engineering in the amount of \$25,990 plus a 10% contingency of \$2,599 for a total amount of \$28,589, and make all other necessary approvals.

Director Watkins inquired if the District had not been awarded the grant funding, would the District be required to conduct a cultural and biological report. Manager Hopkins replied the District is only required per the grant agreement. Director Watkins cautioned staff about accepting the grant funding to avoid conducting cultural surveys.

A motion was moved and seconded to authorize the General Manager to approve the scope of work with Dokken Engineering in the amount of \$25,990 plus a 10% contingency of \$2,599 for a total amount of \$28,589, and make all other necessary approvals, as presented.

Roll Call:

Ayes: Atkins, Cortopassi, McGaughey, McGurk, Panizza, Sanguinetti, Watkins
Nays: None
Abstain: None
Absent: None

E. COMMITTEE REPORTS

F. REPORT OF GENERAL MANAGER

1. Water Supply Report as of 07/25/23

Manager Hopkins provided a handout of the Water Supply Report for information only that included storage, release, and production data collected from various sources as of midnight last night.

There is 214,477 AF in storage at New Hogan Reservoir. Current releases are set at 226 cfs. There is 2,035,948 AF in storage at New Melones Reservoir. Current releases are set at 2,125 cfs. Current release at Goodwin Dam to Stanislaus River are set at 1,501 cfs and release to all water users are set at 3,078 cfs. There are 14 irrigators on New Hogan, 3 irrigators on New Melones, and 2 irrigators out of District. The water treatment plant is currently processing 48 mgd. The City of Stockton is currently processing 22 mgd.

2. Information Items:
Manager Hopkins noted item: F2a-1

3. Report on General Manager Activities

- a. Stockton East Water District Activities Update

Manager Hopkins reported the District received the approved Hosie Project Permit from the Central Valley Flood Protection Board. Manager Hopkins reported a portion of Mormon Slough will be shut down to accommodate dewatering and installation of the bypass which affects eight customers. Water Supply staff will reach out to notify those customers. President Atkins inquired how many days will these customers be out of water. Manager Hopkins responded staff is estimating three to five days.

Manager Hopkins reported the Department of Water Resources would like to host a media event at the Bellota site to present the District with a check in the amount of \$12.3M for awarded grant funding. The event is proposed to be held on either September 6th or September 7th at 10:00am.

Manager Hopkins reported the Sodium Hypochlorite Project has a tentative start-up date scheduled for Tuesday, September 5th. Manager Hopkins suggested the District schedule a Special Meeting and host a ribbon cutting ceremony before the Regular Board Meeting. Staff will coordinate the ribbon cutting event with the Stockton Chamber of Commerce.

Manager Hopkins reported he discussed a project with San Joaquin Area Flood Control Agency (SJAFCA) to reestablish the Mormon Channel. The District previously opposed the project and should continue to oppose the project if minimum instream flows must be diverted from the District's surface water allocations.

G. DIRECTOR REPORTS

1. San Joaquin Farm Bureau Federation Monthly Water Committee Meeting, 07/25/23

Director Watkins and Assistant Manager Vega attended the San Joaquin Farm Bureau Federation Monthly Water Committee Meeting on July 25th. Assistant Manager Vega reported North San Joaquin Water Conservation District provided an update on their south system pipeline, General Manager recruitment and new hydrogeologist.

Lesla MacIntosh, an East Bay Municipal Utility District (EBMUD) board member attended the meeting and provided information on who would be attending the meetings in the future.

Oakdale Irrigation District (OID) and South San Joaquin Irrigation District (SSJID) is estimating to use 215,000 out of 300,000 of their allotted water. SSJID reported their Proposition 218 hearing passed which will allow them to increase their rates over the next five years.

The San Joaquin County gave an update on the Mokelumne Conjunctive Use Study.

2. Eastern San Joaquin Water Accounting Framing Workshop #2, 07/26/23

Director Watkins and Legal Counsel Zolezzi attended the Eastern San Joaquin Water Accounting Framing Workshop #2 on July 26th. Director Watkins reported the GSA's will need to review the model components and raw data in more detail so there is a clearer understanding of the information being presented. Woodard & Curran will be sending the raw data out for review

before the next meeting. Manager Hopkins stated District Engineer Evensen is working on obtaining a proposal for a hydrogeologist to better assist the District in understanding the data.

H. COMMUNICATIONS

I. AGENDA PLANNING/UPCOMING EVENTS

1. Stockton East Water District Ad-Hoc Committee Meeting – Central San Joaquin Water Conservation & Stockton East Water District, 2:00 p.m., 08/03/23
Manager Hopkins reported this meeting is being rescheduled to next month.
2. CVP Water Association – Executive and Financial Affairs Committees Meeting, 10:00 a.m., 08/04/23

J. REPORT OF THE COUNSEL

1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Potential exposure to litigation – Government Code Section 54956.9 – one case
2. CONFERENCE WITH LEGAL COUNSEL – Personnel Government Code 54957

President Atkins adjourned the meeting to closed session at 2:02 p.m. to discuss closed session agenda items. The regular meeting reconvened at 2:27 p.m., with no reportable action.

K. ADJOURNMENT

President Atkins adjourned the meeting at 2:28 p.m.

Respectfully submitted,

Justin M. Hopkins
Secretary of the Board

hmw

**STOCKTON EAST WATER DISTRICT
INVOICES FOR BOARD PACKAGE
CALPERS EFT REQUEST
AUGUST 08, 2023**

Vendor name	District	Account #	Description	Amount	Invoice No.
	Fund#				
1 CA Public Employees Retirement System (CalPERS)	70	10-5049-0	Retirement Contributions for Payroll 08/04/23-Admin	5,392.67	08/04/23 1245106351
2 CA Public Employees Retirement System (CalPERS)	70	10-2299-0	Retirement Contributions for Payroll 08/04/23-Admin	47.45	08/04/23 1245106351
			Total Fund 70 Admin	\$ 5,440.12	
5 CA Public Employees Retirement System (CalPERS)	71	10-5049-0	Retirement Contributions for Payroll 08/04/23-WS-NM	4,493.56	08/04/23 1245106351
6 CA Public Employees Retirement System (CalPERS)	71	10-5058-0	Retirement Contributions for Payroll 08/04/23-WS-NH	2,012.40	08/04/23 1245106351
			Total Fund 71 Water Supply	\$ 6,505.96	
7 CA Public Employees Retirement System (CalPERS)	94	10-5049-0	Retirement Contributions for Payroll 08/04/23-M&I	20,360.64	08/04/23 1245106351
			Total Fund 94 Municipal & Industrial	\$ 20,360.64	
Grand Total for Electronic Funds Transfer Request on RBM 08/08/2023				\$ 32,306.72	

P.R.

Agenda Item: D-2
Date: 08/08/23

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July 20, 2023

Scot Moody
Stockton East Water District
Post Office Box 5157
Stockton, CA 95205

Dear Scot,

Because you care about our land as much as we do, we invite you to honor those who share in our passion. Please take a few moments to think of those in the agricultural community who have contributed or are contributing to the growth and nurturance of the number one industry in San Joaquin County, farming.

We're looking for nominations of outstanding individuals to recognize at our annual Agricultural Hall of Fame Banquet on October 19, 2023 at the Robert J. Cabral Ag Center. Here is the link to the nomination forms (two options – living recipients and deceased recipients) on the Greater Stockton Chamber of Commerce website:

<https://stocktonchamber.org/ag-hall-of-fame/>

Please note the form has been updated, just follow the questions. A list of previous honorees is included in this mailing.

Please note that the deadline for nominations is 5:00pm Monday, August 15, 2023. Should you have any questions, feel free to email me at carolyn@stocktonchamber.org or call me at 209-292-8426. In the meantime, make plans to join us for a very special evening at our Agricultural Hall of Fame in October.

Respectfully,

Carolyn Teixeira Gomes
Events Director



SAN JOAQUIN COUNTY AG HALL OF FAME

Inductees as of 2022

C.C. Barney Anderson	Adrian C. Fondse	Rudy Maggio	Robert O. Schulz
Steven John Arnaudo	Henry "Skip" Foppiano	Austin Mahoney	Stanley Seifert
John Azevedo	Keiji "Kay" Fujinaka	Angelo Marchini	Henry Coffin Shaw
Armando Baldocchi	Bruce Fry	Bruno Paul Marchini	Howard Schideler
Gerald Barton	Jeryl Fry, Jr.	Don Carlos Matteson	Les Schmid
Ben Beam	Manuel Furtado	James M. McLeod	George Shima
Garrett Beckley, Sr.	Frank Giannecchini	Donald Everett McKenzie	Lodowick Shippee
Sherwood Beckman	Mike Gikas	Dean McNeilly	Ann Bacchetti Silva
Ruben Bentz	Vernon Gogna	Roy McPhee	David Simpson
Stephen J. Borra Sr.	Alfred Goodwin	Bruce Mettler	Alfred Sorrenti
Roger Bowley	Alvin Gotelli	Carl Mettler	Jack Sparrowk
Dan Brandstad	Delano Gotelli	Larry Mettler	Herbert A. Speckman
Albert Brocchini	John Graffigna	Ole Mettler	Austin Sperry
Robert Brocchini	Joseph Grant	William Micke	Rudolph Stepich
Claude Brown	Lydia Hahn	Robert J. Mullen	Tom Stokes
Phil Brumley	Stanley Hahn	Diana Muller	Joseph F. Stuart
Pete Bulthuis	Jack Hamm	David Miller	Clark Swanson
Paul F. Burkner	Pati Hamm	Robert Gerald Mondavi	Jim Tanaka
Bruce Burlington	George Harris	Albert Muller	Richard Tanaka
Bob Cabral	Bob Hartzell	Irvin Muller	Sam Tanaka
William "Mick" Canevari	Alex Hildebrand	Robert Munyon	Ed Thoming
Mark Chandler	Tom Hoffman	Rodolfo Mussi	Grant Thompson
John Chiappe	Vernon Hoffman	Fred Nusz	Leonard V. Thompson
Jim Clare	Benjamin Holt	Melvin Oneto	Aldo Togninali
Robert L. Clark	William Hosie	Ralph Panella	Rosalie "Rosie" Togninali
Charlotte Clowes	John Hoult	William Parker	Laura Wheeler Tower
Patrick "Pat" Connolly	Lester Huck	George Perry, Sr.	Jack Underhill
Dean Cortopassi	Scott Hudson	David Phillips	Joseph Valente
Evelyn Costa	Gail Kautz	Donald Phillips	Adam Van Exel
Joe Cotta, Sr.	John Kautz	Michael Phillips	Hank Van Exel
Robert "Bob" Croce	Franz Kegel	David Phippen	Dan Van Groningen
Karen Cultrera	James Kissler	James Podesta	John Van Groningen
Olive Davis	Clifford Koster	Paul Polk	Robert Van Groningen
Frank DeBenedetti	Onalee Koster	August Precissi	James Van Till
Fred DeBenedetti	Lester Krohn	Frank Precissi	Paul Verdegaal
John DeCarli	John Kroyer	Joe Precissi	Leonard Vierra
Henry DeJong	George Lagorio	Louis Precissi	Ken Vogel
Albert Dell'Aringa	Bradford Lange	Everett Rankins	Harry Wagner
John A. Demichelis	Randall Lange	Donald Reynolds	Kenny Watkins III
Herman Diekman	Stanton Lange	Richard "Rip" Ripken	Molly Watkins
Edward T. Dinsdale	Robert LeTourneau	I.N. Robinson	George West
Joseph Dondero	John Ledbetter	Jerry Robinson	Henry Westing
Richard Dondero	Tillie Lewis	Richard Rodriguez	Arthur Weststeyn
Manuel J. Dutra Jr.	A.J. Lewis, Jr.	Gersh Rosen	Donald Wood
Jim Edwards	Chester Locke	Donald Rough	Rosemarie Woods
Charley Eilers	Christopher J. Locke	William Salmon	Yoshio Yamada
Henry Eilers, Sr.	Neil Locke	Lawrence Sambado	Ken Yasui
George Emde	Henry Long	Paul Sanguinetti	Richard Zolezzi, Sr.
Frank Faria	David Lucas	Paul Sylvester Sanguinetti	Alfred Zuckerman
Allan R. Fetters	Denene Lucchetti	Nat Scatena	John Zuckerman
Weir Fetters	Ralph Lucchetti	Christina Schallberger	
Melvin Fpaha	Emily Maberto	John J. Schmiedt	

CANDIDATE STATEMENTS

PRESIDENT

Cathy Green



As ACWA's Vice President since 2022, I have and will continue to diligently listen to and work on behalf of all ACWA members. My vision for ACWA is to fully embrace its motto of Bringing Water Together. I believe that we can accomplish this by unifying ACWA members and collaborating with stakeholders to find effective solutions to the challenges we face.

As your ACWA President, I will continue to advance the momentum I have built on key initiatives including: 1) advocating for state accountability on water infrastructure investments and policy issues, 2) spearheading the ACWA Council of Past Presidents to mentor new members so that they are aware of membership benefits, and 3) furthering ACWA's economical, efficient, and effective member services through sound fiscal, HR, managerial, and administrative practices.

I will also work on three new initiatives including: 1) re-examining ACWA dues to provide equity for all members, 2) strengthening the Association's ability to attract, develop, and retain top industry talent, and 3) increasing non-dues revenues.

I ask for your vote so that I may continue working to ensure ACWA offers value for all members. My experience, qualifications, decade long ACWA membership, and role as ACWA Vice President have provided me a unique understanding of ACWA as the nation's largest statewide coalition of public water agencies. Please contact me any time at 714.321.0522 or CGreen@OCWD.com.

ACWA Board Member and Committees

- ACWA Vice President (2022-current)
- Executive Committee (2020-current)
- Region 10 Chair (2018-2019)
- Region 10 Vice Chair (2016-2017, 2020-2021)
- Region 10 Board Member (2012-2021)
- Water Quality Committee (2012-current)
- Energy Committee (2019-current)
- State Legislative Committee (2012-2015)

Orange County Water District

- President (2015-2016, 2022-current)
- 1st Vice President (2013, 2014, 2019-2022)
- Director (2010-current)
- Joint Planning Committee Chair
- Labor Ad Hoc Committee Chair

Civic, Professional Experience

- Huntington Beach Mayor (2003, 2009)
- Council Member (2002-2010)
- Registered Nurse
- Law degree

CANDIDATE STATEMENTS

VICE PRESIDENT

Ernesto "Ernie" A. Avila



I want to be the next Vice-President of the Association of California Water Agencies (ACWA) because I want ACWA to continue to be the nexus of knowledge and leadership in water for California. We are emerging from a multi-year drought, and I will put my energy into strategies to keep water in the public eye with ACWA as the trusted sources for information and innovation. A priority for me is to ensure that ACWA continues to equip member agencies with information and resources necessary to support their water supply reliability efforts, implement infrastructure and watershed improvements, and address the challenges associated with climate change.

I have 40 years of experience with California water as a Civil Engineer, General Manager, Executive Director of three water coalitions involving over 50 water agencies, and I currently serve as CCWD Board President. I have led or supported over \$5 Billion in California water infrastructure serving over 5 million citizens and many industries today.

I have supported ACWA for 20 years including serving on the Board of Directors, the Executive Committee, the Region 5 Board, the Federal Affairs Committee, the ACWA Foundation Steering Committee and Chair of the Local Government Committee.

This year, we have gone from extreme drought conditions to concerns about flooding in months. ACWA has been leading the discussions for water supply reliability, investments in infrastructure, including above- and below-ground storage, and it is now crucial to progress beyond conversations to action. I want to work with all ACWA members to find strategies to advance projects and I will work with ACWA members to keep our seat at the table to affirm the state's commitment to help fund and facilitate these critical investments.

I would be honored to represent our members as the next Vice-President of ACWA.
Learn more at: ccwater.com/AvilaForACWAVP

Michael Saunders



I have been working with water issues as an elected; with MSRs as a County LAFCO commissioner; through my work with the CABY Integrated Regional Water Management Group; my work in the water use efficiency workgroups with the Department of Water Resources; and as an Executive Board member of the Regional Water Authority. I have been active in ACWA since I became an elected official in 2018, each year increasing my level of participation and leadership, from conferences to workgroups to symposiums. I was a member of the Diversity, Equity, and Inclusion Workgroup which helped form the new ACWA Foundation. I am currently a member of the Headwaters Workgroup, Water Use Efficiency Workgroup, State Infrastructure Workgroup, and the Membership Committee. I also participate in the State Legislative Committee. I am on

the ACWA Region 3 Board and have worked on a regional forum and event and on our regional issues dealing with guidelines and legislation.

The qualities I can bring to the office is my understanding of the water issues from our Region and the State along with my working relationship with our Board members, Regional members, ACWA members, ACWA staff, elected officials, and District Staff. Coming from a small agency, the input from our members is vital and important to bring each Agency's issues, strategies, and suggestions to the table and make every agency feel valued. I will continue to be a strong legislative advocate, continue to build on our outreach, and rely and utilize the expertise and talents of our members and ACWA staff. I am enthusiastic and committed to the work of ACWA and hope to bring my excitement to our members and continue to push for the growth and success of ACWA.

I would be honored to have your vote.

Weekly Water Report	As of: August 1, 2023	As of: August 8, 2023
New Hogan (NHG) TOC	317,100	AF
Storage:	214,477	AF
Net Storage Change:	-3,448	AF
Inflow:	30	CFS
Release:	226	CFS
New Melones (NML) Allocation	75,000	AF
Storage:	2,035,948*	AF
Net Storage change:	-17,376	AF
Inflow:	1312*	CFS
Release:	2125*	CFS
Source: CDEC Daily Reports		

Goodwin Diversion (GDW)		
Inflow (Tulloch Dam):	2,886	CFS
Release to Stanislaus River (S-98):	1,501	CFS
Release to OID (JT Main):	907	CFS
Release to SSJID (SO Main):	350	CFS
Release to SEWD:	<u>320</u>	CFS
Total Release	3,078	CFS
Source: Tri-Dam Operations Daily Report		
Farmington Dam (FRM)		
Diverted to SEWD:	130	CFS
Diverted to CSJWCD:	175	CFS

Surface Water Used		
Irrigators on New Hogan:	14	
Irrigators on New Melones:	3	
Out-Of-District Irrigators:	2	
DJWWTP Production:	48	MGD
North Stockton:	11	MGD
South Stockton:	8	MGD
Cal Water:	21	MGD
City of Stockton DWSP Production:	22	MGD

District Ground Water Extraction		
74-01	0	GPM
74-02	0	GPM
North	0	GPM
South	0	GPM
Extraction Well # 1	<u>0</u>	GPM
Total Well Water Extraction	0	GPM
Total Ground Water Production	0	MGD

Note: All other flow data reported here is preliminary, as of 10:30 a.m. on 08/01/23.

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August Meeting Agenda

10:00 a.m. August 4, 2023
279-666-3100 / ID 967 554 744#

[MS Teams Link](#)

The meeting begins at 10:00 a.m. via the provided call-in number or MS Team link.

1. Opening Business

- a. Staffing and Administrative Updates
- b. Next FAC Meetings

2. 2023 FAC Schedule and Presentations

2023 FAC Schedule of Presentations – Updated 4/25/2023		
Date	Topic	Presenter
January 24	2023 FAC Issues Matrix	Kevin Kasberg
February 17	2023 Warren Act Rates	Sabir Ahmad
March 22	Regional Director 2023 Priorities / Preparing for 2024 AIA Application	Ernest Conant / Duane Stroup
April 21	BDO Funding Plan	Brooke White
May 19	Canceled	
June 23	Folsom SOD Recovery @ CCAO with Folsom Site Visit	Pavich & Ahmad
July 21	Canceled	
August 4	Future Costs and Potential Rate Impacts	Robert Ward
September 1	2024 AIA Application Review	Duane Stroup
October 27	Fall Budget Workshop FY23 Annual Accounting Analysis	Ed Young
November 17	TBD	
December 8	Ratesetting 201	Sabir Ahmad

3. FAC Issues Matrix

2023 FAC Issues Matrix – DRAFT	
Priority Issues	Update
1. Future Costs and Potential Rate Impacts	Robert
2. PL 111-11 XM Rate	Sabir
3. BDO Funding Plan	Brooke
4. Reserved Works Aging Infrastructure Account Application	Duane

5. True-up for WIIN Act and FCA	Sabir
6. Folsom SOD Cost Recovery	Sabir
7. Warren Act Rates for 2023	Sabir
8. Annual Budget Review with Stakeholders	Ed
Tracking Issues	
1. Trinity PUD Assessment Collection	Sabir
2. San Luis Joint Use O&M Cost Reallocation Study	Duane
3. Contractor Contact list	Lisa
4. Reclamation Manual Updates	Kevin
5. WIIN Act Section 4007 Storage Projects	Vincent
6. CVPIA True-up and Accounting BPG	Robert
7. CVPIA Program Evaluations	Heather
8. BORWORKS Enhancements	Sabir
9. Ability-to-Pay Studies	Steve Pavich
10. Remediation of 2014-2019 costs	(On hold)
11. Recharacterization of Reimbursability of Costs (BGT 02-02)	(On hold)

4. Future Costs and Potential Rate Impacts - Robert Ward



State Water Resources Control Board

July 21, 2023

To: Enclosed Mailing List

ORDER DENYING RECONSIDERATION OF PETITION FOR RECONSIDERATION OF THE NORTHERN CALIFORNIA WATER ASSOCIATION, CENTRAL VALLEY PROJECT WATER ASSOCIATION, AND INDIVIDUAL PETITIONERS REGARDING ANNUAL WATER RIGHTS FEE DETERMINATIONS (FISCAL YEARS 2014-15)

Enclosed is a copy of the State Water Resources Control Board Order WR 2023-0038-EXEC, which was issued on July 13, 2023. If you have questions about this order, please contact the Fee Branch at WaterRightsFees@waterboards.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Erik Ekdahl".

Erik Ekdahl, Deputy Director
Division of Water Rights

Enclosure: Order WR 2023-0038-EXEC

cc: Northern California Water Association
500 Capitol Mall, Suite 335
Sacramento, CA 95814

Somach, Simmons & Dunn
Attn: Daniel Kelly
500 Capitol Mall, Suite 1000
Sacramento, CA 95814

Central Valley Project Water Association
1521 I Street
Sacramento, CA 95814

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 | www.waterboards.ca.gov

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

ORDER WR 2023-0038-EXEC

In the Matter of the Petition for Reconsideration of the

**NORTHERN CALIFORNIA WATER ASSOCIATION,
CENTRAL VALLEY PROJECT WATER ASSOCIATION,
AND INDIVIDUAL PETITIONERS**

Regarding Annual Water Right Fee Determinations

ORDER DENYING RECONSIDERATION

BY THE EXECUTIVE DIRECTOR¹

1.0 INTRODUCTION

The Northern California Water Association (NCWA), the Central Valley Project Water Association (CVPWA), Glenn-Colusa Irrigation District, Westlands Water District, Imperial Irrigation District, Placer County Water Agency, Byron-Bethany Irrigation District, and Stevinson Water District, collectively referred to herein as “Petitioners,”² petition the State Water Resources Control Board (State Water Board) for reconsideration of annual water right fees imposed for Fiscal Year (FY) 2014-15.

¹ State Water Board [Resolution No. 2012-0061](#) delegates to the Executive Director the authority to conduct and supervise the activities of the State Water Board. Unless a petition for reconsideration raises matters that the State Water Board wishes to address or requires an evidentiary hearing before the board, the Executive Director’s consideration of petitions for reconsideration of disputed fees falls within the scope of the authority delegated under Resolution No. 2012-0061. Accordingly, the Executive Director has the authority to refuse to reconsider No. petition for reconsideration, deny the petition, or set aside or modify the fee assessment.

² The term “Petitioners” is used for ease of reference and does not confer the legal status of petitioner.

Supreme Court remanded issues concerning the application of these fees through the State Water Board's regulations back to the trial court for further fact-finding.

Specifically, the Supreme Court directed the trial court to make factual findings as to whether the annual permit and license fees were reasonably related to the costs of the regulatory activity and findings related to the annual water right fees passed through to the federal water contractors. (*Farm Bureau, supra*, at pp. 442, 446.) The Supreme Court's decision otherwise left intact the appellate court's holdings that were favorable to the State Water Board.

In December 2012, a trial was held in the Sacramento Superior Court on the application of the water right fees for FY 2003-04. On November 12, 2013, the Superior Court issued its Final Statement of Decision, invalidating the FY 2003-04 fee regulations.

On March 2, 2018, the Court of Appeal issued a 40-page decision completely reversing the trial court decision on the three key issues. (*Northern California Water Association v. State Water Resources Control Board* (Mar. 2, 2018, C075866) 20 Cal.App.5th 1204 [2018 WL 1127892].) The appellate court found that the State Water Board reasonably apportioned fees amongst the fee payers and that the fee payers in FY 2003-04 did not subsidize the State Water Board's work on behalf of non-fee payers. The court similarly found that the fees assessed on permit and license holders were proportionate to the benefits derived by them or the burdens they placed on the Division of Water Rights, satisfying the constitutional test for a regulatory fee.

The appellate court also concluded that the State Water Board's decision to allocate all of the United States Bureau of Reclamation's (Reclamation) annual permit and license fee for the federal Central Valley Project (CVP) to the water supply contractors was reasonable. The record and the case law establish that the CVP is a water supply project and that Reclamation provides the contractors with all available water after satisfying its obligations under state and federal law. As a result, the fees paid by CVP contractors were reasonably related to their beneficial interest in CVP water rights.

Finally, the appellate court concluded that the trial court erred in determining that the fee regulations were invalid based on their application to a single payer (Imperial Irrigation District). Prevailing law requires that the fees have to be evaluated collectively, and a

If the subject of the petition relates to an assessment of a fee by BOE, the State Water Board's decision regarding the assessment is deemed adopted on the date of assessment by BOE. (§ 1077, subd. (b).) A petition is timely filed only if the State Water Board receives it within 30 days of the date the assessment is issued. (*Ibid.*) The deadline for filing a petition for reconsideration of the November 4, 2014 assessment was December 4, 2014. The State Water Board will not consider late petitions or late-filed letters referencing the jointly filed petition for reconsideration.

The State Water Board may refuse to reconsider a decision or order if the petition for reconsideration fails to raise substantial issues related to the causes for reconsideration set forth in section 768 of the State Water Board's regulations. (§ 770, subd. (a)(1).) Alternatively, after review of the record, the State Water Board also may deny the petition if the board finds that the decision or order in question was appropriate and proper, set aside or modify the decision or order, or take other appropriate action. (*Id.*, subd. (a)(2)(A)-(C).)⁴

4.0 LEGAL AND FACTUAL BACKGROUND

The State Water Board is the state agency entity primarily responsible for administering the State's water right program. The State Water Board administers the program through its Division of Water Rights (Division). The funding for the water right program is scheduled separately in the Budget Act (and through a continuous appropriation discussed below) and includes funding from several different sources. The primary source of funding for the water right program is regulatory fees deposited in the Water Rights Fund in the State treasury. Legislation enacted in 2003 (Sen. Bill No. 1049, Stats. 2003, ch. 741 (S.B. 1049)) required the State Water Board to adopt emergency

⁴ The State Water Board is directed to order or deny reconsideration on a petition within 90 days from the date on which the State Water Board adopts the decision or order. (Wat. Code, § 1122.) If the State Water Board fails to act within that 90-day period, a petitioner may seek judicial review, but the State Water Board is not divested of jurisdiction to act upon the petition simply because it failed to complete its review of the petition on time. (State Water Board [Order WR 2009-0061](#) at p. 2, fn. 1; see *California Correctional Peace Officers Ass'n v. State Personnel Bd.* (1995) 10 Cal.4th 1133, 1147-1148, 1150-1151; State Water Board Order WR 2009-0061 at p. 2, fn. 1; State Water Board [Order WQ 98-05-UST](#) at pp. 3-4.)

Water Board's budget for the water right program also included \$7.18 million in General Fund, \$276,000 from Cigarette and Tobacco products, and \$223,000 from the Federal Trust Fund. In addition to the amounts appropriated to the State Water Board, the Legislature appropriated \$484,000 from the Water Rights Fund to BOE for its water right fee collection efforts, \$37,000 from the Water Rights Fund to the California Environmental Protection Agency for support functions that the agency provides for the State Water Board's water right program, and \$14,000 to the Financial Information System of California.

In accordance with the Water Code, the State Water Board sets a fee schedule each fiscal year so that the amount collected and deposited into the Water Rights Fund during that fiscal year will support the appropriations made from the fund, taking into account money in the fund from other sources.⁷ In calculating the amount needed to be collected through fee revenues, the Division also considered the Water Rights Fund balance at the beginning of the fiscal year, which serves as a prudent reserve for economic uncertainty. In reviewing the fee schedule, the Division considered a 10 percent fund reserve to be prudent. In some years, the fund reserve has been drawn down by collecting less revenue annually than is expended. As explained in the Evoy Memorandum, the Water Rights Fund had a reserve of \$3.851 million at the beginning of FY 2014-15. Without any annual fee increase, the projected reserve for FY 2015-16 was expected to be 9.1 percent, which would have been below the amount the Division considered to be prudent. To prevent the projected fund reserve from being drawn down below 10 percent, the Division proposed increasing annual permit, license, and pending application fees by increasing the per acre-foot charge from \$0.053 to \$0.058 and increasing the annual Federal Energy Regulatory Commission (FERC) license-associated water quality certification per kilowatt charge from \$0.342 to \$0.43. The Division also proposed adjusting the caps on application and petition filing fees based on changes in the consumer price index. With these increases, the

⁷ Other sources of money in the Water Rights Fund, in addition to fee collections made during the fiscal year, include unexpended reserves from fee collections in previous years (see Wat. Code, § 1525, subd. (d)(3)) and penalties collected for water right violations (*id.*, § 1551, subd. (b)). The calculations used to determine water right fees do not include appropriations from funds other than the Water Rights Fund.

identifies the persons and entities who were assessed an annual water right fee, have met the regulatory requirements for filing a petition for reconsideration, and are properly considered petitioners for purposes of this order.

The State Water Board's review in this order is limited to annual fee assessments issued on November 4, 2014. The petition is dismissed to the extent it seeks review of any fee determinations other than the fee determinations identified for Petitioners listed in Attachment 1 of this order. Moreover, to the extent that Petitioners' contentions are not relevant to any of the annual fee assessments for which their petition for reconsideration has been filed, those contentions are not within the scope of the petitions for reconsideration.

6.0 PETITIONERS' ARGUMENTS REGARDING THE CONSTITUTIONALITY OF THE FEES AND THE ADMINISTRATION OF THE FEES ARE WITHOUT MERIT

Petitioners contend that the water right fees are unlawful taxes, adopted in violation of Proposition 13, and that the fees violate the Supremacy Clause of the United States Constitution. Petitioners incorporate the arguments set forth in their previous petitions challenging the imposition of annual water right fees in prior years. The State Water Board has rejected Petitioners' legal arguments, most recently by [Order WR 2014-0012-EXEC](#).⁹

⁹ Petitioners incorporate the arguments set forth in the petitions filed by "NCWA, CVPWA, and others" challenging the annual water right fees in previous years. The State Water Board has agreed Petitioners may incorporate by reference the arguments made in their previous petitions. For several prior years' petitions, the Petitioners' counsel also represented the Farm Bureau, which had been represented by other counsel and filed petitions separately from NCWA and CVPWA in prior years. (The State Water Board has rejected the Farm Bureau's legal arguments made in its previous separate petitions, most recently by Order WR 2011-0008-EXEC.) For this year's petition, the Petitioners and the Farm Bureau have again filed separate petitions with separate counsel. This year's petition outlines prior arguments made by NCWA and CVPWA, largely repeating the arguments made in previous petitions filed by counsel for NCWA and CVPWA. Accordingly, this order addresses the arguments in this year's petition and those arguments incorporated by reference in petitions filed in previous years by NCWA and CVPWA.

(public trust actions, etc.). As in past years, Petitioners have their facts wrong. Water right fees do not bear the entire cost of the water right program. Nor do the annual fees support the Water Rights Fund in its entirety. Moreover, as explained in the Evoy Memorandum and previous similar memoranda, the State Water Board's limited program costs that are related to regulation of non-fee payers and unrelated to the regulation of post-1914 appropriative rights or unauthorized diversions are supported by sources of funding other than the Water Rights Fund. The water right program budget for FY 2014-15 includes general funds amounting to approximately \$7.18 million and additional funds from sources other than the Water Rights Fund, and these funds are sufficient to support these other program activities. In short, while annual permit and license fees are the primary source of revenues deposited in the Water Rights Fund, and the Water Rights Fund is the primary source of funding for the water rights program, arguments based on the assumption that annual permit and license fees are the sole source of program funding are misleading at best. Funding of water right program costs for activities unrelated to the administration of the permit and license program from these other sources belies Petitioners' argument that water right permit and license holders are being burdened with program costs that do not bear a fair and reasonable relationship to their activities. Petitioners' legal claims have been addressed in more detail in the orders incorporated by reference by this order.¹¹

¹¹ Petitioners also continue to argue that the water right fees unlawfully seek to assess the federal government and its contractors. (Wat. Code, §§ 1540, 1560; see Cal. Code Regs., tit. 23, § 1073 [providing for pass through of fees to CVP water supply contractors].) This order incorporates by reference the prior State Water Board orders addressing this issue. But it merits noting that the Supreme Court determined that neither Water Code section 1540 nor section 1560 "authorizes imposition of a fee that facially violates the supremacy clause or state and federal rights to equal protection and due process." (*Farm Bureau, supra*, 51 Cal.4th at 444.) The Supreme Court agreed with the State Water Board that "the federal contractors have a taxable interest in the 'face value'" of Reclamation's water right permits. (*Id.*, at p. 446.) As discussed in the Evoy Memorandum, the State Water Board has determined in FY 2014-15 that it is reasonable to pass through 100 percent of the Reclamation CVP-related fees to the CVP contractors.

DWR's operations under the complained-about permit, be conducted pursuant to a single permit simply does not answer the question of whether the fees incurred by Imperial Irrigation District are appropriately related to the overall cost of the program, which is the touchstone of valid fees. (See *Farm Bureau, supra*, 51 Cal.4th at 438.)

A fee is not invalid "simply because the fee may be disproportionate to the service rendered to individual payers." (*Farm Bureau, supra*, 51 Cal.4th at 438, citing *Brydon v. East Bay Mun. Utility Dist.* (1994) 24 Cal.App.4th 178, 194, 29 Cal.Rptr.2d 128.) As such, it is not instructive that these two particular situations might be billed the same under a different structure, or even under the same structure, as Imperial Irrigation District could request changes in its permits that would allow similar permitting to DWR's. The question is whether the structure is appropriate considering most situations. There is in fact a broad spectrum of hydropower diversion practices covered by water right permits and licenses, and Imperial Irrigation District's situation seems to fall more towards one end of the spectrum based on Imperial Irrigation District's particular location, water source, operations, and, in part, the Division's historic permitting practices. Petitioners do not offer any feasible means of recalculating the fees for hydropower diversions in a manner that reasonably addresses the spectrum of hydropower diversion practices, as opposed to the fees charged to a single fee-payer and would allow calculation of the fees on a timely basis. This one particular situation could be easily remedied by Imperial Irrigation District—which could petition for consolidation of its rights into fewer permits, if it so desired—and does not by itself support a conclusion that the fee structure, or the fee incurred by Imperial Irrigation District under that structure, is arbitrary.

Petitioners, do not reasonably appear to be arguing that any particular fee for FY 2014-15, including Imperial Irrigation District's, has been miscalculated under the fee regulations, and do not appear to request any specific action besides that the fees be vacated and rescinded in total and that all fees paid be refunded. Petitioners' memorandum of points and authorities does not provide any justification for recalculation of any fees billed to any of the named Petitioners.

Attachment 1:
**Petitioners of Fiscal Year 2014-15 Water Right Fees in the matter of the Petition
for Reconsideration of Northern California Water Association, Central Valley
Project Water Association, and Individual Petitioners**

State Water Board ID	Primary Owner
A001933	BANTA-CARBONA IRRIGATION DISTRICT
A005248	BANTA-CARBONA IRRIGATION DISTRICT
USBR1115	BANTA-CARBONA IRRIGATION DISTRICT
USBR1214	BELLA VISTA WATER DISTRICT
A008986	BROWNS VALLEY IRRIGATION DISTRICT
A013130	BROWNS VALLEY IRRIGATION DISTRICT
A013873	BROWNS VALLEY IRRIGATION DISTRICT
A023757	BROWNS VALLEY IRRIGATION DISTRICT
A027302	BROWNS VALLEY IRRIGATION DISTRICT
A006743	BUTTE SLOUGH IRRIGATION COMPANY
USBR1180	BYRON BETHANY IRRIGATION DIST.
USBR1094	CITY OF ROSEVILLE
A005941	CONTRA COSTA WATER DISTRICT
A020245	CONTRA COSTA WATER DISTRICT
A025516A	CONTRA COSTA WATER DISTRICT
A025829	CONTRA COSTA WATER DISTRICT
A027893	CONTRA COSTA WATER DISTRICT
USBR1302	CONTRA COSTA WATER DISTRICT
USBR1233	DEL PUERTO WATER DISTRICT
A000654	EL DORADO IRRIGATION DISTRICT
A001440	EL DORADO IRRIGATION DISTRICT
A001441	EL DORADO IRRIGATION DISTRICT
A001692	EL DORADO IRRIGATION DISTRICT
A002270	EL DORADO IRRIGATION DISTRICT
A005645A	EL DORADO IRRIGATION DISTRICT
A005645B	EL DORADO IRRIGATION DISTRICT
A006383	EL DORADO IRRIGATION DISTRICT
A007478	EL DORADO IRRIGATION DISTRICT
FERC184A	EL DORADO IRRIGATION DISTRICT
USBR1027	EL DORADO IRRIGATION DISTRICT
FERC184	ELDORADO IRRIGATION DISTRICT
A026709	FRANCIS R BURKE III
A000018	GLENN-COLUSA IRRIGATION DIST
A001554	GLENN-COLUSA IRRIGATION DIST
A001624	GLENN-COLUSA IRRIGATION DIST
A008688	GLENN-COLUSA IRRIGATION DIST

State Water Board ID	Primary Owner
USBR1098	PATTERSON IRRIGATION DISTRICT
A001765A	PELGER MUTUAL WATER COMPANY
A012470B	PELGER MUTUAL WATER COMPANY
A030410	PELGER MUTUAL WATER COMPANY
USBR1053	PELGER MUTUAL WATER COMPANY
USBR1194	PIXLEY IRRIGATION DISTRICT
A018084	PLACER COUNTY WATER AGENCY
A018085	PLACER COUNTY WATER AGENCY
A018086	PLACER COUNTY WATER AGENCY
A018087	PLACER COUNTY WATER AGENCY
A026637	PLACER COUNTY WATER AGENCY
FERC2079	PLACER COUNTY WATER AGENCY
USBR1133	PLACER COUNTY WATER AGENCY
USBR1146	PLEASANT GROVE-VERONA MUTUAL WATE
USBR1101	RECLAMATION DISTRICT NO. 1606
A031436	RECLAMATION DISTRICT # 108
A000576	RECLAMATION DISTRICT #108
A000763	RECLAMATION DISTRICT #108
A001589	RECLAMATION DISTRICT #108
A011899	RECLAMATION DISTRICT #108
USBR1224	RECLAMATION DISTRICT NO. 108
USBR1268	SAN BENITO COUNTY WATER DISTRICT
USBR1174	SAN LUIS WATER DISTRICT
USBR1107	SHAFTER-WASCO IRRIGATION DISTRICT
USBR1108	SHAFTER-WASCO IRRIGATION DISTRICT
A010221	SOUTH SUTTER WATER DISTRICT
A014430	SOUTH SUTTER WATER DISTRICT
A014804	SOUTH SUTTER WATER DISTRICT
A022102	SOUTH SUTTER WATER DISTRICT
A023838	SOUTH SUTTER WATER DISTRICT
A026162	SOUTH SUTTER WATER DISTRICT
A001885	STEVINSON WATER DIST
A005724	STEVINSON WATER DIST
A006111	STEVINSON WATER DIST
A007012	STEVINSON WATER DIST
USBR1247	STOCKTON EAST WATER DISTRICT
A006522	STOCKTON EAST WATER DISTRICT
A013333X01	STOCKTON EAST WATER DISTRICT
A013334X01	STOCKTON EAST WATER DISTRICT
A013335X01	STOCKTON EAST WATER DISTRICT
A013336X01	STOCKTON EAST WATER DISTRICT



Representative
Josh Harder

SUMMER OPEN HOUSE

***Please Join Congressman
Harder for an Open House
at his Stockton office.***

**August 8th | 4pm-6pm
1776 W. March Ln, Suite 360
Stockton, CA 95207**

RSVP Here



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1810 E. Hazelton Avenue
P. O. Box 1810
Stockton, CA 95201

(209) 468-3089
ESJgroundwater@sjgov.org
esjgroundwater.org

****CANCELLATION NOTICE ****

THE AUGUST 9th 2023
EASTERN SAN JOAQUIN
GROUNDWATER AUTHORITY
STEERING COMMITTEE
MEETING HAS BEEN CANCELED

The next regularly scheduled Eastern San Joaquin
Groundwater Steering Committee Meeting

October 11th 2023
8:30 – 10:00am
Robert Cabral Agricultural Center

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