

NOTICE AND AGENDA

Regular Meeting of the Board of Trustees

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

will be held at **3:00 P.M., Tuesday, April 16, 2024**

1070 Faraday Street, Santa Ynez, CA - Conference Room

Notice Regarding Public Participation: For those who may not attend the meeting but wish to provide public comment on an Agenda Item, please submit any and all comments and written materials to the District via electronic mail at general@syrwd.org. All submittals should indicate **"April 16, 2024 Board Meeting"** in the subject line. Materials received by the District during and prior to the meeting will become part of the post-meeting Board packet materials available to the public and posted on the District's website.

1. **CALL TO ORDER AND ROLL CALL**
2. **PLEDGE OF ALLEGIANCE**
3. **REPORT BY THE SECRETARY TO THE BOARD REGARDING COMPLIANCE WITH THE REQUIREMENTS FOR POSTING OF THE NOTICE AND AGENDA**
4. **ADDITIONS OR CORRECTIONS, IF ANY, TO THE AGENDA**
5. **PUBLIC COMMENT** - Any member of the public may address the Board relating to any non-Agenda matter within the District's jurisdiction. The total time for all public participation shall not exceed fifteen (15) minutes and the time allotted for each individual shall not exceed three (3) minutes. The District is not responsible for the content or accuracy of statements made by members of the public. No action will be taken by the Board on any public comment item.
6. **EMPLOYEE SPOTLIGHTS**
 1. Racel Cota - Administrative & Financial Manager
 2. Vincent Cerda - Water Resources Specialist
7. **CONSIDERATION OF THE MINUTES OF THE REGULAR MEETING OF MARCH 19, 2024**
8. **CONSENT AGENDA** - All items listed on the Consent Agenda are considered to be routine and will be approved or rejected in a single motion without separate discussion. Any item placed on the Consent Agenda can be removed and placed on the Regular Agenda for discussion and possible action upon the request of any Trustee.
 - CA-1. Water Supply and Production Report
 - CA-2. Central Coast Water Authority Update
9. **MANAGER REPORTS - STATUS, DISCUSSION, AND POSSIBLE BOARD ACTION ON THE FOLLOWING SUBJECTS:**
 - A. **DISTRICT ADMINISTRATION**
 1. Financial Report on Administrative Matters
 - a) Presentation of Monthly Financial Statements - Revenues and Expenses
 - b) Approval of Accounts Payable
 2. Personnel Matters
 - a) Staffing Structure Updates
 - b) Personnel Policy Manual Updates
 - c) Resolution No. 842 - A Resolution of the Board of Trustees of the Santa Ynez River Water Conservation District, Improvement District No.1 Amending the District's Personnel Policy
 - B. **OPERATIONS UPDATE**
 1. Motor Control Center and Service Upgrades - Change Orders

10. **REPORT, DISCUSSION, AND POSSIBLE BOARD ACTION ON THE FOLLOWING SUBJECTS:**
 - A. **SUSTAINABLE GROUNDWATER MANAGEMENT ACT**
 1. Eastern Management Area (EMA) Update
 - B. **HEXAVALENT CHROMIUM (CR6) – PROPOSED MAXIMUM CONTAMINANT LEVEL (MCL)**
 1. Update on SWRCB Proposed Drinking Water MCL for Cr6 of 10 parts per billion
 - C. **CONSERVATION DISTRICT (SYRWCD) DRAFT FORTY-SIXTH ANNUAL REPORT**
 1. Update on Draft Report
11. **REPORTS BY THE BOARD MEMBERS OR STAFF, QUESTIONS OF STAFF, STATUS REPORTS, ANNOUNCEMENTS, COMMITTEE REPORTS, AND OTHER MATTERS AND/OR COMMUNICATIONS NOT REQUIRING BOARD ACTION**
12. **CORRESPONDENCE: GENERAL MANAGER RECOMMENDS FILING OF VARIOUS ITEMS**
13. **REQUESTS FOR ITEMS TO BE INCLUDED ON THE NEXT REGULAR MEETING AGENDA:** Any member of the Board of Trustees may request to place an item on the Agenda for the next regular meeting. Any member of the public may submit a written request to the General Manager of the District to place an item on a future meeting Agenda, provided that the General Manager and the Board of Trustees retain sole discretion to determine which items to include on meeting Agendas.
14. **NEXT MEETING OF THE BOARD OF TRUSTEES:** The next Regular Meeting of the Board of Trustees is scheduled for **May 21, 2024 at 3:00 p.m.**
15. **CLOSED SESSION:**

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

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

[Subdivision (d)(1) of Section 54956.9 of the Government Code – 3 Cases]

 1. Name of Case: Adjudicatory proceedings pending before the State Water Resources Control Board regarding Permits 11308 and 11310 issued on Applications 11331 and 11332 to the United States Bureau of Reclamation for the Cachuma Project
 2. Name of Case: Adjudicatory proceedings pending before the State Water Resources Control Board regarding Permit 15878 issued on Application 22423 to the City of Solvang, Petitions for Change, and Related Protests
 3. Name of Case: Central Coast Water Authority, et al. v. Santa Barbara County Flood Control and Water Conservation District, et al., Santa Barbara County Superior Court Case No. 21CV02432
 - B. **CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION**

[Subdivision (d)(2) of Section 54956.9 of the Government Code – Significant Exposure to Litigation Against the Agency – One Matter]
 - C. **CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION**

[Subdivision (d)(4) of Section 54956.9 of the Government Code – Potential Initiation of Litigation By the Agency – One Matter]
16. **RECONVENE INTO OPEN SESSION**

[Sections 54957.1 and 54957.7 of the Government Code]
17. **ADJOURNMENT**

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

SANTA YNEZ RIVER WATER CONSERVATION DISTRICT,
IMPROVEMENT DISTRICT NO.1
MARCH 19, 2024 REGULAR MEETING MINUTES

A Regular Meeting of the Board of Trustees of the Santa Ynez River Water Conservation District, Improvement District No.1, was held at 3:00 p.m. on Tuesday, March 19, 2024, in-person at 1070 Faraday Street.

Trustees Present: Michael Burchardi
Jeff Clay
Brad Joos
Mark Moniot
Nick Urton

Trustees Absent: None

Others Present: Paeter Garcia Mary Robel Joe Come'
Karen King Dan Drugan Danny Durbiano
Gary Kvistad Ray Stokes
Randy Murphy Mark Infanti

1. CALL TO ORDER AND ROLL CALL:

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

2. PLEDGE OF ALLEGIANCE:

President Clay led the Pledge of Allegiance.

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

Ms. Robel reported that the Agenda for this meeting was posted in accordance with the California Government Code commencing at Section 54953, as well as District Resolution No. 340.

4. ADDITIONS OR CORRECTIONS, IF ANY, TO THE AGENDA:

There were no additions or corrections to the Agenda.

5. PUBLIC COMMENT:

President Clay welcomed any members of the public and offered time for members of the public to speak and address the Board on matters not on the Agenda. There was no public comment. Mr. Garcia reported that no written comments were submitted to the District for the meeting.

6. EMPLOYEE SPOTLIGHTS: SUPERINTENDENT JOE COME' AND DISTRIBUTION & OPERATIONS SUPERVISOR DANNY DURBIANO

Mr. Garcia informed the Board that Employee Spotlights are intended to provide an opportunity for members of the District Team to be introduced to the Board and the public, and to discuss their experience and highlight their respective areas of responsibility within the District. He then introduced the District's Superintendent, Mr. Joe Come', and the District's Distribution & Operations Supervisor, Mr. Danny Durbiano. Mr. Garcia provided an overview of their respective work histories, experience, special certifications, and roles and responsibilities within the District. Mr. Garcia and the Board expressed their appreciation to Mr. Come' and Mr. Durbiano and thanked them for their leadership, professional capabilities, and dedication to the District.

1 7. CONSENT AGENDA:

2 The Consent Agenda Report was provided in the Board Packet.

3
4 Mr. Garcia reviewed the Consent Agenda materials for the month of February. Several Board
5 questions were received and addressed.

6
7 It was MOVED by Trustee Moniot, seconded by Trustee Joos, and carried by a unanimous 5-0-0
8 voice vote, to approve the Consent Agenda.

9
10 8. SPECIAL PRESENTATION: OVERVIEW OF THE CENTRAL COAST WATER AUTHORITY

11 Mr. Garcia introduced Mr. Ray Stokes, Executive Director of Central Coast Water Authority
12 (CCWA). Mr. Stokes provided a PowerPoint presentation related to CCWA, the State Water
13 Project (SWP), and SWP supplies and deliveries. The presentation covered a variety of related
14 topics, such as the CCWA staffing structure, history of the SWP, CCWA facilities, water
15 deliveries, financial matters, current issues affecting the SWP, and future goals. Mr. Stokes
16 provided time for the Board and public to ask questions and provide comments. The Board and
17 staff thanked Mr. Stokes for his presentation.

18
19 9. CONSIDERATION OF THE MINUTES OF THE REGULAR MEETING OF FEBRUARY 20, 2024:

20 The Regular Meeting Minutes from February 20, 2024 were presented for consideration.

21
22 President Clay asked if there were any changes or additions to the Regular Meeting Minutes of
23 February 20, 2024. There were no changes or additions requested.

24
25 It was MOVED by Trustee Joos, seconded by Trustee Burchardi, and carried by a unanimous 5-0-
26 0 voice vote, to approve the February 20, 2024 Regular meeting minutes as presented.

27
28 10. MANAGER REPORTS - STATUS, DISCUSSION, AND POSSIBLE BOARD ACTION ON THE FOLLOWING
29 SUBJECTS:

30 A. DISTRICT ADMINISTRATION

31
32 1. Financial Report on Administrative Matters

33 a) Presentation of Monthly Financial Statements - Revenues and Expenses

34 Ms. Robel announced that the Financial Statements were provided to the Board via
35 email earlier in the day, and also were included in the meeting handout materials and
36 posted on the District's website.

37
38 Ms. Robel reviewed the Statement of Revenues and Expenses for the month of
39 February. She highlighted various line-items related to revenue and expense
40 transactions that occurred during the month and referred to the Fiscal-Year-to-Date
41 Statement of Revenues and Expenses that provides a budget to actual snapshot for the
42 month of February. Ms. Robel reported that the District expenses for the month of
43 February exceeded the revenues by \$211,532.08 and the year-to-date net income was
44 \$1,614,274.56.

45
46 b) Approval of Accounts Payable

47 Ms. Robel announced that the Warrant List was provided to the Board via email earlier
48 in the day, and also included in the meeting handout materials and posted on the
49 District's website.

50
51 The Board reviewed the Warrant List which covered warrants 25734 through 25791 in
52 the amount of \$869,912.29.

1 It was **MOVED** by Trustee Moniot, seconded by Trustee Urton, and carried by a
2 unanimous 5-0-0 voice vote, to approve the Warrant List for February 21, 2024 through
3 March 19, 2024.
4

5 2. Personnel Recruitment Update

6 Mr. Garcia reported that staff continues to work with Regional Governmental Services
7 (RGS) in the recruitment process for several District positions. He explained that the
8 District has completed in-person interviews for the Water Resources Specialist I/II and
9 the Administrative & Financial Manager positions. He announced that Mr. Vincent Cerda
10 has accepted the Water Resources Specialist position with a start date of April 1, 2024, and
11 that Ms. Racel Cota has accepted the position of Administrative & Financial Manager with
12 a start date of April 15, 2024.
13

14 **B. OPERATIONS UPDATE**

15 Mr. Dan Drugan, Deputy Water Resources Manager, provided a PowerPoint overview of the
16 District's facilities and operations, and an update of recent and ongoing infrastructure
17 improvements, including the Districtwide meter replacement program, SCADA software
18 enhancements, and Phases 1 & 2 of the Motor Control Center upgrade project. Mr. Drugan
19 provided time for the Board and public to ask questions and provide comments.
20

21 **11. REPORT, DISCUSSION, AND POSSIBLE BOARD ACTION ON THE FOLLOWING SUBJECTS:**

22 **A. SUSTAINABLE GROUNDWATER MANAGEMENT ACT**

23 1. Eastern Management Area (EMA) Update

24 Mr. Garcia provided an overview of the Board packet materials, beginning with the
25 February 22, 2024 Regular Meeting of the ESA GSA. He reviewed the agenda topics
26 discussed at the meeting which included requests for written verifications; updates on the
27 Groundwater Sustainability Plan for the EMA; DWR Sustainable Groundwater
28 Management Implementation Grant, Third Annual Report for the EMA; SGMA
29 Governance and Draft Joint Powers Agreement for the EMA; and DWR Groundwater
30 Awareness Week, which occurred March 10-16, 2024. Mr. Garcia reported that
31 discussions continue regarding finalization of a JPA for EMA governance. He stated that
32 discussions continue regarding agricultural representation on the EMA JPA Board. Mr.
33 Garcia stated that he remains hopeful that the parties can come to a consensus and move
34 forward with finalizing the JPA. He stated that the Santa Ynez River Water Conservation
35 District (SYRWCD) has indicated that it is working on a proposed allocation of the DWR
36 grant funds among the three Management Areas of the Basin.
37

38 Mr. Mark Infanti, Solvang City Mayor and Mr. Randy Murphy, Solvang City Manager,
39 provided public comment regarding the ongoing negotiations for a new JPA governance
40 in the EMA.
41

42 Mr. Garcia stated that the next Special meeting of the EMA GSA is scheduled for March
43 28, 2024.
44

45 **B. HEXAVALENT CHROMIUM (CR6) - PROPOSED MAXIMUM CONTAMINANT LEVEL (MCL)**

46 1. Update on SWRCB Proposed Drinking Water MCL for Cr6 of 10 parts per billion (ppb)

47 The Board packet included the State Water Resources Control Board Summary of
48 Rulemaking Proceedings for a Hexavalent Chromium MCL (SWRCB-DDW-21-003)
49

50 Mr. Garcia provided an overview of the State Water Resources Control Board's (SWRCB)
51 activities relating to a new proposed MCL regulation of 10 ppb for Hexavalent Chromium.
52
53

1 He noted that the SWRCB website for Cr6 recently added a line item suggesting a hearing
2 date of April 17, 2024 to adopt the proposed MCL; however, no official public notice of
3 the hearing has been issued at this time.
4

5 Discussion ensued regarding the current federal and state standards for Total Chromium
6 in drinking water (100 ppb and 50 ppb respectively), the proposed compliance period for
7 the newly proposed 10 ppb standard, treatment facility and operational costs, studies for
8 alternative treatment procedures, and potential legal challenges.
9

10 Mr. Garcia stated that staff continues to monitor SWRCB's actions regarding the proposed
11 adoption of a new Cr6 MCL and will provide further information as it becomes available.
12

13 **12. REPORTS BY THE BOARD MEMBERS OR STAFF, QUESTIONS OF STAFF, STATUS REPORTS,**
14 **ANNOUNCEMENTS, COMMITTEE REPORTS, AND OTHER MATTERS AND/OR COMMUNICATIONS**
15 **NOT REQUIRING BOARD ACTION:**
16

17 The Board packet included the Family Farm Alliance Monthly Briefing for the month of March,
18 along with various publications honoring the life and passing of Family Farm Alliance President
19 Pat O'Toole.
20

21 **13. CORRESPONDENCE: GENERAL MANAGER RECOMMENDS FILING OF VARIOUS ITEMS:**
22 The Correspondence List was received by the Board.
23

24 **14. REQUESTS FOR ITEMS TO BE INCLUDED ON THE NEXT REGULAR MEETING AGENDA:**
25 There were no requests from the Board.
26

27 **15. NEXT MEETING OF THE BOARD OF TRUSTEES:**
28 President Clay stated that the next Regular Meeting of the Board of Trustees is scheduled for
29 April 16, 2024 at 3:00 p.m.
30

31 **16. CLOSED SESSION:**
32 The Board adjourned to closed session at 5:45 p.m.
33

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

35 [Subdivision (d)(1) of Section 54956.9 of the Government Code - 3 Cases]
36

- 37 1. Name of Case: Adjudicatory proceedings pending before the State Water Resources
38 Control Board regarding Permits 11308 and 11310 issued on Applications 11331 and
39 11332 to the United States Bureau of Reclamation for the Cachuma Project
40
- 41 2. Name of Case: Adjudicatory proceedings pending before the State Water Resources
42 Control Board regarding Permit 15878 issued on Application 22423 to the City of
43 Solvang, Petitions for Change, and Related Protests
44
- 45 3. Name of Case: Central Coast Water Authority, et al. v. Santa Barbara County Flood
46 Control and Water Conservation District, et al., Santa Barbara County Superior Court
47 Case No. 21CV02432
48

49 **B. CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION**

50 [Subdivision (d)(2) of Section 54956.9 of the Government Code - Significant Exposure to
51 Litigation Against the Agency - One Matter]
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53 **C. CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION**

54 [Subdivision (d)(4) of Section 54956.9 of the Government Code - Potential Initiation of
55 Litigation By the Agency - One Matter]

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17. **RECONVENE INTO OPEN SESSION:**
[Sections 54957.1 and 54957.7 of the Government Code]

The Board reconvened to open session at approximately 7:05 p.m. Mr. Garcia announced that the Board met in closed session in accordance with Agenda Items 16.A.1, 16.A.2, 16.A.3, 16.B., and 16.C. He reported that there was no reportable action for any of the closed session Agenda Items.

18. **ADJOURNMENT:**
Being no further business, it was **MOVED** by Trustee Urton, seconded by Trustee Joos, and carried by a 4-0-0 voice vote, with Trustee Burchardi absent, to adjourn the meeting at approximately 7:06 p.m.

RESPECTFULLY SUBMITTED,

Mary Robel, Secretary to the Board

ATTEST: _____
Jeff Clay, President

MINUTES PREPARED BY:

Karen King, Board Administrative Assistant

**BOARD OF TRUSTEES
SANTA YNEZ RIVER WATER CONSERVATION DISTRICT,
IMPROVEMENT DISTRICT NO.1
April 16, 2024**

Consent Agenda Report

CA-1. Water Supply and Production Report. Total water production in **March 2024 (115 AF)** was 44 AF higher than total production in **February 2024 (71 AF)**, 79 AF lower than the most recent 3-year running average (2021-2023) for the month of **March (194 AF)**, and 81 AF lower than the most recent 10-year running average (2014-2023) for the month of **March (196 AF)**. Overall production in **March 2024** was the third lowest for March over the last 10 years; production in March 2019 was 110 AF and March 2023 was 100 AF; the highest March production in the last ten years was 405 AF in 2015. With the exception of the last two years, the District's overall demands and total production have been trending well below historic levels for domestic, rural residential, and agricultural water deliveries due to water conservation, changing water use patterns, and private well installations.

For the month of **March 2024**, approximately **38 AF** was produced from the Santa Ynez Upland wells, and approximately **77 AF** was produced from the 6.0 cfs well field in the Santa Ynez River alluvium. As reflected in the Monthly Water Deliveries Report from the CCWA, the District used **0 AF** of SWP supplies for the month. Direct diversions to the County Park and USBR were **1.43 AF**.

The USBR Daily Operations Report for Lake Cachuma in **March** (ending March 31, 2024) recorded the end of month reservoir elevation at **752.53'** with the end of month storage of **191,842 AF**. USBR recorded total precipitation at the lake of **5.90 inches** for the month. SWP deliveries to the reservoir for South Coast entities were **0.0 AF**. Reported reservoir evaporation in **March** was **708.3 AF**.

Based on the updated maximum storage capacity of 192,978 AF (previously 193,305 AF), as of **April 8, 2024** Cachuma reservoir was reported at **100.2%** of capacity, with then-current storage of **193,355 AF** (Santa Barbara County Flood Control District, Rainfall and Reservoir Summary). **As reported last month, USBR declared reservoir spill conditions effective February 1 which currently remains in effect.** At a point when reservoir storage exceeds 100,000 AF, the Cachuma Member Units typically have received a full allocation. Conversely, a 20% pro-rata reduction from the full allocation is scheduled to occur in Water Years beginning at less than 100,000 AF, where incremental reductions may occur (and previously have occurred) at other lower storage levels. For the federal WY 2021-2022 (October 1, 2021 through September 30, 2022), USBR issued a 70% allocation, equal to 18,000 AF. ID No.1's 10.31% share of that allocation was 1,855 AF. In the Fall of 2022 when reservoir conditions were low, the Cachuma Member Units initially requested an approximate 15% Cachuma Project allocation for federal WY 2022-2023. By letter dated September 30, 2022, USBR issued an initial 0% allocation for WY 2022-2023. **Based on extraordinary rain conditions that spilled the reservoir in early 2023, USBR approved a 100% Project allocation for WY 2023-2024. According to similar conditions this year, the Cachuma Member Units are planning to submit a joint request for a 100% Project allocation for WY 2024-2025, which USBR would be expected to approve.**

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

NMFS 2000 Biological Opinion

- *When Reservoir Spills and the Spill Amount Exceeds 20,000 AF:*
 - 10 cfs at Hwy 154 Bridge during spill year(s) exceeding 20,000 AF
 - 1.5 cfs at Alisal Bridge when spill amount exceeds 20,000 AF and if steelhead are present at Alisal Reach
 - 1.5 cfs at Alisal Bridge in the year immediately following a spill that exceeded 20,000 AF and if steelhead are present at Alisal Reach

- *When Reservoir Does Not Spill or When Reservoir Spills Less Than 20,000 AF:*
 - 5 cfs at Hwy 154 when Reservoir does not spill and Reservoir storage is above 120,000 AF, or when Reservoir spill is less than 20,000 AF
 - 2.5 cfs at Hwy 154 in all years when Reservoir storage is below 120,000 AF but greater than 30,000 AF
 - 1.5 cfs at Alisal Bridge if the Reservoir spilled in the preceding year and the spill amount exceeded 20,000 AF and if steelhead are present at Alisal Reach
 - 30 AF per month to “refresh the stilling basin and long pool” when Reservoir storage is less than 30,000 AF

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

SWRCB Order WR 2019-0148

- *During Below Normal, Dry, and Critical Dry water years (October 1 – September 30), releases shall be made in accordance with the requirements of the NMFS 2000 Biological Opinion as set forth above.*

- *During Above Normal and Wet water years, the following minimum flow requirements must be maintained at Hwy 154 and Alisal Bridges:*
 - 48 cfs from February 15 to April 14 for spawning
 - 20 cfs from February 15 to June 1 for incubation and rearing
 - 25 cfs from June 2 to June 9 for emigration, with ramping to 10 cfs by June 30
 - 10 cfs from June 30 to October 1 for rearing and maintenance of resident fish
 - 5 cfs from October 1 to February 15 for resident fish

- *For purposes of SWRCB Order WR 2019-0148, water year classifications are as follows:*
 - Wet is when Cachuma Reservoir inflow is greater than 117,842 AF;
 - Above Normal is when Reservoir inflow is less than or equal to 117,842 AF or greater than 33,707 AF;
 - Below Normal is when Reservoir inflow is less than or equal to 33,707 AF or greater than 15,366 AF;
 - Dry is when Reservoir inflow is less than or equal to 15,366 AF or greater than 4,550 AF
 - Critical Dry is when Reservoir inflow is less than or equal to 4,550 AF

Based on recent hydrology, inflows to Cachuma Reservoir this water year have exceeded 33,707 AF and therefore triggered higher fishery release requirements from Bradbury Dam (Table 2 flows under Order 20219-0148; highlighted above). Those requirements will remain in place for the remainder of this year.

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

As previously reported, based on last year's extraordinary rain events, DWR declared the 2023 SWP Table A allocation at 100 percent for the first time since 2006 (compared to a 5 percent allocation in 2022). This year (2024), despite above normal precipitation and snowpack, and above-average storage levels in Lake Oroville (85% of capacity and 127% of historic average), thus far DWR has taken a conservative approach to the Table A allocation. **By notice to the State Water Contractors dated December 1, 2023 DWR issued an initial 10 percent Table A allocation for 2024.** DWR's initial 10 percent allocation was based on the following rationale:

Water year 2023 provided much-needed relief following three of the most severely dry years on record. However, water year 2024 is off to a slow start with precipitation amounts at about half of average in October and November. To make the initial 2024 allocation, DWR forecasts what water supplies will be available if the current dry pattern continues through the remainder of the water year 2024. As a result, DWR is initially allocating 10 percent of most SWP contractors' requested Table A amounts for 2024.

To determine the available SWP water supplies, DWR considers factors including SWP contractors' anticipated 2023 carryover supplies into 2024, projected 2024 demands, existing storage in SWP conservation facilities, estimates of future runoff, SWP operational and regulatory requirements from the Federal Endangered Species Act and California Endangered Species Act, and water rights obligations under the State Water Resources Control Board's authority. DWR may revise the SWP allocation if hydrologic conditions change.

By notice to the State Water Contractors dated February 21, 2024 DWR increased the Table A allocation to 15 percent. By notice to the State Water Contractors dated March 22, 2024 DWR has now increased the Table A allocation to 30 percent. According to DWR's notice, the increased 30 percent allocation accounts for snow survey measurements and data through March 1st, and DWR may increase the allocation again if hydrologic conditions change. Currently, Lake Oroville stands at 89% of capacity (122% of the historical average), which would seem to provide a basis for DWR to increase the final 2024 Table A allocation above 30 percent.

As reflected in the Agenda for the March 28, 2024 meeting of the CCWA Board of Directors, CCWA remains engaged in a variety of matters relating to the SWP, including but not limited to: SWP supplies and related SWP operations; CCWA water transfer rules; and the CCWA Fiscal Year 2024-25 budget process. CCWA and its member agencies also remain engaged in their pending litigation against the Santa Barbara County Flood Control and Water Conservation District to maintain CCWA sovereignty over important decisions pertaining to SWP supplies. The next regular meeting of the CCWA Board of Directors is scheduled for April 25, 2024.



— BUREAU OF —
RECLAMATION

Historical Archive and Report

Lake Cachuma Daily Opera

Run Date: 4

March 2024

DAY	STORAGE ACRE-FEET			COMPUTED* INFLOW AF.	CCWA INFLOW AF.	PRECIP ON		RELEASE - AF.			EVAPORATION		PRECIP INCHES	
	ELEV	IN LAKE	CHANGE			RES. SURF. AF.	TUNNEL	HILTON CREEK	OUTLET	SPILLWAY	AF.	INCH		
	752.54	191,873												
1	752.65	192,213	340	1,388.0	0.0	0.0	28.0	13.9	7.0	983.0	15.7	0.080	0.00	
2	752.86	192,868	655	1,588.0	0.0	178.5	27.1	13.9	78.0	985.0	7.9	0.040	0.69	
3	753.10	193,617	749	2,771.0	0.0	59.7	27.2	14.0	360.0	1,665.0	15.8	0.080	0.23	
4	753.06	193,492	-125	2,259.0	0.0	0.0	27.3	14.0	429.0	1,892.0	21.7	0.110	0.00	
5	752.97	193,211	-281	1,896.0	0.0	0.0	27.2	14.0	224.0	1,890.0	21.7	0.110	0.00	
6	752.86	192,868	-343	1,698.0	0.0	0.0	28.1	14.0	88.0	1,887.0	23.6	0.120	0.00	
7	752.82	192,743	-125	1,788.0	0.0	106.0	27.8	14.0	88.0	1,885.0	3.9	0.020	0.41	
8	752.75	192,525	-218	1,596.0	0.0	7.8	27.1	14.0	267.0	1,492.0	21.6	0.110	0.03	
9	752.88	192,930	405	1,337.0	0.0	0.0	27.9	14.0	59.0	811.0	19.7	0.100	0.00	
10	753.06	193,492	562	1,051.0	0.0	0.0	29.4	13.4	401.0	29.0	15.8	0.080	0.00	
11	753.24	194,054	562	1,055.0	0.0	0.0	24.3	14.0	435.0	0.0	19.8	0.100	0.00	
12	753.39	194,522	468	969.0	0.0	0.0	28.8	14.0	436.0	0.0	21.8	0.110	0.00	
13	753.53	194,958	436	945.0	0.0	0.0	31.3	14.0	438.0	0.0	25.8	0.130	0.00	
14	753.65	195,334	376	904.0	0.0	0.0	34.9	14.1	451.0	0.0	27.8	0.140	0.00	
15	753.76	195,680	346	874.0	0.0	0.0	34.6	14.1	449.0	0.0	29.8	0.150	0.00	
16	753.84	195,932	252	843.0	0.0	0.0	32.8	14.1	496.0	0.0	47.7	0.240	0.00	
17	753.88	196,058	126	705.0	0.0	0.0	34.7	14.2	500.0	0.0	29.8	0.150	0.00	
18	753.93	196,216	158	730.0	0.0	0.0	34.0	14.2	500.0	0.0	23.9	0.120	0.00	
19	753.99	196,405	189	772.0	0.0	0.0	35.1	14.2	500.0	0.0	33.9	0.170	0.00	
20	754.00	196,436	31	616.0	0.0	0.0	40.7	14.2	500.0	0.0	29.9	0.150	0.00	
21	754.03	196,531	95	695.0	0.0	0.0	50.3	14.2	500.0	0.0	35.9	0.180	0.00	
22	754.03	196,531	0	604.0	0.0	0.0	60.2	14.2	500.0	0.0	29.9	0.150	0.00	
23	754.07	196,625	94	511.0	0.0	165.2	46.3	14.2	500.0	0.0	21.9	0.110	0.63	
24	754.09	196,688	63	643.0	0.0	5.2	36.6	14.2	500.0	0.0	33.9	0.170	0.02	
25	754.11	196,783	95	642.0	0.0	15.7	34.9	14.2	500.0	0.0	14.0	0.070	0.06	
26	754.11	196,783	0	579.0	0.0	0.0	37.0	14.2	500.0	0.0	27.9	0.140	0.00	
27	754.09	196,688	-95	482.0	0.0	0.0	32.8	14.2	500.0	0.0	29.9	0.150	0.00	
28	753.59	195,146	-1,542	855.0	0.0	0.0	30.8	14.2	500.0	1,826.0	25.8	0.130	0.00	
29	753.03	193,398	-1,748	802.0	0.0	0.0	30.2	14.1	500.0	1,974.0	31.5	0.160	0.00	
30	752.76	192,556	-842	1,628.0	0.0	509.1	31.5	14.1	500.0	2,433.0	0.0	0.000	1.97	
31	752.53	191,842	-714	5,830.0	0.0	479.4	31.6	14.1	500.0	6,478.0	0.0	0.000	1.86	
TOTALS			-31	39,056.0	0.0		1,526.6	1,030.5	436.2	12,206.0	26,230.0	708.3	3.570	5.90
AVERAGE		194,681												

Comments: *Computed inflow is the sum of change in storage, releases and evaporation minus precip on the reservoir surface and ccwa inflow.
Indicated outlet release includes leakage from outlet valves and spillway gates.
Data based on a 24 hour period ending 0800.



Santa Barbara County - Flood Control District

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

Rainfall and Reservoir Summary

Updated 8am: 4/8/2024

Water Year: 2024

Storm Number: NA

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

*Each Water Year (WY) runs from Sept 1 through Aug 31 and is designated by the calendar year in which it ends
County Real-Time Rainfall and Reservoir Website link > <https://rain.cosbpw.net>

Rainfall	ID	24 hrs	Storm 0day(s)	Month	Year*	% to Date	% of Year*	AI
Buellton (Fire Stn)	233	0.00	0.00	0.60	19.52	126%	118%	
Cachuma Dam (USBR)	332	0.00	0.00	0.84	28.70	155%	145%	
Carpinteria (Fire Stn)	208	0.00	0.00	0.59	25.46	160%	148%	
Cuyama (Fire Stn)	436	0.00	0.00	0.31	8.75	127%	114%	
Figueroa Mtn (USFS Stn)	421	0.00	0.00	0.90	23.92	121%	112%	5.6
Gibraltar Dam (City Facility)	230	0.01	0.00	0.62	40.19	162%	152%	5.3
Goleta (Fire Stn-Los Carneros)	440	0.00	0.00	0.43	24.26	142%	132%	
Lompoc (City Hall)	439	0.00	0.00	0.63	22.52	165%	153%	5.4
Los Alamos (Fire Stn)	204	0.00	0.00	0.50	18.84	132%	123%	
San Marcos Pass (USFS Stn)	212	0.00	0.00	0.66	54.19	167%	158%	
Santa Barbara (County Bldg)	234	0.00	0.00	0.37	31.93	186%	174%	
Santa Maria (City Pub.Works)	380	0.00	0.00	0.62	14.61	118%	110%	
Santa Ynez (Fire Stn /Airport)	218	0.00	0.00	0.46	19.04	129%	121%	
Sisquoc (Fire Stn)	256	0.00	0.00	0.52	14.32	103%	95%	

Countywide percentage of "Normal-to-Date" rainfall : 142%

Countywide percentage of "Normal Water-Year" rainfall : 132%

Countywide percentage of "Normal Water-Year" rainfall calculated assuming no more rain through Aug. 31, 2024 (End of WY2024).

AI (Antecedent Index / Soil Wetness)

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

Reservoirs

Reservoir Elevations referenced to NGVD-29.

**Cachuma is full and subject to spilling at elevation 750 ft. However, the lake is surcharged to 753 ft. for fish release water. (Cachuma water storage based on Dec 2021 capacity revision)

Click on Site for Real-Time Readings	Spillway	Current	Max.	Current	Current	Storage	Storage
	Elev. (ft)	Elev. (ft)	Storage (ac-ft)	Storage (ac-ft)	Capacity (%)	Change Mo.(ac-ft)	Change Year*(ac-ft)
<u>Gibraltar Reservoir</u>	1,400.00	1,400.16	4,693	4,729	100.8%	-34	1,547
<u>Cachuma Reservoir</u>	753.**	753.12	192,978	193,355	100.2%	3,143	9,361
<u>Jameson Reservoir</u>	2,224.00	2,224.08	4,848	4,858	100.2%	-12	74
<u>Twitchell Reservoir</u>	651.50	573.69	194,971	26,180	13.4%	1,083	-29,252

[Previous Rainfall and Reservoir Summaries](#)

California Irrigation Management Information System (CIMIS)

CIMIS Daily Report

Rendered in ENGLISH Units.

Friday, March 1, 2024 - Sunday, March 31, 2024

Printed on Monday, April 1, 2024

Santa Ynez - Central Coast Valleys - Station 64

Date	ETo (In)	Prcip (In)	Sol Rad (Ly/day)	Avg Vap Pres (mBars)	Max Air Temp (°F)	Min Air Temp (°F)	Avg Air Temp (°F)	Max Rel Hum (%)	Min Rel Hum (%)	Avg Rel Hum (%)	Dew Point (°F)	Avg Wind Speed (mph)	Wind Run (miles)	Avg Soil Temp (°F)
3/1/2024	0.07	0.06 R	0 R	13.0	53.7	52.0	52.7	97	76	96	51.5	1.0	25.0	58.9
3/2/2024	0.06 R	0.23	265	11.7	60.4	47.8	53.9	97	61	82	48.6	2.8	66.8	59.1
3/3/2024	0.09 R	0.13	360	10.4	60.8	43.2	51.5	98	54	80	45.5	2.8	67.2	59.1
3/4/2024	0.13	0.00	478	9.7	63.7	42.4	51.6	97	50	75	43.8	3.4	81.9	58.9
3/5/2024	0.12	0.00	0 R	11.2	52.1	46.9	49.5	100	47	93	47.5	1.0	23.9	58.5
3/6/2024	0.01	0.39	113	11.3	59.8	44.1	50.6	99	66	90	47.8	1.7	40.3	58.7
3/7/2024	0.10	0.00	386	10.8	61.8	43.1	51.8	99	64	82	46.5	3.9	94.3	58.4
3/8/2024	0.13	0.00	470	10.2	71.2	36.2	51.9	99	44	78	45.1	2.1	49.7	58.2
3/9/2024	0.11	0.00	427	11.1	69.4	40.8	51.5	99	53	85	47.2	2.1	51.4	58.4
3/10/2024	0.11	0.00	413	11.3	66.3	41.9	52.7	99	63	83	47.8	2.3	56.0	58.7
3/11/2024	0.13 R	0.00	492	10.9	67.6	41.7	54.3	98	50	76	46.8	2.8	67.3	59.0
3/12/2024	0.13	0.00	450	11.8	68.7	45.0	55.6	96	55	78	49.0	3.8	90.6	59.3
3/13/2024	0.15	0.02	507	9.4	70.6	44.8	57.3	92	36	59	42.9	3.7	89.0	59.7
3/14/2024	0.15	0.00	539 R	7.8	71.0	38.6	52.9	92	21	57	38.0	2.5	59.1	59.8
3/15/2024	0.15 R	0.00	544 R	7.4	71.2	33.8	51.0	97	25	58	36.9	2.4	56.6	59.5
3/16/2024	0.15 R	0.00	522	8.0	70.7	32.9	50.8	97	29	63	38.8	2.3	56.1	59.1
3/17/2024	0.15	0.00	528	11.5	73.1	43.1	55.3	97	46	77	48.2	2.6	62.7	59.0
3/18/2024	0.17 R	0.00	544	11.1	81.3	42.3	58.4	100	27	66	47.2	2.5	58.9	59.6
3/19/2024	0.16 R	0.00	547	12.1	76.5	39.9	56.6	99	50	77	49.6	2.3	55.9	60.0
3/20/2024	0.16 R	0.00	516	12.0	78.7	44.2	56.2	100	43	78	49.3	2.7	65.5	60.3
3/21/2024	0.15 R	0.00	538	10.6	72.9	38.5	53.3	99	49	76	46.1	2.7	65.7	60.5
3/22/2024	0.14	0.03	502	11.9	71.3	41.1	55.0	99	51	81	49.2	2.8	66.1	60.5
3/23/2024	0.13	0.69	481	10.9	62.0	46.0	53.7	97	52	78	46.8	3.9	94.1	60.7
3/24/2024	0.09	0.07	347	10.4	59.8	44.7	51.0	97	62	81	45.5	4.2	101.1	60.6
3/25/2024	0.15	0.00	532	10.3	65.3	43.8	53.0	95	52	75	45.3	4.6	109.4	60.1
3/26/2024	0.16	0.00	584 R	10.6	67.1	40.0	52.8	97	55	78	46.0	2.9	68.4	60.0
3/27/2024	0.13 R	0.00	492	11.6	69.0	44.8	54.6	97	54	80	48.5	2.5	59.0	60.2
3/28/2024	0.13 R	0.00 H	458 H	11.2 H	67.4	44.4	54.9 H	97 H	56 H	76	47.5	2.9 H	68.8 H	60.5 H
3/29/2024	0.09	1.35	348	9.8	61.9	36.5	49.5	98	49	81	44.0	4.1	97.7	60.5
3/30/2024	0.08	0.68	317	10.7	57.7	42.1	50.5	99	72	85	46.4	4.0	96.1	59.6
3/31/2024	0.08	0.10	345	11.2	62.1	45.7	53.2	96	58	81	47.5	3.3	79.2	59.1
Tots/Avg	3.76	3.75	421	10.7	68.6	42.3	53.1	98	51	78	46.2	2.9	68.5	59.5

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



CENTRAL COAST WATER AUTHORITY
MEMORANDUM

TO: Dessi Mladenova, Controller
FROM: Lacey Adam, Senior Accountant
SUBJECT: Monthly Water Deliveries

April 4, 2024

According to the CCWA revenue meters at each turnout, the following deliveries were made during the month of March 2024:

<u>Project Participant</u>	<u>Delivery Amount (acre-feet)</u>
Chorro	135.55
López.....	318.78
Shandon.....	0.00
Guadalupe.....	27.26
Santa Maria.....	285.55
Golden State Water Co.....	0.00
Vandenberg.....	171.55
Buellton	13.68
Solvang	42.81
Santa Ynez ID#1	0.21
Bradbury.....	0.00
TOTAL	995.39

In order to reconcile these deliveries with the DWR revenue meter, which read 1,003 acre-feet, the following delivery amounts should be used for billing purposes:

<u>Project Participant</u>	<u>Delivery Amount (acre-feet)</u>
Chorro	137
López	321
Shandon.....	0
Guadalupe.....	27
Santa Maria.....	288*
Golden State Water Co	0*
Vandenberg	173
Buellton	14
Solvang	43
Santa Ynez ID#1	0
Bradbury	0
TOTAL	1,003

*Golden State Water Company delivered 0 acre-feet into its system through the Santa Maria turnout. This delivery is recorded by providing a credit of 0 acre-feet to the City of Santa Maria and a charge in the same amount to the Golden State Water Company.

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

The exchange water is allocated as follows

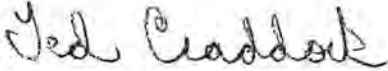
<u>Project Participant</u>	<u>Exchange Amount (acre-feet)</u>
Goleta	0
Santa Barbara	0
Montecito	0
Carpinteria	0
TOTAL	0

Bradbury Deliveries into Lake Cachuma are allocated as follows:

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

cc: Tom Bunosky, GWD
Mike Babb, Golden State WC
Joshua Haggmark, City of Santa Barbara
Janet Gingras, COMB
Craig Kesler, San Luis Obispo County
Paeter Garcia, Santa Ynez RWCD ID#1
Shad Springer, City of Santa Maria
Todd Bodem, City of Guadalupe
Robert MacDonald, Carpinteria Valley WD
Mike Alvarado, La Cumbre Mutual WC
Pernell Rush, Vandenberg SFB
Nick Turner, Montecito WD
Randy Murphy, City of Solvang
Rose Hess, City of Buellton

NOTICE TO STATE WATER PROJECT CONTRACTORS**Date:** March 22, 2024**Number:** 24-03**Subject:** Increase of State Water Project 2024 Allocation to 30 Percent

From: 
Ted Craddock
Deputy Director, State Water Project
Department of Water Resources

After a very dry start to the water year, above average precipitation in February has improved water supply conditions throughout California, moving them toward historic averages. At the same time, Delta exports have been reduced to meet requirements in place to protect several critical fish species. After considering the updated water supply forecast along with a forecast of export capabilities, the Department of Water Resources (DWR) is increasing the State Water Project (SWP) allocation from 15 to 30 percent of SWP contractors' requested Table A amounts for 2024 for most contractors, as shown in Attachment A – 2024 SWP Allocation Table, Updated, March 22, 2024.

To determine the available SWP water supplies, DWR considers several factors including SWP contractors' 2023 carryover supplies into 2024, projected 2024 demands, existing storage in SWP conservation facilities, estimates of future runoff, SWP operational and regulatory requirements under the Federal Endangered Species Act and California Endangered Species Act, and water rights obligations under the State Water Resources Control Board's authority. This allocation increase takes into account snow survey measurements and data through March 1 as reflected in the runoff forecasts outlined in Bulletin 120. DWR may revise the SWP allocation if hydrologic conditions change.

To schedule SWP water deliveries under this allocation, DWR will utilize the 30-percent water delivery schedules submitted by SWP contractors in October 2023 (as part of initial requests) or as revised with any subsequent updates. If a contractor foresees any changes to their water delivery schedule, please communicate such changes to DWR in a timely manner.

State of California

DEPARTMENT OF WATER RESOURCES
CALIFORNIA STATE WATER PROJECT

California Natural Resources Agency

If you have any questions or need additional information, please contact John Leahigh, Assistant Division Manager, Water Management, SWP Division of Operations and Maintenance, at (916) 902-9876.

Attachment A: 2024 SWP Allocation Table, Updated, March 22, 2024

Attachment A
2024 STATE WATER PROJECT ALLOCATION
Updated
March 22, 2024

SWP Contractors	Maximum Table A Amount (Acre-Feet)	Initial Table A Request Amount (Acre-Feet)	Approved Table A Allocation (Acre-Feet)	Approved Allocation as a Percentage of Initial Request
	(1)	(2)	(3)	(4) = (3)/(2)
<u>FEATHER RIVER</u>				
County of Butte	27,500	27,500	16,500	60%
Plumas County FC&WCD	2,700	2,700	810	30%
City of Yuba City	9,600	9,600	4,800	50%
Subtotal	39,800	39,800	22,110	
<u>NORTH BAY</u>				
Napa County FC&WCD	29,025	29,025	14,513	50%
Solano County WA	47,756	47,756	23,878	50%
Subtotal	76,781	76,781	38,391	
<u>SOUTH BAY</u>				
Alameda County FC&WCD, Zone 7	80,619	80,619	24,186	30%
Alameda County WD	42,000	42,000	12,600	30%
Santa Clara Valley WD	100,000	100,000	30,000	30%
Subtotal	222,619	222,619	66,786	
<u>SAN JOAQUIN VALLEY</u>				
Oak Flat WD	5,700	5,700	1,710	30%
County of Kings	9,305	9,305	2,792	30%
Dudley Ridge WD	41,350	41,350	12,405	30%
Empire West Side ID	3,000	3,000	900	30%
Kern County WA	982,730	982,730	294,819	30%
Tulare Lake Basin WSD	87,471	87,471	26,242	30%
Subtotal	1,129,556	1,129,556	338,868	
<u>CENTRAL COASTAL</u>				
San Luis Obispo County FC&WCD	25,000	25,000	7,500	30%
Santa Barbara County FC&WCD	45,486	45,486	13,646	30%
Subtotal	70,486	70,486	21,146	
<u>SOUTHERN CALIFORNIA</u>				
Antelope Valley-East Kern WA	144,844	144,844	43,454	30%
Santa Clarita Valley WA	95,200	95,200	28,560	30%
Coachella Valley WD	138,350	138,350	41,505	30%
Crestline-Lake Arrowhead WA	5,800	5,800	1,740	30%
Desert WA	55,750	55,750	16,725	30%
Little Rock Creek ID	2,300	2,300	690	30%
Metropolitan WDSC	1,911,500	1,911,500	573,450	30%
Mojave WA	89,800	89,800	26,940	30%
Palmdale WD	21,300	21,300	6,390	30%
San Bernardino Valley MWD	102,600	102,600	30,780	30%
San Gabriel Valley MWD	28,800	28,800	8,640	30%
San Geronio Pass WA	17,300	17,300	5,190	30%
Ventura County WPD	20,000	20,000	6,000	30%
Subtotal	2,633,544	2,633,544	790,064	
TOTAL	4,172,786	4,172,786	1,277,365	~30%

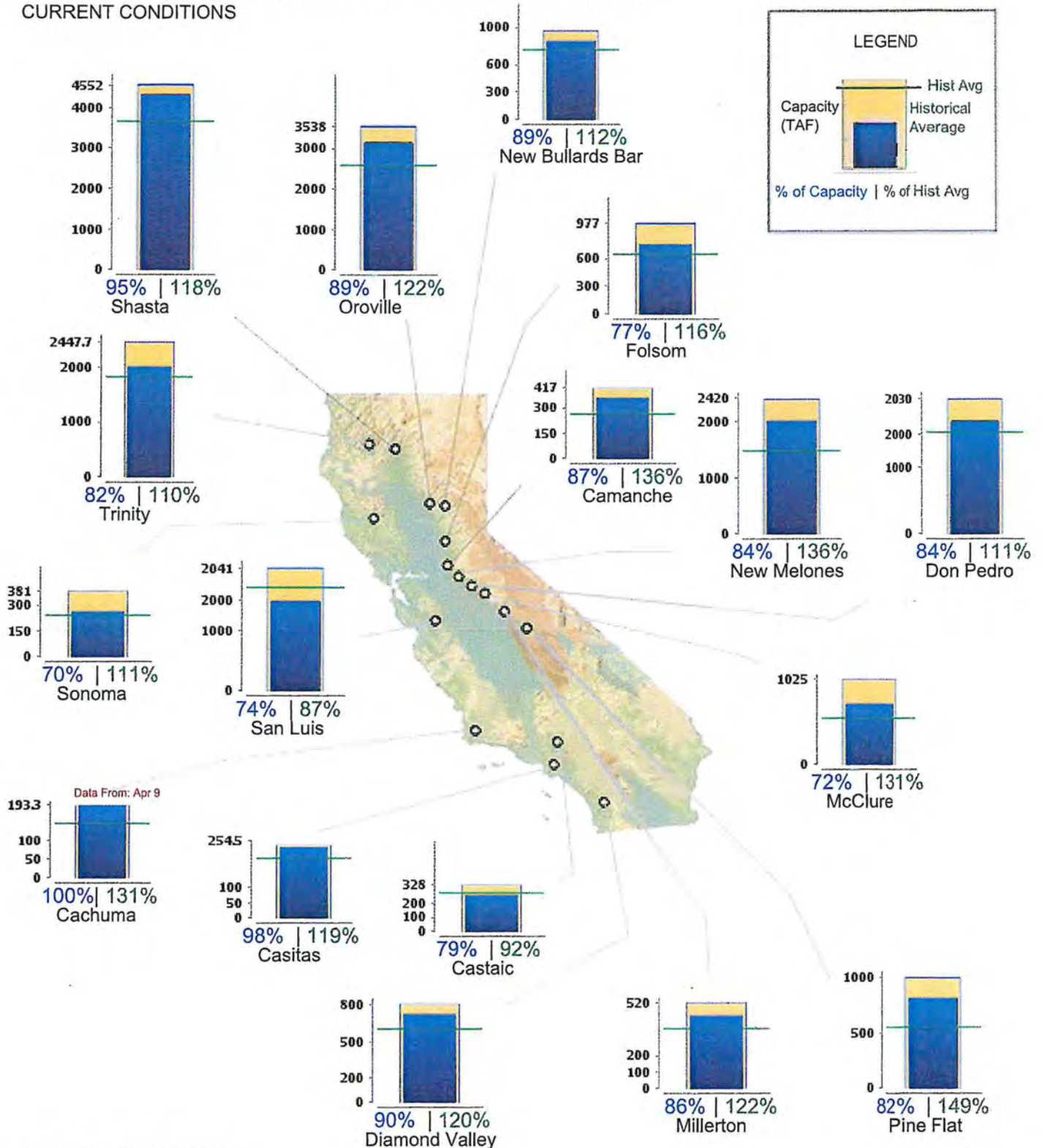


CURRENT RESERVOIR CONDITIONS

Midnight - April 10, 2024

CALIFORNIA MAJOR WATER SUPPLY RESERVOIRS

CURRENT CONDITIONS



State Water Project allocation doubled thanks to recent storms



THE KERN RIVER Intertie and a section of the State Water Project's California Aqueduct, in Kern County. Due to soaking winter storms, water allocation forecasts have been considerably raised, state officials say. (California Department of Water Resources)

BY HAYLEY SMITH

On the heels of a soaking start to 2024, state water managers last week announced a considerable increase in their forecasted water allocation for the year.

The California Department of Water Resources said it expects to provide 30% of requested supplies from the State Water Project, a network of reservoirs, canals and dams that supplies 29 water agencies serving about 27 million people.

The increase is double the initial projection issued in February of 15%.

The federal Central Valley Project, a similar network that serves as a key water source for agricultural users in the state, also announced an increase Friday. The increase includes 100% of its contractual allotments for agricultural users north of the Sacramento-San Joaquin River Delta and 35% of allotments for irrigators south of the delta, up from 75% and 15%, respectively.

“Mid- to late February storms have since improved hydrological conditions particularly for Northern California, allowing for a more robust water supply allocation,” the agency said in a statement.

Both upgrades were attributed to storms that dumped record rainfall and blizzards across swaths of California. Statewide snow pack Friday was 98% of its average for the date, while major reservoirs were at 116% of their historic levels.

The next possible allocation update from the State Water Project would come after the fourth snow survey of the season on April 1. Should the current allocation hold, it would mark a significant improvement from the string of drought years ending in 2022, when state allocations were cut to just 5%,

spurring unprecedented water restrictions in Southern California.

But it would also be a considerable decrease from 2023, when water managers provided 100% of requested supplies for the first time in nearly 20 years after a remarkably wet winter.

Such rapid swings — not just in weather but also in water reliability — are reflective of the state’s changing climate, officials say. The long-term trend points to hotter, drier conditions driven by climate change that will be punctuated by bursts of extreme weather, a pattern sometimes referred to as “weather whiplash.”

“As we experience more extreme weather conditions, each year brings its own challenges and that’s why it’s so critical to continue to adapt our water system to build climate resilience,” read a statement from DWR Director Karla Nemeth.

State water officials said they have spent the winter working to maximize the capture and storage of water from this year’s storms, adding about 630,000 acre-feet to Lake Oroville and 150,000 acre-feet to the San Luis Reservoir since Jan. 1. (An acre-foot is approximately 326,000 gallons, or enough water to supply up to three homes for a year.)

But the state has also been criticized for missing out on opportunities to capture more storm water and to recharge aquifers drained by agriculture and drought. A recent report from the Pacific Institute determined that California ranks ninth of the 10 U.S. states with the most “untapped potential,” with approximately 2.27 million acre-feet of urban area runoff washing down storm drains and running to the ocean each year.

Not all that water is capturable, and some is needed for environmental purposes, recreation and other uses, but the sheer volume indicates that more could be done, the researchers said.

State and federal officials said they were also hampered this winter in their ability to move water south through the system due to the presence of threatened and endangered fish species near pumping facilities in the south delta.

The presence of the fish, including delta smelt, winter-run chinook salmon and steelhead trout, has triggered state and federal permit requirements that significantly reduce pumping from the delta, officials said.

Nemeth said “DWR continues to take proactive measures and use the best available science to operate our water storage and delivery system to balance water supply needs while protecting native fish species.”

She underscored the need for climate adaptation efforts, including advancement of the Delta Conveyance Project, a proposed 45-mile tunnel that would move more water from the delta to regions to the south. A subject of fierce opposition, the \$16-billion project “will make it possible to move more water during high flow events while helping fish species like steelhead trout avoid threats posed by current pumping infrastructure,” the DWR said.

Had the tunnel been in place this winter, the DWR could have captured an additional 730,000 acre-feet of water between Jan. 1 and March 14, or enough for more than 7.6 million people for a year, according to Jennifer Pierre, general manager of the State Water Contractors, a nonprofit association of public water agencies.

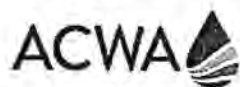
“California’s climate is rapidly changing, and we must modernize our infrastructure so we can respond quickly to take advantage of unpredictable, flashy storm events and store as much water as possible for the next inevitable dry period,” Pierre said in a statement.

The DWR said it is also working with state, federal and local partners to continue to invest in groundwater recharge projects, surface water storage such as Sites Reservoir, and the expansion of stormwater capture and desalination projects.

The project allocation announced Friday includes anticipated delivery of 30% of requested supplies south of the delta, which accounts for the majority of contractors, as well as 50% to those north of the delta and 100% to Feather River Settlement Contractors, the DWR said.

The year’s final allocation is typically determined in May or June.

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APRIL SNOW SURVEY SHOWS ABOVE AVERAGE SNOWPACK

BY DEPARTMENT OF WATER RESOURCES APR 2, 2024 WATER NEWS

SACRAMENTO – The Department of Water Resources (DWR) today conducted the all-important April snow survey, the fourth measurement of the season at Phillips Station. The manual survey recorded 64 inches of snow depth and a snow water equivalent of 27.5 inches, which is 113 percent of average for this location. The snow water equivalent measures the amount of water contained in the snowpack and is a key component of DWR's water supply forecast. The April measurement is critical for water managers as it's considered the peak snowpack for the season and marks the transition to spring snowmelt into the state's rivers and reservoirs.

DWR's electronic readings from 130 stations placed throughout the state indicate that the statewide snowpack's snow water equivalent is 28.6 inches, or 110 percent of the April 1 average, a significant improvement from just 28 percent of average on January 1.

The focus now shifts to forecasting spring snowmelt runoff and capturing as much of that water as possible for future use.

"It's great news that the snowpack was able to catch up in March from a dry start this year. This water year shows once again how our climate is shifting, and how we can swing from dry to wet conditions within a season," said DWR Director Karla Nemeth. "These swings make it crucial to maintain conservation while managing the runoff. Variable climate conditions could result in less water runoff into our reservoirs. 100 percent snowpack does not mean 100 percent runoff. Capturing and storing what we can in wetter years for drier times remains a key priority."

California's reservoirs remain in good shape thanks to state efforts to capture and store as much water as possible from record storms in 2023 and again this season. The State Water Project has increased storage by 700,000 acre-feet at Lake Oroville and by 154,000 acre-feet at San Luis Reservoir since January 1. Statewide, reservoir levels currently stand at 116 percent of average.

However, there are challenges ahead as the spring runoff begins. The dry start to the year, soot and ash from burn scars that accelerates snowmelt, and other factors may result in below average spring runoff which can impact water availability.

Recently, the State Water Project increased its forecasted allocation of water supplies for the year to 30 percent, up from an initial 10 percent, due to the storms in February and March. However, uncertainty about the spring runoff and ongoing pumping restrictions to protect threatened and endangered species in the Delta has impacted that allocation forecast.

“California has had two years of relatively positive water conditions, but that is no reason to let our guard down now,” said Dr. Michael Anderson, State Climatologist with DWR. “With three record-setting multi-year droughts in the last 15 years and warmer temperatures, a well above average snowpack is needed to reach average runoff. The wild swings from dry to wet that make up today’s water years make it important to maintain conservation while managing the runoff we do receive. Our water years moving forward will see more extreme dry times interrupted by very wet periods like we saw this winter.”

That need to adapt to a changing climate is why Governor Gavin Newsom joined today’s snow survey at Phillips Station to announce the release of the California Water Plan Update 2023. The Water Plan Update sets forth a vision for all Californians to benefit from water resources that are sustainable, resilient to climate change and achieves equity for all communities and benefits the environment. Check out the Water Plan Update to learn more about how the plan focuses on key issues including addressing climate urgency, strengthening watershed resilience, and achieving equity in water management.

As part of the state’s climate adaptation efforts, over the past two years, California has worked with local groundwater agencies and state and federal partners to capture as much water as possible to prepare for the next drought. In 2023, more than 1.2 million acre-feet of groundwater recharge was permitted by state agencies, with nearly 400,000 acre-feet of flood water recharged using the Executive Orders issued by Governor Newsom.

On average, the Sierra snowpack supplies about 30 percent of California’s water needs. Its natural ability to store water is why the Sierra snowpack is often referred to as California’s “frozen reservoir.” Data from these snow surveys and forecasts produced by DWR’s Snow Surveys and Water Supply Forecasting Unit are important factors in determining how DWR provides water to 27 million Californians and manages the state’s water resources.

DWR conducts five snow surveys at Phillips Station each winter near the first of each month, January through April and, if necessary, May.

For California’s current hydrological conditions, visit <https://cww.water.ca.gov>.

How full are major California reservoirs as state exits another wet winter?

by Brianna Taylor, The Sacramento Bee



Credit: Pixabay/CC0 Public Domain

The majority of California's reservoirs are above their historic average levels following the end of two wet winters.

The state's largest reservoirs, Shasta Lake and Lake Oroville, were measured at a respective 118% and 122% of their averages for early April, according to data from the California Department of Water Resources.

Folsom Lake in the Sierra Nevada foothills exits early April at 116%.

Only two reservoirs, San Luis in western San Joaquin Valley and Castaic in Southern California, were below average. San Luis Reservoir was at just 87% and much smaller Castaic Lake in Los Angeles County was at 92%.

A boosted snowpack, 'abnormally dry' conditions

An update from the U.S. Drought Monitor last week shows a few portions of California remain "abnormally dry."

A weekly map that illustrates drought intensities across the country shows the state's "abnormally dry" status has not budged from 4.5% since March 5.

That's an improvement from 7% on Feb. 27. The state's boosted snowpack and a strategic water plan could help kick the remaining dry spots.

After a dry start to the water year, which began Oct. 1, the fourth and final manual snow survey showed an above-average snowpack for the second season in a row, according to a news release from the California Department of Water Resources.

"California has had two years of relatively positive water conditions, but that is no reason to let our guard down now," said state climatologist Michael Anderson with the California Department of Water Resources.

"With three record-setting multi-year droughts in the last 15 years and warmer temperatures, a well above average snowpack is needed to reach average runoff," he said in the release, warning the state's future water years will "see more extreme dry times interrupted by very wet periods."

The snowpack at Phillips Station, located west of Lake Tahoe, recorded 64 inches of snow last week during a snow survey by the state water agency. That's 113% of the average for that location.

California reservoir levels stand at 116% of the average, according to the release.

The next focus is to capture as much snowmelt runoff as possible, state water officials say. The dry start to the year and soot and ash from burn scars could make that difficult.

California's drought status

California is drought-free, similar to what was monitored in March 2020, according to the U.S. Drought Monitor.

No one has lived in drought conditions since November, a significant decrease from roughly 3,000 people in October and about 9,800 people in September.

Approximately 903,000 people remained in drought areas in August.

Roughly 4.5% of the state—parts of Siskiyou, Modoc, Lassen, Mono, Inyo, San Bernardino and Riverside counties—remained abnormally dry as of April 2, according to the U.S. Drought Monitor.

In February, the list included portions of Plumas, Sierra, Nevada, Placer, El Dorado and Alpine counties.

The state has been without "moderate," "severe," "extreme" and "exceptional" drought conditions since October.

Status of major reservoirs

Here's the status of several of California's major reservoirs as of midnight on April 9, according to data from the California Department of Water Resources:

Shasta Lake—Shasta County

Percent of historic average: 118%

Percent of total capacity: 95%

Lake Oroville—Butte County

Percent of historic average: 122%

Percent of total capacity: 89%

Trinity Lake—Trinity County

Percent of historic average: 110%

Percent of total capacity: 82%

Lake Sonoma—Sonoma County

Percent of historic average: 111%

Percent of total capacity: 70%

Cachuma Lake—Santa Barbara County

Percent of historic average: 131%

Percent of total capacity: 100%

Lake Casitas—Ventura County

Percent of historic average: 118%

Percent of total capacity: 98%

Castaic Lake—Los Angeles County

Percent of historic average: 92%

Percent of total capacity: 79%

Folsom Lake—Sacramento, El Dorado and Placer counties

Percent of historic average: 116%

Percent of total capacity: 77%

Camanche Reservoir—Amador, Calaveras and San Joaquin counties

Percent of historic average: 135%

Percent of total capacity: 86%

New Melones Lake—Calaveras and Tuolumne counties

Percent of historic average: 136%

Percent of total capacity: 84%

Lake McClure—Mariposa County

Percent of historic average: 130%

Percent of total capacity: 72%

Millerton Lake—Fresno and Madera counties

Percent of historic average: 121%

Percent of total capacity: 86%

2024 The Sacramento Bee. Distributed by Tribune Content Agency, LLC.

Citation: How full are major California reservoirs as state exits another wet winter? (2024, April 11) retrieved 11 April 2024 from <https://phys.org/news/2024-04-full-major-california-reservoirs-state.html>

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

will be held at 9:00 a.m., on Thursday, March 28, 2024
at 255 Industrial Way, Buellton, California 93427

Members of the public may participate by video call or telephone via
URL: <https://meetings.ringcentral.com/j/1448312655>
or by dialing (623)404-9000 and entering access Code/Meeting ID: 144 831 2655 #

Please note: public participation by video call or telephone is for convenience only and is not required by law. If technical interruptions to the video call/telephone occur, the chair has the discretion to continue the meeting and participants are invited to take advantage of the other participation options above.

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

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

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

Eric Friedman
Chairman

Jeff Clay
Vice Chairman

Ray A. Stokes
Executive Director

Brownstein Hyatt
Farber Schreck
General Counsel

Member Agencies

City of Buellton

Carpinteria Valley
Water District

City of Guadalupe

City of Santa Barbara

City of Santa Maria

Goleta Water District

Montecito Water District

Santa Ynez River Water
Conservation District,
Improvement District #1

Associate Member

La Cumbre Mutual
Water Company

I. Call to Order and Roll Call

II. Closed Session

- A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION Initiation of litigation pursuant to Government Code section 54956.9(d) (4): 1 case
- B. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Government Code section 54956.9(d) (1)
Name of case: Central Coast Water Authority, et al. v. Santa Barbara County Flood Control and Water Conservation District, et al. (Case No. 21CV02432)

III. Return to Open Session

IV. Public Comment – (Any member of the public may address the Board relating to any matter within the Board’s jurisdiction. Individual Speakers may be limited to five minutes; all speakers to a total of fifteen minutes.)

V. Consent Calendar

- * A. Minutes of the February 22, 2024 Regular Meeting
 - * B. Bills
 - * C. Controller’s Report
 - * D. Operations Report
 - * E. Budget Transfer
- Staff Recommendation: Approve the Consent Calendar*

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

Continued

- * Indicates attachment of document to original agenda packet.
- ▲ The CCWA FY 2024/25 Preliminary Budget has been provided to Board members and is available on-line at www.CCWA.com, if you require a hard copy please contact Lisa Watkins at lfw@ccwa.com.

#51788_1

VI. Executive Director's Report

- * A. Water Supply Situation Report
Staff Recommendation: Informational item only.
- * B. Final Draft Proposed Administrative Rules for the Transfer or Exchange of Water
Staff Recommendation: For discussion only.
- ♣ C. CCWA FY 2024/25 Preliminary Budget
- * D. State Water Contractors Report
Staff Recommendation: Informational item only.
- * E. Legislative Report
Staff Recommendation: Informational item only.

VII. Reports from Board Members for Information Only

VIII. Items for Next Regular Meeting Agenda

IX. Date of Next Regular Meeting: April 25, 2024

X. Adjournment



Central Coast Water Authority

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[DISTRICT TRANSPARENCY \(TRANSPARENCY.HTML\)](transparency.html)

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To: Board of Trustees

From: Paeter E. Garcia
General Manager

Date: April 16, 2024

Subject: Updates to Staffing Structure and Personnel Policy Manual

Agenda: Item 9.A.2

STAFF REPORT

Updates to Staffing Structure

As the saying goes, the only thing constant is change. Several retirements from the District and the addition of new personnel provide an unique opportunity to update our staffing structure in productive and positive ways.

The first update relates to deactivating the Assistant General Manager position currently held by Ms. Mary Robel. As the Board is aware, Mary is retiring in June of this year after nearly 20 years of employment with the District. In 2018, Mary was promoted to Assistant General Manager based on her extensive experience and expertise in District matters, and her demonstrated capability in helping lead the District team. Upon Mary's retirement, the District has decided that it will deactivate the Assistant General Manager position instead of seeking to immediately place a new employee into that role. This creates an excellent opportunity to have three executive level Manager positions in place to assist the General Manager in carrying out all aspects of the District's business: (1) the Administrative & Financial Manager; (2) the Water Resources Manager; and (3) the Government/Legal Affairs and Policy Manager. These updates to the District's staffing structure are reflected in the revised Organizational Chart included as Attachment A.

With respect to these three key management positions, Mr. Dan Drugan joined the District in November 2023 to assume the Water Resources Manager position upon the retirement of Eric Tambini. Ms. Racel Cota joined the District in April 2024 to assume the newly created Administrative & Financial Manager position. The District is beginning to recruit for the Government/Legal Affairs & Policy Manager position, a post previously held by the General Manager. Staff proposes that these three executive Manager positions share the same 12-

step salary range, which for Fiscal Year 2023/2024 is \$149,173.19 to \$195,728.29; provided, however, to the extent the Government/Legal Affairs & Policy Manager position is filled by a licensed attorney as the Legal Affairs & Policy Manager, staff proposes a 12-step salary range for that position (in Fiscal Year 2023/2024 terms) of \$182,737.16 to \$239,767.16.

The second update involves a proposed change in title for the existing position of Board Administrative Assistant. Ms. Karen King has held this position with the District for the past 22 years. While the current job title suggests that her role is limited to administrative duties relating to the Board, Karen's position also involves a broad range of other critical responsibilities, many of which are tied to providing administrative support to the General Manager, the Assistant General Manager, and the Water Resources Manager. Her position also provides backup support to the front office when staffing is lean due to vacation or other absences. Karen plans to retire from the District in December of this year. When the recruiting process is initiated to fill her vacancy, staff proposes to change the title of Karen's position to Executive Assistant. No change in the current salary range is proposed.

The third update involves the proposed creation of a third tier for the existing position of Administrative Assistant. For many years the District has employed both Administrative Assistant I and Administrative Assistant II positions. These front office positions are critical to everyday operations of the District and involve a broad range of responsibilities including, but not limited to, customer billing, accounts payable, accounts receivable, banking transactions, state and federal reporting, purchasing, inventory management, and countless customer service interactions. To incentivize the highest levels of performance, career advancement, and employment longevity within the District, staff proposes to create an Administrative Assistant III position. To be clear, this proposal does not involve hiring an additional employee or increasing the number of full-time employees within the District. Instead, creating an Administrative Assistant III position brings additional opportunity for advancement that is similar to the District's Operations Technician position in the field, which is offered at levels I, II, and III. Staff proposes a 12-step salary range of \$73,211.52 to \$96,059.88 for an Administrative Assistant III position (Fiscal Year 2023/2024), which is five percent higher than the salary range for Administrative Assistant II.

Updates to Personnel Policy Manual

The first proposed update to the Personnel Policy Manual is driven by how the CalPERS system operates. Two provisions of the Manual refer to District employees that joined the CalPERS system on or after January 1, 2013, referred to as Public Employees Pension Reform Act (PEPRA) employees. Under the CalPERS system, PEPRA employees are required to pay the employee share of their pension benefit, which contribution rates are subject to possible increases or decreases based on the results of annual actuarial valuations. In this regard, the Manual currently references a requirement for the District's PEPRA employees to pay a "6.5%" employee contribution, whereas that percentage has increased over the last several years and currently stands at 8.25%. To address this issue affecting PEPRA employees, the following updates to Section 3.19 of the Manual are proposed:

Tier 2: For all probationary and regular full-time and qualifying hourly employees hired on or after January 1, 2013 who are also considered New Members as defined by PEPRA ("New Members"), the benefit is provided at the 2% @ 62 Formula Benefit Level, with final compensation based on the highest average compensation during a 36 consecutive months period. All Tier 2 employees are required by law to pay the ~~6.5%-employee's~~ contribution amount as designated by CalPERS.

For Tier 2 (New Member) employees, for that time period, if the employee authorizes in writing a deduction from their paycheck equal to the required amount of the employee's ~~6.5%-contribution~~ to CalPERS to fund the employee's individual 457 Plan, SYRWCD, ID#1 shall continue to contribute an amount that is equal to SYRWCD ID#1's required percentage contribution amount set by CalPERS to that employee's 457 Plan. This written authorization must be provided to the Assistant General Manager within five (5) business days of the employee being notified that the employee will be meeting or exceeding the annual compensation limits for the calendar year.

The second proposed update to the Personnel Policy Manual relates to step increases (merit incentives) for District employees. The Manual clearly provides that step increases within an employee's 12-step salary range are not automatic, but instead are based on annual performance and are subject to approval by the General Manager. However, the Manual also provides that employees within steps A through D1 are eligible for a step increase, yet employees at steps E through F are not eligible for an annual step increase and instead must complete two years of superior service in their current step to be eligible for a step increase. Apparently, the original rationale for this limitation was to incentivize seasoned employees at higher step ranges to stay with the District in order to achieve the highest steps and salaries offered for their positions. As applied to the current employment market, that rationale seems counterproductive. Indeed, most public agencies currently offer annual opportunities for all employees to earn merit increases based on performance. As currently written, the District's Manual prevents some of our highest performing employees from receiving an annual merit increase, which potentially contravenes the important goals of employee satisfaction, performance, and retention. To address this issue affecting employees who have achieved steps E, E1, and F of their salary ranges, the following update to Section 1.9(c)(1) of the Manual is proposed:

Step Increases - Each classification held by regular and probationary full-time and hourly employees, except the General Manager, shall be assigned to a salary range with 12 steps. Increases in steps shall not be automatic but shall be based on annual performance ~~and length of service~~ and shall be granted to eligible employees at the discretion of the General Manager. ~~Upon completion of one (1) year of satisfactory service in step A, A1, B or B1 of a classification, regular employees shall be eligible to receive a step increase. Upon completion of one (1) year of superior service in step C, C1, D or D1 of a classification, regular employees shall be eligible to receive a step increase. After completion of two (2) years of superior service at step E, E1 or F, of a classification, regular~~

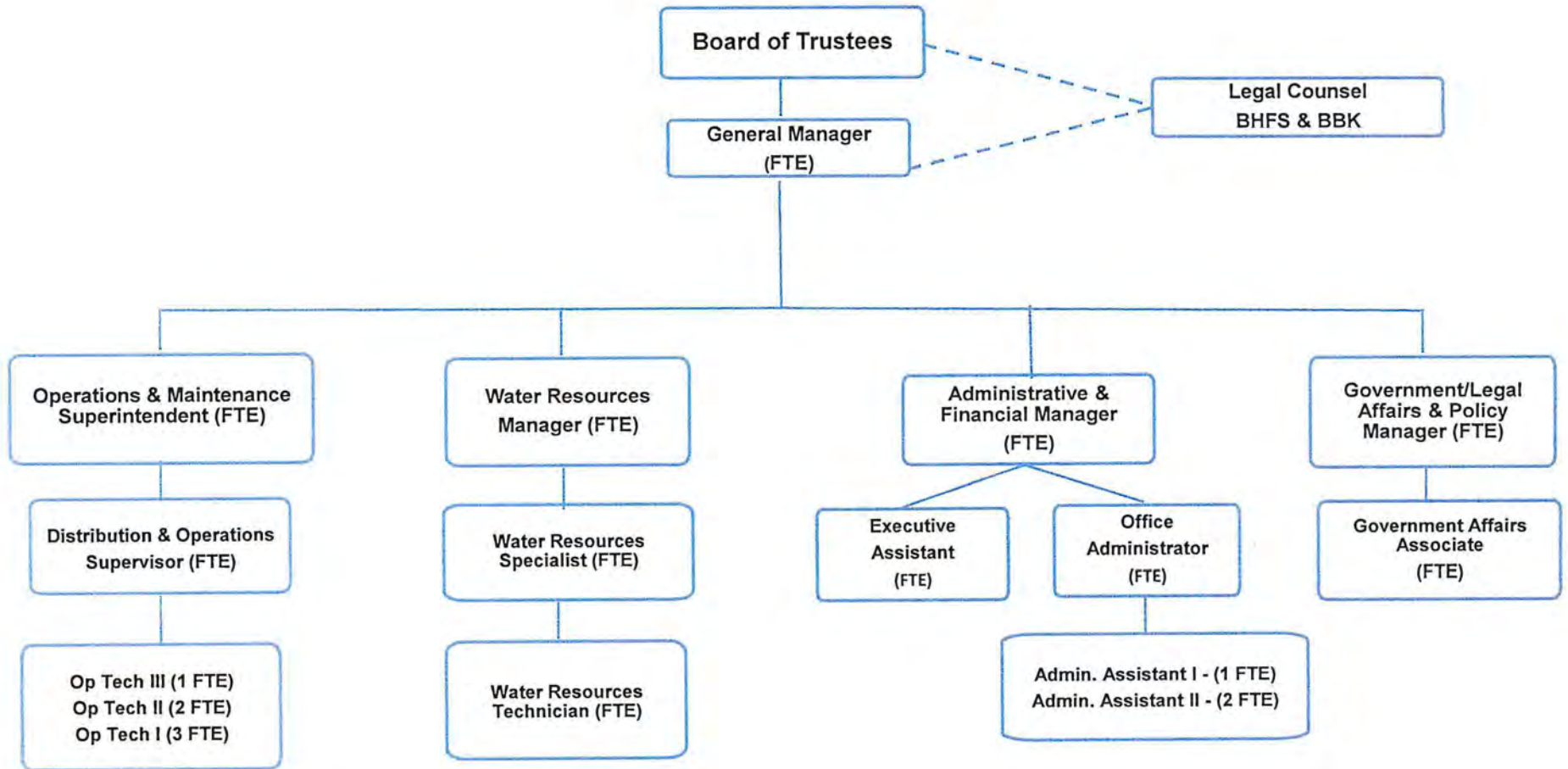
~~employees shall be eligible to receive an increase to next higher step in that classification.~~ The step increase date for employees shall be computed from the first day of service in any classification or the date of their last step increase, which is most recent. Time in an unpaid status (e.g., unpaid leave of absence) shall not be counted toward the service requirement for step increase eligibility. A copy of the salary ranges for job classifications at SYRWCD ID#1 is available from the General Manager ~~and is posted on the SYRWCD ID#1 website.~~

The third proposed update to the District's Personnel Policy Manual would remove references to "Assistant General Manager" throughout the Manual. As described above, upon the retirement of the current Assistant General Manager (Mary Robel), the District will deactivate that titled position instead of seeking to immediately place a new employee into that role. Accordingly, staff proposes to replace references to Assistant General Manager in the Manual with references to the "General Manager or his/her designee" as applicable.

Recommendations

Staff recommends the Board approve changes to the District's staffing structure and Personnel Policy Manual as described above.

ORGANIZATIONAL CHART



TOTAL POSITIONS = 20
FULL TIME = 20
Updated 04/2024

RESOLUTION NO. 842

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE
SANTA YNEZ RIVER WATER CONSERVATION DISTRICT, IMPROVEMENT DISTRICT NO. 1
AMENDING THE DISTRICT'S PERSONNEL POLICY MANUAL**

WHEREAS, the Board of Trustees previously adopted, and has subsequently updated and revised, by Resolutions, the Santa Ynez River Water Conservation District, Improvement District No.1 ("District") Personnel Policy Manual, which sets forth certain terms and conditions of employment for employees of the District; and

WHEREAS, the Board of Trustees desires to update and revise certain provisions of the Personnel Policy Manual, including but not limited to, revisions to ensure compliance with new and revised employment standards under federal and state law, as applicable; and

WHEREAS, the Board of Trustees has the authority to adopt updates, revisions, and amendments to the Personnel Policy Manual; and

WHEREAS, the Board of Trustees has reviewed the proposed revisions to the Personnel Policy Manual, including Section 1.9(c)(1) - Step Increases and Section 3.19 - Retirement, which revisions are attached hereto and incorporated herein by this reference.

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

1. Revisions to Section 1.9(c)(1) - Step Increases and Section 3.19 - Retirement within the District's Personnel Policy Manual are approved, adopted, and incorporated into the personnel policies and procedures of the District.
2. Except where otherwise required by contract or law, the provisions of the District's Personnel Policy Manual shall apply to and govern the terms and conditions of employment of all current and future employees of the District, and a copy of the Personnel Policy Manual and any revisions and additions thereto shall be provided to all current employees of the District and shall be provided to all new employees immediately upon hire.
3. The General Manager, working in conjunction with his or her designee(s), is hereby authorized to implement the policies, provisions, and procedures of the District's Personnel Policy Manual.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately.

WE, THE UNDERSIGNED, being the duly qualified President and Secretary, respectively, of the Board of Trustees of the Santa Ynez River Water Conservation District, Improvement District No.1, do hereby certify that the above and foregoing Resolution was duly and regularly adopted and passed by the Board of Trustees of said District at a Regular meeting held on April 16, 2024 by the following roll call vote:

AYES, and in favor thereof, Trustees:

NOES, Trustees:	None
ABSENT, Trustees:	None

Jeff Clay, President

ATTEST:

Mary Robel, Secretary to the Board of Trustees

CONTRACT CHANGE ORDER FORM

CHANGE ORDER NUMBER: 1

DATE: 2/28/2024



BASE CONTRACT AMOUNT:	\$375,837.00
PRIOR CHANGE ORDERS AMOUNT:	\$0.00
TOTAL CONTRACT PRIOR TO THIS CHANGE ORDER:	\$375,837.00
THIS CHANGE ORDER AMOUNT:	\$2,851.23
NEW CONTRACT AMOUNT:	\$378,688.23

ORIGINAL
CONTRACT
DATE: 9/27/21

PROJECT: **Motor Control Center and Service Upgrades**
 OWNER: Santa Ynez River Water Conservation District, Improvement District No.1
 CONTRACTOR: Electricraft, Inc.

Change Order Items	Addition	Deduction	Days Ext.
Pumps 2 & 3 Local Control at Alamo Pintado BPS	2,851.23		
NET TOTAL:	\$2,851.23		

We hereby agree to make the above change subject to the terms of this order for the sum of : \$2,851.23
Two thousand eight hundred fifty one and 23/100 Dollars.

Recommended by Engineer:  Date: 3/26/2024	Approved by Owner:  Date: 4/5/24	Accepted by Contractor: Date:
--	---	--------------------------------------

NOTE: The documents supporting this Change Order, including any drawings and estimates of cost, if required, are attached hereto and made a part hereof. This Order shall not be considered as such until it has been signed by the Owner, and the Contractor. Upon final approval, distribution of copies will be made as required.

CHANGES: All workmanship and materials called for by this Order shall be fully in accordance with the original Contract Documents insofar as the same may be applied without conflict to the conditions set forth by this Order. The time for completing the Contract will not be extended unless expressly provided for in this Order.

CONTRACT CHANGE ORDER FORM

CHANGE ORDER NUMBER: 1

DATE: 3/27/2024

BASE CONTRACT AMOUNT:	\$746,270.00
PRIOR CHANGE ORDERS AMOUNT:	\$0.00
TOTAL CONTRACT PRIOR TO THIS CHANGE ORDER:	\$746,270.00
THIS CHANGE ORDER AMOUNT:	\$2,345.61
NEW CONTRACT AMOUNT:	\$748,615.61

ORIGINAL
CONTRACT
DATE: 08/17/2022

PROJECT: Santa Ynez Motor Control Center and Service Upgrades - Phase 2
 OWNER: Santa Ynez River Water Conservation District, Improvement District No.1
 CONTRACTOR: SMITH MEP

Change Order Items	Addition	Deduction	Days Ext.
<i>New Feeder Conductors at Well 28 MCC</i>	2,345.61		
NET TOTAL:	\$2,345.61		

We hereby agree to make the above change subject to the terms of this order for the sum of : \$2,345.61
Two thousand three hundred forty five and 61/100 Dollars.

Recommended by Engineer: 	Approved by Owner: 	Accepted by Contractor:
Date: 3/28/2024	Date: <u>4/5/24</u>	Date:

NOTE: The documents supporting this Change Order, including any drawings and estimates of cost, if required, are attached hereto and made a part hereof. This Order shall not be considered as such until it has been signed by the Owner, and the Contractor. Upon final approval, distribution of copies will be made as required.

CHANGES: All workmanship and materials called for by this Order shall be fully in accordance with the original Contract Documents insofar as the same may be applied without conflict to the conditions set forth by this Order. The time for completing the Contract will not be extended unless expressly provided for in this Order.

NOTICE AND AGENDA OF SPECIAL MEETING

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

**HELD AT
SANTA YNEZ COMMUNITY SERVICES DISTRICT, MEETING ROOM
1070 FARADAY STREET, SANTA YNEZ, CALIFORNIA
6:30 P.M., THURSDAY, MARCH 28, 2024**

EMA GSA Alternate Committee Member Steve Jordan will be attending the meeting via teleconference from the following location: 46250 East El Dorado, Indian Wells, CA 92210. Members of the public may join Director Jordan at that location.

Optional remote public participation is available via Telephone or ZOOM

To access the meeting via telephone, please dial: 1-669-900-6833 or 1-669-444-9171
or via the Web at: <http://join.zoom.us>

“Join a Meeting” - **Meeting ID 826 1622 6431 Meeting Passcode: 415319**

***** Please Note *****

The above teleconference option for public participation is being offered as a convenience only and may limit or otherwise prevent your access to and participation in the meeting due to disruption or unavailability of the teleconference line. If any such disruption or unavailability occurs for any reason the meeting will not be suspended, terminated, or continued. Therefore in-person attendance of the meeting is strongly encouraged.

AGENDA OF SPECIAL MEETING

1. Call to Order and Roll Call
2. Additions or Deletions to the Agenda
3. Public Comment (Any member of the public may address the Committee relating to any non-agenda matter within the Committee’s jurisdiction. The total time for all public comment shall not exceed fifteen minutes and the time allotted for each individual shall not exceed five minutes. No action will be taken by the Committee at this meeting on any public comment item.)
4. Review and consider approval of meeting minutes of February 22, 2024
5. Receive Third Annual Report for the EMA and consider authorizing submittal of same to DWR.
6. Receive update on DWR Sustainable Groundwater Management Implementation Grant
7. Receive update on SGMA Governance and Draft Joint Powers Agreement for the EMA
8. Review upcoming GSA meetings. All meetings held at 6:30 PM, Santa Ynez CSD Meeting Room, 1070 Faraday St., Santa Ynez, unless stated otherwise.
 - a. Discuss a proposed Basin-wide GSAs Meeting (TBD at Buellton City Council Chambers)
 - b. Tentative SPECIAL EMA GSA Committee meeting Thursday, April 25, 2024
 - c. Next REGULAR EMA GSA Committee meeting, Thursday, May 23, 2024
9. EMA GSA Committee reports and requests for future agenda items
10. Adjournment

[This agenda was posted 72 hours prior to the scheduled SPCECIAL meeting at 3669 Sagunto Street, Suite 101, Santa Ynez, California, and SantaYnezWater.org in accordance with Government Code Section 54954. In compliance with the Americans with Disabilities Act, if you need special assistance to review agenda materials or participate in this meeting, please contact the Santa Ynez River Water Conservation District at (805) 693-1156. Advanced notification as far as practicable prior to the meeting will enable the GSA to make reasonable arrangements to ensure accessibility to this meeting.]

Santa Ynez River Valley Groundwater Basin

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APR
25
2024

EMA GSA Committee Tentative Special Meeting, 6:30 pm

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Paeter Garcia

From: California Water Boards <public@info.waterboards.ca.gov>
Sent: Friday, April 5, 2024 4:43 PM
To: Paeter Garcia
Subject: Board Adoption Meeting: Proposed Hexavalent Chromium MCL Regulation

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Board Adoption Meeting: Proposed Hexavalent Chromium MCL Regulation

The State Water Resources Control Board will consider adoption of the proposed Hexavalent Chromium Maximum Contaminant Level regulation on 17 April 2024. The agenda for the Board's 16/17 April 2024 meeting has been posted and is available at <https://content.govdelivery.com/accounts/CAWRRCB/bulletins/394ad6c>. Please refer to the full agenda for details and information on how to participate in the meeting.

Rulemaking documents for the proposed action are available at:

https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/SWRCBDDW-21-003_hexavalent_chromium.html

[View the April 16-17, 2024 Agenda here \(PDF\)](#)

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**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING**

**Tuesday, April 16, 2024 – 9:00 a.m.
Wednesday, April 17, 2024 – 9:00 a.m.**

**Coastal Hearing Room – Second Floor
Joe Serna Jr. - CalEPA Building
1001 I Street, Sacramento
And via Video and Teleconference
(Gov. Code, § 11123.2)**

Video and Teleconference Options: *This meeting will occur with both a physical meeting location and an option to participate from a remote location. A majority of the members will be physically present at the noticed meeting location.*

- *For those who only wish to watch the meeting, the webcast remains available at either <https://www.youtube.com/user/BoardWebSupport/> or <https://video.calepa.ca.gov/> (closed captioning available) and should be used **UNLESS** you intend to comment.*
 - *For members of the public who wish to comment on an agenda item or are presenting to the Board, additional information about participating telephonically or via the Board's online platform is available at: https://www.waterboards.ca.gov/board/info/remote_meeting/*
-

DECLARATION OF A QUORUM

E. Joaquin Esquivel, Chair; Dorene D'Adamo, Vice Chair; Sean Maguire, Member; Laurel Firestone, Member; Nichole Morgan, Member

TUESDAY, APRIL 16, 2024

BOARD MEETING

***Public comments on agenda items will be limited to 5 minutes
or otherwise at the discretion of the Board Chair***

PUBLIC FORUM

(Approximately 30 minutes at the beginning of Board Meeting and any remaining speakers at the call of the Chair)

Any member of the public may address and ask questions of the Board relating to any matter within the State Water Resources Control Board's jurisdiction provided the matter is not on the agenda or pending before the State Water Board or any California Regional Water Quality Control Board.

BOARD BUSINESS

1. The Board will consider adoption of the March 19-20, 2024 Board Meeting minutes.

BOARD HEARING - ITEM 2 WILL NOT BEGIN BEFORE 9:30 A.M.

OFFICE OF RESEARCH, PLANNING, AND PERFORMANCE

2. Consideration of a proposed Resolution to designate the Tulare Lake groundwater subbasin as probationary under the Sustainable Groundwater Management Act.
 - Public Notice
 - Agenda Item
 - Draft Resolution
 - Final Staff Report Executive Summary
 - Final Staff Report
 - Written Comments were due by noon on December 11, 2023

WEDNESDAY, APRIL 17, 2024

BOARD MEETING

PRESENTATION OF SUSTAINED AND SUPERIOR ACCOMPLISHMENT AWARDS

UNCONTESTED ITEM

3. Consideration of a proposed Resolution approving an amendment to the Water Quality Control Plan for the San Francisco Bay Basin to correct errors in freshwater metal water quality objectives, to clarify the basis to establish dilution credits for non-priority pollutants, and to allow establishment of alternative cyanide dilution credits and mercury concentration triggers for wastewater treatment operations.
 - Notice of Adoption
 - Revised Notice of Public Comment
 - Agenda Item
 - Draft Resolution
 - Written Comments were due by noon on February 12, 2024

INFORMATIONAL ITEM

4. Current Hydrologic Conditions and Response.

DIVISION OF WATER QUALITY

5. Consideration of adoption of a proposed Resolution to revise the Interim Mitigation Calculation for the Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling.
 - Notice of Adoption
 - Agenda Item
 - Draft Resolution
 - Final Staff Report
 - Written Comments were due by noon on October 30, 2023
 - Response to Comments

DIVISION OF DRINKING WATER

6. Consideration of a proposed Resolution adopting a Maximum Contaminant Level (MCL) for Hexavalent Chromium and certifying final Environmental Impact Report.
 - Agenda Item
 - Draft Resolution
 - Attachment 1: CEQA Findings and Statement of Overriding Considerations
 - Attachment 2: Proposed Regulation text
 - Final Environmental Impact Report (EIR)
 - Appendix A – Revised Draft EIR Appendix A (Proposed Regulations)
 - Appendix B – Notice of Preparation Comment Letters
 - Appendix C – Revised Draft EIR Appendix C (CEQA Analysis using SDWIS and GIS Data)
 - Appendix D – Existing Treatment System Information
 - Appendix E – Alternative MCL Source Maps
 - Appendix F – Comment Letters and Public Meeting Transcript
 - Written Comments were due by noon on March 4, 2024
 - Draft Responsive Summary

INFORMATIONAL ITEMS

7. Board Member Reports.
8. Executive Director's Report.

CLOSED SESSION

Closed Sessions are not open to the Public

ADMINISTRATIVE HEARINGS OFFICE/ DIVISION OF WATER RIGHTS

The Board may meet in closed session to deliberate on procedural or substantive decisions to be reached in the proceeding to consider the petition for partial assignment of state-filed Application 25517, accompanying water right Application 25517X01, and petitions for release from priority of state-filed Applications 25513, 25514, 25517 (unassigned portion), 22235, 23780, and 23781 in favor of water right Application 25517X01 filed by the Sites Project Authority. (This closed session is authorized under Government Code section 11126, subdivision (c)(3).)

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF DRINKING WATER
APRIL 17, 2024**

ITEM 6

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION ADOPTING A MAXIMUM CONTAMINANT LEVEL FOR HEXAVALENT CHROMIUM AND CERTIFYING FINAL ENVIRONMENTAL IMPACT REPORT.

DISCUSSION

The State Water Board establishes drinking water standards to ensure that drinking water provided by public water systems (PWS) is at all times safe, pure, wholesome, and potable. California PWS are subject to both federal Safe Drinking Water Act regulations and regulations adopted under the California Safe Drinking Water Act (Health & Saf. Code, div. 104, pt. 12, ch. 4, §116270 et seq.). Health and Safety Code (HSC) section 116365 requires the State Water Board to adopt primary drinking water standards for contaminants, specifying that each standard must be set at a level as close as technologically and economically feasible to the corresponding public health goal (PHG), placing primary emphasis on the protection of public health. HSC 116365.5 specifically requires the establishment of a hexavalent chromium primary drinking water standard.

In 2011, the California Office of Environmental Health Hazard Assessment (OEHHA) published the current hexavalent chromium PHG of 0.02 micrograms per liter ($\mu\text{g/L}$). In spring 2014, the California Department of Public Health adopted a maximum contaminant level (MCL) of 10 $\mu\text{g/L}$, which took effect July 1, 2014. In May 2017, the Superior Court of Sacramento County issued a judgment invalidating the previously established hexavalent chromium maximum contaminant level and ordered the State Water Board to adopt a new MCL consistent with HSC 116365 (*California Manufacturers Technology Association & Solano County Taxpayers Association v. State Water Resources Control Bd.*, Super. Ct. Sacramento County, 2017, No. 34-2015-80001850.).

The State Water Board proposes to establish anew a primary drinking water standard for hexavalent chromium in the form of an MCL of 10 $\mu\text{g/L}$ or 0.010 milligrams per liter (mg/L) and to adopt an associated detection limit for purposes of reporting of 0.1 $\mu\text{g/L}$, findings as to best available technologies for treatment, public notification requirements, a compliance schedule, specific analytical methods, and required Consumer Confidence Report language. The State Water Board has determined that the proposed regulations are necessary to carry out the purposes of California's Safe Drinking Water

Act. The proposed rulemaking is intended to satisfy the statutory mandates set forth in HSC sections 116365 and 116365.5, as well as the court order.

On June 16, 2023, the State Water Board provided a Notice of Proposed Rulemaking pursuant to the California Administrative Procedure Act (APA). It also circulated a notice of availability of a draft environmental impact report under the California Environmental Quality Act (CEQA) for review by public agencies and the public. The June 16, 2023, publication of the Notice of Proposed Rulemaking in the California Regulatory Notice Register began the mandatory 45-day public comment period, with the comment period closing August 18, 2023.

Based on comments received, a notice of proposed changes was issued November 22, 2023, modifying the proposed regulations to (1) remove the requirement that a water system describe how it would comply by the applicable compliance deadline and (2) add a requirement for increased public notification for hexavalent chromium MCL exceedances prior to the applicable compliance deadline. The notice initiated a required minimum 15-day public comment period which closed December 15, 2023. An additional notice of the availability of additional documents relied upon was issued January 31, 2024, with the comment period closing March 4, 2024.

Following the conclusion of the public comment periods, State Water Board staff compiled, reviewed, and drafted responses to every timely comment received. Except for the changes described above, none of the comments received during the comment periods resulted in additional modifications to the proposed regulations or in changes to the draft environmental impact report requiring recirculation, and no additional comment period is required under the APA or CEQA. Final responses to all comments received will be contained in the Final Statement of Reasons submitted to the Office of Administrative Law following Board adoption.

The Initial Statement of Reasons, text of proposed regulations, notices regarding this proposed rulemaking, draft and final environmental impact reports, and other rulemaking documents are available at the Division of Drinking Water's hexavalent chromium rulemaking page at:
https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/SWRCBDDW-21-003_hexavalent_chromium.html.

The proposed regulations include the following primary provisions:

- PWS would be required to comply with a hexavalent chromium MCL of 10 µg/L according to a size-based compliance schedule.
- PWS exceeding the MCL before the applicable compliance date would be required to submit and implement a compliance plan with specified minimum elements.

- PWS exceeding the MCL before the applicable compliance date would be required to provide Tier 2 public notice.
- PWS that violate the hexavalent chromium MCL or exceed the MCL before the applicable compliance date would be required to use specific public notification health effects language.
- PWS subject to existing Consumer Confidence Report (CCR) requirements that detect hexavalent chromium would be required to use specific language in their CCRs that identifies the major origins of hexavalent chromium in drinking water.
- PWS exceeding the MCL before the applicable compliance date and subject to existing CCR requirements would be required to use specific language in their CCRs that describes actions taken and planned to comply with the MCL.
- PWS using a new or modified treatment process to comply with the MCL would be required to submit an operations plan with specified minimum elements prior to serving water from the new or modified process.
- PWS would be required to monitor for hexavalent chromium and report sampling results consistent with existing requirements for inorganic chemicals.
- PWS would be required to comply with a hexavalent chromium detection limit for purposes of reporting of 0.1 µg/L.
- PWS would be required to use one of two specified hexavalent chromium analytical methods (U.S. EPA methods 218.6 and 218.7).
- Ion exchange, reduction/coagulation/filtration, and reverse osmosis would be identified as best available technology for the treatment of hexavalent chromium.

POLICY ISSUE

Should the State Water Board adopt the proposed resolution (1) approving regulations establishing a maximum contaminant level of 10 µg/L for hexavalent chromium, (2) certifying the Final Environmental Impact Report, and (3) adopting the CEQA Findings and Statement of Overriding Considerations?

FISCAL IMPACT

To be funded within existing resources.

Fiscal impacts to the State Water Board were estimated for the review of expected compliance and operations plans prepared by public water systems and are available in the Standardized Regulatory Impact Analysis (SRIA), Table 16. Additional information regarding underlying assumptions and other potential, nonquantifiable impacts is provided in the SRIA.

REGIONAL BOARD IMPACT

Yes. Adoption may impact regional water quality control boards with prospective incorporation by reference of maximum contaminant levels in Title 22, California Code

of Regulations, section 64431, as water quality objectives in their water quality control plans. Specifically, adoption may impact the North Coast, San Francisco Bay, Central Coast, Los Angeles, Central Valley, Lahontan, Colorado River, and San Diego Regional Water Quality Control Boards by providing an additional numeric water quality objective for regional water quality control boards to consider.

STAFF RECOMMENDATION

Staff recommends that the Board adopt the proposed regulations for a hexavalent chromium MCL of 10 µg/L.

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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2024-

ADOPTING A MAXIMUM CONTAMINANT LEVEL FOR HEXAVALENT CHROMIUM AND CERTIFYING FINAL ENVIRONMENTAL IMPACT REPORT

WHEREAS:

1. California public water systems are subject to regulations adopted under the California Safe Drinking Water Act (Health & Saf. Code, div. 104, pt. 12, ch. 4, § 116270 et seq.).
2. Under the California Safe Drinking Water Act, the State Water Resources Control Board (State Water Board) is responsible for adopting primary drinking water standards for contaminants in drinking water. (Health & Saf. Code, § 116365.) Primary drinking water standards are defined in the California Safe Drinking Water Act as the maximum levels of contaminants that, in the judgment of the state board, may have an adverse effect on the health of persons and the monitoring and reporting requirements adopted by the state board that pertain to the maximum contaminant levels (MCLs). (Health & Saf. Code, § 116275, subd. (c).)
3. It is the policy of the state to reduce to the lowest level feasible all concentrations of toxic chemicals that, when present in drinking water, may cause cancer, birth defects, and other chronic diseases. (Health & Saf. Code, § 116270, subd. (d).)
4. Hexavalent chromium is a heavy metal that is carcinogenic and toxic to the liver, and it is present in drinking water due to both natural occurrence and its use in industrial applications.
5. The Legislature directed the State Water Board to adopt a primary drinking water standard for hexavalent chromium. (Health & Saf. Code, § 116365.5.)
6. The State Water Board is required to set the primary drinking water standard for hexavalent chromium at a level that is as close as feasible to the public health goal published by the Office of Environmental Health Hazard Assessment, placing primary emphasis on the protection of public health, and that, to the extent technologically and economically feasible, avoids any significant risk to public health. (Health & Saf. Code, § 116365.)

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7. In 2011, the Office of Environmental Health Hazard Assessment (OEHHA) published a public health goal for hexavalent chromium of 0.02 parts per billion (ppb). In November 2023, as part of its review of the hexavalent chromium public health goal, OEHHA released a draft technical support document for a proposed health-protective concentration for the noncancer effects of hexavalent chromium in drinking water of 5 micrograms per liter (ug/L or ppb). Finalization of a PHG update will likely take at least another year to complete, including development of a health-protective concentration for cancer effects of hexavalent chromium.
8. On June 16, 2023, in accordance with the California Administrative Procedure Act (APA) (Gov. Code, div. 3, pt. 1, ch. 3.5), the State Water Board distributed, and the Office of Administrative Law published, a Notice of Proposed Rulemaking for the proposed regulations, which included a primary drinking water standard for hexavalent chromium.
9. Consistent with the requirements of Government Code section 11346.2, the State Water Board prepared an Initial Statement of Reasons (ISOR) for proposing an MCL for hexavalent chromium of 10 ug/L, including a standardized regulatory impact analysis, as required by Government Code section 11346.3 and title 1 of the California Code of Regulations (CCR), sections 2000-2204, which was made available to the public.
10. Also on June 16, 2023, as lead agency under the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) (CEQA), the State Water Board completed a Draft Environmental Impact Report (EIR) for the proposed regulations in accordance with section 15187 of the CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) and distributed a Notice of Availability of Draft EIR.
11. The Notice of Proposed Rulemaking and the Notice of Availability of Draft EIR solicited comments on the proposed regulations and the Draft EIR, respectively, until noon on August 4, 2023, for a public comment period greater than 45 days.
12. After distributing a Revised Notice of Proposed Rulemaking on July 21, 2023, to change the location for a public hearing on the proposed regulations, the State Water Board distributed a Second Revised Notice of Proposed Rulemaking to extend the public comment period on the proposed regulations to noon on August 11, 2023.

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13. On August 2, 2023, the State Water Board held a hearing to receive oral and written comments from the public on the proposed regulations in accordance with the APA, and on the Draft EIR.
14. On August 4, 2023, the State Water Board distributed a Third Revised Notice of Proposed Rulemaking to extend the public comment period on the proposed regulations to noon on August 18, 2023.
15. At the hearing and in written comments, groups representing publicly owned treatment works (POTWs) expressed concerns about the impacts of the hexavalent chromium MCL on their operations, including the need to meet the MCL as a water quality objective to protect municipal and domestic supply beneficial uses of water because some regional water quality control boards have prospectively incorporated by reference drinking water standards as water quality objectives into their water quality control plans.
16. On November 22, 2023, in response to public comments, the State Water Board distributed a Notice of Public Availability of Changes to Proposed Regulations, soliciting comments on changes to the proposed regulations until noon on December 15, 2023.
17. On January 31, 2024, and February 14, 2024, the State Water Board distributed a Notice of Public Availability of Additional Documents Relied Upon and a Revised Notice of Public Availability of Additional Documents Relied Upon, respectively, soliciting public comments on the addition of the documents to the rulemaking record until noon on March 4, 2024.
18. Following the close of the final public comment period on March 4, 2024, State Water Board staff compiled, reviewed, and prepared draft responses to comments on the proposed regulations and the Draft EIR, and made those available to the public as part of the agenda item for the approval of the regulations.
19. Final responses to all comments on the proposed regulations that were received during the public comment periods will be prepared and contained within the Final Statement of Reasons and submitted to the Office of Administrative Law as part of the rulemaking record.
20. The State Water Board did not receive any comments or additional information that constituted significant new information requiring recirculation

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of the Draft EIR under section 21092.1 of the Public Resources Code and section 15088.5 of the CEQA Guidelines.

21. As required by CEQA, no fewer than 10 days before the date of this meeting the State Water Board distributed a copy of the Final EIR, including responses to comments, to all public agencies that commented on the Draft EIR.
22. The State Water Board is required to adopt a finding of the best available technology for each contaminant for which a primary drinking water standard has been adopted at the time the standard is adopted, taking into consideration the costs and benefits of best available treatment technologies that have been proven effective under full-scale field applications. (Health & Saf. Code, § 116370.)
23. The State Water Board finds that the best available technologies for removing hexavalent chromium from drinking water are ion exchange, reverse osmosis, and reduction/coagulation/filtration, as described in the Initial Statement of Reasons for the proposed regulations and as specified in the proposed regulations.
24. The State Water Board submitted the scientific portions of the proposed regulations, along with a statement of the scientific findings, conclusions, and assumptions on which the scientific portions of the proposed regulations are based and the supporting scientific data, studies, and other appropriate materials, for external scientific peer review in accordance with section 57004 of the Health and Safety Code. The State Water Board posted the peer review request, findings, and State Water Board responses on the State Water Board's website.
25. Regulatory package elements are posted on the program webpage at https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/SWRCB/DDW-21-003_hexavalent_chromium.html.
26. The State Water Board finds that the proposed regulations are technologically and economically feasible for the reasons set forth in the Initial Statement of Reasons.
27. It is 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. (Wat. Code, § 106.3.) The State Water Board has

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considered this policy when adopting the proposed regulations, including the need to consider impacts to affordability from regulations that protect public health and safety. The adoption of the proposed regulations advances the human right to water by setting a primary drinking water standard for hexavalent chromium that is protective of public health, while avoiding substantial impacts to affordability and accessibility. Adoption of the proposed regulations would improve the safety of drinking water from public water systems in California by prohibiting hexavalent chromium above the proposed maximum contaminant level of 10 ppb. As described in the ISOR, the proposed regulations would reduce the risk of cancer and health effects from liver toxicity due to hexavalent chromium. At the same time, and as discussed in the ISOR, the proposed regulations are economically feasible.

Nevertheless, it is possible that some customers may struggle to afford safe drinking water as a result of rate increases imposed by affected public water systems to comply with the proposed regulations. That risk, however, can potentially be mitigated by financial assistance for public water systems and alternative means of compliance for small systems, including implementation of point-of-use and point-of-entry treatment units in lieu of centralized treatment. In addition, the ISOR demonstrates that the likely monthly increase for the vast majority of those affected is less than \$8, an affordable increase to protect public health and provide safe drinking water to as many Californians as possible.

THEREFORE, BE IT RESOLVED THAT:

The State Water Board:

1. Certifies that the Final EIR has been completed in compliance with CEQA, that the Final EIR was presented to the State Water Board as the decision-making body, that the State Water Board reviewed and considered the information contained in the Final EIR prior to approving the proposed regulations, and that the Final EIR reflects the State Water Board's independent judgment and analysis.
2. Adopts the CEQA Findings and Statement of Overriding Considerations (Attachment 1).
3. Adopts the proposed regulations for a hexavalent chromium MCL of 10 ppb, and makes modifications to California Code of Regulations, Title 22, sections 64415, 64431, 64432, 64447.2, 64463.4, 64465, and 64481, as appended to this resolution (Attachment 2).

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4. Encourages the regional water quality control boards to work with the POTWs and consider approaches, including schedules of compliance, to avoid imposing unnecessary costs to POTWs to address exceedances of hexavalent chromium in their effluent that will be addressed as public water systems come into compliance with the MCL.

5. Directs the Executive Director or designee to sign Form 400, and directs staff to compile the final statement of reasons, including the final responses to comments, and submit it with the adopted regulations to OAL.

6. Authorizes the Executive Director or designee to make non-substantive revisions to the adopted regulations or supporting documentation, if prior to their filing by OAL with the Secretary of State, the State Water Board or its staff, or OAL, determine that non-substantive revisions are needed.

7. Directs staff to file a Notice of Determination in accordance with CEQA within five working days of the date of this resolution.

8. Directs staff to continue to monitor OEHHA's update of the PHG for hexavalent chromium, and to amend the MCL, as required by section 116365 of the Health and Safety Code, if any updated PHG indicates that hexavalent chromium may present a materially different risk to public health than was previously determined.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on April 17, 2024.

Courtney Tyler
Clerk to the Board

**CEQA FINDINGS AND FACTS IN SUPPORT OF FINDINGS AND
STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE
ADOPTION OF A REGULATION FOR THE HEXAVALENT CHROMIUM MAXIMUM
CONTAMINANT LEVEL**

Prepared by:

State Water Resources Control Board

April 2024

1. INTRODUCTION

These California Environmental Quality Act (CEQA) findings are made pursuant to CEQA (Public Resources Code section 21000 et seq.) and the CEQA Guidelines (Cal. Code Regs. tit. 14, section 15000 et seq.) by the State Water Resources Control Board (State Water Board or Board) as the lead agency for the project. The project under CEQA consists of the adoption of a primary drinking water standard for hexavalent chromium, including, without limitation, a maximum contaminant level, a detection limit for purposes of reporting, and a compliance schedule, as described in section 1.1, below, and section 2.4 of the Draft EIR (Proposed Regulations). The objectives of the Proposed Regulations include the following:

- Avoid significant risks to public health from drinking water supplied by public water systems in California.
- Reduce cancer and non-cancer public health risks from human consumption of drinking water contaminated with hexavalent chromium.
- Comply with the statutory mandate to adopt a primary drinking water standard for hexavalent chromium, as required by Health and Safety Code section 116365.5.

These CEQA findings pertain to the Final Environmental Impact Report (Final EIR) SCH No. 2021110099 prepared for the Proposed Regulations.

1.1. Description of the Proposed Regulations

As discussed in the Draft EIR¹, in 2002, the California Legislature required the Department of Health Services to develop a primary drinking water standard for hexavalent chromium by 2004. (Health & Saf. Code, § 116365.5, subd. (c).) Health and Safety Code section 116365, subdivisions (a) and (b), require the State Water Board to adopt primary drinking water standards at a level as close as feasible to the corresponding public health goal (PHG), placing primary emphasis on the protection of public health, and avoiding, to the extent technologically and economically feasible, any significant risk to public health. In 2011, the Office of Environmental Health Hazard Assessment (OEHHA) published the hexavalent chromium PHG at 0.02 parts per billion (ppb) or micrograms per liter (ug/L).²

¹ Any reference to the Draft EIR incorporates the amendments made to the document, as shown in Chapter 3 of the Final EIR.

² OEHHA is in the process of updating its PHG, and on November 24, 2023, published a draft document describing a proposed health-protective concentration for non-cancer effects of hexavalent chromium in drinking water of 5 ppb. The health-protective

In the Proposed Regulations, the State Water Board proposes a primary drinking water standard for hexavalent chromium. The Proposed Regulations include a maximum contaminant level (MCL) of 10 ppb and an associated detection limit for purposes of reporting (DLR) of 0.05 ppb for all public water systems. The Proposed Regulations include a compliance schedule based on public water system size, by adding subdivision (p) and Table 64432-B to section 64432 of title 22 of the California Code of Regulations. Under the proposed compliance schedule:

- Systems with more than 10,000 service connections would be required to comply with the MCL within two years of rule adoption.
- Systems with 1,000 to 10,000 service connections would be required to comply with the MCL within three years of rule adoption.
- Systems with fewer than 1,000 service connections would be required to comply with the MCL within four years of rule adoption.
- Systems with hexavalent chromium contamination above the proposed MCL before their applicable compliance deadline must prepare and submit to the State Water Board plans for achieving compliance by their applicable compliance deadline.

Additionally, in the Proposed Regulations and in compliance with Health and Safety Code section 116370, the State Water Board identifies reduction-coagulation-filtration (RCF), ion exchange, and reverse osmosis as best available technologies (BATs) for the removal of hexavalent chromium from drinking water to concentrations at or below the proposed MCL. For a more detailed discussion on BAT and the Proposed Regulations, see Chapter 2 of the Draft EIR. Visit the State Water Board website for the text of the [Proposed Regulations](#).

1.2. Organization

The findings set forth in the following sections state the State Water Board's reasons for making each finding and the rationale connecting the evidence to its conclusions. These

concentration for noncancer effects of 5 ppb would be a ceiling for any future change to the PHG. This is because even if OEHHA were to determine a health-protective concentration for cancer effects from hexavalent chromium that is higher than the proposed MCL of 10 ppb, OEHHA would still select the lower value of 5 ppb for the PHG. As explained in OEHHA's November 24, 2023, "Announcement of Availability of a Draft Technical Support Document for Proposed Health-Protective Concentration for Noncancer Effects of Hexavalent Chromium in Drinking Water", "[f]or carcinogens, health-protective water concentrations are determined for both cancer and noncancer effects, and the lowest (most health protective) value is selected as the PHG."

findings are supported by substantial evidence based on the record of the proceedings. This document is organized as follows:

- Location and Custodian of the Record (CEQA Guidelines, § 15091(e));
- Findings and Facts Regarding Less Than Significant or No Impact and thus Requiring No Mitigation (not required by CEQA or CEQA Guidelines);
- Findings and Facts Regarding Significant Effects and Mitigation Measures (Pub. Resources Code, § 21081; CEQA Guidelines, § 15091);
- Findings Regarding Project Alternatives (Pub. Resources Code, § 21002);
- Findings Regarding Recirculation of the Draft EIR (not required by CEQA or CEQA Guidelines, but it is "preferable" (see *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 11134));
- Statement of Overriding Considerations (Pub. Resources Code, § 21081; see CEQA Guidelines, §§ 15043, 15093).

1.3. Location and Custodian of the Record

All records and materials constituting the record of the proceedings upon which these findings are made by the State Water Board are located at the State Water Resources Control Board, Head Quarters, located at 1001 I Street, Sacramento, California 95814. The custodian of these documents is the State Water Board, Division of Drinking Water. For more information on obtaining access to the record of the proceedings contact Office of Chief Counsel Attorney, Kim Niemeyer by email at kim.niemeyer@waterboards.ca.gov. This information is provided in compliance with Public Resources Code section 21081.6, subdivision (a)(2), and CEQA Guidelines section 15091(e).

2. FINDINGS AND FACTS IN SUPPORT OF FINDINGS

2.1. FINDINGS REGARDING LESS THAN SIGNIFICANT OR NO IMPACT AND THUS REQUIRING NO MITIGATION

Consistent with Public Resources Code section 21002.1 and CEQA Guidelines section 15128, the State Water Board focused its analysis in the EIR on potentially significant impacts, and limited discussion of other impacts for which it can be concluded with certainty there is no potential for significant adverse environmental impacts. CEQA Guidelines section 15091 does not require specific findings to address environmental effects that an EIR identifies as "no impact" or a "less than significant" impact. Nevertheless, the State Water Board hereby finds that, based on substantial evidence in the whole of the record, compliance with the Proposed Regulations would have either no impact or a less than significant impact to the following resource categories. Therefore, these impacts do not require mitigation.

2.1.1. Agricultural and Forest Resources

Impact 5-3: Compliance with the Proposed Regulations does not have the potential to conflict with zoning for, or cause rezoning of, forest land or timberland zoned as Timberland Production.

As discussed in the Draft EIR, while hexavalent chromium detections on forested areas of northern California are sparse, there is a potential for installation of BAT or reasonably foreseeable alternative methods of compliance to occur on forest land or timberlands. It is anticipated that any construction on forest lands or timberlands inconsistent with local zoning would qualify for a utility easement or conditional use permit, which would not require rezoning of the affected land. Therefore, there is no impact.

Impact 5-5: Compliance with the Proposed Regulations is not expected to involve other changes in the existing environment that could result in conversion of farmland to non-agricultural use or conversion of forest land to non-forest use.

The EIR recognized that there could be conversion of farmland, potential conflict with existing zoning for Williamson Act contracts, and loss of forest land. No other changes to the existing environment that could result in the conversion of farmland to non-agricultural use or conversion of forest land to non-forest use were identified. Therefore, there is no impact.

2.1.2. Air Quality

Impact 6-5: Compliance with the Proposed Regulations is not likely to produce objectionable odors and other emissions affecting a substantial number of people.

Temporary construction activities would involve the use of gasoline or diesel-powered equipment, which emit exhaust fumes, but these activities would occur only periodically during the construction period, and any exhaust fumes would dissipate quickly within the construction site. During the operational phase of compliance projects, objectionable odors are also unlikely to occur. Even if a particular treatment system were to produce an odor during operation, its impact will be limited to the treatment plant operator or other employees or contractors of the public water system working onsite, not a substantial number of people. Therefore, this impact is less than significant.

2.1.3. Energy

Impact 9-2: Compliance with the Proposed Regulations is not likely to conflict with or obstruct a state or local plan for renewable energy or energy efficiency.

As discussed in the Draft EIR, while compliance projects that involve the installation of treatment facilities are likely to increase total electricity consumption, it would only be by a small amount. This is because most water systems will not be out of compliance with the Proposed Regulations, and of those that are, only some will decide to install new

treatment. Others may decide to drill replacement wells, blend sources, or consolidate with other public water systems, which would require minimal additional energy use, if at all. The compliance projects that involve installation of treatment facilities are unlikely to conflict with or obstruct a state or local plan for renewable energy or energy efficiency because the facilities can be powered by renewable energy and be designed efficiently, and the additional energy consumption would be relatively small compared to total energy demand. For these reasons, Impact 9-2 is less than significant.

2.1.4. Hazards & Hazardous Materials

Impact 12-5: Compliance with the Proposed Regulations by public water systems would not have the potential to result in a safety hazard for people residing or working in the project area for a project located within an area covered by an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport.

As discussed in the Draft EIR, the size of the tanks to treat for hexavalent chromium are not expected to be so significant as to impact an airport. Therefore, there is no impact.

Impact 12-6: Compliance with the Proposed Regulations by public water systems will not have the potential to result in a safety hazard for people residing or working in the project area for a project located within the vicinity of a private airstrip.

As described above in Impact 12-5, if the treatment works or alternatives means of compliance are located near an airport, there would be no impact to the safety of people residing or working in the project area. Therefore, there is no impact.

Impact 12-7: Compliance with the Proposed Regulations by public water systems will not impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan.

As discussed in the Draft EIR, none of the reasonably foreseeable means of compliance would block emergency access to an area in the long-term, and any short-term impacts during construction would be temporary and less than significant. Therefore, there is no impact.

Impact 12-8: Compliance with the Proposed Regulations by a public water system will not expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands.

As discussed in the Draft EIR, compliance with the Proposed Regulations by a public water system is not expected to increase population or housing in the wildland areas. In addition, the treatment works would not create additional fire danger as the treatment works would be composed primarily of paved or gravel access roads, concrete pads, and

metal tanks and pipelines, which are not highly combustible materials. Therefore, there is no impact.

2.1.5. Land Use and Planning

Impact 14-1: Compliance with the Proposed Regulations by public water systems will not physically divide an established community.

As discussed in the Draft EIR, reasonably foreseeable compliance projects include treatment facilities, which in most cases are likely to be constructed near existing well sites. Other drinking water infrastructure, such as distribution lines or storage tanks, are discrete and isolated structures that are not large enough to physically divide a community. Some compliance projects will include installation of new drinking water pipelines, which are generally buried underground. For these reasons, reasonably foreseeable compliance projects will not physically divide established communities. Therefore, there is no impact.

2.1.6. Population and Housing

Impact 17-1: The Proposed Regulations will not directly induce substantial unplanned population growth in an area, but compliance with the Proposed Regulations by public water systems could indirectly allow for an insubstantial population growth in areas.

As discussed in the Draft EIR, it is possible that some public water systems will undertake projects to obtain new sources of uncontaminated drinking water and during that process will oversize those projects to allow for future growth. Similarly, public water systems that consolidate with each other to comply with the Proposed Regulations may install drinking water pipelines that allow for future development in areas where development is currently infeasible due to a lack of drinking water access. In these cases, the implementation of the compliance projects could allow for future population growth, though these are hypothetical and speculative scenarios. In addition, these allowances for future population growth are unlikely to be both unplanned and substantial. In the case of water systems sizing new supplies in excess of current demand, water systems are unlikely to size new supplies beyond the demand from planned population increases because of the cost of developing those new supplies. In the case of consolidations, there is a greater risk of unplanned growth resulting from the installation of new water transmission pipelines, yet there is no evidence that unplanned growth would be substantial. On the contrary, any unplanned growth associated with a consolidation is likely to be insubstantial due to constraints on supplies for serving new customers. Therefore, the impact is less than significant.

Impact 17-2: Compliance with the Proposed Regulations by public water systems is not expected to displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere.

Compliance projects are not expected to occur primarily in residential areas, though some projects may, such as where an existing wellsite is in a residential area. For wells that are in residential areas, installation of treatment may be constructed on the existing site or, in some cases, on another lot in the area. In either case, installation of treatment would not require displacing substantial numbers of existing housing because of the size of treatment facilities. Similarly, construction of new wells would normally occur at sites where housing does not currently exist. Installation of new drinking water pipelines for the purchase of surface water or consolidation of public water systems generally occurs within public rights-of-way. For these reasons, consolidation projects are unlikely to result in displacement of housing units, let alone substantial numbers of housing units. Therefore, there is no impact.

Cumulative Impacts to Population and Housing: Proposed Regulations are not expected to contribute to cumulative impacts to population and housing impacts in the state.

As discussed in the Draft EIR and in the findings, above, related to population and housing, because the reasonably foreseeable means of compliance with the Proposed Regulations are not expected to cause significant impacts associated with substantial, unplanned population growth or housing displacement, there are no significant cumulative impacts related to these impacts. Therefore, the cumulative impacts to population and housing resources are less than significant.

2.1.7. Public Services

Impact 18-1: Although compliance with the Proposed Regulations by public water systems could indirectly allow for increased population growth in areas, no impacts associated with the provision of new or physically altered government facilities is expected to occur.

As discussed in the Draft EIR, it is possible that some public water systems will undertake projects to obtain new sources of uncontaminated drinking water and will oversize those projects to allow for future growth. Similarly, consolidation pipelines installed to comply with the Proposed Regulations may allow for future development in areas where development is currently infeasible due to a lack of drinking water access. In these cases, the implementation of the compliance projects could allow for future population growth. Some projects that install numerous and complex treatment systems to comply with the Proposed Regulations may require new employment; however, the additional employment is likely to be minor and would not induce substantial population growth in the public water system's service territory.

The purpose of the Proposed Regulations is not to expand water supply, and any increase in supply is speculative and would be incidental. Any population growth therefore would not entail the expansion of public services and the construction of new government facilities. Therefore, there is no impact.

Cumulative Impacts to Public Services: Foreseeable means of compliance with the Proposed Regulations are not expected to cause impacts associated with the provision of new or physically altered governmental facilities.

Because reasonably foreseeable means of compliance with the Proposed Regulations are not expected to cause impacts associated with the provision of new or physically altered governmental facilities, they are not expected to contribute to cumulative impacts associated with the provision of new or physically altered governmental facilities from other projects occurring in the state. Therefore, the cumulative impacts to public services are less than significant.

2.1.8. Recreation

Impact 19-1: Compliance with the Proposed Regulations by public water systems will not increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated.

As discussed in the Draft EIR, compliance with the Proposed Regulations by public water systems may have the potential to result in unplanned population growth; however, any population growth is not expected to result in greater demand for, or use of, recreational facilities. Therefore, there is no impact.

Impact 19-2: Compliance with the Proposed Regulations by public water systems will not include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.

Because compliance with the Proposed Regulations by public water systems will not include recreational facilities or require construction or expansion of recreational facilities, as discussed in the Draft EIR, no impact associated with the construction or expansion of recreational facilities is expected. Therefore, there is no impact.

Cumulative Impacts to Recreation: Reasonably foreseeable means of compliance with the Proposed Regulations are not expected to cause impacts associated with increased use or construction or expansion of recreational facilities.

Because the reasonably foreseeable means of compliance with the Proposed Regulations are not expected to cause impacts associated with increased use or construction or expansion of recreational facilities, the impacts are not expected to

contribute to cumulative impacts to recreational facilities in the state. Therefore, the cumulative impacts to recreation are less than significant.

2.1.9. Transportation

Impact 20-4: The Proposed Regulations will not result in inadequate emergency access.

As discussed in the Draft EIR, none of the reasonably foreseeable means of compliance would block emergency access to an area in the long-term, and any short-term impacts during construction would be temporary and less than significant. Public water systems constructing compliance projects could maintain access for emergency vehicles during construction. Therefore, there is no impact.

2.1.10. Utilities and Services Systems

Impact 22-5: The implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations would not likely interfere with federal, state, and local management and reduction statutes and regulations related to solid waste.

As discussed in the Draft EIR, although the implementation of BAT would generate waste, the requirements for solid waste management and reduction do not apply to the type of entities or wastes that would be at issue. Most programs for waste reduction apply either to state agencies or facilities, and there are only a few state-run public water systems. Most public water systems are operated by private entities or local jurisdictions, such as cities or districts. Similarly, waste reduction requirements for local jurisdictions apply to organic waste, and not to the type of waste that would be generated by the implementation of best available technology (BAT). Therefore, there is no impact.

2.1.11. Wildfire

Impact 23-1: A compliance project to comply with the Proposed Regulations by public water systems will not impair an adopted emergency response plan or emergency evacuation plan, regardless of whether a project is in or near state responsibility areas or lands classified as very high fire hazard severity zones.

As discussed in the Draft EIR, none of the reasonably foreseeable means of compliance would block emergency access to an area in the long-term, and any short-term impacts during construction would be temporary and less than significant. Public water systems constructing compliance projects would be required to maintain access for emergency vehicles during construction. Therefore, no impact to an adopted emergency response plan or emergency evacuation plan is expected.

Impact 23-2: A compliance project by a public water system to comply with the Proposed Regulations would not exacerbate wildfire risks due to slope, prevailing winds, and other factors, exposing project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire, regardless of whether it is in or near state responsibility areas or lands classified as very high fire hazard severity zones.

As discussed in the Draft EIR, reasonably foreseeable methods of compliance with the Proposed Regulations will therefore not expose a community to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire. Therefore, there is no impact.

2.2.FINDINGS REGARDING SIGNIFICANT EFFECTS AND MITIGATION MEASURES

Pursuant to Public Resources Code section 21159 and CEQA Guidelines section 15187, the State Water Board performed an environmental analysis of the reasonably foreseeable methods of compliance with the Proposed Regulations. This analysis in the Draft EIR includes an analysis of the reasonably foreseeable environmental impacts of the reasonably foreseeable methods of compliance, reasonably foreseeable feasible mitigation measures, and reasonably foreseeable alternative means of compliance with the Proposed Regulations. Although the State Water Board must take into account a reasonable range of environmental, economic, and technical factors, populations and geographic areas and specific site, it is not required to engage in speculation or conjecture, nor is it required to conduct a project level analysis. (CEQA Guidelines, § 15187, subds. (d) and (e).)

At this stage in adopting the Proposed Regulations, the State Water Board is limited in how detailed its environmental analysis can be. Because the State Water Board does not know how systems will choose to come into compliance, it cannot identify with certainty the environmental impacts from individual compliance projects; therefore, the State Water Board has no way of knowing whether any of the identified mitigation measures will be effective. For these reasons, the State Water Board is limited in what findings it can make in compliance with the CEQA requirement that the findings be supported by substantial evidence. (See CEQA Guidelines, § 15091(b).)

Section 15091 of the CEQA Guidelines establishes the following requirements for findings:

No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR. [(CEQA Guidelines, § 15091(a)(1).)]

[This finding shall be referred to herein as "Finding (1)."]

2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency. [(CEQA Guidelines, § 15091(a)(2).)]

[This finding shall be referred to herein as "Finding (2)."]

3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR. [(CEQA Guidelines, § 15091(a)(3).)]

[This finding shall be referred to herein as "Finding (3)."]

As it pertains to Finding (3), in determining whether a mitigation measure is infeasible, the State Water Board may consider the following factors: economic, legal, social, technological, and other considerations. (Pub. Resources Code, § 21081, subd. (a)(3).) Moreover, a mitigation measure is "feasible" when it is "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, technological and legal factors. (Pub. Resources Code, § 21061.1; CEQA Guidelines, § 15364 [adds "legal" considerations to the list of factors].)

For purposes of these findings, the State Water Board makes Finding (3) but does not make Findings (1) and (2).

Finding (3) is used where the impact remains potentially significant and unavoidable because at this programmatic stage the identified mitigation measures are infeasible because:

- (i) determining appropriate mitigation measures for future compliance project impacts is speculative at this time, due to the inability to know the specifics of projects in the future, and
- (ii) the State Water Board does not have the ability or authority to require future lead agencies to adopt and implement the identified mitigation measures into future compliance projects.

Determining appropriate mitigation measures for future compliance projects is speculative at this time for the following reasons.

As discussed in the Draft EIR, the EIR for the Proposed Regulations is a first-tier, programmatic document. The mitigation measures and analysis focus on the potential environmental impacts resulting from actions that public water systems are expected to take to comply with the Proposed Regulations. While some of the identified significant effects may be fully avoided or substantially lessened through the adoption of the mitigation measures set forth in the Draft EIR for future compliance projects, at this programmatic stage, the State Water Board cannot make this determination with confidence because the Board cannot predict how each public water system will choose to comply with the Proposed Regulations, where the site-specific compliance projects will be located, what site-specific sensitive resources may be located there, and what the potential significant environmental impacts could ultimately be. These "other considerations" in Finding (3) that make the mitigation infeasible at this programmatic stage include that it is too speculative to determine whether the proposed mitigation measures are appropriate for future compliance projects under section 21081 of the Public Resources Code. Similarly, the State Water Board cannot determine whether future lead agencies will require implementation of any of the proposed mitigation measures. (See Pub. Resources Code, § 21061.1; and also CEQA Guidelines, § 15364 [defines "feasible" as "capable of being done in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors"].)

Additionally, despite identifying the proposed mitigation measures at this programmatic stage, the State Water Board does not have the authority to require future lead agencies to adopt and implement the proposed mitigation measures for individual compliance projects. Future compliance projects are not known at this time, therefore, it is unknown which agencies will be responsible for mitigating environmental impacts from those projects. In many cases, other agencies besides the State Water Board will be lead agencies under CEQA for future compliance projects, either because the project proponent is itself a public agency, or other agencies act first on the project or otherwise satisfy the criteria for lead agency designation under CEQA. It is the responsibility of these other agencies to implement the mitigation measures identified in the Draft EIR, to the extent feasible, and these agencies can and should implement them. Because the State Water Board would not be the lead agency for many of these projects and lacks authority to require other agencies to implement mitigation measures for future compliance projects, the mitigation proposed is legally infeasible at this time. (See CEQA Guidelines, § 15364 [identifies legality as factor to be considered when considering feasibility of mitigation].)

There may be instances in which the State Water Board is a lead agency under CEQA for an individual compliance project, thereby resolving the authority issue. This possibility precludes the State Water Board from making Finding (2). Nonetheless, at this time, it is infeasible for the State Water Board to adopt and implement mitigation measures because, as discussed above, the State Water Board does not know the specific details

of individual compliance projects or when it will be the lead agency with authority to implement mitigation measures. This precludes the State Water Board from making Finding (1). When the State Water Board has the authority, it will adopt mitigation measures identified in the Draft EIR, or equally effective and feasible ones.

To summarize, while the mitigation measures identified in the Draft EIR are likely to reduce environmental impacts to less than significant levels for future compliance projects, they are, for purposes of making the findings required by section 15091 of the CEQA Guidelines, infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. The State Water Board is therefore justified in making Finding (3).

When a project's significant effects cannot be mitigated or avoided, an agency, after adopting proper findings, may nevertheless approve the project if it first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the "benefits of the project outweigh the significant effects on the environment." (Pub. Resources Code, § 21081, subd. (b); see also CEQA Guidelines, §§ 15043, 15093.) The following significant and potentially significant environmental impacts are unavoidable and at this time cannot be mitigated in a manner that would lessen the impact to below the level of significance. Notwithstanding disclosure of these impacts, the State Water Board adopts the Proposed Regulations due to overriding considerations as set forth in section 3 of this document. In the Statement of Overriding Considerations, the State Water Board identifies the specific factors that, in its judgment, outweigh the potential significant environmental effects that the Proposed Regulations would cause.

2.2.1. Aesthetics

Impact 4-1: Compliance with the Proposed Regulations may have a substantial adverse effect on a scenic vista.

As discussed in the Draft EIR, treatment to remove hexavalent chromium from a groundwater source will generally be installed at the well site or near it. Similarly, if a water system increases its use of uncontaminated surface water, it will likely expand its existing water treatment facility, therefore, it is unlikely to cause a new obstruction of an existing scenic vista. Likewise, installation of treatment is unlikely to substantially damage scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway; or to substantially degrade the existing visual character or quality of the site and its surroundings.

Implementation of reasonably foreseeable alternative methods of compliance other than increased use of surface water have a potential to negatively affect scenic vistas, scenic resources, or scenic quality. Consolidations between two water systems or the purchase of uncontaminated water from another water system for blending may involve construction of new distribution infrastructure, such as transmission pipelines that could result in the loss of some trees or vegetation during installation. New distribution storage

tanks could potentially obstruct scenic vistas or degrade existing scenic resources or scenic quality.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 4-1 as a means to reduce Impact 4-1 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 4-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 4-1 would likely reduce Impact 4-1 to less than significant levels for future compliance projects, Mitigation Measures 4-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 4-2: Compliance with the Proposed Regulations may substantially damage a scenic resource.

For similar reasons discussed in Impact 4-1 of the Draft EIR, compliance with the Proposed Regulations by public water systems may have the potential to substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 4-1 as a means to reduce Impact 4-2 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 4-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 4-1 would likely reduce Impact 4-2 to less than significant levels for future compliance projects, Mitigation Measures 4-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 4-3: Compliance with the Proposed Regulations may substantially degrade the existing scenic quality of a project site.

For similar reasons discussed in Impact 4-1 of the Draft EIR, compliance with the Proposed Regulations by public water systems may have the potential to substantially degrade the existing visual character or quality of public views of the sites where

compliance projects are sited, and their surroundings in non-urbanized areas, and conflict with applicable zoning and other regulations governing scenic quality in urbanized areas.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 4-1 as a means to reduce Impact 4-3 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 4-3 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 4-1 would likely reduce Impact 4-3 to less than significant levels for future compliance projects, Mitigation Measures 4-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 4-4: Compliance with the Proposed Regulations may create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.

The method a water system chooses to comply with the Proposed Regulations could result in additional lighting and glare. For example, installation of treatment at a well site may entail the addition of lights at the site to aid in maintenance or security of the treatment facility. New distribution tanks, blending infrastructure, and expansion of surface water treatment plant projects may entail the addition of nighttime lighting.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 4-4 (as amended in the Final EIR) as a means to reduce Impact 4-4 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 4-4 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 4-4 would likely reduce Impact 4-4 to less than significant levels for future compliance projects, Mitigation Measures 4-4, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Cumulative Impacts to Aesthetics: Impacts from new infrastructure projects to comply with the Proposed Regulations, in addition to impacts caused by other projects, may result in significant and unavoidable impacts to aesthetic resources.

As discussed in the Final EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect aesthetic resources. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to aesthetic resources from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact aesthetic resources in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on aesthetic resources may be significant.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to aesthetic resources would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although implementation of the project-level mitigation measures to address the impacts to aesthetic resources would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

2.2.2. Agricultural and Forest Resources

Impact 5-1: Compliance with the Proposed Regulations may have the potential to result in conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural use.

As discussed in the Draft EIR, many of the public water systems whose water supply would exceed the proposed MCL are in agricultural areas, particularly the Sacramento and San Joaquin Valleys. Therefore, installation of treatment for hexavalent chromium or adoption of reasonably foreseeable alternative methods of compliance may result in conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. Wells operated by public water systems in agricultural areas may be in areas currently used for agriculture or open space and the installation of treatment at these locations may require the conversion of agricultural land. Additionally, reasonably foreseeable alternative methods of compliance through blending with a new source or consolidation may require conversion of agricultural land. Therefore, the potential for conversion of lands designated as agricultural land to non-agricultural use may be significant.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 5-1 as a means to reduce Impact 5-1 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 5-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 5-1 would likely reduce Impact 5-1 to less than significant levels for future compliance projects, Mitigation Measures 5-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 5-2: Compliance with the Proposed Regulations may have the potential to conflict with existing zoning for agricultural use or a Williamson Act contract.

Public water systems' implementation of reasonably foreseeable means of compliance with the Proposed Regulations may include the installation of treatment tanks, pipelines, and other infrastructure, which may have the potential to result in conflict with existing agricultural zoning or Williamson Act contracts. For the reasons discussed in the Draft EIR, conflict with existing zoning for agricultural use or a Williamson Act contract may be significant.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 5-1 as a means to reduce Impact 5-2 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 5-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 5-1 would likely reduce Impact 5-2 to less than significant levels for future compliance projects, Mitigation Measures 5-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 5-4: The installation of BAT or reasonably foreseeable alternative methods of compliance may require the conversion of forest land.

As discussed in the Draft EIR, a well may be in forested land, which requires conversion as the wellsite footprint expands to accommodate the installation of treatment. Likewise, blending with a new source or consolidation may require conversion of forest land to route pipelines or expansion of existing facilities to add tanks for storage or blending or

installation of booster pumps. Therefore, the potential for loss of forest lands may be significant.

Mitigation Measures: The Draft EIR identifies Mitigation Measure 5-4 as a means to reduce Impact 5-4 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 5-4 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 5-4 would likely reduce Impact 5-4 to less than significant levels for future compliance projects, Mitigation Measure 5-4, for purposes of making the findings required by section 15091 of the CEQA Guidelines, is infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Cumulative Impacts to Agricultural and Forest Resources: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to cumulative impacts to agricultural and forest resources from other projects occurring in the state.

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect agricultural and forest resources. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact on agricultural and forest resources from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact agricultural and forest resources in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on agricultural and forest resources may be significant.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to agricultural and forest resources would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although implementation of the project-level mitigation measures to address the impacts to agricultural and forest resources would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation

measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

2.2.3. Air Quality

Impacts 6-1: Compliance with the Proposed Regulations may result in a short-term exceedance of air quality plans and a long-term exceedance due to operational impacts.

As discussed in the Draft EIR, the construction phase of individual compliance projects may generate emissions because of the on-site equipment and ground-disturbing activities associated with grading, compacting, and excavation that may result in a short-term exceedance of air quality plans. There may also be longer term operational impacts as a result of individual compliance projects because public water system employees or contractors will need to drive to treatment plants for maintenance and monitoring trips. The compliance projects may also lead to an increase in energy usage to power the treatment facilities, which may contribute negatively to air quality in the long term. While there is a potential for these operational long-term impacts to air quality, Coachella Valley Water District (CVWD) prepared an EIR for a treatment project for hexavalent chromium that proposed two treatment facilities and concluded that the project would not exceed the South Coast Air Quality Management District's thresholds. Because CVWD is a large system with over 100,000 service connections and most of the systems that would be affected by the MCL serve less than 10,000 service connections, it is likely that most compliance projects will similarly find during the site-specific CEQA reviews that operational impacts to air quality are not potentially significant.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 6-1 as a means to reduce Impact 6-1 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 6-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 6-1 would likely reduce Impact 6-1 to less than significant levels for future compliance projects, Mitigation Measures 6-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 6-2: Compliance with the Proposed Regulations may violate air quality standards or contribute to an existing or anticipated air quality violation.

For similar reasons discussed in Impact 6-1 of the Draft EIR, compliance with the Proposed Regulations by public water systems may have the potential to violate air quality standards or contribute significantly to an existing or projected air quality violation.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 6-1 as a means to reduce Impact 6-2 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 6-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 6-1 would likely reduce Impact 6-2 to less than significant levels for future compliance projects, Mitigation Measures 6-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 6-3: Compliance with the Proposed Regulations may expose sensitive receptors, such as schools, to substantial pollutant concentrations.

For similar reasons discussed in Impact 6-1 of the Draft EIR, compliance with the Proposed Regulations by public water systems may have the potential to expose sensitive receptors to substantial pollutant concentrations.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 6-1 as a means to reduce Impact 6-3 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 6-3 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 6-1 would likely reduce Impact 6-3 to less than significant levels for future compliance projects, Mitigation Measures 6-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 6-4: Compliance with the Proposed Regulations may lead to an increase of non-attainment pollutants in areas of the state with numerous detections of hexavalent chromium above the proposed MCL.

As discussed in the Draft EIR, while the specific location of compliance projects cannot be known at this time, the future compliance projects are likely to be primarily located in

parts of the state with numerous detections of hexavalent chromium above the proposed MCL. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. Construction of compliance projects may lead to particulate emissions and ozone formation in these counties, which may result in a cumulatively considerable net increase in non-attainment pollutants in these counties. For the reasons discussed in Impact 6-1 of the Draft EIR, the Proposed Regulations have the potential to result in a cumulatively considerable net increase of any non-attainment pollutant if a compliance project is located within a region already in non-attainment under an applicable federal or state ambient air quality standards.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 6-1 as a means to reduce Impact 6-4 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 6-4 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 6-1 would likely reduce Impact 6-4 to less than significant levels for future compliance projects, Mitigation Measures 6-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Cumulative Impacts to Air Quality: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to cumulative impacts to air quality from other projects occurring in the state.

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment and obtain new sources of water supply to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act, and consolidate. These infrastructure projects have the potential to adversely affect air quality. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to air quality from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact air quality in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on air quality may be significant.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to air quality would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although implementation of the project-level mitigation measures to address the cumulative impacts to air quality would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

2.2.4. Biological Resources

Impact 7-1: Compliance with the Proposed Regulations may have a substantial adverse effect on any species identified as candidate, sensitive, or special status in local or regional plans, policies, or regulations, or by the CDFW or USFWS.

As discussed in the Draft EIR, construction activities related to the reasonably foreseeable means of compliance, such as the installation of treatment, could disturb land, cause noise or vibrations that could impact special status animal species, or affect special status plants and/or critical habitat. Operation and maintenance activities of the reasonably foreseeable means of compliance could also have potential adverse effects. If a public water system were to comply with the Proposed Regulations by switching to using more surface water, this could potentially impact candidate, sensitive, special status species and/or their critical habitat. Less water in streams could adversely affect fish habitat, including causing stream temperatures to rise. Alternatively, as discussed in section 3.6 of the Final EIR, if a public water system were to comply with the Proposed Regulations by increasing its groundwater use, this could negatively impact special status aquatic and wildlife species and groundwater dependent ecosystems through drawdown of the water table. Moreover, artificial lighting from future compliance projects could alter ecological processes thereby potentially adversely impacting candidate, sensitive, or special status species and/or their critical habitat.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 7-1 (as amended in the Final EIR) and the Final EIR identifies Mitigation Measures 4-4 (as amended in the Final EIR) as a means to reduce Impact 7-1 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 7-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 7-1 and 4-4 would likely reduce Impact 7-1 to less than significant levels for future compliance projects, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 7-2: Compliance with the Proposed Regulations by public water systems may have a substantial adverse effect on aquatic and riparian habitat, or other sensitive natural communities identified in local or regional plans, policies, regulations, or by the CDFW or the USFWS.

For similar reasons discussed in Impact 7-1 of the Draft EIR, compliance with the Proposed Regulations by public water systems may have a substantially adverse impact on aquatic and riparian habitat, or other sensitive natural communities identified in local or regional plans, policies, regulations, or by the CDFW or the USFWS.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 7-1 (as amended in the Final EIR) as a means to reduce Impact 7-2 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 7-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 7-1 would likely reduce Impact 7-2 to less than significant levels for future compliance projects, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 7-3: Compliance with the Proposed Regulations by public water systems may have the potential to have a substantial adverse effect on state or federally protected wetlands (including, but not limited to marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.

For similar reasons discussed in Impact 7-1 of the Draft EIR, compliance with the Proposed Regulations by public water systems may have a substantially adverse effect on state or federally protected wetlands through direct removal, filling, hydrological interruption, or other means.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 7-1 (as amended in the Final EIR) and 13-3 as a means to reduce Impact 7-3 to a less than significant level. The Final EIR also identifies compliance with the requirements of California Fish and Game Code section 1602 as a means to mitigate Impact 7-3.

Findings: Although Mitigation Measures 7-1, 13-3, and compliance with the requirements of California Fish and Game Code section 1602 would likely reduce Impact 7-3 to less than significant levels for future compliance projects, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 7-4: Compliance with the Proposed Regulations may have the potential to interfere substantially with the movement of species and migratory movement of wildlife.

For similar reasons discussed in Impact 7-1 of the Draft EIR, compliance with the Proposed Regulations by public water systems may have the potential to interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 7-1 (as amended in the Final EIR) as a means to reduce Impact 7-4 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 7-4 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 7-1 would likely reduce Impact 7-4 to less than significant levels for future compliance projects, Mitigation Measures 7-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 7-5: Compliance with the Proposed Regulations by public water systems may have the potential to conflict with any local policies or ordinances protecting biological resources.

For similar reasons discussed in Impact 7-1 of the Draft EIR, compliance with the Proposed Regulations by public water systems may have the potential to conflict with any local policies or ordinances protecting biological resources such as a tree preservation policy or ordinance.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 7-1 (as amended in the Final EIR) as a means to reduce Impact 7-5 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 7-5 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 7-1 would likely reduce Impact 7-5 to less than significant levels for future compliance projects, Mitigation Measures 7-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 7-6: Compliance with the Proposed Regulations by public water systems may have the potential to conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, Regional Conservation Investment Strategies, or other approved local, regional, or state habitat conservation plan.

For similar reasons discussed in Impact 7-1 (as amended in the Final EIR) and 7-6 (as amended in the Final EIR), compliance with the Proposed Regulations by public water systems may have the potential to conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, Regional Conservation Investment Strategies, or other approved local, regional, or state habitat conservation plan.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 7-1 (as amended in the Final EIR) and the Final EIR identifies Mitigation Measures 13-2 (as amended in the Final EIR) as a means to reduce Impact 7-6 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 7-6 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 7-1 and 13-2 would likely reduce Impact 7-6 to less than significant levels for future compliance projects, Mitigation Measures 7-1 and 13-2, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Cumulative Impacts to Biological Resources: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to cumulative impacts to biological resources from other projects occurring in the state.

Other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect biological resources. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to biological resources from the Proposed Regulation may be considerable in the context of these other projects.

In addition, projects that are unrelated to the State Water Board's drinking water programs may impact biological resources in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on biological resources may be significant. For example, the areas with high numbers of contaminated drinking water wells within the boundaries of habitat conservation plans (HCPs) or Natural Community Conservation Planning (NCCP) Programs may be vulnerable – in the absence of mitigation measures – to the cumulative impacts from future compliance projects and other drinking water infrastructure projects. Most drinking water wells with average hexavalent chromium levels above the proposed MCL and located within the boundaries of an HCP or NCCP Program are located in either the Coachella Valley or Yolo County. As a result, cumulative impacts to candidate, sensitive and special status species; sensitive natural communities (including groundwater dependent desert communities); protected wetlands; species movement and migration; and conflicts with those plans and programs could occur within the state absent mitigation.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to biological resources would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although implementation of the project-level mitigation measures to address the impacts to biological resources would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

2.2.5. Cultural Resources

Impact 8-1: Compliance with the Proposed Regulations by public water systems may have the potential to cause a substantial adverse change in the significance of a historical resource.

As discussed in the Draft EIR, although construction of projects for compliance with the Proposed Regulations would likely take place within the existing footprint of public water system facilities, and adjacent to existing wells and distribution facilities, there could be situations where the public water system itself is a historical resource, the public water system was originally built on an archaeological site, or it would be necessary to construct in a previously undisturbed area that could pose a potentially significant impact to historical or archaeological resources. During construction, there is the potential to encounter and impact historical resources and archaeological resources. The types of cultural resources that may potentially be affected by construction activities include, but are not limited to, pre-colonial and historic-era archaeological sites, historic buildings, structures, human remains, and tribal cultural resources. While the operations of compliance projects are less likely to cause impacts to historical or archaeological resources, normal operations could impact these resources.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 8-1 and 21-1 as a means to reduce Impact 8-1 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 8-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 8-1 and 21-1 would likely reduce Impact 8-1 to less than significant levels for future compliance projects, Mitigation Measures 8-1 and 21-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 8-2: Compliance with the Proposed Regulations by public water systems may have the potential to cause a substantial adverse change in the significance of an archaeological resource.

For similar reasons discussed in Impact 8-1 of the Draft EIR, compliance with the Proposed Regulations by public water systems may have the potential to cause a substantial adverse change in the significance of an archaeological resource pursuant to section 15064.5 of the CEQA Guidelines.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 8-1 and 21-1 as a means to reduce Impact 8-2 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 8-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 8-1 and 21-1 would likely reduce Impact 8-2 to less than significant levels for future compliance projects, Mitigation Measures 8-1 and 21-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 8-3: Compliance with the Proposed Regulations may have the potential to disturb human remains.

For similar reasons discussed in Impact 8-1 of the Draft EIR, compliance with the Proposed Regulations by public water systems may have the potential to disturb human remains.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 8-3, 8-1 and 21-1 as a means to reduce Impact 8-3 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 8-3 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 8-3, 8-1 and 21-1 would likely reduce Impact 8-3 to less than significant levels for future compliance projects, Mitigation Measures 8-3, 8-1 and 21-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Cumulative Impacts to Cultural Resources: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to cumulative impacts to cultural resources from other projects occurring in the state.

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect cultural resources. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to cultural resources from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may

impact cultural resources in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on cultural resources may be significant.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to cultural resources would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although implementation of the project-level mitigation measures to address the impacts to cultural resources would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

2.2.6. Energy

Impact 9-1: Compliance with the Proposed Regulations by public water systems may have the potential to have an adverse impact on the consumption of energy resources.

As discussed in the Draft EIR, construction of compliance projects would require electricity to power construction equipment, such as electric power tools and welders, as well as fuels to operate gasoline- or diesel- powered construction equipment. Operation of treatment plants will also entail energy consumption. Even though installation of treatment or other reasonably foreseeable means of compliance will likely require increases in energy consumption, those increases are not wasteful or unnecessary because the energy is needed to produce safe drinking water. Likewise, the energy usage is unlikely to be inefficient because public water systems must pay for the cost of energy as part of their operations and maintenance budgets; therefore, they have a financial incentive to design treatment plants and other infrastructure that do not use more energy than necessary.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 9-1 as a means to reduce Impact 9-1 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 9-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 9-1 would likely reduce Impact 9-1 to less than significant levels for future compliance projects, Mitigation Measures 9-1, for purposes of

making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Cumulative Impacts to Energy Resources: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to cumulative impacts on energy resources from other projects occurring in the state.

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect energy resources. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to energy resources from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact energy resources in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on energy resources may be significant.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to energy resources would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although implementation of the project-level mitigation measures to address the impacts to energy resources would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

2.2.7. Geology and Soil

Impact 10-1: Compliance with the Proposed Regulations by public water systems may cause substantial adverse effects, including risk of loss, injury or death.

As discussed in the Draft EIR, the potential substantial adverse effects, including risk of loss, injury, or death may be the result of a rupture of a known earthquake fault, strong seismic ground shaking, seismic-related ground failure, or landslides. Numerous active faults are known to exist throughout the state that may generate earthquakes capable of

injuring people and damaging structures, including water systems and their treatment works, pipelines, and foundations. Ground shaking associated with seismic events may also cause geologic hazards such as liquefaction, subsidence, and landslides. These seismic-related effects have the potential to cause potential substantial adverse effects to the treatment tanks, their pipelines, and foundations, which could result in risk of loss, injury, or death, especially if the treatment tanks are located within an urban area or located near homes or businesses. As noted in section 2.6.1 of the Draft EIR, tanks could be very large.

Although it is anticipated that the reasonably foreseeable means of compliance, such as new treatment facilities or pipelines to intertie two systems together, could be in areas where they are susceptible to ground shaking or other seismic-related ground failure from earthquake or landslides, it is anticipated that structures built in such hazardous areas would be designed to withstand such hazards as part of the permitting process. This is what is required for the thousands of other structures that are currently located within active fault zones in California, including residential properties, commercial and industrial facilities such as existing drinking water treatment works, highways, ponds, and airports. Therefore, seismic risk may be reduced through appropriate siting, design, and construction practices.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 10-1 as a means to reduce Impact 10-1 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 10-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 10-1 would likely reduce Impact 10-1 to less than significant levels for future compliance projects, Mitigation Measures 10-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 10-2: Compliance with the Proposed Regulations by public water systems may have the potential to result in substantial soil erosion or loss of topsoil.

As discussed in the Draft EIR, construction activities related to the installation of reasonably foreseeable means of compliance with the MCL may require earthwork and grading. Construction of projects for compliance with the Proposed Regulations would likely take place within the existing footprint of public water system facilities and adjacent to existing wells and distribution facilities. Construction of new wells and consolidation pipelines may also entail ground disturbance. Depending on the size and scope of the improvements, heavy equipment required for these improvements may include

bulldozers, scrapers, compactors, graders, excavators, loaders, dump-trucks, and water trucks. These activities have the potential to cause significant soil disturbance and initiate adverse soil responses such as soil erosion or loss of topsoil. During grading activities to improve undeveloped land, precipitation and runoff may initiate erosion and transport of sediment. If unabated, sediment may be transported onto adjacent properties and into receiving waters.

Controlling soil erosion is a factor in preventing water pollution, soil loss, wildlife habitat loss and human property loss. Soil erosion and runoff can degrade the quality of surface water and damage property. Topsoil is an important element in soil erosion control; topsoil often contains seeds of native shrubs and grasses, and nutrients that will promote vegetative growth and aid in erosion control.

Consequently, construction activities that disturb undeveloped areas pose a potentially significant impact to soil erosion or loss of topsoil.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 10-2 as a means to reduce Impact 10-2 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 10-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 10-2 would likely reduce Impact 10-2 to less than significant levels for future compliance projects, Mitigation Measures 10-2, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 10-3: Compliance with the Proposed Regulations by public water systems may have the potential to be located on a geologic unit or soil that is unstable or that would become unstable because of compliance projects and potentially result in on or off-site landslides, lateral spreading, subsidence, liquefaction, or collapse.

As discussed in the Draft EIR, site-specific projects designed to comply with the proposed regulations may be located anywhere in the state, including areas underlain by unstable soils. Grading activities, including excavation, cutting/filling, and stockpiling that may be part of implementing reasonably foreseeable methods of compliance could exacerbate existing loose soil conditions, and increase potential for natural geologic hazards such as landslides, lateral spreading, subsidence, liquefaction, and collapse.

Consequently, construction activities that disturb undeveloped areas have the potential to expose and exacerbate conditions related to an unstable geological unit or weak or

sensitive soil. Therefore, it is anticipated that impacts from compliance with the Proposed Regulations on an unstable geologic unit or soil have the potential to be significant.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 10-3 as a means to reduce Impact 10-3 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 10-3 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 10-3 would likely reduce Impact 10-3 to less than significant levels for future compliance projects, Mitigation Measures 10-3, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 10-4: Compliance with the Proposed Regulations by public water systems may have the potential to be located on expansive soil that would create substantial risks to life or property.

As discussed in the Draft EIR, and for similar reasons to those discussed in Impact 10-3 of the Draft EIR, site-specific projects designed to comply with the proposed regulations may be located anywhere in the state, including areas located on expansive soils, which could create a substantial risk to life or property.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 10-3 as a means to reduce Impact 10-4 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 10-4 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 10-3 would likely reduce Impact 10-4 to less than significant levels for future compliance projects, Mitigation Measures 10-3, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 10-5: Compliance with the Proposed Regulations by public water systems may lead to siting site-specific compliance projects, such as facilities for treatment, on soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater.

As discussed in the Draft EIR, two of the BATs generate treatment residuals, some including wastewater products. Regeneration of strong-base ion exchange resin uses a brine solution to remove hexavalent chromium and any other contaminants. The brine may be reused if these contaminants are precipitated out of the solution, or the untreated brine may be disposed of. RCF technology similarly uses water to backwash filter media. Backwashed water may be recycled if contaminants are filtered or settled out of solution, or the untreated backwash may be disposed of. The amount of waste stream will depend on the treatment system size, and on potential opportunities to reuse or reduce the waste stream. Wastewater could either be hauled away for disposal, either to a landfill or hazardous waste disposal facility if it contains high enough concentrations of toxic waste; discharged to the sanitary sewer, if permitted by the local provider of wastewater treatment; or discharged to the ground, if permitted by the Regional Water Quality Control Board. Therefore, if on-site soils are not capable of supporting wastewater disposal treatment through an on-site septic system or other on-site system, other options may be available.

Installation of treatment or other reasonably foreseeable alternative means of compliance will consist of site-specific projects that undergo individual CEQA review to assess environmental impacts, including impacts to soils. The State Water Board anticipates that, as part of those environmental reviews for site-specific projects, the CEQA lead agencies will require compliance with local ordinances and permits to reduce potentially adverse impacts to geology and soils. In addition, there are recognized practices and mitigation measures that lead agencies may require of site-specific projects to avoid or minimize potentially adverse impacts.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 10-5 as a means to reduce Impact 10-5 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 10-5 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 10-5 would likely reduce Impact 10-5 to less than significant levels for future compliance projects, Mitigation Measures 10-5, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 10-6: Compliance with the Proposed Regulations by public water systems may lead to siting site-specific compliance projects in areas that are paleontologically or geologically unique.

As discussed in the Draft EIR, site-specific projects designed to comply with the proposed regulations may be located anywhere in the state, including areas underlain by geologic units bearing unique paleontological resources or unique geologic features. Grading and trenching activities that may be part of implementing reasonably foreseeable methods of compliance could damage or destroy unique paleontological and geologic resources.

Consequently, construction activities that disturb undeveloped areas or excavate paleontological bearing geologic units or unique geological features have the potential to destroy unique paleontological and geological resources. Therefore, it is anticipated that impacts from compliance with the Proposed Regulations on unique paleontological and geological resources, have the potential to be significant.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 10-6 as a means to reduce Impact 10-6 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 10-6 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 10-6 would likely reduce Impact 10-6 to less than significant levels for future compliance projects, Mitigation Measures 10-6, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Cumulative Impacts to Geological and Soil Resources: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to impacts on geological and soil resources from other projects occurring in the state.

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect geological and soil resources. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to geological and soil resources

from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact geology, paleontology, and soil resources in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, this cumulative impact may be significant.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to geological and soil resources would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although implementation of the project-level mitigation measures to address the impacts to geological and soil resources would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

2.2.8. Greenhouse Gas Emissions

Impact 11-1: Compliance with the Proposed Regulations by public water systems may have the potential to generate greenhouse gas (GHG) emissions, either directly or indirectly, that may have a significant impact on the environment.

As discussed in the Draft EIR, future compliance projects by public water systems will likely include construction activities that entail the short-term emission of GHGs. For example, the construction of a treatment plant or drilling of a replacement well would involve construction machinery fueled by diesel or gasoline that, when combusted in engines, emit GHGs. Similarly, trucks transporting materials to and from a project site would likely require gasoline or diesel to operate, as would many of the worker vehicles. Public water system project proponents or CEQA lead agencies will be able to quantify the estimated GHG emissions from construction activities at the project site using a quantitative model such as the California Emissions Estimator Model Version by inputting specific information about the future compliance project, such as the quantity, types, size, and duration of construction equipment usage. A quantitative estimate of the GHG emissions of future compliance projects is impossible to know at this time, but it is likely that any future compliance project would entail some amount of GHG emissions because of the need for construction equipment powered by gasoline or diesel fuel. These emissions would be limited to the duration of construction and short-lived, however. Future compliance projects would also emit GHGs, directly or indirectly, through their long-term operations.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 11-1 as a means to reduce Impact 11-1 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 11-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 11-1 would likely reduce Impact 11-1 to less than significant levels for future compliance projects, Mitigation Measures 11-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 11-2: Although unlikely, it is conceivable that a potential conflict between a compliance project and plan, policy or regulation adopted for the purpose of reducing GHG emissions would occur.

As discussed in the Draft EIR, it is unlikely that compliance with the Proposed Regulations by public water systems would conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing GHG emissions. While the State Water Board has directed its Division of Financial Assistance and Division of Drinking Water to assist disadvantaged communities in making their drinking water infrastructure energy efficient and powered with zero- or low-carbon energy sources (State Water Resources Control Board Resolution No. 2017-0012), the State Water Board is not aware of a plan or policy for the specific purpose of reducing GHG emissions from the drinking water sector. Public water systems are unlikely to be considered "covered entities" under the California Air Resources Board's regulations concerning the cap-and-trade program because of the nature of the industry and inclusion thresholds. (Cal. Code Regs., tit. 17, §§ 95811-12.)

Nevertheless, because future compliance projects may occur anywhere in the state, and regional or local climate action plans or other policies may apply to the project, it is conceivable that there could be a potential conflict between a proposed project and plan or policy to reduce GHG emissions. However, it is expected that a project proponent would design its project to mitigate potential conflicts.

Mitigation Measures: The Draft EIR identifies Mitigation Measure 11-2, as a means to reduce Impact 11-2 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 11-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 11-2 would likely reduce Impact 11-2 to less than significant levels for future compliance projects, Mitigation Measures 11-2, for

purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Cumulative Impacts to Greenhouse Gas Emissions: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to cumulative impacts on GHG emissions from other projects occurring in the state.

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have a potential adverse effect on GHG emissions. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impacts on GHG emissions from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may have an impact on GHG emissions in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on GHG emissions may be significant.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts on GHG emissions would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although implementation of the project-level mitigation measures to address the impacts on GHG emissions would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

2.2.9. Hazards & Hazardous Materials

Impact 12-1: Compliance with the Proposed Regulations by public water systems may have the potential to create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.

The following summary of Impact 12-1 assumes that public water systems will incorporate one of the BATs identified in the Proposed Regulations into compliance projects. For a detailed discussion, see Chapter 12 of the Draft EIR.

As discussed in the Draft EIR, construction activities to install treatment facilities for hexavalent chromium or reasonably foreseeable alternative methods of compliance may involve site surface and subsurface disturbance through excavation, grading, and trenching. If hazardous materials such as pesticides or herbicides, volatile organic compounds or other hazardous materials are present in excavated soil or groundwater, hazardous materials could be released to the environment, exposing construction workers or the public to potential health risks depending on the nature and extent of contamination encountered. Contaminated soil or groundwater could also require disposal as hazardous waste. Moreover, construction activities would likely require use of hazardous materials such as fuels for construction equipment, oils, and lubricants. The types and quantities of hazardous materials would vary at each facility depending on the type and magnitude of the site-specific project.

Hazardous materials in soil and groundwater, if identified, should be managed appropriately according to applicable laws and regulations to reduce risks associated with exposures to individuals or releases to the environment. California Department of Industrial Relation's Division of Occupational Safety and Health's regulations require preparation and implementation of a site health and safety plan to protect workers who could encounter hazardous materials and ensure that construction workers have specialized training and appropriate personal protective equipment. Regulations also require that excavated materials suspected of contamination be segregated, sampled, and hauled to a landfill licensed for this type of waste. If groundwater dewatering is required for excavation of subsurface facilities, the groundwater may require treatment prior to discharge, in accordance with applicable requirements of the State Water Board and the regional water quality control boards.

The operation and maintenance of treatment works for the BAT identified in the Proposed Regulations would require chemicals to be stored on site. In addition to chemicals stored onsite for treatment, all three BATs will generate waste residuals, some of which may be hazardous. The types of waste generated by each BAT and their characteristics are discussed in more detail in section 12.4.1.2 of the Draft EIR. For the reasons discussed in Chapter 12 of the Draft EIR, impacts to the public or environment through the routine transport, use, or disposal of hazardous materials may be significant and unavoidable.

The following summary of Impact 12-1 assumes that public water systems will incorporate one of the reasonably foreseeable alternative methods to BAT into compliance projects.

As discussed in the Draft EIR, blending, drilling new wells, construction of interties, consolidation, or switching to surface water are alternative methods to BAT that would not require treatment to remove hexavalent chromium. Because these methods would not require treatment, their operation would not generate hazardous waste. However,

construction activities could result in exposure to hazardous waste, depending on existing contamination at the site of construction. Treatment using stannous chloride would not remove hexavalent chromium; instead, it would reduce it to its safer trivalent form. Therefore, stannous chloride would not create a waste stream of concentrated chromium.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 12-1 as a means to reduce Impact 12-1 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 12-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 12-1 would likely reduce Impact 12-1 to less than significant levels for future compliance projects, Mitigation Measures 12-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 12-2: Construction of reasonably foreseeable means of compliance and operation of BAT may involve the generation, transportation, storage, and disposal of hazardous materials, which may result in accidental release of hazardous materials into the environment.

For similar reasons discussed in section 12.4.1 of the Draft EIR, compliance with the Proposed Regulations by public water systems may have the potential to result in accidental release of hazardous materials into the environment.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 12-1 as a means to reduce Impact 12-2 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 12-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 12-1 would likely reduce Impact 12-2 to less than significant levels for future compliance projects, Mitigation Measures 12-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 12-3: Compliance with the Proposed Regulations by public water systems may have the potential to cause hazardous emissions and handling of hazardous emissions within one-quarter mile of an existing or proposed school.

For similar reasons discussed in section 12.4.1 of the Draft EIR, compliance with the Proposed Regulations by public water systems may have the potential to cause hazardous emissions and handling of hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 12-1 as a means to reduce Impact 12-3 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 12-3 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 12-1 would likely reduce Impact 12-3 to less than significant levels for future compliance projects, Mitigation Measures 12-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 12-4: Compliance with the Proposed Regulations by public water systems may have the potential to be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code section 65962.5 and may have the potential to create a significant hazard to the public or the environment.

This is true for the reasons set out in Impact 12-1 of the Draft EIR. Projects to treat hexavalent chromium may be located anywhere within the state, including on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code section 65962.5. Existing monitoring data indicates that seven wells with hexavalent chromium levels above the proposed MCL are located at sites listed pursuant to Government Code section 65962.5. Seven wells are located within Superfund site boundaries: five within the San Fernando Valley site, one in the Tracy Defense Depot site in Tracy, and one in the Watkins-Johnson Company Stewart Division Plant in Scotts Valley. Four wells are in high-potential radon zones; two wells are in Tulare County; one each are in Ventura and San Mateo Counties (Elliott 2022).

However, it is anticipated that treatment would be designed and located to be consistent with applicable land use policies and regulations. It is also anticipated that appropriate land use permits from local jurisdictions would be secured prior to construction of

treatment facilities, and that they would be developed in compliance with general plans and zoning ordinances establishing design guidelines such as minimum setbacks.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 12-4 as a means to reduce Impact 12-4 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 12-4 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 12-4 would likely reduce Impact 12-4 to less than significant levels for future compliance projects, Mitigation Measures 12-4, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Cumulative Impacts on Hazards and Hazardous Materials: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to cumulative impacts from hazards and hazardous materials caused by other projects occurring in the state.

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely contribute to hazards and hazardous materials impacts. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to hazards and hazardous materials from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may affect hazards and hazardous material impacts in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impacts of hazards and hazardous materials may be significant.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts of hazards and hazardous materials would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although implementation of the project-level mitigation measures to address the impacts of hazards and hazardous materials would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

2.2.10. Hydrology and Water Quality

Impact 13-1: Compliance with the Proposed Regulations by public water systems may have the potential to result in violation of water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality.

As discussed in the Draft EIR, impacts related to the construction of site-specific projects, such as the installation of treatment, drilling of new wells, expansion of surface water treatment plants, construction of interties with other public water systems, installation of infrastructure to allow for blending contaminated water with uncontaminated sources, and consolidations between public water systems could result in erosion and siltation from earthwork. Earthwork may include grading, excavation, soil stockpiling, compacting, and trenching for pipeline installation. Such work could temporarily alter existing drainage patterns and expose soils, which could be moved offsite by wind and water. If not properly managed, this could increase sediment loads in surface water bodies near project sites. Construction activities that disturb more than one acre of soil would need to enroll in the NPDES construction stormwater general permit program and implement a stormwater pollution prevention plan.

Reasonably foreseeable means of compliance that include the installation of concrete and other above-ground infrastructure, such as tanks, could also permanently alter existing drainage patterns by increasing impervious surfaces, potentially exceeding the capacity of existing or planned stormwater drainage systems, or providing additional sources of runoff.

Operation and maintenance impacts to hydrology and water quality may occur from two of the BATs identified in the Proposed Regulations. For a more thorough discussion on the operation and maintenance impacts see section 13.4.1.2 of the Draft EIR.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 13-1 as a means to reduce Impact 13-1 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 13-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 13-1 would likely reduce Impact 13-1 to less than significant levels for future compliance projects, Mitigation Measures 13-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 13-2: Compliance with the Proposed Regulations by public water systems may substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level, impeding sustainable groundwater management of a basin.

As discussed in the Draft EIR, concrete surfaces and compaction of soils related to the construction of site-specific projects could interfere with groundwater recharge. Moreover, the operation of certain types of site-specific projects could have impacts on groundwater supplies. Although public water systems would arguably not increase groundwater use because of the Proposed Regulations, some reasonably foreseeable means of compliance could result in a shift from one source of groundwater to another, putting additional pressure on that new source. Similarly, intertying to or consolidating with a nearby system that relies on an uncontaminated aquifer could decrease groundwater supplies of that aquifer. Increased pumping would not have a significant impact in many places; however, in critically over drafted basins, increased pumping may contribute to cumulative impacts.

Treatment for hexavalent chromium would not substantially increase pumping to meet the drinking water supply for public water system customers. The source supply would just be run through the treatment to ensure that it meets the drinking water standard for hexavalent chromium. However, in some situations, additional water pressure would be necessary to run the treatment, and a booster pump may be necessary. For a more detailed discussion, see section 13.4.2.2 of the Draft EIR.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 13-2 (as amended in the Final EIR) as a means to reduce Impact 13-2 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 13-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 13-2 would likely reduce Impact 13-2 to less than significant levels for future compliance projects, Mitigation Measures 13-2, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead

and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 13-3: Compliance with the Proposed Regulations by public water systems has the potential to substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a river, stream, or minor drainage, or through the addition of impervious surfaces in a manner which would result in substantial erosion or siltation on- or off- site.

As discussed in the Draft EIR, impacts related to the construction of site-specific projects, such as the installation of treatment, drilling of new wells, expansion of surface water treatment plants, construction of interties with other public water systems, installation of infrastructure to allow for blending contaminated water with uncontaminated sources, and consolidations between public water systems could result in drainage impacts. Grading, excavation, soil stockpiling, compacting, and trenching for pipeline installation could temporarily alter existing drainage patterns by altering existing topographic and drainage features. Compaction of soils by heavy equipment could decrease the infiltration rates, causing ponding on-site and increased runoff, which could result in erosion or siltation on-or off-site.

Reasonably foreseeable means of compliance that include the installation of impervious surfaces such as concrete, and above-ground infrastructure, such as tanks, prevent natural drainage and infiltration of storm water through soil, and permanently alter existing drainage patterns. The increase in impervious surfaces can increase surface water runoff volume and rate, which may exceed the capacity of existing or planned stormwater drainage systems, causing erosion and siltation on and off site.

As such, the installation of site-specific compliance projects has the potential to cause a significant impact to drainage.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 13-3 as a means to reduce Impact 13-3 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 13-3 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 13-3 would likely reduce Impact 13-3 to less than significant levels for future compliance projects, Mitigation Measures 13-3, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 13-4: Compliance with the Proposed Regulations by public water systems may have the potential to substantially alter the existing drainage pattern of the site or area, which could result in flooding on- or off-site.

As discussed in the Draft EIR, this may occur through the alteration of the course of a stream or river or through the addition of impervious surfaces in a manner which would increase the rate or amount of surface runoff, resulting in flooding on- or off-site.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 13-3 as a means to reduce Impact 13-4 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 13-4 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 13-3 would likely reduce Impact 13-4 to less than significant levels for future compliance projects, Mitigation Measures 13-4, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 13-5: Compliance with the Proposed Regulations by public water systems may have the potential cause capacity exceedance of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.

As discussed in the Draft EIR, compliance with the Proposed Regulations by public water systems may have the potential to create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 13-3 as a means to reduce Impact 13-5 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 13-5 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 13-3 would likely reduce Impact 13-5 to less than significant levels for future compliance projects, Mitigation Measures 13-3, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead

and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 13-6: Compliance with proposed regulations by public water systems may have the potential to impede or redirect flood flows.

As discussed in the Draft EIR, this may occur because compliance projects by public water systems might substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces in a manner which would impede or redirect flood flows.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 13-3 as a means to reduce Impact 13-6 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 13-6 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 13-3 would likely reduce Impact 13-6 to less than significant levels for future compliance projects, Mitigation Measures 13-3, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 13-7: Compliance with the Proposed Regulations by public water systems may increase the risk of release of pollutants due to inundation of the treatment projects in flood hazard, tsunami or seiche zones.

As discussed in the Draft EIR, many areas of California are prone to flooding, especially low-lying portions of the Central Valley, the Sacramento-San Joaquin Delta, the Russian River Watershed, low-lying coastal areas without sufficient protection from surf or storms, desert washes located in California's desert areas, and additional areas where levees, dams, stormwater containment, and other flood containment infrastructure are not sufficient. Even areas protected by levees are susceptible to flooding in the event of high-intensity storms of long duration. Given the widespread extent of potential flooding hazards in many areas of California, the risk of flooding may not be completely unavoidable. FEMA provides information on flood hazard and frequency for cities and counties on its Flood Insurance Rate Maps. FEMA identifies designated zones to indicate flood hazard potential.

Tsunami and seiche are natural responses to events such as earthquakes, prolonged rainy periods, or strong winds. The California Geological Survey has developed tsunami inundation maps that delineate areas with significant risk of tsunami inundation. Based

on existing information, the State Water Board believes that there are no affected wells with hexavalent chromium above 10 ppb that are within a tsunami zone (Elliott 2022).

Any new infrastructure related to the reasonably foreseeable means of compliance would be located where public water systems already exist. Therefore, the Proposed Regulations would not be putting public water systems into risk; that risk of inundation already exists if they are located within a flood hazard, tsunami or seiche zone. Inundation of the reasonably foreseeable means of compliance, however, could impair public water systems' ability to provide drinking water that meets drinking water standards, and chemicals kept on-site for the purpose of treating drinking water could be released into the environment.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 13-7 as a means to reduce Impact 13-7 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 13-7 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 13-7 would likely reduce Impact 13-7 to less than significant levels for future compliance projects, Mitigation Measures 13-7, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 13-8: Compliance with the Proposed Regulations by public water systems could potentially cause a conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.

As discussed in the Draft EIR, wastewater from treatment operations may be discharged to a local sanitary sewer system if the local system agrees that its facilities can handle the waste. If wastewater from treatment operations cannot be discharged to the sanitary sewer system, the public water system could apply to be able to discharge the waste to land. If the discharge to land is done without compliance with regional water quality control board requirements, it could potentially cause a conflict with, or obstruct implementation of, a water quality control plan.

Public water systems may also try to drill wells in deeper aquifers to obtain water that meets the MCL to comply with the regulations. If additional groundwater is pumped from an aquifer that is subject to the Sustainable Groundwater Management Act, and the pumping is not in compliance with the groundwater sustainability plan adopted by the groundwater sustainability agency, the site-specific project could cause conflict with or obstruct a groundwater management district's plan.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 13-8 as a means to reduce Impact 13-8 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 13-8 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 13-8 would likely reduce Impact 13-8 to less than significant levels for future compliance projects, Mitigation Measures 13-8, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Cumulative Impacts to Hydrology and Water Quality: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to cumulative impacts to hydrology and water quality from other projects occurring in the state.

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect hydrology and water quality. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to hydrology and water quality from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact hydrology and water quality in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on hydrology and water quality may be significant.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to hydrology and water quality would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although implementation of the project-level mitigation measures to address the impacts to hydrology and water quality would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines,

are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

2.2.11. Land Use and Planning

Impact 14-2: Compliance with the Proposed Regulations by public water systems may result in a conflict with land use plans.

As discussed in the Draft EIR, it is not possible at this programmatic stage to know whether site-specific compliance projects will conflict with applicable land use plans, policies, or regulations of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance). Future compliance projects may occur anywhere in the state. During environmental review of future projects, the CEQA lead agencies will conduct focused environmental reviews of the projects' site-specific effects, including conflicts with land use plans, policies, or regulations. In some cases, there may be a potential conflict, but the State Water Board expects that project proponents and lead agencies will mitigate those potential conflicts through project design, land use approval terms, or other measures.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 14-2 as a means to reduce Impact 14-2 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 14-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 14-2 would likely reduce Impact 14-2 to less than significant levels for future compliance projects, Mitigation Measures 14-2, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Cumulative Impacts to Land Use and Planning: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to cumulative impacts on land use and planning from other projects occurring in the state.

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect land use and planning.

Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to land use and planning from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact land use and planning in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on land use and planning may be significant.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to land use and planning would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although implementation of the project-level mitigation measures to address the impacts to land use and planning would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

2.2.12. Mineral Resources

Impact 15-1: Compliance with the Proposed Regulations by public water systems could potentially result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state.

As discussed in the Draft EIR, if a public water system must construct new water system components such as treatment or a blending tank to comply with the Proposed Regulations, those components would likely be in areas already occupied by the existing water system and the community or business that the water system serves. However, new components could be situated in such a way that could result in the loss of immediate access to some mineral resources. The footprint of these new components would be small relative to significant mineral deposits and would also be situated in areas already occupied by water system infrastructure. Restricting access to mineral resources is usually less than significant when the project area is small relative to the mineral resource deposit. Hard rock mines are not hampered by infrastructure on the surface because the minerals can be accessed via underground tunnels. Aggregate mines which tend to cover large surface areas can avoid important infrastructure by excavating around it and leaving enough ground intact to access and support the structure. Because there is a potential for compliance works to be constructed anywhere in the state, there is the potential for conflict with preserving access to mineral resources.

Mitigation Measures: The Draft EIR identifies Mitigation Measure 15-1 as a means to reduce Impact 15-1 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 15-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measure 15-1 would likely reduce Impact 15-1 to less than significant levels for future compliance projects, Mitigation Measure 15-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, is infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 15-2: Compliance with the Proposed Regulations by public water systems may result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.

As discussed in the Draft EIR, if a public water system must construct new water system components such as treatment or a blending tank to comply with the Proposed Regulations, those components would likely be in areas already occupied by the existing water system and the community or business that the water system serves. However, for similar reasons discussed in Impact 15-1 of the Draft EIR, compliance with the Proposed Regulations by public water systems may have a significant effect on locally important mineral resource recovery sites.

Mitigation Measures: The Draft EIR identifies Mitigation Measure 15-2 as a means to reduce Impact 15-1 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 15-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measure 15-2 would likely reduce Impact 15-2 to less than significant levels for future compliance projects, Mitigation Measure 15-2, for purposes of making the findings required by section 15091 of the CEQA Guidelines, is infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Cumulative Impacts to Mineral Resources: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to cumulative impacts on mineral resources from other projects occurring in the state.

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect mineral resources. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to mineral resources from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact mineral resources in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on mineral resources may be significant.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to mineral resources would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although implementation of the project-level mitigation measures to address the impacts to mineral resources would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

2.2.13. Noise

Impact 16-1: Compliance with the Proposed Regulations by public water systems may result in substantial temporary increases in ambient noise levels from the construction of projects to comply with the Proposed Regulations.

As discussed in the Draft EIR, heavy equipment, including graders and excavators, may be required, as well as power tools and portable generators. Noise impacts may also occur from operations of compliance projects. Installation of new groundwater wells could increase ambient noise levels in the immediate vicinity of the sites. For projects involving the installation of treatment at an existing well site, there may be minimal changes to noise. Nevertheless, operational noise impacts from future compliance projects will depend on the specifics of the projects and the environment, and the noise ordinances or regulations of the cities or counties in which the projects are located.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 16-1 as a means to reduce Impact 16-1 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 16-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 16-1 would likely reduce Impact 16-1 to less than significant levels for future compliance projects, Mitigation Measures 16-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 16-2: Compliance with the Proposed Regulations by public water systems may generate ground borne vibration or ground borne noise levels, particularly during construction of future compliance projects.

Vibration can result from the use of construction equipment and can impact surrounding sensitive receptors. The level of impact depends upon the equipment used, the distance to the affected structure, and the soil type. Although it is impossible in this EIR to estimate vibration impacts because those impacts will depend on site-specific factors, public water systems can estimate project-related vibration impacts using the Federal Transit Authority's vibration assessment methodology. Different jurisdictions may have restrictions on vibration, and it is possible that some future compliance projects may generate short-term vibrations that exceed local restrictions.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 16-1 as a means to reduce Impact 16-2 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 16-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 16-1 would likely reduce Impact 16-2 to less than significant levels for future compliance projects, Mitigation Measures 16-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 16-3: Compliance with the Proposed Regulations by public water systems may have the potential to expose people residing or working within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, to excessive noise levels.

As explained in Impact 16-1 of the Draft EIR, future compliance projects may entail noise during construction and operation that, unless mitigated by project proponents or permitting agencies, may be significant. Future compliance projects may be located anywhere in the state, including near public airports or private airstrips.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 16-1 as a means to reduce Impact 16-3 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 16-3 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 16-1 would likely reduce Impact 16-3 to less than significant levels for future compliance projects, Mitigation Measures 16-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Cumulative Impacts to Noise: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to cumulative impacts to noise and vibration from other projects occurring in the state.

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect noise. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to noise from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact noise in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on noise may be significant.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to noise would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although implementation of the project-level mitigation measures to address the impacts to noise would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

2.2.14. Transportation

Impact 20-1: Compliance with Proposed Regulations could conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities.

As discussed in the Draft EIR, reasonably foreseeable means of compliance with the Proposed Regulations do not constitute transportation infrastructure that would be subject to programs, plans, ordinances, or policies addressing the circulation system. To the extent that such plans apply to non-transportation projects that affect the circulation system indirectly, there could be minor impacts, however. For instance, in many cases, a reasonably foreseeable means of compliance with the Proposed Regulations could result in additional usage of the circulation system, particularly roadways for public water system employees and contractors conducting routine monitoring and maintenance, and for deliveries of supplies to the public water system. The impact on vehicle miles traveled is likely to be minimal. Whether this indirect impact on the circulation system would constitute a conflict with a program, plan, ordinance, or policy addressing the circulation system is speculative at this programmatic stage.

It is possible that programs, plans, ordinances, or policies pertaining to the circulation system exist in areas where future compliance projects will occur. In these cases, the construction of a reasonably foreseeable means of compliance with the Proposed Regulations could conflict with such a program, plan, ordinance, or policy. During CEQA review of the compliance project and its site-specific impacts, the project proponent and lead agency would be required to implement any feasible mitigation measures to reduce potential conflicts to less than significant.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 20-1 as a means to reduce Impact 20-1 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 20-1 would be

potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 20-1 would likely reduce Impact 20-1 to less than significant levels for future compliance projects, Mitigation Measures 20-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 20-2: Compliance with Proposed Regulations could conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b).

CEQA Guidelines section 15064.3, subdivision (b) requires agencies to consider vehicle miles traveled when analyzing a project's impacts on transportation.

As discussed in the Draft EIR, water systems must conduct routine water quality testing under the Proposed Regulations, including monthly sampling where source water is treated. It is anticipated that public water systems will conduct sampling for hexavalent chromium while they sample for other contaminants under existing regulations. If public water systems did not consolidate water quality sampling for hexavalent chromium with sampling for other contaminants, they would conduct twelve sampling trips per year specifically for hexavalent chromium. Monitoring for hexavalent chromium is not expected to be done separately from monitoring for contaminants with existing MCLs.

To estimate the number of miles per monitoring or operations and maintenance trip, the State Water Board used a geographic information system (GIS) to estimate the average longest straight line across service areas of public water systems in California. That GIS dataset is available at the [California Drinking Water System Area Boundaries](#) website. Using the Minimum Bounding Geometry and other GIS tools, the State Water Board staff estimated the average longest straight line across service areas of public water systems in California to be seven miles. Accordingly, on average, and in a worst-case scenario, a monitoring or operations and maintenance trip would entail 14 miles, assuming that the public water system's headquarters and the well being monitored or maintained are on opposite ends of the longest straight line across the system's service area. Using the range of potential annual trips (8,016 to 10,020), the Proposed Regulations could result in 112,224 to 140,280 vehicle miles traveled each year.

This is a highly conservative estimate, and, in many cases, public water system employees will not be traveling the longest straight line across their system to monitor or maintain a particular treatment site. It is possible that contractors will be traveling to and from a farther distance outside the water system's boundaries, though it is infeasible to estimate those distances at this time. In addition, monitoring and maintenance trips are likely to be consolidated to avoid an inefficient expenditure of water system resources.

Thus, trips are likely to consist of fewer miles, as public water systems visit multiple well sites on a single trip and the vehicle miles per trip decrease to far less than 14.

Compliance projects involving the installation of treatment may also cause additional vehicle miles traveled because of waste disposal. Depending on site-specific conditions and the details of future, site-specific projects, some public water systems that install treatment for hexavalent chromium will need to dispose of waste byproducts of treatment, such as spent resin, sludge, and brine. The frequency and distance of trips to dispose of those waste materials will depend on the treatment technology that a water system deploys; the concentrations of hexavalent chromium and other potentially hazardous material, such as arsenic and uranium, in the water source; the rate at which water is treated; and the system's capacity to store waste temporarily on-site. Because these specific characteristics of future compliance projects are not currently known, it is not feasible to estimate the additional vehicle miles traveled because of waste disposal.

For these reasons and as discussed in the Draft EIR, the Proposed Regulations will likely result in additional vehicle miles traveled.

Mitigation Measures: The Draft EIR identifies Mitigation Measure 20-2 as a means to reduce Impact 20-2 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 20-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measure 20-2 is likely to reduce Impact 20-2 to less than significant levels for future compliance projects, Mitigation Measure 20-2, for purposes of making the findings required by section 15091 of the CEQA Guidelines, is infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 20-3: Compliance with Proposed Regulations could substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).

As discussed in the Draft EIR, however, the Proposed Regulations are not likely to substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment). In most cases, public water systems are not expected to construct new roads or modify existing roads when implementing reasonably foreseeable means of compliance with the Proposed Regulations. Groundwater treatment will be located at or near wellheads, where there is already existing access for water quality sampling and operations and maintenance. Likewise, expansion of a surface water treatment plant to accommodate lost groundwater supplies contaminated with hexavalent chromium would occur at existing surface water

treatment plants, where access necessarily already exists. Blending of existing sources or purchasing of surface water would not require construction of new roadways, either. Consolidations among public water systems often occur within rights-of-way of existing roadways where distribution lines are constructed and would generally not require modification of the roadway. Nevertheless, it is possible that some compliance projects in undeveloped areas may require construction of access roads. Unless potential design hazards are mitigated during the design of the project and CEQA review by the lead agency, it is possible that the Proposed Regulations would result in an increase in hazards due to design features such as sharp curves or dangerous intersections.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 20-3 as a means to reduce Impact 20-3 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 20-3 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 20-3 would likely reduce Impact 20-3 to less than significant levels for future compliance projects, Mitigation Measures 20-3, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Cumulative Impacts to Transportation: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to cumulative impacts on transportation from other projects occurring in the state.

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect transportation. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to transportation from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact transportation in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on transportation may be significant.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to transportation would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although implementation of the project-level mitigation measures to address the impacts to transportation would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

2.2.15. Tribal Cultural Resources

Impact 21-1: Compliance with the Proposed Regulations may have the potential to cause a substantial adverse change in the significance of a tribal cultural resource listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1, subdivision (k).

As discussed in the Draft EIR, impacts to tribal cultural resources would most likely result from site-specific construction projects. While some construction impacts, such as auditory impacts would be temporary, others such as grubbing or trenching through Native American cultural heritage sites would be permanent. The operation of treatment facilities or other means of compliance are much less likely to cause impacts to tribal cultural resources, but like construction impacts, must be evaluated on an individual project-level basis.

Because the installation of treatment and other means of compliance with the Proposed Regulations could occur anywhere in the state, there is a potential to significantly impact tribal cultural resources. Project specific impacts, in many cases, can be avoided or mitigated when tribal cultural resources in the proposed project area are identified early in project planning. Best practices for the identification of tribal cultural resources in the project area typically begin with a cultural resources investigation including a records search from the appropriate regional information center of the California Historical Resources Information System, a Sacred Lands File search from the Native American Heritage Commission (NAHC), outreach letters to tribes on the NAHC tribal contact list, and a pedestrian survey of the project area by qualified archaeologist in coordination with tribes culturally affiliated with the geographic area of the site. Consultation with tribes who have requested project notification from the lead agencies pursuant to Public Resources Code sections 21080.3.1 and 21080.3.2 is key to identifying tribal cultural resources, especially those that are intangible, for assessing the significance of impacts to known tribal cultural resources, and for determining appropriate methods to mitigate those

impacts. Even when tribal cultural resources are identified early in planning, if they cannot be avoided by construction, potentially significant and unavoidable impacts may occur.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 21-1 and 8-1 as a means to reduce Impact 21-1 to a less than significant level. As discussed in the Draft EIR, some Mitigation Measures identified in 21-1 are statutory and regulatory requirements under CEQA and therefore must be incorporated into specific compliance projects to the extent required by the specific statute and regulation.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 21-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 21-1 and 8-1 would likely reduce Impact 21-1 to less than significant levels for future compliance projects, Mitigation Measures 21-1 and 8-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Cumulative Impacts to Cultural Resources: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to cumulative impacts on tribal cultural resources from other projects occurring in the state.

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect tribal cultural resources. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to tribal cultural resources from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact tribal cultural resources in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on tribal cultural resources may be significant.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to tribal cultural resources would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although implementation of the project-level mitigation measures to address the impacts to tribal cultural resources would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

2.2.16. Utilities and Service Systems

Impact 22-1: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may have the potential to require relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects.

As discussed in the Draft EIR and Final EIR, installation of BAT, drilling new wells, blending with an uncontaminated source, and consolidating with another public water system would all require new, expanded, or modified public water system facilities. New and expanded facilities may cause impacts, as described throughout the Draft EIR, though those impacts may be mitigated to less than significant by project proponents and public agencies approving the projects. Construction and operation of facilities may also cause a variety of impacts, which are detailed throughout the Draft EIR. Treatment facilities would likely be installed near existing wells and within the existing footprint of public water system facilities. Furthermore, it is anticipated that construction of the reasonably foreseeable methods of compliance would be in areas that are already disturbed. Nevertheless, construction and operation of reasonably foreseeable means of compliance may cause significant environmental effects. Facilities constructed to comply with the Proposed Regulations will also require energy, which may require construction of power lines. Expansion of surface water facilities could require upgrades to existing utilities. Moreover, although there is speculation that wastewater treatment facilities could also be indirectly affected by the Proposed Regulations and require upgrades to equipment to address hexavalent chromium, the Draft EIR in section 22.3.1 and Final EIR in section 3.8 explain why there will not be significant impacts to wastewater treatment facilities.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 22-1 as a means to reduce Impact 22-1 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 22-1 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 22-1 would likely reduce Impact 22-1 to less than significant levels for future compliance projects, Mitigation Measures 22-1, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 22-2: Compliance with the Proposed Regulations may have the potential to cause public water systems to not have sufficient water supplies available for current and future needs during normal, dry, and multiple dry years.

As discussed in the Draft EIR, because the purpose of the Proposed Regulations is to set an MCL for hexavalent chromium to ensure that water provided by public water systems is protective of public health, the project will have a beneficial impact on the water supply generally. The Proposed Regulations could, however, impact water supplies available to serve reasonably foreseeable future development during normal, dry, and multiple dry years. For example, existing regulations authorize the State Water Board to require that public water systems discontinue the use of a source if the concentration of the inorganic chemical exceeds ten times the MCL. (Cal. Code Regs., tit. 22, § 64432, subd. (h)(2).) Several public water systems are known to have levels of hexavalent chromium that exceed that threshold, and there is a possibility that after systems start monitoring more will be identified. This could cause the system to not have sufficient water supplies available to serve its customers. However, this would be a temporary impact because the public water system could continue to use the source after treatment is installed. In addition, public water systems with no other options could receive permission to continue to use the source. (*Id.*)

Similarly, the installation of treatment could reduce the amount of water available for delivery to customers. The amount of water required for the operation of treatment depends upon the design of the treatment system. The amounts needed could impact available water supplies, especially during multiple dry years.

Reasonably foreseeable alternative methods of compliance could also have an impact on water supply. Drilling new wells in a different aquifer, relying more on surface water instead of contaminated groundwater, intertying or consolidating with other public water systems, and blending sources of contaminated water with uncontaminated sources, could affect the availability of supplies to serve other reasonably foreseeable future development during normal, dry, and multiple dry years. Although reasonably foreseeable alternative methods of compliance would not change the amount of water used by public water systems to serve their customers, the source of water in these methods of compliance would change, potentially impacting development that might also depend on those same sources.

Mitigation Measures: The Draft EIR identifies Mitigation Measure 22-2 as a means to reduce Impact 22-2 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 22-2 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measure 22-2 would likely reduce Impact 22-2 to less than significant levels for future compliance projects, Mitigation Measure 22-2, for purposes of making the findings required by section 15091 of the CEQA Guidelines, is infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 22-3: Compliance with the Proposed Regulations by public water systems may result in a determination by the wastewater treatment provider that serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.

As discussed in the Draft EIR, the operation of the BAT may result in waste streams that are not suitable for disposal in the local sanitary sewer and could require additional treatment before discharge would be allowed. In addition to potentially having to treat, public water systems will need to ensure that the local wastewater treatment facility has capacity.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 22-3 as a means to reduce Impact 22-3 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 22-3 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 22-3 would likely reduce Impact 22-3 to less than significant levels for future compliance projects, Mitigation Measures 22-3, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 22-4: The implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may generate solid waste more than State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals.

As discussed in the Draft EIR, the implementation of BAT is the only reasonably foreseeable means of compliance that would generate solid waste. The amount of waste

generated would, in part, depend upon the design of the system. Most of the BAT would generate solid and liquid waste that would need to be disposed of. For a more detailed discussion on Impact 22-4, see section 22.3.4 of the Draft EIR.

Mitigation Measures: The Draft EIR identifies Mitigation Measure 22-4 as a means to reduce Impact 22-4 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 22-4 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measure 22-4 would likely reduce Impact 22-4 to less than significant levels for future compliance projects, Mitigation Measures 22-4, for purposes of making the findings required by section 15091 of the CEQA Guidelines, is infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Cumulative Impacts to Utilities and Service Systems: Implementation by public water systems of reasonably foreseeable means of compliance with the proposed regulation may contribute to cumulative impacts to utilities from other projects occurring in the state.

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect utilities and service systems. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact to utilities and service systems from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact utilities and service systems in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on utilities and service systems may be significant.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to utilities and service systems would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although implementation of the project-level mitigation measures to address the impacts to utilities and service systems would reduce the incremental contribution

from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

2.2.17. Wildfire

Impact 23-3: A project undertaken by a public water system to comply with the Proposed Regulations located in or near state responsibility areas or lands classified as very high fire hazard severity zones could require the installation or maintenance of infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment.

As discussed in the Draft EIR, public water systems may need to install and maintain infrastructure, such as power lines, pipelines, and water sources, and treatment facilities. There is a potential that the installation of these facilities could exacerbate fire risk or result in temporary or ongoing impacts to the environment. Therefore, it is anticipated that the impact is potentially significant.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 23-3 as a means to reduce Impact 23-3 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 23-3 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 23-3 would likely reduce Impact 23-3 to less than significant levels for future compliance projects, Mitigation Measures 23-3, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 23-4: A project undertaken by a public water system to comply with the Proposed Regulations located in or near state responsibility areas or lands classified as very high fire hazard severity zones has the potential to expose people or structures to significant risks, including downslope or downstream flooding or landslides, because of runoff, post-fire slope instability, or drainage changes.

As described in the Draft EIR, while installation of treatment is expected to result in modest expansion of facility footprints, installation of treatment and other reasonably foreseeable alternative methods of compliance, such as pipelines, may entail ground disturbance, creation of impervious surfaces, soil compaction, and conversion of forest

land, which may cause changes in runoff, post-fire instability, and drainage. Therefore, the impact is considered potentially significant.

Mitigation Measures: The Draft EIR identifies Mitigation Measures 23-4 as a means to reduce Impact 23-4 to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that Impact 23-4 would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although Mitigation Measures 23-4 would likely reduce Impact 23-4 to less than significant levels for future compliance projects, Mitigation Measures 23-4, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Cumulative Impacts to Wildfire Risk: Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulation may contribute to cumulative impacts on wildfire risks from other projects occurring in the state.

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect wildfire risk. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact on wildfire risk from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact wildfire risk in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact to wildfire risk may be significant.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to wildfire risk would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although implementation of the project-level mitigation measures to address the impacts on wildfire risks would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of

making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

2.2.18. Mandatory Findings of Significance

Impact 24-1: Although it is unlikely that the individual projects undertaken to comply with the Proposed Regulations would substantially degrade the quality of the environment, including substantially impacting fish, wildlife, or plant species, or eliminating important cultural sites, the State Water Board took a conservative approach in its Draft EIR findings and recognized the potential for significant impacts to occur.

As discussed in the Draft EIR, because future compliance projects are unknown at this time, the State Water Board cannot predict what exactly those projects' impacts will be or the precise mitigation measures that will be required to reduce potential impacts to less than significant. Project-level impacts and mitigation measures will be addressed in future site-specific environmental analyses conducted by CEQA lead agencies approving those projects.

Mitigation Measures: The mitigation measures discussed above are likely to reduce environmental impacts to a less than significant level.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance impact conclusion and finds that the environmental impacts would be potentially significant and unavoidable. These potentially adverse impacts are overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although the mitigation measures discussed above would likely reduce the significant potentially significant and unavoidable environmental impacts to less than significant levels for future compliance projects, the mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 24-2: Compliance with the Proposed Regulations by public water systems may result in potentially significant cumulative impacts.

The findings above and individual resource chapters and Chapter 3 of the Draft EIR demonstrate that compliance with the Proposed Regulations by public water systems may result in potentially significant cumulative impacts.

Mitigation Measures: See Chapter 3 and individual resource chapters of the Draft EIR for a discussion on cumulative impacts and mitigation measures.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that potentially significant cumulative impacts were identified for all resource chapters but Population and Housing, Public Services and Recreation.

Findings: Although implementation of the project-level mitigation measures would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

Impact 24-3: Compliance projects implemented by public water systems have the potential to result in environmental effects that cause substantial adverse effects on human beings, either directly or indirectly

As discussed in the Draft EIR, the Proposed Regulations will have a beneficial impact on human beings. Reducing hexavalent chromium in drinking water provided by public water systems will protect the health of Californians and is expected to result in approximately 892 less cancer cases over 70 years statewide. (SWRCB 2023a, sec. 5.2.5.) Nonetheless, compliance projects implemented by public water systems have the potential to result in environmental effects that cause substantial adverse effects on human beings, either directly or indirectly.

Mitigation Measures: The mitigation measures discussed above are likely to reduce the potential for the compliance projects to have environmental effects which will cause substantial adverse effects on human beings, directly or indirectly, to a less than significant level.

Findings: Although the mitigation measures would likely reduce the potential to have environmental effects which will cause substantial adverse effects on human beings, directly or indirectly, to less than significant levels for future compliance projects, the mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).)

2.2.19. Cumulative Impacts

As discussed in the Draft EIR, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment, obtain new sources of water supplies, and consolidate to protect public drinking water supplies from other drinking water contaminants regulated under the California Safe Drinking Water Act. These infrastructure projects have the potential to adversely affect cumulative impacts to

the resources identified above except population and housing, public services, and recreation. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impacts to the resources discussed above from the Proposed Regulation may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact these resources that are in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impacts to these resources may be significant.

Significance After Mitigation: The State Water Board takes a conservative approach in its post-mitigation significance conclusion and finds that cumulative impacts to the resources discussed above would be potentially significant and unavoidable. This potential adverse impact is overridden by the project's benefits as set forth in the statement of overriding considerations.

Findings: Although implementation of the project-level mitigation measures to address the impacts to the resources discussed above would reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level, these mitigation measures, for purposes of making the findings required by section 15091 of the CEQA Guidelines, are infeasible due to the programmatic nature of the Draft EIR and the responsibility of lead and responsible agencies to mitigate impacts from future compliance projects. (Finding (3).) For individual findings regarding cumulative impacts, refer to the individual resource chapters above.

2.3.FINDINGS REGARDING FEASIBILITY OF PROJECT ALTERNATIVES

Public Resources Code section 21002 provides that "public agencies should not approve projects as proposed if there are feasible alternatives . . . which would substantially lessen the significant environmental effects of such projects." CEQA requires agencies to consider, in its EIR, a reasonable range of alternatives to a proposed project or to the location of the proposed project which would "feasibly attain most of the basic objectives of the project." (CEQA Guidelines, § 15126.6(a).) An agency may reject project alternatives if it finds them to be "infeasible." (Pub. Resources Code, § 21081 subd. (a)(3); CEQA Guidelines, § 15091(c)(3).)

2.3.1. Feasibility of Alternatives

To determine whether a mitigation measure or alternative is infeasible, as that term is used in CEQA and the CEQA Guidelines, an agency must necessarily weigh and balance its pros and cons, taking account of a broad range of factors. Public agencies may consider "economic, legal, social" and "technological" factors in making its feasibility determination. (Pub. Resources Code, § 21081, subd. (a)(3); see *Tiburon Open Space Committee v. County of Marin* (2022) 78 Cal.App.5th 700, 732–733 [Mitigation measures and alternatives that conflict with agency's legal obligations are infeasible and "need not be analyzed."].) A public agency may also consider "other" factors that it believes are

relevant to the infeasibility analysis. (Pub. Resources Code, § 21081, subd. (a)(3).) For example, an agency may conclude that an alternative is impractical or undesirable because it is inconsistent with agency goals or policies and reject it as infeasible on that ground. (See *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001-1002 [When making infeasibility findings the agency determines how competing interests should be resolved].) Similarly, an alternative may be found infeasible because it does not fully satisfy important project objectives. (See *San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 18 [Alternatives would not achieve core objective of promoting winery development with by-right permitting to same extent as proposed project].) Moreover, a mitigation measure is "feasible" when it is "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social," technological and legal factors. (Pub. Resources Code, § 21061.1; CEQA Guidelines, § 15364 [adds "legal" considerations to the list of factors].)

The State Water Board analyzed a reasonable range of alternatives in the Draft EIR. For the reasons discussed below, the State Water Board finds that these alternatives are infeasible, and that the adoption of the Proposed Regulations is the most desirable, feasible, and appropriate action.

2.3.1.1. Alternative # 1: No Project Alternative

Summary of Alternative #1: As discussed in the Draft EIR, this no project alternative is the continuation of the State Water Board's drinking water regulatory program without a primary drinking water standard for hexavalent chromium. Under this alternative public water systems would not need to install treatment for hexavalent chromium or implement alternative means of compliance. For example, public water systems would not have to construct treatment plants, new wells, surface water infrastructure, or consolidation pipelines to supply the public with drinking water that meets the MCL for hexavalent chromium. Public water systems with hexavalent chromium contamination above the proposed MCL would continue to serve that water to their customers, continuing the present risk to public health from hexavalent chromium in California drinking water supplies. The environmental impacts of projects specifically intended for compliance with the Proposed Regulations would not occur.

Under the no project alternative, public water systems subject to the California Safe Drinking Water Act would need to continue meeting existing primary drinking water standards and it is reasonably likely that in the future, primary drinking water standards will include previously unregulated contaminants, such as n-nitroso dimethylamine (NDMA), and newly emerging contaminants, such as per- and poly-fluoroalkyl substances (PFOA and PFOS). In addition, every three years, public water systems with more than 10,000 service connections that detect hexavalent chromium at a level above the PHG would be required to prepare a report for the public that identifies hexavalent chromium in the water, discloses information about the health impacts, the number of persons impacted, the type and cost of treatment to remove hexavalent chromium and what if

anything the water system is doing to reduce hexavalent chromium from the water delivered to customers. (Health & Saf. Code, § 116470, subd. (b).)

In most cases, the means of compliance with these other existing and future standards will be similar to compliance with the proposed MCL for hexavalent chromium: installation of treatment (though the specific method of treatment will vary according to contaminant and public water system preference) or addition of an uncontaminated source. Therefore, many of the environmental impacts that would result from the Proposed Regulations are likely to occur even if the no project alternative is selected.

Finding: For purposes of making the findings required by section 15091 of the CEQA Guidelines, the State Water Board finds that Alternative #1 is infeasible.

Analysis Supporting Finding: As explained above in section 2.3.1, the State Water Board may consider “economic, legal, social, technological, or other” factors in making its feasibility determination, including its policies and project objectives. (Pub. Resources Code, § 21081, subd. (a)(3)); see *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001-1002; and also *San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 18.)

The no project alternative would not meet any of the project objectives. The no project alternative would not avoid significant risks to public health or reduce cancer and non-cancer public health risks from human consumption of drinking water contaminated with hexavalent chromium because public water systems would not remove hexavalent chromium, a contaminant known to cause cancer and other health issues, from drinking water. Additionally, the no project alternative would not comply with the statutory requirements under Health and Safety Code section 116365.5. The State Water Board has a statutory requirement, under the California Safe Drinking Water Act, to adopt a primary drinking water standard for hexavalent chromium. (Health & Saf. Code, § 116365.5.) The no project alternative directly conflicts with the State Water Board's legal obligation to adopt a primary drinking water standard for hexavalent chromium. Therefore, in consideration of its legal obligation under section 116365.5 of the Health and Safety Code and its obligation to regulate drinking water to protect public health (see Health & Saf. Code, §§ 116270, 116350), the State Water Board finds that Alternative #1 is not a feasible alternative.

2.3.1.2. Alternative # 2: Addition of Stannous Chloride Reduction Treatment to List of BATs

Summary of Alternative #2: As discussed in the Draft EIR, under Alternative #2, stannous chloride reduction treatment would be added as a BAT. Currently, the Proposed Regulations identify ion exchange, RCF, and reverse osmosis as the BATs for removing hexavalent chromium from drinking water. Although the State Water Board is required when it adopts an MCL to identify treatment technologies that can consistently and reliably remove the contaminant to a concentration at or below the proposed MCL, the

designation of a BAT does not preclude a public water system from receiving a domestic water supply permit that allows the use of alternative treatment technologies capable of sufficiently treating to the MCL.

Stannous chloride reduction treatment involves the application of stannous chloride without filtration. This method would not remove hexavalent chromium; instead, it would reduce it to its trivalent form. (Dummer 2021, p.8.) Therefore, unlike RCF, which removes hexavalent chromium by filtration and is identified as a BAT, stannous chloride reduction treatment would not create a waste stream of concentrated chromium that would require disposal of potentially hazardous spent resins, filters, brine, or sludge. However, because the trivalent chromium precipitate is not removed by filtration and remains in the water, there could be a potential for trivalent chromium to reoxidize to hexavalent chromium in the distribution system. In addition, there could be a potential impact to water quality resources by exceeding the maximum use level for stannous chloride as a drinking water additive. More information is needed to fully understand the impacts of using stannous chloride reduction treatment.

Stannous chloride reduction treatment requires installation of a treatment system, including a chemical storage tank and a chemical metering pump. The chemical storage tank would be designed with a secondary container to prevent leaks. The treatment system would be installed inside the existing well head building, if one exists, or inside a chemical feed shed constructed next to the well head and occupying a small footprint. Because no filtration or coagulation is required, stannous chloride reduction treatment requires a much smaller footprint than the treatments that have been identified as BATs. In the case of a well with an existing wellhead building, there would be no additional footprint at all.

Although stannous chloride reduction treatment may be less costly than the BATs identified in the Proposed Regulations, it is not clear from the existing data that it is safe, effective, and reliable.

For a more detailed discussion on stannous chloride treatment, see sections 2.6.3.5, 3.2.3.5, and 26.2.2 of the Draft EIR.

Finding: For purposes of making the findings required by section 15091 of the CEQA Guidelines, the State Water Board finds that Alternative #2 is infeasible.

Analysis Supporting Finding: As discussed above, the State Water Board must weigh and balance its pros and cons taking into consideration a broad range of factors in determining whether an alternative is infeasible. The State Water Board may consider “economic, legal, social, technological, or other” factors in making its feasibility determination, including its policies and project objectives. (Pub. Resources Code, § 21081, subd. (a)(3)); see *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001-1002; and also *San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 18.) When analyzing whether an alternative is infeasible, the

State Water Board can determine how competing interests should be resolved. (See *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001-1002.)

The State Water Board considers the following factors in making its infeasibility finding regarding Alternative #2:

- **The use of stannous chloride reduction treatment may be less costly than other forms of treatment for hexavalent chromium.** The State Water Board understands that stannous chloride reduction treatment may be more cost-effective for treating hexavalent chromium in drinking water, compared to ion exchange treatment or RCF treatment. The availability of technological options to reduce the costs of compliance with the proposed MCL is an important factor in the Board's consideration. Importantly, as discussed below and elsewhere in the rulemaking documents, the Proposed Regulations do not prohibit the use of stannous chloride reduction treatment. Therefore, designation of stannous chloride reduction treatment as a BAT under Alternative #2 will not, on its own, reduce the costs of compliance with the proposed MCL. While it is possible that designation as a BAT may cause more water systems to consider stannous chloride reduction treatment, it is more probable that water systems will opt for whichever compliance method is the most cost-effective and technologically feasible method for their particular system, regardless of which treatment methods the State Water Board designates as a BAT.
- **The use of stannous chloride reduction treatment may result in less hazardous waste produced as a byproduct of compliance with the proposed MCL, compared with ion exchange or reverse osmosis.** If water systems that would have installed ion exchange or reverse osmosis instead install—and receive permits to operate—hexavalent chromium treatment facilities using stannous chloride reduction, there may be less hazardous waste produced because of treatment, as discussed in Chapter 12 of the Draft EIR. This may reduce the environmental impact of the Proposed Regulations because there would be less need for the handling, transportation, and disposal of hazardous waste.
- **Stannous chloride reduction treatment has not been proven effective under full-scale field applications. (See Health & Saf. Code, § 116370.)** While there have been pilot and small-scale field studies on the application of stannous chloride reduction treatment by a public water system to treat for hexavalent chromium, there have not been full-scale field applications demonstrating its efficacy and safety. Alternative #2 has not yet been analyzed on a full-scale, which raises concerns regarding the efficacy and safety of the treatment method for designation as a BAT. Without full-scale field applications, it is not possible to know whether the treatment method is proven effective, or to assess its costs and benefits, at scale.

- **More information is needed concerning the effects of stannous chloride reduction treatment within distribution systems.** More information is needed to understand how time in the distribution system affects oxidation of trivalent chromium to hexavalent chromium, and whether water systems can treat hexavalent chromium with stannous chloride without exceeding the maximum use level for stannous chloride as a drinking water additive. In addition, stannous chloride and chromium have been shown to deposit and accumulate onto piping and other media, adding to concerns about the fate of both stannous chloride and chromium in the distribution system. (Kennedy et al. 2020.) More data is needed to ensure that stannous chloride reduction treatment is safe and effective for designation as a BAT.
- **The State Water Board submitted the scientific basis for the Proposed Regulations to an external scientific peer review panel, which supported the Board's decision to not designate stannous chloride reduction treatment as a best available treatment method.** As described in the Initial Statement of Reasons (ISOR) and the Draft EIR, the State Water Board submitted the scientific portions of the Proposed Regulations, along with a statement of the scientific findings, conclusions, and assumptions on which the scientific portions of the Proposed Regulations are based and the supporting scientific data, studies, and other appropriate materials, for external scientific peer review in accordance with section 57004 of the Health and Safety Code. The State Water Board posted the peer review request, findings, and State Water Board responses on the State Water Board's website. Two out of three reviewers concluded that more information was needed about stannous chloride reduction treatment to justify designating it as a BAT for treating hexavalent chromium from drinking water. The third reviewer concluded that stannous chloride reduction treatment might be appropriate under conditions in which performance data and treatment costs are available. The scientific peer review supports the Board's decision to not designate stannous chloride reduction treatment as a BAT because of the lack of data on its efficacy and safety at full-scale.
- **Public water systems may still be able to deploy stannous chloride reduction treatment for particular compliance projects even if the State Water Board does not designate the treatment method as a BAT.** Public water systems may use stannous chloride reduction treatment regardless of whether the State Water Board adopts the Proposed Regulations or Alternative #2. In either case, a water system would need a permit from the State Water Board to use stannous chloride reduction treatment. Even under the Proposed Regulations, the State Water Board may determine on a case-by-case basis that stannous chloride reduction is an acceptable treatment method for a particular system and permit its use by a particular water system. This may occur in situations where the water

system can demonstrate with additional data its effectiveness for their specific system and that there are no adverse public health consequences.

The State Water Board has considered the above factors and finds that Alternative #2 is infeasible. While the possibility that stannous chloride reduction treatment may produce less potentially hazardous waste compared with other forms of treatment is compelling, it is premature to designate the treatment method as a BAT due to the lack of data on its efficacy and safety, including from full-scale field applications. This is supported by the external scientific peer review. In addition, while the treatment method may be more cost-effective than others, the decision to not designate it as a BAT is unlikely to affect the cost of compliance because the Proposed Regulations do not prohibit the use of stannous chloride reduction treatment. On balance, these factors support the State Water Board's finding that Alternative #2 is infeasible.

2.3.1.3. Alternative # 3: Alternative MCL Values of 1-9 and 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 25, 30, 35, 40, and 45 micrograms per liter

Summary of Alternative #3: Under this alternative, the State Water Board would adopt a different MCL value than the proposed value of 10 ug/L. The State Water Board described twenty alternative MCL values in its ISOR. These alternative MCL values included 1-9 ug/L, 11-15 ug/L, 20, 25, 30, 35, 40, and 45 ug/L. For purposes of this EIR, the State Water Board considers each of these alternative MCL values as an alternative to the proposed MCL of 10 ug/L.

At each alternative MCL value, a different number of drinking water sources in the state would require treatment or an alternative means of compliance. Fewer sources would exceed a higher, less health protective MCL. To see the estimated number of contaminated sources at each alternative MCL value, based on existing data, see Table 26-1 in the Draft EIR. As Table 26-1 shows, at higher alternative MCL values, fewer public water systems would have to install treatment or implement alternative means of compliance. Accordingly, a higher MCL value would likely have less environmental impact due to compliance projects by affected public water systems than the proposed MCL value of 10 ug/L.

As the number of contaminated sources differs at each alternative MCL value, geographical differences emerge, too. To see the estimated number of counties with contaminated sources at each alternative MCL value, see Table 26-2.

As Table 26-2 shows, at higher alternative MCL values, public water systems required to treat for hexavalent chromium would become less geographically widespread. Accordingly, a higher alternative MCL value would likely have less environmental impact than the proposed MCL value of 10 ug/L. To better convey these geographical differences, Appendix E contains maps that show the geographic distribution of contaminated sources at each alternative MCL value.

Finding: For purposes of making the findings required by section 15091 of the CEQA Guidelines, the State Water Board finds that Alternative #3 is infeasible.

Analysis Supporting Finding: As explained above in section 2.3.1, the State Water Board may consider “economic, legal, social, technological, or other” factors in making its feasibility determination, including its policies and project objectives. (Pub. Resources Code, § 21081, subd. (a)(3)); see *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001-1002; and also *San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 18.)

The State Water Board considers the following factors in making its infeasibility finding regarding Alternative #3:

- **The extent to which alternative MCL values would entail more or fewer environmental impacts from future compliance projects.** As discussed above and in the Draft EIR, higher MCL values are expected to entail fewer environmental impacts, while lower MCL values are expected to entail greater environmental impacts. This is because at higher MCL values, fewer public water systems would install treatment or undertake other compliance projects; the impacts from the individual compliance projects themselves do not necessarily change at the different MCL values – i.e. the environmental impacts of installing treatment to treat to 10 ppb would not be significantly different than treating to 25 ppb.
- **The extent to which project objectives are met.** The reduction of cancer and non-cancer public health risks from human consumption of drinking water contaminated with hexavalent chromium varies in accordance with the specific MCL value. As discussed in section 26.3 of the Draft EIR (as amended in the Final EIR), the ISOR demonstrates that MCL values higher than the proposed MCL of 10 ppb would still reduce cancer public health risks from human consumption of drinking water contaminated with hexavalent chromium compared to the status quo, but less so than the proposed value of 10 ppb would.
- **MCL values for hexavalent chromium higher than 10 ppb are legally infeasible alternatives because they are not as close as feasible to the corresponding PHG of 0.02 ppb. (See section 26.3 of the Draft EIR as amended in the Final EIR.)** The State Water Board is statutorily required to adopt a primary drinking water standard for hexavalent chromium that is as close as feasible to the corresponding PHG, placing primary emphasis on the protection of public health. (Health & Saf. Code, § 116365.) While the Draft EIR analyzes alternative MCL values, the State Water Board is statutorily constrained in its ability to adopt an alternative MCL value that is not the lowest technologically and economically feasible value, even if that alternative MCL value may entail fewer environmental impacts. (*Ibid.*) It follows that if the State Water Board finds that the proposed MCL of 10 ppb is technologically and economically feasible, then any alternative MCL

value higher than 10 ppb would not be “as close as feasible” to the PHG of 0.02 ppb. The State Water Board found the proposed MCL of 10 ppb to be technologically and economically feasible, therefore the alternative MCL values discussed in Alternative #3 that are higher than 10 ppb are legally infeasible. (SWRCB 2023a, sec. 11.2.)

- **Increasing the MCL value does not significantly decrease household costs without significantly reducing health benefits for any system size category.** (SWRCB 2023a, sec. 11.4.) Although the State Water Board must consider technological and economic feasibility, the State Water Board must place primary emphasis on the protection of public health in adopting an MCL value for hexavalent chromium. (Health & Saf. Code, § 116365.) If the State Water Board were to adopt an MCL higher than the proposed value of 10 ppb, the cost savings would be small compared to the reductions in health benefits.
- **As stated in the ISOR, the State Water Board’s reason for rejecting the alternative MCLs is also supported by a cost-effectiveness analysis in the Standardized Regulatory Impact Assessment (SRIA).** (SWRCB 2023b, sec. F.4.) Alternative MCLs greater than 10 ppb have either roughly similar or lower cost effectiveness compared to 10 ppb, and MCLs below 10 ppb are less cost effective than 10 ppb.
- **Alternative MCL values below 10 are economically infeasible.** In general, costs to public water systems and consumers would increase for alternative MCLs less than 10 ppb. (See SWRCB 2023a, sec. 11.) Therefore, at alternative MCL values less than 10 ppb, public water systems may struggle to meet future drinking water standards due to limited economic capacity. As explained in section 11.10 of the ISOR, alternative MCL values below 10 are economically infeasible. Therefore, the State Water Board cannot adopt these alternative MCL values under the California Safe Drinking Water Act, which requires that the MCL be set as close as economically feasible to the PHG. (Health & Saf. Code, § 116365).

The State Water Board has considered the above factors and finds that Alternative #3 is infeasible. While the alternative MCL values lower than 10 ppb would be more protective of public health, they would entail more environmental impacts and are not economically feasible. Alternative values greater than 10 ppb would entail fewer environmental impacts but are not as close as technologically and economically feasible to the PHG of 0.02 ppb. On balance, these factors support the State Water Board’s finding that Alternative #3 is infeasible.

2.4.FINDINGS REGARDING RECIRCULATION OF THE DRAFT EIR

Under section 15088.5 of the CEQA Guidelines, recirculation of an EIR is required when “significant new information” is added to the EIR after public notice is given of the availability of the Draft EIR for public review but prior to certification of the Final EIR. The term “information” can include changes in the project or environmental setting, as well as

additional data or other information. (CEQA Guidelines, § 15088.5(a).) New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. (*Ibid.*) Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR. (*Id.*, subd. (b).) A decision not to recirculate an EIR must be supported by substantial evidence in the administrative record. (*Id.*, subd. (e).)

The State Water Board finds that the amendments made to the Draft EIR do not add "significant new information" because the Board merely makes minor non-substantive edits and adds clarifying language where helpful to understanding the State Water Board's determinations. In compliance with section 15132 of the CEQA Guidelines, the changes to the Draft EIR can be found in Chapter 3 of the Final EIR.

None of the changes will deprive the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible mitigation measure or project alternative. This is true especially because the State Water Board's initial conclusions regarding potential environmental impacts to the environment are not altered in Chapter 3 of the Final EIR. Similarly, the minor changes do not impact any mitigation measure or project alternative analyses in a significant way. Moreover, although the State Water Board made minor modifications to the reporting requirements and added two documents to the record, through two 15-day notice periods, neither the changes to the regulation nor the addition of the documents to the record constitute significant new information because they do not indicate that a new substantial environmental impact will result from the Proposed Regulations, thus the public is not deprived of a meaningful opportunity to comment on the environmental impacts of the Proposed Regulations. The changes made to the Draft EIR merely clarify or amplify or make insignificant modifications to an already adequate EIR. Therefore, the Draft EIR does not need to be recirculated.

3. STATEMENT OF OVERRIDING CONSIDERATIONS

When an agency approves a project with significant environmental effects that will not be avoided or substantially lessened, it must adopt a statement disclosing that because of the project's overriding benefits, it is approving the project despite its environmental harm. (Pub. Resources Code, § 21081, subd. (b); CEQA Guidelines, §§ 15043, 15093.) The agency must set forth the reasons for its action, based on the final EIR and other information in the record, in a statement of overriding considerations. (CEQA Guidelines, § 15093(b).)

CEQA requires the agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when

determining whether to approve the project. (CEQA Guidelines, § 15093(a).) If the specific benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable." (Ibid.)

Determining a project's benefits and the weight to be given them, when balanced against the project's environmental impacts, is highly discretionary, but must be supported by substantial evidence in the record. (CEQA Guidelines, § 15093(b).) An agency's determination that a project's benefits outweigh significant effects that cannot be mitigated "lies at the core of the lead agency's discretionary responsibility under CEQA." (*City of Marina v. Board of Trustees of California State University* (2006) 39 Cal.4th 341, 368.)

As set forth in the findings, the Proposed Regulations will result in potentially significant and unavoidable environmental impacts, and there are no feasible project alternatives which would mitigate or substantially lessen the impacts. Despite the occurrence of the potentially significant and unavoidable impacts, the State Water Board chooses to approve the Proposed Regulations because the benefits that the Proposed Regulations will produce outweigh the potentially significant and unavoidable environmental impacts. The State Water Board adopts the Proposed Regulations despite its potential environmental harm, for the following reasons:

- **In adopting the Proposed Regulations, the State Water Board will comply with its statutory obligation under section 116365.5 of the Health and Safety Code to adopt a primary drinking water standard for hexavalent chromium.** Section 116365.5 of the Health and Safety Code was effective January 1, 2002, and it required that the Department of Health Services "commence the process for adopting a primary drinking water standard for hexavalent chromium that complies with the criteria established under" section 116365 of the Health and Safety Code. The Department of Health Services was required to "establish a primary drinking water standard for hexavalent chromium on or before January 1, 2004." (Health & Saf. Code, § 116356.5.) The Department of Health Services did not adopt a primary drinking water standard for hexavalent chromium in 2004 and therefore did not meet the statutory deadline. This statutory duty was then transferred to the Department of Public Health on July 1, 2007. (See Health & Saf. Code, § 131052.) In 2013, the Department of Public Health proposed an MCL of 10 ppb for hexavalent chromium and it was approved by the Office of Administrative Law and became effective July 1, 2014. Also effective July 1, 2014, the Department of Public Health's authorities, duties, powers, purposes, functions, responsibilities, and jurisdiction for the purpose of the administration of the California Safe Drinking Water Act were transferred to the State Water Board. (See Health & Saf. Code, § 116271.) In 2017, the Superior Court of Sacramento County invalidated the MCL for hexavalent chromium and ordered the State Water Board to adopt a new one. Today, the statutory responsibility to adopt a primary drinking water standard for hexavalent chromium is with the State Water Board and is more than 20 years overdue. In adopting the Proposed Regulations, the State Water Board will finally

fulfill the statutory obligation under section 116365.5 of the Health and Safety Code. This benefit weighs in favor of adoption, despite the potential environmental consequences of the Proposed Regulations.

- **Adopting the Proposed Regulations will avoid significant risks to public health from drinking water supplied by public water systems in California and reduce cancer and non-cancer public health risks from human consumption of drinking water contaminated with hexavalent chromium.** As discussed in the Draft EIR and ISOR, hexavalent chromium is toxic and is known to cause cancer. The total number of cancer cases avoided by a MCL value of 10 ppb over 70 years is 898. (Chapter 3 of Final EIR.) Hexavalent chromium has also been found to have non-cancer effects in the form of liver toxicity. (SWRCB 2023a, sec. 3.1.) An MCL for hexavalent chromium that is as close to the PHG as possible would decrease public exposure to hexavalent chromium and therefore decrease the risk of associated adverse health effects. (SWRCB 2023a, sec 5.2.) The estimated 5.5 million people affected by this MCL will see the exposure to hexavalent chromium in their drinking water decrease by an average of approximately 30 percent, thus significantly reducing the risk of associated adverse health effects. (SWRCB 2023a, sec. 5.2.) The State Water Board finds that avoiding significant risks to public health from drinking water and reducing the risk of cancer and non-cancer health risks is a benefit that weighs in favor of adopting the Proposed Regulations despite the potential environmental consequences.
- **The State Water Board is statutorily required to adopt a primary drinking water standard for hexavalent chromium that is as close as feasible to the corresponding PHG, placing primary emphasis on the protection of public health. (Health & Saf. Code, § 116365.)** Pursuant to Health and Safety Code, section 116365, the State Water Board is statutorily constrained in its ability to adopt an alternative MCL value that is not the lowest technologically and economically feasible value, even if that alternative MCL value may entail fewer environmental impacts. It follows that if the State Water Board finds that the proposed MCL of 10 ppb is technologically and economically feasible, then any alternative MCL value higher than 10 ppb would not be “as close as feasible” to the PHG of 0.02 ppb. The State Water Board found the proposed MCL of 10 ppb to be technologically and economically feasible, therefore any alternative MCL values higher than 10 ppb are legally infeasible. (SWRCB 2023a, sec. 11.2.) Moreover, as explained in section 11.10 of the ISOR, alternative MCL values below 10 ppb are economically infeasible. For these reasons, the Proposed Regulations, which sets the MCL for hexavalent chromium at 10 ppb, complies with Health and Safety Code, section 116365. This is another benefit that weighs in favor of adopting the Proposed Regulations despite the potential environmental consequences.
- **Under the Proposed Regulations, public water system customers will be informed when hexavalent chromium is detected in their drinking water or when it exceeds the MCL.** The Proposed Regulations will result in increased transparency to public water system customers regarding the presence of a

harmful contaminant in their water. Under section 64463.4 of title 22 of the California Code of Regulations, public water systems will be required to deliver notices to consumers when their drinking water exceeds the proposed MCL for hexavalent chromium. In addition, public water systems will be required to notify their customers of the presence of hexavalent chromium via their annual consumer confidence reports. The public can access information about hexavalent chromium in their drinking water through the Division of Drinking Water's California Drinking Water Watch website.

Lastly, the State Water Board has been conservative in its post-mitigation significance impact conclusions that the various impacts will be potentially significant and unavoidable. As explained in the Draft EIR and above, most of the mitigation measures identified by the State Water Board to address the environmental impacts would likely reduce the impacts from the Proposed Regulations to less than significant. However, at this programmatic stage, the State Water Board cannot make this determination with confidence because the Board cannot predict how each public water system will choose to comply with the Proposed Regulations, where the site-specific compliance projects will be located, what site-specific sensitive resources may be located there, and what the potential significant environmental impacts could ultimately be. Moreover, the State Water Board does not have the authority to require future lead agencies to adopt and implement the proposed mitigation measures for individual compliance projects. It is the responsibility of these other agencies to implement the mitigation measures identified in the Draft EIR, to the extent feasible, and these agencies can and should implement them. Compliance projects will most likely trigger CEQA and CEQA Guidelines, in which case lead agencies will need to perform an independent environmental review and adopt mitigation measures when necessary. The potentially significant and unavoidable impacts to the environment identified in these findings will most likely be mitigated to less than significant at the individual project level by these lead agencies. While this may not necessarily constitute a "beneficial" factor under CEQA Guidelines section 15093(b), it indicates that the potential impacts may be less significant.

Title 22. Social Security
Division 4. Environmental Health
Chapter 15. Domestic Water Quality and Monitoring Regulations
Article 2. General Requirements

(1) Amend Section 64415 to read as follows:

§ 64415. Laboratory and Personnel.

(a) Except as provided in subsection (b), required analyses shall be performed by laboratories certified by the State Board to perform such analyses pursuant to Article 3, commencing with section 100825, of Chapter 4 of Part 1 of Division 101, Health and Safety Code. Unless directed otherwise by the State Board, analyses shall be made in accordance with the following U.S. EPA approved methods as prescribed at:

(1) U.S. EPA approved methods as prescribed at 40 Code of Federal Regulations sections 141.23 through 141.41, 141.66, and 141.89 (7-1-2019 edition), which are incorporated by reference; ~~and~~

(2) U.S. EPA approved methods as prescribed at 40 Code of Federal Regulations section 141.852 (78 Fed. Reg. 10270 (February 13, 2013), as amended at 79 Fed. Reg. 10665 (February 26, 2014)), which is incorporated by reference; ~~and~~

(3) Methods used for analysis of hexavalent chromium shall be performed using one of the following:

(A) U.S. EPA Method 218.6: Determination of Dissolved Hexavalent Chromium in Drinking Water, Groundwater, and Industrial Wastewater Effluents by Ion Chromatography, Rev. 3.3, (May 1994), which is incorporated by reference in its entirety; and

(B) U.S. EPA Method 218.7: Determination of Hexavalent Chromium in Drinking Water by Ion Chromatography with Post-Column Derivatization and UV-Visible Spectroscopic Detection, Version 1.0, (November 2011), which is incorporated by reference in its entirety.

(b) [No change to text]

Note: Authority cited: Sections 116271, 116350, ~~and 116375,~~ and 116385, Health and Safety Code. Reference: Sections 116375, 116385 and 116390, Health and Safety Code; and 40 Code of Federal Regulations 141.

Article 4. Primary Standards—Inorganic Chemicals

(2) Amend Section 64431 to read as follows:

§ 64431. Maximum Contaminant Levels—Inorganic Chemicals.

Public water systems shall comply with the primary MCLs in ~~§~~Table 64431-A as specified in this article.

Table 64431-A
Maximum Contaminant Levels
Inorganic Chemicals

<i>Chemical</i>	<i>Maximum Contaminant Level, mg/L</i>
Aluminum	1.
Antimony	0.006
Arsenic	0.010
Asbestos	7 MFL*
Barium	1.
Beryllium	0.004
Cadmium	0.005
<u>Chromium (hexavalent)</u>	<u>0.010</u>
Chromium (<u>total</u>)	0.05
Cyanide	0.15
Fluoride	2.0
Mercury	0.002
Nickel	0.1
Nitrate (as nitrogen)	10.
Nitrate+Nitrite (sum as nitrogen)	10.

Nitrite (as nitrogen)	1.
Perchlorate	0.006
Selenium	0.05
Thallium	0.002

* MFL=million fibers per liter; MCL for fibers exceeding 10 µm in length.

Note: Authority cited: Sections 116270, 116271, 116293(b), 116350, 116365, 116365.5 and 116375, Health and Safety Code. Reference: Sections 116365, 116365.5 and 116470, Health and Safety Code.

(3) Amend Section 64432 to read as follows:

§ 64432. Monitoring and Compliance—Inorganic Chemicals.

(a) All public water systems shall monitor to determine compliance with the nitrate and nitrite MCLs in Table 64431-A, pursuant to subsections (d) through (f) and section 64432.1. All community and nontransient-noncommunity water systems shall monitor to determine compliance with the perchlorate MCL, pursuant to subsections (d), (e), and (l), and section 64432.3. All community and nontransient-noncommunity water systems shall also monitor to determine compliance with the other MCLs in Table 64431-A, pursuant to subsections (b) through (n), and, for asbestos, section 64432.2. Monitoring shall be conducted in the year designated by the State Board of each compliance period beginning with the compliance period starting January 1, 1993.

(b) Unless directed otherwise by the State Board, each community and nontransient-noncommunity water system shall initiate monitoring for an inorganic chemical within six months following the effective date of the regulation establishing the MCL for the chemical and the addition of the chemical to Table 64431-A.

If otherwise performed in accordance with this section, groundwater monitoring for an inorganic chemical performed no more than two years prior to the effective date of the regulation establishing the MCL may be used to satisfy the requirement for initiating monitoring within six months following such effective date.

(c) Unless more frequent monitoring is required pursuant to this Chapter, the frequency of monitoring for the inorganic chemicals listed in Table 64431-A, except for asbestos, nitrate/nitrite, and perchlorate, shall be as follows:

(1) [No change to text]

(2) [No change to text]

(d) For the purposes of sections 64432, 64432.1, 64432.2, and 64432.3, detection shall be defined by the detection limits for purposes of reporting (DLRs) in Table 64432-A.

Table 64432-A

Detection Limits for Purposes of Reporting (DLRs) for Regulated Inorganic Chemicals

<i>Chemical</i>	<i>Detection Limit for Purposes of Reporting (DLR) (mg/L)</i>
Aluminum	0.05
Antimony	0.006
Arsenic	0.002
Asbestos	0.2 MFL > 10µm*
Barium	0.1
Beryllium	0.001
Cadmium	0.001
<u>Chromium (hexavalent)</u>	<u>0.0001</u>
Chromium (<u>total</u>)	0.01
Cyanide	0.1
Fluoride	0.1
Mercury	0.001
Nickel	0.01
Nitrate (as nitrogen)	0.4
Nitrite (as nitrogen)	0.4
Perchlorate	0.002 0.001 (Effective January 1, 2024)

Selenium	0.005
Thallium	0.001

* MFL=million fibers per liter; DLR for fibers exceeding 10 μm in length.

(e) [No change to text]

(f) [No change to text]

(g) [No change to text]

(h) [No change to text]

(i) Compliance with the MCLs shall be determined by a running annual average; if any one sample would cause the annual average to exceed the MCL, the system is immediately in violation. If a system takes more than one sample in a quarter, the average of all the results for that quarter shall be used when calculating the running annual average. If a system fails to complete four consecutive quarters of monitoring, the running annual average shall be based on an average of the available data.

(j) [No change to text]

(k) [No change to text]

(l) [No change to text]

(m) [No change to text]

(n) [No change to text]

(o) Transient-noncommunity water systems shall monitor for the inorganic chemicals in ~~†~~Table 64431-A as follows:

(1) [No change to text]

(2) [No change to text]

(p) A water system shall comply with the chromium (hexavalent) MCL by the applicable compliance date in Table 64432-B.

Table 64432-B

Chromium (Hexavalent) MCL Compliance Date

<u>System Size</u> <u>(Service Connections Served on [INSERT EFFECTIVE DATE])</u>	<u>Chromium (Hexavalent) MCL</u> <u>Compliance Date</u>
<u>10,000 or greater</u>	<u>[INSERT DATE TWO YEARS AFTER REGULATION TAKES EFFECT]</u>
<u>1,000 to 9,999</u>	<u>[INSERT DATE THREE YEARS AFTER REGULATION TAKES EFFECT]</u>
<u>Fewer than 1,000</u>	<u>[INSERT DATE FOUR YEARS AFTER REGULATION TAKES EFFECT]</u>

(g) If before the applicable compliance date in Table 64432-B, a water system's monitoring for chromium (hexavalent) conducted pursuant to subsection (b) demonstrates an MCL exceedance as calculated in accordance with subsection (i), then no later than 90 days after the MCL exceedance a water system shall submit to the State Board a Hexavalent Chromium MCL Compliance Plan that is sufficient to demonstrate how the system will comply with the chromium (hexavalent) MCL.

(1) The Hexavalent Chromium MCL Compliance Plan shall state how the water system will comply with the chromium (hexavalent) MCL and include, at a minimum, the following:

(A) The proposed method for complying with the chromium (hexavalent) MCL; if a new or modified treatment process is proposed, the Hexavalent Chromium MCL Compliance Plan shall include a pilot study adequate to demonstrate that the new or modified treatment process will result in compliance with the chromium (hexavalent) MCL;

(B) If the proposed compliance method requires construction, the date by which the water system will submit to the State Board final plans and specifications for the proposed method of compliance;

(C) If the proposed compliance method requires construction, the anticipated dates for commencing construction and completing 100 percent of construction;

(D) If a new or modified treatment process is proposed, the anticipated date by which a Hexavalent Chromium Operations Plan as specified in subsection (r) will be submitted.

(2) A public water system may make amendments to its Hexavalent Chromium MCL Compliance Plan. Any amendment made shall be submitted to the State Board for review and approval that it meets the requirements of paragraph (1).

(3) A water system shall implement its State Board approved Hexavalent Chromium MCL Compliance Plan by the dates set forth therein.

(r) A water system utilizing a new or modified treatment process to comply with the chromium (hexavalent) MCL shall, prior to serving water treated by the new or modified treatment process to the public, submit to the State Board for review and approval a Hexavalent Chromium Operations Plan sufficient to ensure that water treated by the new or modified treatment process reliably and continuously meets the chromium (hexavalent) MCL. The Hexavalent Chromium Operations Plan shall include, at a minimum, the following:

1. Performance monitoring program that sets out how and when treatment will be monitored to ensure compliance with the chromium (hexavalent) MCL;

2. A program for maintenance of treatment process equipment that describes how and when equipment will be maintained and when equipment replacement is needed to ensure treatment is operating as designed;

3. A description of each treatment unit process and how it is operated;

4. A description of procedures used to determine chemical dose rates sufficient to ensure the treatment process is operating as designed;

5. A description of reliability features incorporated into the treatment process to ensure operation as designed; and

6. Treatment media inspection program sufficient to ensure the media is inspected at intervals and for conditions necessary to ensure compliance with the chromium (hexavalent) MCL.

...

Note: Authority cited: Sections 116271, 116275, 116293(b), 116350 and 116375, Health and Safety Code. Reference: Section 116275 and 116385, Health and Safety Code.

Article 12. Best Available Technologies (BAT)

(4) Amend Section 64447.2 to read as follows:

§ 64447.2. Best Available Technologies (BAT)—Inorganic Chemicals.

The technologies listed in Table 64447.2-A are the best available technology, treatment techniques, or other means available for achieving compliance with the MCLs in Table 64431-A for inorganic chemicals.

Table 64447.2-A
Best Available Technologies (BATs)
Inorganic Chemicals

<i>Chemical</i>	<i>Best Available Technologies (BATs)</i>
Aluminum	10
Antimony	2, 7
Arsenic	1, 2, 5, 6, 7, 9, 13
Asbestos	2, 3, 8
Barium	5, 6, 7, 9
Beryllium	1, 2, 5, 6, 7
Cadmium	2, 5, 6, 7
<u>Chromium (hexavalent)</u>	<u>5, 7, 14</u>
Chromium (<u>total</u>)	2, 5, 6 ^a , 7
Cyanide	5, 7, 11
Fluoride	1
Mercury	2 ^b , 4, 6 ^b , 7 ^b
Nickel	5, 6, 7

Nitrate	5, 7, 9
Nitrite	5, 7
Perchlorate	5, 12
Selenium	1, 2 ^c , 6, 7, 9
Thallium	1, 5

^aBAT for chromium III (trivalent chromium) only.

^bBAT only if influent mercury concentrations < 10 µg/L.

^cBAT for selenium IV only.

Key to BATs in Table 64447.2-A:

- 1= Activated Alumina
- 2= Coagulation/Filtration (not BAT for systems <500 service connections)
- 3= Direct and Diatomite Filtration
- 4= Granular Activated Carbon
- 5= Ion Exchange
- 6= Lime Softening (not BAT for systems <500 service connections)
- 7= Reverse Osmosis
- 8= Corrosion Control
- 9= Electrodialysis
- 10= Optimizing treatment and reducing aluminum added
- 11= Chlorine oxidation
- 12= Biological fluidized bed reactor
- 13= Oxidation/Filtration
- 14= Reduction/Coagulation/Filtration

Note: Authority cited: Sections 116271, 116293(b), 116350 and 116375, 434052 and 434200, Health and Safety Code. Reference: Section 116370, Health and Safety Code.

Article 18. Notification of Water Consumers and the State Board

(5) Amend Section 64463.4 to read as follows:

§ 64463.4. Tier 2 Public Notice.

(a) A water system shall give public notice pursuant to this section if any of the following occurs:

(1) Any violation of the MCL, MRDL, and treatment technique requirements, except:

(A) Where a Tier 1 public notice is required under section 64463.1; or

(B) Where the State Board determines that a Tier 1 public notice is required, based on potential health impacts and persistence of the violations;

(2) All violations of the monitoring and testing procedure requirements in this chapter, and chapters 15.5, 17, and 17.5, for which the State Board determines that a Tier 2 rather than a Tier 3 public notice is required, based on potential health impacts and persistence of the violations;~~or~~

(3) Failure to comply with the terms and conditions of any variance or exemption in place~~;~~ or

(4) Exceedance of the chromium (hexavalent) MCL before the applicable compliance date in Table 64432-B, as calculated in accordance with section 64432, subsection (i).

(b) [No change to text]

(c) [No change to text]

(6) Amend Section 64465 to read as follows:

§ 64465. Public Notice Content and Format.

...

(d) [No change to text]

**Appendix 64465-A. Health Effects Language
Microbiological Contaminants**

Appendix 64465-B. Health Effects Language

Surface Water Treatment

**Appendix 64465-C. Health Effects Language
Radioactive Contaminants**

**Appendix 64465-D. Health Effects Language
Inorganic Contaminants**

<i>Contaminant</i>	<i>Health Effects Language</i>
Aluminum	[No change to text]
Antimony	[No change to text]
Arsenic	[No change to text]
Asbestos	[No change to text]
Barium	[No change to text]
Beryllium	[No change to text]
Cadmium	[No change to text]
<u>Chromium (hexavalent)</u>	<u>Some people who drink water containing hexavalent chromium in excess of the MCL over many years may have an increased risk of getting cancer.</u>
Chromium (total)	[No change to text]
Copper	[No change to text]
Cyanide	[No change to text]
Fluoride	[No change to text]
Lead	[No change to text]
Mercury	[No change to text]
Nickel	[No change to text]
Nitrate	[No change to text]
Nitrite	[No change to text]
Perchlorate	[No change to text]

Selenium	[No change to text]
Thallium	[No change to text]

**Appendix 64465-E. Health Effects Language
Volatile Organic Contaminants**

**Appendix 64465-F. Health Effects Language
Synthetic Organic Contaminants**

**Appendix 64465-G. Health Effects Language
Disinfection Byproducts, Byproduct Precursors, and Disinfection Residuals**

**Appendix 64465-H. Health Effects Language
Other Treatment Techniques**

No change to Appendices 64465-A through C or 64465-E through H.

Note: Authority cited: Sections 116271, 116350 and 116375, Health and Safety Code.
Reference: Sections 116450 and 116470, Health and Safety Code.

Article 20. Consumer Confidence Report

(7) Amend Section 64481 to read as follows:

§ 64481. Content of the Consumer Confidence Report.

...

(c) If any of the following are detected, information for each pursuant to subsection (d) shall be included in the Consumer Confidence Report:

(1) Contaminants subject to an MCL, regulatory action level, MRDL, or treatment technique (regulated contaminants), as specified in sections 64426.1, 64426.6, 64431,

64442, 64443, 64444, 64448, 64449, 64533, 64533.5, 64536, 64536.2, 64653, and 64678;

(2) Contaminants specified in 40 Code of Federal Regulations part 141.40 (7-1-2007 edition) for which monitoring is required (unregulated contaminants);

(3) Microbial contaminants detected as provided under subsection (3); and

(4) Sodium and hardness.

(d) For contaminants identified in subsection (c), the water system shall include in the Consumer Confidence Report one table or several adjacent tables that have been developed pursuant to this subsection. Any additional monitoring results that a water system chooses to include in its Consumer Confidence Report shall be displayed separately.

...

(o) The eConsumer eConfidence rReport prepared and delivered by July 1, 2022 shall, for bacteriological monitoring conducted from January 1, 2021 to June 30, 2021, inclusive, include the following additional information in the report:

(1) The total coliform MCL expressed as shown in tTable 64481-C.

Table 64481-C
Total Coliform MCL for Consumer Confidence Report

<i>Contaminant</i>	<i>MCL</i>
[No change to text]	[No change to text]
[No change to text]	[No change to text]

(2) [No change to text]

(3) [No change to text]

(4) The likely source(s) of any total coliform, fecal coliform, or *E. coli* detected. If the water system lacks specific information on the likely source, the table shall include the typical source for that contaminant listed in Table 64481-D.

Table 64481-D

Typical Origins of Microbiological Contaminants with Primary MCL

<i>Contaminant</i>	<i>Major Origins in Drinking Water</i>
[No change to text]	[No change to text]
[No change to text]	[No change to text]

(5) Information on any data indicating violation of the total coliform MCL, including the length of the violation, potential adverse health effects, and actions taken by the water system to address the violation. To describe the potential health effects, the water system shall use the relevant language in Table 64481-E.

Table 64481-E

Health Effects Language for Microbiological Contaminants

<i>Contaminant</i>	<i>Health Effects Language</i>
[No change to text]	[No change to text]
[No change to text]	[No change to text]
[No change to text]	[No change to text]

(6) [No change to text]

(p) A Consumer Confidence Report issued after [INSERT EFFECTIVE DATE OF THE PROPOSED REGULATION] and prior to the applicable compliance date in Table 64432-B shall include the following information for chromium (hexavalent):

(1) If chromium (hexavalent) is detected, the Consumer Confidence Report shall include information pursuant to subsections (c) and (d).

(2) If chromium (hexavalent) exceeds the MCL, the Consumer Confidence Report shall include additional information indicated in Table 64481-F.

Table 64481-F CCR Language
Hexavalent Chromium MCL Exceedance

<u>CCR Language</u>
<u>Chromium (hexavalent) was detected at levels that exceed the chromium (hexavalent) MCL. While a water system of our size is not considered in violation of the chromium (hexavalent) MCL until after [INSERT APPLICABLE TABLE 64432-B COMPLIANCE DATE], we are working to address this exceedance and comply with the MCL. Specifically, we are [INSERT ACTIONS TAKEN AND PLANNED TO COMPLY WITH THE APPLICABLE COMPLIANCE DATE IN TABLE 64432-B].</u>

Appendix 64481-A.

**Typical Origins of Contaminants with Primary MCLs, MRDLs,
Regulatory Action Levels, and Treatment Techniques**

Contaminant

Major origins in drinking water

Microbiological

[No change to text]	[No change to text]
---------------------	---------------------

Surface water treatment

[No change to text]	[No change to text]
---------------------	---------------------

Radioactive

[No change to text]	[No change to text]
---------------------	---------------------

Inorganic

Aluminum	[No change to text]
Antimony	[No change to text]
Arsenic	[No change to text]
Asbestos	[No change to text]
Barium	[No change to text]
Beryllium	[No change to text]
Cadmium	[No change to text]
<u>Chromium (hexavalent)</u>	<u>Erosion of natural deposits; transformation of naturally occurring trivalent chromium to hexavalent chromium by natural processes and human activities such as discharges from electroplating factories, leather tanneries, wood preservation, chemical synthesis, refractory production, and textile manufacturing facilities.</u>
Chromium (<u>total</u>)	[No change to text]
Copper	[No change to text]
Cyanide	[No change to text]
Fluoride	[No change to text]
Lead	[No change to text]
Mercury	[No change to text]
Nickel	[No change to text]
Nitrate	[No change to text]
Nitrite	[No change to text]
Perchlorate	[No change to text]

Selenium	[No change to text]
Thallium	[No change to text]

Synthetic organic

[No change to text]	[No change to text]
---------------------	---------------------

Volatile organic

[No change to text]	[No change to text]
---------------------	---------------------

Disinfection Byproducts, Disinfection Byproduct Precursors, and Disinfectant Residuals

[No change to text]	[No change to text]
---------------------	---------------------

...

Note: Authority cited: Sections 116271, 116350 and 116375, Health and Safety Code.
Reference: Sections 116275 and 116470, Health and Safety Code.



State Water Resources Control Board

**FINAL ENVIRONMENTAL IMPACT REPORT FOR
ADOPTION OF A REGULATION FOR THE
HEXAVALENT CHROMIUM MAXIMUM CONTAMINANT
LEVEL**

A Programmatic Analysis under Section 21159
of the California Environmental Quality Act

SCH # 2021110099

April 2024

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APPENDIX E- Comment Letters and Public Meeting Transcript

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Acronyms, Other Abbreviations, and Definitions Used in the Final EIR

Acronym	Definition
APA	Administrative Procedures Act
BAT	best available technologies
CalEPA	California Environmental Protection Agency
CALFED	A consortium of state and federal agencies with management and regulatory responsibilities in the San Francisco Bay/ Sacramento-San Joaquin Delta Estuary
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CESA	California Endangered Species Act
CNDDB	California Natural Diversity Database
CVMSHCP	Coachella Valley Multi-Species Habitat Conservation Plan
CVWD	Coachella Valley Water District
EIR	Environmental Impact Report
DEIR	Draft Environmental Impact Report
HCP	Habitat Conservation Plan
ISOR	Initial Statement of Reasons
LED	Light emitting diode
LSA	Lake and Streambed Alteration
MCL	Maximum Contaminant Level
MSWD	Mission Springs Water District
ug/L	Micrograms per liter
NCCP	Natural Community Conservation Plan
NOP	Notice of Preparation
OEHHA	Office of Environmental Health Hazard Assessment
PEIS/R	Program Environmental Impact Statement/Report
PHG	Public health goal
SRIA	Standardized Regulatory Impact Assessment
State Water Board	California State Water Resources Control Board
SWRCB	California State Water Resources Control Board
TPWD	Twentynine Palms Water District
USACE	United States Army Corps of Engineers
USFWS	United States Fish and Wildlife Service

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1 INTRODUCTION TO THE FINAL ENVIRONMENTAL IMPACT REPORT

1.1 Background

As the lead agency in accordance with sections 15089 and 15132 of the California Environmental Quality Act (CEQA) Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.), this document is the Final Environmental Impact Report (Final EIR) for the adoption of statewide regulations setting the maximum contaminant level (MCL) for hexavalent chromium (Proposed Regulations). The Proposed Regulations include a maximum contaminant level (MCL) of 10 µg/L for hexavalent chromium. (Cal. Code Regs. tit. 22, § 64431 Table 64431-A.) The Proposed Regulations also include a compliance schedule based on public water system size, by adding subdivision (p) and Table 64432-B to section 64432 of title 22 of the California Code of Regulations, identifies a detection limit for purposes of reporting, sets monitoring and reporting requirements and public notice requirements for violations of the MCL, and establishes the Best Available Technologies (BAT) for treating hexavalent chromium in drinking water.

This Final EIR includes a list of persons, organizations, and public agencies who commented on the draft program environmental impact report (Draft EIR), their comments and recommendations on the Draft EIR, the State Water Board's responses to significant environmental points raised in those comments, and changes to the Draft EIR in response to those comments. Together with the Draft EIR, this document constitutes the Final EIR for the proposed project. This document has been prepared to accompany the Draft EIR for the Proposed Regulations.

The Proposed Regulations in their entirety were provided as Appendix A of the Draft EIR. Proposed changes to the Proposed Regulations are in Revised Appendix A of this Final EIR.

1.2 Type of CEQA Document

As described in the Draft EIR Summary chapter (Draft EIR p. S-2) and section 1.2 of Chapter 1, the Draft EIR is a first-tier, programmatic analysis of the potential direct and indirect impacts from public water systems' compliance with the Proposed Regulations. Public Resources Code section 21159 requires the State Water Board to perform an environmental analysis of the reasonably foreseeable methods of compliance at the time it adopts a rule or regulation requiring the installation of pollution control equipment or establishing a performance standard or treatment requirement. This analysis must include:

- 1) an analysis of the reasonably foreseeable environmental impacts of the methods of compliance;

- 2) an analysis of reasonably foreseeable feasible mitigation measures; and
- 3) an analysis of reasonably foreseeable alternative means of compliance with the rule or regulation.

The analysis does not have to include a site-specific analysis but must include consideration of a reasonable range of environmental, economic, and technical factors, populations and geographic areas, and specific sites. (Pub. Resources Code, § 21159, subds. (c) & (d).) An EIR prepared at the time of adopting the rule or regulation pursuant to CEQA satisfies these requirements. (*Id.*, subd. (b).)

Another purpose of the Final EIR is to provide sufficient analysis for public water systems to rely on and use in the preparation of their own project specific CEQA analyses of potential environmental impacts from their compliance with the Proposed Regulations. As described in section 2.9 of the Draft EIR, public water systems may prepare focused EIRs pursuant to section 21159.1 of the Public Resources Code when analyzing the potential impacts of their compliance projects.

Because the State Water Board cannot predict how each public water system will choose to comply with the Proposed Regulations, it does not know where the site-specific compliance projects will be located, what site-specific sensitive resources may be located there, what mitigation measures may be feasible, and what the potential significant environmental impacts could ultimately be. Although potential mitigation measures are identified, the ability to implement those measures, or equally effective and feasible measures, is within the purview of the CEQA lead agencies and responsible agencies approving or permitting the future compliance projects. Therefore, although we are adopting a mitigation monitoring and reporting program, we do not know what specific mitigation measures will be appropriate for any specific project, and there is no means to enforce the mitigation requirements at this time.

1.3 Public Review of Draft EIR

The State Water Board released the Draft EIR for review and comment by public agencies and the public on June 16, 2023. The State Water Board posted a Notice of Availability of Draft EIR (Notice of Availability) on the State Water Board's website, circulated the Notice of Availability to the public via email listserv and by email to individuals who previously requested notice or participated in CEQA scoping for the Proposed Regulations, and published the Notice of Availability in newspapers in 56 counties throughout California. The State Water Board mailed the Notice of Availability to the county clerks of all counties in California for posting and submitted the Notice of Availability to the State Clearinghouse for distribution to state and trustee agencies. The State Water Board also mailed a copy of the Notice of Availability to the University of California Board of Regents.

In addition to the electronic availability of the Draft EIR on the State Water Board's website and at the State Clearinghouse, the board made hardcopies of the Draft EIR available at the State Water Board's Office of Chief Counsel in Sacramento, the Sacramento County Law Library, and the 13 Division of Drinking Water district offices located in Redding, Santa Rosa, Richmond, Monterey, Sacramento, Lodi, Carpinteria, Glendale, Santa Ana, Fresno, San Bernardino, San Diego, and Bakersfield.

The adoption of the Proposed Regulations requires compliance with the Administrative Procedures Act (APA) and CEQA. Both processes involve the public through noticing, a public meeting, and comments and responses. The State Water Board elected to hold the public meeting and comment period for both the APA and CEQA together.

The State Water Board held a public hearing (virtual and in-person) to solicit public comments on the Proposed Rulemaking and the Draft EIR on August 2, 2023.

On August 1, 2023, the State Water Board circulated a revised Notice of Proposed Rulemaking and extended the public comment period for APA and CEQA from August 4, 2023, to August 18, 2023. On August 4, 2023, the State Water Board extended the public comment period on the Proposed Rulemaking and the Draft Environmental Impact Report to noon on August 18, 2023. On November 22, 2023, the State Water Board provided an additional comment period until December 15, 2023, on changes to the proposed regulations. No changes to the Draft EIR were required in response to those changes because they did not result in any impacts to the environment, and consisted solely of changes to reporting requirements.

The State Water Board also had a meeting with the California Department of Fish and Wildlife (CDFW) staff to discuss their comment letter. In the meeting the State Water Board clarified that new surface water intakes or surface water storage reservoirs are not reasonably foreseeable means of compliance with the Proposed Regulations and CDFW staff explained their concerns regarding groundwater dependent ecosystems.

1.4 Requirements for the Final EIR

As described in the CEQA Guidelines (Cal Code Regs., tit. 14, § 15000 et seq.), specifically sections 15088, 15089, 15090, and 15132, the State Water Board as lead agency must evaluate comments received on the Draft EIR, prepare written responses to significant environmental points raised, certify the EIR and consider the information in the EIR before approving the project. Pursuant to CEQA Guidelines section 15132, a final EIR consists of: (a) the draft EIR or a revision of the draft EIR; (b) comments and recommendations received on the draft EIR either word for word or in summary; (c) a list of persons, organizations, and public agencies commenting on the draft EIR; (d) the responses of the lead agency to significant environmental points raised in the review and consultation process; and (e) any other information added by the lead agency.

Section 15088(c) of the CEQA Guidelines specifies that the focus of the responses to comments shall be on the disposition of significant environmental issues. Responses

are not required on comments regarding the merits of the project or on issues not related to the environmental impacts of the Proposed Regulations. Comments on the merits of the Proposed Regulations or other comments that do not raise environmental issues are responded to separately as part of the APA process and will also be reviewed by the State Water Board before they take any action on whether to approve the Proposed Regulations or an alternative to the Proposed Regulations.

One state and several local agencies provided written and one oral comment on issues evaluated in the Draft EIR. This Final EIR has been prepared to respond to those comments and to make appropriate revisions to the Draft EIR, consistent with sections 15088, 15089, and 15132 of the State CEQA Guidelines. Comments and responses to each of the comments received are provided in Chapter 2, "Comments on the Draft EIR and Responses," of this Final EIR.

1.5 Changes to the Draft EIR

Although some of the response to comments have resulted in changes to the text of the Draft EIR (see Chapter 3, "Changes to the Draft EIR"), none of the changes constitute "significant new information" as defined in section 15088.5(a) of the State CEQA Guidelines, which would require recirculation of the Draft EIR. Examples of significant new information that would require recirculation include disclosures showing that:

- New significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
- A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.
- The Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

1.4.1 Distribution of Final EIR before Certification

This Final EIR and associated appendices are available online at https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/SWRCBDDW-21-003_hexavalent_chromium.html.

Lead agencies are required to provide responses to public agency comments on Draft EIRs at least 10 days before the certification of the Final EIR (Cal. Code Regs., tit. 14, § 15088, subd. (b)). This Final EIR will be distributed as part of the State Water Board agenda at least ten days before adoption of the Proposed Regulations. Notice of release of the Final EIR was also provided to all persons who subscribed to receive notices about the Proposed Regulations via the board's email subscription mailing list.

1.4.2 Decision Making Process

As the decision-making body of the lead agency, the State Water Board is responsible for certifying that the EIR has been completed in compliance with CEQA, that the information in the Final EIR has been reviewed and considered, and that the EIR reflects Board's independent judgment. (CEQA Guidelines, § 15090.) The Board must further find, based on the standards provided in Section 15088.5 of the CEQA Guidelines, that recirculation of the Draft EIR is not required.

Prior to approving the Proposed Regulations, the State Water Board must also prepare one or more findings of fact for each significant environmental impact identified in the document. (CEQA Guidelines, § 15091 and 15092.) Following adoption of a resolution certifying the Final EIR, the Board has the authority to approve, approve with modifications, or reject the Proposed Regulations. To approve the Proposed Regulations, the Board will adopt a resolution documenting the approval. For each significant environmental effect identified in the EIR, the Board will issue a written finding reaching one or more of three possible conclusions. According to section 15091 of the State CEQA Guidelines, the three possible findings with respect to each significant effect are:

- Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the Final EIR;
- Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency; or
- Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

If any significant unavoidable impacts would result from the approval of project elements, the State water Board would also be required to state in writing why it proposes to approve the project despite these significant unavoidable impacts. This is termed a Statement of Overriding Considerations, pursuant to section 15093 of the State CEQA Guidelines.

Following certification of the Final EIR and approval of the Proposed Regulation, the State Water Board will file a Notice of Determination with the Office of Planning and Research pursuant to section 15094, subdivision (c) of the State CEQA Guidelines.

1.5 Organization of the Final EIR

The Final EIR consists of: (1) the Draft EIR and associated appendices that were distributed in June 2023 (under separate cover), and (2) the Final EIR and new appendices. The Final EIR is organized as follows:

Chapter 1 Introduction to the Final EIR provides background information and a summary of the proposed regulations, and introduction and overview of the Draft EIR and Final EIR.

Chapter 2 Comments on the Draft EIR and Responses provides a list of commenters on the Draft EIR, contains comments copied from the comment letters received during the public review period, oral comments on the Draft EIR heard at the public hearing, and responses to those comments that raised environmental issues.

Chapter 3 Changes to the Draft EIR presents revisions to the Draft EIR text made in response to comments, or by the State Water Board to amplify, clarify, or make minor modifications or corrections. Changes to the text are signified by strikethroughs where text was removed and by underline where text was added. None of the changes required recirculation prior to adoption.

Chapter 4 References identifies the documents used as sources for the Final EIR (not initially included in the Draft EIR).

Revised Appendix A of the Draft EIR revised regulations.

Revised Appendix C of the Draft EIR corrected well location analysis.

Appendix E comment letters on the Draft EIR and hearing transcript.

2 COMMENTS ON THE DRAFT EIR AND RESPONSES

This chapter contains the full text of comments received from the public agencies that sent comment letters on the Draft EIR during the public review period, which concluded on August 18, 2023, as well as all one oral comment transcribed from the public hearing that occurred on August 2, 2023. Written responses are provided to comments that address environmental issues after the text of the comment, in conformance with section 15088(a) of the State CEQA Guidelines. The letters in their entirety and the transcription of the hearing are included in Appendix E of the Final EIR.

2.1 List of Commenters

The State Water Board received a total of five comment letters and one oral comment that pertained to CEQA. All the commenters are from public agencies and were received before the end of the public comment period which was noon August 18, 2023. The California Department of Fish and Wildlife (CDFW), City of Winters, City of Coachella, and Coachella Valley Water District comment letters are specifically on the Draft EIR. The comment by Twentynine Palms Water District was made during the

public hearing on August 2, 2023, and consisted of comments on both the Draft EIR and the rulemaking generally; the comment addressed in this Final EIR pertains solely to the comment related to CEQA. The State Water Board is taking a conservative approach and is responding here to any comment – whether expressly on the Draft EIR or on the rulemaking generally – that pertains to a potential environmental impact or to a topic that was covered in the Draft EIR such as wildfire or hazardous waste.

Table 1 identifies the numerical designation for each commenter on the Draft EIR, the name of the agency, the date received, and the name of the person that provided the comment. The comment letters and the transcript of the public hearing are reproduced in their entirety in Appendix E.

Table 1. List of Persons, Agencies, and Organizations that Commented on the EIR

Commenter ID	Agency	Date Received	Author/commentor
1	California Department of Fish and Wildlife	8/4/2023	Jeff Drongesen
2	City of Winters	8/1/2023	Kathleen Salguero
3	Coachella Valley Water District	8/17/2023	Joanne Yen Le
4	City of Coachella	8/10/2023	Castulo R. Estrada
5	Mission Springs Water District	8/18/2023	Brian Macy
6	Twentynine Palms Water District	8/2/2023	Yasmeen Nubani

2.2 Organization of This Chapter

Each commenter is given a numerical identifier in Table 1. The City of Winters (Commenter 2), the Coachella Valley Water District (Commenter 3), and the City of Coachella (Commenter 4) provided letters that featured unique introductions but largely identical comments. These were treated as separate comment letters.

This chapter references the number of the commenter and contains the full text of the comment copied and pasted from the comment letter or hearing transcript into this chapter. When one letter has multiple comments, the comments are numbered by the commenter number, a hyphen, and a sequential comment number (commenter ID-comment number). The comments are addressed in this chapter, and any resulting changes, minor modifications, or corrections to the Draft EIR text is presented in Chapter 3.

2.3 Topics of Comments Not Addressed in the Final EIR

Some commenters submitted comments on both environmental impacts and other aspects of the rulemaking unrelated to CEQA. In responding to combined comment letters and oral comments, the State Water Board is addressing the environmental related comments in the Final EIR and addressing the non-environmental related comments in the Final Statement of Reasons. For example, comments pertaining to the estimated costs of the Proposed Regulations are responded to in the Final Statement of Reasons and not in the Final EIR, to the extent that those comments do not relate to environmental impacts or mitigation measures.

2.4 CDFW (Commenter 1) Comments and Responses

2.4.1 CDFW Comment 1-1

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (Id., § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

2.4.2 Response to CDFW Comment 1-1

While CDFW is a trustee agency as defined by CEQA, we do not agree that CDFW is a responsible agency under CEQA for the proposed project, which is the development and adoption of the Proposed Regulations. Although CDFW may be a responsible agency for site-specific compliance projects that are proposed to come into compliance with the regulations, it has no discretionary approval power in the development or adoption of the Proposed Regulations. The State Water Board is the only public agency with the responsibility for carrying out or approving the Proposed Regulations, and there are no responsible agencies for the adoption of the Proposed Regulations.

2.4.3 CDFW Comment 1-2

Section 4.4.4 Impact 4-4 – Light or Glare page 4-4

Issue: Artificial nighttime lighting negatively impacts biological resources.

Specific impact: Mitigation Measure 4.4.4.1 is inadequate in scope to support future compliance projects in avoiding and minimizing impacts associated with artificial nighttime lighting.

Why impact would occur: Future compliance projects such as the installation of water treatment facilities may use artificial nighttime lighting for project construction activities and/or long-term operations.

Evidence impact would be significant: Artificial nighttime lighting often results in light pollution, which has the potential to significantly and adversely affect fish and wildlife. Artificial lighting alters ecological processes including, but not limited to, the temporal niches of species; the repair and recovery of physiological function; the measurement of time through interference with the detection of circadian and lunar and seasonal cycles; the detection of resources and natural enemies; and navigation (Gatson, et al. 2013). Many species use photoperiod cues for communication (e.g., bird song) (Miller, et al. 2006), determining when to begin foraging (Stone, et al. 2009), behavioral thermoregulation (Beiswenger, et al. 1977), and migration (Longcore, et al. 2004). Phototaxis, a phenomenon that results in attraction and movement towards light, can disorient, entrap, and temporarily blind wildlife species that experience it (Longcore, et al. 2004).

Recommended Potentially Feasible Mitigation Measure(s) to reduce impacts to less than significant:

CDFW recommends that the SWRCB include the following mitigation measures to minimize impacts from lighting to Biological Resources:

During future compliance project construction and operations over the lifetime of the future compliance project, the future compliance project proponent shall eliminate all nonessential lighting throughout the future compliance project area and avoid or limit the use of artificial light at night during the hours of dawn and dusk when many wildlife species are most active. The future compliance project proponent shall ensure that all lighting for the future compliance project is fully shielded, cast downward, reduced in intensity to the greatest extent, and does not result in lighting trespass including glare into surrounding areas or upward into the night sky (see the International Dark-Sky Association standards). The future compliance project proponent shall ensure use of LED lighting with a correlated color temperature of 3,000 Kelvins or less, proper disposal of hazardous waste, and recycling of lighting that contains toxic compounds with a qualified recycler.

2.4.4 Response to CDFW Comment 1-2

The CDFW Comment 1-2 is that nighttime lighting negatively impacts biological resources and recommends measures to minimize impacts from light and glare. Changes to the Draft EIR Mitigation Measure 4-4 were made as recommended by the CDFW; except for the recommendation that future compliance project proponents "shall ensure use of LED lighting with a correlated color temperature of 3,000 Kelvins or less". The State Water Board included this in the measure but qualified it by adding, "if feasible". Lighting at water system facilities is for security purposes, therefore the State Water Board cannot require the lighting to be less than what the lead agency proposes they need for adequate protection of the public water supply. See revised language in Chapter 3, section 3.5 "Changes to the Aesthetics Section".

2.4.5 CDFW Comment 1-3

Section 7.4.1.1, Mitigation Measure 7-1(a), Page 7-10

Issue: Mitigation Measure 7-1(a) requires surveys for special status species but does not include requirements on appropriate timing of surveys.

Specific impact: While specific impacts will vary based on future compliance project type and location, mistimed surveys may result in the unmitigated take of special status species.

Why impact would occur: If surveys are completed inappropriately, special status species located onsite might not be detected resulting in future compliance projects impacting special status species.

Evidence impact would be significant: Inappropriate survey methods may result in special status species that are present on a project site going undetected. As a result, appropriate avoidance, and minimization measures to protect special status species may not be implemented, which could result in the unmitigated take of special status species.

Recommended Potentially Feasible Mitigation Measure(s) to reduce impacts to less than significant:

CDFW recommends that the SWRCB revise Mitigation Measure 7-1(a) with the following additions in **bold**.

Mitigation Measure 7-1(a): Identify special status species protected by federal, state, and local laws, regulations, policies, and ordinances that may be within the area where the site-specific compliance project would be located by querying the California Natural Diversity Database (CNDDDB) and conducting a project site survey. If special status species or their habitats have been identified in the project area during biological inventory of the compliance project site by a qualified biologist prior to construction, comply with applicable federal and state endangered species acts and regulations, and

any local requirements, such as tree preservation policies. Ensure that important fish or wildlife movement corridors or nursery sites are not impeded by project activities.

Surveys shall be conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable. Some aspects of the future compliance projects may warrant periodic updated surveys for certain sensitive taxa, particularly if the future compliance project is proposed to occur over a protracted time frame, in phases, or if surveys are completed during periods of drought.

2.4.6 Response to CDFW Comment 1-3

The State Water Board modified Mitigation Measure 7-1(a) as recommended. See Chapter 3 section 3.6 below.

2.4.7 CDFW Comment 1-4

Section 7.4.1.1, Mitigation Measure 7-1(e), Page 7-10

Issue: It is possible for birds to nest on project sites at any time during the year; therefore, CDFW recommends that appropriate nesting bird surveys are conducted prior to project construction activities regardless of the time of year.

Specific impact: Nesting birds and their nest and eggs might be impacted by project construction activities if they are not detected during nesting bird surveys.

Why impact would occur: Future compliance projects, such as the installation of treatment facilities or construction of additional water reservoirs, may result in ground disturbance or vegetation removal that may impact nesting birds. If surveys are not completed for nesting birds, the project may result in unmitigated impacts to nesting birds, nests, or eggs.

Evidence impact would be significant: Take of nesting birds, nests, and eggs are prohibited by sections Fish and Game Code sections 3503, 3503.5 and 3513.

Recommended Potentially Feasible Mitigation Measure(s) to reduce impacts to less than significant:

CDFW recommends that the SWRCB revise Mitigation Measure 7-1(e) with the following additions in **bold** and removals in strikethrough:

Mitigation Measure 7-1(e): Limit construction to a seasonal window outside of the time of potential impact. For example, construct the project outside of nesting bird season (March 1st to September 30th) **Regardless of the time of year, nesting bird surveys shall be performed by a qualified avian biologist no more than 3 days prior to vegetation removal or ground-disturbing activities. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified avian biologist shall incorporate**

measures to avoid potential nest predation as a result of survey and monitoring efforts. If active nests are found during the pre-construction nesting bird surveys, a qualified biologist shall implement a plan to avoid disturbing nesting birds. The plan should include measures such as establishing an appropriate no-disturbance nest buffer to be marked on the ground and monitoring. Nest buffers are species and project specific and shall be at least 300 feet for passerines and 500 feet for raptors. Nest buffers may need to be increased during vulnerable nesting stages or if parents show distress. A nest buffer shall be determined by the qualified biologist familiar with the nesting phenology of the nesting species and based on nest and buffer monitoring results. The qualified biologist shall monitor active nests and adequacy of the nest buffers daily and established buffers shall remain in place until a qualified biologist determines the young have fledged, are feeding independently, and are no longer using the nest or the compliance project has been completed. The qualified biologist shall have the authority to stop work if nesting pairs exhibit signs of disturbance.

2.4.8 Response to CDFW Comment 1-4

The CDFW recommended Mitigation Measure 7-1(e) be struck out and replaced with modified language to include specific protections for nesting migratory birds. The State Water Board believes the CDFW misunderstood the intent of measure 7-1(e). The intent of measure 7-1(e) is to mitigate impacts to specific special status species by avoiding construction during the seasonal windows when those species are undergoing critical stages of their lifecycles that need to be protected, and we used the example of a nesting migratory bird seasonal avoidance window. The example of a migratory bird nesting season between March 1st and September 30th was meant as an example of a seasonal avoidance window type of measure. Because project-specific CEQA analyses will be required by lead agencies, species specific to project areas and their seasonal avoidance windows will be different depending on the type of project, the area where it is located, and the special-status species involved.

To clarify and preserve the original intent of 7-1(e), we did not strike it out, but the State Water Board added clarifying language to better express the applicability of seasonal avoidance windows for any special status species and their protected lifecycle stages by avoiding construction during a critical seasonal window. The applicability to a particular animal or plant and their seasonal window would need to be determined on a project level basis.

To acknowledge CDFW's recommendations regarding the protection of nesting birds, we added the recommended nesting migratory bird language as a separate, 7-1(l).

See Chapter 3, section 3.6.

2.4.9 CDFW Comment 1-5

Section 7.4.1.1, Mitigation Measure 7-1(g), Page 7-11

Issue: Mitigation Measure 7-1(g) indicates that purchasing mitigation bank credits will compensate for unavoidable habitat losses in advance of development actions. In some areas of California, including the Whitewater River Watershed, mitigation banks are unavailable or do not have appropriate credits available to offset the impacts of a future compliance project. CDFW recommends that offsite permittee-responsible mitigation is also included as an option to offset unavoidable habitat losses.

Specific impact: Future compliance projects associated with the Project, such as construction of new treatment facilities or water storage reservoirs, may result in unavoidable habitat loss that needs to be compensated through the purchase of credits at a mitigation bank or implementation of offsite permittee-responsible mitigation.

Why impact would occur: Future compliance projects may result in unavoidable habitat losses and those impacts should be offset through appropriate compensatory mitigation that may include offsite permittee-responsible mitigation.

Evidence impact would be significant: The significance of impacts would be determined on a project-by-project basis through regulatory processes like the Lake and Streambed Alteration (LSA) Program, CESA take authorization, or a Natural Community Conservation Plan.

Recommended Potentially Feasible Mitigation Measure(s) to reduce impacts to less than significant:

CDFW recommends that the SWRCB revise Mitigation Measure 7-1(g) with the following additions in **bold** and removals in strikethrough:

Implement mitigation banking consisting of the restoration or creation of habitat undertaken expressly for the purpose of compensating for unavoidable habitat losses (species and wetlands) in advance of development actions. The U.S. Army Corps of Engineers (USACE) has published guidance for determining compensatory mitigation ratios as required for processing of the USACE permits under section 404 of the Clean Water Act, section 10 of the Rivers and Harbors Act; and section 103 of the Marine Protection, Research, and Sanctuaries Act. Mitigation ratios and credits requirements are also established ~~included in permits issued~~ by the CDFW and the U.S. Fish and Wildlife Service (USFWS), to compensate for loss of habitat of federal and state listed species. **Alternatively, to compensate for unavoidable habitat losses, implement offsite permittee-responsible mitigation, including the protection of land under a conservation easement or other appropriate legal instrument and provision of endowments to cover the costs of long-term management and monitoring of biological resources on that land, as well as conservation easement monitoring.**

2.4.10 Response to CDFW Comment 1-5

The State Water Board modified Mitigation Measure 7-1(g) as recommended. See Chapter 3 section 3.6 below.

2.4.11 CDFW Comment 1-6

Section 7.4.3 Impact 7-3 – Protected Wetlands, Page 7-12

Issue: Section 7.4.3 does not describe requirements to notify CDFW per Fish and Game Code section 1602.

Specific impact: Future compliance projects, such as construction of treatment facilities or water reservoirs, have the potential to impact fish and wildlife resources subject to Fish and Game Code section 1600 et seq.

Why impact would occur: Future compliance projects, such as construction of treatment facilities or water reservoirs, may be required based on the Project as discussed in this DEIR.

Evidence impact would be significant: Fish and Game Code section 1602 identifies the impacts to any river, lake, or stream that would require an entity to notify CDFW.

Recommended Potentially Feasible Mitigation Measure(s) to reduce impacts to less than significant:

CDFW recommends that the SWRCB revise section 7.4.3 with the following additions in **bold**:

For reasons similar to those stated in Impact 7-1, compliance with the Proposed Regulations by public water systems may have the potential to have a substantial adverse effect on state or federally protected wetlands (including, but not limited to marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means. Because future compliance projects are unknown at this time, the State Water Board cannot predict what exactly those projects' impacts will be or the precise mitigation measures that will be required to reduce potential impacts to less than significant. Project-level impacts and mitigation measures will be addressed in future site-specific environmental analyses conducted by CEQA lead agencies approving those projects. Mitigation Measures 7-1 and 13-3 may reduce the significance of Impact 7-3 to less than significant. The ability to implement Mitigation Measures 7-1, Mitigation Measures 13-3, or other equally effective and feasible measures, is within the purview of the CEQA lead agencies and responsible agencies approving or permitting future compliance projects, not the State Water Board currently. Consequently, there is inherent uncertainty in the degree of mitigation that may ultimately be implemented to reduce potentially significant impacts from future compliance projects. This EIR therefore takes a conservative approach in its post-mitigation significance conclusion and discloses, for CEQA compliance purposes, that Impact 7-3 is potentially significant

and unavoidable. **Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: Substantially divert or obstruct the natural flow of any river, stream or lake; Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or Deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water. Project proponents that submit a notification to CDFW per Fish and Game Code section 1602, prior to construction and issuance of any grading permit shall either obtain written correspondence from CDFW stating that notification under section 1602 of the Fish and Game Code is not required for their specific project or if the project requires notification under section 1602 of the Fish and Game Code and CDFW determines the project may substantially adversely affect fish and wildlife resources, the project proponent shall obtain a CDFW executed LSA Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.**

2.4.12 Response to CDFW Comment 1-6

The State water Board agrees that section 7.4.3 does not describe the requirement to notify the CDFW pursuant to Fish and Game Code section 1602. We do not agree it should be added to our findings statement in section 7.4.3 as it is not a CEQA finding. The requirements of Fish and Game Code section 1602 is discussed in the Draft EIR in section 7.2.2 State Laws, specifically in section 7.2.2.2 California Fish and Game Code on page 7-7. The State Water Board added the language recommended to section 7.2.2.2 to expand upon the conditions and underscore the requirements of the section 1602 permit.

We also added the notification requirement to Mitigation Measure 7-1 as 7-1(m) to remind lead agencies to follow the requirements of California law. See section 3.6.

2.4.13 CDFW Comment 1-7

Section 7.4.6 Impact 7-6 – Habitat Conservation Plans, Page 7-13

Issue: Future compliance projects and their consistency with Habitat Conservation Plans.

Specific impact: Section 7.4.6 does not adequately describe processes to ensure that future compliance projects will be consistent with requirements of Habitat Conservation Plans, Natural Community Conservation Plans, and Regional Conservation Investment Strategies.

Why impact would occur: Future compliance projects need to discuss any inconsistencies with applicable approved Habitat Conservation Plans, Natural Community Conservation Plans, and Regional Conservation Investment Strategies. Future compliance projects that are inconsistent with approved Habitat Conservation Plans, Natural Community Conservation Plans, and Regional Conservation Investment Strategies may result in unauthorized impacts to special status species, vegetation communities, and ecological processes among other wildlife resources that are protected under Habitat Conservation Plans, Natural Community Conservation Plans, and Regional Conservation Investment Strategies. This could result in an impact to a Plan or Strategy's ability to implement its biological goals and objectives as required by the permits.

Evidence impact would be significant: Future compliance project may not be in consistent with a Habitat Conservation Plans, Natural Community Conservation Plans, and Regional Conservation Investment Strategies.

Recommended Potentially Feasible Mitigation Measure(s) to reduce impacts to less than significant:

CDFW recommends that the SWRCB revise section 7.4.6 Impact 7-6 – Habitat Conservation Plans with the following additions in **bold**:

For reasons like those in Impact 7-1, compliance with the Proposed Regulations by public water systems may have the potential to conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, **Regional Conservation Investment Strategies**, or other approved local, regional, or state Habitat Conservation Plan. Because future compliance projects are unknown at this time, the State Water Board cannot predict what exactly those projects' impacts will be or the precise mitigation measures that will be required to reduce potential impacts to less than significant. Project-level impacts and mitigation measures will be addressed in future site-specific environmental analyses conducted by CEQA lead agencies approving those projects. Mitigation Measures 7-1 may reduce the significance of Impact 7-6 to less than significant. The ability to implement Mitigation Measures 7-1, or equally effective and feasible measures, is within the purview of the CEQA lead agencies and responsible agencies approving or permitting future compliance projects, not the State Water Board currently. Consequently, there is inherent uncertainty in the degree of mitigation that may ultimately be implemented to reduce potentially significant impacts from future compliance projects. This EIR therefore takes a conservative approach in its post-mitigation significance conclusion and discloses, for CEQA compliance purposes, that Impact 7-6 is potentially significant and unavoidable. **Section 15125(d) of the CEQA Guidelines requires that the CEQA document discuss any inconsistencies between a proposed project and applicable general plans and regional plans, including Habitat Conservation Plans, Natural Community Conservation Plans, and Regional Conservation Investment Strategies. An assessment of the impacts to the Habitat Conservation Plans, Natural Community**

Conservation Plans, and Regional Conservation Investment Strategies as a result of future compliance projects is necessary to address CEQA requirements and will be included in future site-specific environmental analysis conducted by CEQA lead agencies approving those projects.

2.4.14 Response to CDFW Comment 1-7

The State Water Board modified section 7.4.6 Impact 7-6 – Habitat Conservation Plans by adding the recommended language to the section. Mitigation Measure 7-1(h) was also modified to include a statement about coordination with the respective implementing agencies. See Chapter 3 section 3.6 below.

2.4.15 CDFW Comment 1-8

Section 7.4.7, Page 7-14

Issue: Discussion of cumulative impacts is inadequate.

Specific impact: Future compliance projects such as installation of treatment facilities or construction of water reservoirs have the potential to result in cumulative impacts on biological resources such as ephemeral stream habitats, wildlife corridors, sensitive species and natural communities.

Why impact would occur: The future compliance project may necessitate the installation of treatment facilities and/or construction of water reservoirs that may have significant and cumulative impacts on biological resources within a specific area such as Coachella Valley.

Evidence impact would be significant: Construction of treatment facilities, water reservoirs, and other reasonably foreseeable compliance projects may result in cumulative impacts to biological resources.

Recommended Potentially Feasible Mitigation Measure(s) to reduce impacts to less than significant:

CDFW recommends that the SWRCB revise section 4.4.5 [sic] to include an analysis and discussion of the cumulative direct and indirect impacts of anticipated future compliance projects on riparian areas, wetlands, vernal pools, alluvial fan habitats, wildlife corridors or wildlife movement areas, habitat connectivity, aquatic habitats, sensitive species and other sensitive habitats, open lands, open space, and adjacent natural habitats. Section 4.4.5 [sic] currently does not include a discussion of any anticipated cumulative impacts despite the DEIR being able to anticipate the number of public water systems that may need to be modified. Specifically in Coachella Valley, future compliance projects may include the construction of multiple water reservoirs and/or treatment facilities to meet water quality standards addressed in the DEIR. The construction of these water reservoirs and treatment facilities may require the importation of additional water and potentially result in temporary and permanent

impacts to biological resources associated with the construction of these facilities. Future compliance projects may also involve the construction of new wells, which have the potential to cause groundwater drawdown and can negatively impact special status species. For example, new wells may occur in or adjacent to USFWS critical habitat for Peninsular bighorn sheep (*Ovis canadensis*; Coachella Valley Multi-Species Habitat Conservation Plan [CVMSHCP] Covered Species, Fully Protected Species) and groundwater drawdown may result in fewer sources of forage plants that Peninsular bighorn sheep rely on especially during the summer months. Also, the tributaries to the Salton Sea in Coachella Valley contain some of the few remaining populations of desert pupfish (*Cyprinodon macularius*; CVMSHCP Covered Species; State and Federally Endangered). Groundwater declines associated with the construction of new wells have the potential to negatively impact desert pupfish populations and other groundwater-dependent special status species. The cumulative direct and indirect impacts of these future compliance projects in Coachella Valley, among other areas of the state addressed in this DEIR, need to be analyzed per CEQA Guidelines section 15130 and should be discussed in section 4.4.5 [sic] of the DEIR.

2.4.16 Response to CDFW Comment 1-8

The State Water Board included a detailed discussion of cumulative impacts in the Draft EIR in Chapter 3 section 3.3 pages 3-9 to 3-14. The State Water Board identified past, present, and probable future projects that could potentially produce cumulative impacts with the potential impacts that have been identified from the Proposed Regulations. These included existing primary drinking water regulations adopted by the State Water Board, future primary drinking water regulations that the State Water Board is likely to adopt, and compliance projects to meet the existing and future regulations, including consolidations funded by the Safe and Affordable Funding for Equity and Resilience Program at the State Water Board, the Drinking Water State Revolving Fund and related funding programs at the State Water Board. It also included a table identifying the number of sources above the proposed MCL within each county. Likewise, Chapter 7 "Biological Resources" discusses the environmental setting including the location of wells in critical habitat and identifying that many of the affected wells are in the Coachella Valley and Yolo County. Section 7.4.7 also states there is the potential for significant cumulative impacts to biological resources.

As part of Comment 1-8, The CDFW stated that, "future compliance projects such as installation of treatment facilities or construction of water reservoirs have the potential to result in cumulative impacts on biological resources". Although the State Water Board acknowledged in section 3.2.3.3 of the Draft EIR that increased reliance on surface water could result in impacts to fish and other aquatic and wetland resources that rely upon surface water, it explained in section 2.6.3.3 of the Draft EIR that increasing reliance on surface water was not an option for most to come into compliance with the MCL. Water systems without existing surface water rights, the ability to contract for an additional source of water, or an existing surface water treatment plant are unlikely to

switch to surface water because obtaining surface water rights could be challenging and purchasing water may not be a reliable, long-term solution. In addition, constructing water reservoirs and/or a surface water treatment plant is a much more expensive undertaking than installing treatment for hexavalent chromium at a groundwater well. (See also 2.5.14 of Final EIR, Response to City of Winter's Comment 2-7.)

Comment 1-8 also states, "Future compliance projects may also involve the construction of new wells, which have the potential to cause groundwater drawdown and can negatively impact special status species." The letter expresses a concern with Coachella Valley, specifically where Peninsular bighorn sheep (*Ovis canadensis*) and desert pupfish (*Cyprinodon macularius*) and their critical habitats occur. These potential impacts were identified in the Draft EIR. The Draft EIR identifies on page 3-13 in Table 3-1 that Riverside County, where most of the Coachella Valley is located, is the county with the highest number of known sources with hexavalent chromium above 10 ug/liter. The Draft EIR, did identify one well within critical habitat of the Peninsular bighorn sheep in Riverside County (see Table 7-1 and Figure 7-1 of Draft EIR). However, that well was later discovered to be incorrectly mapped and is not in Peninsular bighorn sheep critical habitat. A change was made to Table 7-1 on page 7-3 to reflect that the well is not located within the critical habitat of the big horn sheep, and is instead located north and center of the Salton Sea in the inhabited part of the valley at map coordinates 33° 38' 18.8"N 116° 11' 28.4"W (Delgado 2023). There are no affected wells in either Peninsular bighorn sheep habitat or near occurrences of desert pupfish.¹ Figure 7-1 shows the affected wells in areas of recorded occurrences of special status species and Figure 7-2 shows the location of affected wells in NCCP/HCPs, including the Coachella Valley Multiple Species NCCP/HCP area. The Draft EIR does not include mention of, or cumulative impacts to, desert pupfish because none of the affected wells are in or near areas where occurrences of pupfish have been identified. Nonetheless, a change was added to Mitigation Measure 7-1(h) providing that: where projects occur in areas covered by a Natural Community Conservation Planning (NCCP) Program or Habitat Conservation Plan (HCP), the project proponent shall coordinate with the respective implementing agency, which could help to ensure any potential impacts to these sensitive areas are minimized to the extent feasible.

Commenter 1 also expressed concerns that new wells located in or adjacent to critical habitat for the Peninsular bighorn sheep could result in fewer plants to forage in the summer, and that tributaries to the Salton Sea contain pupfish and groundwater drawdown could also affect them. As stated above, there are no affected wells in Peninsular bighorn sheep habitat. The Draft EIR identified potential impacts on groundwater supplies in section 13.4.2. That section noted that public water systems would not increase groundwater use as a result of the regulations; however, it recognized that some reasonably foreseeable means of compliance could result in a

¹ Critical Habitat is a designation and does not indicate that the species of note currently occur in the area. The law also only comes into play when there is a federal action.

shift from one source of groundwater to another, putting additional pressure on that new source. To mitigate potential impacts to groundwater supply and basin recharge, section 13.4.2.3 identified mitigation measures. These included:

- a) Designing site specific compliance projects to ensure that water requirements are consistent with available local supplies of water.
- b) Designing site specific compliance projects to ensure it is consistent with the local groundwater sustainability plan.
- c) Installing permeable parking and driving surface material.
- d) Avoiding installation of treatment in areas that impact natural recharge of groundwater, and
- e) Designing site specific compliance projects to include recharge basins to compensate for new impervious surfaces.

In addition, mitigation measure 13-2 in section 13.4.2.3, was modified to require decommissioning of wells when a new well is installed. This would help ensure that additional groundwater isn't used and just a different area of the aquifer is being tapped to avoid hexavalent chromium. See Chapter 3.7, below. A change was also added to section 7.4.1.1 Mitigation Measures 7-1(j), requiring Project proponents to consider direct and indirect impacts to groundwater dependent ecosystems and species when proposing new wells that would increase groundwater usage in or near groundwater dependent ecosystems. See Chapter 3.6, below.

2.5 City of Winters (Winters) (Commenter 2) Comments and Responses

2.5.1 Winters Comment 2-1

The City of Winters ("City") submits these written comments in response to the State Water Resources Control Board's ("State Water Board") Notice of Availability of a Draft Program Environmental Impact Report ("EIR) for the adoption of a regulation for the maximum contaminant level ("MCL") for hexavalent chromium ("chromium-6"). The City hopes that its written comments will help the State Water Board fully analyze, mitigate, and avoid the potential environmental impacts of the Project in compliance with the California Environmental Quality Act (Pub. Resources Code, § 21000, et seq.: "CEQA").

The EIR analyzes a proposed primary drinking water standard for chromium-6 that includes a MCL of 10 micrograms per liter ($\mu\text{g/L}$) or parts per billion (ppb) (the "Project"). The City has serious concerns about both the proposed MCL of 10 ppb and the adequacy of the EIR prepared for the proposed Project. The City is a responsible agency for the proposed Project, as the City operates its own public water system, and the City will be required to comply with the new MCL if adopted as proposed. (State CEQA Guidelines, § 15381.)

The MCL would significantly impact the City, its ratepayers, and the environment. Given the potential impacts of the MCL, the City appreciates the State Water Board's commitment to prepare an EIR for the Project. The City believes, however, that significant revisions are necessary to the EIR in order to bring it into compliance with CEQA.

The City additionally urges the State Water Board to refrain from certifying the EIR or from approving the Project until the Office of Environmental Health Hazard Assessment ("OEHHA") completes its pending revisions to the public health goal ("PHG") for chromium-6. Given the centrality of OEHHA's PHG to the EIR, and in particular to the EIR's analysis of alternatives to the Project, the City believes that the State Water Board cannot comply with CEQA until OEHHA provides clarity on the PHG that will be in effect when the Project is proposed to be implemented two to four years from now.) *Washoe Meadows Community v. Department of Parks & recreation* (2017) 17 Cal.App.5th 277, 287 ["an accurate, stable, and finite project description is the *sine qua non* of an informative and legally sufficient EIR".]

The City appreciates the opportunity to submit these comments, and the City is hopeful that it can work with the State Water Board to ensure that a valid CEQA document is prepared and that any future MCL for chromium-6 is protective of the public health, the environment, and the City's ratepayers.

2.5.2 Response to Winters Comment 2-1

No response is required for these introductory comments; the State Water Board responds to the issues below as they are more fully detailed by the City in its letter. One issue, however, that is not addressed below is the City's role as a responsible agency. The City states above that it "is a responsible agency for the proposed Project, as the City operates its own public water system, and the City will be required to comply with the new MCL if adopted as proposed." However, the State Water Board does not agree that Winters is a responsible agency under CEQA for the proposed project, which is the development and adoption of the Proposed Regulations. Although Winters may be a lead or responsible agency for any site-specific compliance project that it proposes to come into compliance with the regulations, it has no discretionary approval power in the development or adoption of the Proposed Regulations. The State Water Board is the only public agency with the responsibility for carrying out or approving the Proposed Regulations, and there are no responsible agencies for the adoption of the Proposed Regulations.

2.5.3 Winters Comment 2-2

1. The Project Could Dramatically Impact The City Of Winters, Its Ratepayers, And The Environment.

The State Water Board's proposed MCL for chromium-6 would significantly impact the City, which derives 100 percent of its water from ground water with naturally occurring chromium-6. The City relies on five groundwater wells to provide water to its residents, and these wells have chromium-6 levels ranging from 7.2 ppb to 17 ppb. For this reason, the City has long been concerned about the establishment of an MCL for chromium-6 that protects public health while being both technologically and economically feasible, as required by law. (Health & Safety Code, § 116365(a), (b)(3).) A technologically and economically feasible MCL would allow the City to continue to provide a sustainable public water supply to its residents.

The Project, however, proposes an MCL that is neither technologically nor economically feasible for the City. The City is concerned that an unduly stringent MCL of 10 ppb would require the City to construct economically infeasible facilities or to deploy other treatment options at enormous cost.

2.5.4 Response to Winters Comment 2-2

It is not necessary for all systems to be able to easily comply with the regulation for it to be considered "economically feasible." As explained in the Initial Statement of Reasons, economic feasibility turns on whether compliance with the MCL is "capable of being done given 'the management of domestic or private income and expenditure.'" (*California Manufacturers & Technology Assoc. v. State Water Res. Control Bd.*, (2021) 64 Cal. App. 5th 266, p. 282). Importantly, a regulation may be capable of being done even if not every affected entity is capable of compliance. The Court of Appeal in *California Manufacturers and Technology Association* quoted federal cases interpreting the meaning of economic feasibility in the context of regulations promulgated by the Occupational Safety & Health Administration, where the courts have explained that a regulation is not infeasible simply "because it threatens the survival of some companies within an industry" (*Ibid.*, quoting *United Steelworkers of America, AFL-CIO-CLC v. Marshall* (D.C. Cir. 1980) 647 F.2d 1189, 1265), and that "[a] standard is economically feasible if the costs it imposes do not 'threaten massive dislocation to or imperil the existence of, the industry'" (*Ibid.*, quoting *American Iron & Steel Institute v. Occupational Safety and Health Admin.* (D.C. Cir. 1991) 939 F.2d 975, 980). Because of the multitude and variety of public water systems in California, some of which are very small, it is inevitable that the costs of complying with an MCL will vary, and that some systems will struggle due to economies of scale and a lack of financial capacity. This alone – while of concern to the State Water Board and requiring long-term solutions for the realization of the human right to water for all Californians – does not mean that a particular MCL is economically infeasible under the California Safe Drinking Water Act.

2.5.5 Winters Comment 2-3

Both the construction of new facilities and the deployment of treatment options would significantly impact the environment.

The proposed MCL will have enormous adverse economic impacts on the City and its ratepayers, but these impacts are not just economic—they will translate into significant and unavoidable environmental impacts. These impacts must be avoided, and the means to avoid them is by adopting an economically and technologically feasible MCL—i.e., an MCL for chromium-6 greater than the currently proposed MCL of 10 ppm. The City urges the State Water Board to revise and recirculate the EIR to address the City's concerns and to comply with CEQA.

2.5.6 Response to Winters Comment 2-3

An economic or social change by itself shall not be considered a significant effect on the environment.” (CEQA Guidelines, § 15382.) An EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from the project to physical changes caused in turn by the economic or social changes, but the focus is to be on the physical changes. (CEQA Guidelines, §15131.) Here, the EIR recognizes that for communities with sources of drinking water above the MCL, compliance with the standard will require some kind of action. The EIR recognizes potential impacts from four different kinds of treatment, and several other alternative means of compliance. Although potential significant impacts are recognized, this is primarily due to the fact that the State Water Board does not have any control over the projects that the public water systems may implement to come into compliance, and whether or not they could or will implement mitigation measures to avoid potential impacts. Most treatment projects could, however, be implemented in such a manner as to avoid impacts.

As a programmatic document, the Draft EIR is not intended to identify impacts related to any specific compliance project. While some projects might entail economic or social changes that, in turn, cause physical changes to the environment, it is too speculative at this time to know those impacts, and therefore, those impacts can only be addressed in the project-level environmental document created to address the impacts of specific projects. In addition, this comment does not identify any physical changes to the environment that the City believes will be caused by economic impacts from the Proposed Regulations. The City says that the Proposed Regulations will result in economic impacts that “will translate into significant and unavoidable environmental impacts,” but provides no further specificity. The comment is therefore general in nature and does not raise a significant environmental issue. The Draft EIR describes numerous potentially significant environmental impacts from the Proposed Regulations that may result from future compliance projects undertaken by public water systems. This comment does not identify any environmental impacts not already discussed in the Draft EIR.

2.5.7 Winters Comment 2-4

2. The EIR violates CEQA because it does not provide the detail necessary to inform the public of the Project’s potential impacts to the environment.

The California Supreme Court has characterized an EIR as "the heart of CEQA." (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 392.)

"An EIR is an 'environmental alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." (*Ibid.*) "The EIR is also intended to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action." (*Ibid.*) Because the EIR must be certified or rejected by public officials, it is a document of accountability." (*Ibid.*) "If CEQA is scrupulously followed, the public will know the basis on which its responsible officials either approve or reject environmentally significant action, and the public, being duly informed, can respond accordingly to action with which it disagrees." (*Ibid.*) The EIR thus "protects not only the environment, but also informed self-government." (*Ibid.*)

In light of the above-referenced policies, "[w]hen determining whether an EIR's discussion of potentially significant effects is sufficient, the ultimate inquiry is whether the EIR includes enough detail to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project." (*Save Our Capitol! V. Department of General Services* (2023) 87 Cal.App.5th 655,670, quoting *Laurel Heights, supra*, 47 Cal.3d at p. 405.)

The EIR here fails to comply with CEQA because it does not include enough detail to enable the public to understand and to consider meaningfully the Project's potential impacts on the environment. (*Save Our Capitol!, supra*, 87 Cal.App.5th at p. 670.) An EIR is intended to serve as an "environmental alarm bell," but the EIR here sounds more like the boy who cried "wolf!" The EIR finds that the proposed Project will result in a wide range of significant and unavoidable impacts to the environment, but it also declares that this finding may simply be a false alarm-that there isn't necessarily anything to be worried about. The EIR provides the public with mixed messages, in effect declaring: "The Project could result in environmental disaster. Or maybe everything will be fine. We just don't know."

The EIR recognizes that its analysis is not premised on a strong factual foundation. For example, the EIR provides:

- "Because it would be speculative to assume the type, size, and location of potential compliance projects, as well as the type of resources impacted, this EIR cannot quantify the impacts associated with the implementation of any specific project, but does recognize the potential for such impacts, and identifies potential mitigation that could be implemented at site-specific projects to avoid such impacts." (EIR, p. S-3.)
- "[E]ven where a source of drinking water is known to be contaminated with hexavalent chromium based on data collected under the prior regulation, it would be speculative to guess the location of a future compliance project to address that contamination." (EIR, p.2-7.)

- “Without attempting to quantify the impacts associated with the implementation of any specific project, the EIR includes a list of potential actions or mitigation measures that could possibly reduce the impact to a less-than-significant level or contribute to doing so. However, because of the programmatic nature of the analysis and because the State Water Board does not have control over how a public water system will ultimately comply with the regulations, including where it would locate site-specific compliance projects, it is uncertain whether the identified mitigation would be effective in reducing the potential impacts for any specific project.” (EIR, p. 3-8.)

In short, the EIR’s analysis concludes that it does not know what the Project’s potential impacts may be, and it does not know whether those impacts could be mitigated to a level of less than significant. This mixed messaging does not promote “informed self-government.” (*Laurel Heights, supra*, 47 Cal.3d at p. 392.) It does not address the concerns of “an apprehensive citizenry” that looks to the lead agency to determine whether the environmental impacts of the Project have been duly considered. (*Ibid.*) In short, the EIR fails to include “enough detail to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.” (*Save Our Capitoll!, supra*, 87 Cal.App.5th at p. 670.)

For these reasons, the EIR fails to comply with CEQA. (*Save Our Capitoll!, supra*, 87 Cal.App.5th at p. 670; *Laurel Heights, supra*, 47 Cal.3d at p. 392.)

2.5.8 Response to Winters Comment 2-4

The City cites to several cases to support its claim that the Draft EIR does not contain sufficient detail to allow for meaningful public understanding and consideration of potential environmental impacts from the Proposed Regulations. All of the cases cited by the City, however, relate to project level EIRs, and not programmatic documents, which is what this document is. As explained in *In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings*, (2008) 43 Cal.4th 1143, 1169:

“A program EIR, as noted, is ‘an EIR which may be prepared on a series of actions that can be characterized as one large project’ and are related in specified ways. (Cal. Code Regs., tit. 14, § 15168, subd. (a).) An advantage of using a program EIR is that it can ‘[a]llow the lead agency to consider broad policy alternatives and program wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts.’ (*Id.*, § 15168, subd. (b)(4).) Accordingly, a *program* EIR is distinct from a *project* EIR, which is prepared for a specific project and must examine in detail site-specific considerations. (*Id.*, § 15161.)” (emphasis in the original)

As noted in the quotations from the Draft EIR cited by the City, it is impossible at this time for the State Water Board to know the type, size, and location of potential compliance projects, as well as the type of resources impacted. The Draft EIR is not able to quantify the impacts associated with the implementation of any specific project.

This is because the State Water Board is unable to know at this point how a public water system will choose to comply with the Proposed Regulations and the location of a future compliance project, what site-specific sensitive resources may be located there, what mitigation measures may be feasible, and what the potential impacts could ultimately be. This is similar to another programmatic EIR prepared by the Central Valley Regional Water Quality Control Board that was upheld by the court of appeal. In *San Joaquin River Exchange Contractors Water Authority v. State Water Resources Control Board*, 183 Cal.App.4th 1110 (2010), the Third District Court of Appeal upheld an EIR prepared for the total maximum daily load (TMDL) for salt/boron. There, fifteen options for implementing the TMDL were analyzed based on their feasibility, cost, flexibility, time to implement and likelihood of success, but recognizing that the decision of how to come into compliance was up to the discharger. The court of appeal quoted the trial court's finding that ". . . CEQA analysis cannot reasonably be performed until the . . . dischargers [individually or collectively] choose the methods and infrastructure they will use to manage irrigation return flows in excess of their TMDL load allocations and apply for required permits to develop and operate management facilities." (*Id.* at 1128.)

The Draft EIR contains the level of specificity required by CEQA for a programmatic document. Section 21159 of the Public Resources Code and section 15187 of the CEQA Guidelines require the State Water Board to prepare an environmental analysis of the reasonably foreseeable methods of compliance when it adopts a regulation requiring the installation of pollution control equipment, or a performance standard or treatment requirement. Section 15187 of the CEQA Guidelines explains that the agency is "not required to conduct a project-level analysis;" that the agency "may utilize numerical ranges or averages where specific data is not available;" and that "the agency is not required to engage in speculation or conjecture." (CEQA Guidelines, § 15187, subs. (d)-(e).) In determining the degree of specificity required in an EIR, the CEQA Guidelines also provide that the "degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR." (CEQA Guidelines, § 15146.) For example, an EIR on a construction project will necessarily be more specific than an EIR on the "adoption or amendment of a comprehensive zoning ordinance or a local general plan. (*Id.*, subs. (a)-(b).)

The EIR for the Proposed Regulations is not a project-level analysis. Rather, it programmatically analyzes the potential environmental impacts from the Proposed Regulations, including the indirect impacts from projects undertaken by entities in the future to comply with the regulation. The degree of specificity currently known with regard to those compliance projects is limited for the following reasons, without limitation: 1) the diversity of possible compliance methods, including multiple types of treatment options and alternatives to treatment, that public water systems may undertake (e.g., installing treatment is substantially different in kind from blending sources or drilling a new well); 2) the compliance methods that public water systems may undertake differ in the type of environmental impacts associated with them; 3) the

discretion on the part of public water systems to choose one or more types of viable compliance methods for their particular system (i.e., the State Water Board does not pick compliance methods for public water systems to implement); and 4) notwithstanding the known location of contaminated wells, the lack of specificity with respect to the location of new infrastructure that public water systems may construct for future compliance projects (e.g., where wells might be treated versus abandoned; where treatment might be located if a public water system is treating multiple sources; where a public water system might decide to drill a new well). See Chapter 3 (particularly section 3.1.4) of the Draft EIR for more discussion about the programmatic nature of the Draft EIR and impact analysis.

Program EIR's are commonly used in conjunction with the process of tiering. (See *Laurel Heights Improvement Assn. v. Regents of University of California*, supra, 47 Cal.3d at p. 399, fn. 8.) Tiering is "the coverage of general matters in broader EIRs (such as on general plans or policy statements) with subsequent narrower EIRs or ultimately site-specific EIRs incorporating by reference the general discussions and concentrating solely on the issues specific to the EIR subsequently prepared." (CEQA Guidelines § 15385.) Tiering is proper "when it helps a public agency to focus upon the issues which are ripe for decision and exclude from consideration issues already decided or not yet ripe." (CEQA Guidelines, § 15385, subd. (b); see also, Pub. Resources Code, § 21093, subd. (a).) In addressing the appropriate amount of detail required at different stages in the tiering process, section 15152, subdivision (c) of the CEQA Guidelines states that:

"[w]here a lead agency is using the tiering process in connection with an EIR for a large-scale planning approval, such as a general plan or component thereof ..., the development of detailed, site-specific information may not be feasible but can be deferred, in many instances, until such time as the lead agency prepares a future environmental document in connection with a project of a more limited geographic scale, as long as deferral does not prevent adequate identification of significant effects of the planning approval at hand." (CEQA Guidelines, § 15152, subd. (c).)

Courts have explained that "[t]iering is properly used to defer analysis of environmental impacts and mitigation measures to later phases when the impacts or mitigation measures are not determined by the first-tier approval decision but are specific to the later phases." (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova*, supra, 40 Cal.4th at p. 431, 53 Cal.Rptr.3d 821, 150 P.3d 709.)

Similar to the use of program EIRs with later activities pursuant to section 15168 of the CEQA Guidelines, section 21159.1 of the Public Resources Code and 15188 of the CEQA Guidelines anticipate site specific environmental effects to be addressed in subsequent documentation by lead agencies for future compliance projects. Those sections explain that after a CalEPA agency, such as the State Water Board, certifies an EIR describing the environmental effects of the reasonably foreseeable means of State Water Resources Control Board

compliance and adopts a regulation requiring the installation of pollution control equipment or a performance standard or treatment requirement, focused EIRs may be prepared for projects consisting solely of the installation of the pollution control equipment and other components necessary to complete the installation of that equipment. (Pub. Res. Code, § 21159.1; CEQA Guidelines, § 15188.) The focused EIRs can be limited to project-specific significant effects that were not discussed in the previous environmental analysis, essentially tiering off of the first EIR. This is what is anticipated to be done when entities, such as the City, develop projects to comply with the hexavalent chromium MCL. (See Draft EIR, p. 2-17, section 2.9 “Agencies That Will Use This Document.”)

This is consistent with what has been permitted in other situations where the details of the specific projects that will be necessary for compliance with a more general plan discussed in an EIR are unknown. For example, in *In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings*, 43 Cal. 4th 1143 (2008), the California Supreme Court, in discussing the appropriate amount of detail required of the sources of water that would be used for the CALFED program, noted that because the joint federal and state programmatic environmental impact statement/report (PEIS/R) was a programmatic document, it was not necessary for the EIR to identify specific sources of water with certainty, and instead it was sufficient to evaluate in general terms the potential environmental effects of supplying water from potential sources. (*Id.* at 1171.) “[T]he sources of water actually used depend on future decisions between willing buyers and sellers. It is therefore impracticable to foresee with certainty specific sources of water and their impacts.” (*Id.* at 1172.) Because the degree of specificity involved in the underlying activity that is described in the Draft EIR is limited, the degree of specificity required for the Draft EIR is necessarily limited too.

Nevertheless, the Draft EIR makes a good-faith effort to identify, analyze, and disclose the potential environmental impacts of the Proposed Regulations. The Draft EIR includes known locational information on contaminated sources; identifies the reasonably foreseeable methods of compliance with the Proposed Regulations; describes the technical characteristics of those methods of compliance; considers the environmental settings of locations with contaminated sources; and discusses the potential environmental impacts from compliance projects undertaken by public water systems in the future.

2.5.9 Winters Comment 2-5

3. The EIR abdicates its responsibility to analyze the potential environmental impacts of the Project by finding nearly every impact to be “significant and unavoidable” without reference to any standard of significance.

“The purpose of an environmental impact report is to identify the significant effects on the environment of a project, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided.” (Pub. Resources

Code, § 21002.1(a).) To further this purpose, the lead agency must disclose the “analytic route” between its conclusion that an impact may have a potentially significant impact on the environment and its conclusion of whether, and to what extent, the impact can be mitigated. (*Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 654.)

A lead agency does not satisfy its responsibility under CEQA by merely reaching a conclusion regarding whether a proposed project may have a significant and unavoidable impact on the environment. (*Lotus, supra*, 223 Cal.App.4th at p. 654.) Instead, a lead agency must (1) set forth the standard of significance by which it will determine whether a proposed project will have a significant impact on the environment; (2) provide analysis demonstrating whether the proposed project will exceed that standard of significance; (3) propose mitigation to reduce the proposed project’s potentially significant impact on the environment; and (4) analyze the extent to which that mitigation will reduce the potentially significant impact. (*Id.* at pp. 655-658; see also Pub. Resources Code, § 21100(b).)

The EIR fails to meet any of the above criteria. For example, in its analysis of whether the proposed Project could violate any air quality standard or contribute substantially to an existing or projected air quality violation, the EIR provides no factual analysis. Instead, the EIR refers the public to its roughly one-page analysis of whether the proposed Project would conflict with or obstruct implementation of any applicable air quality plan. (EIR, p. 6-9.) The EIR’s analysis of whether the proposed Project would conflict with or obstruct implementation of the applicable air quality plan, however, is not based on, and does not reference, any threshold of significance. (See EIR. Pp. 6-7 through 6-9.)

Without any threshold of significance to guide its significance determination, the EIR does not and cannot include any factual analysis demonstrating whether the proposed Project will exceed any threshold of significance. Moreover, while the EIR proposes mitigation measures, it does not analyze whether and to what extent this mitigation could reduce the potentially significant impact. The EIR ultimately concludes that the proposed Project may result in a significant and unavoidable air quality impact, but this conclusion is based on conjecture, not facts. (*King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 838 [public agency violates CEQA and abuses its discretion when its determination is not supported by substantial evidence]; see also Pub. Resources Code, § 21168.5.)

In sum, the EIR violates CEQA by failing to measure the proposed Project’s potential impacts against any threshold of significance, and by further failing to quantitatively analyze whether the mitigation measures identified could reduce the proposed Project’s potential impacts to a level of less than significant. The EIR is littered with conclusions of “significant and unavoidable impacts,” but the EIR fails to disclose the “analytic route” taken to reach these conclusions. (*Lotus, supra*, 223 Cal.App.4th at p. 654.)

2.5.10 Response to Winters Comment 2-5

The Draft EIR uses standards of significance from Appendix G to the CEQA Guidelines, and in section 15065 of the CEQA Guidelines. As explained in Practice Under the California Environmental Quality Act, “many lead agencies use the standards in Appendix G as a basis for defining standards of significance in an EIR.” (1 Kostka & Zischke, Practice Under the Cal. Environmental Quality Act (Cont. Ed. Bar 2d ed. 2008) Significant Environmental Effects § 13.15, p. 13-19 (rev. 3/23).) As an example, Chapter 6 of the DEIR relating to impacts to air quality considers no fewer than six thresholds of significance. The DEIR describes the possible sources of air contaminants from future compliance projects, including from both construction and operation, and proposes mitigation measures that proponents of site-specific compliance projects may undertake to reduce impacts to less than significant.

As noted previously, as a programmatic document, it is impossible at this time for the State Water Board to know what types of projects that the public water systems will implement to come into compliance, what site-specific sensitive resources may be located there, what mitigation measures may be feasible, and what the potential significant environmental impacts could ultimately be. It would be speculative at this time to quantify the air quality impacts from future site-specific compliance projects, and to evaluate how mitigation measures would reduce those impacts quantitatively because compliance projects are not currently known, let alone with a level of detail required to assess quantitatively the emissions of air contaminants. Rather, the Draft EIR makes a good-faith effort to disclose potential impacts to air quality (and other resources) from the reasonably foreseeable methods of compliance and proposes mitigation measures that future project proponents and approving agencies may impose to reduce those impacts. However, because the ability to implement mitigation measures is within the purview of the CEQA lead and responsible agencies, and not the State Water Board at this time, there is inherent uncertainty in the degree of mitigation that may be ultimately implemented to reduce significant impacts, and therefore the Draft EIR considers the impacts from future compliance projects to be potentially significant and unavoidable.

2.5.11 Winters Comment 2-6

4. The EIR must analyze how the economic impacts of compliance with the MCL could result in physical impacts on the environment.

The EIR must serve as an informational document that will inform public agency decisionmakers and the public generally of the significant environmental effects of the Project, identify possible ways to mitigate the Project's significant effects, and describe reasonable alternatives to the Project. (State CEQA Guidelines, § 15121(a).) To achieve this purpose, the EIR must analyze how the economic impacts of compliance with the MCL could result in physical impacts on the environment. (State CEQA

Guidelines, § 15382 ["economic change related to a physical change may be considered in determining whether the physical change is significant"].)

The cost of compliance with the MCL for chromium-6 would shape the behavior of both water agencies and ratepayers, and the environmental impacts of this reasonably foreseeable behavior must be analyzed in the EIR. To do so, the EIR must analyze and discuss the costs of complying with the MCL, and how activity in response to such costs could potentially impact the environment.

2.5.12 Response to Winters Comment 2-6

Social and economic changes must be addressed under CEQA if they will cause changes in the physical environment. (CEQA Guidelines, § 15131.) But an economic or social change by itself is not considered a significant effect on the environment. (CEQA Guidelines, §§ 15064, subd. (e), 15131, 15382; *Friends of Davis v. City of Davis* (2000) 83 Cal.App.4th 1004, 1019.) In *City of Davis*, the court noted that physical changes in the environment caused by economic and social factors attributable to a project would be an indirect physical change in the environment, and an indirect physical change may be considered only if it is reasonably likely to occur. (*Id.* at 1020; CEQA Guidelines, § 15064, subds. (d)(2) and (d)(3).) A change that is speculative or unlikely to occur is not reasonably foreseeable, and a determination that a project may have significant environmental effects must be based upon substantial evidence. (*Id.*; CEQA Guidelines, § 15064, subd. (f).) The existence of a public controversy is not substantial evidence. (*Id.*; CEQA Guidelines, § 15064, subd. (f)(4).) "Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion support[ed] by facts." (*Id.*; Guidelines, § 15064, subd. (f)(5).)

Although the cost of compliance may influence how the public water systems choose to come into compliance (e.g. treatment via ion exchange versus reduction-coagulation-filtration), the City's concerns about impacts caused by cost are purely speculative and not supported by reasonable assumptions predicated upon facts or expert opinion supported by facts.

2.5.13 Winters Comment 2-7

The City provides a non-exhaustive list of examples of how behavior responding to the cost of the MCL could result in a potentially significant impact on the environment.

(1) Shift from groundwater usage to surface water usage. While the City does not have this option, the high cost of compliance with an overly stringent MCL could cause water agencies to shift from groundwater usage to surface water usage, and the EIR must analyze the potential environmental impacts of this reasonably foreseeable shift, as further discussed in section 5 of this comment letter below. Notably, Yolo County water

agencies have already made this shift. The shift to surface water usage would have numerous deleterious impacts on the environment, including decreased in-stream flows and adverse impacts to fish and wildlife.

2.5.14 Response to Winters Comment 2-7

As discussed in section 2.6.3.3 of the Draft EIR, it is not expected that systems that do not currently have access to surface water will switch to surface water as a result of the Proposed Regulations. It states, "...it is not reasonably foreseeable that water systems will develop [new] surface water sources as an alternative means of complying with the proposed regulation." In part, this is related to the fact that for many systems the distance from a surface water source prohibits its use. In addition, even for systems that are located near a surface water body, obtaining surface water could be challenging because many streams are fully appropriated by existing water right holders and purchased water may not be a reliable, long-term solution. Second, constructing a surface water treatment plant is a more expensive undertaking than installing a treatment system for hexavalent chromium at a groundwater well. For example, the State Water Board provided in excess of \$250 million for the Davis Woodland Water Supply Project, which was driven not just by improving water quality, but also ensuring future reliability of supply to meet future needs and improving the water quality of treated wastewater effluent. (City of Davis 2007, p. 2-8) By comparison, it was estimated that groundwater treatment for a public water system serving about the same number of connections as the Woodland, Davis, and UC Davis systems would be approximately four-million dollars. (See Attachment 5 of SRIA, Cost Estimates for Individual Sources, p. 3, source ID #99.)² In addition, surface water treatment is significantly more complex than treatment of groundwater and will result in much higher operation and maintenance costs.

Section 2.6.3.3 of the Draft EIR estimates there are around 30 public water systems that have existing surface water sources that could theoretically rely on increased surface water usage to comply with the Proposed Regulations because they currently use surface water to some degree. The Draft EIR notes that for these systems, it may be possible to increase reliance on surface water and reduce or cease use of groundwater contaminated with hexavalent chromium. The EIR recognizes that if systems with existing surface water treatment are able to switch from reliance on groundwater to use more surface water, there could be potential impacts related to that switch. These impacts were discussed in a number of areas of the Draft EIR, including in sections 3.2.3.3, 4.4.4, 6.4.1, 7.4.1, 12.4.1, 13.4.1, 20.3.3, 22.3.1, 22.3.2, and 26.3, and included the recognition that increased reliance on surface water could impact the amount of water in that surface water body, potentially impacting fish and other aquatic and wetland resources. However, it is too speculative at this point for the State Water Board to be able to know which systems might increase reliance on surface water instead of

² City of Davis has 17,320 connections; Woodland has 17,032, and UC Davis has 696.

installing treatment, and no additional discussion is required as the precise nature of any impact on any specific water body is too speculative at this point in time. (See *In re Bay-Delta*, 43 Cal. 4th 1143, 1170 (“Because it is a first-tier, program EIR, the CALFED PEIS/R does ‘not analyze site-specific impacts of future projects at proposed locations.’”); *Id.* at 1173 (“[T]his stage of program development did not require a more detailed analysis of the Program’s future water sources, nor did it appear practicable.”) See also 2.5.22, below, “Response to Winters Comment 2-11.”

2.5.15 Winters Comment 2-8

(2) Increased dependency on surface waters would increase the need for water storage. The MCL could spur a wave of reasonably foreseeable water storage and conveyance projects, as water agencies increasingly use surface waters to avoid the costs of compliance with the MCL. The EIR must analyze and mitigate the environmental impacts of these projects, including impacts on air quality, water quality, and biological resources. Moreover, the need for water storage may require flooding large areas of land to store water, and the environmental impacts of transforming the environment in this manner must be analyzed.

2.5.16 Response to Winters Comment 2-8

As explained in Response 2-7, above, it is not likely that increasing use of surface water is a realistic option for systems that do not already have surface water rights. In addition, it is too speculative that an increase in surface water use by public water systems will result in the construction of additional surface water storage and conveyance projects. The cost of constructing additional surface water storage and conveyance projects would dwarf the cost of treating groundwater, and can be highly controversial, making the switch to surface water uneconomical and therefore improbable. For example, the California Water Commission estimates the Sites reservoir could be 4 billion dollars.³ Therefore, the Draft EIR does not analyze construction of additional surface water storage and conveyance projects because they are not a reasonably foreseeable consequence of the adoption of the Proposed Regulations.

2.5.17 Winters Comment 2-9

(3) The EIR must analyze the reasonably foreseeable environmental impacts of the Project resulting from increased rates to ratepayers. The cost of compliance with a MCL of 10 ppb would shape not only the behavior of water agencies, but also of ratepayers who could face dramatic increases in monthly costs as a result of their water agencies’ efforts to comply with the MCL. For example, economically vulnerable ratepayers unable to afford these increased costs may be forced to migrate from a service area with high MCL compliance costs to a service area that either has lower such costs or an

³ <https://cwc.ca.gov/Water-Storage/WSIP-Project-Review-Portal/All-Projects/Sites-Project>

area that is better able to distribute such costs among a greater number of ratepayers. This migration is a reasonably foreseeable response to higher water rates, and the environmental effects of such migration must be analyzed in the EIR. These impacts may include (1) rural blight, as ratepayers in smaller service areas with high MCL compliance costs migrate to more metropolitan service areas, where the costs of such compliance can be distributed among a larger population; (2) VMT associated with such migration; (3) air quality and greenhouse gas impacts related to such migration; and (4) substantial unplanned population growth in areas with lower MCL compliance costs and the displacement of substantial numbers of people in areas with high MCL compliance costs.

2.5.18 Response to Winters Comment 2-9

The State Water Board is not aware of any evidence that an increase in water bills will lead to a migration of ratepayers with consequent impacts on the physical environment. The comment cites no evidence to support the claim and is therefore speculative.

As the Initial Statement of Reasons (ISOR) for the Proposed Regulations explains, the impact to people from rate increases is expected to be relatively small: the median monthly cost increases for 94% of the 5.3 million people affected by a hexavalent chromium MCL of 10 ug/L are calculated to be less than \$20. (ISOR, p. 51.) People served by small community water systems could face significant rate increases, however.

For example, persons served by the two smallest categories of community water systems – those systems that serve fewer than 100 service connections, and those systems that serve between 100 and 200 service connections – could face an annual increase in their annual drinking water rates of \$1,622 and \$808, respectively (SWRCB 2023b; Cost Table 9.2A, “Estimated Annual Cost per Service Connection by Water System Size”). In practice, these ratepayers may not experience the estimated rate increases because the economic impact analysis in the ISOR is based on conservative assumptions (ISOR, p. 41). For example, the systems that serve them may pursue less expensive alternatives to centralized treatment, such as point-of-use or point-of-entry treatment or consolidation with a nearby water system (ISOR, p. 41; See also “Hexavalent Chromium Maximum Contaminant Level Consolidation and Alternatives Analysis” (SWRCB 2024) (looking at potential numbers of systems that could potentially consolidate or blend to address hexavalent chromium). If these ratepayers do experience significant rate increases, there is no evidence that they will relocate to a different part of the state. Even if they do, the impact would not be significant because of the small number of people affected and their distribution throughout the state. The two size categories of systems described above serve 15,631 people in the entire state. (SWRCB 2023b; Cost Table 10.1A, “Estimated Total Number of People Served by Water System Size.”) It is improbable that up to 15,631 people moving within the state

would cause rural blight, significant increases in VMT, air quality and greenhouse gas impacts, or substantial unplanned population growth.

In fact, people are more likely to move within the state due to the contamination of their water supply with hexavalent chromium. By requiring public water systems to meet the proposed MCL, the Proposed Regulations would allow people who are concerned about safety of their drinking water to remain in their existing homes, rather than move to the service area of a public water system unaffected by hexavalent chromium. For example, the population of Hinkley, California “has been dwindling for years as the community has struggled with concerns over the cancer causing chromium-6 in residential wells.” (Steinberg, Jim, “Hinkley Continues to Shrink,” March 18, 2015, San Bernardino Sun.)

2.5.19 Winters Comment 2-10

The above-referenced impacts do not appear to be analyzed in the EIR. The City urges the State Water Board to recirculate the EIR to analyze and mitigate these impacts in order to comply with CEQA.

2.5.20 Response to Winters Comment 2-10

As described in the responses to Comments 2-7, 2-8, and 2-9, above, the above-referenced impacts are speculative. There is no evidence to suggest that the impacts identified in the comments would result from the Proposed Regulations. Therefore, the Draft EIR does not analyze them, and recirculation is not required.

2.5.21 Winters Comment 2-11

5. The EIR fails to analyze or mitigate the Project's potential to force water agencies to shift from groundwater to surface water and the potential environmental impacts that may result from this shift.

A lead agency fails to comply with CEQA when its EIR does “not discuss the impact of new surface water diversions, enforceable measures to mitigate those impacts, or the remaining unmitigated impacts.” (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 444 [Supreme Court held that lead agency’s failure to properly analyze project’s impacts on surface water violated CEQA]; see also *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal. App.4th 645, 664 [lead agency violated CEQA where it “fail[ed] to adequately analyze impacts to surface water”].)

In response to the Notice of Preparation (“NOP”) of the EIR, many public agencies commented that the proposed Project would cause water agencies to shift from groundwater usage to surface water usage. (See EIR, Appendix B [NOP Comment Letters].) CEQA requires the EIR to analyze the potential environmental impacts of this reasonably foreseeable shift (including impacts relating to decreased in-stream flows

and adverse impacts to fish and wildlife), and to mitigate the impacts of this shift. (See Pub. Resources Code, § 21159(a).)

The EIR identifies “switching to surface water” as a reasonably foreseeable means of complying with the proposed MCL. (See, 7-7-.g., EIR. pp. S-3, I-1, 2-7 through 2-8, 2-15 [recognizing water agencies may “increase their reliance on surface water and reduce or cease using the groundwater supply contaminated by hexavalent chromium”].) The EIR, however, fails to analyze any potential environmental impacts that may result from this increased reliance on surface water. The EIR does not analyze the Project’s potential impact to result in decreased in-stream flows, nor does it analyze potential adverse impacts to fish and wildlife that may result from increased reliance on surface water.

While the EIR recognizes that increased reliance on surface water is a reasonably foreseeable means of complying with the proposed MCL, the EIR fails to analyze any of the potential direct, or reasonably foreseeable indirect, impacts to the environment that may result as a result of this action. This renders the EIR fatally flawed under CEQA, and the EIR must therefore be revised and recirculated to address this issue. (See, e.g., *Vineyard Area Citizens for Responsible Growth, Inc.*, *supra*, 40 Cal.4th at p. 444.)

2.5.22 Response to Winters Comment 2-11

Section 2.6.3.3 of the Draft EIR recognized that some water systems may choose to switch to surface water that is not contaminated with hexavalent chromium; however, the State Water Board concluded that this would not be an option for many systems. Of the public water systems that the State Water Board had data indicating that they would exceed the MCL for hexavalent chromium, only about 30 public water systems currently use both groundwater and surface water. For these systems, it may be possible to increase their reliance on surface water and reduce or cease using groundwater with hexavalent chromium above the MCL. This is because the infrastructure already exists for these systems to use surface water. However, water systems without existing surface water rights, the ability to contract for an additional source of water, or an existing surface water treatment plant are unlikely to switch to surface water. First, for those that are located close enough to a surface water source to make this an option, obtaining water rights or a long-term contract for surface water could be challenging. Many streams are fully appropriated, and finding a reliable, long-term source of surface water would be challenging. Second, construction and operation of a surface water treatment plant is a more expensive undertaking than installing and operating a treatment system for hexavalent chromium at a groundwater well.

The EIR recognizes that if systems with existing surface water treatment are able to switch from reliance on groundwater to use more surface water, there could be potential impacts from increased use of surface water. These impacts were discussed in a number of areas of the Draft EIR, including in sections 3.2.3.3, 7.4.1, 13.4.1, 22.3.2, and 26.3, and included the recognition that increased reliance on surface water could impact

the amount of water in that surface water body, potentially impacting fish and other aquatic and wetland resources. However, it is too speculative at this point for the State Water Board to be able to know which systems might increase reliance on surface water instead of installing treatment. As noted previously, there are very few systems that rely on both surface and groundwater, and of those systems, it is uncertain which would be able to switch to a heavier reliance on surface water. Without more information available, potential impacts to fish and wildlife are too speculative at this stage in the environmental review process. Once a system decides that it would be relying more heavily on surface water for compliance with the MCL, the specific environmental impacts of that decision can be assessed at that time.

Even the *Vineyard* case cited by the City supports this position that the need to address certain impacts depends on where one is in the planning process when the analysis is being made. In the *Vineyard* case, the California Supreme Court considered when, and with how much certainty, sources of water for a large development must be identified. There the court noted “the burden of identifying likely water sources for a project varies with the stage of project approval involved,” and that the level of uncertainty allowed at early stages of planning was different than what was required under law for subdivision approval. (*Id.* at 437 [noting CEQA does not demand such certainty at relatively early planning stage].) The analysis in the Draft EIR related to the potential expansion of surface water use is as detailed as is feasible at this point in time, without knowing which, if any, of the public water systems would increase their reliance upon surface water. As the court noted in *Rio Vista Farm Bureau Center v. County of Solano* (1992) 5 Cal. App. 4th 351, 373, “where, as here, an EIR cannot provide meaningful information about a speculative future project, deferral of an environmental assessment does not violate CEQA.”

2.5.23 Winters Comment 2-12

6. The State Water Board, as Lead Agency, must take responsibility to mitigate the Project’s potential impacts to the environment.

A fundamental purpose of an EIR is to identify ways in which a proposed project’s significant environmental impacts can be mitigated or avoided. (Pub. Resource Code, § 21002.1(a), 21081(a)(1).) “A gloomy forecast of environmental degradation is of little or no value without pragmatic, concrete means to minimize the impacts and restore ecological equilibrium.” (*Environmental Council of Sacramento v. City of Sacramento* (2006) 142 Cal.App.4th 1018, 1039.)

The EIR here provides a gloomy forecast of environmental degradation, concluding that the Project will result in a significant and unavoidable impact as to nearly every resource analyzed. Yet, the EIR fails to properly mitigate these significant and unavoidable impacts. State CEQA Guidelines section 15126.4 sets forth the State Water Board’s responsibility as lead agency to commit to mitigation measures:

Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures shall not be deferred until some future time. The specific details of a mitigation measure, however, may be developed after project approval when it is impractical or infeasible to include those details during the project's environmental review provided that the agency (1) commits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the types of potential actions that can feasibly achieve that performance standard and that will be considered, analyzed, and potentially incorporated in the mitigation measure.

(State CEQA Guidelines, § 15126.4(a)(1)(8), emphasis added.)

None of the mitigation measures proposed in the EIR comply with the above standards.

First, the State Water Board has not committed itself to any mitigation. The State Water Board has not even considered what steps that it--as opposed to agencies tasked with complying with the proposed MCL--could take to mitigate potential impacts to the environment. For example, compliance with the proposed MCL could result in significant economic burden to responsible agencies, and as various agencies commented in response to the NOP, there are significant impacts to the environment that could result from this economic burden. (State CEQA Guidelines, § 15382 ["economic change related to a physical change may be considered in determining whether the physical change is significant"].) The State Water Board, however, has not discussed how it could provide funding, grants, or subsidies to responsible agencies to mitigate potential impacts to the environment. State funding is the linchpin to achieve an economically feasible MCL. Without a specific and enforceable commitment from the State Board on funding, the economic feasibility analysis and the EIR are deficient.

Again, the State Water Board has not committed to any mitigation at all. The EIR must be revised so that the State Water Board itself commits to mitigation so that the burden of the State Water Board's proposed Project does not fall squarely on the responsible agencies required to implement the Project. (State CEQA Guidelines, § 15126.4(a)(1)(B).) The State Water Board has an integral part to play in mitigating the impacts of its Project. By not taking responsibility to mitigate impacts that it can control, the State Water Board violates CEQA.

2.5.24 Response to Winters Comment 2-12

The State Water Board is lead agency for adoption of the Proposed Regulations but is not usually the CEQA lead agency for compliance projects. Where a publicly owned public water system undertakes a compliance project, that public water system is the lead agency under CEQA. Where a privately-owned public water system undertakes a compliance project, the lead agency will normally be the public agency with general

governmental powers (such as a city or county), or the agency that acts first. (CEQA Guidelines, § 15051.) The State Water Board normally does not act first on a compliance project because its permits are for the updated operations of the public water system (Health & Saf. Code, § 116525, subd. (a).) Thus, other public agencies will normally act first to approve plans, or issue land use or construction permits for the compliance project. Because the State Water Board is not implementing the compliance projects, and is usually not the CEQA lead agency for compliance projects, it is not able to require implementation of mitigation measures to reduce project-level impacts at the time it adopts the Proposed Regulations. PWS undertaking compliance projects and public agencies approving them as lead agencies will be able to impose site specific mitigation measures.

The City's comment regarding the sufficiency of the mitigation measures again loses sight of the fact that this is a programmatic document, and because of the uncertainty in how public water systems will ultimately decide to comply with the hexavalent chromium MCL, is not intended to address the potential impacts from any specific project. As the court in *Rio Vista Farm Bureau Center v. County of Solano* recognized in addressing the sufficiency of mitigation measures for a programmatic environmental document for a hazardous waste management plan, a general statement of mitigation measures is consistent with the general nature of the plan. "Any further and more detailed statement of mitigation measures at this formative stage in the County's hazardous waste disposal plan would have been neither reasonably feasible nor particularly illuminating." (*Rio Vista Farm Bureau Center v. County of Solano* (1992) 5 Cal. App. 4th 351, 377.) Here, for each resource category, a number of potential mitigation measures are identified to address the potential impacts from implementation of activities to come into compliance with the hexavalent chromium drinking water standard. However, until a specific project is identified to be implemented in a specific place, it is impossible to know what the potential impacts would be, let alone what potential mitigation measures would address those impacts. As the court in *Rio Vista Farm Bureau* recognized, any vagueness in the mitigation measures described in the environmental document is inherent in the discussion of general, county-wide impacts in a planning program that has not approved a particular site or facility for development. "Thus, many specific mitigation measures can only be 'recommended' until a specific facility is proposed." (*Id.* at 381.) "A broader discussion and implementation of mitigation measures and alternatives is simply not currently reasonably foreseeable." (*Id.* at 382.)

The City suggests that the State Water Board should commit to providing funding in order to mitigate the potential impacts of the regulations. The City's comment, however, does not identify a connection between the cost of compliance by public water systems and environmental impacts from the Proposed Regulations. As the EIR identifies, the potential environmental impacts of the proposed regulations relate to the construction and operation of the potential compliance projects that would be implemented to come into compliance with the drinking water standard for hexavalent chromium. Although the potential costs of such projects may influence how a public water system chooses to

come into compliance, the City has not identified any realistic environmental impact related to the cost of the compliance projects themselves. The DEIR is not required under CEQA to identify mitigation measures for economic or social impacts of the Proposed Regulations. (*City of Hayward v. Trustees of California State University* (2015) 242 Cal.App.4th 833 [rejecting trial court's finding that Calif. State University Trustees were required to mitigate impact on fire services by funding construction and staffing of additional fire house, explaining that, "[t]he need for additional fire protection services is not an *environmental* impact that CEQA requires a project proponent to mitigate." (*Id.* at 843 [italics in original]).) A mitigation measure that commits the State Water Board to provide funding for compliance projects would not, therefore, do anything to address the impacts of the compliance projects, which are related to the construction and operation of the compliance projects, and would be the same whether or not the State Water Board provided funding.

2.5.25 Winters Comment 2-13

Second, while the EIR sets forth mitigation measures as to nearly every impact, the EIR does not specify any specific performance standards for any of the identified mitigation measures. (State CEQA Guidelines, § 15126.4(a)(1)(B).)

2.5.26 Response to Winters Comment 2-13

The provision in section 15126.4, subdivision (a)(1)(B) that allows performance standards in lieu of setting out the specific details of a mitigation measure when it is infeasible to include those details only applies where the lead agency has the ability to implement future mitigation measures. As noted above, until there are specific projects proposed by the public water systems, there is no way to determine which mitigation measures would be able to mitigate impacts. As described in the Draft EIR, the number, type, nature, and location of future compliance projects are not currently known. Therefore, it is impossible to know with specificity at this time the impacts from future compliance projects and how those impacts will be mitigated. The issue is not one of impracticality or infeasibility of including the specific details of a mitigation measure in the EIR; rather, the issue is knowing which mitigation measures, generally, would be appropriate at all. Therefore, because of the programmatic nature of the analysis, the EIR takes a conservative approach and recognizes the potential for impacts to the environment, depending on how a public water system decides to come into compliance and where the compliance projects are located. The EIR includes best practices and suggested mitigation measures for public agencies to consider when approving future compliance projects. (See *Rio Vista Farm Bureau Center*, *supra*, 5 Cal. App. 4th at 382 [explaining that specific mitigation measures can only be 'recommended' until a specific project is proposed].)

This situation is distinct from those cases where lead agencies will themselves be implementing the future projects, and, therefore, have the capability to develop and incorporate into future actions performance standards, when it is impractical or

infeasible to include specific mitigation measures during the project's environmental review. (CEQA Guidelines, § 15126.4(a)(1)(B).) For example, in *Center for Biological Diversity v. Department of Fish & Wildlife*, 234 Cal. App. 4th 214 (2015), the Department of Fish and Wildlife (DFW) prepared a programmatic EIR to look at its fish hatchery and stocking activities in various lakes throughout the state. In it, the Department committed to performance standards that it must meet before planting any fish in high mountain lakes. This is distinct from the situation here, where the State Water Board will not be implementing future compliance projects, and therefore cannot commit to performance standards for the projects that public water systems will implement. The State Water Board does not know what specific actions each public water system will take to come into compliance with the regulations, and the State Water Board may not have any opportunity to set or require mitigation measures for those projects. (See 2.5.24 Response to Winters Comment 2-12, explaining how State Water Board will generally not be lead agency for compliance projects.) Similarly, because of this inability to know how the public water system will comply, where the project will be located, what types of sensitive resources are located in the location of the project, and what mitigation measures would be feasible, it is also impossible to set performance standards to be met in lieu of mitigation measures.

2.5.27 Winters Comment 2-14

Nor does the EIR explain why or how implementation of the mitigation measures will substantially lessen the Project's significant and unavoidable impact. The EIR identifies a significant and unavoidable impact, and identifies mitigation measures, but fails to analyze or explain the relationship between the mitigation measures and the significant and unavoidable impact. This defect infects the discussion in nearly every section of the EIR.

2.5.28 Response to Winters Comment 2-14

As explained previously, it is impossible at this time for the State Water Board to know how public water systems will comply with hexavalent chromium standard. Because of that inability to know the specifics of future compliance projects, it is not possible to analyze or explain how the suggested mitigation measures will reduce significant environmental impacts. Because of this, when identifying potential impacts and mitigation measures, the State Water Board took the conservative approach and recognized impacts as being potentially significant and unavoidable. Although it is anticipated that potential significant environmental impacts related to site-specific compliance projects could be avoided or mitigated, the ability to require those changes or that mitigation be implemented is within the capacity of the lead and responsible agencies that will be authorizing the site-specific projects, not with the State Water Board at this time.

2.5.29 Winters Comment 2-15

Third, and related to the point above, the EIR does not identify the types of potential actions that can feasibly achieve the performance standard. (State CEQA Guidelines, § 15126.4(a)(1)(B).) Again, this is because the EIR simply does not identify any performance standards. As a result, the EIR does not explain to what extent or how the mitigation measures will substantially reduce impacts. This defect is fatal to the adequacy of the EIR.

2.5.30 Response to Winters Comment 2-15

As described above in Response 2-13, the Draft EIR does not identify performance standards for mitigation. This is not because the State Water Board is deferring formulation of the specific details of future mitigation measures. Rather, it is not possible at this time to know which mitigation measures, generally, would be appropriate at all. In addition, mitigation measures will generally be devised and implemented by other public agencies acting as CEQA lead agencies for future compliance projects. Accordingly, the EIR need not identify types of potential actions that can feasibly achieve performance standards for mitigation.

2.5.31 Winters Comment 2-16

7. The EIR fails to properly analyze the proposed Project's cumulative impacts.

A proper analysis of a project's cumulative impacts is a "vital informational function" of CEQA. (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214.) "[A] cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts." (*Ibid.*; State CEQA Guidelines, § 15130(a).) More specifically, the "cumulative impact from several project projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects." (*Bakersfield Citizens for Local Control, supra*, 124 Cal.App.4th at p. 1214.) "Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." (*Ibid.*; State CEQA Guidelines, § 15355(b).)

"Proper cumulative impact analysis is vital because the full environmental impacts of a proposed project cannot be gauged in a vacuum." (*Bakersfield Citizens for Local Control, supra*, 124 Cal.App.4th at p. 1214.) "One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources." (*Ibid.*) These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact." (*Ibid.*)

To have an adequate discussion of significant cumulative impacts, an EIR must generally begin by setting forth a "list of past, present, and probable future projects

producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency." (State CEQA Guidelines, § 15130(b)(1)(A).)

Here, the EIR fails to properly analyze the proposed Project's cumulative impacts for several reasons.

First, the EIR does not include the necessary "list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency." (State CEQA Guidelines, § 15130(b)(1)(A).) This list should include both (1) past, present, and probably future MCLs for various contaminants that the State Water Board has adopted or plans to adopt; and (2) the various means by which the implementing agencies will implement the MCL for chromium-6 in connection with the proposed Project.

2.5.32 Response to Winters Comment 2-16

Section 3.5.1 of the Draft EIR includes a list of past, present, and probable future projects producing related or cumulative impacts. Section 3.5.1.1 includes 82 previously adopted MCLs, compliance with which requires public water systems to install treatment facilities or implement alternative means of compliance that are similar to the reasonably foreseeable means of compliance with the Proposed Regulations. Section 3.5.1.2 includes probable future drinking water regulations that may similarly result in installation of treatment facilities or implementation of alternative means of compliance, including regulations pertaining to arsenic, perfluorooctanoic acid and perfluorooctanesulfonic acid, N-Nitroso-dimethylamine, styrene, and cadmium. In addition, section 3.5.1.2 includes contaminants currently under review by the OEHHA, including 1,4-dioxane, trihalomethanes, halo acetic acids, and cyanotoxins, for which MCLs could be adopted in the future. Section 3.5.1.3 includes consolidation projects (a reasonably foreseeable means of compliance with the Proposed Regulations) that are funded or ordered by the State Water Board in connection with its Safe and Affordable Funding for Equity and Resilience Program, including 172 previous consolidations, 11 current voluntary consolidations, and six mandatory consolidations. Section 3.5.1.4 describes projects funded by the State Water Board's Drinking Water State Revolving Fund and Related Funding Programs, including 504 previous drinking water infrastructure projects, 15 projects funded during the state fiscal year 2018-2019 and 34 projects funded during state fiscal year 2019-2020, and 35 projects on the fundable list for the state fiscal year 2021-2022. The Updated 2022-23 DWSRF Intended Use Plan Fundable List (as of June 30, 2023) includes 80 drinking water construction projects and 31 drinking water planning projects.

2.5.33 Winters Comment 2-17

Second, the State Water Board recognizes that there are existing MCLs for other contaminants, and that the State Water Board is in the process or plans to adopt MCLs for a series of other contaminants, including arsenic, perfluorooctanoic acid and

perfluoroalkyl substances, n- nitroso-dimethylamine, styrene, and cadmium. ([https://www.waterboards.ca.gov, drinking_water/ certlic/drinkingwater/Regulations.html](https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/Regulations.html) [setting forth existing MCLs adopted by State Water Board], <https://www.waterboards.ca.gov/drinkingwater/certlic/drinkingwater/Regulations.html> [setting forth planned future MCLs].) The cumulative economic and environmental impacts of requiring public agencies to comply with these past, present, and probably future MCLs must be analyzed in the EIR. This cumulative impacts analysis is a fundamental prerequisite to CEQA compliance because "consideration of the effects of a project or projects as if no others existed would encourage the piecemeal approval of several projects that, taken together, could overwhelm the natural environment and disastrously overburden the man-made infrastructure and vital community services." (*Bakersfield Citizens for Local Control, supra*, 124 Cal.App.4th at pp. 1214-1215.) "This would effectively defeat CEQA's mandate to review the actual effect of the projects upon the environment." (*Ibid.*)

2.5.34 Response to Winters Comment 2-17

Section 3.5.1.2 of the Draft EIR includes probable future drinking water regulations that may similarly result in installation of treatment facilities or alternative means of compliance, including regulations pertaining to arsenic, perfluorooctanoic acid and perfluorooctanesulfonic acid, N-Nitroso-dimethylamine, styrene, and cadmium. In addition, section 3.5.1.2 includes contaminants currently under review by the OEHHA, including 1,4-dioxane, trihalomethanes, halo acetic acids, and cyanotoxins. The Draft EIR considers the potential environmental impacts from projects undertaken by public water systems to comply with these possible future regulations in Section 4.4.5, Section 5.4.6, section 6.4.6, section 7.4.7, section 8.4.4, section 9.4.3, section 10.4.7, section 11.4.3, section 12.4.9, section 13.5, section 14.3.3, section 15.4.3, section 16.3.4, section 17.4.3, section 18.3.2, section 19.3.3, section 20.3.5, section 21.4.2, section 22.3.6, and section 23.4.5. The Draft EIR does not need to analyze economic impacts of public water systems complying with past, present, and probable MCLs, except to the extent that economic impacts from the Proposed Regulations will cause environmental impacts. (CEQA Guidelines, § 15382.) Here, the commenter does not allege or provide evidence that the Proposed Regulations will cause economic impacts that significantly affect the physical environment, or that such impacts are cumulatively considerable.

2.5.35 Winters Comment 2-18

Finally, the State Water Board has an obligation to not only analyze the cumulative impacts of the Project taken together with past, present, and probable future MCLs for other contaminants, but also an obligation to mitigate those impacts. (*Joy Road Area Forest & Watershed Assn. v. California Department of Forestry & Fire Protection* (2006) 142 Cal.App.4th 656, 676.) "A cumulative impact analysis which understates information concerning the severity and significance of cumulative impacts impedes meaningful public discussion and skews the decisionmaker's perspective concerning the

environmental consequences of the project, the necessity for mitigation measures, and the appropriateness of project approval." (*Ibid.*) Accordingly, the City urges the State Water Board to analyze the Project's cumulative impacts, and to commit to mitigation measures that would reduce cumulative impacts to a level of less than significant. (State CEQA Guidelines, § 15126.4(a)(1)(B).) In particular, the City urges the State Water Board to adopt and implement a sustainable regulatory program that pairs each MCL with specific, dedicated funding programs sufficient to implement and mitigate the impacts of each MCL.

2.5.36 Response to Winters Comment 2-18

Section 3.5.3 of the Draft EIR describes the approach to the cumulative impacts analysis and explains that "[a]s a result of the statewide context of the environmental analysis, the impact conclusions and mitigation measures in the resource-oriented chapters that follow are cumulative by nature, because they describe the potential impacts associated collectively with the full range of reasonably foreseeable compliance responses." Accordingly, the mitigation measures in section 4.4, section 5.4, section 6.4, section 7.4, section 8.4, section 9.4, section 10.4, section 11.4, section 12.4, section 13.4, section 14.3, section 15.4, section 16.3, section 17.4, section 18.3, section 19.3, section 20.3, section 21.4, section 22.3, and section 23.4 include mitigation measures to address cumulative environmental impacts from the Proposed Regulations. As explained in the Draft EIR and previously above, the authority to require that mitigation rests with agencies that will be authorizing site-specific compliance projects, and not with the State Water Board at this time. Consequently, it is uncertain whether mitigation measures will be implemented, which precludes assurance that cumulative impacts will be avoided. Therefore, the State Water Board took the conservative approach and disclosed, for purposes of CEQA compliance, that the Proposed Regulations could result in a considerable contribution to potentially significant cumulative impacts to the resource categories identified in section 25.1 of the Draft EIR.

The commenter suggests here and elsewhere in its comment letter that State Water Board funding to implement the Proposed Regulations would mitigate the impacts of all MCLs, but there is not an explanation for how such funding would mitigate potential environmental impacts related to the installation and operation of treatment facilities or the alternative means of compliance, such as consolidations. Nevertheless, the State Water Board does provide considerable levels of financial assistance for public water systems to comply with MCLs. In fact, the Draft EIR describes that funding in section 3.5.1.4, and does so in the context of the cumulative impacts analysis.

2.5.37 Winters Comment 2-19

8. The EIR fails to properly analyze alternatives to the proposed Project.

"It is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures which substantially lessen the significant environmental effects of such projects." (Pub. Resources Code, § 21002.) Accordingly, "CEQA requires an EIR to identify feasible alternatives that could avoid or substantially lessen the project's significant environmental effects." (*Save Our Capitol!*, *supra*, 87 Cal.App.5th at p. 702; Pub. Resources Code, §§ 2 1002, 21100(b)(4).) Indeed, courts have explained that one of an EIR's "major functions" is to "ensure that all reasonable alternatives to proposed projects are thoroughly assessed." (*Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 565.)

As part of this analysis, an EIR must "describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." (State CEQA Guidelines, § 15126.6(a).) The range of alternatives must provide "enough of a variation to allow informed decision making." (*Save Our Capitol!*, *supra*, 87 Cal.App.5th at p. 703.)

An EIR violates CEQA when the alternatives analyzed therein "do not contribute to a reasonable range of alternatives that fostered informed public participation and decision-making." (*Save Our Capitol!*, *supra*, 87 Cal.App.5th at p. 703.) This occurs when an EIR does not consider any alternative that would feasibly attain most of the project's objectives while also lessening the project's significant impacts on the environment. (*Ibid.*) Accordingly, a public agency violates CEQA when it defines its project objectives so narrowly that it "preclude[s] any alternative other than the Project." (*We Advocate Through Environmental Review v. County of Siskiyou* (2022) 78 Cal.App.5th 683,692 [hereinafter, "*WATER*").) Thus, when a public agency effectively defines a project objective as achieving the proposed project, and dismissively rejects anything other than the proposed project as not meeting project objectives, the EIR "prejudicially prevent[s] informed decision making and public participation." (*Id.* at p. 692.)

Here, the EIR proposes an MCL for chromium-6 of 10 ppb, but it dismisses all other alternatives as infeasible and incapable of meeting project objectives. The EIR provides no substantive or quantitative analysis of the other proposed alternatives. Instead, like the lead agency in the *WATER* decision, the EIR "dismissively reject[s] anything other than the proposed project." (*WATER*, *supra*, 78 Cal.App.5th at p. 692.) And, like the EIR at issue in the *WATER* decision, this approach "transform[s] the EIR's alternatives section-often described as part of the 'core of the EIR'-into an empty formality." (*Ibid.*) This is evidenced by the fact that the EIR's "Discussion and Comparison of Alternatives" section is almost entirely devoid of analysis, and spans just over a single page. (See EIR, p. 26-6 through 26-7.) To comply with CEQA, a robust analysis of the Project alternatives is required. (*WATER*, *supra*. 78 Cal.App.5th at p. 692.)

To provide the public and the decision-makers with a complete assessment of the Project and the alternatives to the Project, the EIR must assess the relationships of each alternative to impacts on the environment and also the technical and economic feasibility of each alternative. The EIR cannot simply dismiss alternatives under CEQA by relying on State Water Board staff's conclusion that an MCL of 10 ppb [sic] is technically and economically feasible and that, therefore, there are no other legally sufficient alternatives to analyze. To the contrary, CEQA requires a deeper assessment and acknowledgement of the interrelationship between the State Water Board's assessment of feasibility under California Health and Safety Code section 116365(a) and its obligations under CEQA to assess alternatives. A full assessment of alternatives must inform the decision-making process under section 116365(a). An MCL may appear feasible in a vacuum but prove to be infeasible when assessed in light of the various impacts it might have on the environment. A fully analyzed alternative may in fact be the one that is truly feasible under section 116365(a) and environmentally superior under CEQA when all impacts are considered. By failing to meaningfully assess alternatives, the State Water Board is not only acting contrary to CEQA but also failing to perform its obligations under section 116365(a).

2.5.38 Response to Winters Comment 2-19

The Draft EIR analyzes project alternatives, including a range of alternative MCL values. Importantly, the Draft EIR examines how alternative MCL values would likely cause fewer environmental impacts. The Draft EIR in section 26.2.3 analyzes nine lower MCL values and 11 higher MCL values and evaluates how many more or fewer sources of drinking water would require treatment or alternative means of compliance compared to the proposed MCL of 10 ppb. This is an important analysis because the number of sources requiring treatment or alternative means of compliance is likely to affect the potential environmental impacts of the Proposed Regulations, as the number of site-specific projects increases. In addition, the Draft EIR analyzes the locations of contaminated sources at each alternative MCL value, considers the number of counties affected statewide, and provides maps showing the locations of contaminated sources for each alternative MCL. (See Appendix E of the Draft EIR.) This analysis is important because it assists the State Water Board and the public in understanding the scope and distribution of potential environmental impacts from the Proposed Regulations compared with alternative MCL values.

The alternative MCL values also vary in the extent to which they meet project objectives. Those objectives, as summarized in section 26.1 of the Draft EIR include:

- Avoiding significant risks to public health from drinking water supplied by public water systems in California.

- Reducing cancer and non-cancer public health risks from human consumption of drinking water contaminated with hexavalent chromium.

Complying with the statutory mandate to adopt a primary drinking water standard for hexavalent chromium, as required by Health and Safety Code section 116365.5.

All alternative MCL values would satisfy the third objective of adopting a primary drinking water standard for hexavalent chromium, as required by Health and Safety Code section 116365.5. The extent to which they meet the first two project objectives varies, as the reduction of cancer and non-cancer public health risks from human consumption of drinking water contaminated with hexavalent chromium varies in accordance with the specific MCL value. As shown in the Initial Statement of Reasons (SWRCB 2023a, as cited in the Draft EIR), the theoretical number of excess cancer cases avoided as a result of the Proposed Regulations varies considerably among the alternative MCLs. (SWRCB 2023b Table 26.) At an alternative MCL of 1 ppb, there would be a theoretical reduction of 3,536 excess cancer cases over 70 years. (*Ibid.*) At an alternative MCL of 45 ppb, there would be a theoretical reduction of 14 excess cancer cases over 70 years. (*Ibid.*). The following chart from the ISOR shows number of theoretical excess cancer cases avoided over 70 years for the alternative MCL values considered in the Draft EIR.

Table 26 from Attachment 1 to the ISOR.

MCL (ug/L)	CWS	NTNCWS	TNCWS	Wholesalers	Total	Average per year
1	3378.87	29.37	0.00	128.01	3,536	50.52
2	2716.70	22.25	0.00	96.27	2,835	40.50
3	2266.33	17.50	0.00	70.04	2,354	33.63
4	1927.28	14.25	0.00	48.19	1,990	28.42
5	1663.02	11.71	0.00	31.58	1,706	24.38
6	1451.32	9.86	0.00	18.11	1,479	21.13
7	1275.68	8.42	0.00	7.52	1,292	18.45
8	1126.01	7.20	0.00	2.74	1,136	16.23
9	998.79	6.16	0.00	0.91	1,006	14.37
10	891.86	5.31	0.00	0.52	898	12.82
11	795.60	4.72	0.00	0.33	801	11.44
12	708.46	4.18	0.00	0.14	713	10.18
13	626.95	3.69	0.00	0.08	631	9.01
14	551.40	3.22	0.00	0.08	555	7.92

15	484.13	2.79	0.00	0.07	487	6.96
20	238.82	1.36	0.00	0.04	240	3.43
25	135.55	0.69	0.00	0.02	136	1.95
30	96.09	0.35	0.00	0.00	96	1.38
35	63.41	0.17	0.00	0.00	64	0.91
40	36.45	0.02	0.00	0.00	36	0.52
45	14.16	0.00	0.00	0.00	14	0.20

As shown in the ISOR, alternative MCL values higher than the proposed MCL of 10 ppb would still reduce cancer public health risks from human consumption of drinking water contaminated with hexavalent chromium compared to the status quo, albeit less so than the Proposed Regulations. Accordingly, the alternative MCL values avoid a significant risk to public health while not eliminating that risk entirely or to the extent technologically and economically feasible.

We Advocate Through Environmental Review v. County of Siskiyou (2022) 78 Cal.App.5th 683 is inapposite because here the project objectives, as stated in the Draft EIR, are broad enough to encompass project alternatives, including alternative MCL values. Unlike the facts in the *WATER* case, where the project objectives were so narrowly drawn as to only support the proposed project, the project objectives here are broad enough to support a variety of feasible alternatives. Rather, there is a legal constraint that applies to the Proposed Regulations. That constraint, located in subdivision (a) of section 116365 of the Health and Safety Code, prohibits the State Water Board from adopting an MCL value that is not the lowest technologically and economically feasible value. Accordingly, while the Draft EIR analyzes alternative MCL values, the State Water Board is statutorily constrained in its ability to adopt an alternative MCL value that is not the lowest technologically and economically feasible value, even if that alternative MCL value may entail fewer environmental impacts. (See *Tiburon Open Space Committee v. County of Marin* (2022) 78 Cal.App.5th 700, 732–733 [Mitigation measures and alternatives that conflict with agency's legal obligations are infeasible and “need not be analyzed.”])

The ISOR assesses the technical and economic feasibility of alternative MCL values. The City's comment does not offer any environmental costs or costs of mitigation for the State Water Board to consider when assessing economic feasibility. While the Draft EIR recognizes that the Proposed Regulations may entail significant environmental impacts from future compliance projects by public water systems, it would be speculative and impractical to estimate the economic costs of those impacts or of mitigation measures that may be available to reduce them to less than significance. This is because future

site-specific compliance projects are not yet known, let alone the specific environmental mitigation measures they may need to implement.

Clarifying changes were made to Chapter 26 of the Draft EIR. See Chapter 3, section 3.10 of this Final EIR.

2.5.39 Winters Comment 2-20

9. The EIR lacks stable project objectives, and this renders its Alternatives analysis fundamentally flawed.

An EIR's project description is "an indispensable element of both a valid draft EIR and final EIR". (*Stopthemillenniumhollywood.com v. City of Los Angeles* (2019) 39 Cal.App.5th 1, 16.) As has often been stated, "an accurate, stable, and finite project description is the *sine qua non* of an informative and legally sufficient EIR." (*Washoe Meadows, supra*, 17 Cal.App.5th at p. 287.)

Accordingly, "a project description that gives conflicting signals to decision makers and the public about the nature and scope of the project is fundamentally inadequate and misleading." (*Ibid.*)

A key component of the project description is the "statement of the objectives sought by the proposed project." (State CEQA Guidelines, § 15124(b); *Washoe Meadows, supra*, 17 Cal.App.5th at p. 287.)

Here, however, the EIR does not provide an accurate and stable statement of the proposed Project's objectives. The key project objective emphasized in the EIR is to "comply[] with the statutory mandate to adopt a primary drinking water standard for hexavalent chromium, as required by Health and Safety Code section 116365.5." (EIR, p. 25-4.) The EIR rejects all alternatives to the proposed MCL of 10 ppb on the basis that "the State Water Board is legally required to adopt a primary drinking water standard that is as close as feasible to the corresponding public health goal" ('PHG') established by OEHHA as required by Health and Safety Code section 116365." (EIR, p. 26-7.) But, as discussed below, it is unclear what OEHHA's PHG for chromium-6 will be when the Project is proposed to go into effect two to four years from now.

In July 2011, OEHHA established a PHG for chromium-6 of 0.02 ppb, representing a de minimis lifetime cancer risk from exposure to chromium-6 in drinking water, based on studies in laboratory animals. Since then, scientific information on the impacts of chromium-6 on human health has advanced substantially. The most recent scientific information on the health effects of human ingestion of chromium-6 in drinking water indicates that MCLs at or above the upper end of the MCLs set forth in the EIR's range of alternatives are fully health protective.

OEHHA's PHG for chromium-6 of 0.02 ppb is subject to imminent change. In October 2016, OEHHA announced that substantial new information warrants a review of the chromium-6 PHG, which to date has not been performed. More recently, in March 2023, State Water Resources Control Board

OEHHA announced that it would be “completing the update” of the chromium-6 PHG that it had initiated in 2016.

OEHHA's potential revision of its PHG for chromium-6 has significant CEQA ramifications. Again, the EIR eliminates all project alternatives on the basis that the State Water Board must adopt a drinking water standard for chromium-6 “that is as close as feasible to [OEHHA's] corresponding public health goal” of .02 ppb that is technologically and economically feasible. (See EIR, p. 26-7; see also Health & Safety Code, § 116365(a)-(b).)

The EIR further provides that the project will not go into effect-i.e., that water agencies need not take actions to comply with the MCL-until between two and four years after the State Water Board certifies the EIR and adopts its chromium-6 MCL. (EIR, p. S-1.) This is problematic because in the next two to four years OEHHA could revise its PHG for chromium-6 significantly upward based on new information. This is not unrealistic, as the Environmental Protection Agency's (“EPA”) drinking water standard for chromium-6 is 100 ppb—10x higher than the drinking water standard that the State Water Board proposes in the EIR. (<https://www.epa.gov/sdwa/chromium-drinking-water> [while the EPA drinking water standard of 100 ppb is ostensibly for total chromium, the regulation “assumes that a measurement of total chromium is 100 percent chromium-6”].) Notably, the State Water Board is statutorily required to consider the EPA's drinking water standard of 100 ppb in establishing its own MCL. (Health & Safety Code, § 116365(b)(1).)

Under CEQA, this project objective instability renders the EIR's analysis of project alternatives—and by extension, the EIR itself—fatally defective. For example, OEHHA could within the next two years revise its PHG for chromium-6 from .02 ppb to 30 ppb. If the EIR is certified before this development takes place, then water agencies two years from now may be required to take action with significant and unavoidable impacts to the environment to comply with the EIR's proposed MCL of 10 ppb, when OEHHA's PHG for chromium-6 at the time of project implementation could be 30 ppb. This would result in significant and unnecessary impacts to the environment. (See EIR, p. 26-5 [water agencies in 44 counties would have to take action that could have a significant and unavoidable impact with an MCL of 10 ppb; less than half that amount, water agencies in just 16 counties, would need to take similar action with a chromium-6 MCL of 30 bbp] [sic].)

To avoid this circumstance, the City strongly urges the State Water Board to refrain from taking any action towards certifying the EIR or adopting the Project until OEHHA completes its pending update to the chromium-6 PHG.

2.5.40 Response to Winters Comment 2-20

The Draft EIR describes the project objectives consistently. Further, there is no evidence that the project objectives will change. The possibility of OEHHA revising the

PHG does not affect the project objectives because the project objectives do not, themselves, depend on a specific PHG.

Even if OEHHA revises the PHG in the future, the project objectives will remain the same:

- Avoid significant risks to public health from drinking water supplied by public water systems in California.
- Reduce cancer and non-cancer public health risks from human consumption of drinking water contaminated with hexavalent chromium.
- Comply with the statutory mandate to adopt a primary drinking water standard for hexavalent chromium, as required by Health and Safety Code, section 116365.5.

(Draft EIR, section 2.2.)

Even if OEHHA were to revise the PHG for hexavalent chromium in the future, a revision is unlikely to cause a change in the Proposed Regulations. This is because there is evidence that OEHHA is unlikely to revise the PHG for hexavalent chromium to a level higher than the State Water Board's proposed MCL. On November 24, 2023, OEHHA published a draft document describing a proposed health-protective concentration for noncancer effects of hexavalent chromium in drinking water of 5 ppb. That proposed health-protective concentration for noncancer effects of 5 ppb is significantly less than the State Water Board's proposed MCL of 10 ppb. A health-protective concentration for noncancer effects of 5 ppb would be a ceiling for any future change to the PHG. This is because even if OEHHA were to determine a health-protective concentration for cancer effects from hexavalent chromium that is higher than the proposed MCL of 10 ppb, OEHHA would still select the lower value of 5 ppb for the PHG. As explained in OEHHA's November 24, 2023, "Announcement of Availability of a Draft Technical Support Document for Proposed Health-Protective Concentration for Noncancer Effects of Hexavalent Chromium in Drinking Water", "[f]or carcinogens, health-protective water concentrations are determined for both cancer and noncancer effects, and the lowest (most health protective) value is selected as the PHG." Accordingly, OEHHA's publication of a draft health-protective concentration of 5 ppb for noncancer effects from hexavalent chromium indicates that it is unlikely that OEHHA will revise the PHG for hexavalent chromium to a number higher than the proposed MCL of 10 ppb. In addition, OEHHA is also calculating a cancer health protective concentration for hexavalent chromium. Because cancer health protective concentrations are generally much lower than non-cancer health protective concentrations, it is unlikely that the cancer health protective concentration for hexavalent chromium would be higher than the 5 ppb proposed by OEHHA for the non-cancer health protective concentration. In addition, it is rare for a cancer health protective concentration to be revised upward

by a significant order of magnitude. Therefore, the Proposed Regulations are unlikely to change as a result of a future revision to the PHG by OEHHA.

Unlike the situation in *Washoe Meadows Community v. Department of Parks & Recreation* (2017) 17 Cal.App.5th 277 where the lead agency did not articulate a preferred project, the State Water Board's Draft EIR clearly states that the Proposed Regulations include an MCL of 10 ppb. The remote possibility that OEHHA could revise the PHG to above 10 ppb in the future does not mean that the Proposed Regulations include a "broad range of possible projects" that "presents the public with a moving target and requires a commenter to offer input on a wide range of alternatives that may not be in any way germane to the project ultimately approved." (*Id.* at p. 288.) On the contrary, the Draft EIR presents a single preferred project and discusses alternatives to that preferred project, including alternative MCL values.

Even if OEHHA revised the PHG in the future, the possibility of that occurring does not impede public participation in the CEQA process now for the Proposed Regulations. The court in *Washoe Meadows Community v. Department of Parks & Recreation* (2017) 17 Cal.App.5th 277 explained that "there may be situations in which the presentation of a small number of closely-related alternatives would not present an undue burden on members of the public wishing to participate in the CEQA process..." (*Washoe Meadows Community v. Department of Parks & Recreation* (2017) 17 Cal.App.5th 277, 288-289.) There is only one set of Proposed Regulations, and that is described in the Draft EIR. Further, the difference between the Proposed Regulations in the context of the existing PHG of .02 ppb and the Proposed Regulations in the context of a hypothetical, higher PHG does not present a burden on members of the public wishing to participate in the CEQA process. The fact that the context for a proposed project could evolve in the future does not deprive the public of the ability to comment on the proposed project now.

There are additional reasons why OEHHA's review of the PHG for hexavalent chromium should not delay development of the Proposed Regulations. First, the State Water Board is statutorily obligated to adopt a primary drinking water standard for hexavalent chromium. (Health & Saf. Code, § 116365.5.). OEHHA's review of the PHG for hexavalent chromium should not hinder this statutory obligation.

Second, if the State Water Board were to delay development of an MCL until OEHHA has reviewed the corresponding PHG, the delay would be perpetual because OEHHA's review of PHGs is conducted on a recurring basis. The California Safe Drinking Water Act requires OEHHA to review each PHG at least once every five years (unless OEHHA determines that there has not been a detection of the corresponding contaminant in the preceding five years), and to revise the PHG as necessary based upon the availability of new scientific data. (Health & Saf. Code, § 116365, subd. (e)(1).). If the State Water Board held off on developing primary drinking water standards whenever there was a chance that OEHHA might revise a PHG, the development of primary drinking water

standards would effectively be stymied, and implementation of the California Safe Drinking Water Act would be grossly undermined.

As shown below in Chapter 3 section 3.3, changes have been made to chapter 1 of the Draft EIR to include OEHHA's publication on November 24, 2023, of the "Draft Technical Support Document for Proposed Health-Protective Concentration for Noncancer Effects of Hexavalent Chromium in Drinking Water."

2.5.41 Winters Comment 2-21

10. The State Water Board should refrain from certifying the EIR until OEHHA completes its update of its chromium-6 public health goal; alternatively, the EIR must be revised and recirculated to comply with CEQA.

The City urges the State Water Board to hold off certification of the EIR or approval of the Project until OEHHA completes its pending update of the chromium-6 PHG. The revised PHG, based on the most recent science available, would then better guide the State Water Board in determining the proper MCL for chromium-6. And, from a CEQA perspective, this would streamline any EIR regarding MCL for chromium-6 by (1) eliminating from consideration the most stringent proposed MCLs, which are the MCLs that will have the most significant environmental impacts; and (2) allowing the State Water Board to prepare an alternatives analysis in the EIR that complies with CEQA. The people of California and the environment will both benefit from a reassessment of the PHG for chromium-6.

In the alternative, if the State Water Board presses forward with the proposed MCL of 10 ppb before OEHHA completes its update of the chromium-6 PHG, then at a bare minimum, the EIR must be revised to address the deficiencies raised herein. The revised EIR must then be recirculated to the public pursuant to State CEQA Guidelines section 15088.5.

11. Conclusion

The City looks forward to working with the State Water Board to ensure that this Project receives the careful review that it deserves. Thank you for your consideration of the City's input.

2.5.42 Response to Winters Comment 2-21

As discussed above in Response to Winters Comment 2-20, the State Water Board is statutorily obligated to adopt a primary drinking water standard for hexavalent chromium, and deferring adoption to the future while OEHHA conducts its recurring review of the PHG for hexavalent chromium would effectively stymie adoption of a drinking water standard necessary for the protection of public health. In addition, as described above, it is unlikely that OEHHA will revise the PHG to above 10 ppb.

The consideration of alternative, more stringent MCLs in the Draft EIR is not a defect that needs elimination or “streamlining”; rather, it informs the public of the environmental impacts from a range of different MCL values. As discussed above in Response to Winters Comment 2-19, the alternatives analysis in the Draft EIR (including as revised, as shown in Chapter 3 of this Final EIR) complies with CEQA.

The Draft EIR does not require recirculation because the conditions requiring recirculation, pursuant to CEQA Guidelines section 15088.5, do not exist. For instance, there is not significant new information consisting of a new significant environmental impact or a substantial increase in the severity of an environmental impact. Neither is there a feasible project alternative or mitigation measure that would clearly lessen the significant environmental impacts of the project, but which the State Water Board declines to adopt. The addition in section 26.3 of the Draft EIR regarding the discussion on the public health impacts of the alternative MCLs (particularly, the extent to which they meet the first two project objectives), is not the addition of a project alternative, or even new information since it includes information from the ISOR. Those changes and others to the Draft EIR consist of information that merely clarifies, amplifies, or makes insignificant modifications in an adequate EIR.

2.6 Coachella Valley Water District (CVWD) (Commenter 3) Comments and Responses

2.6.1 CVWD Comment 3-1

The Coachella Valley Water District (CVWD) submits these written comments in response to the State Water Resources Control Board’s (State Water Board) Notice of Availability of a Draft Program Environmental Impact Report (EIR) for the adoption of the proposed maximum contaminant level (MCL) for hexavalent chromium (Cr6) as a primary drinking water standard. The proposed MCL is defined as the “Project” herein. CVWD hopes that its written comments will help the State Water Board fully analyze, mitigate, and avoid the potential environmental impacts of the proposed Project in compliance with the California Environmental Quality Act (Pub. Resources Code, § 21000, et seq.: CEQA).

The EIR analyzes the Project, which that includes a MCL of 10 micrograms per liter (ug/L) or parts per billion (ppb) for Cr6. CVWD has serious concerns about both the proposed MCL of 10 ppb and the adequacy of the EIR prepared for the proposed Project. CVWD is a responsible agency for the proposed Project, as it is a water district that will be required to comply with the new MCL if adopted as written. (State CEQA Guidelines, § 15381.)

Compliance with the MCL would require significant changes in water management and infrastructure, and would significantly impact CVWD, its ratepayers, and the environment. Given the potential impacts of the MCL, CVWD appreciates the State Water Board’s commitment to prepare an EIR for the Project. CVWD believes, however,

that information gained in the EIR process can lead to informed decisions by the State Water Board regarding the MCL and its implementation, and that significant revisions are necessary to the EIR in order to bring it into compliance with CEQA.

CVWD additionally urges the State Water Board to refrain from certifying the EIR or from approving the Project until the Office of Environmental Health Hazard Assessment (OEHHA) completes its pending revision to its public health goal (PHG) for Cr6. Given the centrality of OEHHA's PHG to the EIR, and in particular to the EIR's analysis of alternatives to the Project, CVWD believes that the State Water Board cannot comply with CEQA until OEHHA provides clarity on the PHG that will be in effect when the Project is proposed to be implemented two to four years from now. (*Washoe Meadows Community v. Department of Parks & Recreation* (2017) Cal.App.5th 277, 287 ["an accurate, stable, and finite project description is the *since qua non* of an informative and legally sufficient EIR."].)

2.6.2 Response to CVWD Comment 3-1

No response is required for these introductory comments; the State Water Board responds to the issues below as they are more fully detailed by the City in its letter. One issue, however, that is not addressed below is the City's role as a responsible agency. The City states above that it "is a responsible agency for the proposed Project, as it is a water district that will be required to comply with the new MCL if adopted as written." The State Water Board does not agree that CVWD is a responsible agency under CEQA for the adoption of the Proposed Regulations. Although CVWD may be a lead or responsible agency for any site-specific compliance project that it proposes to come into compliance with the regulations, it has no discretionary approval power in the development or adoption of the Proposed Regulations. The State Water Board is the only public agency with the responsibility for carrying out or approving the Proposed Regulations, and there are no responsible agencies for the adoption of the Regulations.

2.6.3 CVWD Comment 3-2

1. The Project Could Dramatically Impact the Coachella Valley Water District, Its Ratepayers, And the Environment.

CVWD formed in 1918 to protect and conserve local water sources. Since then, CVWD has grown into a multifaceted agency that delivers irrigation and domestic water, collects, and recycles wastewater, provides regional storm water protection, replenishes the groundwater basin, and promotes water conservation. CVWD serves the water needs of more than 109,000 homes and businesses across a service area spanning approximately 1,000 square miles—from the San Gorgonio Pass to the Salton Sea, mostly within the Coachella Valley in Riverside County, but also extending into portions of Imperial and San Diego counties.

The establishment of an MCL for Cr6 directly concerns CVWD, as the Coachella Valley's groundwater, the primary source of domestic water supply, is impacted by naturally occurring Cr6 due to the valley's geology. CVWD has thus long desired that an MCL for Cr6 that is established by the State Water Board have a meaningful opportunity for risk reduction and be technologically and economically feasible, as required by law. (Health & Safety Code, § 116365(a), (b)(3).) A technologically and economically feasible MCL would allow CVWD to continue to provide a sustainable public water supply to its ratepayers.

The Project, however, proposes an MCL that is neither technologically nor economically feasible. Regarding implementation of the proposed MCL, CVWD's water distribution system is repeatedly identified in the EIR as a primary impacted water distribution system in California, affecting the high number of groundwater wells and the higher number of customers. CVWD feels its comments are not only based on impacts to CVWD, but also representative of other Public Water Systems impacted throughout the state. CVWD is concerned that an unduly stringent MCL of 10 ppb would require public agencies across California to construct economically infeasible facilities or to deploy other treatment options at enormous cost. Both the construction of new facilities and the deployment of treatment options would significantly impact the environment.

2.6.4 Response to CVWD Comment 3-2

See section 2.5.4 Response to Winters Comment 2-2.

2.6.5 CVWD Comment 3-3

Moreover, the proposed MCL could result in the shutting down of groundwater wells throughout the State of California and in increased demands on surface water supplies in a time of significant and historic drought. As a result, CVWD's ratepayers—many of whom are economically vulnerable—could see significant increases in their monthly water expenses.

2.6.7 Response to CVWD Comment 3-3

See section 2.5.14 Response to Winters Comment 2-7, section 2.5.16 Response to Winters Comment 2-8, section 2.5.22 Response to Winters Comment 2-11, and section 2.8.6 Response MSWD 5-4.

The notion that a public water system would have to discontinue using a source is probably based on the commenter's interpretation of existing regulations. Under subdivision (h)(2) of section 64432 of title 22 of the California Code of Regulations, the State Water Board can require a water system to discontinue using a water supply with detections ten times above the MCL. The State Water Board considers a water system's existing source capacity when deciding whether to require a water system to discontinue a particular source.

Public water systems have many reasonably foreseeable means of compliance that do not involve reducing a water system's source of supply. The State Water Board knows of only four active sources statewide that are contaminated with hexavalent chromium at 10 times the MCL of 10 ug/l. If a system does not have surface or imported water to offset contaminated well water, the system could install wellhead treatment and continue using the well, drill a replacement well, or tie into or consolidate with another nearby water system.

2.6.8 CVWD Comment 3-4

The proposed MCL may have significant adverse economic impacts on agencies throughout the State of California and their ratepayers, but these impacts are not just economic—they will translate into significant and unavoidable environmental impacts. These impacts must be avoided, and the best means to avoid them is by adopting an economically and technologically feasible MCL. CVWD urges the State Water Board to revise and recirculate the EIR to address CVWD's concerns and to comply with CEQA.

2.6.9 Response to CVWD Comment 3-4

See section 2.5.6 Response to Winters Comment 2-3.

2.6.10 CVWD Comment 3-5

2. The EIR violates CEQA because it does not provide the detail necessary to inform the public of the Project's potential impacts to the environment.

“When determining whether an EIR’s discussion of potentially significant effects is sufficient, the ultimate inquiry is whether the EIR includes enough detail to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.” (*Save Our Capitol! v. Department of General Services* (2023) 87 Cal.App.5th 655, 670, quoting *Laurel Heights, supra*, 47 Cal.3d at p. 405.)

CEQA Guidelines sections 15120 to 15132 describe the required contents of an EIR. The EIR is intended to serve as an informational document that provides guidance to public agencies in the decision-making process, and it must be based on substantial evidence. The EIR should be based on adequacy, completeness, and full disclosure, while adequately analyzing impacts that are reasonably feasible to address, including at a minimum direct, indirect, and cumulative impacts. (See State CEQA Guidelines, § 15151.) Section 15126 (a) states:

The discussion should include relevant specifics of the area, the resources involved, physical changes, alterations to ecological systems, and changes induced in population distribution, population concentration, the human use of the land (including commercial and residential development), health and safety problems caused by the physical

changes, and other aspects of the resource base such as water, historical resources, scenic quality, and public services. The EIR shall also analyze any significant environmental effects the project might cause or risk exacerbating by bringing development and people into the area affected.

The EIR here fails to comply with CEQA because it does not include enough detail to enable the public to understand and to consider meaningfully the Project's potential impacts on the environment. (*Save Our Capitol!*, *supra*, 87 Cal.App.5th at p. 670.) The EIR finds that the proposed Project will result in a wide range of significant and unavoidable impacts to the environment, but it also declares that this finding may simply be a false alarm—that there isn't necessarily anything to be worried about. Moreover, the EIR recognizes that its analysis is not premised on a strong factual foundation. For example, the EIR provides:

- “Because it would be speculative to assume the type, size, and location of potential compliance projects, as well as the type of resources impacted, this EIR cannot quantify the impacts associated with the implementation of any specific project, but does recognize the potential for such impacts, and identifies potential mitigation that could be implemented at site-specific projects to avoid such impacts.” (EIR, p. S-3.)
- “[E]ven where a source of drinking water is known to be contaminated with hexavalent chromium based on data collected under the prior regulation, it would be speculative to guess the location of a future compliance project to address that contamination.” (EIR, p. 2-7.)
- “Without attempting to quantify the impacts associated with the implementation of any specific project, the EIR includes a list of potential actions or mitigation measures that could possibly reduce the impact to a less-than-significant level or contribute to doing so. However, because of the programmatic nature of the analysis and because the State Water Board does not have control over how a public water system will ultimately comply with the regulations, including where it would locate site-specific compliance projects, it is uncertain whether the identified mitigation would be effective in reducing the potential impacts for any specific project.” (EIR, p. 3-8.)

In short, the EIR's analysis concludes that it does not know what the Project's potential impacts may be, and it does not know whether those impacts could be mitigated to a level of less than significant. This mixed messaging does not promote “informed self-government” as required by CEQA. (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 392.) It does not address the concerns of “an apprehensive citizenry” that looks to the lead agency to determine whether the environmental impacts of the Project have been duly considered. (*Ibid.*) In short, the EIR fails to include “enough detail to enable those who did not participate in its

preparation to understand and to consider meaningfully the issues raised by the proposed project." (*Save Our Capitol!*, *supra*, 87 Cal.App.5th at p. 670.)

For these reasons, the EIR fails to comply with CEQA. (*Save Our Capitol!*, *supra*, 87 Cal.App.5th at p. 670; *Laurel Heights*, *supra*, 47 Cal.3d at p. 392.)

2.6.11 Response to CVWD Comment 3-5

See section 2.5.8 Response to Winters Comment 2-4.

2.6.12 CVWD Comment 3-6

3. The EIR abdicates its responsibility to analyze the potential environmental impacts of the Project by finding nearly every impact to be "significant and unavoidable" without reference to any standard of significance.

"The purpose of an environmental impact report is to identify the significant effects on the environment of a project, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided." (Pub. Resources Code, § 21002.1(a).) To further this purpose, the lead agency must disclose the "analytic route" between its conclusion that an impact may have a potentially significant impact on the environment and its conclusion of whether, and to what extent, the impact can be mitigated. (*Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 654.)

A lead agency does not satisfy its responsibility under CEQA by merely reaching a conclusion regarding whether a proposed project may have a significant and unavoidable impact on the environment. (*Lotus*, *supra*, 223 Cal.App.4th at p. 654.) Instead, a lead agency must (1) set forth the standard of significance by which it will determine whether a proposed project will have a significant impact on the environment; (2) provide analysis demonstrating whether the proposed project will exceed that standard of significance; (3) propose mitigation to reduce the proposed Project's potentially significant impact on the environment; and (4) analyze the extent to which that mitigation will reduce the potentially significant impact. (*Id.* at pp. 655-658; see also Pub. Resources Code, § 21100(b).)

The EIR fails to meet any of the above criteria. For example, in its analysis of whether the proposed Project could violate any air quality standard or contribute substantially to an existing or projected air quality violation, the EIR provides no factual analysis. Instead, the EIR refers the public to its roughly one-page analysis of whether the proposed Project would conflict with or obstruct implementation of any applicable air quality plan. (EIR, p. 6-9.) The EIR's analysis of whether the proposed Project would conflict with or obstruct implementation of the applicable air quality plan, however, is not based on, and does not reference, any threshold of significance. (See EIR. pp. 6-7 through 6-9.)

Without any threshold of significance to guide its significance determination, the EIR does not and cannot include any factual analysis demonstrating whether the proposed Project will exceed any threshold of significance. Moreover, while the EIR proposes mitigation measures, it does not analyze whether and to what extent this mitigation could reduce the potentially significant impact. The EIR ultimately concludes that the proposed Project may result in a significant and unavoidable air quality impact, but this conclusion is based on conjecture, not facts. (*King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 838 [public agency violates CEQA and abuses its discretion when its determination is not supported by substantial evidence]; see also Pub. Resources Code, § 21168.5.)

In sum, the EIR violates CEQA by failing to measure the proposed Project's potential impacts against any threshold of significance, and by further failing to quantitatively analyze whether the mitigation measures identified could reduce the proposed Project's potential impacts to a level of less than significant. The EIR is littered with conclusions of "significant and unavoidable impacts," but the EIR fails to disclose the "analytic route" taken to reach these conclusions. (*Lotus, supra*, 223 Cal.App.4th at p. 654.)

2.6.13 Response to CVWD Comment 3-6

See section 2.5.10 Response to Winters Comment 2-5.

2.6.14 CVWD Comment 3-7

4. The EIR must analyze how the economic impacts of compliance with the MCL could result in physical impacts on the environment.

The EIR must serve as an informational document that will inform public agency decisionmakers and the public generally of the significant environmental effects of the Project, identify possible ways to mitigate the Project's significant effects, and describe reasonable alternatives to the Project. (State CEQA Guidelines, § 15121(a).) To achieve this purpose, the EIR must analyze how the economic impacts of compliance with the MCL could result in physical impacts on the environment. (State CEQA Guidelines, § 15382 ["economic change related to a physical change may be considered in determining whether the physical change is significant"].)

The cost of compliance with the MCL for Cr6 would shape the behavior of both water agencies and ratepayers, and the environmental impacts of this reasonably foreseeable behavior must be analyzed in the EIR. To do so, the EIR must analyze and discuss the costs of complying with the MCL, and how activity in response to such costs could potentially impact the environment.

2.6.15 Response to CVWD Comment 3-7

See section 2.5.12 Response to Winters Comment 2-6.

2.6.16 CVWD Comment 3-8

CVWD provides a non-exhaustive list of examples of how behavior responding to the cost of the MCL could result in a potentially significant impact on the environment.

A. Shift from groundwater usage to surface water usage. The high cost of compliance with an overly stringent MCL could cause water agencies to shift from groundwater usage to surface water usage, and the EIR must analyze the potential environmental impacts of this reasonably foreseeable shift, as further discussed in Section 5 of this comment letter below. The shift to surface water usage would have numerous deleterious impacts on the environment, including decreased in-stream flows and adverse impacts to fish and wildlife.

2.6.17 Response to CVWD Comment 3-8

See section 2.5.14 Response to Winters Comment 2-7.

2.6.18 CVWD Comment 3-9

B. Increased dependency on surface waters would increase the need for water storage. The MCL could spur a wave of reasonably foreseeable water storage and conveyance projects, as water agencies increasingly use surface waters to avoid the costs of compliance with the MCL. The EIR must analyze and mitigate the environmental impacts of these projects, including impacts on air quality, water quality, and biological resources. Moreover, the need for water storage may require flooding large areas of land to store water, and the environmental impacts of transforming the environment in this manner must be analyzed.

2.6.19 Response to CVWD Comment 3-9

See section 2.5.16 Response to Winters Comment 2-8.

2.6.20 CVWD Comment 3-10

C. The EIR must analyze the reasonably foreseeable environmental impacts of the Project resulting from increased rates to ratepayers. The cost of compliance with a MCL of 10 ppb would shape not only the behavior of water agencies, but also of ratepayers who could face dramatic increases in monthly costs as a result of their water agencies' efforts to comply with the MCL. For example, economically vulnerable ratepayers unable to afford these increased costs may be forced to migrate from a service area with high MCL compliance costs to a service area that either has lower such costs or an area that is better able to distribute such costs among a greater number of ratepayers. This migration is a reasonably foreseeable response to higher water rates, and the environmental effects of such migration must be analyzed in the EIR. These impacts may include (1) rural blight, as ratepayers in smaller service areas with high MCL compliance costs migrate to more metropolitan service areas, where the costs of such

compliance can be distributed among a larger population; (2) vehicle miles traveled (VMT) associated with such migration; (3) air quality and greenhouse gas impacts related to such migration; and (4) substantial unplanned population growth in areas with lower MCL compliance costs and the displacement of substantial numbers of people in areas with high MCL compliance costs.

2.6.21 Response to CVWD Comment 3-10

See section 2.5.18 Response to Winters Comment 2-9.

2.6.22 CVWD Comment 3-10

The above-referenced impacts do not appear to be analyzed in the EIR. CVWD urges the State Water Board to recirculate the EIR to analyze and mitigate these impacts in order to comply with CEQA.

2.6.23 Response to CVWD Comment 3-10

See section 2.5.20 Response to Winters Comment 2-10.

2.6.24 CVWD Comment 3-11

5. The EIR fails to analyze or mitigate the Project's potential to force water agencies to shift from groundwater to surface water and the potential environmental impacts that may result from this shift.

A lead agency fails to comply with CEQA when its EIR does "not discuss the impact of new surface water diversions, enforceable measures to mitigate those impacts, or the remaining unmitigated impacts." (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 444 [Supreme Court held that lead agency's failure to properly analyze project's impacts on surface water violated CEQA]; see also *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 664 [lead agency violated CEQA where it "fail[ed] to adequately analyze impacts to surface water"].)

In response to the Notice of Preparation ("NOP") of the EIR, many public agencies commented that the proposed Project would cause water agencies to shift from groundwater usage to surface water usage. (See EIR, Appendix B [NOP Comment Letters].) CEQA requires the EIR to analyze the potential environmental impacts of this reasonably foreseeable shift (including impacts relating to decreased in-stream flows and adverse impacts to fish and wildlife), and to mitigate the impacts of this shift. (See Pub. Resources Code, § 21159(a).)

The EIR identifies "switching to surface water" as a reasonably foreseeable means of complying with the proposed MCL. (See, 7-7-g., EIR, pp. S-3, 1-1, 2-7 through 2-8, 2-15 [recognizing water agencies may "increase their reliance on surface water and reduce or cease using the groundwater supply contaminated by hexavalent

chromium”].) The EIR, however, fails to analyze any potential environmental impacts that may result from this increased reliance on surface water. The EIR does not analyze the Project’s potential impact to result in decreased in-stream flows, nor does it analyze potential adverse impacts to fish and wildlife that may result from increased reliance on surface water.

While the EIR recognizes that increased reliance on surface water is a reasonably foreseeable means of complying with the proposed MCL, the EIR fails to analyze any of the potential direct, or reasonably foreseeable indirect, impacts to the environment that may result as a result of this action. This renders the EIR fatally flawed under CEQA, and the EIR must therefore be revised and recirculated to address this issue. (See, e.g., *Vineyard Area Citizens for Responsible Growth, Inc.*, *supra*, 40 Cal.4th at p. 444.)

2.6.25 Response to CVWD Comment 3-11

See section 2.5.22 Response to Winters Comment 2-11.

2.6.26 CVWD Comment 3-12

6. The State Water Board, as Lead Agency, must take responsibility to mitigate the Project’s potential impacts to the environment.

A fundamental purpose of an EIR is to identify ways in which a proposed project’s significant environmental impacts can be mitigated or avoided. (Pub. Resource Code, § 21002.1(a), 21081(a)(1).) “A gloomy forecast of environmental degradation is of little or no value without pragmatic, concrete means to minimize the impacts and restore ecological equilibrium.” (*Environmental Council of Sacramento v. City of Sacramento* (2006) 142 Cal.App.4th 1018, 1039.)

The EIR here provides a gloomy forecast of environmental degradation, concluding that the Project will result in a significant and unavoidable impact as to nearly every resource analyzed. Yet, the EIR fails to properly mitigate these significant and unavoidable impacts. State CEQA Guidelines section 15126.4 sets forth the State Water Board’s responsibility as lead agency to commit to mitigation measures:

Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures shall not be deferred until some future time. The specific details of a mitigation measure, however, may be developed after project approval when it is impractical or infeasible to include those details during the project’s environmental review provided that the agency (1) commits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the types of potential actions that can feasibly achieve that performance standard and that will be considered, analyzed, and potentially incorporated in the mitigation measure.

(State CEQA Guidelines, § 15126.4(a)(1)(B), emphasis added.)

No mitigation measure proposed in the EIR complies with the above standards.

First, the State Water Board has not committed itself to any mitigation. The State Water Board has not even considered what steps that it—as opposed to agencies tasked with complying with the proposed MCL—could take to mitigate potential impacts to the environment. For example, compliance with the proposed MCL could result in significant economic burden to responsible agencies, and as various agencies commented in response to the NOP, there are significant impacts to the environment that could result from this economic burden. (State CEQA Guidelines, § 15382 [“economic change related to a physical change may be considered in determining whether the physical change is significant”].) The State Water Board, however, has not discussed how it could provide funding, grants, or subsidies to responsible agencies to mitigate potential impacts to the environment. State funding is the linchpin to achieve an economically feasible MCL. Without a specific and enforceable commitment from the State Board on funding, the economic feasibility analysis and the EIR are deficient.

Again, the State Water Board has not committed to any mitigation at all. The EIR must be revised such that the State Water Board itself commits to mitigation so the burden of the proposed Project does not fall on the responsible agencies required to implement the Project. (State CEQA Guidelines, § 15126.4(a)(1)(B).) The State Water Board has an integral part to play in mitigating the impacts of its Project. By not taking responsibility to mitigate impacts that it can control, the State Water Board violates CEQA.

2.6.27 Response to CVWD Comment 3-12

See section 2.5.24 Response to Winters Comment 2-12.

2.6.28 CVWD Comment 3-13

Second, while the EIR sets forth mitigation measures as to nearly every impact, the EIR does not specify any specific performance standards for any of the identified mitigation measures. (State CEQA Guidelines, § 15126.4(a)(1)(B).)

2.6.29 Response to CVWD Comment 3-13

See section 2.5.26 Response to Winters Comment 2-13.

2.6.30 CVWD Comment 3-14

Nor does the EIR explain why or how implementation of the mitigation measures will substantially lessen the Project’s significant and unavoidable impact. The EIR identifies a significant and unavoidable impact, and identifies mitigation measures, but fails to analyze or explain the relationship between the mitigation measures and the significant

and unavoidable impact. This defect infects the discussion in nearly every section of the EIR.

2.6.31 Response to CVWD Comment 3-14

See section 2.5.28 Response to Winters Comment 2-14.

2.6.32 CVWD Comment 3-15

Third, and related to the point above, the EIR does not identify the types of potential actions that can feasibly achieve the performance standard. (State CEQA Guidelines, § 15126.4(a)(1)(B).) Again, this is because the EIR simply does not identify any performance standards. As a result, the EIR does not explain to what extent or how the mitigation measures will substantially reduce impacts. This defect is fatal to the adequacy of the EIR.

2.6.33 Response to CVWD Comment 3-15

See section 2.5.30 Response to Winters Comment 2-15.

2.6.34 CVWD Comment 3-16

7. The EIR fails to properly analyze the proposed Project's cumulative impacts.

A proper analysis of a project's cumulative impacts is a "vital informational function" of CEQA. (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214.) "[A] cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts." (*Ibid.*; State CEQA Guidelines, § 15130(a).) More specifically, the "cumulative impact from several project projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects." (*Bakersfield Citizens for Local Control, supra*, 124 Cal.App.4th at p. 1214.) "Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." (*Ibid.*; State CEQA Guidelines, § 15355(b).)

"Proper cumulative impact analysis is vital because the full environmental impacts of a proposed project cannot be gauged in a vacuum." (*Bakersfield Citizens for Local Control, supra*, 124 Cal.App.4th at p. 1214.) "One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources." (*Ibid.*) These sources appear insignificant when considered individually but assume threatening dimensions when considered collectively with other sources with which they interact." (*Ibid.*)

To have an adequate discussion of significant cumulative impacts, an EIR must generally begin by setting forth a "list of past, present, and probable future projects

producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency.” (State CEQA Guidelines, § 15130(b)(1)(A).)

Here, the EIR fails to properly analyze the proposed Project's cumulative impacts for several reasons.

First, the EIR does not include the necessary “list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency.” (State CEQA Guidelines, § 15130(b)(1)(A).) This list should include both (1) past, present, and probably future MCLs for various contaminants that the State Water Board has adopted or plans to adopt; and (2) the various means by which the implementing agencies will implement the MCL for Cr6 in connection with the proposed Project.

2.6.35 Response to CVWD Comment 3-16

See section 2.5.32 Response to Winters Comment 2-16.

2.6.36 CVWD Comment 3-17

Second, the State Water Board recognizes that there are existing MCLs for other contaminants, and that the State Water Board is in the process or plans to adopt MCLs for a series of other contaminants, including arsenic, perfluorooctanoic acid and perfluoroalkyl substances, n-nitroso-dimethylamine, styrene, and cadmium. (https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/Regulations.html [setting forth existing MCLs adopted by State Water Board], https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/Regulations.html [setting forth planned future MCLs].) The cumulative economic and environmental impacts of requiring public agencies to comply with these past, present, and probably future MCLs must be analyzed in the EIR. This cumulative impacts analysis is a fundamental prerequisite to CEQA compliance because “consideration of the effects of a project or projects as if no others existed would encourage the piecemeal approval of several projects that, taken together, could overwhelm the natural environment and disastrously overburden the man-made infrastructure and vital community services.” (*Bakersfield Citizens for Local Control, supra*, 124 Cal.App.4th at pp. 1214-1215.) “This would effectively defeat CEQA’s mandate to review the actual effect of the projects upon the environment.” (*ibid.*)

2.6.37 Response to CVWD Comment 3-17

See section 2.5.34 Response to Winters Comment 2-17.

2.6.38 CVWD Comment 3-18

Finally, the State Water Board has an obligation to not only analyze the cumulative impacts of the Project taken together with past, present, and probable future MCLs for

other contaminants, but also an obligation to mitigate those impacts. (*Joy Road Area Forest & Watershed Assn. v. California Department of Forestry & Fire Protection* (2006) 142 Cal.App.4th 656, 676.) "A cumulative impact analysis which understates information concerning the severity and significance of cumulative impacts impedes meaningful public discussion and skews the decisionmaker's perspective concerning the environmental consequences of the project, the necessity for mitigation measures, and the appropriateness of project approval." (*Ibid.*) Accordingly, CVWD urges the State Water Board to analyze the Project's cumulative impacts, and to commit to mitigation measures that would reduce cumulative impacts to a level of less than significant. (State CEQA Guidelines, § 15126.4(a)(1)(B).) In particular, CVWD urges the State Water Board to adopt and implement a sustainable regulatory program that pairs each MCL with specific, dedicated funding programs sufficient to implement and mitigate the impacts of each MCL.

2.6.39 Response to CVWD Comment 3-18

See section 2.5.36 Response to Winters Comment 2-18.

2.6.40 CVWD Comment 3-19

8. The EIR fails to properly analyze alternatives to the proposed Project.

"It is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures which substantially lessen the significant environmental effects of such projects." (Pub. Resources Code, § 21002.) Accordingly, "CEQA requires an EIR to identify feasible alternatives that could avoid or substantially lessen the project's significant environmental effects." (*Save Our Capitol!*, *supra*, 87 Cal.App.5th at p. 702; Pub. Resources Code, §§ 21002, 21100(b)(4).) Indeed, courts have explained that one of an EIR's "major functions" is to "ensure that all reasonable alternatives to proposed projects are thoroughly assessed." (*Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 565.)

As part of this analysis, an EIR must "describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." (State CEQA Guidelines, § 15126.6(a).) The range of alternatives must provide "enough of a variation to allow informed decision making." (*Save Our Capitol!*, *supra*, 87 Cal.App.5th at p. 703.)

An EIR violates CEQA when the alternatives analyzed therein "do not contribute to a reasonable range of alternatives that fostered informed public participation and decision-making." (*Save Our Capitol!*, *supra*, 87 Cal.App.5th at p. 703.) This occurs when an EIR does not consider any alternative that would feasibly attain most of the

project's objectives while also lessening the project's significant impacts on the environment. (*Ibid.*) Accordingly, a public agency violates CEQA when it defines its project objectives so narrowly that it "preclude[s] any alternative other than the Project." (*We Advocate Through Environmental Review v. County of Siskiyou* (2022) 78 Cal.App.5th 683,692 [hereinafter, "WATER"].) Thus, when a public agency effectively defines a project objective as achieving the proposed project, and dismissively rejects anything other than the proposed project as not meeting project objectives, the EIR "prejudicially prevent[s] informed decision making and public participation." (*Id.* at p. 692.)

Here, the EIR proposes an MCL for Cr6 of 10 ppb, but it dismisses all other alternatives as infeasible and incapable of meeting project objectives. The EIR provides no substantive or quantitative analysis of the other proposed alternatives. Instead, like the lead agency in the *WATER* decision, the EIR "dismissively reject[s] anything other than the proposed project." (*WATER, supra*, 78 Cal.App.5th at p. 692.) And, like the EIR at issue in the *WATER* decision, this approach "transform[s] the EIR's alternatives section—often described as part of the 'core of the EIR'—into an empty formality." (*Ibid.*) This is evidenced by the fact that the EIR's "Discussion and Comparison of Alternatives" section is almost entirely devoid of analysis, and spans just over a single page. (See EIR, p. 26-6 through 26-7.) To comply with CEQA, a robust analysis of the Project alternatives is required. (*WATER, supra*, 78 Cal.App.5th at p. 692.)

To provide the public and the decision-makers with a complete assessment of the Project and the alternatives to the Project, the EIR must assess the relationships of each alternative to impacts on the environment and also the technical and economic feasibility of each alternative. The EIR cannot simply dismiss alternatives under CEQA by relying on State Water Board staff's conclusion that an MCL of 10 ppb is technically and economically feasible and that, therefore, there are no other legally sufficient alternatives to analyze. To the contrary, CEQA requires a deeper assessment and acknowledgement of the interrelationship between the State Water Board's assessment of feasibility under California Health and Safety Code section 116365(a) and its obligations under CEQA to assess alternatives. A full assessment of alternatives must inform the decision-making process under Section 116365(a). An MCL may appear feasible in a vacuum but prove to be infeasible when assessed in light of the various impacts it might have on the environment. A fully analyzed alternative may in fact be the one that is truly feasible under Section 116365(a) and environmentally superior under CEQA when all impacts are considered. By failing to meaningfully assess alternatives, the State Water Board is not only acting contrary to CEQA but also failing to perform its obligations under Section 116365(a).

2.6.41 Response to CVWD Comment 3-19

See section 2.5.38 Response to Winters Comment 2-19.

2.6.42 CVWD Comment 3-20

CVWD urges the State Water Board to consider alternative treatment methods in addition to the proposed BATs (ion exchange, RCF, and reverse osmosis). CVWD successfully demonstrated a bench scale study of the addition of stannous chloride to reduce Cr6 concentration to that of well below the proposed MCL of 10 ppb. This treatment method is the most cost-effective option and can be employed immediately when CVWD has gained approval from the Division of Drinking Water District 20 (DDW) to launch a full-scale implementation to reduce Cr6 that is specific to its water systems. The stannous chloride full-scale implementation plan was submitted to DDW in January 2023 but has not yet been approved.

2.6.43 Response to CVWD Comment 3-20

As explained in section 4.3.4 of the ISOR, for stannous chloride to be considered BAT, additional information on the capability of the technology to meet the proposed MCL would be necessary, including information on reoxidation in the distribution system and the ability to meet a potential MCL without exceeding the stannous chloride maximum use level. Currently, the fate of hexavalent chromium when stannous chloride is used is not well understood, and additional evaluation of distribution system water quality is necessary before it can be approved.

The use of stannous chloride with filtration is a form of RCF, which is already a BAT. Systems may use treatment other than BAT with approval from the State Water Board. For those who wish to apply stannous chloride without filtration, additional evaluation of distribution water quality will be required before it is permitted.

2.6.44 CVWD Comment 3-21

9. The EIR lacks stable project objectives, and this renders its Alternatives analysis fundamentally flawed.

An EIR's project description is "an indispensable element of both a valid draft EIR and final EIR." (*Stopthemillenniumhollywood.com v. City of Los Angeles* (2019) 39 Cal.App.5th 1, 16.) As has often been stated, "an accurate, stable, and finite project description is the *sine qua non* of an informative and legally sufficient EIR." (*Washoe Meadows, supra*, 17 Cal.App.5th at p. 287.) Accordingly, "a project description that gives conflicting signals to decision makers and the public about the nature and scope of the project is fundamentally inadequate and misleading." (*Ibid.*)

A key component of the project description is the "statement of the objectives sought by the proposed project." (State CEQA Guidelines, § 15124(b); *Washoe Meadows, supra*, 17 Cal.App.5th at p. 287.)

Here, however, the EIR does not provide an accurate and stable statement of the proposed Project's objectives. The key project objective emphasized in the EIR is to

"comply[] with the statutory mandate to adopt a primary drinking water standard for hexavalent chromium, as required by Health and Safety Code section 116365.5." (EIR, p. 25-4.) The EIR rejects all alternatives to the proposed MCL of 10 ppb on the basis that "the State Water Board is legally required to adopt a primary drinking water standard that is as close as feasible to the corresponding public health goal" ('PHG') established by OEHHA as required by Health and Safety Code section 116365." (EIR, p. 26-7.) But, as discussed below, it is unclear what OEHHA's PHG for Cr6 will be when the Project is proposed to go into effect two to four years from now.

In July 2011, OEHHA established a PHG for Cr6 of 0.02 ppb, representing a de minimis lifetime cancer risk from exposure to Cr6 in drinking water, based on studies in laboratory animals. Since then, scientific information on the impacts of Cr6 on human health has advanced substantially. The most recent scientific information on the health effects of human ingestion of Cr6 in drinking water indicates that MCLs at or above the upper end of the MCLs set forth in the EIR's range of alternatives are fully health protective.

OEHHA's PHG for Cr6 of 0.02 ppb is subject to imminent change. In October 2016, OEHHA announced that substantial new information warrants a review of the Cr6 PHG, which to date has not been performed. More recently, in March 2023, OEHHA announced that it would be "completing the update" of the Cr6 PHG that it had initiated in 2016.

OEHHA's potential revision of its PHG for Cr6 has significant CEQA ramifications. Again, the EIR eliminates all project alternatives on the basis that the State Water Board must adopt a drinking water standard for Cr6 "that is as close as feasible to [OEHHA's] corresponding public health goal" of 0.02 ppb that is technologically and economically feasible. (See EIR, p. 26-7; see also Health & Safety Code, § 116365(a)-(b).)

The EIR further provides that the project will not go into effect—i.e., that water agencies need not take actions to comply with the MCL—until between two and four years after the State Water Board certifies the EIR and adopts its Cr6 MCL. (EIR, p. S-1.) This is problematic because in the next two to four years OEHHA could revise its PHG for Cr6 significantly upward based on new information. This is not unrealistic, as the Environmental Protection Agency's ("EPA") drinking water standard for Cr6 is 100 ppb—10x higher than the drinking water standard the State Water Board proposes in the EIR. (<https://www.epa.gov/sdwa/chromium-drinking-water> [while the EPA drinking water standard of 100 ppb is ostensibly for total chromium, the regulation "assumes that a measurement of total chromium is 100 percent Cr6"].) Notably, the State Water Board is statutorily required to consider the EPA's drinking water standard of 100 ppb in establishing its own MCL. (Health & Safety Code, § 116365(b)(1).)

Under CEQA, this project objective instability renders the EIR's analysis of project alternatives—and by extension, the EIR itself—fatally defective. For example, OEHHA could within the next two years revise its PHG for Cr6 from 0.02 ppb to 30 ppb. If the

EIR is certified before this development takes place, then water agencies two years from now may be required to take action with significant and unavoidable impacts to the environment to comply with the EIR's proposed MCL of 10 ppb, when OEHHA's PHG for Cr6 at the time of project implementation could be 30 ppb. This would result in significant and unnecessary impacts to the environment. (See EIR, p. 26-5 [water agencies in 44 counties would have to take action that could have a significant and unavoidable impact with an MCL of 10 ppb; less than half that amount, water agencies in just 16 counties, would need to take similar action with a Cr6 MCL of 30 bbp].[sic])

To avoid this circumstance, CVWD strongly urges the State Water Board to refrain from taking any action towards certifying the EIR or adopting the Project until OEHHA completes its pending update to the Cr6 PHG.

2.6.45 Response to CVWD Comment 3-20

See section 2.5.40 Response to Winters Comment 2-20.

2.6.46 CVWD Comment 3-21

10. The State Water Board should refrain from certifying the EIR until OEHHA completes its update of its Cr6 public health goal; alternatively, the EIR must be revised and recirculated to comply with CEQA.

CVWD urges the State Water Board to hold off certification of the EIR or approval of the Project until OEHHA completes its pending update of the Cr6 PHG. The revised PHG, based on the most recent science available, would then better guide the State Water Board in determining the proper MCL for Cr6. And, from a CEQA perspective, this would streamline any EIR regarding MCL for Cr6 by (1) eliminating from consideration the most stringent proposed MCLs, which are the MCLs that will have the most significant environmental impacts; and (2) allowing the State Water Board to prepare an alternatives analysis in the EIR that complies with CEQA. The people of California and the environment will both benefit from a reassessment of the PHG for Cr6.

In the alternative, if the State Water Board presses forward with the proposed MCL of 10 ppb before OEHHA completes its update of the Cr6 PHG, then at a bare minimum, the EIR must be revised to address the deficiencies raised herein. The revised EIR must then be recirculated to the public pursuant to State CEQA Guidelines section 15088.5.

11. Conclusion

CVWD looks forward to working with the State Water Board to ensure that this Project receives the careful review that it deserves. Thank you for your consideration of CVWD's input.

2.6.47 Response to CVWD comment 3-21

See section 2.5.42 Response to Winters Comment 2-21.

2.7 City of Coachella (Coachella) (Commenter 4) Comments and Responses

2.7.1 Coachella Comment 4-1

The City of Coachella ("City") submits these written comments in response to the State Water Resources Control Board's ("State Water Board") Notice of Availability of a Draft Program Environmental Impact Report ("EIR") for the adoption of a regulation for the maximum contaminant level ("MCL") for hexavalent chromium ("chromium-6"). The City hopes that its written comments will help the State Water board fully analyze, mitigate, and avoid the potential environmental impacts of the Project in compliance with the California Environmental Quality Act (Pub. Resources Code, § 21000, et seq.: "CEQA").

The EIR analyzes a proposed primary drinking water standard for chromium-6 that includes a MCL of 10 micrograms per liter (ug/L) or parts per billion (ppb) (the "Project"). The City has serious concerns about both the proposed MCL of 10 ppb and the adequacy of the EIR prepared for the proposed Project. The City is a responsible agency for the proposed Project, as the City operates its own public water system, and the City will be required to comply with the new MCL if adopted as proposed. (State CEQA Guidelines, § 15381.)

The MCL would significantly impact the City, its ratepayers, and the environment. Given the potential impacts of the MCL, the City appreciates the State Water Board's commitment to prepare an EIR for the Project. The City believes, however, that significant revisions are necessary to the EIR to bring it into compliance with CEQA.

The City additionally urges the State Water Board to refrain from certifying the EIR or from approving the Project until the Office of Environmental Health Hazard Assessment ("OEHHA") completes its pending revisions to its public health goal ("PHG") for chromium-6. Given the centrality of OEHHA's PHG to the EIR, and in particular to the EIR's analysis of alternatives to the Project, the City believes that the State Water board cannot comply with CEQA until OEHHA provides clarity on the PHG that will be in effect when the Project is proposed to be implemented two to four years from now. (*Washoe Meadows Community v. Department of Parks & Recreation* (2017) 17 Cal.App.5th 277, 287 ["an accurate, stable, and finite project description is the *sine qua non* of an informative and legally sufficient EIR"].)

The City appreciates the opportunity to submit these comments, and the City is hopeful that it can work with the State Water Board to ensure that a valid CEQA document is prepared and that any future MCL for chromium-6 is protective of the public health, the environment, and the City's ratepayers.

2.7.2 Response to Coachella Comment 4-1

No response is required for these introductory comments; the State Water Board responds to the issues below as they are more fully detailed by Coachella in its letter. One issue, however, that is not addressed below is the Coachella role as a responsible agency. Coachella states above that it "is a responsible agency for the proposed Project, as it is a water district that will be required to comply with the new MCL if adopted as written." The State Water Board does not agree that the Coachella is a responsible agency under CEQA for the adoption of the Proposed Regulations. Although the Coachella may be a lead or responsible agency for the any site-specific compliance project that it proposes to come into compliance with the regulations, it has no discretionary approval power in the development or adoption of the Proposed Regulations. The State Water Board is the only public agency with the responsibility for carrying out or approving the Proposed Regulations, and there are no other responsible agencies for the adoption of the Regulations.

2.7.3 Coachella Comment 4-2

1. The Project Could Dramatically Impact The City of Coachella, Its Ratepayers, And The Environment.

The City of Coachella is located in Riverside County on the eastern edge of the Coachella Valley. The City has a population of approximately 45,000 residents, most of whom are economically disadvantaged. The median household income in the City is approximately \$35,000. As discussed further below, the proposed Project could have potentially significant impacts on the environment and on the City's ratepayers, many of whom will not be able to afford the rate increases necessary to offset the costs of compliance with an overly stringent MCL.

The City will be uniquely impacted by the setting of a new MCL because groundwater is the City's only water source. The City operates its own public water system, obtaining its water from six groundwater wells that have a total pumping capacity of approximately 16.9 million gallons per day. This groundwater has naturally occurring chromium-6 that is the result of the valley's geology. For this reason, the City has long been concerned about the establishment of an MCL for chromium-6 that protects public health while being both technologically and economically feasible, as required by law. (Health & Safety Code, § 116365(a), (b)(3).) A technologically and economically feasible MCL would allow the City to continue to provide a sustainable public water supply to its residents.

The Project, however, proposes an MCL that is neither technologically nor economically feasible for the City. This is not the first time the State Water Board has proposed an MCL of 10 ppb for chromium-6. When the 10 ppb MCL was previously in effect between 2014-2017 (before a court invalidated the MCL), the City quickly came to realize the significant challenges this MCL would have for the City's public water

system. To implement the previous MCL of 10 ppb, the City developed plans to construct and operate a strong base anion exchange system, which would have cost \$36.2 million to construct. Implementing this treatment technology to achieve an MCL of 10 ppb would have resulted in a 120 percent increase in average water rates per customer over a five year period. This would have resulted in increases of approximately \$53 per month or \$636 per year for the City's ratepayers – an increase many ratepayers could not afford then, and an increase which even fewer ratepayers can afford now amidst the challenges of surging inflation.

The City is concerned that an unduly stringent MCL of 10ppb would require the City to construct economically infeasible facilities or to deploy other treatment options at enormous cost.

2.7.4 Response to Coachella Comment 4-2

See section 2.5.4 Response to Winters Comment 2-2.

2.7.5 Coachella Comment 4-3

Both the construction of new facilities and the deployment of treatment options would significantly impact the environment.

The proposed MCL will have enormous adverse economic impacts on the City and its ratepayers, but these impacts are not just economic—they will translate into significant and unavoidable environmental impacts. These impacts must be avoided, and the means to avoid them is by adopting an economically and technologically feasible MCL—i.e., an MCL for chromium-6 greater than the currently proposed MCL of 10 ppb. The City urges the State Water Board to revise and recirculate the EIR to consider these important concerns. CEQA requires the analysis of these impacts, as discussed below.

2.7.6 Response to Coachella Comment 4-3

See section 2.5.6 Response to Winters Comment 2-3

2.7.7 Coachella Comment 4-4

2. The EIR violates CEQA because it does not provide the detail necessary to inform the public of the Project's potential impacts to the environment.

The California Supreme Court has characterized an EIR as "the heart of CEQA." (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 392.) "An EIR is an 'environmental alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." (*Ibid.*) "The EIR is also intended to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action." (*Ibid.*) Because the EIR must be certified or rejected by public officials, it is a document of accountability." (*Ibid.*) "If CEQA is scrupulously followed, the

public will know the basis on which its responsible officials either approve or reject environmentally significant action, and the public, being duly informed, can respond accordingly to action with which it disagrees." (*Ibid.*) The EIR thus "protects not only the environment, but also informed self-government." (*Ibid.*)

In light of the above-referenced policies, "[w]hen determining whether an EIR's discussion of potentially significant effects is sufficient, the ultimate inquiry is whether the EIR includes enough detail to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project." (*Save Our Capitol! v. Department of General Services* (2023) 87 Cal.App.5th 655,670, quoting *Laurel Heights, supra*, 47 Cal.3d at p. 405.)

The EIR here fails to comply with CEQA because it does not include enough detail to enable the public to understand and to consider meaningfully the Project's potential impacts on the environment. (*Save Our Capitol!, supra*, 87 Cal.App.5th at p. 670.) An EIR is intended to serve as an "environmental alarm bell," but the EIR here sounds more like the boy who cried "wolf!" The EIR finds that the proposed Project will result in a wide range of significant and unavoidable impacts to the environment, but it also declares that this finding may simply be a false alarm-that there isn't necessarily anything to be worried about. The EIR provides the public with mixed messages, in effect declaring: "The Project could result in environmental disaster. Or maybe everything will be fine. We just don't know."

The EIR recognizes that its analysis is not premised on a strong factual foundation.

For example, the EIR provides:

- "Because it would be speculative to assume the type, size, and location of potential compliance projects, as well as the type of resources impacted, this EIR cannot quantify the impacts associated with the implementation of any specific project, but does recognize the potential for such impacts, and identifies potential mitigation that could be implemented at site-specific projects to avoid such impacts." (EIR, p. S-3.)
- "[E]ven where a source of drinking water is known to be contaminated with hexavalent chromium based on data collected under the prior regulation, it would be speculative to guess the location of a future compliance project to address that contamination." (EIR, p.2-7.)
- Without attempting to quantify the impacts associated with the implementation of any specific project, the EIR includes a list of potential actions or mitigation measures that could possibly reduce the impact to a less-than-significant level or contribute to doing so. However, because of the programmatic nature of the analysis and because the State Water Board does not have control over how a public water system will ultimately comply with the regulations, including where it would locate site-specific compliance projects, it is uncertain whether the

identified mitigation would be effective in reducing the potential impacts for any specific project." (EIR, p. 3-8.)

In short, the EIR's analysis concludes that it does not know what the Project's potential impacts may be, and it does not know whether those impacts could be mitigated to a level of less than significant. This mixed messaging does not promote "informed self-government." (Laurel Heights, *supra*, 47 Cal.3d at p. 392.) It does not address the concerns of "an apprehensive citizenry" that looks to the lead agency to determine whether the environmental impacts of the Project have been duly considered. (*Ibid.*) In short, the EIR fails to include "enough detail to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project." (*Save Our Capitoll*, *supra*, 87 Cal.App.5th at p. 670.)

For these reasons, the EIR fails to comply with CEQA. (*Save Our Capitoll*, *supra*, 87 Cal.App.5th at p. 670; *Laurel Heights*, *supra*, 47 Cal.3d at p. 392.)

2.7.8 Response to Coachella Comment 4-4

See section 2.5.8 Response to Winters Comment 2-4

2.7.9 Coachella Comment 4-5

3. The EIR abdicates its responsibility to analyze the potential environmental impacts of the Project by finding nearly every impact to be "significant and unavoidable" without reference to any standard of significance.

"The purpose of an environmental impact report is to identify the significant effects on the environment of a project, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided." (Pub. Resources Code, § 21002.1(a).) To further this purpose, the lead agency must disclose the "analytic route" between its conclusion that an impact may have a potentially significant impact on the environment and its conclusion of whether, and to what extent, the impact can be mitigated. (*Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645, 654.)

A lead agency does not satisfy its responsibility under CEQA by merely reaching a conclusion regarding whether a proposed project may have a significant and unavoidable impact on the environment. (*Lotus*, *supra*, 223 Cal.App.4th at p. 654.) Instead, a lead agency must (1) set forth the standard of significance by which it will determine whether a proposed project will have a significant impact on the environment; (2) provide analysis demonstrating whether the proposed project will exceed that standard of significance; (3) propose mitigation to reduce the proposed Project's potentially significant impact on the environment; and (4) analyze the extent to which that mitigation will reduce the potentially significant impact. (*Id.* at pp. 655-658; see also Pub. Resources Code, § 21100(b).)

The EIR fails to meet any of the above criteria. For example, in its analysis of whether the proposed Project could violate any air quality standard or contribute substantially to an existing or projected air quality violation, the EIR provides no factual analysis. Instead, the EIR refers the public to its roughly one-page analysis of whether the proposed Project would conflict with or obstruct implementation of any applicable air quality plan. (EIR, p. 6-9.) The EIR's analysis of whether the proposed Project would conflict with or obstruct implementation of the applicable air quality plan, however, is not based on, and does not reference, any threshold of significance. (See EIR, pp. 6-7 through 6-9.)

Without any threshold of significance to guide its significance determination, the EIR does not and cannot include any factual analysis demonstrating whether the proposed Project will exceed any threshold of significance. Moreover, while the EIR proposes mitigation measures, it does not analyze whether and to what extent this mitigation could reduce the potentially significant impact. The EIR ultimately concludes that the proposed Project may result in a significant and unavoidable air quality impact, but this conclusion is based on conjecture, not facts. (*King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 838 [public agency violates CEQA and abuses its discretion when its determination is not supported by substantial evidence]; see also Pub. Resources Code, § 21168.5.)

In sum, the EIR violates CEQA by failing to measure the proposed Project's potential impacts against any threshold of significance, and by further failing to quantitatively analyze whether the mitigation measures identified could reduce the proposed Project's potential impacts to a level of less than significant. The EIR is littered with conclusions of "significant and unavoidable impacts," but the EIR fails to disclose the "analytic route" taken to reach these conclusions. (*Lotus, supra*, 223 Cal.App.4th at p. 654.)"

2.7.10 Response to Coachella Comment 4-5

See Section 2.5.10 Response to Winters Comment 2-5.

2.7.11 Coachella Comment 4-6

4. The EIR must analyze how the economic impacts of compliance with the MCL could result in physical impacts on the environment.

The EIR must serve as an informational document that will inform public agency decisionmakers and the public generally of the significant environmental effects of the Project, identify possible ways to mitigate the Project's significant effects, and describe reasonable alternatives to the Project. (State CEQA Guidelines, § 15121(a).) To achieve this purpose, the EIR must analyze how the economic impacts of compliance with the MCL could result in physical impacts on the environment. (State CEQA Guidelines, § 15382 ["economic change related to a physical change may be considered in determining whether the physical change is significant"].)

The cost of compliance with the MCL for chromium-6 would shape the behavior of both water agencies and ratepayers, and the environmental impacts of this reasonably foreseeable behavior must be analyzed in the EIR. To do so, the EIR must analyze and discuss the costs of complying with the MCL, and how activity in response to such costs could potentially impact the environment.

2.7.12 Response to Coachella Comment 4-6

See Section 2.5.12 Response to Winters Comment 2-6.

2.7.13 Coachella Comment 4-7

The City provides a non-exhaustive list of examples of how behavior responding to the cost of the MCL could result in a potentially significant impact on the environment.

(1) Shift from groundwater usage to surface water usage. While the City does not have this option, the high cost of compliance with an overly stringent MCL could cause water agencies to shift from groundwater usage to surface water usage, and the EIR must analyze the potential environmental impacts of this reasonably foreseeable shift, as further discussed in section 5 of this comment letter below. Notably, Yolo County water agencies have already made this shift. The shift to surface water usage would have numerous deleterious impacts on the environment, including decreased in-stream flows and adverse impacts to fish and wildlife.

2.7.14 Response to Coachella Comment 4-7

See Section 2.5.14 Response to Winters Comment 2-7.

2.7.15 Coachella Comment 4-8

(2) Increased dependency on surface waters would increase the need for water storage. The MCL could spur a wave of reasonably foreseeable water storage and conveyance projects, as water agencies increasingly use surface waters to avoid the costs of compliance with the MCL. The EIR must analyze and mitigate the environmental impacts of these projects, including impacts on air quality, water quality, and biological resources. Moreover, the need for water storage may require flooding large areas of land to store water, and the environmental impacts of transforming the environment in this manner must be analyzed.

2.7.16 Response to Coachella Comment 4-8

See Section 2.5.16 Response to Winters Comment 2-8.

2.7.17 Coachella Comment 4-9

(3) The EIR must analyze the reasonably foreseeable environmental impacts of the Project resulting from increased rates to ratepayers. The cost of compliance with a MCL

of 10 ppb would shape not only the behavior of water agencies, but also of ratepayers who could face dramatic increases in monthly costs as a result of their water agencies' efforts to comply with the MCL. For example, economically vulnerable ratepayers unable to afford these increased costs may be forced to migrate from a service area with high MCL compliance costs to a service area that either has lower such costs or an area that is better able to distribute such costs among a greater number of ratepayers. This migration is a reasonably foreseeable response to higher water rates, and the environmental effects of such migration must be analyzed in the EIR. These impacts may include (1) rural blight, as ratepayers in smaller service areas with high MCL compliance costs migrate to more metropolitan service areas, where the costs of such compliance can be distributed among a larger population; (2) VMT associated with such migration; (3) air quality and greenhouse gas impacts related to such migration; and (4) substantial unplanned population growth in areas with lower MCL compliance costs and the displacement of substantial numbers of people in areas with high MCL compliance costs.

2.7.18 Response to Coachella Comment 4-9

See Section 2.5.18 Response to Winters Comment 2-9.

2.7.19 Coachella Comment 4-10

The above-referenced impacts do not appear to be analyzed in the EIR. The City urges the State Water Board to recirculate the EIR to analyze and mitigate these impacts in order to comply with CEQA.

2.7.20 Response to Coachella Comment 4-10

The above-referenced impacts are speculative. There is no evidence to suggest that these impacts would result from the Proposed Regulations. Therefore, the Draft EIR does not analyze them, and recirculation is not required.

2.7.21 Coachella Comment 4-11

5. The EIR fails to analyze or mitigate the Project's potential to force water agencies to shift from groundwater to surface water and the potential environmental impacts that may result from this shift.

A lead agency fails to comply with CEQA when its EIR does "not discuss the impact of new surface water diversions, enforceable measures to mitigate those impacts, or the remaining unmitigated impacts." (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 444 [Supreme Court held that lead agency's failure to properly analyze project's impacts on surface water violated CEQA]; see also *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645,664 [lead agency violated CEQA where it "fail[ed] to adequately analyze impacts to surface water"].)

In response to the Notice of Preparation ("NOP") of the EIR, many public agencies commented that the proposed Project would cause water agencies to shift from groundwater usage to surface water usage. (See EIR, Appendix B [NOP Comment Letters].) CEQA requires the EIR to analyze the potential environmental impacts of this reasonably foreseeable shift (including impacts relating to decreased in-stream flows and adverse impacts to fish and wildlife), and to mitigate the impacts of this shift. (See Pub. Resources Code, § 21159(a).)

The EIR identifies "switching to surface water" as a reasonably foreseeable means of complying with the proposed MCL. (See, 7-7-g., EIR, pp. S-3, 1-1, 2-7 through 2-8, 2-15 [recognizing water agencies may "increase their reliance on surface water and reduce or cease using the groundwater supply contaminated by hexavalent chromium"].) The EIR, however, fails to analyze any potential environmental impacts that may result from this increased reliance on surface water. The EIR does not analyze the Project's potential impact to result in decreased in-stream flows, nor does it analyze potential adverse impacts to fish and wildlife that may result from increased reliance on surface water.

While the EIR recognizes that increased reliance on surface water is a reasonably foreseeable means of complying with the proposed MCL, the EIR fails to analyze any of the potential direct, or reasonably foreseeable indirect, impacts to the environment that may result as a result of this action. This renders the EIR fatally flawed under CEQA, and the EIR must therefore be revised and recirculated to address this issue. (See, e.g., *Vineyard Area Citizens for Responsible Growth, Inc.*, *supra*, 40 Cal.4th at p. 444.)

2.7.22 Response to Coachella Comment 4-11

See Section 2.5.22 Response to Winters Comment 2-11.

2.7.23 Coachella Comment 4-12

6. The State Water Board, as Lead Agency, must take responsibility to mitigate the Project's potential impacts to the environment.

A fundamental purpose of an EIR is to identify ways in which a proposed project's significant environmental impacts can be mitigated or avoided. (Pub. Resource Code, § 21002.1(a), 21081(a)(1).) "A gloomy forecast of environmental degradation is of little or no value without pragmatic, concrete means to minimize the impacts and restore ecological equilibrium." (*Environmental Council of Sacramento v. City of Sacramento* (2006) 142 Cal.App.4th 1018, 1039.)

The EIR here provides a gloomy forecast of environmental degradation, concluding that the Project will result in a significant and unavoidable impact as to nearly every resource analyzed. Yet, the EIR fails to properly mitigate these significant and unavoidable impacts. State CEQA Guidelines section 15126.4 sets forth the State Water Board's responsibility as lead agency to commit to mitigation measures:

Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures shall not be deferred until some future time. The specific details of a mitigation measure, however, may be developed after project approval when it is impractical or infeasible to include those details during the project's environmental review provided that the agency (1) commits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the types of potential actions that can feasibly achieve that performance standard and that will be considered, analyzed, and potentially incorporated in the mitigation measure.

(State CEQA Guidelines, § 15126.4(a)(1)(8), emphasis added.)

None of the mitigation measures proposed in the EIR comply with the above standards.

First, the State Water Board has not committed itself to any mitigation. The State Water Board has not even considered what steps that it—as opposed to agencies tasked with complying with the proposed MCL—could take to mitigate potential impacts to the environment. For example, compliance with the proposed MCL could result in significant economic burden to responsible agencies, and as various agencies commented in response to the NOP, there are significant impacts to the environment that could result from this economic burden. (State CEQA Guidelines, § 15382 ["economic change related to a physical change may be considered in determining whether the physical change is significant"].) The State Water Board, however, has not discussed how it could provide funding, grants, or subsidies to responsible agencies to mitigate potential impacts to the environment. State funding is the linchpin to achieve an economically feasible MCL. Without a specific and enforceable commitment from the State Board on funding, the economic feasibility analysis and the EIR are deficient.

Again, the State Water Board has not committed to any mitigation at all. The EIR must be revised so that the State Water Board itself commits to mitigation so that the burden of the State Water Board's proposed Project does not fall squarely on the responsible agencies required to implement the Project. (State CEQA Guidelines, § 15126.4(a)(1)(B).) The State Water Board has an integral part to play in mitigating the impacts of its Project. By not taking responsibility to mitigate impacts that it can control, the State Water Board violates CEQA.

2.7.24 Response to Coachella Comment 4-12

See Section 2.5.24 Response to Winters Comment 2-12.

2.7.25 Coachella Comment 4-13

Second, while the EIR sets forth mitigation measures as to nearly every impact, the EIR does not specify any specific performance standards for any of the identified mitigation measures. (State CEQA Guidelines, § 15126.4(a)(I)(B).)

2.7.26 Response to Coachella Comment 4-13

See Section 2.5.26 Response to Winters Comment 2-13.

2.7.27 Coachella Comment 4-14

Nor does the EIR explain why or how implementation of the mitigation measures will substantially lessen the Project's significant and unavoidable impact. The EIR identifies a significant and unavoidable impact, and identifies mitigation measures, but fails to analyze or explain the relationship between the mitigation measures and the significant and unavoidable impact. This defect infects the discussion in nearly every section of the EIR.

2.7.28 Response to Coachella Comment 4-14

See Section 2.5.28 Response to Winters Comment 2-14.

2.7.29 Coachella Comment 4-15

Third, and related to the point above, the EIR does not identify the types of potential actions that can feasibly achieve the performance standard. (State CEQA Guidelines, § 15126.4(a)(1)(B).) Again, this is because the EIR simply does not identify any performance standards. As a result, the EIR does not explain to what extent or how the mitigation measures will substantially reduce impacts. This defect is fatal to the adequacy of the EIR.

2.7.30 Response to Coachella Comment 4-15

See Section 2.5.30 Response to Winters Comment 2-15.

2.7.31 Coachella Comment 4-16

7. The EIR fails to properly analyze the proposed Project's cumulative impacts.

A proper analysis of a project's cumulative impacts is a "vital informational function" of CEQA. (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1214.) "[A] cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts." (*Ibid.*; State CEQA Guidelines, § 15130(a).) More specifically, the "cumulative impact from several project projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future

projects." (*Bakersfield Citizens for Local Control, supra*, 124 Cal.App.4th at p. 1214.) "Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." (*Ibid.*; State CEQA Guidelines, § 15355(b).)

"Proper cumulative impact analysis is vital because the full environmental impacts of a proposed project cannot be gauged in a vacuum." (*Bakersfield Citizens for Local Control, supra*, 124 Cal.App.4th at p. 1214.) "One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources." (*Ibid.*) These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact." (*Ibid.*)

To have an adequate discussion of significant cumulative impacts, an EIR must generally begin by setting forth a "list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency." (State CEQA Guidelines, § 15130(b)(1)(A).) Response 4-14

Here, the EIR fails to properly analyze the proposed Project's cumulative impacts for several reasons.

First, the EIR does not include the necessary "list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency." (State CEQA Guidelines, § 15130(b)(1)(A).) This list should include both (1) past, present, and probably future MCLs for various contaminants that the State Water Board has adopted or plans to adopt; and (2) the various means by which the implementing agencies will implement the MCL for chromium-6 in connection with the proposed Project.

2.7.32 Response to Coachella Comment 4-16

See Section 2.5.32 Response to Winters Comment 2-16.

2.7.33 Coachella Comment 4-17

Second, the State Water Board recognizes that there are existing MCLs for other contaminants, and that the State Water Board is in the process or plans to adopt MCLs for a series of other contaminants, including arsenic, perfluorooctanoic acid and perfluoroalkyl substances, n-nitroso-dimethylamine, styrene, and cadmium.

(https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/Regulations.html [setting forth existing MCLs adopted by State Water Board],

<https://www.waterboards.ca.gov/drinkingwater/certlic/drinkingwater/Regulations.html> [setting forth planned future MCLs].) The cumulative economic and environmental

impacts of requiring public agencies to comply with these past, present, and probably future MCLs must be analyzed in the EIR. This cumulative impacts analysis is a fundamental prerequisite to CEQA compliance because "consideration of the effects of a project or projects as if no others existed would encourage the piecemeal approval of

several projects that, taken together, could overwhelm the natural environment and disastrously overburden the man-made infrastructure and vital community services." (*Bakersfield Citizens for Local Control, supra*, 124 Cal.App.4th at pp. 1214-1215.) "This would effectively defeat CEQA's mandate to review the actual effect of the projects upon the environment." (*Ibid.*)

2.7.34 Response to Coachella Comment 4-17

See Section 2.5.34 Response to Winters Comment 2-17.

2.7.35 Coachella Comment 4-18

Finally, the State Water Board has an obligation to not only analyze the cumulative impacts of the Project taken together with past, present, and probable future MCLs for other contaminants, but also an obligation to mitigate those impacts. (*Joy Road Area Forest & Watershed Assn. v. California Department of Forestry & Fire Protection* (2006) 142 Cal.App.4th 656, 676.) "A cumulative impact analysis which understates information concerning the severity and significance of cumulative impacts impedes meaningful public discussion and skews the decisionmaker's perspective concerning the environmental consequences of the project, the necessity for mitigation measures, and the appropriateness of project approval." (*Ibid.*) Accordingly, the City urges the State Water Board to analyze the Project's cumulative impacts, and to commit to mitigation measures that would reduce cumulative impacts to a level of less than significant. (State CEQA Guidelines, § 15126.4(a)(1)(B).) In particular, the City urges the State Water Board to adopt and implement a sustainable regulatory program that pairs each MCL with specific, dedicated funding programs sufficient to implement and mitigate the impacts of each MCL.

2.7.36 Response to Coachella Comment 4-18

See Section 2.5.36 Response to Winters Comment 2-18.

2.7.38 Coachella Comment 4-19

8. The EIR fails to properly analyze alternatives to the proposed Project.

"It is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures which substantially lessen the significant environmental effects of such projects." (Pub. Resources Code, § 21002.) Accordingly, "CEQA requires an EIR to identify feasible alternatives that could avoid or substantially lessen the project's significant environmental effects." (*Save Our Capitol!, supra*, 87 Cal.App.5th at p. 702; Pub. Resources Code, §§ 21002, 21100(b)(4).) Indeed, courts have explained that one of an EIR's "major functions" is to "ensure that all reasonable alternatives to proposed projects are thoroughly assessed." (*Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 565.)

As part of this analysis, an EIR must “describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.” (State CEQA Guidelines, § 15126.6(a).) The range of alternatives must provide “enough of a variation to allow informed decisionmaking.” (*Save Our Capitol!*, *supra*, 87 Cal.App.5th at p. 703.)

An EIR violates CEQA when the alternatives analyzed therein “do not contribute to a reasonable range of alternatives that fostered informed public participation and decision-making.” (*Save Our Capitol!*, *supra*, 87 Cal.App.5th at p. 703.) This occurs when an EIR does not consider any alternative that would feasibly attain most of the project’s objectives while also lessening the project’s significant impacts on the environment. (*Ibid.*) Accordingly, a public agency violates CEQA when it defines its project objectives so narrowly that it “preclude[s] any alternative other than the Project.” (*We Advocate Through Environmental Review v. County of Siskiyou* (2022) 78 Cal.App.5th 683,692 [hereinafter, “*WATER*”].) Thus, when a public agency effectively defines a project objective as achieving the proposed project, and dismissively rejects anything other than the proposed project as not meeting project objectives, the EIR “prejudicially prevent[s] informed decision making and public participation.” (*Id.* at p. 692.)

Here, the EIR proposes an MCL for chromium-6 of 10 ppb, but it dismisses all other alternatives as infeasible and incapable of meeting project objectives. The EIR provides no substantive or quantitative analysis of the other proposed alternatives. Instead, like the lead agency in the *WATER* decision, the EIR “dismissively reject[s] anything other than the proposed project.” (*WATER*, *supra*, 78 Cal.App.5th at p. 692.) And, like the EIR at issue in the *WATER* decision, this approach “transform[s] the EIR’s alternatives section—often described as part of the ‘core of the EIR’—into an empty formality.” (*Ibid.*) This is evidenced by the fact that the EIR’s “Discussion and Comparison of Alternatives” section is almost entirely devoid of analysis, and spans just over a single page. (See EIR, p. 26-6 through 26-7.) To comply with CEQA, a robust analysis of the Project alternatives is required. (*WATER*, *supra*, 78 Cal.App.5th at p. 692.)

To provide the public and the decision-makers with a complete assessment of the Project and the alternatives to the Project, the EIR must assess the relationships of each alternative to impacts on the environment and also the technical and economic feasibility of each alternative. The EIR cannot simply dismiss alternatives under CEQA by relying on State Water Board staff’s conclusion that an MCL of 10 ppb [sic] is technically and economically feasible and that, therefore, there are no other legally sufficient alternatives to analyze. To the contrary, CEQA requires a deeper assessment and acknowledgement of the interrelationship between the State Water Board’s assessment of feasibility under California Health and Safety Code section 116365(a) and its obligations under CEQA to assess alternatives. A full assessment of alternatives

must inform the decision-making process under section 116365(a). An MCL may appear feasible in a vacuum but prove to be infeasible when assessed in light of the various impacts it might have on the environment. A fully analyzed alternative may in fact be the one that is truly feasible under section 116365(a) and environmentally superior under CEQA when all impacts are considered. By failing to meaningfully assess alternatives, the State Water Board is not only acting contrary to CEQA but also failing to perform its obligations under section 116365(a).

2.7.39 Response to Coachella Comment 4-17

See section 2.5.38 Response to Winters Comment 2-19.

2.7.40 Coachella Comment 4-18

9. The EIR lacks stable project objectives, and this renders its Alternatives analysis fundamentally flawed.

An EIR's project description is "an indispensable element of both a valid draft EIR and final EIR". (*Stopthemillenniumhollywood.com v. City of Los Angeles* (2019) 39 Cal.App.5th 1, 16.) As has often been stated, "an accurate, stable, and finite project description is the *sine qua non* of an informative and legally sufficient EIR." (*Washoe Meadows, supra*, 17 Cal.App.5th at p. 287.) Accordingly, "a project description that gives conflicting signals to decision makers and the public about the nature and scope of the project is fundamentally inadequate and misleading." (*Ibid.*)

A key component of the project description is the "statement of the objectives sought by the proposed project." (State CEQA Guidelines, § 15124(b); *Washoe Meadows, supra*, 17 Cal.App.5th at p. 287.)

Here, however, the EIR does not provide an accurate and stable statement of the proposed Project's objectives. The key project objective emphasized in the EIR is to "comply[] with the statutory mandate to adopt a primary drinking water standard for hexavalent chromium, as required by Health and Safety Code section 116365.5." (EIR, p. 25-4.) The EIR rejects all alternatives to the proposed MCL of 10 ppb on the basis that "the State Water Board is legally required to adopt a primary drinking water standard that is as close as feasible to the corresponding public health goal" ("PHG") established by OEHHA as required by Health and Safety Code section 116365." (EIR, p. 26-7.) But, as discussed below, it is unclear what OEHHA's PHG for chromium-6 will be when the Project is proposed to go into effect two to four years from now.

In July 2011, OEHHA established a PHG for chromium-6 of 0.02 ppb, representing a de minimis lifetime cancer risk from exposure to chromium-6 in drinking water, based on studies in laboratory animals. Since then, scientific information on the impacts of chromium-6 on human health has advanced substantially. The most recent scientific information on the health effects of human ingestion of chromium-6 in drinking water

indicates that MCLs at or above the upper end of the MCLs set forth in the EIR's range of alternatives are fully health protective.

OEHHA's PHG for chromium-6 of 0.02 ppb is subject to imminent change. In October 2016, OEHHA announced that substantial new information warrants a review of the chromium-6 PHG, which to date has not been performed. More recently, in March 2023, OEHHA announced that it would be "completing the update" of the chromium-6 PHG that it had initiated in 2016.

OEHHA's potential revision of its PHG for chromium-6 has significant CEQA ramifications. Again, the EIR eliminates all project alternatives on the basis that the State Water Board must adopt a drinking water standard for chromium-6 "that is as close as feasible to [OEHHA's] corresponding public health goal" of .02 ppb that is technologically and economically feasible. (See EIR, p. 26-7; see also Health & Safety Code, § 116365(a)-(b).)

The EIR further provides that the project will not go into effect—i.e., that water agencies need not take actions to comply with the MCL—until between two and four years after the State Water Board certifies the EIR and adopts its chromium-6 MCL. (EIR, p. S-1.) This is problematic because in the next two to four years OEHHA could revise its PHG for chromium-6 significantly upward based on new information. This is not unrealistic, as the Environmental Protection Agency's ("EPA") drinking water standard for chromium-6 is 100 ppb—10x higher than the drinking water standard that the State Water Board proposes in the EIR. (<https://www.epa.gov/sdwa/chromium-drinking-water> [while the EPA drinking water standard of 100 ppb is ostensibly for total chromium, the regulation "assumes that a measurement of total chromium is 100 percent chromium-6"].) Notably, the State Water Board is statutorily required to consider the EPA's drinking water standard of 100 ppb in establishing its own MCL. (Health & Safety Code, § 116365(b)(1).)

Under CEQA, this project objective instability renders the EIR's analysis of project alternatives—and by extension, the EIR itself—fatally defective. For example, OEHHA could within the next two years revise its PHG for chromium-6 from .02 ppb to 30 ppb. If the EIR is certified before this development takes place, then water agencies two years from now may be required to take action with significant and unavoidable impacts to the environment to comply with the EIR's proposed MCL of 10 ppb, when OEHHA's PHG for chromium-6 at the time of project implementation could be 30 ppb. This would result in significant and unnecessary impacts to the environment. (See EIR, p. 26-5 [water agencies in 44 counties would have to take action that could have a significant and unavoidable impact with an MCL of 10 ppb; less than half that amount, water agencies in just 16 counties, would need to take similar action with a chromium-6 MCL of 30 ppb] [sic].)

To avoid this circumstance, the City strongly urges the State Water Board to refrain from taking any action towards certifying the EIR or adopting the Project until OEHHA completes its pending update to the chromium-6 PHG.

2.7.41 Response to Coachella Comment 4-18

See section 2.5.40 Response to Winters Comment 2-20.

2.7.42 Coachella Comment 4-19

10. The State Water Board should refrain from certifying the EIR until OEHHA completes its update of its chromium-6 public health goal; alternatively, the EIR must be revised and recirculated to comply with CEQA.

The City urges the State Water Board to hold off certification of the EIR or approval of the Project until OEHHA completes its pending update of the chromium-6 PHG. The revised PHG, based on the most recent science available, would then better guide the State Water Board in determining the proper MCL for chromium-6. And, from a CEQA perspective, this would streamline any EIR regarding MCL for chromium-6 by (1) eliminating from consideration the most stringent proposed MCLs, which are the MCLs that will have the most significant environmental impacts; and (2) allowing the State Water Board to prepare an alternatives analysis in the EIR that complies with CEQA. The people of California and the environment will both benefit from a reassessment of the PHG for chromium-6.

In the alternative, if the State Water Board presses forward with the proposed MCL of 10 ppb before OEHHA completes its update of the chromium-6 PHG, then at a bare minimum, the EIR must be revised to address the deficiencies raised herein. The revised EIR must then be recirculated to the public pursuant to State CEQA Guidelines section 15088.5.

11. Conclusion.

The City looks forward to working with the State Water Board to ensure that this Project receives the careful review that it deserves. Thank you for your consideration of the City's input.

2.7.43 Response to Coachella Comment 4-19

See section 2.5.42 Response to Winters Comment 2-21.

2.8 Mission Springs Water District (MSWD) (Commenter 5) Comments and Responses

The Mission Springs Water District comment letter is focused on the costs of compliance and is responded to in the Final Statement of Reasons; however, the letter has a section titled: "Additional Comments" with comments numbered 1 through 5.

Additional Comments 2 through 5 refer to environmental impacts and will be addressed below.

2.8.1 MSWD Comment 5-1

Reconsideration of an MCL of 25 ppb to minimize economic hardship and environmental impacts. The 25 ppb is highly regarded as a safe standard by federal standards and the World Health Organization (WHO).

2.8.2 Response to MSWD Comment 5-1

The Draft EIR discussed that a higher MCL would result in fewer environmental impacts than the proposed regulations because there would be fewer water systems that would need to construct and operate compliance projects. To summarize Chapter 26 Alternatives Analysis, section 26.3, pp. 26-6 to 26-7, a higher MCL will result in fewer sources requiring fewer compliance projects and would result in fewer environmental impacts resulting in less surface water use, less hazardous waste, energy use, and greenhouse gas emissions.

However, the EIR also explained in section 26.3 in the third paragraph on page 26-7 that an MCL of 25 ppb would not meet the legal requirement for the MCL to be “as close as feasible” to the public health goal of .02 ug/L.

“The State Water Board is legally required to adopt a primary drinking water standard at a level that is as close as feasible to the corresponding public health goal placing primary emphasis on the protection of public health. (Health & Saf. Code, § 116365). If the State Water Board finds that the proposed MCL of 10 ug/L is technologically and economically feasible, then any alternative MCL value higher than 10 ug/L would not be ‘as close as feasible’ to the public health goal of .02 ug/L. Therefore, if the State Water Board finds that the proposed MCL of 10 ug/L is technologically and economically feasible, then the alternative MCL values of 11, 12, 13, 14, 15, 20, 25, 30, 35, 40, and 45 ug/L are legally infeasible.”

2.8.3 MSWD Comment 5-2

Consider analyzing potential environmental impacts, such as hazardous waste production from SBA IX and RCF, and update cost estimates associated with the elimination of hazardous waste production.

2.8.4 Response to MSWD Comment 5-2

The Draft EIR does not discuss costs, which are analyzed in the Initial Statement of Reasons and the Standardized Regulatory Impact Assessment. The Draft EIR analyzes and considers the potential environmental impacts from BAT hazardous waste production and elimination. This discussion can be found in Chapter 12 Hazards and

Hazardous Materials, section 12.4 Impacts and Mitigation Measures (pp. 12-4 to 12-14). Section 12.4.1 says, "Compliance with the Proposed Regulations by public water systems may have the potential to create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials." It also discusses this at length under section 12.4.1.2 BAT - Operation and Maintenance Impacts pp. 12-6 to 12-9.

Additionally, vehicle trips to dispose of waste and brine are discussed in Chapter 20 Transportation, specifically in section 20.3.2 Impact 20-2 Vehicle Miles Traveled (pp. 20-4 to 20-5). This section discusses and considers the environmental impacts from increased vehicle miles traveled for the operation and maintenance of the BAT and for disposal of hazardous waste residuals. Section 20.3.5 also considers the cumulative impacts of the increased vehicle miles traveled (pp. 20-7 to 20-8).

The ISOR and SRIA include estimates and considerations of the costs of hazardous and non-hazardous waste disposal from treatment. The SRIA, as Attachment 2 to the ISOR, includes Appendix A "Cost Estimating Methodology", which includes explanations of the cost estimates for treatment. Section I.3.a.2.A describes the methodology for estimating the cost of treating with strong base ion exchange, including the cost to dispose of clarified brine waste and spent resin (as hazardous waste). Section I.3.a.2.B describes the methodology for estimating the cost of treating with strong base ion exchange, including waste disposal. Section I.3.a.2.C describes the methodology for estimating the cost of treating with RCF, including the disposal of dewatered solids.

2.8.5 MSWD Comment 5-3

Take into consideration that MSWD, as well as many other water purveyors throughout the State of California, do not have surface or imported water to make up for lost well production due to inactivating wells to meet the MCL in such a short compliance timeframe. The lack of a supplemental surface water supply poses an economic hardship and fire protection risk to the disadvantaged communities we serve.

2.8.6 Response to MSWD Comment 5-3

The notion that a public water system would have to discontinue using a source is probably based on the commenter's interpretation of subdivision (h)(2) of section 64432 of title 22 of the California Code of Regulations. Under that provision, the State Water Board can require a water system to discontinue using a water supply with detections ten times above the MCL. The State Water Board considers a water system's existing source capacity when deciding whether to require a water system to discontinue a particular source.

Public water systems have many reasonably foreseeable means of compliance that do not involve reducing a water system's source of supply. There are currently only four active sources that are contaminated with hexavalent chromium at 10 times the MCL of

10 ug/l. If a system does not have surface or imported water to offset contaminated well water, the system could install wellhead treatment and continue using the well, drill a replacement well, or tie into or consolidate with another nearby water system. In addition, it may be possible for a system to discontinue using a well for drinking water, but keep that well on standby for fire protection. See also, section 2.6.7 Response to CVWD Comment 3-3.

2.8.7 MSWD Comment 5-4

Consider statewide drought conditions and the negative impacts that the MCL will have on already stressed local water supplies and disadvantaged community household budgets.

2.8.8 Response to MSWD Comment 5-4

The Draft EIR discusses the potential impacts of the Proposed Regulations on both ground and surface water supplies in drought and non-drought conditions in Chapter 13 “Hydrology and Water Quality” and in Chapter 22 “Utilities and Service Systems”. Additionally, the discussions of cumulative impacts in Chapter 3 “Impact Analysis Approach” and the cumulative impacts sections under each topic-specific chapter address the potential negative impacts of the Proposed Regulations on local water supplies. Most relevant are the cumulative impacts sections in Chapter 13 “Hydrology and Water Quality”, and in Chapter 7 “Biological Resources”.

Impacts on disadvantaged community household budgets are addressed in the ISOR and the SRIA.

2.9 Oral Comment Yasmeen Nubani, Twentynine Palms Water District (TPWD) (Commenter 6) Comments and Responses

2.9.1 TPWD Comment 6-1

Yasmeen Nubani, speaking on behalf of the Twentynine Palms Water District made the following comment at the Board Hearing, “Additionally, we are concerned about the environmental impacts of residual disposal and the subsequent greenhouse gases that will be released from having to conduct treatment and haul those residuals away to another state.”

2.9.2 Response Comment TPWD 6-1

The environmental impacts of residuals disposal and the greenhouse gases produced from vehicle miles traveled to collect and dispose waste was disclosed in the Draft EIR in Chapter 11, “Greenhouse Gas Emissions”, Chapter 12, “Hazards and Hazardous Waste”, and Chapter 20, “Transportation”. The Draft EIR found these impacts to be potentially significant and unavoidable, although existing legal requirements for hazardous waste and mitigation measures exist that may reduce those impacts to less

than significant, as described in the Draft EIR. In addition, some of the reasonably foreseeable means of compliance would not produce hazardous waste at all, such as blending sources or replacing wells.

3 CHANGES TO THE DRAFT EIR

3.1 Changes to List of Tables

On page S-1, the following changes are made to the first sentence:

In 2004², the California Legislature required the Department of Health Services to develop a primary drinking water standard for hexavalent chromium by 2003⁴.

On page x, the following table reference is added:

Table 26-3 Total Number of Cancer Cases Avoided by MCL Value Over 70 Years

3.2 Changes to Summary Chapter

On page S-3, the following changes are made:

Project-level impacts will vary depending on the size, location, and type of treatment installed, and the environmental resources in and around the project site. It is possible that at a specific site with particularly sensitive environmental resources, the installation of treatment could cause potentially significant impacts as compared to baseline conditions. Although it is anticipated that treatment will be installed within areas that are already disturbed, such as within the footprint of existing well sites, distribution pipes, and treatment works, and that any potentially significant impacts could be mitigated, many of the potential impacts are identified as being potentially significant and unavoidable due to the fact that the State Water Board cannot control the location of the projects, the type of mitigation, or whether mitigation will be required and implemented by the lead agency.

This EIR identifies the following as reasonably foreseeable alternative means of compliance: drilling a new well, switching to surface water, blending sources, treatment with stannous chloride, and purchasing water from, or consolidating with, a nearby water system. The impacts from alternative means of compliance are likely to vary depending on the individual project. Because it would be speculative to assume the type, size, and location of potential compliance projects, as well as the type of resources impacted, this EIR cannot quantify the impacts associated with the implementation of any specific project, but does recognize the potential for such impacts, and identifies potential mitigation that could be implemented at site-specific projects to avoid such impacts.

Potential environmental impacts are related to the reasonably foreseeable means of compliance and alternative means of compliance with the project and are summarized

in Table ES1-1. Refer to Chapters 4 through 23 in this EIR for a complete discussion of each impact.

This EIR analyzes the reasonably foreseeable environmental impacts of the methods of compliance and the reasonably foreseeable alternative means of compliance. Because this EIR is assessing the impacts of reasonably foreseeable future projects, all the impacts in this EIR are indirect impacts and the State Water Board is presenting mitigation measures in this document that may be implemented along with other project specific measures by CEQA lead agencies to reduce impacts to less than significant levels for future compliance projects. It is also reasonably foreseeable that the State Water Board could be a lead agency for compliance projects if the Division of Financial Assistance funds a private entity's compliance project and no other public agency has discretion.

On pages S-3 to S-32, Table ES-1-1 Summary of Impacts and Mitigation Measures is changed to reflect the changes (described below) to Mitigation Measures 4-4, Mitigation Measure 7-1, and Mitigation Measure 13-2.

3.3 Changes to Chapter 1 Introduction and Background

On page 1-1, the following sentence is added to the end of the third paragraph:

On November 24, 2023, OEHHA published a draft document describing a proposed health-protective concentration for noncancer effects of hexavalent chromium in drinking water of 5 ppb.

On page 1-3, the following paragraph is added to the end of the section entitled "Background on Hexavalent Chromium":

As noted above, on November 24, 2023, OEHHA published a draft document describing a proposed health-protective concentration for noncancer effects of hexavalent chromium in drinking water of 5 ppb. That proposed health-protective concentration for noncancer effects of 5 ppb is significantly less than the State Water Board's proposed MCL of 10 ppb. A health-protective concentration for noncancer effects of 5 ppb would be a ceiling for any future change to the PHG. This is because even if OEHHA were to determine a health-protective concentration for cancer effects from hexavalent chromium that is higher than the proposed MCL of 10 ppb, OEHHA would still select the lower value of 5 ppb for the PHG. As explained in OEHHA's November 24, 2023, "Announcement of Availability of a Draft Technical Support Document for Proposed Health-Protective Concentration for Noncancer Effects of Hexavalent Chromium in Drinking Water", "[f]or carcinogens, health-protective water concentrations are determined for both cancer and noncancer effects, and the lowest (most health protective) value is selected as the PHG." Accordingly, OEHHA's publication of a draft health-protective concentration of 5 ppb for noncancer effects from hexavalent chromium indicates that it is unlikely that OEHHA will revise the PHG for hexavalent chromium to a number higher than the proposed MCL of 10 ppb. Therefore, the

Proposed Regulations are unlikely to change as a result of a future revision to the PHG by OEHHA.

3.4 Changes to Chapter 2 Regulatory Setting and Proposed Regulations

On page 2-17, the following paragraph is added to the end of the section entitled “Project Economic Characteristics”:

These costs, however, are based on installation of best available technology as required by Health and Safety Code section 116365, subdivision (b)(3), but as noted above in section 2.6, the MCL does not dictate specific methods of compliance, and public water systems may find less expensive methods of compliance than installing BAT. For instance, some water systems may switch to sources of water that are not contaminated or may blend sources of contaminated water with sources of uncontaminated water to deliver drinking water that meets the MCL.

On page 2-17, the following changes are made to the beginning of the second paragraph of the section entitled “Agencies That Will Use This Document”:

Because this is a programmatic EIR and does not address the potential impacts of site-specific compliance projects, future projects undertaken by public water systems to meet the requirements of the Proposed Regulations will need to comply with CEQA. Environmental review of those projects will necessarily entail assessment of site-specific impacts and, if necessary, mitigation measures. Public Resources Code section 21159.1 allows the use of focused EIRs for projects that consist solely of installation of pollution control equipment required by specific agencies’ rules or regulations and other components necessary to complete installation of equipment, if the agency requiring pollution control prepared an EIR that included an assessment of growth-inducing and cumulative impacts from, and alternatives to, the project. For these focused EIRs the discussion of potential significant environmental impacts is limited to project-specific potentially significant effects on the environment that were not discussed in the environmental analysis in the EIR prepared for the rule or regulation. In addition, the focused EIR does not have to discuss growth-inducing or cumulative impacts, and the discussion of alternatives can be limited to a discussion of alternative means of compliance, if any, with the rule or regulation.

3.5 Changes to Chapter 4 Aesthetics

On page 4-5, the following changes are made to section 4.4.4.1 Mitigation Measures 4-4:

- a) Follow local lighting ordinances.
- b) Schedule hours of operation to reduce light and glare. During project construction and operations over the lifetime of the project, to the extent feasible the project

proponent shall eliminate all nonessential lighting throughout the project area and avoid or limit the use of artificial light at night during the hours of dawn and dusk.

- c) Design outdoor lighting to aim downward onto the project site and not glare skyward or onto adjacent parcels. Ensure that all lighting for the future compliance project is fully shielded, cast downward, reduced in intensity to the greatest extent, and does not result in lighting trespass including glare into surrounding areas or upward into the night sky (see the International Dark-Sky Association standards).
- d) To the extent feasible, compliance project proponents shall ensure use of LED lighting with a correlated color temperature of 3,000 Kelvins or less, proper disposal of hazardous waste, and recycling of lighting that contains toxic compounds with a qualified recycler.

3.6 Changes to Chapter 7 Biological Resources

On page 7-3, the following changes are made to Table 7-1 Affected Wells Within Critical Habitats, section 7.1 Environmental Setting:

TABLE 7-1 AFFECTED WELLS WITHIN CRITICAL HABITATS

Well(s) No.	Water System	USFWS Critical Habitat Species of Concern	County
5664-1	3310001	Coachella Valley milk-vetch, Coachella Valley fringe-toed lizard	Riverside
6805-1	3310001	Peninsular bighorn sheep	Riverside
24, 29, 37	3310008	Coachella Valley milk-vetch	Riverside
1	3500552	California tiger salamander	San Benito
1, 4	3910018	Delta smelt	San Joaquin
7	3810702	Delta smelt	San Joaquin
2	4400758	California red-legged frog	Santa Cruz
1	4400763	California red-legged frog	Santa Cruz
1	4400774	Zayante band-winged grasshopper	Santa Cruz
3, 18	4410011	Santa Cruz tarplant	Santa Cruz

1, 2	4800804	Delta smelt	Solano
11	5610017	Southwestern willow flycatcher	Ventura
1	5700552	Delta smelt	Yolo

On page 7-7, the following changes are made to section 7.1 Environmental setting:

The California Fish and Game Code regulates the taking of special status mammals, birds, fish, reptiles, and amphibians, as well as natural resources including waters and wetlands of the state. It includes the Streambed Alteration Agreement regulations (Fish & G. Code §§ 1600- 1616) and CESA, as well as provisions for legal fishing and hunting, and tribal agreements relating to the take of native wildlife. Any project impact to state-listed species within or alongside a project site would mandate a permit under the CESA.

Also, if a project recommends proposes altering a state-defined wetland or a streambed, then a Streambed Alteration Agreement would be mandatory from the CDFW. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: substantially divert or obstruct the natural flow of any river, stream or lake; substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water. Project proponents that submit a notification to CDFW per Fish and Game Code section 1602, prior to construction and issuance of any grading permit shall either obtain written correspondence from CDFW stating that notification under section 1602 of the Fish and Game Code is not required for their specific project, or if the project requires notification under section 1602 of the Fish and Game Code and CDFW determines the project may substantially adversely affect fish and wildlife resources, obtain a CDFW executed LSA Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.

On pages 7-9 to 7-10, the following changes are made to section 7.4.1 Impact 7-1 Candidate, Sensitive, and Special Status Species:

Compliance with the Proposed Regulations by public water systems may have the potential to have a substantial adverse effect, either directly or indirectly through habitat modifications, on any species identified as candidate, sensitive, or special status in local or regional plans, policies, or regulations, or by the CDFW or USFWS.

Construction of reasonably foreseeable means of compliance could have potentially significant impacts on candidate, sensitive, or special-status species. Although installation of treatment facilities to comply with the Proposed Regulations would likely take place within the existing footprint of treatment facilities, and adjacent to the existing well and distribution facilities, implementation of alternative means of compliance, such as construction of an intertie or consolidation with another system, could impact previously undisturbed areas that could pose a potentially significant impact to biological resources. Construction activities related to the reasonably foreseeable means of compliance, such as the installation of treatment, could disturb land, cause noise or vibrations that could disturb special status animal species, or affect special status plants and/or critical habitat. In addition to construction, there could also be personnel coming onsite monthly for monitoring, and operation and maintenance of the facilities, including changing out media for treatment works. However, operation and maintenance of facilities is less likely to cause environmental impacts than initial construction.

Operation and maintenance activities of the reasonably foreseeable means of compliance could also have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS. For example, if a public water system were to comply with the Proposed Regulations by switching to using more surface water, this could have an impact on candidate, sensitive, or special status fish species. Less water in streams could adversely affect fish habitat, including causing stream temperatures to rise. If there is increased extraction of groundwater as a result of future compliance projects, that could also negatively impact special status fish and wildlife species and groundwater dependent ecosystems through drawdown of the water table. In addition, as described in section 4.4.4 above, security lighting at new facilities could contribute to nighttime light pollution. Artificial lighting alters ecological processes including, but not limited to, the temporal niches of species; the repair and recovery of physiological function; the measurement of time through interference with the detection of circadian and lunar and seasonal cycles; the detection of resources and natural enemies; and navigation, which may adversely impact candidate, sensitive, or special status species.

On pages 7-10 to 7-12, the following changes are made to section 7.4.1.1 Mitigation Measures 7-1:

Examples of recognized and accepted measures that are routinely required by regulatory agencies include:

- a) Identify special status species protected by federal, state, and local laws, regulations, policies, and ordinances that may be within the area where the site-specific compliance project would be located by querying the **California Natural Diversity Database (CNDDDB)** and conducting a project site biological survey. If special status species or their habitats have been identified in the project area during biological inventory of the

compliance project site by a qualified biologist prior to construction, comply with applicable federal and state endangered species acts and regulations, and any local requirements, such as tree preservation policies. Ensure that important fish or wildlife movement corridors or nursery sites are not impeded by project activities. Surveys shall be conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable. Some aspects of the future compliance projects may warrant periodic updated surveys for certain sensitive taxa, particularly if the future compliance project is proposed to occur over a protracted time frame, in phases, or if surveys are completed during periods of drought.

- b) When special status species have been identified in the project area, conduct pre-construction surveys prior to the commencement of construction to identify whether the species are currently inhabiting the project site. If species are identified, species specific avoidance protection measures are required.
- c) Environmental Awareness Training: Prior to the commencement of site grading, an environmental monitor should conduct environmental awareness training for all construction personnel. The environmental awareness training should include discussions of the special-status species and nesting birds that may occur in the project area. Topics of discussion could include descriptions of the species' habitats, general provisions and protections afforded by CEQA and the federal and state ESAs, measures implemented to protect special-status species, review of the project boundaries and special conditions, the environmental monitor's role in project activities, lines of communication, and procedures to be implemented in the event a special-status species is observed in the work area.
- d) Designate environmentally sensitive areas and erect temporary construction fencing and signs to protect the areas from vehicle and foot traffic.
- e) Limit construction to a seasonal window outside of the time of potential impact for specific species and specific behaviors as appropriate, such as hibernation periods, mating, and nesting seasons. For example, construct the project outside of nesting bird season (March 1st to September 30th).
- f) Retain a qualified biologist to act as an environmental monitor to ensure compliance with biological resources mitigation measures. Monitoring could be conducted full time during the initial disturbances (site clearing) and be reduced to twice a week following initial disturbances or a frequency and duration determined by the water system in consultation with the USFWS, the CDFW, and the lead agency, if not the water system. The monitor's responsibilities could include:
 - 1 ensuring that procedures for verifying compliance with environmental mitigations are implemented;
 - 2 establishing lines of communication and reporting methods;
 - 3 preparing compliance reporting;

- 4 conducting construction crew training regarding environmentally sensitive areas and protected species;
 - 5 facilitating the avoidance of special status plants and habitats;
 - 6 maintaining authority to stop work;
 - 7 outlining actions to be taken in the event of non-compliance.
- g) Implement mitigation banking consisting of the restoration or creation of habitat undertaken expressly for the purpose of compensating for unavoidable habitat losses (species and wetlands) in advance of development actions. The USACE has published guidance for determining compensatory mitigation ratios as required for processing of the Department of Army permits under Section 404 of the Clean Water Act, Section 10 of the Rivers, and Harbors Act; and Section 103 of the Marine Protection, Research, and Sanctuaries Act. Mitigation ratios and credits requirements are also established included in permits issued by the CDFW and the USFWS, to compensate for loss of habitat of federal and state listed species. Alternatively, to compensate for unavoidable habitat losses, implement offsite permittee-responsible mitigation, including the protection of land under a conservation easement or other appropriate legal instrument and provision of endowments to cover the costs of long-term management and monitoring of biological resources on that land, as well as conservation easement monitoring.
- h) Prepare and implement, or comply with existing, habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan. Where projects occur in areas covered by a Natural Community Conservation Planning (NCCP) Program or Habitat Conservation Plan (HCP), the project proponent shall coordinate with the respective implementing agency.
- i) Prohibit construction activities during the rainy season with requirements for seasonal weatherization and implementation of erosion prevention practices.
- j) Comply with all applicable limits on water diversion and use, including but not limited to Fish and Game Code section 5937 and water right permitting, water conservation, and endangered species requirements. When the Project proposes new wells that would increase groundwater usage in or near groundwater dependent ecosystems, Project proponents shall consider direct and indirect impacts to groundwater dependent ecosystems and species.
- k) Prepare a site design and development plan that avoids or minimizes disturbance of habitat and wildlife resources, as well as prevents stormwater discharge that could contribute to sedimentation and degradation of local waterways. Depending on disturbance size and location, a National Pollutant Discharge Elimination System construction permit may be required from the State Water Board.
- l) Regardless of the time of year, nesting bird surveys shall be performed by a qualified avian biologist no more than 3 days prior to vegetation removal

or ground-disturbing activities. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified avian biologist shall incorporate measures to avoid potential nest predation as a result of survey and monitoring efforts. If active nests are found during the pre-construction nesting bird surveys, a qualified biologist shall implement a plan to avoid disturbing nesting birds. The plan should include measures such as establishing an appropriate no-disturbance nest buffer to be marked on the ground and monitoring. Nest buffers are species and project specific and shall be at least 300 feet for passerines and 500 feet for raptors. Nest buffers may need to be increased during vulnerable nesting stages or if parents show distress. A nest buffer shall be determined by the qualified biologist familiar with the nesting phenology of the nesting species and based on nest and buffer monitoring results. The qualified biologist shall monitor active nests and adequacy of the nest buffers daily and established buffers shall remain in place until a qualified biologist determines the young have fledged, are feeding independently, and are no longer using the nest or the compliance project has been completed. The qualified biologist shall have the authority to stop work if nesting pairs exhibit signs of disturbance.

- m) Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may do one or more of the following: Substantially divert or obstruct the natural flow of any river, stream or lake; Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or Deposit debris, waste or other materials that could pass into any river, stream or lake. Please note that "any river, stream or lake" includes those that are episodic (i.e., those that are dry for periods of time) as well as those that are perennial (i.e., those that flow year-round). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water. Project proponents that submit a notification to CDFW per Fish and Game Code section 1602, prior to construction and issuance of any grading permit shall either obtain written correspondence from CDFW stating that notification under section 1602 of the Fish and Game Code is not required for their specific project or if the project requires notification under section 1602 of the Fish and Game Code and CDFW determines the project may substantially adversely affect fish and wildlife resources, the project proponent shall obtain a CDFW executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.

Because future compliance projects are unknown at this time, the State Water Board cannot predict what exactly those projects' impacts will be or the precise mitigation measures that will be required to reduce potential impacts to less than significant. Project-level impacts and mitigation measures will be addressed in future site-specific

environmental analyses conducted by CEQA lead agencies approving those projects. The ability to implement Mitigation Measures 7-1 and 4-4, or equally effective and feasible measures, is within the purview of the CEQA lead agencies and responsible agencies approving or permitting future compliance projects, not the State Water Board currently. Consequently, there is inherent uncertainty in the degree of mitigation that may ultimately be implemented to reduce potentially significant impacts from future compliance projects. This EIR therefore takes a conservative approach in its post-mitigation significance conclusion and discloses, for CEQA compliance purposes, that Impact 7-1 is **potentially significant and unavoidable**.

On page 7-12, the following changes are made to section 7.4.3 Impact 7-3 – Protected Wetlands:

For reasons similar to those stated in Impact 7-1, compliance with the Proposed Regulations by public water systems may have the potential to have a substantial adverse effect on state or federally protected wetlands (including, but not limited to marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means. Because future compliance projects are unknown at this time, the State Water Board cannot predict what exactly those projects' impacts will be or the precise mitigation measures that will be required to reduce potential impacts to less than significant. Project-level impacts and mitigation measures ~~will~~ must be addressed in future site-specific environmental analyses conducted by CEQA lead agencies approving those projects. Mitigation Measures 7-1, ~~and~~ 13-3, and compliance with the requirements of California Fish and Game Code 1602 may reduce the significance of Impact 7-3 to less than significant. The ability to implement Mitigation Measures 7-1, Mitigation Measures 13-3, or other equally effective and feasible measures, is within the purview of the CEQA lead agencies and responsible agencies approving or permitting future compliance projects, not the State Water Board currently. Consequently, there is inherent uncertainty in the degree of mitigation that may ultimately be implemented to reduce potentially significant impacts from future compliance projects. This EIR therefore takes a conservative approach in its post-mitigation significance conclusion and discloses, for CEQA compliance purposes, that Impact 7-3 is **potentially significant and unavoidable**.

On pages 7-13 to 7-14, the following changes are made to section 7.4.6 Impact 7-6 – Habitat Conservation Plans:

Section 15125(d) of the CEQA Guidelines requires that a CEQA document discuss any inconsistencies between a proposed project and applicable general plans and regional plans, including Habitat Conservation Plans, Natural Community Conservation Plans, and Regional Conservation Investment Strategies. An assessment of the impacts to the Habitat Conservation Plans, Natural Community Conservation Plans, and Regional Conservation Investment Strategies as a result of future compliance projects is necessary to address CEQA requirements and will be included in future site-specific environmental analysis conducted by CEQA lead agencies approving those projects.

For reasons like those in Impact 7-1, compliance with the Proposed Regulations by public water systems may have the potential to conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, Regional Conservation Investment Strategies, or other approved local, regional, or state habitat conservation plan. Because future compliance projects are unknown at this time, the State Water Board cannot predict what exactly those projects' impacts will be or the precise mitigation measures that will be required to reduce potential impacts to less than significant. Project-level impacts and mitigation measures will be addressed in future site-specific environmental analyses conducted by CEQA lead agencies approving those projects. Mitigation Measures 7-1 and 13-2 may reduce the significance of Impact 7-6 to less than significant. The ability to implement Mitigation Measures 7-1, 13-2, or equally effective and feasible measures, is within the purview of the CEQA lead agencies and responsible agencies approving or permitting future compliance projects, not the State Water Board currently. Consequently, there is inherent uncertainty in the degree of mitigation that may ultimately be implemented to reduce potentially significant impacts from future compliance projects. This EIR therefore takes a conservative approach in its post-mitigation significance conclusion and discloses, for CEQA compliance purposes, that Impact 7-6 is potentially significant and unavoidable.

On page 7-14, the following changes are made to section 7.4.7:

Implementation by public water systems of reasonably foreseeable means of compliance with the Proposed Regulations may contribute to cumulative impacts to biological resources from other projects occurring in the state. In particular, and as discussed in section 3.5, other drinking water projects that are like the reasonably foreseeable means of compliance have occurred and are likely to occur in the future. For instance, public water systems will continue to install treatment and obtain new sources of water supply to address other drinking water contaminants regulated under the California Safe Drinking Water Act and, in some cases, financed by the State Water Board's financial assistance programs. Likewise, public water systems will continue to consolidate with assistance from the State Water Board's SAFER program. These infrastructure projects have the potential to adversely affect biological resources. Due to the number of public water systems (currently around 7,000) and their distribution throughout the state, the cumulative impact on biological resources from the Proposed Regulations may be considerable in the context of these other projects. In addition, projects that are unrelated to the State Water Board's drinking water programs may impact biological resources in the vicinity of site-specific projects to comply with the Proposed Regulations. Depending on the location, the cumulative impact on biological resources may be significant. For example, as shown above in Figure 7-2, the areas with high numbers of contaminated drinking water wells within the boundaries of habitat conservation plans (HCPs) or Natural Community Conservation Planning (NCCP) Programs may be vulnerable – in the absence of mitigation measures – to the cumulative impacts from future compliance projects and other drinking water

infrastructure projects. As described above and illustrated in Figure 7-2, most drinking water wells with average hexavalent chromium levels above the proposed MCL and located within the boundaries of an HCP or NCCP Program are located in either the Coachella Valley or Yolo County. As a result, cumulative impacts to candidate, sensitive and special status species; sensitive natural communities (including groundwater dependent desert communities); protected wetlands; species movement and migration; and conflicts with those plans and programs could occur in these areas absent mitigation.

The Proposed Regulations' contribution to this significant impact could be cumulatively considerable due to the development of new drinking water infrastructure that could affect biological resources. Implementation of the project-level mitigation measures recommended in this chapter – including, in particular, Mitigation Measures 7-1 – would effectively reduce the incremental contribution from the Proposed Regulations to a less-than-considerable level. Nevertheless, the but authority to require that mitigation will rest with agencies that will be authorizing site-specific projects, and not with the State Water Board at this time. Consequently, it is uncertain whether mitigation measures would be implemented, which precludes assurance that significant impacts would be avoided. Therefore, the State Water Board takes the conservative approach and discloses, for purposes of CEQA compliance, that the Proposed Regulations could result in a considerable contribution to a significant cumulative impact on biological resources.

3.7 Changes to Chapter 13 Hydrology and Water Quality

On page 13-15, the following changes are made to section 13.4.2.3 Mitigation Measures 13-2:

The following are recommended mitigation measures to protect groundwater supply and basin recharge:

- a) Design site specific compliance project to ensure that its water requirements are consistent with available local supplies of water.
- b) Design site specific compliance project to ensure it is consistent with the local groundwater sustainability plan.
- c) Install permeable parking and driving surface material.
- d) Avoid installation of treatment in areas that impact natural recharge of groundwater.
- e) Design site specific compliance project to include recharge basis to compensate for new impervious surfaces.
- f) Decommission wells taken out of service, unless it is being used as a monitoring or standby well.

3.8 Changes to Chapter 22 Utilities and Service Systems

On page 22-4, the following changes are made to the third paragraph of section 22.3.1 Impact 22-1 – Relocation or Construction of New Utility Facilities

There is speculation that wastewater treatment facilities could also be indirectly affected by the Proposed Regulations and require upgrades to equipment to address hexavalent chromium. The argument has been made that because some regional water quality control boards have adopted into their water quality control plans language that prospectively incorporates MCLs as water quality objectives that wastewater treatment plants would have to treat to the MCL. However, most of the water entering a wastewater treatment plant will have been treated by a public water system. Although some untreated groundwater contaminated with hexavalent chromium could infiltrate into the wastewater treatment plant, this should be a small amount compared to the wastewater that came from homes.¹⁷ Therefore, it is unlikely wastewater treatment plants will have difficulty meeting the new hexavalent chromium MCL.

POTWs discharging to inland surface waters and enclosed bays and estuaries already must meet the continuous and maximum concentrations for hexavalent chromium of 16 ug/L and 11 ug/L to protect freshwater aquatic life in California. (40 CFR § 131.38 “Establishment of numeric criteria for priority toxic pollutants for the State of California.”) The establishment of an MCL of 10 ug/L is not inconsistent with those requirements, and would not require an expansion of treatment. In part, this is because consistent with the State Water Board’s “Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California,” water quality-based average monthly effluent limits are typically set at concentrations lower than the water quality standard driving the limit. For example, the NPDES permit for the City of Lompoc requires the City to test their effluent for hexavalent chromium once per quarter and meet an average monthly limit of 8.1 ug/L and a maximum daily limit of 16. This would be consistent with the MCL, for which compliance would be assessed based on a running annual average of 10 ug/L.

On page 22-6, the following changes are made to the second paragraph of section 22.3.2 Impact 22-2 Water Supply Impacts:

The Proposed Regulations could, however, impact water supplies available to serve reasonably foreseeable future development during normal, dry, and multiple dry years. For example, existing regulations authorize the State Water Board to require that public water systems discontinue the use of a source if the concentration of the inorganic chemical exceeds ten times the MCL. (Cal. Code Regs., tit. 22, § 64432, subd. (h)(2).) Several public water systems are known to have levels of hexavalent chromium that exceed that threshold, and there is a possibility that after systems start monitoring more will be identified. This could cause the system to not have sufficient water supplies available to serve its customers. However, this would be a temporary impact because the public water system could continue to use the source after treatment is installed. In

addition, public water systems with no other options could receive permission to continue to use the source (*Id.*)

3.9 Changes to Chapter 24 Mandatory Findings of Significance

On page 24-2, the following change is made to section 24.2.2 Impact 24-2 Cumulatively considerable impacts:

Cumulative impacts and mitigation measures are discussed in chapter 3.5 and in individual resource chapters. A summary of the resource categories that could experience significant and unavoidable cumulative impacts is set out in section 25.1. Potentially significant cumulative impacts were identified for all resource chapters but population and housing, recreation, and public services.

3.10 Changes to Chapter 25 Other CEQA Considerations

On page 25-1, the following changes are made to section 25.1 Summary of Cumulative Impacts:

Cumulative impacts and mitigation measures are discussed in chapter 3.5 and in individual resource chapters. As discussed above, cumulative impacts to the following resources may be significant and unavoidable:

- Aesthetics
- Agricultural and Forest Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Energy
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Mineral Resources
- Noise
- ~~Population~~
- Transportation
- Tribal Cultural Resources
- Utilities and Service Systems
- Wildfire

The following resource chapters did not find cumulative impacts:

- Population and Housing

- Public Services
- Recreation

3.11 Changes to Chapter 26 Alternatives Analysis

On page 26-2, the following changes are made to the third paragraph of section 26.2.2:

Alternative #2 would meet the objectives of the Proposed Regulations, to the extent that stannous chloride reduction proves to be an effective, safe, and reliable treatment technology. Its adoption would allow the State Water Board to comply with the statutory mandate to adopt a primary drinking water standard for hexavalent chromium. To the extent that stannous chloride reduction proves to be an effective, safe, and useful treatment technology, it will reduce cancer and non-cancer public health risks from human consumption of drinking water contaminated with hexavalent chromium, and it will avoid significant risks to public health from drinking water supplied by public water systems in California. To the extent that stannous chloride reduction is shown to be ineffective or poses a risk to public health, its use will not be permitted by the State Water Board's Division of Drinking Water.

On page 26-3, the following change is made to the first line:

Table Alternative #2, it is plausible that more water systems would decide to treat with stannous chloride reduction if they can demonstrate its effectiveness and safety for their system.

On page 26-4, the following change is made to the first paragraph following Table 26-1:

As Table 26.1 shows, at higher alternative MCL values, fewer public water systems would have to install treatment or implement alternative means of compliance. Accordingly, a higher MCL value would likely have less environmental impact due to compliance projects by affected public water systems than the proposed MCL value of 10 ug/L. Yet at higher MCL values, the treatment of sources that would still be above the alternative MCL compared with the proposed MCL of 10 would generally not entail fewer environmental impacts because the difference in impacts of treating to different MCLs is minimal. While it is possible that filter media would be changed less frequently at higher MCLs, the impacts from installing treatment or implementing alternative means of compliance are generally consistent in their environmental impacts when compared between difference MCLs.

As the number of contaminated sources differs at each alternative MCL value, geographical differences emerge, too. Table 26.2 shows the number of counties with contaminated sources at each alternative MCL value.

Beginning on page 26-6, the following is added to the beginning of section 26.3 Discussion and Comparison of Alternatives:

All alternative MCL values would satisfy the third objective of adopting a primary drinking water standard for hexavalent chromium, as required by Health and Safety Code section 116365.5. The extent to which they would meet the first two project objectives varies, as the reduction of cancer and non-cancer public health risks from human consumption of drinking water contaminated with hexavalent chromium varies in accordance with the specific MCL value, as shown in the Initial Statement of Reasons. As shown in the Initial Statement of Reasons or ISOR (SWRCB 2023a), the theoretical number of excess cancer cases avoided as a result of the Proposed Regulations varies considerably among the alternative MCL values. (ISOR, Attachment 1, Table 26.) (The ISOR was not able to quantify the non-cancer risk reduction due to limits in the science of noncancer effects. (SRIA, p. 9.)) At an alternative MCL of 1 ppb, there would be a theoretical reduction of 3,536 excess cancer cases over 70 years. (ISOR, Attachment 1, Table 26.) At an alternative MCL of 45 ppb, there would be a theoretical reduction of 14 excess cancer cases over 70 years. (*ibid.*) The following chart from the ISOR (Attachment 1, Table 26) shows number of theoretical excess cancer cases avoided over 70 years for the alternative MCL values considered in the Draft DEIR.

Table 26-3. Total Number of Cancer Cases Avoided by MCL Value Over 70 Years

MCL (ug/L)	CWS	NTNCWS	TNCWS	Wholesalers	Total	Average per year
1	3378.87	29.37	0.00	128.01	3,536	50.52
2	2716.70	22.25	0.00	96.27	2,835	40.50
3	2266.33	17.50	0.00	70.04	2,354	33.63
4	1927.28	14.25	0.00	48.19	1,990	28.42
5	1663.02	11.71	0.00	31.58	1,706	24.38
6	1451.32	9.86	0.00	18.11	1,479	21.13
7	1275.68	8.42	0.00	7.52	1,292	18.45
8	1126.01	7.20	0.00	2.74	1,136	16.23
9	998.79	6.16	0.00	0.91	1,006	14.37
10	891.86	5.31	0.00	0.52	898	12.82
11	795.60	4.72	0.00	0.33	801	11.44
12	708.46	4.18	0.00	0.14	713	10.18
13	626.95	3.69	0.00	0.08	631	9.01
14	551.40	3.22	0.00	0.08	555	7.92
15	484.13	2.79	0.00	0.07	487	6.96
20	238.82	1.36	0.00	0.04	240	3.43
25	135.55	0.69	0.00	0.02	136	1.95
30	96.09	0.35	0.00	0.00	96	1.38
35	63.41	0.17	0.00	0.00	64	0.91
40	36.45	0.02	0.00	0.00	36	0.52
45	14.16	0.00	0.00	0.00	14	0.20

As shown in the ISOR, alternative MCL values higher than the proposed MCL of 10 ppb would still reduce cancer public health risks from human consumption of drinking water contaminated with hexavalent chromium compared to the status quo, but less so than

the Proposed Regulations. Accordingly, the alternative MCL values reduce – but do not entirely avoid – a significant risk to public health, while not eliminating that risk entirely or to the extent technologically and economically feasible.

4 REFERENCES

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State Water Resources Control Board, Division of Drinking Water, Initial Statement of Reasons for the Hexavalent Chromium Maximum Contaminant Level (MCL) Regulation Title 22, California Code of Regulations, May 2023 3-0 Cr6 MCL - ISOR (ca.gov). (SWRCB 2023a)

State Water Resources Control Board, Division of Drinking Water, Attachment 1 to the Initial Statement of Reasons for the Hexavalent Chromium Maximum Contaminant Level (MCL) Regulation Title 22, California Code of Regulations, May 2023 https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/documents/chromium6/2023/3-1_Cr6-MCL-ISOR-Attachment-1-Cost-Tables-w-TOC.xlsx. (SWRCB 2023b)

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State Water Resources Control Board, Hexavalent Chromium Maximum Contaminant Level Consolidation and Alternatives Analysis, January 2024, Consolidation and Alternatives Analysis (SWRCB 2024).

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**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF DRINKING WATER
APRIL 17, 2024**

ITEM 6

**Draft Responsive Summary for Comments on Proposed Hexavalent Chromium
Maximum Contaminant Level Regulation**

INTRODUCTION

A Notice of Proposed Rulemaking, Initial Statement of Reasons (ISOR), and Text of Proposed Regulations for a Hexavalent Chromium Maximum Contaminant Level (MCL) were released on June 16, 2023, for public comment. Following are summaries of comments received on the proposed regulations and rulemaking materials and the Division of Drinking Water's (DDW) draft staff responses. Final responses to all timely received oral and written comments will be included in the Final Statement of Reasons (FSOR) submitted to the Office of Administrative Law (OAL). Comment periods are as follows:

- Written comments on the proposed regulatory action noticed on June 16, 2023, were due at 12:00 p.m. (noon) on August 18, 2023.
- Oral comments were received during an Administrative Procedure Act (APA) public hearing on August 2, 2023.
- The comment period for a draft Environmental Impact Report (EIR) ran concurrently with the above-described comment period on the proposed regulatory action.
- A 15-day notice of changes to the proposed regulations to (1) remove the requirement that a public water system describe in its Compliance Plan how it would comply by the applicable compliance date and (2) require Tier 2 public notification for hexavalent chromium MCL exceedances occurring prior to the applicable compliance dates was released on November 22, 2023, with written comments on the changes to the proposal due by 12:00 p.m. (noon) on December 15, 2023.
- A second 15-day notice of the addition of material to the rulemaking record—specifically, the *Public Review Draft of a Proposed Health-Protective Concentration for the Noncancer Effects of Hexavalent Chromium in Drinking Water* and a *Consolidation and Alternatives Analysis*—was released on January 31, 2024, with written comments on the addition of the specified materials to the rulemaking record due by 12:00 p.m. (noon) on March 4, 2024.

Copies of written comments received may be obtained by submitting a request and identifying the item noticed for public comment to commentletters@waterboards.ca.gov; or by visiting the State Water Resources Control Board's (SWRCB, State Water Board, or Board) public comment website at <https://ftp.waterboards.ca.gov/?u=PCL-FTP&p=8ZHs8m>.

Oral comments may be heard on the video recording of the August 2, 2023 State Water Resource Control Board meeting at <https://www.youtube.com/watch?v=CFS5-oY1euU> and read in Appendix F to the proposed Final EIR.

All documents related to the proposed rulemaking, including the Draft and proposed Final EIR are available and posted on the State Water Board's Hexavalent Chromium MCL webpage at https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/SWRCBDDW-21-003_hexavalent_chromium.html.

DDW staff reviewed all oral and written comments timely received. Generalized comments and responses are provided below. To aid the reader, Table 1 provides commenter names and the date(s) their comments were received. Responses to comments on the Draft EIR can be found in the proposed Final EIR.

Table 1. List of Commenters

Commenters ¹	Date Received ²
American Chemistry Council	16-Aug-2023
American Chemistry Council, California Association of Winegrape Growers, California Cement Manufacturers Environmental Coalition, California Chamber of Commerce, California Construction and Industrial Materials Association, California League of Food Producers, California Manufacturers & Technology Association, Partnership for Sound Science in Environmental Policy, Plumbing Manufacturers Association, Western Growers, and Western Wood Preservers Institute	18-Aug-2023
American Chemistry Council, California Association of Winegrape Growers, California Chamber of Commerce, California League of Food Producers, California Manufacturers & Technology Association, Partnership for Sound Science in Environmental Policy, Plumbing Manufacturers International, Western Growers Association, Western Wood Preservers Institute	15-Dec-2023; 20-Feb-2024
American Water Works Association, California-Nevada Section	4-Mar-2024
Aqua Metrology Systems Limited	5-Aug-2023; updated 9-Aug-2023

¹ Commenters are listed alphabetically by last name, with organizations listed first.

² "Oral" has been used in the Date Received column to indicate the comment was received as an oral comment at the public hearing held on August 2, 2023.

Commenters ¹	Date Received ²
Association of California Water Agencies (ACWA), California Municipal Utilities Association (CMUA), California-Nevada Section of the American Water Works Association (CA-NV AWWA), and California Water Association (CWA)	18-Aug-2023; 14-Dec-2023
Beaumont-Cherry Valley Water District	15-Aug-2023; 4-Mar-2024
California Association of Mutual Water Companies and Community Water Systems Alliance	15-Dec-2023; 4-Mar-2024
California Association of Sanitation Agencies (CASA)	18-Aug-2023
California Chamber of Commerce	18-Aug-2023
California Legislature	15-Dec-2023
California Manufacturers & Technology Association (CMTA)	18-Aug-2023
Central Valley Clean Water Association (CVCWA)	18-Aug-2023
City of Dixon	16-Aug-2023; 15-Dec-2023
City of Los Banos	14-Dec-2023
City of Patterson	18-Aug-2023
City of Woodland Utility Engineering	11-Aug-2023; 15-Dec-2023
Coachella Valley Regional Water Management Group	15-Dec-2023
Coachella Valley Water District	17-Aug-2023; 14-Dec-2023
Community Members from El Comite para tener agua sana, limpia y económica (ECTASLE), Gente Organizada Trabajando por el Agua (GOTA), Asociación de Gente Unida por el Agua (AGUA), and other CA communities	18-Aug-2023
Community Water Center, La Asociación de Gente Unida por el AGUA, Clean Water Action, Physicians for Social Responsibility Los Angeles, Integrated Resource Management, Erin Brockovich, Inc, Environmental Working Group, Tuolumne River Trust, Leadership Counsel for Justice and Accountability, Center for Public Environmental Oversight, California Coastkeeper Alliance, Breast Cancer Prevention Partners, California Indian Environmental Alliance, California Environmental Voters, Sierra Club California, Natural Resources Defense Council, and CALPIRG Education Fund	18-Aug-2023
Community Water Systems Alliance (CWSA)	18-Aug-2023
Del Amo Action Committee	15-Aug-2023
Desert Water Agency	15-Dec-2023
Hidden Valley Lake Community Services District	11-Aug-2023

Commenters ¹	Date Received ²
Howard Jarvis Taxpayers Association	17-Aug-2023
Indio Water Authority	15-Dec-2023
Lagerlof Lawyers, LLP (on behalf of Chanac Creek Mutual Water Company)	18-Aug-2023
Metropolitan Water District of Southern California	15-Aug-2023
Mission Springs Water District	18-Aug-2023; 14-Dec-2023
Oak Trail Ranch Mutual Water Co., Inc.	16-Aug-2023
Paradise Lake Mutual Water Company	14-Dec-2023
Residents of Eastern Coachella Valley and the Imperial Valley	18-Aug-2023
Rural Community Assistance Corporation	8-Dec-2023
San Andreas Mutual Water Company and Santa Cruz County Water Advisory Commission	4-Mar-2024
Santa Ynez Rancho Estates Mutual Water Company	14-Dec-2023
Solano County Taxpayers Association	17-Aug-2023; 4-Mar-2024
Soquel Creek Water District	16-Aug-2023
ToxSorb Ltd	15-Feb-2024
Twentynine Palms Water District	18-Aug-2023
Water Quality Association (WQA) and Pacific Water Quality Association (PWQA)	17-Aug-2023
Yolo County Taxpayers Association (YCTA)	18-Aug-2023
Andrea Abergel	Oral
Salma Alatorre	Oral
Rosabel Bejar	Oral
Norman Benson	Oral; postmarked 15-Aug-2023
Nick Blair	Oral
Thom Bogue	Oral
Sonora Bouey	18-Aug-2023
Erin Brockovich	2-Aug-2023
Jesus Calvillo	Oral
Karina Cervantez	Oral
Michael Claiborne	Oral
Eileen Conneely	Oral
Valentin Cornejo	Oral
Castulo Estrada	Oral
Edmund Fitzgerald	Oral
Oracio Gonzalez	Oral
Mayra Hernandez	Oral
Trudi Hughes	Oral
Kelli Hutton	Oral

Commenters ¹	Date Received ²
Kyle Jones	Oral
Antonio Juaregui	Oral
Ryan Kuntz	26-Nov-2023
Joanne Le	Oral
Paul G. Lego	17-Aug-2023
Marciela Mares-Alatorre	Oral
Evangelina Marujo	Oral
Nydia Medina	Oral
Jesus "Tutuy" Montes	Oral
Maria Luisa Munoz	Oral
Yasmeen Nubani	Oral
Oscar Ortiz	Oral
Bryan Osorio	Oral
Michael Prado, Sr.	Oral
Becky Quintana	Oral
Gerald Rounds	16-Aug-2023
Uriel Saldivar	Oral
Raquel Sanchez	Oral
Yesenia Segovia	Oral
Rob Spiegel	Oral
Mike Steinbock	10-Aug-2023
Becky Steinbruner	4-Mar-2024
Linda Ullrich	9-Aug-2023
Andria Ventura	Oral
Jared Voskuhl	Oral
Adam Wachtel	4-Mar-2024
James Ward	Oral
Tim Worley	Oral

COMMENTS AND RESPONSES

1. Comment: Commenters request that the use of reduction/coagulation/filtration (RCF) (due to public water systems without direct sewer access), ion exchange, and reverse osmosis be re-examined as Best Available Technologies (BATs), especially as being feasible for small public water systems (PWS).

Response: The BATs (RCF, ion exchange, and reverse osmosis) have been confirmed by the external scientific peer review as effective and widely applicable. RCF has proven successful for treating hexavalent chromium in small PWS and is commercially available for flows down to 1 gallon per minute (gpm) (ISOR section 4.3.2). Further, RCF does not require direct sewer access. As described in the cost estimating methodology (CEM) in the Standardized Regulatory Impact Analysis (SRIA) (contained within ISOR Attachment 2, section 1.3.a.2.C), cost estimates conservatively assumed the need for disposal in the absence of direct sewer access and included disposal costs accordingly. Both RCF and ion exchange treatment have proven successful for small PWS, and treatment systems are

commercially sold for hexavalent chromium for small PWS. Reverse osmosis implemented as centralized treatment may not always be feasible, especially for small PWS (as discussed in ISOR section 4.3.3). While reverse osmosis is often limited by high costs, the treatment has been successfully implemented in the form of point-of-use/point-of-entry (POU/POE) systems (ISOR sections 4.3.3 and 11.9.1).

2. Commenter states that the State Water Board has not addressed the significant differences between RCF reagents and their overall feasibility, safety, and effectiveness. Commenter submitted information regarding the differences between stannous chloride, ferrous sulfate, ferrous chloride, and electrolytic stannous and notes that stannous-based reagents have more favorable chemistry for reducing hexavalent chromium compared to ferrous-based reagents, that bulk stannous chloride is highly toxic and corrosive, and that electrolytic stannous is safe, inexpensive, and can be generated on demand.

Response: The variety of RCF reagents available is one of the reasons RCF treatment is broadly applicable for the treatment of hexavalent chromium. Reagent selection should be made on a case-by-case basis based on water chemistry and other factors noted by the commenter (ISOR section 4.4.2).

3. Commenters request further consideration of stannous chloride without filtration as BAT as it may offer a more cost-effective method for compliance with the proposed regulation. Some commenters request that the application of stannous chloride be quickly evaluated and approved by DDW, where appropriate. One commenter notes that studies show that the application of stannous chloride combined with filtration can be used to remove hexavalent chromium.

Response: As described in Health and Safety Code section 116370 (HSC 116370), BAT are technologies proven effective under full-scale field applications for contaminants with primary drinking water standards. As explained in the ISOR section 4.3.4, the direct application of stannous chloride into drinking water without filtration does not constitute BAT for hexavalent chromium at this time. However, the use of stannous chloride with filtration is a form of RCF, which is proposed as BAT. For those who wish to apply stannous chloride without filtration, additional evaluation of distribution water quality will be required. So far, stannous chloride application without filtration has not been proven effective, and staff is unaware of any recent evidence that shows otherwise. The concerns regarding applying stannous chloride without filtration are the accumulation of chromium and stannous in the distribution system, as well as clogging issues for consumers. Because stannous chloride without filtration has not been designated BAT, it cannot be used to estimate compliance costs (HSC 116365(b)(3)).

4. Commenters state that the State Water Board did not, but should, consider consolidation, alternative water supplies, and blending as BATs. In addition, a commenter is concerned that treatment technologies are costly compared to blending and requests that in-pipe blending be allowed. Another commenter stated that the cost estimates were conservative because most PWS are going to consolidate, drill a new well, or purchase water, and that better assumptions could have been developed to

derive more accurate cost estimates (e.g., which PWS are within three miles of safe water, which sources are near other sources).

Response: *The State Water Board recognizes that there may be other alternative options to comply with the MCL, but alternatives that are not forms of treatment cannot be considered BAT, which is what HSC 116365(b)(3) requires economic feasibility to be based on. That said, blending is already allowed as a treatment option in circumstances where there is enough time to blend before reaching the first customer. Consistent with existing regulations, if in-pipe blending is used, additional sampling requirements may be added, including adding a sample tap directly before the first customer. The commenters may be interested in the document Consolidation and Alternatives Analysis, found in the Documents Relied Upon tab of the rulemaking file, that shows consolidation potential for up to 36 percent of PWS and blending potential for up to 43 percent of PWS.*

5. Commenters seek clarification whether a PWS is required to use BAT to comply with the new MCL.

Response: *PWS are not required to use BAT. Any treatment technology that proves to be effective can be used.*

6. Commenter would like the option to use new technologies, possibly in the form of effective water purification systems at each household. Commenters ask if financing would be available and if new homes could have this type of system installed.

Response: *Residential water treatment devices (e.g. POU/POE) can be used at each household instead of centralized treatment under certain circumstances (HSC 116380). Such devices, however, may not be an available solution for new housing developments, where PWS must prove they can meet long-term water demands before they can be permitted. While financial assistance is beyond the scope of this regulation, it is currently available for PWS (please visit https://www.waterboards.ca.gov/water_issues/programs/grants_loans/).*

7. Commenter suggests that water contaminated with hexavalent chromium could be diluted with less contaminated water, such that hexavalent chromium levels could be evened out statewide.

Response: *While this solution is often used for water sources in close proximity (referred to as blending), it is often very difficult and expensive to transport water over large distances. For this reason, this approach is rarely implemented.*

8. Commenter claims that proposed BAT (such as ion exchange or RCF) can be highly water intensive, will require PWS to have a method of disposal, and therefore will lead PWS to concentrate contaminants in a different geographical location. Additionally, the commenter claims these factors and the danger of storing more chemicals will lead to additional discharge and permitting requirements. Utilizing more chemicals, more water, and more staff time to improve water quality only slightly does not coincide with the State's desire to make "conservation a way of life."

Response: *While the Board values making conservation a way of life, the proposed MCL has been statutorily mandated (HSC 116365 and 116365.5). The environmental impacts of compliance with the proposed regulations have been*

analyzed in the EIR prepared in connection with this rulemaking. Impacts regarding hazardous materials and effects on hydrology are discussed in chapters 12 and 13, respectively, of the Draft EIR.

9. Regarding POU/POE testing and certification, commenter notes the gap between the proposed MCL of 10 micrograms/liter (10 µg/L) and the level to which the National Sanitation Foundation/American National Standards Institute (NSF/ANSI) standard 58 certifies devices (100 µg/L). Commenter highlights the roles of third-party certification and national standards and states that certification to national standards (100 µg/L) is a necessity.

Response: The State Water Board relies on third-party certification (including NSF/ANSI) for its Residential Water Treatment Devices Registration Program. While NSF/ANSI 58 criteria is based on federal standards, the percentage reduction achieved by the device is also included with the certification, allowing calculation of removal levels achieved by each device. In addition, certification to the proposed MCL may become available in the future.

10. Commenter is concerned that the proposed MCL could render their wells noncompliant for use unless the well water is "blended or treated for dilution."

Response: PWS that have sources with annual average hexavalent chromium concentrations (calculated pursuant to Title 22 of the California Code of Regulations section 64432(i) [22 CCR 64432(i)]) higher than the proposed MCL will need to take action to come into compliance. Taking the source offline, treating the water, and blending the water are all options (alternatives to centralized treatment are discussed in ISOR section 11.9). Specific compliance options can be discussed with the PWS's District Engineer.

11. Commenters state that DDW's claims regarding the availability and viability of alternatives to centralized treatment are unsupported (including POU/POE devices, switching to surface water, purchasing water from another PWS, and consolidation, and separating potable and non-potable water), and/or the alternatives discussed do not work for their PWS, which could lead to economic hardship and fire protection risk. Commenters point out that DDW does not provide any analysis of the feasibility of these alternatives.

Response: While not all alternatives to centralized treatment may work for all PWS, these alternatives have been implemented across the state and show broad feasibility (ISOR section 11.9). In addition, HSC 116365(b)(3) requires that economic feasibility be determined using BAT, not alternatives to treatment.

12. Commenters would like the compliance timeline extended for PWS or there to be a staggered reduction in the concentration level until it reaches the proposed 10 µg/L. Commenters state that PWS need more time to comply with the California Environmental Quality Act (CEQA), California Coastal Act, applying for and contracting with Division of Financial Assistance (DFA), Proposition 218 compliance, engineering design, procurement and construction challenges, installation, permitting, and/or any potential challenges (administrative, financial, and operational) introduced by alternatives to centralized treatment.

Response: Please see ISOR section 5.3. The State Water Board does not believe a grace period longer than the proposed regulation compliance periods would be in the best interest of public health. A lengthy grace period likely would delay compliance activity, including for those PWS for which compliance is easily obtained. The development of the proposed MCL has been public for years: the State Water Board was ordered to adopt a new MCL for hexavalent chromium in 2017, and public meetings on this topic have been held since early 2020. By the time the first PWS must comply with the MCL (two years after the effective date of the regulation), they will have had ample time to prepare: nine years since the MCL was ordered, six years since public meetings began, and four years since the draft proposed MCL of 10 µg/L was released. In addition, because compliance with the proposed MCL is based on a running annual average or quarterly results, a PWS may not be in violation for as long as an additional year after its compliance deadline. This is also the first MCL that has any additional compliance period, compared to previous MCLs that were effective when the regulation became effective.

13. Commenters state that the changes in the regulation text associated with CCR 64432 (first 15-day comment period) do not go far enough to address insufficient compliance timeframes. Some commenters state that the change in the text acknowledges that many PWS will not be able to comply by the current compliance dates. Commenters say that a better approach would be to establish a longer (three- to five-year) compliance period and/or to add the following language: "a PWS shall not be deemed in violation of the hexavalent chromium MCL while that PWS is implementing an approved compliance plan or while State Water Board action on a timely submitted compliance plan is pending."

Response: The State Water Board believes that the proposed compliance schedule is broadly achievable by most PWS. Circumstances in which some PWS struggle to comply will be assessed on a case-by-case basis with the assigned DDW engineer. The suggested language could allow PWS continuously to submit a compliance plan for consideration and thereby put off compliance with the proposed MCL indefinitely; this would not be consistent with the State Water Board's mandate to protect public health.

14. Commenters claim that the compliance timeline exposes those living in disadvantaged communities to a dangerous carcinogen longer than those in more privileged areas. Consequently, commenter asks the Board to ensure that PWS develop compliance plans during the compliance period and that enforcement actions focus on PWS that have not made progress on their plans.

Response: PWS that exceed the MCL during the compliance period will be required to submit compliance plans within 90 days of the exceedance, and the dates within those plans are enforceable. Enforcement actions will be considered if PWS violate their compliance plan or compliance period deadline and issued if appropriate.

15. Commenters suggest that the four-year compliance period for very small PWS be shortened to three years, particularly considering small PWS disproportionately serve communities of color.

Response: The State Water Board believes the proposed compliance periods are necessary, even for very small PWS, and that it allows the smallest PWS to benefit from the work and supply chains established by larger PWS. In addition, smaller PWS often do not have the capital reserves or other resources (e.g., full-time staff) to quickly complete expensive projects. Spreading compliance out over a longer period provides more financial flexibility to the PWS that most need it.

16. Commenters request that PWS be required to comply in a shorter period where possible.

Response: Terms such as "where possible" or "as short as practicable" tend to be subjective, unenforceable, and noncompliant with the clarity standard of the APA. The proposed consumer notification requirements are expected to encourage prompt compliance. No change was made to the proposed regulation.

17. Commenter notes that it may not be possible for all PWS (especially small PWS who do not have in-house staff) to complete and submit a compliance plan within 90 days of an exceedance.

Response: The State Water Board believes that 90 days after an exceedance (which can take up to a year to determine) is enough time to develop and submit a compliance plan. Further, a compliance plan consists of providing a short statement and identifying up to four dates. Preparation of a compliance plan can begin as soon as a PWS knows it is likely to exceed the MCL.

18. Commenter states POU/POE devices would be well-suited to their PWS, but this option is limited to three years and is therefore difficult to implement.

Response: POU/POE use is not limited to three years. Rather, POU/POE permits are limited to three years, after which PWS can receive a new permit, if eligible.

19. Commenters state that Tier 2 reporting should only be used for actual MCL (or other specific) violations and that requiring it before the compliance date misinforms the public and creates the false impression that a condition of non-compliance exists.

Response: Tier 2 notification is the appropriate level of notification for contaminants involving non-acute health effects, such as those identified for hexavalent chromium and for persistent violations.

20. Commenters suggest that instead of the proposed change [addition of requirement to perform Tier 2 public notification in the event of MCL exceedance prior to the applicable compliance date], additional communication could be achieved through adding a communication plan to the required Compliance Plan.

Response: The proposed requirements for Tier 2 notification and consumer confidence reports provide clear and consistent communication to affected consumers statewide. No specific, enforceable elements were proposed by commenters and the proposed regulations do not preclude PWS from conducting additional communications with customers.

21. Commenters state that the proposed change to the regulation text associated with CCR 64432 [addition of requirement to perform Tier 2 public notification in the event of MCL exceedance prior to the applicable compliance date] is unnecessary, does not provide a benefit, and does not address commenter's concerns.

Response: Tier 2 public notification ensures the public is informed of the presence of hexavalent chromium in their drinking water while a treatment solution is being developed in adherence of a compliance schedule.

22. Commenter supports the goal of strengthening consumers' understanding of drinking water quality [addition of requirement to perform Tier 2 public notification in the event of MCL exceedance prior to the applicable compliance date] and therefore urges the State Water Board to invest in accessible resources and communication tools for PWS pertaining to water notice advisories. Another commenter suggests that reporting should also be extended to customers and the public via city and county website portals.

Response: Commenter's support is noted. DDW will provide public notification templates for use for Tier 2 public notices. While reporting via city and county website portals is not required, DDW may explore this approach as part of revisions to the Consumer Confidence Report in a future rulemaking.

23. Commenters urge the State Water Board to ensure there is a clear pathway to total compliance.

Response: Ensuring a clear pathway to total compliance is one of the goals of the compliance period and compliance plans. Particularly, compliance plans are expected to help PWS and DDW staff identify issues that may compromise compliance by the applicable deadline.

24. Commenters request that the health benefit claims of "improving public perception of the water supply" that may then result in "decreased consumption of bottled water" and "may help efforts to reduce childhood consumption of unhealthy substitutes (i.e., sweetened beverages) to drinking water; therefore, providing a positive health benefit" be removed from the rulemaking record. Commenters state that these claims are unsupported and unquantifiable. A commenter suggests that the proposed MCL may increase the cost of drinking water in some areas, making substitutes a more affordable choice and decreasing public confidence in California's drinking water regulations.

Response: Public perception about drinking water can be intertwined with public consumption of drinking water. As such, there can be a desire for alternatives to drinking water, many of which can be less healthy and more expensive. The ISOR merely notes the possibility that an improved perception may reduce the desire to purchase those alternatives.

25. Commenters request that the rulemaking be suspended until the California Office of Environmental Health Hazard Assessment (OEHHA) publishes the updated hexavalent chromium Public Health Goal (PHG), which is currently being reviewed by OEHHA. Commenter also states that the current PHG for hexavalent chromium is based on an outdated peer review and therefore should not be used as the basis for the proposed MCL, especially considering the State Water Board delayed the review of the

tetrachloroethylene (PCE) and trichloroethylene (TCE) MCLs in 2017 while OEHHA reviewed the TCE PHG.

Response: OEHHA and the State Water Board routinely re-examine and update PHGs and MCLs. HSC 116365 requires that OEHHA and the State Water Board review their PHGs and MCLs every five years. Because the development of PHGs and MCLs are multi-year processes, it is likely that there would be some overlap between when a MCL is being developed and when a PHG is updated. The process for developing a MCL begins 18 to 36 months before a document is made public and the formal rulemaking process begins, and includes an assessment of occurrence data, and identification and analysis of potential treatment technologies, costs, and environmental impacts. Similarly, the PHG process can take three or more years, including research and development of an initial draft, a first public comment period, submission for external scientific peer review, consideration of peer reviewer comments, and a second public comment period before finalization of the PHG. In determining whether to wait for OEHHA's revision of the PHG, the State Water Board must balance the protection of public health that would be afforded by establishing an MCL now at the level determined to be technically and economically feasible with the potential uncertainty of where OEHHA may set a revised PHG.

There are significant differences between the situation for PCE and TCE and that of hexavalent chromium. For PCE and TCE, the State Water Board was only at the point of assessing whether it should begin the process of updating the MCLs. No work had actually begun to update the MCLs, and waiting for an update of those PHGs did not entail cessation or disruption of work on developing new MCLs that was already progressing. In addition, unlike hexavalent chromium, MCLs already existed for PCE and TCE, providing at least some public health protection. It is important to also note that the Legislature required that a MCL be adopted for hexavalent chromium, and this fulfillment of requirement is more than twenty years overdue.

26. Commenter requests that all documents and communications related to the following be submitted as part of the administrative record for the hexavalent chromium MCL rulemaking: (1) OEHHA's publication of the hexavalent chromium PHG in 2011; (2) OEHHA's decision to update the hexavalent chromium PHG in 2016; (3) OEHHA's July 6, 2022 memorandum to DDW regarding OEHHA's decision not to update the hexavalent chromium PHG; (4) OEHHA's March 27, 2023 announcement of a second data call-in for the hexavalent chromium PHG update; and (5) all correspondence, documents, and information submitted by anyone to OEHHA in response to, relating to, or concerning items (2), (3), and (4).

Response: (1) OEHHA's 2011 PHG is included in the Documents Relied Upon section of the rulemaking record. (2) OEHHA's 2016 letter states merely an intent to review the PHG for hexavalent chromium, which results in a PHG update only when there is enough evidence to warrant a recalculation of the PHG; as this

document was not used as a basis for this rulemaking, it is not included in the rulemaking record. (3) OEHHA's 2022 memorandum, which points to an updated PHG that "would not likely vary significantly from the 2011 value," was also not used as a basis for this rulemaking and so is not included in the rulemaking record. Likewise, items (4) and (5) were not used as a basis for this rulemaking and so are not included in the rulemaking record. OEHHA documents related to hexavalent chromium can be found on its website at <https://oehha.ca.gov/water/public-health-goal/hexavalent-chromium-drinking-water> or requested directly from OEHHA.

27. Commenter cautions the State Water Board against attempting to rely on OEHHA's 2022 memorandum as doing so "would be unlawful, arbitrary, capricious, and would further jeopardize the legal foundation" of the proposed MCL.

Response: *The State Water Board does not rely on OEHHA's 2022 memo. It is not listed in the documents relied upon for the preparation of the ISOR (see section 13 of the ISOR for the "documents relied upon," consistent with Government Code section 11346.2(b)(3)). The State Water Board is, however, relying in part on the "Proposed Health -Protective Concentration for Noncancer Effects of Hexavalent Chromium in Drinking Water," as identified in the 15-day notice. In that document, OEHHA has announced a draft noncancer health protective concentration (one of two precursors to the PHG) of 5 µg/L, which is lower than the proposed MCL of 10 µg/L. Although the State Water Board recognizes that the health -protective number for noncancer effects is still in draft form and that there is additional peer review and public comment before it is finalized, it supports the likelihood the PHG will remain below the proposed MCL.*

28. Commenter states that the State Water Board's decision to release the first 15-day notice (dated 22 November 2023) the day after OEHHA released its noncancer PHG document suggests that the State Water Board is driving toward a preordained outcome and has no intention of considering new scientific information.

Response: *The State Water Board finds the proposed MCL to be as close to the PHG that is economically and technologically feasible and OEHHA's release of a noncancer PHG document did not contradict that finding.²⁵*

29. Commenters assert that HSC 116365(e)(2) requires concurrent PHG publication and an MCL proposal for a "newly regulated contaminant."

Response: *It would be impossible for the State Water Board to set an MCL "as close as feasible to the corresponding public health goal" if the PHG were not established before the State Water Board adopted an MCL. This statute requires that a PHG is in place when the State Water Board proposes to adopt an MCL for a newly regulated contaminant. This is consistent with the Legislature's amendment to the statute in 1999, when it deleted the term "concurrently" from subsection (e)(2) of HSC 116365. (Stats. 1999, Ch. 777, Sec. 1.) Current language "at the same time" is interpreted to mean that a PHG must be in place when the State Water Board proposes to adopt an MCL for a newly regulated contaminant.*

30. Commenters request that any up-to-date science be provided that confirms that setting the hexavalent chromium MCL at 10 µg/L will ensure a significant improvement in public health. A commenter states that documented toxicity cases only involved direct occupational hazards and that in a country where the risk of developing cancer is 1 in 2 or 1 in 3, the protective effect of reducing the risk of one chemical would be moot. A commenter stated that the proposed regulation will make people pay more for water without appreciable health improvement.

Response: The process of establishing a PHG is the jurisdiction of OEHHA, the State Water Board is required to utilize the PHG when establishing an MCL. The potential increase in water rates was considered when developing the MCL.

31. Commenter points to 22 CCR 25707(a), which they say dictates how the State Water Board must assess whether a chemical presents a significant risk of cancer at levels of exposure. Therefore, commenter asserts that the State Water Board must review all pertinent studies, identify the "significant risk of cancer at levels of exposure not in excess of current regulatory standards," and quantify and provide the number of cancer cases that will be avoided if a new and lower MCL were adopted.

Response: CCR 25707(a) contains instructions for OEHHA, not the State Water Board, which cannot make health determinations in this context. Health-related claims or risk calculations not already published by OEHHA are beyond the scope of the proposed regulation.

32. Commenters state that there is no evidence, or it is unclear, that the proposed MCL would result in any health benefit, that there is no health benefit for MCLs set below 50 µg/L, and/or that 100 µg/L is considered safe by the federal government.

Response: The State Water Board is required to set the MCL as close to the PHG as is technically and economically feasible, and is not required to conduct an analysis of the health benefits. Because the PHG is set at the point where the contaminant in drinking water is not anticipated to cause or contribute to adverse health effects or that does not pose any significant risk to health, anything closer to that level would have a health benefit. -

33. Commenters point out that if OEHHA's update of the hexavalent chromium PHG changes the PHG, it would also change the State Water Board's estimate of the benefits attributable to the regulation. Given the uncertainty regarding the timing of PHG update, commenter states that the State Water Board should conduct a sensitivity analysis to understand the potential impacts of alternative PHGs on the benefit estimates in the revised SRIA and how those changes would propagate through the economic feasibility analysis.

Response: While it is true that a changed PHG would change the benefits attributable to the regulation, it would not change the economic feasibility analysis, which is dependent on the estimated costs rather than estimated benefits. Pursuant to HSC 116365, the MCL must be set as close to the PHG as is technologically and economically feasible.

34. Commenter states that since the State Water Board reports that 1 in 2,000 residents should be impacted within 70 years and that California has a population of

38 million residents, there should be 1,950 annually reported cases on average of people impacted by drinking water containing hexavalent chromium. Commenter challenges the notion that residents will be significantly impacted by drinking water containing hexavalent chromium.

Response: The statistic of 1 in 2,000 residents impacted over 70 years refers to drinking water at the MCL of 10 µg/L. Fortunately, some PWS already deliver water to their customers at less than the proposed MCL of 10 µg/L. Therefore, a calculation only utilizing the California population does not capture an accurate estimate for only the PWS that the proposed MCL will impact. The estimate of cancer cases reduced (Table 26 on Tab E of ISOR Attachment 1) is based on the reduction that each individual source would be required to make as a result of the proposed (or alternative) MCL, and the impact of each source is only calculated for the proportional population of each PWS (see ISOR section 5.2.1 for calculation details). Table 26 shows that the proposed MCL is estimated to reduce around 13 cancer cases per year (far below the 1,950 cases referred to by the commenter), and an alternative MCL of 1 µg/L is estimated to reduce around 51 cases per year. The difficulty associated with determining the causes of individual cancer cases prevents the kind of comparison suggested by the commenter. Please see response to comment 117 for more details.

35. Commenter indicates that many residents need assistance with being notified that there is hexavalent chromium in their water. Commenter shares that as a child, she was responsible for translating a notification telling their family not to drink their water because it was contaminated with hexavalent chromium, and her parents could not read the English-language notification.

Response: Pursuant to CCR 64465(c), Tier 1 public notices must be provided in English, Spanish, and any language spoken by at least 10 percent of customers; Tier 2 public notices must contain information in Spanish explaining the importance of the notice and information on how to obtain a translated notice.

36. Commenter questions how much health impact is expected if the MCL is 20 µg/L as opposed to 10 µg/L and asks whether that difference is worth a \$100 million investment.

Response: The cancer risk for drinking water with 10 µg/L of hexavalent chromium is 1 in 2,000, and the risk for water with 20 µg/L of hexavalent chromium is 1 in 1,000. The health impact of an alternative MCL of 20 µg/L would be about 3 cancer cases avoided per year, while the proposed MCL of 10 µg/L would reduce about 13 cases per year (ISOR Attachment 1, Table 26). Because the State Water Board did not perform a cost-benefit analysis as to what the health benefits are worth monetarily, there is no such analysis or information to disclose. The analysis of benefits was considered generally, consistent with Government Code section 11346.5, and included protection of public health. Information on the compliance cost and health benefit analysis is provided in the ISOR.

37. Commenters would like the uncertainty of the health impacts of drinking water containing multiple contaminants to be acknowledged (as they are poorly understood) in the form of additional analysis of the health risks associated with drinking water with

multiple contaminants. Commenters ask that any cumulative impact be more carefully considered, including the cost burden of existing and projected or reasonably anticipated future drinking water regulations. Commenters request that the regulation include an analysis of recent trends in water rates and known instances of disproportionate water affordability burdens, a complete list of regulatory priorities indicating where each contaminant is in the regulatory queue, and order-of-magnitude estimates of potential compliance costs based on a preliminary analysis of available occurrence and treatment cost data.

Response: *Health-related claims or risk calculations not already published by OEHHA are beyond the scope of the proposed regulation. Commentators questioning potential health risks associated with hexavalent chromium (including synergistic health impacts) are encouraged to contact OEHHA to discuss. It is not practical to evaluate costs using the cumulative burden of existing and projected/future drinking water regulations due to a lack of data and staff time for extra research. Please also see response to comment 78 regarding cost burdens and the requirements for determining economic feasibility.*

38. Commenter would like to know why this MCL rulemaking is based on the historical dumping of waste by Pacific Gas and Electric Company (PG&E) ("the Erin Brockovich scenario"). Commenter would like to see the causes of hexavalent chromium.

Response: *The proposed regulation is required by HSC 116365. On page four, the ISOR notes that the presence of hexavalent chromium in California drinking water source may be naturally occurring or caused by industrial activities that used hexavalent chromium. These industrial activities include manufacturing of textile dyes, wood preservation, leather tanning, and anti-corrosion processes, where hexavalent chromium contaminated waste migrated into groundwater.*

39. Commenters request confirmation/recalculation of economic feasibility of the proposed MCL before adoption because the current analysis does not employ best practices, lacks analytical rigor and transparency, is results-oriented, does not fully capture the cost of compliance (including indirect health risks associated with the economic impacts of increased water rates, especially in communities with populations at or near poverty levels), and/or focuses on unrealistic costs. A commenter requests to see and validate the detailed calculations and assumptions behind the economic analysis.

Response: *As detailed in section 11 of the ISOR, the State Water Board analyzed many aspects of economic feasibility: compliance costs were broken down to the system level to allow consideration of how average, median, and high compliance costs would impact California residents; values for alternative MCLs were calculated for each cost or information point (most tables in ISOR Attachment 1 contain the proposed MCL and all 20 alternative MCLs) to allow for alternatives consideration in every aspect; available funding; alternative compliance options. In addition to the CEM in ISOR Attachment 2, the cost calculations are available as a Python code that details each step.*

While indirect health risks have been associated with high water bill burdens, recommended solutions include federal investments in water infrastructure, state

oversight of water bills, municipal tiered water pricing, and comprehensive assistance policies for low-income households (Sarango et al., 2023). Any indirect health risks that resulted from higher water bills would not be quantifiable. Failing to promulgate a health-based drinking water standard with quantifiable benefits to avoid potential health risks (stemming from other primary causes) would be a detriment to public health, especially when failing to promulgate such a standard would not reduce any health risk currently caused by existing high water bill burdens.

40. Commenters critique the affordability metrics/benchmarks used. Other commenters requested an affordability impact analysis, the use of alternative measures/metrics to determine affordability, an affordability justification for the proposed MCL, and/or clarification regarding the difference between economic feasibility and affordability.

Response: The State Water Board must adopt a standard for hexavalent chromium that is as close as possible to the PHG, considering only technological and economic feasibility, and has no discretion to set a different "affordable" MCL that is less protective of public health. The proposed regulation does not preclude PWS from applying for an exemption pursuant to HSC 116425 or using an alternative means of compliance that may be more affordable (discussed in ISOR section 11.9). Please see ISOR sections 11.1 and 11.3 for additional discussion on affordability.

41. Commenter requests that economic effects be shown on a per household/connection basis, not on a per person basis, because most water bills are paid for by a household.

Response: While the proposed regulation included per person costs, it also included discussions of estimated costs borne per household/connection in ISOR sections 11.2.1 (Monthly Household Compliance Costs Analysis), 11.3 (Systems Challenged to Meet the Proposed MCL), 11.4 (Unit Costs Variability), and smaller parts of other ISOR sections (including ISOR Attachment 2). Economic impacts were shown on a per household/connection basis in ISOR Tables 6, 7, and 9 and ISOR Attachment 1 Tables 9.2A, 9.2B, and 14A.

42. Commenter requests clarity regarding how a monthly water bill increase of \$53 could be considered economically feasible.

Response: Economic feasibility is not determined based on a single value. As detailed in ISOR section 11, many aspects were considered in the determination of economic feasibility.

43. The proposed MCL conflicts with HSC 116365 (a) and (b) (part of the California Safe Drinking Water Act), which requires the MCL to be set as close to the PHG as is technologically and economically feasible and at a level that avoids any significant risk to public health. Commenters assert that the State Water Board used a cost-benefit analysis to set an MCL which was specifically disapproved by the Court of Appeal, to acknowledge that regulations are not infeasible because they impose financial burdens on businesses or consumers and failed to take into account aspects that would make

the MCL more affordable, such as savings (e.g., from no longer needing to purchase bottled water).

Response: ISOR section 11.10 describes the consideration of future regulations in the context of economic feasibility, which contributed to the lack of economic feasibility for lower alternative MCLs. Staff was unable to demonstrate economic feasibility for levels below 10 µg/L; proving a negative (in this case, that each lower MCL is infeasible) is not always possible. It is possible that lower levels will become more feasible in the future, which will be evaluated during future DDW MCL reviews.

As mandated in HSC 116365, the MCL must be set as close to the PHG as is technologically and economically feasible. While lower levels may be technologically feasible, 10 µg/L was determined to be as close to the PHG as is economically feasible at this time (ISOR section 11). HSC 116365(b)(3) requires that economic feasibility be considered using BAT centralized treatment costs (rather than any alternative, more affordable options), so further quantification/monetization of benefits would not alter the economic feasibility analysis. In addition, the data needed to quantify the benefits suggested is not currently available (e.g., who already buys bottled water and which compliance options would work for each PWS). Please also see the responses to comment 44 regarding monetizing benefits and comment 82 regarding the consideration of other cost savings.

44. Commenters state that a cost-benefit analysis should be conducted/improved (by weighing the added cost of implementation with the public health benefit), as required by the California Safe Drinking Water Act and Department of Finance (DOF) SRIA regulations. Commenter states that the Board failed to consider numerous cost savings and health benefits. Commenter states this created an analysis that is higher than the real costs borne by PWS and individuals, providing false justification for a high MCL when a lower MCL is likely economically feasible.

Response: The proposed MCL is not and cannot be based on a cost-benefit analysis. A discussion of this topic is available in section 11.1 of the ISOR. In addition, California Manufacturers & Technology Association v. State Water Resources Control Board (2021, 64 Cal App,5th 266) determined that a cost-benefit analysis is not required under the California Safe Drinking Water Act.

The calculated costs used in the proposed regulation were conservative by necessity, when there were no data to show that costs would be lower. The costs presented in the proposed regulation have been revised in a multi-year process that included multiple rounds of public comments. Even if health benefits or other savings were monetized, they would likely not change the outcome of the regulation because a cost-benefit analysis is not used to determine the economic feasibility of potential MCLs. While the ISOR includes statewide costs, it also includes discussions of estimated costs borne by PWS and individuals in sections 11.2.1 (Monthly Household Compliance Costs Analysis), 11.3 (Systems Challenged to Meet the Proposed MCL), 11.4 (Unit Costs Variability), 11.6

(Economic Feasibility for NTNCWS), 11.7 (Economic Feasibility for TNCWS), and smaller parts of other ISOR sections (including ISOR Attachment 2).

45. Commenters request that the economic impacts of the proposed MCL on individual PWS be considered rather than just looking at averages and overall statewide impact and focus more on the costs to be incurred by affected small PWS, which are underestimated and/or unreasonably high. In addition, commenter claims averaging was used extensively to mask the extent of economic impacts on individual PWS and their ratepayers (starting with section 11.3.1 and cost-effectiveness analysis). Narrowing the average to just households with PWS affected by the proposed MCL would more accurately reflect the burdens that disadvantaged communities will bear. Similarly, commenters note that the figure of \$4.75 per person per year (where costs are spread across all Californians) is not representative of impacts of the proposed regulation, especially for small PWS.

Commenter requests a clear explanation of the cost estimation process used to develop median values in Table 6 (ISOR, pp. 44). Particularly, commenter points to the discontinuities of cost information provided for small PWS with fewer than 100 connections (\$308).

Response: The economic impacts of the proposed MCL on individual PWS were considered. Compliance costs and impacts were considered down to the system level, and part of the economic feasibility analysis focused on the highest costs incurred by each PWS size category (see ISOR section 11 for details on the economic feasibility analysis). The cost estimates for the proposed regulation were developed over many years with input from the public (see the Historical Timeline on our [Hexavalent Chromium Information webpage](#)).

The State Water Board recognizes that some PWS are disadvantaged or lack economies of scale such that any new or increased drinking water standards will be difficult for those PWS to comply with. Limiting new or revised drinking water standards to only what is affordable to the most disadvantaged PWS would likely result in no new or increased standards ever being developed, despite the fact that the majority of Californians are served by larger PWS that are able to spread the cost of treatment over a larger number of individuals. The result would be that affordability for a small percentage of the population would be driving health protections for the majority of the population.

Many cost metrics were calculated and shared in the proposed regulation documents. In addition to statewide averages, the average costs to households in affected PWS were also presented in ISOR sections 11.2.1 and 11.3 and ISOR Attachment 2 section C.5. The Disadvantaged Community (DAC) status of each affected PWS was also reviewed in ISOR section 11.3.

The cost-effectiveness analysis (including section 11.3.1) includes cost averages for different groups, but also includes many other cost metrics, such as medians, maximums, summations, and individual customer costs. These costs, the data used to develop the costs, the attached cost tables (ISOR Attachment 1), and the Python code (which includes each step) were included to provide transparency.

We agree that the figure of \$4.75 per person per year is not representative of the impacts of the proposed regulation; the figure was intended to help conceptualize the total cost of the regulation. The CEM (ISOR Attachment 2 section I) has been updated since the 2014 rulemaking, resulting in updated costs.

The discontinuities in ISOR Table 6 reflect PWS data. The median cost of \$308 for an alternative MCL of 40 µg/L is calculated from a single PWS (see ISOR Attachment 1 Table 7.1A for a breakdown of the number of PWS in each system size category). That system's cost does not change for other alternative MCLs. However, for an alternative MCL of 35 µg/L, the smallest size category contains 3 PWS (the two other costs were \$52 and \$71, producing a median cost of \$71), and for an alternative MCL of 30 µg/L, the smallest size category contains 5 PWS (the other four were \$55, \$71, \$97, and \$292, producing a median cost of \$97).

46. Commenters cite *Cal. Manufacturers and Technology Assn v. State Water Resources Control Board* (2021) 64 Cal-App,5th 266, 286 (the "subject case"): (1) that the OSHA -related case law cited to help define/determine economic feasibility is inappropriate: a regulation that "threatens the survival of some companies" in the context of private industry is different than a regulation that threatens the survival of public or private PWS, and also (2) that the Superior Court decision says that water bills increasing by an estimated \$5,630 per year (or \$469.17 per month) is not acceptable.

Response: Impacts on businesses that are PWS are discussed in ISOR Attachment 2 section C.2 and C.3, and impacts on businesses served by PWS are discussed in section C.5. These different types of businesses are discussed together in some places where it is required to discuss all impacted businesses.

*The State Water Board does not believe that the Superior Court decision put forth an opinion in the subject case regarding the economic feasibility of the regulation, only that economic feasibility was not properly considered: "In remanding this case to the Department, however, the court is not definitively holding that an MCL of 10 ppb is not economically feasible" (*California Manufacturers & Technology Association v. State Water Resources Control Board* (2017) Super. Ct., Sacramento County, Case No. 34-2015-80001850).*

*Because the third appellate district court in the subject case specifically addressed the meaning of economic feasibility in the context of HSC 116365, the State Water Board is required to follow its holding. In that case, the appellate court rejected that HSC 116365 required a balancing of costs and benefits, concluding that a "feasibility analysis, rather than a cost-benefit analysis" is required by the statute (per the subject case). In coming to that conclusion, the court recognized the U.S. Supreme Court had considered similar statutory language in a previous case involving Occupational Safety and Health Administration (OSHA) regulations. In that case, the industry representatives argued that the federal statute required a showing that the costs of the proposed regulation "bore a reasonable relationship to the anticipated benefits to the employees" (Id. at 285 (citing to *American Textile Mfrs. Institute, Inc. v. Donovan* (1981) 452 U.S. 490, 494)). The U.S. Supreme*

Court rejected that argument, noting that the statute requires a feasibility analysis. In following that analysis, the appellate court in the subject case, noted that the Legislature placed “the public health benefits of safe drinking water above all other considerations, save those that would make attaining those benefits unachievable” (Id).

The appellate court affirmed the trial court’s conclusion that “regulations are not ‘infeasible’ because they impose financial burdens on businesses or consumers” (Id. at 282-283 (citing cases related to OSHA)). Like the industries at issue in the OSHA cases, the fact that some PWS will be financially burdened or have challenges meeting a standard does not mean that the standard is infeasible. That conclusion is not undermined by the importance of PWS for providing drinking water service; rather, it is bolstered by it. Because of that importance, the standard for drinking water service in California cannot be determined by the capacity of the least capable PWS in the state. If the drinking water industry in California were to be held only to the standards achievable by its least capable systems, the industry would be held to a standard far lower than what is feasible. As a result, the mandate of the California Safe Drinking Water Act would go unmet, and Californians would suffer the public health impacts of consuming contaminated drinking water. The court in the subject case recognized this when it interpreted the meaning of economic feasibility and looked to cases interpreting OSHA regulations for guidance.

47. Commenter claims that because the State Water Board has not complied with many of CEQA's fundamental requirements (detailed in separate CEQA comment letter), the feasibility assessment is not valid.

Response: *The State Water Board has responded to those comments in the Final EIR.*

48. Commenter states that the range of estimated costs set forth in the Staff Report and attached tables range from \$85 to \$998 per month and average about \$300 per month (from Table 16A), which represent a significant hardship for their customers and other similar small PWS.

Response: *The referenced costs are draft costs released in March 2022. Cost estimates for the proposed regulation are lower (see ISOR Attachment 2). Please see response to comment 77.*

49. Commenter states the proposed regulation needs to account for projects that were already constructed to comply with the previous attempt at setting an MCL for hexavalent chromium, including allowing for compliance points to be changed to after blending.

Response: *When estimating costs for this regulation, previously installed hexavalent chromium treatment was not accounted for (subtracted from calculated compliance costs) because of uncertainty and inconsistencies in the data regarding those treatment plants: While some PWS continued to use installed treatment for hexavalent chromium, some discontinued or lessened the treatment, and others put partially completed treatment plans on hold.*

So long as a previous project is able to comply with the proposed MCL, it can be used. Changing compliance points is also allowed. Please discuss with your assigned engineer.

50. Commenters state that they will not be able to afford improvements needed to comply with the proposed MCL, and/or the proposed level would harm or significantly impact their community/business financially.

Response: *The State Water Board is aware that some communities may be disproportionately affected by hexavalent chromium, the proposed regulations, or both. However, affordability is not the same as economic feasibility, which is defined as being capable of being done given the management of domestic or private income and expenditure (ISOR section 11.1). Please also see response to comment 77.*

51. Commenters state that the use of \$30 per month per household as an affordability threshold for cost increases has no meaningful explanation and/or is arbitrary.

Response: *As stated on page 43 of the ISOR, "A \$30 monthly cost increase is used to approximate financial assistance needs and is not intended to convey that \$30 is necessarily an unaffordable value. Higher cutoffs will result in lower funding estimates, and lower cutoffs will result in higher funding estimates. This analysis could be repeated with other cutoff values to determine sensitivity."*

52. Commenters state that the Food and Drug Administration (FDA) requires that food processors meet all drinking water standards, and that there has not been a robust economic feasibility analysis of the real cost and implications to food producers.

Response: *Food processors are required to meet certain federal standards, and there currently is no federal standard for hexavalent chromium. The FDA requires that "Any water that contacts food or food-contact surfaces shall be safe and of adequate sanitary quality," (21 Code of Federal Regulations (C.F.R.) 110.37). The California Retail Food Code requires that "water meet standards for transient noncommunity systems, to the extent permitted by federal law," which only requires that water quality meet nitrate/nitrite and bacteria standards, including compliance with the ground water rule and surface water treatment rules (see HSC 113869, defining "potable water"). Therefore, compliance with the hexavalent chromium MCL is not required by food processors, unless the processing plant is considered a non-transient PWS because it serves 25 people (such as employees) over six months per year. As compliance with the MCL is not required by food processors, additional costs to food processors who choose to comply with the MCL are not included in the economic feasibility analysis.*

53. Commenters state that the proposed regulation should include an assessment of compliance costs incurred by some or all wastewater treatment plants should the MCL be adopted.

Response: *It is not clear that there will be any immediate monitoring and treatment costs to wastewater treatment plants from the adoption of the proposed MCL. DDW is unaware of any wastewater agencies treating specifically for hexavalent chromium or best practicable treatment and control practices for hexavalent*

chromium upon which to base cost estimates. Based on a search of discharge monitoring records, DDW is also unaware of any wastewater agencies that would be affected by a hexavalent chromium limit of 10 µg/L for waters with a beneficial use of municipal and domestic supply.

In addition, no wastewater agency would have to comply with a discharge requirement based on the proposed MCL until a new permit is adopted that incorporates the proposed MCL as an effluent limit. Regional water quality control boards (RWQCBs) would use their discretion in setting effluent limits based on specific variables (monitoring frequencies, monitoring timeframe, permit renewal schedules, compliance schedules, and the application of narrative toxicity objectives), so DDW could not predict the effluent limitations in future permitting. Additionally, once drinking water systems begin treating for hexavalent chromium, all or most of the wastewater coming into the treatment system would have already been treated, relieving the wastewater agency from having to treat the water to meet the proposed MCL.

54. Water Code section 13241 requires an analysis of the proposed MCL's impact.

Response: The State Water Board is adopting the MCL pursuant to its authorities and responsibilities under the California Safe Drinking Water Act, not the Porter-Cologne Water Quality Control Act. As a result, the analysis required for the MCL derives from the California Safe Drinking Water Act, and the State Water Board is not required to consider the factors specified in Water Code section 13241, even though some regional water boards' basin plans incorporate by reference primary drinking water standards as water quality objectives. The State Water Board has not required regional water boards to incorporate primary drinking water standards by reference as water quality objectives and has approved regional basin plans with varying degrees of MCL incorporation, including at least one basin plan with no prospective incorporation by reference. Regional water boards exercise broad discretion in determining which numeric and narrative water quality objectives to include in their basin plans. Further, consideration of the Water Code section 13241 factors was the responsibility of the regional water boards when they incorporated the MCLs as water quality objectives to reasonably protect waters designated with the beneficial use of municipal and domestic supply. There is not a requirement for additional analysis at this time.

55. Commenters request that funding be available to assist with compliance needs be clearly identified and ensured for PWS (especially small PWS). Some commenters also request that the Board's analysis consider that capital costs could be covered by the state.

Response: The analysis, availability, or commitment of state funding to pay for compliance projects by PWS is not a prerequisite or requirement for the State Water Board's adoption of the proposed regulation. Rather, the Board considered the possibility of state financial assistance to PWS for addressing hexavalent chromium as a potential mitigating factor for affordability. As such, accounting for

additional resources (such as the state covering capital costs) would not alter the analysis.

56. Commenters claim that financial assistance needs have been understated, and/or the availability and reliability of State funding has been overstated.

Response: Funding needs were estimated based on illustrative figures (see response to comment 51) to provide information to board members and the public. The availability of sufficient funding is not a prerequisite or requirement for the proposed regulation. Further, nothing about this action changes the existing process for pursuing financial assistance.

57. Commenter requests that DDW estimate the annual demand for grant funding to cover capital costs over the first four years of the proposed MCL.

Response: The demand for grant funding that covered capital costs would be equal to the estimated capital costs (shown for each source in ISOR Attachment 5) summed for each year based on the applicable compliance deadlines. The requested information can also be calculated by using data from State Water Board databases (ISOR Documents Relied Upon #53 and #54) to create running annual averages for each source, and by creating a list of sources (and their associated system information) with any running annual average above the proposed MCL. Costs can then be calculated for each of the listed sources following the methodology detailed in ISOR Attachment 2 section I. Affordability information is available for each system in the 2022 Drinking Water Needs Assessment (ISOR Document Relied Upon #59).

58. Commenters would like the State Water Board to proactively plan to provide funding and support to impacted PWS, particularly those providing water service to disadvantaged communities through the Safe and Affordable Funding for Equity and Resilience (SAFER) program and other funding programs.

Response: This is outside the scope of this regulation. Funding opportunities can be found at https://www.waterboards.ca.gov/water_issues/programs/grants_loans/.

59. Commenters continue to advocate for the establishment of a statewide low-income rate assistance program to aid low-income households struggling with unaffordable water and sewer bills.

Response: A statewide low-income rate assistance program is outside of the scope of this regulation.

60. Commenters request that the State Water Board's analysis better address the State Water Board funding process, which has proven to be difficult and time consuming for many PWS, especially the smallest and those most in need.

Response: The compliance schedule was added to this regulation to account for a variety of possible compliance delays, including the time needed to plan, fund, and implement treatment. However, issues with the funding process are outside of the scope of the proposed regulation.

61. Commenters urge the Board to provide the necessary assistance and financial resources to support small PWS, including those serving disadvantaged communities, in complying with the best available methods and in implementing a financial plan.

Response: While technical and financial assistance are outside the scope of the proposed regulation, resources for both are currently available for PWS: information on the State Water Board's Technical Assistance Funding Program is available at

https://www.waterboards.ca.gov/water_issues/programs/grants_loans/tech_asst_funding.html, and information on funding opportunities is available at https://www.waterboards.ca.gov/water_issues/programs/grants_loans/. In addition, funding plans are regularly updated and available for public comment.

62. Commenter is concerned that compliance support could unduly divert spending on infrastructure rehabilitation, other water quality regulations and programs, and other necessary investments that may provide greater health protection benefits to ratepayers.

Response: The State Water Board uses intended use plans to guide funding priorities. The most recent intended use plan is available at https://www.waterboards.ca.gov/drinking_water/services/funding/SRF.html.

63. Commenters assert that external scientific peer review is required not only for the PHG and BAT, but also the proposed MCL itself. Commenter notes the State Water Board is required to set an MCL at a level that, among other things, "avoids any significant risk to public health," which they state should be the scientific basis of the rule and, therefore, that the proposed level of 10 µg/L must be externally scientifically peer reviewed.

Response: Whether an agency proposed rule requires external scientific peer review depends on if the rule has a "scientific basis" or "scientific portions" that have not previously been peer reviewed in a manner consistent with HSC 57004. "Scientific basis" and "scientific portions" mean the "foundations of a rule that are premised upon, or derived from, empirical data or other scientific findings, conclusions, or assumptions establishing a regulatory level, standard, or other requirement for the protection of public health or the environment" (HSC 57004).

Here, the State Water Board must set the MCL value as close as technologically and economically feasible to the PHG, placing primary emphasis on the protection of public health, and avoiding, to the extent technologically and economically feasible, any significant risk to public health (HSC 116365). In setting the MCL value, the State Water Board is statutorily required to consider a variety of factors, including policy considerations of feasibility, when setting the MCL value; therefore, the MCL is not determined strictly on a scientific basis as the commenter suggests.

Consistent with HSC 57004, external scientific peer review is not required when the State Water Board considers policy and makes policy judgments. To the extent that the MCL value was influenced by a scientific basis, the State Water Board

satisfied the scientific peer review requirements under HSC 57004 because it conducted a peer review for the BAT identified in the proposed regulation, the results of which were considered when analyzing the economic and technological feasibility of the proposed MCL value.

Additionally, the value that "avoids any significant risk to public health" is the PHG (HSC 116365(c)(1)). The PHG was developed by OEHHA in a process that included a scientific peer review of that PHG in accordance with HSC 57004. The MCL for hexavalent chromium must be set as close as feasible to the PHG (HSC 116365(a)). Therefore, the scientific basis for no significant risk to public health was subjected to scientific peer review in accordance with HSC 57004. The State Water Board cannot propose adoption of the PHG as the MCL because the PHG is not technologically and economically feasible (see HSC 116365).

64. Commenter states that any reliance on the external scientific peer review conducted for the 2011 hexavalent chromium PHG would be arbitrary and capricious.

Response: *The PHG peer review conducted by OEHHA is not being used to satisfy peer review requirements for this regulation.*

65. Commenter requests that maximum holding time of 14 days and sample preservation with one of the buffers described in Environmental Protection Agency (EPA) Method 218.7 for samples analyzed by either 218.6 or 218.7 be included in the proposed regulation.

Response: *As specified in proposed CCR 64415, analyses shall be made in accordance with the methods that are incorporated by reference. DDW will evaluate whether to amend the regulations to add holding time modifications for these methods in a future rulemaking.*

66. Commenter requests clarification of the level of accuracy required for laboratories using EPA Method 218.6 to meet the Detection Limits for Purposes of Reporting (DLR). Section 9.2.4.2 of EPA Method 218.7 indicates that 50-150 percent recovery should be used, but EPA Method 218.6 does not similarly specify.

Response: *The level of accuracy required for laboratories using EPA Method 218.6 is specified in section 9.3.3 of the method: plus or minus three standard deviations from the percent mean recovery (after a minimum of 20 to 30 analyses). DDW will evaluate whether to amend the regulations to add holding time modifications for these methods in a future rulemaking.*

67. Commenter would like monitoring/testing costs waived to every five to seven years, or at very most, included with the three-year general mineral, physical, and inorganic requirements.

Response: *Monitoring waivers are available for inorganic chemicals such as hexavalent chromium to reduce sampling frequency to once every nine years. To qualify for the waiver, a source must conduct at least three rounds of sampling (a total of nine years for groundwater or three years for surface water) that all show*

results below the MCL. Hexavalent chromium has the same monitoring requirements as other inorganic chemicals, pursuant to CCR 64432.

68. Commenter notes that it is now possible to detect hexavalent chromium in water down to parts per trillion.

Response: Some methods and laboratories can detect hexavalent chromium down to levels in the parts per trillion. As stated in the ISOR, section 5.3 (pp. 25-26), "[w]here confident quantification to a concentration at or below the PHG is infeasible, the DLR should be set to the lowest level technologically and economically feasible. Based on laboratory surveys and documented follow-up communication, the State Water Board determined that laboratories could reliably quantify hexavalent chromium in drinking water to 0.1 µg/L" and that there is sufficient capacity at that level. However, detection to levels lower than the proposed DLR would likely require additional resources (e.g., specialized equipment), which would be expected to substantially increase costs for many laboratories. Detecting hexavalent chromium down to parts per trillion level was determined to not be necessary for an MCL set in the parts per billion (ppb). The proposed DLR of 0.1 ppb or 0.1 µg/L is already two magnitudes lower than the MCL of 10 ppb or 10 µg/L.

69. Commenter is concerned that laboratories will be required to pay higher lab fees and probably ship samples to out-of-county labs.

Response: Surveys indicate that most laboratories can meet the DLR with small cost increases (ISOR section 10.1); however, some PWS may ship samples necessitating additional costs (ISOR section 10.1.1). Additional laboratories may seek accreditation as, during the period that the previous hexavalent chromium MCL was active, an additional 19 laboratories were accredited for hexavalent chromium analyses.

70. Commenters request that the Human Right to Water (Water Code section 106.3, added by Assembly Bill 685 of 2012) be considered in adopting the proposed MCL by analyzing how the proposed MCL levels will contribute to efforts to provide clean, safe, and affordable drinking water to ensure safe water as a human right.

Response: It is 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 section 106.3). The State Water Board has considered this policy when proposing the regulations. The proposed regulations would advance the human right to water by setting a primary drinking water standard for hexavalent chromium that is protective of public health, while avoiding negative impacts to affordability and accessibility. The proposed regulations would improve the safety of drinking water from PWS in California by prohibiting hexavalent chromium above the proposed MCL of 10 µg/L. As described in the ISOR, the proposed regulations would reduce negative health effects due to hexavalent chromium. At the same time, and as discussed in the ISOR, the proposed regulations will not result in unaffordable or inaccessible drinking water to most Californians.

71. Commenter asserts that the proposed MCL violates the Human Right to Water because it does not satisfy the following requirements: (1) agencies must give preference and adopt policies that advance the human right to water when considering a range of policies or regulations; (2) agencies must refrain from adopting policies or regulations that run contrary to securing universal access to safe drinking water (cannot disregard the impacts of decisions on the safety, affordability, or accessibility of water); (3) agencies must note in the record the impact of the agency's actions on access to safe and affordable water (which requires, at a minimum, explicit reference to Assembly Bill 685 and an explanation of a decision's potential impact on the quality, affordability, and accessibility of drinking water).

Response: Water Code section 106.3 – often referred to as the “Human Right to Water Law” – does not contain these requirements. Rather, it declares that it is the established 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. It further directs state agencies, including the State Water Board, to consider this state policy when revising, adopting, or establishing policies, regulations, and grant criteria when those policies, regulations, and criteria are pertinent to the uses of water described in Water Code section 106.3. Please also see response to comment 70.

72. Commenter claims that an MCL that allows a default of 1 in 2,000 cancer cases does not prioritize public health.

Response: Please see response to comment 93. The proposed regulation is a minimum standard, and PWS may treat to lower levels if they choose. In addition, it is possible that lower levels will become more feasible in the future.

73. Commenter states that an aspect of accessibility (as used in the Human Right to Water) that may have been overlooked is the barriers that small PWS experience with alternative strategies for compliance (e.g., POU/POE, consolidation).

Response: The State Water Board recognizes that alternative means of compliance, while often less expensive than centralized treatment, may require logistical, technical, or other resources to implement. For example, consolidation with another PWS may obviate the need to install and maintain a treatment facility but demands political will and organizational planning. As described in the ISOR, the State Water Board provides financial assistance to PWS pursuing alternative means of compliance, such as consolidation. The State Water Board also provides technical assistance through DFA and third-party technical assistance providers. The proposed regulations also include a phased compliance schedule, with greater time to come into compliance for small PWS. The State Water Board has considered the impact of the proposed regulations on accessibility of safe drinking water and finds that adoption of the proposed regulations would advance that goal – not hinder it.

74. Commenter states that DDW has failed to balance the high costs with public health considerations, as required by the California Safe Drinking Water Act and appellate courts by failing to critically compare and analyze costs of the proposed and alternative

MCLs and failing to use a proper baseline to compare and analyze the public health benefits of the proposed and alternative MCLs.

Response: *Please see responses to comment 44 regarding balancing/comparing costs and benefits, comment 77 regarding requirements to adopt this MCL, and comment 117 regarding baseline requirements. There is no mandate to “balance” the costs with the benefits. In fact, the statute indicates otherwise by requiring the primary emphasis to be placed on the protection of public health.*

75. Commenter claims that not calculating the monetary value of avoided cancer cases is a violation of the California Safe Drinking Water Act.

Response: *The California Safe Drinking Water Act does not require calculating the monetary value of avoided cancer cases. The Act requires the State Water Board to adopt a primary drinking water standard at a level that is as close as feasible to the corresponding PHG placing primary emphasis on the protection of public health. Please see response to comment 444 regarding conducting a cost-benefit analysis.*

76. Commenters note that the ISOR does not indicate that the cost of future regulations was considered for the proposed MCL or higher alternative MCLs, and as such, does not properly balance the factors the State Water Board is required to consider under the Safe Drinking Water Act and the Human Right to Water Act.

Response: *The impact of future regulations was considered for the proposed MCL and for all alternative MCLs (ISOR section 11.10). Estimating the costs of future regulations is beyond the scope of the proposed regulation.*

77. Commenters are concerned that the statewide cost impact of the proposed MCL has not been fully considered, including for all affected poor and distressed communities and for those with domestic wells, such that a higher MCL might be more cost-effective.

Response: *The State Water Board is aware that some communities may be disproportionately affected by hexavalent chromium, the proposed regulations, or both. However, MCLs are not selected based on cost-effectiveness. As mandated in HSC 116365, the MCL must be set as close to the PHG as is technologically and economically feasible. While lower levels may be technologically feasible, 10 µg/L was determined to be as close to the PHG as is economically feasible at this time (ISOR section 11).*

78. Commenters state that the proposed regulation package underestimates or inaccurately or inadequately assesses the cost of compliance. Commenters request that the costs be re-evaluated to include underlying issues (such as ongoing issues with other contaminants, stranded costs, lack of alternative sources, recent infrastructure investments, cost burden on ratepayers) that make treatment more expensive for PWS and include these in a holistic view that is more appropriately inclusive of disadvantaged communities. Commenter states that a comprehensively revised SRIA and the resulting cost estimation be used to inform a reconsideration of the proposed MCL. One commenter requested that the revision account for the real costs and adjust for 2023 values.

Response: Many of the costs referenced by commenters were included in the cost estimates, including capital costs, hazardous waste disposal, building construction costs, operational costs, managerial costs, brine/backwash disposal, additional piping, and installation (ISOR Attachment 2 section 1.3.a.2). It is not practical to include every unique and site-specific element to drinking water operations that a PWS may encounter as part of their compliance action, due to a lack of data availability and staff resources. However, available PWS financial data (2021 Drinking Water Needs Assessment), including cost burdens and recent water rates, was considered in the economic feasibility analysis. As required by statute, the economic feasibility analysis was based on the costs of the proposed regulation using BAT (HSC 116365). As a result, land acquisition costs, security costs, and any other site-specific (non-general) costs were not included. Capital costs can be found in ISOR Attachment 2 section 1.3.a.2 and Tables A1, A2, A3, A4, and A5.

The initial SRIA was reviewed by DOF, and DOF's comments were incorporated into the revised SRIA (ISOR Attachment 2). Due to the extensive pre-rulemaking and rulemaking requirements, especially those associated with major regulations (SRIA development and review), any regulation dataset is likely to be years old at the time of regulation adoption. As a matter of necessity, a regulation dataset must be held constant (frozen in time) so that all regulation documents can be consistent. As a result, any dataset used for a regulation is unlikely to be the most current data. Updating the dataset, revising the SRIA, and re-promulgating this MCL would result in another dataset that is years old at the time the associated regulation would be adopted.

79. Commenters note that the cost estimates in the proposed regulation do not match the cost estimates for their PWS.

Response: The State Water Board used assumptions that may not be applicable to individual PWS or to particular groups of PWS. Some PWS may incur costs exceeding those provided in the ISOR, while others may incur less costs utilizing other options for compliance. The costs are not intended to be utilized for PWS to budget or bid costs for treatment.

80. Commenter states the assumption in the cost estimates that hexavalent chromium would be treated to 80 percent of the MCL (or 8 µg/L) is negligent considering the concentration goal for treatment should be at least 50 percent. Treating to 80 percent of the MCL does not leave room for safeguards or exceedances.

Response: DDW staff disagree with the assertion that the concentration goal should be at least 50 percent for implementation of treatment. While DDW appreciates that some PWS may take such a proactive approach, 80 percent serves as an appropriate operational safety margin for the performance of the treatment plant and is consistent with the approach used in the federal Arsenic Rule and federal Stage 2 Disinfectants and Disinfection By-Products Rule.

81. Commenter notes that a cost not considered by the regulation is the ability of PWS to raise rates considering other regulatory burdens and public sentiment. A PWS that

has recently raised rates could be unable to make additional rate increases based on regulatory or public opinion constraints.

Response: The individual ability to raise water rates and other site-specific information and conditions were not considered due to a lack of data.

82. Commenter claims that the Board failed to consider cost savings from consolidations, alternative water supplies, and/or existing treatment for other contaminants that could also be modified to treat hexavalent chromium.

Response: The purpose of the State Water Board determining estimated average treatment costs is to provide values useful in determining the extent to which an MCL is economically feasible, as defined by statute. HSC 116365(b)(3) requires that economic feasibility be considered using BAT treatment costs (rather than any alternative, more affordable options). The values presented in the regulation package are estimates based on the cost of a particular BAT, as mandated by statute. The State Water Board is not obligated to develop cost estimates for non-treatment compliance options, which can also be difficult due to a lack of site-specific data. However, cost estimates for point-of-use/point of entry treatment were included in the ISOR for informational purposes. (See Table 9 of ISOR).

83. All three BATs are capable of simultaneously removing many other contaminants. Accounting for this treatment—which the Board did not—would reduce the cost of compliance and support a lower MCL.

Response: The co-removal of multiple regulated contaminants using the proposed hexavalent chromium BATs was considered qualitatively as a benefit of the proposed MCL (discussed in ISOR section 5.2.1). However, the calculation of the resulting cost savings is beyond the scope of this regulation and not currently possible with available data. Please also see response to comment 433 regarding further quantifying/monetizing benefits and the effect it would have on the economic feasibility analysis.

84. Commenters ask if the Board needs to reevaluate any of its cost numbers before proceeding with the regulation; support continuing to refine all cost data and a more robust model for evaluating economic feasibility; and, state that the data was used selectively, and was outdated, sparse, weighted, and/or mischaracterized, leading to underestimated costs. Commenters request that the Board shows its work as to the data, the manipulation of the data, the interpretation of the data, and how that affected the formation of a regulation.

Response: The cost estimates were developed over many years with input from the public (see the Historical Timeline on our [Hexavalent Chromium Information webpage](#)). They have been reviewed and have not been changed: staff believes that the data was used appropriately and that costs were estimated appropriately. Occurrence was calculated conservatively using the highest annual average hexavalent chromium concentration (over more than a decade) to determine which sources would need treatment and how much that treatment would cost (higher hexavalent chromium concentrations produced higher costs). The applicable cost data was then directly applied to these sources (see the CEM in

ISOR Attachment 2 section I and the [Python code](#) for a full description of costs and each step of how the data was transformed/manipulated for the proposed regulation).

85. Commenters request an explanation for why RCF was assumed the predominant compliance choice to estimate costs when: (1) ion exchange appears to be more prevalent in existing PWS treatment applications, (2) ion exchange seems to be more appropriate for smaller PWS, (3) residuals management issues may significantly limit the viability of RCF in settings remote from sanitary sewer system access, and (4) the choice to primarily use RCF (rather than ion exchange) is a reversal from the 2022 draft costs. Some commenters state that (5) RCF treatment constraints were not considered, and others that (6) ion exchange is more effective at removing multiple contaminants and so should have been used instead. One commenter states that (7) DDW must evaluate whether RCF is compatible with source water conditions and existing treatment systems and substantiate the claim that RCF would actually be used by PWS for 98 percent of sources.

Response: As explained in the CEM (ISOR Attachment 2 section I), both ion exchange and RCF costs were calculated, and the most cost-effective option was chosen on a source-by-source basis, which was RCF for the majority of sources. The following responds to each numbered point: (1) While ion exchange may be more prevalent now, that does not necessarily indicate that it will continue to be the most prevalent treatment technology in the future, especially with the development of RCF technology (including the application of stannous chloride) over the last decade. (2) It does not appear that ion exchange would be any more appropriate for smaller PWS compared to RCF. RCF technology is commercially available for source flows down to 1 gpm (Aqua Metrology Systems, 2022). In addition, peer reviewers disagreed with the statement that RCF was not appropriate for "very small" PWS. (3) The cost estimates and RCF data used were for the specific case in which sewer discharge was unavailable. Residuals management was included in the RCF cost estimates. (4) The changes made after the 2022 draft costs were based on comments received regarding those costs, resulting in the addition of RCF cost estimates and the selection of the most cost-effective option for each source. (5) RCF treatment constraints were considered; however, only pH was found to have a mild effect on RCF treatment by slightly reducing the efficiency of ferric-based reductants (the reduction phase can take a couple more minutes). Because other reductants are available (such as stannous-based reductants) and because the effect was mild, the cost estimates were not altered to account for this. Staff are not aware of any other constraints (through research or public comments). (6) While ion exchange can effectively remove other contaminants, there would be added cost to account for that removal, and costs for other contaminants are beyond the scope of the proposed regulation. Some PWS may choose to implement ion exchange because they would also like to treat other contaminants at the same time. However, this site-specific preference is not a requirement. (7) The cost estimates are not meant to imply that 98 percent of sources would implement RCF treatment, but rather as BAT, it is a viable technology that is broadly applicable (and no constraints were

found that would prevent specific PWS from using it). Because RCF appears to be more cost-effective than ion exchange, it is likely that it will be widely applied.

86. Commenter points out that costs for monitoring and treating hexavalent chromium have been reduced significantly over the years.

Response: While it is possible that treatment costs have decreased from what was presented in the proposed regulation, more recent and robust cost estimates could not be found (despite multiple rounds of asking for such information).

87. Commenter notes that hexavalent chromium does not cost more to treat than iron and manganese, and these contaminants are not MCLs but only secondary standards.

Response: While it is possible that treatment costs for iron and manganese (which only have secondary standards) are lower than what was presented in the proposed regulation, more recent and robust cost estimates could not be found. However, the same type of treatment (RCF) is used for iron and manganese.

88. Commenters state that the cost burden of the proposed MCL should be analyzed with the cumulative burden of existing and projected or reasonably anticipated future drinking water regulations. Commenters request that the regulation include an analysis of recent trends in water rates and known instances of disproportionate water affordability burdens, a complete list of regulatory priorities indicating where each contaminant is in the regulatory queue, and order of magnitude estimates of potential compliance costs based on a preliminary analysis of available occurrence and treatment cost data.

Response: It is not practical to evaluate costs using the cumulative burden of existing and projected/future drinking water regulations due to a lack of data and staff time for extra research. Please also see response to comment 78 regarding cost burdens and the requirements for determining economic feasibility.

89. Commenter states that the costs should be based on actual experience of water supply agencies that have designed and tested these systems.

Response: The State Water Board encourages PWS to share cost data with the regulatory development team and when available was used. However, PWS are not required to share this information and, historically, this data has been difficult to acquire.

90. Commenters claim the Errata Sheet changed the estimated monthly costs for households or acknowledges where cost estimates were understated.

Response: The Errata Sheet did not update/change monthly costs for households. Rather, the Errata Sheet corrected a transcription error in which one set of data (the estimated financial support costs) was entered into the text as monthly data but labelled as annual data. No values were changed in ISOR Attachment 1.

91. Commenters point out that the state's compliance costs for the 2014 proposed MCL were much higher for small PWS than the current cost estimates. Accounting for inflation, annual costs should be more than \$7,300 per household per year for small PWS. In contrast, the proposed regulation indicates average annual costs of \$1,622 per household for the smallest PWS.

Response: The proposed regulation was developed anew rather than building on the 2014 regulation. In addition, the cost estimates in the proposed regulation were developed and refined over years of work and input from the public (see the Historical Timeline on our [Hexavalent Chromium Information webpage](#)).

92. Commenter notes that the affected sources in Dr. Robinson's August 2, 2023 APA Hearing Presentation summed to 494, which is a change from the 501 sources in the ISOR.

Response: The seven affected transient non-community (TNC) sources were excluded from the hearing presentation for brevity. Those seven sources plus the 494 sources in the presentation brings the total to 501 sources, which matches the values in the ISOR.

93. Commenter states that the costs and benefits are compared across different timeframes: The 70-year benefit of avoiding 898 cancer cases should be compared to the total cost over 70 years (\$12.6 billion), or the theoretical cancer cases avoided over 20 years should be compared to the costs over 20 years (approximately \$3.6 billion).

Response: The costs and benefits in the SRIA are compared across the same timeframes. Because capital costs were amortized over a 20-year period and avoided cancer cases were based on a 70-year period (by necessity, as the PHG assumes water consumed over a 70-year lifetime), the cost-effectiveness ratio was calculated using annualized costs and annualized avoided cancer cases. However, the cost-effectiveness ratio can be calculated across any comparable timeframes and, because it is a ratio, it will not change. As the commenters suggest, calculating the cost-effectiveness ratio for a 70-year period (approximately \$12.6 billion divided by 898 avoided cancer cases) and for a 20-year period (approximately \$3.6 billion divided by 256 avoided cancer cases) both equal \$14 million, the same cost-effectiveness ratio (\$14,002,455) for 10 µg/L in Table 38 of the SRIA (ISOR Attachment 2).

94. Commenters claim that the use of averages masks distributional impacts on smaller PWS and different types of PWS. In particular, commenter says the cost-effectiveness ratios are much worse for smaller PWS (including transient non-community water systems (TNCWS)) compared to larger PWS, and for PWS that are only a few ppb above the MCL. Commenter states that cost-effectiveness should be considered across PWS sizes and concentration levels.

Response: Cost-effectiveness ratios cannot be calculated for TNCWS: because TNCWS are only assumed to serve people transiently, health benefits associated with a chronic health risk are not conservatively calculable, so an attempt to calculate a cost-effectiveness ratio results in division by zero. The cost-effectiveness ratios were calculated across all PWS (using all of the costs and all of the benefits) to account for the fact that some PWS were not assigned a quantifiable health benefit and other costs (like compliance plans, monitoring, etc.) had no quantifiable health benefit. As required in the SRIA, the cost-effectiveness of the regulation was considered as a whole. As discussed in the last paragraph of ISOR section 4.4.4.6, small PWS do not benefit from economies of scale (in other words, system-size-specific cost-effectiveness ratios are very different for large

and small PWS). The issue of small PWS affordability is discussed further in the *Hexavalent Chromium Economic Feasibility White Paper*, which concludes: “Statewide protection of public health cannot be limited to what is affordable to the smallest PWS serving only a small fraction of the State’s total population.” Complying with the proposed MCL appears less cost-effective for PWS that are only a few ppb above the MCL because the cost calculations assumed that each source exceeding the proposed MCL would install treatment, no matter how little the exceedance (as little as 0.1 µg/L in the cost calculations). In practice, these sources are more likely to employ strategies such as blending and other alternatives, which are much less expensive (discussed in ISOR section 11.9). The rulemaking documents did not intend to mask distributional impacts: the SRIA (ISOR Attachment 2), the 85 data and cost tables (ISOR Attachment 1), the cost estimates for individual sources (ISOR Attachment 5), and the Python code showing each calculation step were all provided to show costs and impacts in as many ways as possible. In particular, the majority of cost tables are broken down by PWS size, impacts to sub-groups (typical businesses, small businesses, individuals and businesses served by PWS) were discussed separately in the SRIA (sections C2 through C5), and the economic feasibility analysis (ISOR section 11) distinctly considers median costs and maximum costs, as well as costs to differently-sized PWS, and even listed out costs to individual PWS in section 11.3.

95. Commenter points out that the rulemaking documents remark that the cost-effectiveness ratios are nonlinear but then does not evaluate the causes of that non-linearity as part of the MCL selection process.

Response: The nonlinearity is the result of nonlinearities in the real-world PWS data (population, PWS size, hexavalent chromium concentration, etc.). In this case, the linearities were caused by different sized PWS (with varying populations and treatment costs) added at discrete concentrations (1 through 15, 20, 25, 30, 35, 40, and 45 µg/L) based on each source’s contamination level. When moving from one potential MCL to the next, adding PWS with good economies of scale (usually larger PWS) would cause better cost-effectiveness ratios, and adding PWS without economies of scale (usually smaller PWS) would cause worse cost-effectiveness ratios.

96. Commenter states that DDW failed to evaluate the uncertainties associated with its evaluation of costs and benefits, as required by DOF SRIA regulations.

Response: The uncertainties associated with the cost-effectiveness analysis are those associated with the PHG (detailed in *OEHHA (2011)*) and those associated with the cost estimates: as preliminary engineering cost estimates, the associated uncertainty is -30 percent to +50 percent.

97. Commenter states that the SRIA and ISOR fail to provide sufficient information to allow external stakeholders to fully evaluate and understand the basis for the Division’s selection of the proposed MCL, depriving the public of the transparency required by the Government Code and meaningful participation in the rulemaking process. In particular, commenters state that ISOR Attachment 5 does not include the annual theoretical

cancer cases avoided for each source or a system number that allows the cases per PWS to be estimated. Other missing information includes the number of sources affected by PWS, per system costs and benefits, identifiers for public vs private PWS, environmental justice data by PWS, such as information on distribution of income, education, race, and other demographics, and frequency of testing data.

Response: *The State Water Board identified in the ISOR the steps and assumptions made in identifying approximately how many PWS would have to comply with the requirements, the costs for monitoring, and the costs for ongoing centralized treatment for sources exceeding the proposed MCL. There is sufficient data and descriptions of State Water Board processes available to the public to be able to assess approximate costs for PWS that will have to monitor and treat. While the system numbers and other details were not provided in ISOR Attachment 5, all PWS information is available in the publicly available data used for this regulation, listed as SWRCB (2021b and 2021c) in the Documents Relied Upon (ISOR section 13). Using only ISOR Attachment 5, some information can be back-calculated: the population treated by each source is equal to the source design flow (provided) divided by 1.5 (peaking factor) and then divided by either 150 gallons per capita per day (gpcd) (for CWS) or 120 gpcd (for other PWS) (see ISOR Attachment 2 section 1.3.b). This would also provide a shortcut for calculating theoretical cancer cases avoided for each source.*

98. Commenters state that an annual cost of \$175 million is enormous and that expenditures of this magnitude for every contaminant the State Water Board intends to regulate are unlikely to be sustainable, and the ISOR does not demonstrate that it is. Another commenter states that the financial impact of compliance on businesses, individuals, and the state's economy is too large, and the regulation should not be adopted.

Response: *The annual costs associated with the proposed regulation were high enough to qualify it as a major regulation, requiring a SRIA, which further analyzed the costs and the impacts of those costs. The ISOR and SRIA (and the cost estimates within) only pertain to this particular regulation, and not to future regulations. Some drinking water regulations cost more than others. The cost estimates for the proposed regulation do not necessarily reflect the costs associated with complying with future MCLs. ISOR section 11.10 discusses future regulations qualitatively. With an emphasis on protecting public health (ISOR section 5.2.1), the proposed MCL was determined to be economically feasible (ISOR section 11).*

99. Commenters expressed their support for the MCL being set at 10 µg/L, the inclusion of a compliance schedule, and/or aspects of the State Water Board's rulemaking efforts.

Response: *Commenter support is noted.*

100. Commenters request that the MCL be lower than 10 µg/L. Other commenters note that the proposed MCL is too high and conflicts with the Board's mission "to preserve, enhance, and restore the quality of California's water resources, and drinking water" or

is not close enough to the PHG. Some commenters also expressed disappointment with how long it took the State Water Board to propose the MCL.

Response: *While certain treatment technologies may achieve a concentration lower than the proposed MCL, the State Water Board also is required to consider economic feasibility, pursuant to HSC 116365, which is detailed in ISOR section 11. Therefore, proposing a lower MCL for adoption that is closer to the PHG is precluded at this time. The MCL does not preclude PWS from achieving lower levels as desired by their customers. We also understand that this MCL has not been promulgated as quickly as some commenters had hoped or expected. Also, please see response to comment 44.*

101. Commenters request that the State Water Board set the MCL at a higher concentration.

Response: *The State Water Board is mandated via HSC 116365 and 116365.5 to adopt an MCL for hexavalent chromium that is as close to the PHG as technologically and economically feasible. The State Water Board cannot ignore these mandates. In addition, the State Water Board must use OEHHA's PHG as the health-related basis when establishing an MCL.*

102. Commenters request that the regulations be updated to include a requirement for additional notices sent to residents served by impacted PWS. The notice should describe health risks associated with hexavalent chromium in drinking water and state that the residents should not drink the water until the risks are addressed.

Response: *The State Water Board has revised the regulatory language in CCR 64463.4 to require Tier 2 public notices for MCL exceedances during the compliance period.*

103. Commenter states that communities with significant and harmful pollution from industry-made hexavalent chromium should be encouraged to take legal action against polluters. Commenter also states that the State Water Board should assist in these litigation efforts.

Response: *The State Water Board is aware that some PWS have been able to successfully recover the cost of treatment from responsible parties. Although adoption of the proposed regulations may provide clarity and assist PWS in their litigation or negotiation with responsible parties over reimbursement for treatment costs, that is not the intent of the State Water Board's actions in adopting the regulations. Likewise, any action the State Water Board could take to assist in recouping costs of treatment for PWS is beyond the scope of this regulation.*

104. Commenter would like the State Water Board to consider a maximum holding time of 28 days for EPA Method 218.6 based on U.S. EPA's intention that the 28-day holding time be used for EPA Method 218.6 under the appropriate circumstances.

Response: *This comment was submitted during the first 15-day comment period and is beyond the scope of the changes proposed during this comment period. However, As specified in proposed CCR 64415, analyses shall be made in accordance with the methods that are incorporated by reference. DDW will*

evaluate whether to amend the regulations to add holding time modifications for these methods in a future rulemaking.

105. Commenters state that the proposed change pertaining to the Tier 2 requirement is unnecessary because Consumer Confidence Report reporting is already required, and that level of notification is sufficient prior to the compliance deadlines.

Response: *Consumer Confidence Reports are updated and sent to consumers only once per year. The State Water Board believes that annual notices will not provide consumers with sufficient notice that their water contains hexavalent chromium levels over the proposed MCL exceedance.*

106. Commenters are concerned about environmental impacts and/or request an analysis of potential environmental impacts, such as hazardous waste production from treatment.

Response: *Environmental impacts have been evaluated in the CEQA documentation. The Final EIR is available on the State Water Board's [Hexavalent Chromium Rulemaking webpage](#).*

107. Commenter states that the proposed MCL is a mandate where the government is taking by force without compensation, taking away choices and demanding action. Commenter asks whether the State Water Board is willing to kill people to enforce its will (and clarifies that this was not a rhetorical question).

Response: *HSC 116365 and 116365.5 require the State Water Board to adopt an MCL for hexavalent chromium.*

108. Commenter asks if information regarding contaminated groundwater plumes can be provided to private well owners.

Response: *Staff are not aware of any groundwater plume maps for hexavalent chromium that cover large portions of California. However, the drinking water [occurrence map for hexavalent chromium](#) may be able to generally indicate to private well owners whether they are in an area with higher hexavalent chromium concentrations. Also available is the [2024 Aquifer Risk Map](#) that can be set to display hexavalent chromium risk per square mile section.*

109. Commenters state that the proposed regulation will make PWS provide bottled water that meets the federal (not state) standard.

Response: *The proposed regulation does not require bottled water, and bottled water would not be a means of compliance with the proposed MCL.*

110. While the presence of hexavalent chromium should not be overlooked, "the current proposal would deter from the lack of environmental responsibility and punish those PWS struggling to provide affordable water."

Response: *This regulation does not affect the liability of entities responsible for water contamination. As stated in Water Code section 13304, clean-up can be required to restore affected water to background conditions and applies regardless of the promulgation of the proposed MCL.*

111. Commenters suggest targeted remediation (implied instead of an MCL) for groundwater contaminated by PG&E to keep water affordable for everyone else. Another commenter notes that the approved remediation standards are not cost-effective for small PWS.

Response: The suggestion to conduct targeted remediation for PG&E-contaminated groundwater is beyond the scope of the regulatory action. The State Water Board is statutorily mandated to establish drinking water standards for the protection of public health, including a standard (MCL) for hexavalent chromium.

112. Commenter states that the ISOR and SRIA do not provide reasonable explanations justifying why other MCLs were not considered, such as an MCL of 9 µg/L.

Response: State Water Board staff have reviewed the ISOR and SRIA and believe that reasonable explanations were provided to justify why alternative MCLs were not selected. Potential MCLs lower than 10 µg/L were not selected because they could not be shown to be economically feasible at this time (ISOR section 11.10).

113. Commenter points out that the proposed MCL is ten times stricter than the level set by the federal government, which automatically hurts the ability of California businesses to compete with businesses in other states (Government Code section 11346.3(a)(2)).

Response: U.S. EPA has no standard that is specific for hexavalent chromium in drinking water. The federal MCL (100 µg/L) and state total chromium MCL (50 µg/L) limit total chromium (a combination of trivalent and hexavalent chromium). The State Water Board has the authority and is mandated, via HSC 116365 and 116365.5, to adopt an MCL for hexavalent chromium that is as close to the PHG as technologically and economically feasible. As stated in the Notice of Proposed Rulemaking, the State Water Board has determined that there may be a significant, statewide adverse economic impact directly affecting businesses. However, PWS are generally not in competition with other systems, and any drinking water imported from other states would need to comply with the proposed MCL (see the Notice of Proposed Rulemaking for a more detailed discussion).

114. Commenter claims that the majority of stated benefits (providing PWS with treatment guidance through BATs, providing consistency in analytical performance, consistent quality of information to PWS customers through notification and health effects language, public awareness, and the ability for small PWS to benefit from improvements in treatment realized by larger PWS through the compliance schedule, etc.) are only benefits to State Water Board staff and not to public health and safety of California residents, as stated in the ISOR. Commenter also claims that public water quality notifications are fearmongering.

Response: The State Water Board believes that the stated benefits are indeed benefits to public health and to the safety of California residents: treatment guidance benefits PWS (and anyone else) looking for generally effective treatment methods for hexavalent chromium; consistent quality of information benefits the public and PWS, who would presumably be asked fewer questions by (and spend

less time reaching out to) consumers; and the compliance schedule provides all PWS more time, and allows some PWS to learn from others with earlier deadlines. Notably, none of these seem to benefit State Water Board staff, except that as more consistent quality information is available to PWS and the public, the less PWS and the public would need to reach out to the State Water Board staff to ask questions.

115. Commenter writes that they will be required to treat sources with hexavalent chromium concentrations as low as 8 µg/L under the proposed regulation.

Response: Only sources that exceed 10 µg/L (as calculated pursuant to CCR 64432(i)) will be out of compliance with the proposed MCL. While 80 percent of the proposed MCL (or 8 µg/L) was used as a theoretical treatment goal in the cost estimates, PWS will not be required to treat to that level.

116. The APA requires that agencies adopting regulations avoid the imposition of unnecessary or unreasonable regulations (Government Code section 11346.3(a)).

Response: The State Water Board has complied with the APA and avoided the imposition of unnecessary or unreasonable regulations. The proposed regulation is statutorily required by HSC 116365 and HSC 116365.5. The State Water Board prepared a SRIA in accordance with Government Code section 11346.3.

117. Commenters cite requirements that DDW specify its own methodology for comparing regulatory alternatives with an established baseline so that the State Water Board can make decisions for the adoption of the most effective and least burdensome alternative, or the most cost-effective alternative (Government Code section 11346.36(b)(2)). Some commenters state that a different baseline of 192,770 cancer cases (the total number of cancer cases diagnosed in California in 2023) should be used.

Response: The baseline used in the SRIA was reviewed by DOF, and State Water Board staff believes a proper baseline was used. In addition, staff do not believe that using the total number of cancer cases in California would constitute a proper baseline because the proposed regulation is only addressing intestinal/stomach cancer caused by hexavalent chromium in drinking water, not other types of cancer or causes of cancer. If the number of intestinal/stomach cancer cases caused by hexavalent chromium in drinking water was known, that data would be used. However, because that data is unavailable, calculations of the changes in cancer cases were used to understand impacts compared to the baseline.

118. Commenters assert that the proposed MCL violates the Unruh Civil Rights Act. Commenters state that the Board must do more work to understand how this MCL would further systemic injustice by continuing to burden low-income communities of color with unsafe drinking water by conducting a racial equity analysis and include this with the MCL package.

Response: Adoption of the proposed MCL does not violate the Unruh Civil Rights Act, which applies to businesses in California. The proposed MCL would apply to all PWS, including those that serve low-income communities of color. Low-income communities of color will therefore benefit from the reduced risk of cancer and liver

toxicity that the proposed MCL would provide. To the extent that low-income communities of color are disproportionately affected by drinking water contaminated with hexavalent chromium, the adoption of the proposed MCL offers a significant public health benefit to those communities.

In State Water Resources Control Board Resolution No. 2021-0050, the State Water Board reaffirmed that all Californians, including people from Black, Indigenous, and other communities of color, deserve safe drinking water. In its Racial Equity Action Plan, the State Water Board decided to incorporate racial equity analysis when developing MCLs using available data, as data and methods allow. However, as explained in section 4.1.1 of the ISOR, data and methods do not allow for such analysis to be incorporated into MCL development at this time. Staff will continue to investigate and develop methods for racial equity analysis that can be incorporated into the development of future MCLs. Please direct any feedback or suggestions on this issue at the State Water Board's next update to its Racial Equity Action Plan.

119. Commenter requests live interpretation for oral comments in the future.

Response: *We regret that live interpretation for oral comments was not possible for our audiovisual and translation teams. Please contact the Office of Public Participation with this request (OPP-Contact@waterboards.ca.gov).*

120. Commenters request an extension of the 45-day comment period deadline.

Response: *A comment extension for the 45-day comment period was granted on August 18, 2023, extending the comment period to 62 days (when the first and last days do not count).*

121. Commenter would like to see the responses to the comments submitted in the initial 45-day comment period.

Response: *Consistent with APA rulemaking requirements and procedures, responses to comments received during comment periods are released when they are submitted to OAL at the end of the formal rulemaking process.*

122. Commenters request the reason(s) why the additional documents listed on the second 15-day notice were added to the Documents Relied Upon. Commenters add that DDW should not rely on OEHHA's Non-cancer Public Review Draft to support the proposed MCL regulation, the reliance gives the impression that both agencies are driving toward a predetermined outcome, and the draft document still subject to both external scientific peer review and further revision to address comments.

Response: *These documents were not relied upon in the development of the DDW proposal; however, because of the number of comments and interest related to OEHHA's review of the PHG and its potential impact on the MCL development, it was important to identify and make available to the public OEHHA's Noncancer Public Review Draft, as it could likely be discussed at the board meeting and in the final responses to comments provided to OAL. -*

123. Commenters state that neither the document "Consolidation and Alternatives Analysis" nor the July 2023 "Draft White Paper Discussion on Proposed Drinking Water

Cost Assessment Model Assumptions on Physical Consolidation" support the conclusion that there are viable alternatives for centralized treatment. In particular, DDW has not evaluated the willingness and capabilities of potential receiving systems or the availability and accessibility of funding to cover consolidation costs. Commenters also state the analysis document does not support the conclusion that blending is a viable alternative because it did not consider system-specific factors.

Response: *The "Consolidation and Alternatives Analysis" was specifically prepared and added to the documents relied upon for additional consideration of alternatives (e.g., consolidation, blending, POU/POE). The analysis was limited to the available source data. Per statute, economic feasibility must be based on BAT. The availability and provision of funding is neither part of the economic feasibility determination, nor otherwise required to be included in the analysis.*

125. Commenters note that DDW has issued scores of operating permits deploying all three proposed BAT in both small and large PWS, demonstrating that these technologies are feasible (for example, iron and manganese RCF treatment, arsenic RCF treatment, and treatment to remove nitrate, perchlorate, PFAS, and 1,2,3-TCP). Some commenters state that some of these treatment plants have already been incidentally removing hexavalent chromium, sometimes to non-detectable levels.

Response: *Staff agree that these technologies are feasible.*

Paeter Garcia

From: Paeter Garcia
Sent: Wednesday, April 26, 2023 5:29 PM
To: Kevin Walsh
Cc: Bill Buelow
Subject: SYRWCD Forty-Fifth Annual Report

Dear Kevin:

Although ID No.1 is not submitting extensive comments on the SYRWCD Forty-Fifth Annual Engineering and Survey Report on Groundwater Conditions (45th Annual Report), below please find several general comments for consideration by SYRWCD before it adopts the 45th Annual Report.

- Pages 2 through 4 of the 45th Annual Report lists various activities which are said to support groundwater charges levied by SYRWCD in the protection and augmentation of the water supplies for users within SYRWCD or a zone or zones thereof. For reasons set forth in recent letters from ID No.1 to SYRWCD (June 28, 2022 and January 31, 2023, incorporated herein by reference), the listed activities do not properly support the SYRWCD groundwater pump charge against ID No.1 in Zone E. As a related matter, ID No.1 is a separate and independent member agency of the EMA GSA. Through such participation, ID No.1 for many years has represented its own rights and interests in the EMA, wherein at times SYRWCD appears to take positions that are potentially adverse and not protective of ID No.1 interests.
- Page 3 of the 45th Annual Report states: "In the absence of such SGMA coverage by the District, the entire basin may not be covered and in such event would be subject to State Water Resources Control Board intervention and management of the basin as a probationary basin." This statement is inaccurate. The entire basin, including portions within SYRWCD, is included within the boundaries of Santa Barbara County, and SGMA provides that in the event the entire basin is not included within a GSA, the County is presumed to be the GSA for the unmanaged area unless the County opts out of that role, and no past or present indication exists that the County would opt out, as evidenced in the EMA.
- ID No.1 disagrees with contentions of SYRWCD that SGMA does not supplant some of what the District believes its past and future role to be in the Santa Ynez Upland portion of the basin, including but not limited to its levying of groundwater charges in Zone E. Please refer to prior ID No.1 letters in this regard.
- Among other sections of the 45th Annual Report, pages 13 through 15 address groundwater charges imposed by SYRWCD. For reasons previously outlined, the groundwater production charges imposed and proposed against ID No.1 in Zone E do not comply with applicable requirements, including but not limited to Proposition 26.
- Page 15 of the 45th Annual Report states: "With the beginning of the intense SGMA planning effort, and the District bearing the entire staffing burden for this effort, a review of expenses that could be allocated on a zone basis showed that there would be no significant difference between a uniform rate and a rate based on costs to be allocated to each zone." This statement is inaccurate, at least for zones in the EMA, because SYRWCD does not bear the entire staffing burden in the EMA.
- As previously noted, SYRWCD lists some of its "management activities" as monitoring and reporting on groundwater conditions, making annual groundwater use estimates and forecasting groundwater storage and overdraft amounts, and determining water volume for replenishment of dewatered storage. However, as the exclusive sustainable groundwater management agency in the EMA, the EMA GSA is now required and responsible for monitoring and reporting on groundwater conditions, making annual groundwater use

estimates, forecasting groundwater storage and overdraft, and determining the amount of dewatered storage in the EMA. For those subject to SYRWCD Zone E pump charges, the 45th Annual Report seems unnecessarily duplicative of the costs and efforts now being undertaken by the EMA GSA to prepare the EMA Annual Reports under SGMA, including the Second Annual Report recently adopted by the EMA GSA. For Zone E and the EMA generally, it appears the only remaining function of the 45th Annual Report is somewhat self-serving in that it must be prepared and adopted by SYRWCD before SYRWCD can levy its groundwater pump charge in Zone E.

Thank you for considering these comments in connection with the 45th Annual Report. Please let me know if you have any questions or wish to discuss any of these comments or related issues.

Paeter

Paeter E. Garcia

General Manager

Santa Ynez River Water Conservation District, ID No.1

P.O. Box 157

Santa Ynez, CA 93460

805.688.6015

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FORTY-SIXTH ANNUAL
ENGINEERING AND SURVEY REPORT
ON
WATER SUPPLY CONDITIONS
OF THE
SANTA YNEZ RIVER
WATER CONSERVATION DISTRICT

*A Summary of Findings for the
Previous Water Year (2022-2023), Current Water Year (2023-2024),
and Ensuing Water Year (2024-2025)*



March 11, 2024

Cover Photograph: *Stable Diffusion artificial image based in part on the prompt of "Santa Ynez River Water Conservation District, 2024, 46th year, Engineering and Survey Water Supply Conditions Report, future groundwater, pumping water."*

**FORTY-SIXTH ANNUAL
ENGINEERING AND SURVEY REPORT ON
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**A Summary of Findings for the
Previous Water Year (2022-2023), Current Water Year (2023-2024),
and Ensuing Water Year (2024-2025)**

March 11, 2024



W A T E R R E S O U R C E P R O F E S S I O N A L S
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◆ CARLSBAD, COVINA, AND SAN RAFAEL, CALIFORNIA ◆ APACHE JUNCTION, ARIZONA ◆
◆ CENTENNIAL, COLORADO ◆ MEDFORD, OREGON ◆

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1126-13

March 11, 2024

San Rafael

Board of Directors
Santa Ynez River Water
Conservation District
P.O. Box 719
Santa Ynez, California 93460

Re: Forty-Sixth Annual Engineering and Survey Report on Water Supply Conditions of
the Santa Ynez River Water Conservation District, 2023-2024

Dear Board Members:

Transmitted herewith is our Engineering and Survey Report on Water Supply Conditions of the Santa Ynez River Water Conservation District (District) for 2023-2024. This Forty-Sixth Annual Report presents the required and pertinent information for the Board of Directors to make necessary findings and determinations for levying groundwater charges upon the production of groundwater from water-producing facilities (water wells) within the District. As such, it provides information on the status of the groundwater and surface water supplies, and the annual production of groundwater from within the District.

Sincerely,

Allan Richards
Stetson Engineers Inc.

W A T E R R E S O U R C E P R O F E S S I O N A L S
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LIST OF TERMS

Accumulated Overdraft.....	The amount of water necessary to be replaced in the intake areas of the groundwater basins within the District or any zone or zones thereof to prevent the landward movement of salt water into the fresh groundwater body, or to prevent subsidence of the land within the District or any zone or zones thereof, as determined by the board from time to time. Defined in Water Code Section 75505. See also Dewatered Storage.
Acre-Foot	Volume of water to flood one acre to a depth of one foot (325,851 gallons).
Ad Valorem Property Tax.....	Property tax that is assessed according to the value of the property.
AF, AC-FT	Acre-Foot.

Agricultural water	Produced water first used on lands in the production of plant crops or livestock for market. Defined in Water Code Section 75508.
Alluvium	Sediments deposited through stream or river action. In Santa Ynez, these sediments are much younger, less consolidated, and with greater hydraulic conductivity, than the surrounding marine and non-marine sediments.
ANA	Above Narrows Account. Water rights release from Bradbury Dam (Lake Cachuma) made to replenish the groundwater basin upstream of the Lompoc Narrows area.
Annual Overdraft	The amount, determined by the board, by which the production of water from groundwater supplies within the District or any zone or zones thereof during the water year exceeds the natural replenishment of such groundwater supplies in such water year. Defined in Water Code Section 75506.
BNA	Below Narrows Account. Water rights release from Bradbury Dam (Lake Cachuma) made to replenish the groundwater basin downstream of the Lompoc Narrows area, i.e., for the Lompoc Plain subarea.
Board.....	Refers to the five Directors of the Santa Ynez River Water Conservation District.
Bradbury Dam.....	Completed in 1953, the dam impounds the Santa Ynez River to form Lake Cachuma. The dam stores floodwaters of the Santa Ynez River and SWP water. USBR is the agency that operates Bradbury Dam and water rights releases.
Cachuma Member Units	Beneficiary organizations of the Cachuma Project. Consists of: Carpinteria Valley Water District City of Santa Barbara Goleta Water District Montecito Water District Santa Ynez River Water Conservation District, Improvement District No. 1 (ID No. 1).
Calendar Year	January 1 through December 31.
CCWA.....	Central Coast Water Authority. The public entity which owns and operates pipelines and water treatment facilities enabling deliveries of water from the State Water Project to Santa Barbara and San Luis Obispo Counties.
CFS.....	Cubic Feet per Second. Unit of flow rate commonly used in describing surface water flows.
Contractor.....	Organization contracted to receive State Water Project water. the Department of Water Resources as well as CCWA use this term.

Current Water Year	Water Year 2023-24 (July 1, 2023 through June 30, 2024) The water year in which the investigation and report on the groundwater conditions of the District is made, the hearing thereon held, and the determination is made by the board as to whether a zone or zones should be established and a groundwater charge levied therein. Defined in Water Code Section 75507(b).
Dewatered Storage	Unused and available space in the aquifer available for storing additional groundwater. See also Accumulated Overdraft.
Deposits.....	See Unconsolidated Deposits.
District.....	Santa Ynez River Water Conservation District. Water conservation district representing the interests of the Santa Ynez and Lompoc Valleys.
District Fiscal Year	July 1 through June 30. Same as Water Year (statutory).
Drought Buffer	A term used to identify a source of supply within the State Water Project (SWP) system that will provide a higher level of reliability during times of drought. For most CCWA water purveyors, the drought buffer equals 10% of Table A amount.
DWR	Department of Water Resources. State of California agency acting as a regulator for the implementation of SGMA.
Ensuing Water Year	Water Year 2024-25 (July 1, 2024 through June 30, 2025). The water year immediately following the current water year. Defined in Water Code Section 75507(d).
Entitlement	A term used formerly to refer to “Table A” amounts. Table A amounts are the maximum amount of State Water Project (SWP) water that the State agreed to make available to each SWP contractor for delivery during the year.
Forebay.....	In the Santa Ynez River Basin, the term is used to refer to the area where most of the percolation occurs from the Santa Ynez River to the Lompoc Plain aquifer, which consists of the eastern four miles of the river beginning at the Robinson Road Bridge and downstream to Floradale Avenue.
GSA.....	Groundwater Sustainability Agency. Local agency that implements SGMA. Defined in Water Code Section 10721(j). The District is in three GSAs, each with its own management area of interest: Western Management Area, Central Management Area, and Eastern Management Area.
GSP	Groundwater Sustainability Plan. The plan for managing the groundwater basin in compliance with the SGMA. Defined in Water Code Section 10721(k).
Groundwater.....	All water beneath the earth’s surface, but does not include water which is produced with oil in the production of oil and

	gas, or in a bona fide mining operation, or during construction operations, or from gravity or artesian springs. Defined in Water Code Section 75502.
ID No.1	Santa Ynez River Water Conservation District, Improvement District No. 1. Special improvement district that distributes and serves municipal and irrigation water in the Santa Ynez Uplands.
Lake Cachuma.....	Reservoir formed behind Bradbury Dam.
MOA	Memoranda of Agreement. Agreement to organize the Santa Ynez River Valley Groundwater Basin into local agencies (GSAs) for SGMA implementation.
MG/L.....	Milligrams per Liter. Concentration units of mass per volume. In freshwater, this is equivalent to parts per million (ppm).
NOAA	National Oceanic and Atmospheric Administration. The federal agency organized under the Department of Commerce concerned with oceans, waterways, and the atmosphere.
Operator	Public agencies, federal, state, and local, private corporations, firms, partnerships, limited liability companies, individuals, or groups of individuals, whether legally organized or not. Defined in Water Code Section 75501.
Other Water.....	Generally, refers to municipal, industrial, or domestic uses of pumped or produced water. Water used for purposes <u>not</u> including uses for agriculture or irrigation at parks, golf courses, schools, cemeteries, and publicly owned historic sites.
Overdraft	Net water loss to the groundwater basin. Calculated as the increase in dewatered storage.
Owner.....	Person to whom a water-producing facility is assessed by the county assessor of an affected county, or, if not separately assessed, the person who owns the land upon which a water-producing facility is located. Defined in Water Code Section 75501.
Person.....	See Operator.
Preceding Water Year	Water Year 2022-23 (July 1, 2022 through June 30, 2023) The water year immediately preceding the current water year. Defined in Water Code Section 75507(c).
Precipitation	Combination of rainfall, snow, and any other form of water vapor that condenses on the ground.
Producer	An entity (person or corporate) that “produces” water by pumping groundwater from a well.

Production	The act of extracting groundwater by pumping or otherwise. Defined in Water Code Section 75503.
Project	Cachuma Project. Includes Bradbury Dam, Tecolote Tunnel, and all conveyance infrastructure to deliver project water to the South Coast.
Pump Charge.....	Fee for extraction of groundwater from a well.
Purchased Water	See definition of Turnback Pool Water. Refers to State Water Project (SWP) water purchased from another SWP Contractor.
Safe Yield.....	The amount of water that can be withdrawn from a groundwater basin without producing an undesired effect.
SBCWA	Santa Barbara County Water Agency. The county agency, organized under the Santa Barbara County Public Works Department, tasked with providing technical support to other public agencies and manages multiple water supply and public information programs.
SGMA.....	Sustainable Groundwater Management Act. Statewide framework for protecting groundwater resources. Mostly defined in Water Code 10720 – 10738, and California Code of Regulations Title 23 section 350 - 358.
South Coast	Southern Santa Barbara County which includes the communities of Carpinteria and Goleta, and portions of the Gaviota Coast, Montecito, Santa Barbara, and Summerland.
Special Irrigation Water	Produced water used for irrigation purposes at parks, golf courses, schools, cemeteries, and publicly owned historic sites.
Streamflow Infiltration.....	Stream or river water that percolates into the subsurface.
Surface Water.....	Water on the ground surface, including lakes, rivers, and canals.
SWP	State Water Project. Water storage and delivery system operated by the California Department of Water Resources which transports water from northern California to users located primarily in the San Francisco Bay area and southern California.
SWRCB.....	State of California Water Resources Control Board.
Turnback Pool.....	Turnback Pool Water refers to State Water Project (SWP) water that contractors may choose to offer from their allocated SWP Table A water to other Contractors through two pools in February and March.
Unconsolidated Deposits.....	Sedimentary material that is loosely arranged and has not been cemented (through a combination of physical compaction or chemical deposition) into a cohesive whole.
USBR	U.S. Bureau of Reclamation. Federal bureau organized under the Department of the Interior

	concerned with the construction and operation of dams. Specifically, operates Bradbury Dam at Lake Cachuma.
USGS	U.S. Geological Survey. Federal bureau organized under the Department of the Interior concerned with natural science research.
Water Code	California state statutory law related to water resources, the SWRCB, and water districts, among other things.
Water-Producing Facility	Any device or method, mechanical or otherwise, for the production of water from the groundwater supplies within the District. Defined in Water Code Section 75504.
Water Year (hydrologic)	One-year period from October 1 through September 30 of the following year. Water year for the Sustainable Groundwater Management Act defined by Water Code Section 10721(aa).
Water Year (statutory)	One year period from July 1 through June 30 of the following year, as defined by Water Code Section 75507(a).
Water Year (county).....	One-year period from September 1 through August 31 of the following year. Used in Santa Barbara County Hydrology reports.
WR 73-37	SWRCB Order of 1973. The order addresses the storage and release of water in Lake Cachuma and the operation of the ANA and BNA accounts.
WR 89-18	SWRCB Order of 1973, as amended in 1989. Amends the permits regarding the operation of the Cachuma Project.
WR 94-5	SWRCB Order of 1973, as amended in 1994. Amends the permits regarding the operation of the Cachuma Project.
WR 2019-0148	SWRCB Order of 2019. Amends USBR's water right permits regarding the operation of the Cachuma Project.
Zones	Specific geographic areas of the Santa Ynez Basin within the District with distinct groundwater charge rates:
	Zone A Santa Ynez River alluvium within the Santa Ynez subarea, Buellton subarea, and Santa Rita subarea.
	Zone B Lompoc Area: Lompoc Plain subarea, Lompoc Upland subarea, Lompoc Terrace subarea.
	Zone C Miscellaneous unconsolidated deposits and consolidated rocks.
	Zone D Buellton Upland subarea.
	Zone E Santa Ynez Upland subarea.
	Zone F Santa Rita Upland subarea.

1.0 EXECUTIVE SUMMARY

This Forty-Sixth Annual Engineering and Survey Report on Water Supply Conditions of the Santa Ynez River Water Conservation District for 2023-2024 presents the required and pertinent information for the Board of Directors to make the necessary findings and determinations for levying groundwater charges upon the production of groundwater from water-producing facilities within the District. As such, it provides information on the status of groundwater and surface water supplies and the annual production of groundwater from within the District.

This introduction provides: (1) historical background on the Santa Ynez River Water Conservation District (hereinafter called District), inclusive of its purpose and its use of pump charges to finance its activities in part; (2) an overview of the boundaries and water resources of the District; (3) a summary of this report; and (4) findings and determinations required by the Water Code to establish the amount and set the rates of groundwater charges necessary to generate sufficient revenue to supplement existing revenue sources of the District.

Subsequent chapters provide information on groundwater production and charges (Chapter 2.0), precipitation (Chapter 3.0), surface water conditions (Chapter 4.0), and groundwater conditions (Chapter 5.0). Additional information is found in the Appendices including provisions of the Water Code pertinent to groundwater charges, historical groundwater charge rates, streamflow records, water right releases, a general description of the hydrogeology of groundwater sources, water-level hydrographs of selected wells, and well inventory data.

1.1. HISTORICAL BACKGROUND

The District was formed in 1939 for the primary purpose of protecting water rights on the lower Santa Ynez River. Reservoirs had been constructed in the upper reaches of the Santa Ynez River by the City of Santa Barbara (Gibraltar Reservoir) and the Montecito Water District (Jameson Lake), and litigation by downstream riparian landowners challenging those projects was not successful. The Federal Reclamation Act of 1939 had administratively authorized the Cachuma Project under Section 9(a) and additional projects, or exportation of water, were being studied. For these reasons, the people of the Santa Ynez and Lompoc Valleys joined together

to form the District. The purpose of the District is to protect, and if necessary, augment the water supplies of the District, which are necessary for the public health, welfare, and safety of all residents.

The District's share of ad valorem property taxes is not sufficient to fund its statutory functions or activities. In recent years, the District has received roughly a third of its necessary operating budget from ad valorem property taxes, with the remainder of the budget needed to be funded from charges levied on the production of groundwater and interest on investment accounts. The Water Conservation District Law of 1931 includes a detailed procedure outlined in Part 9 of Division 21 of the Water Code (Water Code Section 75500 through 75642) providing for the implementation of a groundwater pump charge. Initiated by the District in 1979, these charges are on the production of groundwater from water-producing facilities. In connection with the levying and collection of such charges, the District gathers data and other information regarding groundwater production through its robust well registration and reporting program that is applicable to virtually all producers of groundwater within the District. Groundwater charges levied by the District are in furtherance of District activities in the protection and augmentation of the water supplies for users within the District or a zone or zones thereof which are necessary for the public health, welfare, and safety of the people of this state (Water Code Section 75521). Such activities include:

- Planning, scheduling, and managing the release of water from and downstream of the Cachuma Project Bradbury Dam for the satisfaction and benefit of downstream water rights, including the timing, volume, and rate of flows to promote recharge in the river alluvium and the Lompoc Plain, as provided in State Water Resources Control Board (SWRCB) Order No. WR 2019-0148.
- Reporting on Santa Ynez River system conditions, basin surface water use, and water purchased by contract.
- Supporting compliance with agreement(s) and procedures to mitigate downstream flooding because of Cachuma Project storm operations.
- Contributing to the review, preparation, and compliance with applicable biological assessment and opinions, including associated consultations, revisions, and replacements, for the protection of endangered species in the Santa Ynez River, while assuring that downstream water rights and water quality in the basin and downstream of Bradbury Dam are maintained and protected.

- Registering wells, recording, and reporting groundwater production within the District.
- Monitoring and reporting on groundwater conditions within the District.
- Levying and collecting charges on groundwater production within the District.
- Making annual groundwater use estimates and forecasting groundwater storage and overdraft amounts within the District.
- Determining water volume for replenishment of the dewatered aquifer storage below Bradbury Dam.
- Participation in the three (3) Groundwater Sustainability Agencies (GSA) covering the Santa Ynez River Valley groundwater basin and District. Such participation includes, but is not limited to, coordination, preparation, and implementation activities and provision of administrative support (including arranging GSA committee and citizen advisory group meetings, recordkeeping, and bookkeeping) associated with the GSAs' Groundwater Sustainability Plans (GSP), annual reports, and associated implementation and other activities. This includes coordinating and contributing to responses to comments made on, administration and implementation of the GSPs and related technical studies. It also includes participation in discussions of long-term governance and funding for the GSAs.
- The District's administrative support of the GSAs, which requires an expenditure of significant District staff time, has been necessary, in part, because the GSAs have not yet hired their own staff or legal, engineering, or other consultants, and have yet to levy any groundwater fees or charges on landowners or pumpers within the GSAs or otherwise create an independent funding source (aside from grant funding and certain contributions from the GSA member agencies including the District). While it is expected that the District will continue to incur costs to participate in the three GSAs and as the single point of contact with the California Department of Water Resources (DWR), the level of District administrative support could change in the future depending on the GSAs' future governance structure, funding sources, and staffing and contracting decisions.
- The District's activities as a party to all three GSAs are in addition to all the activities it does in the basin under the Water Code (Section 74500 through 75642) and benefits all pumpers within the District, which depend upon the District to provide local agency Sustainable Groundwater Management Act (SGMA) coverage within its approximately 180,000 acres within the basin. In the absence of such SGMA coverage by the District,

the entire basin may not be covered and in such event would be subject to State Water Resources Control Board intervention and management of the basin as a probationary basin (Water Code Section 10735.2 (a)(4)(B)). The District's SGMA activities benefit, among other pumpers in the District, the pumpers in Zones A, who pump from the river alluvium and benefit from the District's investigation and efforts supporting the characterization of those zones as not groundwater subject to SGMA management in the GSPs, and the District's anticipated need to defend that characterization against those who disagree with it and contend such pumping must be managed under SGMA and role in implementation of the Action Plan for the alluvium pumping approved by a joint special meeting of the three GSA committees on January 5, 2024.

- Acting as the single point of contact between the GSAs and the DWR for SGMA compliance, for the benefit of all three GSAs.
- Administering SGMA grant funding for the benefit of all three GSAs.
- Participating in the Integrated Regional Water Management Plan process to promote regional water management strategies to ensure sustainable and reliable water supplies, including the protection of agriculture.

As mentioned above, after the enactment of SGMA (Water Code Section 10720, et seq.), effective January 1, 2015, the District in 2017 became a party to three Memoranda of Agreement (MOAs) with other local agencies to form the three GSAs, the Western Management Area, Central Management Area, and Eastern Management Area, which collectively are the GSAs responsible for sustainable groundwater management within the groundwater basin. The MOAs recognize that the District is eligible to form a GSA and is the point of contract with DWR, under SGMA and its regulations. SGMA does not void or supplant the District's authority over groundwater, including its authority to manage groundwater through (among other long-standing activities) requiring well registration, requiring reporting of groundwater production, and levying groundwater charges. For example, SGMA expressly states: "[SGMA] is in addition to, and not a limitation on, the authority granted to a local agency under any other law." (Water Code Section 10726.8 (a).) In November of 2023, the WMA GSA and CMA GSA each became separate entity GSA's pursuant to Water Code Section 10723.6(a)(1) of SGMA and the Joint Exercise of Powers Act (Gov. Code Section 6500, et seq.), and are each now governed by a separate Joint Exercise of Powers Agreement (JPA). The EMA GSA member agencies are working on doing the same.

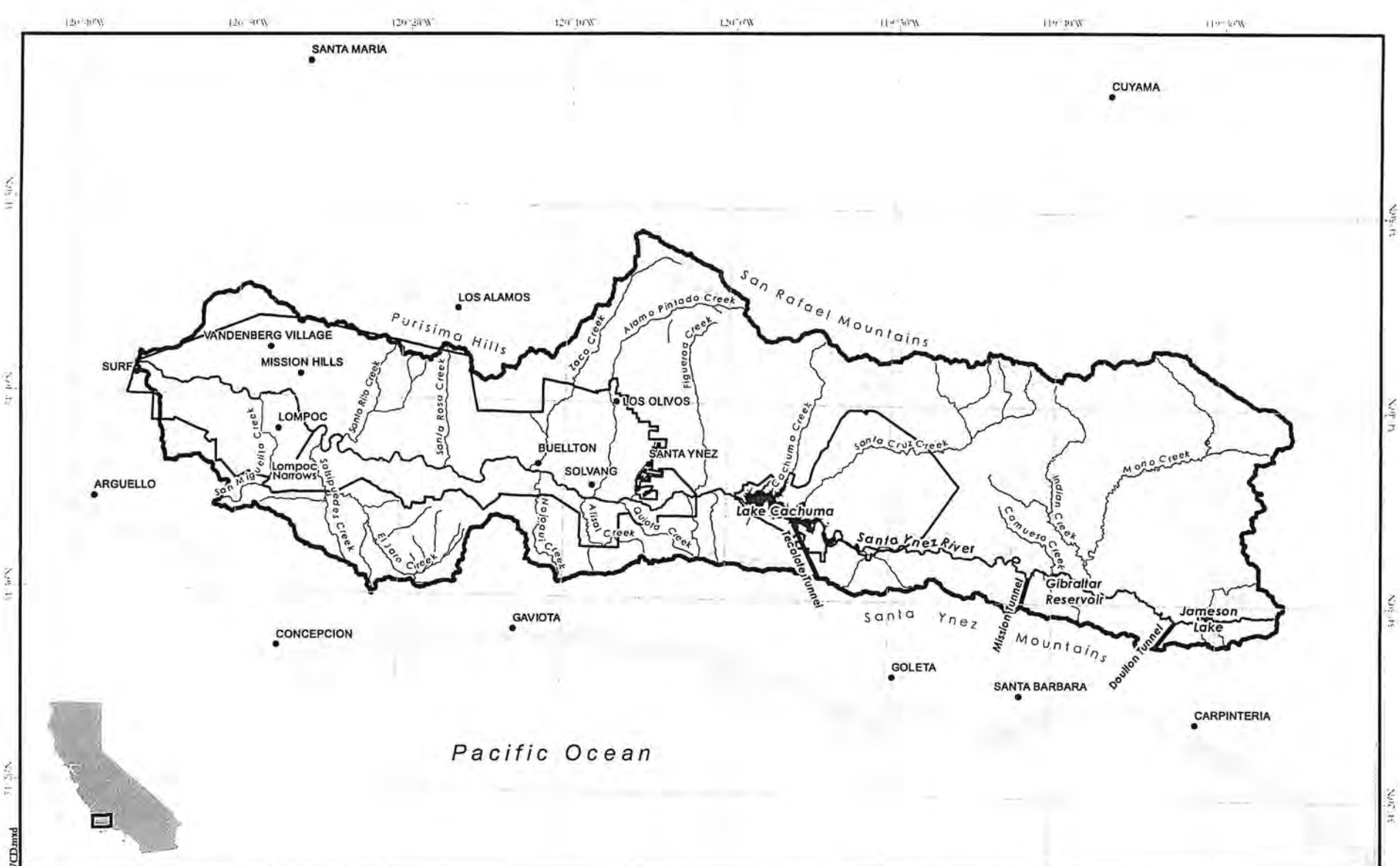
Groundwater charges are incurred by the owners of water production facilities and are charged at uniform rates (for each category of water) within the District or each Zone thereof, based on the amount of groundwater produced. Production is measured by water meters or is estimated by a variety of methods acceptable to the District. The use of water meters has never been required by the District. However, all methods used to estimate production are based on appropriate criteria relating to water use. Various remedies exist for the non-registration of wells, non-payment of groundwater charges, and submittal of fraudulent information, including the conduct of an administrative investigation and filing of a court action and associated interest, penalties and other remedies including the possibility of an injunction prohibiting and restricting groundwater production. Should court action be necessary and a judgment obtained, a lien may be placed against the water-producing facility owner's real or movable property.

1.2. DESCRIPTION OF THE DISTRICT

The District, comprised of two non-contiguous parcels, encompasses approximately 180,000 acres including most of the Santa Ynez River watershed from the mouth of the river at Surf Beach to a point about three miles downstream of Bradbury Dam and smaller watershed areas northeast and south of Lake Cachuma. Ground surface elevations vary from sea level at Surf Beach to more than 1,700 feet above sea level along portions of the southern District boundary. The terrain south of the river rises steeply to the crest of the Santa Ynez Mountains. North of the river, the rise in elevation is generally gradual over upland terraces and hilly areas. Figure 1 shows the District boundary and various geographic features within or adjacent to the District.



The Santa Ynez River flows westerly, generally parallel to the southern boundary of the District until entering the forebay in the Lompoc Plain. Thence, it flows northwesterly and westerly across the Plain to the Pacific Ocean. The flow of the river is intermittent throughout the District, carrying flood flows from tributary watershed land downstream of Bradbury Dam and occasional spills and releases of water from Lake Cachuma. During summer months, water may be released from Lake Cachuma if there is a need to meet downstream water rights.

Groundwater occurs within the District primarily in younger unconsolidated alluvial deposits and in older unconsolidated deposits. In most cases, the older and often deeper deposits



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-  Santa Ynez River Water Conservation District Boundary
-  Santa Ynez River Watershed

SANTA YNEZ RIVER WATER CONSERVATION DISTRICT

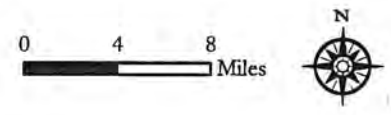


FIGURE 1

are not in hydrologic continuity with the shallower alluvial deposits. The major occurrences of groundwater are in the alluvial deposits of the Santa Ynez River and Lompoc Plain, and the older unconsolidated deposits of the Santa Ynez Upland, Lompoc Upland, Buellton Upland, Santa Rita Upland, and the Lompoc Terrace subareas.

Classification of water production within the District by water-use type is seventy percent Agricultural, four percent Special, and twenty-six percent Other (which includes domestic, municipal, and industrial water production). Apart from the cities of Lompoc, Solvang, and Buellton, the communities of Santa Ynez and Los Olivos, and two federal installations, (Vandenberg Space Force Base and the Lompoc Federal Penitentiary), most of the District land area is a mixture of rural areas with agriculture and suburban development.

1.3. REPORT SUMMARY

The following is a summary of the information contained in this report.

1. Revenues from groundwater charges collected by the District for production during the entire previous July-June fiscal year 2022-23 amounted to \$618,293.48. Revenues collected through February 3, 2024, for production during the first half of the current fiscal year 2023-24 amounted to \$293,177.73. An additional \$11,913.32 has been received as overdue payments and assessments in connection with production before the fiscal year 2022-23.

2. The Board, on June 27, 2023, reaffirmed the following six groundwater charge zones for the District for the current fiscal year 2023-24.
 - Zone A - District portion of the Santa Ynez River alluvial channel from San Lucas Bridge downstream to Lompoc Narrows.

 - Zone B - District portion of the Lompoc Plain, Lompoc Upland, and Lompoc Terrace groundwater subareas.

 - Zone C - All other portions of the District not included in Zones A, B, D, E, and F.

 - Zone D - District portion of the Buellton Upland subarea.

 - Zone E - District portion of the Santa Ynez Upland subarea.

 - Zone F - District portion of the Santa Rita Upland subarea.

3. The groundwater charge rates per acre-foot of production for the current fiscal year 2023-24 were as follows:

	Agricultural Water	Other Water	Special Irrigation Water
Zone A	20.42	20.42	20.42
Zone B	14.24	14.24	14.24
Zone C	12.41	12.41	12.41
Zone D	12.41	12.41	12.41
Zone E	12.41	12.41	12.41
Zone F	12.41	12.41	12.41

Adopted June 27, 2023, Resolution No. 722

4. As of February 3, 2024, reported groundwater production for the entire previous fiscal year 2022-23 totaled 43,339 acre-feet. This is about 92 percent of the 46,991 acre-feet total water production reported for the entire fiscal year 2021-22.
5. Groundwater production reported, as of February 3, 2024, for the first half of the current fiscal year 2023-24 totaled 19,156 acre-feet. This is about 86 percent of the 22,164 acre-feet total water production reported for the first half of the fiscal year 2022-23 as of February 6, 2023.
6. Annual reported (as of February 3, 2024) groundwater production within the District for the past five years was as follows:

Fiscal Year (July-June)	First Half (Acre-Feet) ^A	Total Production (Acre-Feet)
2018-19	23,833	47,416
2019-20	21,023	47,977
2020-21	22,697	48,113
2021-22	21,421	46,991
2022-23	22,164	43,339
2023-24	19,156	In Progress

^A *Reported as of the Annual Engineering and Survey Report*

7. The projected estimated total groundwater production for fiscal years 2023-24 and 2024-25 is 43,335 acre-feet per year. For both the current year (2023-24) and the ensuing year (2024-25), projected water use is shown in the following table:

Zone A	Zone B	Zone C	Zone D	Zone E	Zone F	TOTAL
11,560	20,175	1,615	3,465	4,595	1,925	43,335

8. As of February 3, 2024, groundwater producers have registered 1,267 wells with the District. Of that number, approximately 1,207 are active and 240 are inactive.
9. Precipitation at Bradbury Dam and Lompoc during the preceding water year and the partial current water year was as follows:

	Bradbury Dam		Lompoc	
	Precipitation (Inches)	Percent of Normal	Precipitation (Inches)	Percent of Normal
2023 Preceding Hydrologic Water Year (October 2022-September 2023)	38.72	183	32.01	208
2023 Calendar Year (January 2023-December 2024)	37.59	178	31.29	203
Partial 2024 Current Hydrologic Water Year (October 2023-January 2024)	7.49	73	7.45	98

Source: Santa Barbara County Flood Control District and National Oceanic and Atmospheric Administration (NOAA).

10. During the preceding water year (2023), the flow of the Santa Ynez River at the Lompoc Narrows was 390,870 acre-feet. The flow at the Lompoc Narrows for the first quarter of the current water year (through the end of December 2023), was 3,090 acre-feet.
11. During calendar year 2023, no water rights releases were made from Lake Cachuma.

12. Water import deliveries to Central Coast Water Authority member agencies receiving State Water Project water within the District were as follows:

Fiscal Year (July-June)	State Water Project Deliveries (Acre-Feet)			
	Improvement District No. 1	City of Solvang	City of Buellton	Vandenberg SFB
2022-23	563	480	148	616
2023-24 (First Half)	678	477	157	627

Source: Central Coast Water Authority

13. The estimated change in the quantity of groundwater in storage within the District and the estimated accumulated dewatered storage are summarized below.

Source of Groundwater	Change in Storage 2023 to 2024 (Acre-Feet)	Accumulated Dewatered Storage Through 2023-24 (Acre-Feet)
Santa Ynez River Alluvium	-500	10,800
Lompoc Plain	1,400	12,000
Lompoc Upland	-300	37,000
Lompoc Terrace	-200	900
Santa Rita Upland	-2,300	16,300
Buellton Upland (Eastern Portion)	300	2,700
Santa Ynez Upland (District)	100	62,900
TOTAL	-1,500	142,600

1.4. FINDINGS

The findings of this investigation are summarized below so that the Board may make the determinations required by law (Water Code Section 75574) for the current (2023-24) water year and fiscal year (July 1, 2023 through June 30, 2024), proceeding water year (2022-23), and ensuing water year (2024-25). These findings are based upon historical data and data available about the first half of the current water year and apply to the entire District.

- (a) The average annual overdraft for the immediate past ten (10) water years (July 2013-June 2023): 2,800 ± acre-feet;

- (b) The estimated annual overdraft for the current (2023-24) water year (July 2023-June 2024): 3,300 ± acre-feet;
- (c) The estimated annual overdraft for the ensuing (2024-25) water year (July 2024-June 2025): 2,200 ± acre-feet;
- (d) The accumulated overdraft as of the last day of the preceding (2022-23) water year (June 30, 2023): 141,100 ± acre-feet in terms of accumulated dewatered storage. Accumulated overdraft as defined in Water Code Section 75505 is nominal, at this time;
- (e) The estimated accumulated overdraft as of the last day of the current (2023-24) water year (June 30, 2024): 142,600 ± acre-feet in terms of accumulated dewatered storage. Accumulated overdraft as defined in Water Code 75505 is nominal, at this time;
- (f) The estimated amount of agricultural and special irrigation water to be withdrawn from the groundwater supplies of the District for the ensuing (2024-25) water year (July 2024-June 2025): 29,985 acre-feet of agricultural water and 1,515 acre-feet of special irrigation water;
- (g) The estimated amount of water other than agricultural water or special irrigation water to be withdrawn from the groundwater supplies of the District for the ensuing (2024-25) water year (July 2024-June 2025): approximately 11,835 acre-feet;
- (h) The estimated amount of water necessary for surface distribution for the ensuing (2024-25) water year (July 2024-June 2025): approximately 2,700 acre-feet scheduled to be delivered by the Central Coast Water Agency to contractors within the District;
- (i) The amount of water, which is necessary for the replenishment of the groundwater supplies of the District: 141,100 ± acre-feet to completely replenish accumulated dewatered storage;
- (j) The amount of water the District is obligated by contract to purchase: The District is not obligated by contract to purchase water.

The amount of groundwater charge levied by the Board should be based upon the estimated amount of supplemental revenue required to continue District activities without increasing the cost of water to a producer to a point where it is not financially feasible for the producer to utilize the water.

The actual groundwater charge the Board will levy for the fiscal year 2024-25 will be based upon the District's anticipated expenses and revenue and consistent with applicable law.

1.5. SOURCES OF INFORMATION

The following is a list of sources where the information and data utilized to prepare this report were obtained:

- Groundwater production, revenue, and well registration – District
- State Water Project use – Central Coast Water Authority
- Water-level measurements – Santa Barbara County Water Agency (SBCWA), City of Buellton, and U.S. Bureau of Reclamation (USBR)
- Precipitation measurements – Santa Barbara County Flood Control District
- Water quality analyses – SBCWA and United States Geological Survey (USGS)
- Lake Cachuma operations – USBR
- Surface water flow – USGS

2.0 GROUNDWATER CHARGES

Pumped groundwater is charged at uniform rates (for each category of water) within the District or each Zone thereof, based on the amount of groundwater produced. Groundwater charges are based on the costs the District incurs in conducting its activities, including providing administrative support for ongoing SGMA planning and implementation efforts, among other District activities described above.

Consistent with applicable law, including Proposition 26, these charges may be set based on the relative burden and on the benefits received from the District's activities, including costs to serve each class of water use. For the fiscal year 2023-24, allocation of the District's costs to each class of water users was set as equal on a per acre-foot basis. Appendices A and B present additional information on groundwater charge rates, including a summary of historical rates.

2.1. ZONES

Before the end of the water year 2022-23, the Board reaffirmed the previously established six groundwater charge zones for the District:

Zone A – District portion of the Santa Ynez River alluvial channel from San Lucas Bridge downstream to Lompoc Narrows.¹

Zone B – District portion of the Lompoc Plain, Lompoc Upland, and Lompoc Terrace groundwater subareas.

Zone C – All other portions of the District not included in Zones A, B, D, E, and F.

Zone D – District portion of the Buellton Upland subarea.

Zone E – District portion of the Santa Ynez Upland subarea.

Zone F – District portion of the Santa Rita Upland subarea.

¹ For setting, levying and collecting groundwater charges, the District uses the definition of groundwater in Water Code Section 75502: "Ground water' means all water beneath the earth's surface, but does not include water which is produced with oil in the production of oil and gas, or in a bona fide mining operation, or during construction operations, or from gravity or artesian springs."

A map showing the location of these zones is included in Figure 2. For the implementation of SGMA the basin was divided into three management areas: the Western Management Area is nearly coterminous boundaries with Zones B and F, the Central Management Area is nearly coterminous with Zone D, and the Eastern Management Area includes Zone E (but extends beyond the District). Zone C is not part of the basin regulated by SGMA. Zone A is the alluvial aquifer along the Santa Ynez River which is water flowing in a known and definite channel and is not “groundwater” subject to SGMA regulation.²

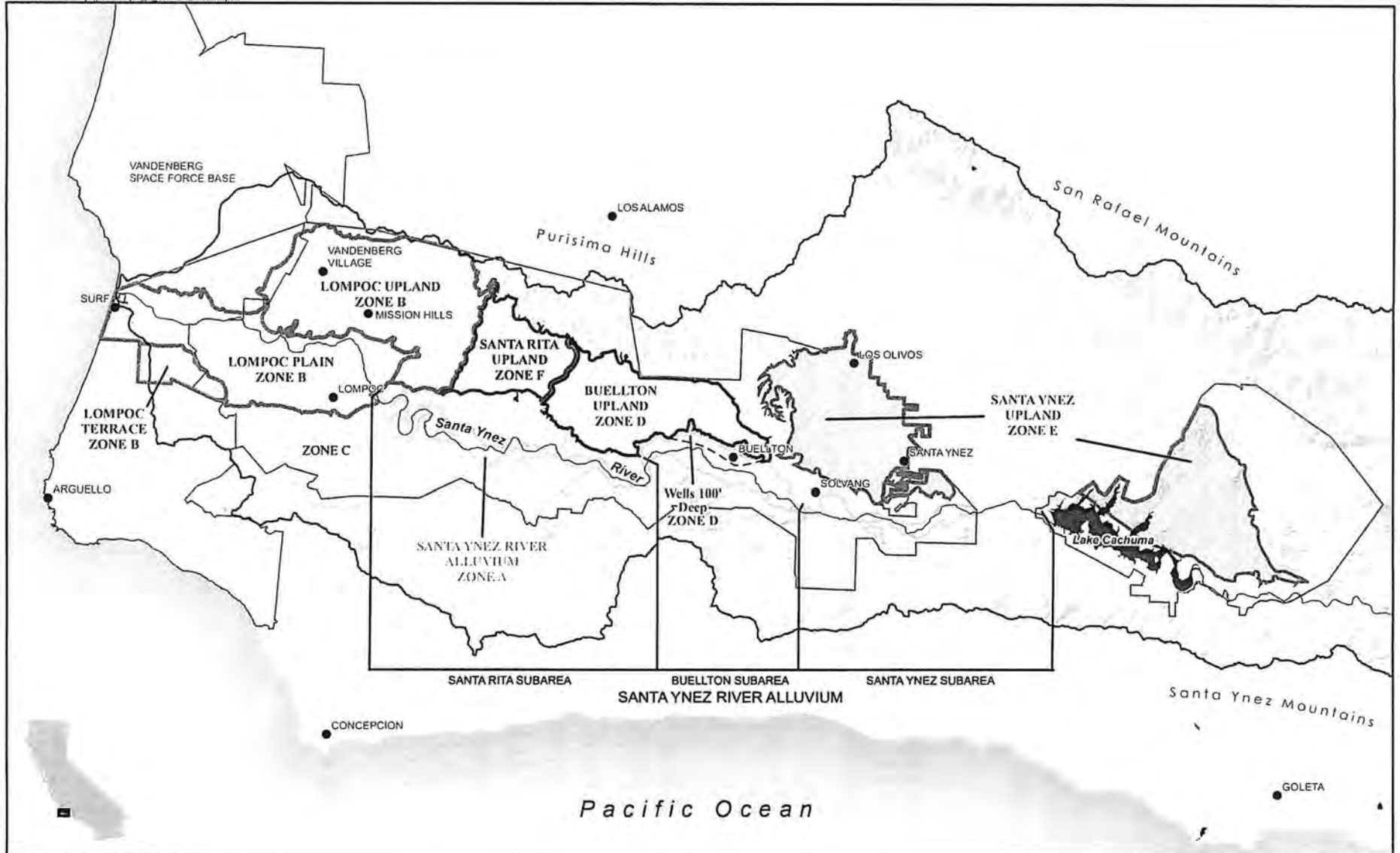
For the fiscal year 2023-24, the Board established the following groundwater charge rates, in dollars per acre-foot of production, for each zone.

	Agricultural Water	Other Water	Special Irrigation Water
Zone A	20.42	20.42	20.42
Zone B	14.24	14.24	14.24
Zone C	12.41	12.41	12.41
Zone D	12.41	12.41	12.41
Zone E	12.41	12.41	12.41
Zone F	12.41	12.41	12.41

Adopted June 27, 2023, Resolution No. 722

Proposition 26 requires “that the manner in which costs are allocated to a payor bear a fair or reasonable relationship to the payor’s burdens on, or benefits received from, the governmental activity.” (California Constitution, Art. XIII C, § 1.) District staff and legal counsel, and its rate study consultant, believe that other zones receive at least incidental benefits, and under Proposition 26 the District has considerable discretion as to how it allocates water rights release costs among the zones receiving a specific benefit for such activities. The rate study allocates certain identifiable costs related to water rights releases and other river management functions solely to Zones A and B. The District has discretion in this regard and this approach is generally consistent with how the same or similar costs were allocated a few years ago, when the groundwater charge rates differed among certain zones.

² SGMA defines groundwater in Water Code 10721.(g): “‘Groundwater’ means water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water, but does not include water that flows in known and definite channels.” Zone A consists of a known and definite channel.



- Santa Ynez River Water Conservation District Boundary
- Drainage Basin Boundary

GROUNDWATER CHARGE ZONES SANTA YNEZ RIVER WATER CONSERVATION DISTRICT

0 2 4 Miles



FIGURE 2

2.2. REVENUES

Revenues collected by the District based on groundwater production, through February 3, 2024, are presented below for specific periods.

	2023-24	2022-23	2021-22	2020-21
First-Half of Fiscal Year (July through December)	\$293,177.73	\$317,825.99	\$289,106.53	\$289,032.02
Fiscal Year Total (July through June)	In Progress	\$618,293.48	\$600,387.22	\$587,409.10
Years Prior	In Progress	\$11,913.32	\$6,277.66	\$10,569.85

2.3. GROUNDWATER PRODUCTION

Summarized below is the reported (as of February 3, 2024) water production within the District, in acre-feet, for the complete previous fiscal year 2022-23.

	Agricultural Water	Other Water	Special Irrigation Water	Total
Zone A	8,885.22	2,044.34	632.29	11,561.85
Zone B	13,950.21	5,410.17	816.22	20,176.60
Zone C	23.35	1,580.08	9.21	1,612.64
Zone D	2,710.79	722.00	36.40	3,469.19
Zone E	2,633.69	1,936.92	23.67	4,594.28
Zone F	1,781.52	142.88	0.00	1,924.40
TOTAL	29,984.78	11,836.39	1,517.79	43,338.96

Production reported for complete previous Fiscal Year 2022-23: July 2022-June 2023

The above total water production reported, as of February 3, 2024, for the previous fiscal year 2022-23 is about 91 percent of the 47,528 acre-feet of total water production reported for the fiscal year 2021-22 (as of February 6, 2023). The reported (as of February 3, 2024) water production within the District, in acre-feet, for the first half of the current fiscal year 2023-24 is as follows:

	Agricultural Water	Other Water	Special Irrigation Water	Total
Zone A	3,862.15	1,135.08	449.74	5,446.97
Zone B	4,842.93	2,854.43	230.84	7,928.20
Zone C	11.79	506.20	7.44	525.43
Zone D	1,900.31	391.29	29.30	2,320.90
Zone E	1,236.51	1,031.05	13.87	2,281.43
Zone F	605.28	48.06	0.00	653.34
TOTAL	12,458.97	5,966.11	731.19	19,156.27

Production for the first half of the current Fiscal Year 2023-24: July 2023-December 2023

The above total water production reported, as of February 3, 2024, for the first half of the fiscal year 2023-24 is about 86 percent of the 22,164 acre-feet of total water production reported for the first half of the fiscal year 2022-23 (as of February 6, 2023).

A small number of groundwater producers were overdue in reporting groundwater production to the District after the previous Engineering and Survey report. This is water production that occurred before July 2022 but groundwater producers reported it after June 2023, during the current fiscal year (2023-24). That late reported production, in acre-feet, is as follows:

	Agricultural Water	Other Water	Special Irrigation Water	Total
Zone A	308.26	-28.72 ^a	0.00	279.54
Zone B	0.00	-947.22 ^a	0.00	-947.22
Zone C	8.94	12.53	0.00	21.47
Zone D	56.75	10.61	0.00	67.36
Zone E	496.17	326.42	0.00	822.59
Zone F	22.00	3.24	0.00	25.24
TOTAL	892.12	-623.14^a	0.00	268.98

Additional Production reported as newly reported pumping before July 2022 (Fiscal Year 2022-23, and previous years)

^a *Negative values are to correct a data entry error on a previous report.*

Tables 1A, 1B, 1C, and 1D summarize the total annual production for the period 1979-80 through 2022-23 reported to the District as of February 3, 2024. The above late reported production and late reported production in previous years have been posted to the appropriate years. Figure 3 shows the 5-year average annual groundwater production by zone for the same period. The values of production shown in Tables 1A, 1B, 1C, and 1D, Figure 3, and in this “Groundwater Production” section are subject to future revision as additional late reported production is received by the District.

The projected groundwater production, in acre-feet, within the District for the current fiscal year (2023-24) and ensuing fiscal year (2024-25) is tabulated below. The estimates are based on the reported groundwater production for the previous fiscal year (2022-23).

	Agricultural Water	Other Water	Special Irrigation Water	Total
Zone A	8,885	2,045	630	11,560
Zone B	13,950	5,410	815	20,175
Zone C	25	1,580	10	1,615
Zone D	2,710	720	35	3,465
Zone E	2,635	1,935	25	4,595
Zone F	1,780	145	0	1,925
TOTAL	29,985	11,835	1,515	43,335

*Projected pumping for the Current Fiscal Year 2023-24 (July 2023-June 2024), and the
Ensuuing Fiscal Year 2024-25 (July 2024-June 2025)*

TABLE 1A
ANNUAL REPORTED GROUNDWATER PRODUCTION WITHIN THE DISTRICT^a
ALL DISTRICT ZONES
(Acre-Feet)

<u>Fiscal Year^b</u>	<u>Agricultural</u>	<u>Other</u>	<u>Special Irrigation^c</u>	<u>Total Production</u>
1979-80	20,918	10,576		31,494
1980-81	24,584	11,531		36,115
1981-82	33,706	14,124		47,830
1982-83	29,010	10,916		39,926
1983-84	30,873	11,476		42,349
1984-85	31,131	12,444		43,575
1985-86	31,130	13,673	872	45,675
1986-87	34,474	12,781	1,546	48,801
1987-88	32,653	13,329	1,433	47,415
1988-89	33,938	11,918	1,780	47,636
1989-90	34,424	13,173	1,712	49,309
1990-91	37,317	12,569	1,691	51,577
1991-92	35,020	11,427	1,936	48,383
1992-93	34,160	11,720	2,507	48,387
1993-94	30,794	13,011	2,121	45,926
1994-95	28,254	13,161	1,821	43,236
1995-96	32,792	15,326	1,842	49,960
1996-97	35,757	14,558	1,955	52,270
1997-98	34,257	12,028	1,368	47,653
1998-99	34,605	12,390	1,736	48,731
1999-00	37,039	13,889	2,164	53,092
2000-01	38,314	26,987	2,004	67,305
2001-02	39,146	13,740	2,071	54,957
2002-03	33,894	12,360	2,107	48,361
2003-04	33,241	13,429	2,160	48,830
2004-05	31,907	12,431	1,764	46,102
2005-06	32,592	12,065	1,632	46,289
2006-07	32,663	13,353	1,893	47,909
2007-08	35,464	14,095	2,117	51,676
2008-09	35,086	13,922	2,075	51,083
2009-10	34,676	12,963	1,914	49,553
2010-11	33,967	12,023	1,557	47,547
2011-12	36,454	11,937	1,570	49,961
2012-13	40,509	13,560	1,900	55,969
2013-14	39,979	14,010	2,063	56,052
2014-15	40,646	12,812	1,615	55,073
2015-16	39,740	11,986	1,457	53,183
2016-17	37,637	11,230	1,609	50,476
2017-18	37,641	12,285	1,835	51,761
2018-19	34,386	11,431	1,599	47,416
2019-20	35,217	11,026	1,734	47,977
2020-21	33,345	12,892	1,876	48,113
2021-22	32,091	12,330	2,570	46,991
2022-23	29,986	11,836	1,517	43,339

^a Revised February 3, 2024.

^b July 1 through June 30.

^c Based upon a 1984 amendment to the California Water Code. First year for reporting special irrigation water production was 1985-86.

TABLE 1B
ANNUAL REPORTED GROUNDWATER PRODUCTION WITHIN THE DISTRICT ^{a, b}
AGRICULTURAL WATER
(Acre-Feet)

<u>Fiscal</u> <u>Year ^c</u>	<u>Zone A</u>	<u>Zone B</u>	<u>Zone C</u>	<u>Zone D</u>	<u>Zone E</u>	<u>Zone F</u>	<u>Total</u>
1979-80	6,363	7,233	7,322				20,918
1980-81	7,535	9,486	7,563				24,584
1981-82	7,780	18,037	7,889				33,706
1982-83	7,501	13,934	7,575				29,010
1983-84	9,427	14,865	6,581				30,873
1984-85	8,418	15,589	7,124				31,131
1985-86	8,621	15,240	7,269				31,130
1986-87	9,251	19,656	5,567				34,474
1987-88	6,652	19,839	6,162				32,653
1988-89	8,303	19,218	6,417				33,938
1989-90	8,265	17,358	8,801				34,424
1990-91	8,495	18,018	10,804				37,317
1991-92	8,982	18,960	7,078				35,020
1992-93	7,852	19,122	7,186				34,160
1993-94	8,076	16,748	713	1,108	3,505	644	30,794
1994-95	8,173	14,190	1,060	843	3,018	970	28,254
1995-96	8,993	16,327	743	1,158	4,672	899	32,792
1996-97	8,977	19,235	787	970	4,347	1,441	35,757
1997-98	9,627	19,197	429	1,034	2,822	1,148	34,257
1998-99	9,702	18,724	115	1,693	3,088	1,283	34,605
1999-00	10,319	19,832	113	1,739	3,480	1,556	37,039
2000-01	11,169	20,261	121	2,247	3,306	1,210	38,314
2001-02	11,170	21,174	148	2,311	2,897	1,446	39,146
2002-03	10,515	17,559	153	1,549	2,744	1,374	33,894
2003-04	11,193	15,602	189	1,972	3,018	1,267	33,241
2004-05	10,622	15,768	141	1,856	2,439	1,081	31,907
2005-06	10,044	16,854	158	1,965	2,155	1,416	32,592
2006-07	10,756	15,834	172	1,719	2,679	1,503	32,663
2007-08	11,709	15,892	186	2,461	3,309	1,907	35,464
2008-09	11,182	16,004	174	2,823	3,155	1,748	35,086
2009-10	11,072	16,381	152	2,711	2,552	1,808	34,676
2010-11	9,635	17,493	161	2,227	2,660	1,791	33,967
2011-12	10,445	18,276	169	2,631	2,758	2,175	36,454
2012-13	11,498	21,257	145	2,357	3,389	1,863	40,509
2013-14	11,760	19,336	121	3,043	3,645	2,074	39,979
2014-15	12,346	19,511	106	3,468	3,099	2,116	40,646
2015-16	12,687	18,552	76	2,734	3,378	2,313	39,740
2016-17	11,446	18,300	77	2,898	2,964	1,952	37,637
2017-18	11,769	17,972	91	2,647	3,021	2,141	37,641
2018-19	11,093	16,287	53	1,877	2,982	2,094	34,386
2019-20	10,110	17,402	40	2,627	2,830	2,208	35,217
2020-21	11,006	14,990	28	2,123	2,972	2,226	33,345
2021-22	10,121	15,250	25	1,640	2,952	2,103	32,091
2022-23	8,885	13,950	23	2,712	2,634	1,782	29,986

^a Revised February 3, 2024.

^b Groundwater charge zones for the period 1979-80 through 1992-93 included the District portion of Zone A, Zone B and Zone C. Groundwater charge zones since 1993-94 include the District portion of Zone A, Zone B, Zone C, Zone D, Zone E and Zone F.

^c July 1 through June 30.

TABLE 1C
ANNUAL REPORTED GROUNDWATER PRODUCTION WITHIN THE DISTRICT ^{a, b}
OTHER WATER
(Acre-Feet)

<u>Fiscal</u> <u>Year</u> ^c	<u>Zone A</u>	<u>Zone B</u>	<u>Zone C</u>	<u>Zone D</u>	<u>Zone E</u>	<u>Zone F</u>	<u>Total</u>
1979-80	1,815	6,399	2,362				10,576
1980-81	1,940	7,283	2,308				11,531
1981-82	2,471	7,506	4,147				14,124
1982-83	2,111	6,644	2,162				10,916
1983-84	2,381	6,714	2,382				11,476
1984-85	2,381	7,905	2,159				12,444
1985-86	2,120	9,407	2,147				13,673
1986-87	1,795	8,992	1,995				12,781
1987-88	2,359	8,546	2,425				13,329
1988-89	2,751	7,445	1,705				11,918
1989-90	2,517	8,495	2,171				13,173
1990-91	2,434	7,547	2,598				12,569
1991-92	2,762	6,698	1,973				11,427
1992-93	1,994	7,307	2,425				11,720
1993-94	1,663	7,681	1,224	430	1,935	78	13,011
1994-95	2,099	7,777	1,081	430	1,708	66	13,161
1995-96	2,145	8,585	1,079	469	2,998	50	15,326
1996-97	2,066	8,075	958	461	2,929	69	14,558
1997-98	1,582	7,463	978	264	1,663	78	12,028
1998-99	1,998	7,432	995	236	1,642	87	12,390
1999-00	2,263	7,906	1,208	340	2,089	83	13,889
2000-01	2,525	7,395	1,241	458	15,265	103	26,987
2001-02	2,807	7,509	1,476	537	1,289	122	13,740
2002-03	2,049	7,684	1,084	584	850	109	12,360
2003-04	2,261	8,027	1,067	508	1,460	106	13,429
2004-05	2,490	7,285	1,129	348	1,072	107	12,431
2005-06	1,993	7,624	880	265	1,199	104	12,065
2006-07	1,947	8,134	896	587	1,650	139	13,353
2007-08	2,217	8,173	886	813	1,862	144	14,095
2008-09	2,263	7,493	848	984	2,185	149	13,922
2009-10	2,612	7,006	830	1,026	1,335	154	12,963
2010-11	1,358	6,869	1,470	955	1,226	145	12,023
2011-12	1,513	6,859	982	711	1,720	152	11,937
2012-13	2,312	7,084	1,022	708	2,295	139	13,560
2013-14	2,446	7,203	1,121	750	2,344	146	14,010
2014-15	2,614	6,376	771	1,012	1,901	138	12,812
2015-16	2,275	5,994	1,081	911	1,610	115	11,986
2016-17	2,067	5,779	1,099	678	1,497	110	11,230
2017-18	2,450	6,178	1,225	559	1,746	127	12,285
2018-19	2,124	5,856	1,172	594	1,519	166	11,431
2019-20	2,046	5,776	1,020	500	1,509	175	11,026
2020-21	2,726	6,073	1,199	554	2,103	237	12,892
2021-22	2,725	5,785	876	533	2,229	182	12,330
2022-23	2,044	5,410	1,580	722	1,937	143	11,836

^a Revised February 3, 2024.

^b Groundwater charge zones for the period 1979-80 through 1992-93 included the District portion of Zone A, Zone B and Zone C. Groundwater charge zones since 1993-94 include the District portion of Zone A, Zone B, Zone C, Zone D, Zone E and Zone F.

^c July 1 through June 30.

TABLE 1D
ANNUAL REPORTED GROUNDWATER PRODUCTION WITHIN THE DISTRICT ^{a, b}
SPECIAL IRRIGATION WATER ^c
(Acre-Feet)

Fiscal Year ^d	Zone A	Zone B	Zone C	Zone D	Zone E	Zone F	Total
1979-80							
1980-81							
1981-82							
1982-83							
1983-84							
1984-85							
1985-86	554	303	15				872
1986-87	523	955	68				1,546
1987-88	594	805	34				1,433
1988-89	738	1,002	40				1,780
1989-90	658	1,028	26				1,712
1990-91	669	981	41				1,691
1991-92	753	1,163	20				1,936
1992-93	1,052	1,205	250				2,507
1993-94	1,059	1,005	0	57	0	0	2,121
1994-95	1,056	729	0	36	0	0	1,821
1995-96	941	839	10	52	0	0	1,842
1996-97	935	988	10	22	0	0	1,955
1997-98	838	445	74	11	0	0	1,368
1998-99	862	836	17	13	8	0	1,736
1999-00	976	1,152	17	19	0	0	2,164
2000-01	906	1,054	12	32	0	0	2,004
2001-02	899	1,132	17	23	0	0	2,071
2002-03	1,012	1,058	10	27	0	0	2,107
2003-04	965	1,161	20	14	0	0	2,160
2004-05	876	861	19	8	0	0	1,764
2005-06	726	883	20	3	0	0	1,632
2006-07	796	1,039	23	35	0	0	1,893
2007-08	870	1,171	30	46	0	0	2,117
2008-09	858	1,126	22	69	0	0	2,075
2009-10	795	1,053	20	46	0	0	1,914
2010-11	568	939	17	33	0	0	1,557
2011-12	620	900	21	29	0	0	1,570
2012-13	762	1,088	18	32	0	0	1,900
2013-14	804	1,203	18	38	0	0	2,063
2014-15	619	939	11	46	0	0	1,615
2015-16	576	830	13	38	0	0	1,457
2016-17	626	937	12	34	0	0	1,609
2017-18	754	1,043	14	24	0	0	1,835
2018-19	639	913	12	27	7	0	1,599
2019-20	691	1,010	11	18	4	0	1,734
2020-21	779	1,057	11	15	14	0	1,876
2021-22	1,055	1,440	15	37	23	0	2,570
2022-23	632	816	9	36	24	0	1,517

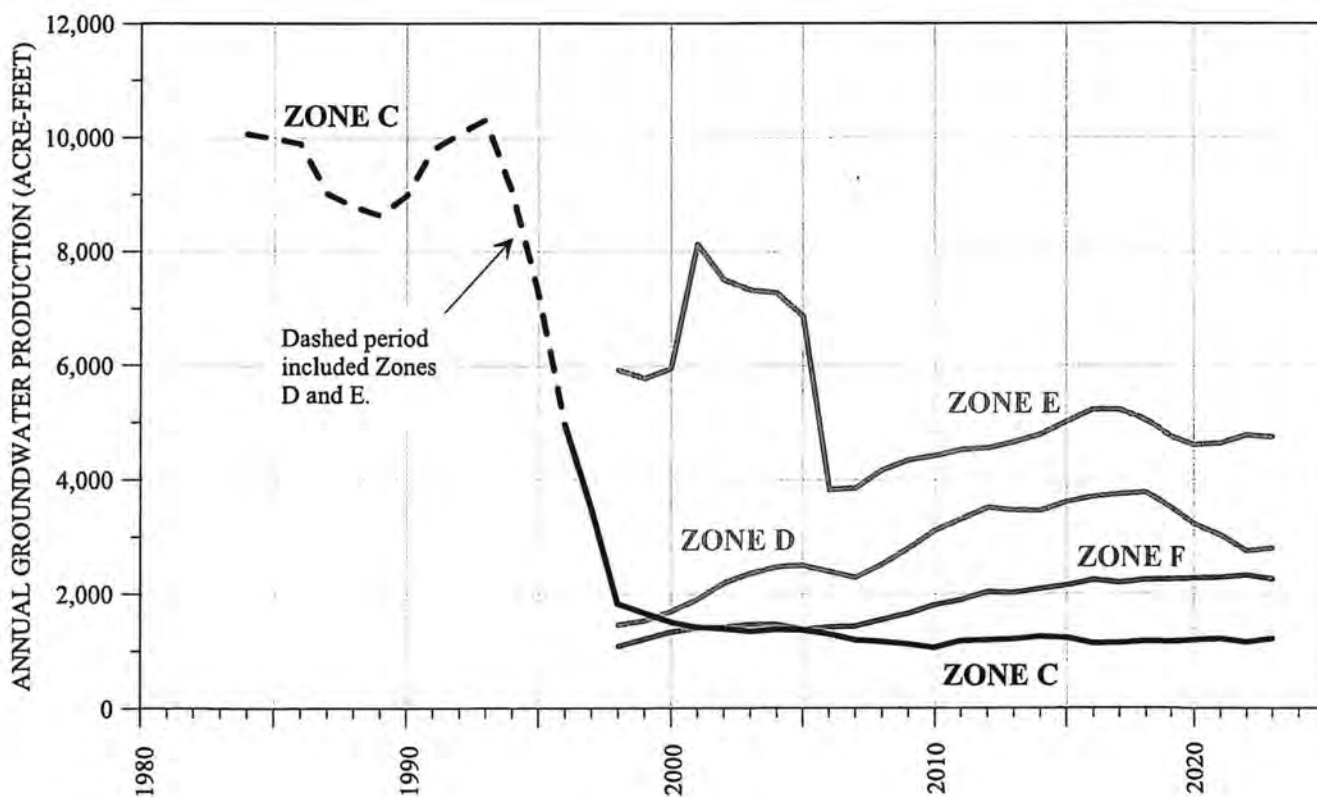
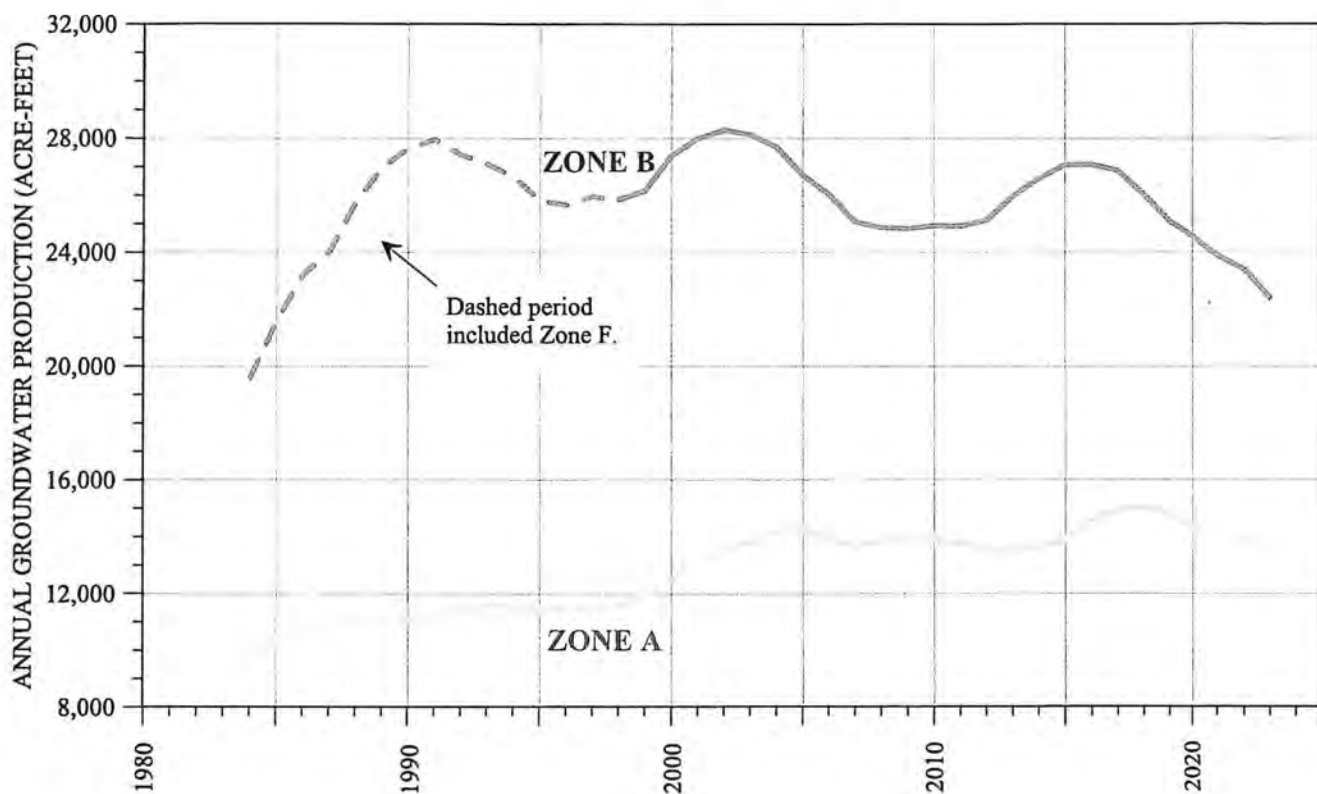
^a Revised February 3, 2024.

^b Groundwater charge zones for the period 1979-80 through 1992-93 included the District portion of Zone A, Zone B and Zone C. Groundwater charge zones since 1993-94 include the District portion of Zone A, Zone B, Zone C, Zone D, Zone E and Zone F.

^c Based upon a 1984 amendment to the California Water Code. First year for reporting special irrigation water production was 1985-86.

^d July 1 through June 30.

ANNUAL GROUNDWATER PRODUCTION WITHIN THE DISTRICT 5-YEAR MOVING AVERAGE



2.4. WELL REGISTRATION

As of February 3, 2024, groundwater producers have registered 1,267 wells with the District. Of that number, approximately 1,027 are active and 240 are inactive. This is an addition of 46 new active wells since February 6, 2023.

	Active Wells	Inactive Wells	Total Wells
Zone A	251	70	321
Zone B	309	50	359
Zone C	68	27	95
Zone D	100	18	118
Zone E	231	60	291
Zone F	68	15	83
TOTAL	1,027	240	1,267

Registered Wells as of February 3, 2024

2.5. MAJOR PRODUCERS

The major water producers, those reporting groundwater production by ownership and/or lease during the fiscal year 2022-23 (as of February 3, 2024) were as follows:

	Major Water Producer Fiscal Year 2022-23	Production (Acre-Feet)
Zone A	Acin Farms (Also in Zone F)	1,186
	Brassica Farms (aka Freitas)	1,118
	SYRWCD, ID #1 (also in Zone E)	944
	S & B Vineyard / Sanford	603
	Jackson, Palmer (The Alisal)	571
	Sea Smoke, Rita's Crown & Southing Holdings	370
	City of Solvang (also in Zones C and E)	328
	City of Buellton (also in Zone D)	313
	Rancho LaVina	298
	Rancho Sanja Cota-was Gainey (also Zone E)	169
	Williams, Norman (also in Zone D)	59

	Major Water Producer Fiscal Year 2022-23	Production (Acre-Feet)
Zone B	City of Lompoc (Parks Dept. & Water Div.)	3,946
	Lompoc Farming	3,554
	Santa Barbara Farms (Witt/Guerra)	3,541
	Campbell Ranches (also in Zone F)	3,273
	Vandenberg Village CSD	1,129
	Launchpad Lands	776
	Sorrento Berry Farms	645
	Mission Hills CSD	494
	Joseph & Sons	415
	Rancho Laguna	334
	Hibbits (Ranch and Family Trust)	309
	U.S. Penitentiary Farm	211
	Bodger & Sons Company	143
	Wineman / Reiter Berry Farms	124
Zone C	Imerys (was Celite Corporation)	1,300
	City of Solvang (also in Zone A and E)	183
Zone D	Buell, James (incl. Marcelino, LLC)	1,434
	City of Buellton (also in Zone A)	487
	Innovative- Lease from Guerra	203
	Williams, Norman (also in Zone A)	174
	Foley Estates Vineyards (also in Zone F)	108
Zone E	SYRWCD, ID #1 (also in Zone A)	1,299
	Rancho Sanja Cota-was Gainey (also Zone A)	148
	City of Solvang (also in Zones A and C)	130
Zone F	Innovative - Lease from Campbell & Oak Hills	589
	Foley Estates Vineyards (also in Zone D)	111
	Sorrento - Lease from Campbell	64
	Campbell Ranches (also in Zone A)	62
	Acin (Also in Zone A)	1

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3.0 PRECIPITATION

Water supply, water use, and groundwater conditions within the District are dependent upon precipitation. Precipitation, either directly or as streamflow infiltration, recharges the groundwater supplies. The quantity and timing of precipitation can indicate future water-level conditions. Based on the 30-year climate normal, a small proportion (less than one percent) of annual precipitation occurs during the summer and fall months of June through September. Slightly above a quarter of precipitation (25 to 28 percent) falls in the autumn and early winter months of October through December, approximately two-thirds (63 to 65 percent) of precipitation falls in the winter and spring months of January through March, and a small proportion (8 to 9 percent) of precipitation falls in the late spring and summer months of April and May.

Table 2 presents the monthly precipitation and departure from normal for two precipitation stations, Bradbury Dam and Lompoc, for the period January 2023 through January 2024. Precipitation during the preceding hydrologic water year (October 2022 to September 2023) was 183 and 208 percent of normal at Bradbury Dam and Lompoc, respectively. Precipitation through January of the current hydrologic water year (October 2023 to January 2024) is 73 and 98 percent of normal at Bradbury Dam and Lompoc, respectively.

The long-term annual variation in precipitation at Santa Barbara, Gibraltar Dam, Bradbury Dam, and Lompoc is shown graphically in Figure 4. Also shown in Figure 4 is a graph of the accumulated departure from the mean annual precipitation. The analyses represented by these graphs indicate the historical wet and dry periods. An upward trend of the graph for years indicates a wet period in the basin. Conversely, a dry period is indicated where the graph trends downward for years.

TABLE 2
MONTHLY PRECIPITATION AND DEPARTURE
FROM NORMAL AT BRADBURY DAM AND LOMPOC
JANUARY 2023 THROUGH JANUARY 2024 ^a
(Inches)

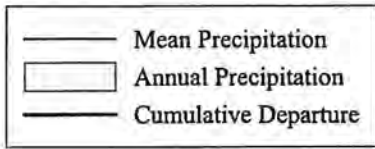
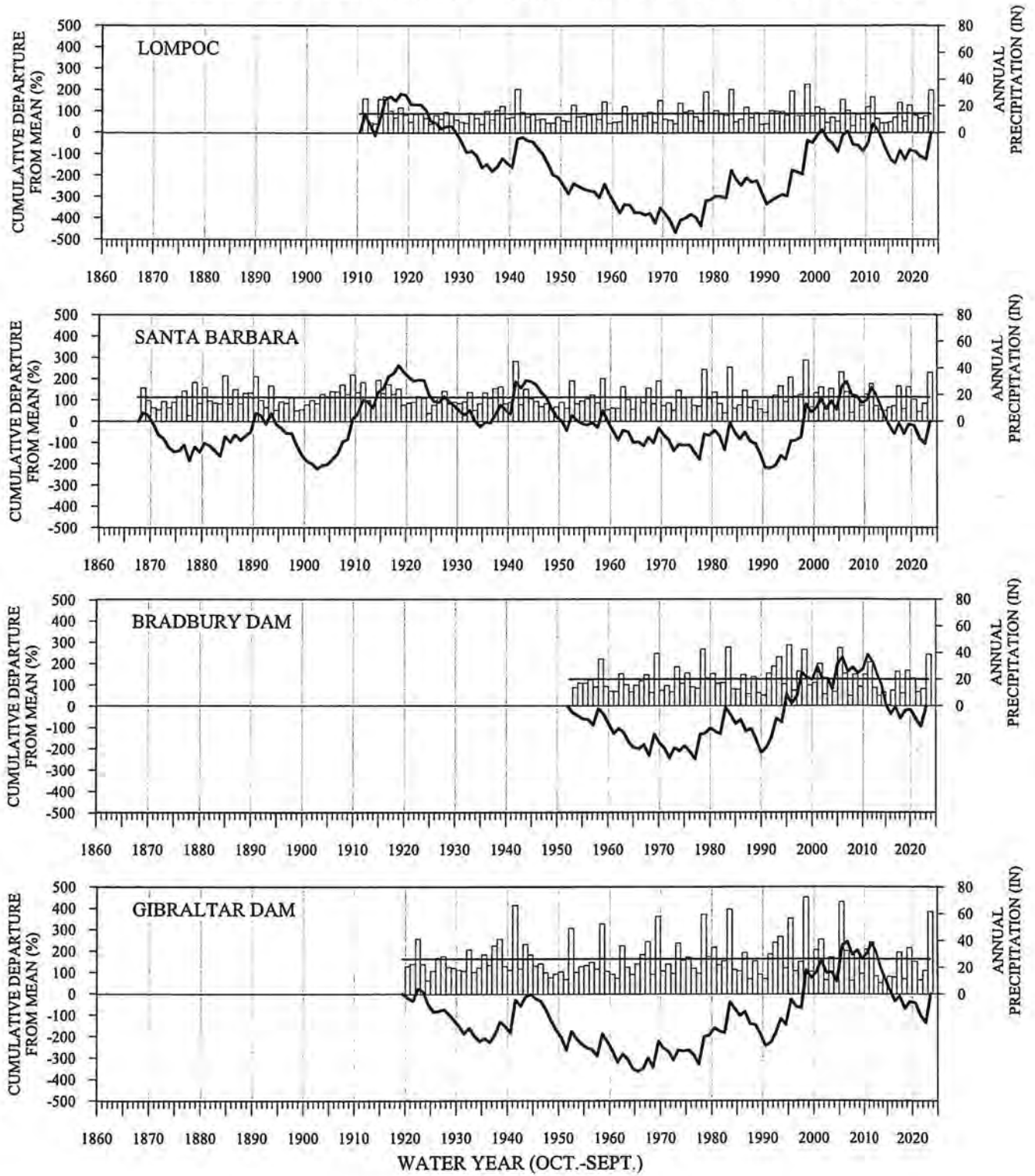
Month	Bradbury Dam		Lompoc	
	Precipitation	Departure ^b	Precipitation	Departure ^b
January 2023	15.38	10.49	11.55	8.26
February	8.77	3.48	6.11	2.45
March	7.12	3.51	6.16	3.36
April 2023	0.02	-1.29	0.03	-0.87
May	0.28	-0.26	1.02	0.68
June	0.17	0.11	0.50	0.44
July 2023	0.00	-0.01	0.00	-0.02
August	0.25	0.25	0.00	-0.01
September	0.01	-0.07	0.08	0.03
October 2023	0.01	-0.79	0.15	-0.52
November	0.60	-0.64	0.85	-0.36
December	4.98	1.68	4.84	2.44
2023 Calendar Year				
(January 2023-December 2023)	37.59	16.46	31.29	15.88
Percent of Normal	178		203	
January 2024	1.90	-2.99	1.61	-1.68
Partial / First Quarter + January				
2024 Current Hydrologic Water Year				
(October 2023-January 2024)	7.49	-2.74	7.45	-0.12
Percent of Normal	73		98	

^a Data from Santa Barbara County Flood Control District

^b Departure from normal is based on an averaging period of 1991 to 2020 as established by the National Oceanic and Atmospheric Administration (NOAA).

Percent of Normal is relative to the months in the specific period.

ANNUAL PRECIPITATION AND CUMULATIVE DEPARTURE FROM MEAN FOR LOMPOC, SANTA BARBARA, BRADBURY DAM, AND GIBRALTAR DAM



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4.0 SURFACE WATER CONDITIONS

Surface water supplies potentially available in the watershed include the main stem and tributaries of the Santa Ynez River and imported water from northern California through the State Water Project (SWP). As mentioned in Chapter 1, the upstream diversion works, constructed on the river system by South County interests and the Federal Government, were designed to export all or most of the diverted water out of the watershed. These diversion facilities include Juncal Dam (Jameson Reservoir), Doulton Tunnel, and Fox and Alder Creeks by the Montecito Water District, Gibraltar Dam (Gibraltar Reservoir), Mission Tunnel, and Devil's Canyon by the City of Santa Barbara, and Bradbury Dam (Lake Cachuma), and Tecolote Tunnel by the U.S. Bureau of Reclamation (USBR). Drainage areas upstream of these diversion dams are approximately 14 (Juncal), 216 (Gibraltar), and 417 (Bradbury) square miles with the latter representing about 47 percent of the total watershed. These diversions significantly affect the recharge of the groundwater in the Santa Ynez River alluvial aquifer and the Lompoc Plain groundwater subarea.

The Cachuma Project, including Bradbury Dam, is by far the largest of the upstream diversion facilities with a reservoir capacity of 183,751 acre-feet at a water surface elevation of 750 feet (192,978 acre-feet with a fish surcharge of three feet, October 2021 survey) and an annual operational yield of 25,714 acre-feet. Table 3 summarizes the annual operations of this Project, from its start in 1952 through 2023.

4.1. BASIN SURFACE WATER USE

This District contracted with the USBR through the Santa Barbara County Water Agency for 10.3 percent of the annual Cachuma Project yield and in 1959 established the Santa Ynez River Water Conservation District, Improvement District No. 1 (ID No. 1) to distribute and serve municipal and irrigation water in the Santa Ynez Valley. The service area of ID No. 1 includes the towns of Santa Ynez, Los Olivos, and Solvang and surrounding area. With the creation of an independently elected trustee board in 1966, ID No. 1 became essentially a separate entity. In 1993 this District assigned its Cachuma entitlement to ID No. 1. ID No. 1 later exchanged this water (approximately 2,600 acre-feet) for treated SWP water with the other (South Coast) Cachuma Member Units. ID No. 1 continues to use a small portion of its

TABLE 3
SUMMARY OF CACHUMA PROJECT OPERATIONS
WATER YEARS 1953 THROUGH 2023 ^a
(Acre-Feet)

Hydrologic Water Year (Oct.-Sept.) ^b	[1] Lake Cachuma End-of-Year Storage	[2] Computed Inflow	[3] CCWA	[4] Precipitation on Reservoir	[5] Reservoir Evaporation	[6] Estimated Spill	[7] Diversion to Tunnel	[8] Park Diversions	[9] SYRWCD ID No.1 Deliveries	[10] Downstream Release ^c	[11] Fish Water Release
1953	9,188	17,942		106	1,319	0				7,541	
1954	21,779	18,955		598	2,327	0				4,635	
1955	19,584	4,941		936	2,540	0				3,922	
1956	36,629	24,330		1,482	4,200	0	2,118			2,449	
1957	30,154	6,150		1,162	4,642	0	5,470			3,674	
1958	196,889	219,129		4,459	11,210	35,738	4,850			5,050	
1959	187,178	15,068		3,629	14,624	3,056	8,432			2,296	
1960	163,149	2,643		2,669	13,613	0	11,410	169	300	3,849	
1961	134,493	795		2,382	12,015	0	17,309	662	239	1,608	
1962	190,475	100,134		4,963	12,446	21,822	11,921	402	890	1,633	
1963	171,736	4,270		3,788	12,157	0	10,595	510	694	2,843	
1964	141,506	2,439		2,378	11,786	0	17,352	447	1,504	3,958	
1965	122,308	12,314		3,043	10,204	0	14,909	182	1,837	7,423	
1966	168,926	79,292		3,707	12,524	0	17,522	345	2,129	3,862	
1967	191,622	208,961		5,774	12,683	153,823	14,155	246	2,575	8,557	
1968	160,871	10,404		2,414	13,524	0	18,199	357	3,669	7,820	
1969	190,181	525,370		9,727	12,305	472,411	15,031	240	2,597	3,199	
1970	176,407	28,740		1,793	13,525	0	21,448	335	4,115	4,888	
1971	161,345	31,045		3,497	12,308	0	22,800	357	3,115	11,028	
1972	121,314	8,754		2,231	11,452	0	28,158	167	4,469	6,769	
1973	185,591	125,804		5,948	12,056	29,300	18,456	129	3,552	3,982	
1974	182,039	33,670		4,112	12,677	5,655	17,805	138	3,469	1,590	
1975	184,467	50,544		5,867	11,866	16,804	20,854	128	3,057	1,275	
1976	145,187	5,310		3,189	11,804	0	26,020	148	4,655	5,152	
1977	112,077	1,520		2,601	10,775	0	18,740	98	4,583	3,035	
1978	193,424	329,219		9,573	13,535	219,295	20,701	114	3,011	790	
1979	183,949	61,692		5,250	13,917	36,385	20,102	147	4,029	1,837	
1980	187,382	153,543		6,003	13,353	116,915	22,057	139	2,483	1,166	
1981	168,871	22,066		4,019	13,811	0	20,856	178	5,007	4,743	
1982	159,528	26,848		3,868	11,479	0	20,956	187	2,983	4,474	
1983	196,347	428,601		10,995	12,630	361,675	22,616	183	1,532	4,142	
1984	171,599	39,074		3,354	14,534	17,217	25,601	193	5,054	4,577	
1985	135,748	5,057		2,816	12,275	0	22,781	142	2,664	5,862	
1986	171,873	76,571		4,831	12,782	0	21,690	108	2,686	8,010	
1987	128,352	2,374		1,996	12,147	0	27,209	150	3,812	4,573	
1988	99,150	8,732		4,092	10,293	0	23,917	102	2,803	4,911	
1989	66,098	4,044		1,459	8,366	0	20,632	86	2,802	6,670	

TABLE 3 – CONTINUED
SUMMARY OF CACHUMA PROJECT OPERATIONS
WATER YEARS 1953 THROUGH 2023 ^a
(Acre-Feet)

Hydrologic Water Year (Oct.-Sept.) ^b	[1] Lake Cachuma End-of-Year Storage	[2] Computed Inflow	[3] CCWA	[4] Precipitation on Reservoir	[5] Reservoir Evaporation	[6] Estimated Spill	[7] Diversion to Tunnel	[8] Park Diversions	[9] ID No.1 Deliveries	[10] Downstream Release ^c	[11] Fish Water Release
1990	34,188	2,627		909	6,019	0	16,384	66	863	4,792	
1991	60,995	53,566		2,057	6,373	0	15,762	43	1,656	4,983	
1992	157,066	135,828		4,022	11,239	0	18,170	52	891	13,427	
1993	177,479	333,387		8,875	13,428	280,698	22,582	79	2,042	1,591	1,429
1994	151,046	16,729		4,144	12,561	0	22,821	73	1,819	9,537	494
1995	134,855	365,092		10,063	10,321	354,402	23,887	64	109	1,823	740
1996	120,503	33,243		2,653	11,627	0	24,721	76	2,109	9,703	2,012
1997	124,771	56,552	148	2,911	11,861	0	26,785	83	1,785	13,205	1,623
1998	185,500	475,175	1354	12,071	11,350	386,055	24,473	60	0	3,956	1,976
1999	168,772	21,562	323	4,077	12,341	0	26,397	70	0	883	2,999
2000	170,840	51,895	2156	4,972	12,435	6,067	30,365	79	0	5,972	2,037
2001	173,479	152,773	818	7,712	11,995	112,313	26,089	78	0	3,502	2,157
2002	129,370	5,508	4,627	2,040	11,004	0	30,976	90	0	11,961	2,253
2003	115,449	18,822	6,816	3,707	9,402	0	28,781	99	0	2,292	2,691
2004	71,378	5,750	5,924	1,782	8,829	0	32,269	83	0	14,217	2,131
2005	179,997	401,755	3,137	8,365	11,763	260,078	26,796	62	0	2,894	3,045
2006	180,203	100,562	1,014	6,075	12,354	62,869	24,119	66	0	0	8,037
2007	132,392	4,348	5,204	1,716	11,940	0	32,797	83	0	9,327	4,932
2008	173,280	109,536	4,701	4,712	13,449	22,994	32,591	63	0	2,274	6,689
2009	142,479	13,218	2,602	3,112	12,220	0	27,634	82	0	0	8,688
2010	152,855	56,628	1,736	5,057	11,374	0	27,259	73	0	7,165	7,175
2011	180,986	151,343	1,258	7,226	11,871	85,755	26,866	79	0	1,481	5,642
2012	142,970	6,005	408	2,959	11,724	0	28,682	79	0	0	6,904
2013	91,922	2,982	2,101	1,497	9,943	0	31,039	76	0	12,613	3,956
2014	61,107	3,947	11,522	1,367	8,441	0	29,023	34	0	7,561	2,591
2015	32,989	4,006	8,316	1,074	7,443	0	17,137	25	0	12,600	2,156
2016	14,222	4,697	10,220	860	5,444	0	15,604	24	0	11,620	1,853
2017	82,459	87,508	14,073	2,196	11,352	0	14,451	25	0	8,612	807
2018	61,273	4,910	13,308	1,269	7,730	0	18,681	23	0	11,654	2,584
2019	144,475	105,371	4,606	3,500	9,467	0	13,867	23	0	0	6,918
2020	135,570	26,207	825	4,309	11,094	0	16,000	22	0	5,861	7,318
2021	95,720	3,536	1,530	2,227	9,634	0	24,741	20	0	8,625	4,123
2022	65,436	4,989	6,090	2,040	7,909	0	20,009	22	0	10,355	5,107
2023	179,435	489,456	572	8,015	10,522	344,903	17,468	20	0	203	9,993
Average ^d	133,702	84,590	4,274	3,948	10,791	47,975	20,999	137	1,525	5,331	3,905

^a Source of information: U.S. Bureau of Reclamation.

^b October 1 through September 30.

^c Includes leakage and water rights releases

^d For period of record

Water Balance Equation: [1] End of WY Storage = [1] Start of WY Storage + [2] + [3] + [4] - [5] - [6] - [7] - [8] - [9] - [10] - [11]

Water Balance Equation does not balance at the end of Water Year 1955, 1990, 2001, 2009, 2015, 2018, and 2022. New reservoir capacity tables were developed during these years and as a result, the storage capacity was reduced. The amount of unaccounted water equals the reduction in storage volume. End of WY2017 storage corrected by 293 AF due to gage reading error.

Cachuma entitlement water to serve the County Park at Lake Cachuma. Table 3 shows annual deliveries of Cachuma Project water to ID No. 1 before the exchange and direct diversions from the reservoir for the County Park.

Alisal Reservoir is located on Alisal Creek about three miles south of Solvang at the southern boundary of the District. The Permit issued by the SWRCB in 1969 allows for the diversion and storage of 2,342 acre-feet per year for irrigation, stock watering, domestic, and recreational uses. No quantification of actual water use for this reservoir has been done.

4.2. STATE WATER PROJECT WATER USE

In 1963, the Santa Barbara County Flood Control and Water Conservation District and the DWR executed a Water Supply Contract to supply “Table A” water from the State Water Project (SWP) to Santa Barbara County. A part of this SWP water goes to four water purveyors that serve the Santa Ynez Valley. Since 1997, the Central Coast Water Authority (CCWA) transports SWP water to Santa Ynez through the California Aqueduct via the Coastal Branch Aqueduct. The following table summarizes SWP deliveries to these purveyors for the preceding fiscal year (2022-23) and the first half of the current fiscal year (July through December 2023).

Fiscal Year (July-June)	ID No. 1 (Acre-Feet)	City of Solvang (Acre-Feet)	City of Buellton (Acre-Feet)	Vandenberg SFB (Acre-Feet)
2022-23	563	480	148	616
2023-24 (First Half)	678	477	157	627
Table A (Entitlement)	500	1,500	578	5,500

Source: Central Coast Water Authority

Table A entitlement volumes represent the maximum annual delivery of the SWP water which DWR limits to a total of 4,185,000 acre-feet for all contractors. This is sometimes referred to as the contractors' total annual Table A amount. Total SWP water supplies often are less than the annual Table A amount, in which case DWR makes SWP deliveries on a proportional basis to the size of the Table A amount. Table A amounts shown do not include drought buffer.

Deliveries to ID No. 1 include Table A, drought buffer, exchange, and (turnback pool) purchased water.

4.3. RIVER SYSTEM FLOW CONDITIONS

The Lompoc Narrows are a natural constricting point of the Santa Ynez River where a stream gage measures river flows. For the 2022-23 (July-June) fiscal year flows were 386,302 acre-feet. Flows for the first half of the 2023-24 fiscal year were 9,481 acre-feet through December 2023 which is 246 percent of flows during of the first half of 2022-23. Table 4 and the graphs in Figure 5 are summaries of annual and monthly flows.

Annual flows of Salsipuedes Creek near Lompoc, a major tributary of the Santa Ynez River upstream of the Lompoc Narrows, are shown in Table 5. Salsipuedes Creek flows for the 2022-23 (July-June) fiscal year were 29,170 acre-feet. Flows for the first half of the 2023-24 fiscal year were 707 acre-feet through December 2023 which is 74 percent of flows during the first half of 2022-23. Appendix C includes flow records for additional streams in the Basin.

4.4. WATER RIGHTS RELEASES

Water rights releases for users downstream of Lake Cachuma are outlined in the SWRCB Order of 1973 (WR 73-37), as amended in 1989 (WR 89-18) and 2019 (WR 2019-0148). These releases are based on the establishment of two accounts, and the accrual of credits (storing water) in Lake Cachuma for the above and below Narrows areas. Above Narrows Account (ANA) water rights releases are made at Bradbury Dam for the benefit of water users between the dam and the Lompoc Narrows. Releases from the Below Narrows Account (BNA) in Lake Cachuma are for the benefit of water users in the Lompoc Plain subarea and deliveries are measured at the Lompoc Narrows. Combined releases of ANA and BNA water are made to replenish the alluvium and groundwater basin in the above and below Narrows areas.

In calendar year 2023, there were no water right releases because there was relatively low dewatered storage in the Above Narrows basin. Historical water rights releases are summarized in Table 6.

TABLE 4
FLOW OF THE SANTA YNEZ RIVER AT THE LOMPOC NARROWS
(Acre-Feet)

Hydrologic Water Year (Oct.-Sept.)	Flow	Hydrologic Water Year (Oct.-Sept.)	Flow	Hydrologic Water Year (Oct.-Sept.)	Flow	Hydrologic Water Year (Oct.-Sept.)	Flow	Hydrologic Water Year (Oct.-Sept.)	Flow	Hydrologic Water Year (Oct.-Sept.)	Flow
		1925	7,300	1945	50,700	1965	4,980	1985	3,100	2005	431,520
		1926	90,100	1946	38,970	1966	29,240	1986	30,110	2006	87,730
		1927	152,000	1947	13,940	1967	161,690	1987	5,210	2007	6,860
1908	222,000	1928	30,800	1948	50	1968	5,700	1988	3,590	2008	72,550
1909	681,000	1929	9,770	1949	2,040	1969	617,710	1989	30	2009	3,750
1910	115,000	1930	5,780	1950	1,460	1970	8,500	1990	0	2010	31,900
1911	533,000	1931	2,390	1951	0	1971	7,420	1991	20,900	2011	135,290
1912	50,400	1932	142,000	1952	261,900	1972	3,180	1992	62,090	2012	5,640
1913	47,400	1933	17,700	1953	19,910	1973	80,770	1993	391,520	2013	4,030
1914	546,000	1934	24,170	1954	5,830	1974	20,400	1994	15,610	2014	4,480
1915	395,000	1935	56,830	1955	2,060	1975	61,850	1995	485,390	2015	50
1916	258,000	1936	40,830	1956	28,750	1976	3,980	1996	24,820	2016	2,310
1917	137,000	1937	209,000	1957	1,460	1977	270	1997	34,320	2017	31,920
1918	320,000	1938	352,400	1958	139,990	1978	391,550	1998	681,490	2018	4,810
1919	60,300	1939	32,960	1959	16,930	1979	70,180	1999	28,470	2019	42,990 +
1920	43,500	1940	20,610	1960	1,570	1980	189,100	2000	48,830	2020	11,280
1921	16,800	1941	652,300	1961	330	1981	20,240	2001	250,510	2021	12,320
1922	190,500	1942	67,310	1962	87,890	1982	6,450	2002	9,520	2022	4,040
1923	23,000	1943	231,900	1963	9,520	1983	503,620	2003	15,730	2023	390,870
1924	5,300	1944	119,400	1964	0	1984	34,110	2004	6,710	2024	3,090 *
										(through Dec)	
										Average (1908-2023)	105,310
										Average (1953-2023)	83,630

* indicates provisional data.

2019 flows do not include equipment failure January 14-17, likely totalling less than 400 Acre-Feet.
Data from U.S. Geological Survey include periods of 1908 through 1918, 1926 through 1950,
1952 through 1963, and 1965 through March 2015.

Data from U.S. Bureau of Reclamation include periods of 1919 through 1925, 1951, and 1964.

Flow regulated by Lake Cachuma since November 1952.

MONTHLY SURFACE FLOW, SANTA YNEZ RIVER NEAR LOMPOC

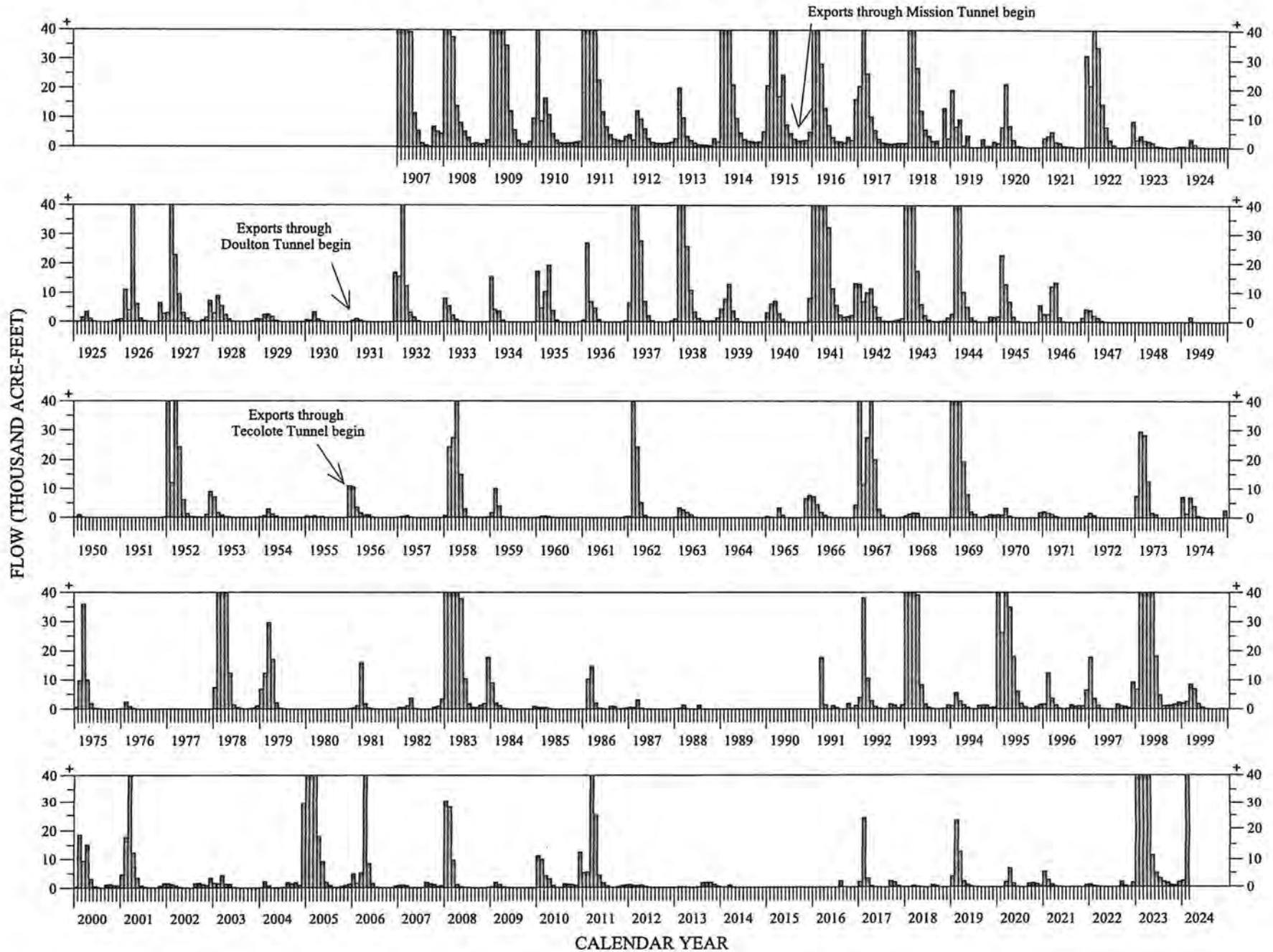


FIGURE 5

TABLE 5
FLOW OF SALSIPUEDES CREEK NEAR LOMPOC
(Acre-Feet)

Hydrologic Water Year (Oct.-Sept.)	Flow	Hydrologic Water Year (Oct.-Sept.)	Flow	Hydrologic Water Year (Oct.-Sept.)	Flow	Hydrologic Water Year (Oct.-Sept.)	Flow	Hydrologic Water Year (Oct.-Sept.)	Flow
		1945	2,270	1965	2,720	1985	1,170	2005	33,240
		1946	1,790	1966	9,480	1986	10,290	2006	5,620
		1947	870	1967	6,710	1987	1,610	2007	690
		1948	400	1968	780	1988	890	2008	8,730
		1949	1,710	1969	20,520	1989	210	2009	650
		1950	1,280	1970	1,810	1990	120	2010	4,840
		1951	330	1971	1,180	1991	4,420	2011	15,020
		1952	16,870	1972	520	1992	6,680	2012	1,110
		1953	4,630	1973	15,660	1993	17,030	2013	370
		1954	2,410	1974	5,320	1994	2,740	2014	240
		1955	1,320	1975	13,780	1995	58,360	2015	110
		1956	15,610	1976	1,520	1996	3,610	2016	170
		1957	1,250	1977	600	1997	5,480	2017	9,700
		1958	23,570	1978	36,230	1998	41,170	2018	240
		1959	2,620	1979	8,410	1999	6,160	2019	12,310
		1960	1,420	1980	14,980	2000	10,760	2020	1,600
		1961	690	1981	5,060	2001	20,000	2021	2,970
1942	10,650	1962	22,200	1982	1,610	2002	1,650	2022	980
1943	10,710	1963	5,330	1983	36,850	2003	3,620	2023	29,550 *
1944	8,870	1964	930	1984	3,360	2004	1,660	2024	320 *
								(through Dec)	
								Average (1942-2023)	8,680

Data from U.S. Geological Survey.

* indicates provisional data.

**TABLE 6
HISTORICAL WATER RIGHTS RELEASES**

Calendar Year	Releases (Acre-Feet)		Total	Calendar Year	Releases (Acre-Feet)		Total
	Above Narrows Account (ANA)	Below Narrows Account (BNA)			Above Narrows Account (ANA)	Below Narrows Account (BNA)	
Releases under Live Stream				Releases under WR 89-18			
1953	-	-	7,540	1990	4,792	0	4,792
1954	-	-	4,632	1991	7,745	3,638	11,383
1955	-	-	3,921	1992	4,930	3,287	8,217
1956	-	-	2,449	1993	0	0	0
1957	-	-	3,674	1994	6,727	4,012	10,739
1958	-	-	4,142	1995	0	0	0
1959	-	-	1,294	1996	7,319	3,459	10,778
1960	-	-	3,411	1997	9,572	3,438	13,010
1961	-	-	1,365	1998	0	0	0
1962	-	-	380	1999	0	0	0
1963	-	-	2,239	2000	4,360	1,858	6,218
1964	-	-	3,665	2001	0	0	0
1965	-	-	7,251	2002	9,054	4,412	13,466
1966	-	-	6,860	2003	0	0	0
1967	-	-	3,274	2004	11,494	4,512	16,006
1968	-	-	6,705	2005	0	0	0
1969	-	-	1,499	2006	0	0	0
1970	-	-	6,100	2007	6,703	4,897	11,600
1971	-	-	8,095	2008	0	0	0
1972	-	-	6,320	2009	0	0	0
1973	-	-	1,245	2010	5,122	3,524	8,646
Releases under WR 73-37				2011	0	0	0
1974	1,353	0	1,353	2012	0	0	0
1975	1,134	0	1,134	2013	10,694	6,779	17,473
1976	4,237	0	4,237	2014	4,698	0	4,698
1977	2,299	0	2,299	2015	10,603	0	10,603
1978	62	0	62	2016	9,334	2,286	11,620
1979	1,200	0	1,200	2017	7,758	4,454	12,212
1980	0	0	0	2018	6,606	1,448	8,054
1981	4,175	0	4,175	2019	0	0	0
1982	6,655	755	7,410	Releases under WR 2019-0148			
1983	0	0	0	2020	6,379	4,101	10,480
1984	3,162	0	3,162	2021	4,649	0	4,649
1985	5,686	0	5,686	2022	7,912	2,001	9,913
1986	5,317	1,780	7,097	2023	0	0	0
1987	3,887	0	3,887				
1988	5,050	1,283	6,333				
1989	5,192	0	5,192				

4.5. STATE WATER CODE REQUIREMENTS

The Water Code requires the Board to estimate for the ensuing water year: (1) the amount of water necessary for surface distribution, (2) the amount of water necessary for replenishment of groundwater supplies, and (3) the amount of water the District is obligated by contract to purchase (Water Code Sections 75574 (h), (i), and (j)). The amount of water necessary for surface distribution would be scheduled for delivery by ID No. 1, Solvang, Buellton, and Vandenberg SFB. The fiscal year 2023-24 delivery requests for State Water delivery according to the schedules submitted by ID No. 1, Solvang, Buellton, and Vandenberg SFB, are shown as follows. However, the actual delivery amounts would vary depending on changes in the delivery schedule and availability of SWP water.

	Acre-Feet ^a
ID No. 1	0
City of Solvang	614
City of Buellton	212
Vandenberg SFB	1,873
TOTAL	2,699

Requests for the current Calendar Year 2024

^a *Includes buffer.*

Source: Central Coast Water Authority

In addition, during the current fiscal year (2023-24), the SWP is scheduled to deliver ID No. 1 its Cachuma entitlement (approximately 2,600 acre-feet) via exchange subject to shortage reductions for surface distribution. The District does not have any contracts to purchase surface water nor the facilities to divert the Santa Ynez River and/or tributary flow.

5.0 GROUNDWATER CONDITIONS

There are two general types of water-bearing deposits within the District. They are: (1) river channel deposits and younger alluvium present along the Santa Ynez River and beneath the Lompoc Plain; and (2) older unconsolidated deposits either underlying the younger alluvial deposits or filling basins generally not in hydrologic continuity with the Santa Ynez River and its associated alluvial deposits.

5.1. SOURCES OF GROUNDWATER

The sources of groundwater comprising each of the District's zones are as follows:

Zone A - Santa Ynez River alluvial deposits

Santa Ynez subarea

Buellton subarea

Santa Rita subarea

Zone B - Lompoc Area

Lompoc Plain subarea

Lompoc Upland subarea

Lompoc Terrace subarea

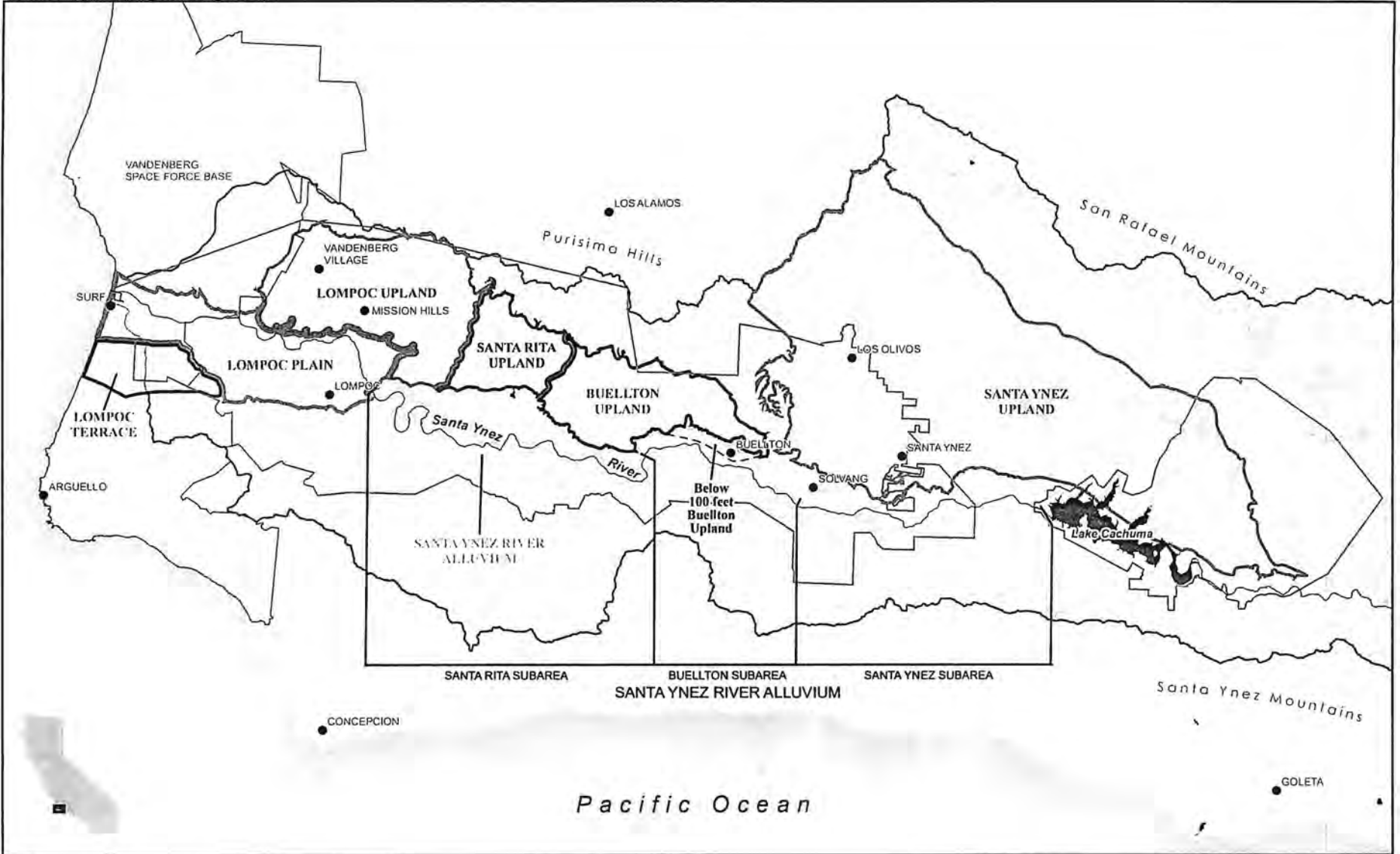
Zone C - Miscellaneous unconsolidated deposits and consolidated rocks

Zone D - Buellton Upland subarea

Zone E - Santa Ynez Upland subarea

Zone F - Santa Rita Upland subarea

The map in Figure 6 shows the extent of the major groundwater sources. A general description of the hydrogeology of the various sources of groundwater within the District is included in Appendix E. Groundwater levels from selected wells throughout the District are included in Appendix F.



- Santa Ynez River Water Conservation District Boundary
- Drainage Basin Boundary

MAJOR GROUNDWATER SOURCES SANTA YNEZ RIVER BASIN

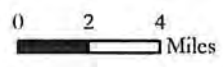


FIGURE 6

5.2. STORAGE CHANGES

Estimates of change in groundwater storage provide the general status of groundwater conditions of the District. For the current year and the ensuing year, the change in groundwater storage is forecasted for future conditions. For the previous years, the change in groundwater storage is calculated based on historical groundwater levels.

In March and April, the Santa Barbara County Water Agency (SBCWA), the City of Buellton, and USBR collect and report on spring water level measurements in wells throughout the District. Since spring water levels are unavailable until after the publication date, the change in storage for the current water year (2023-24) and ensuing water year (2024-25) is forecasted. The forecast is based on aspects of the water budget where partial data for the year is available, including antecedent conditions, inflows, and outflows. The parameters for prediction include rainfall and streamflow data that have occurred through January 31st and additional pumping and groundwater storage trends. While past performance does not guarantee future results, forecasted storage changes provide some insight into the likely range of outcomes. These forecasts of future groundwater storage change will be replaced each year based on groundwater level measurements from the previous year.

The change in water levels and storage for the preceding year is based on the water levels for the previous spring. A nodal system is used to calculate the change in storage and overdraft estimate for the preceding year (Water Year 2022-23). This calculated overdraft for the prior year is then used with the nine preceding years to determine the ten-year average annual overdraft.

5.2.1. Preceding Year (Spring 2022 to Spring 2023) Groundwater Levels

Groundwater level changes from spring to spring provide the best direct indication of groundwater conditions during the year. Groundwater levels in spring 2023 represent the conditions near the end of the fiscal year 2023 and Appendix G lists these groundwater levels. Water levels for Spring 2024 are collected after the publication of this report. Tables 7 through 10 report changes in groundwater levels from spring 2022 to spring 2023. In these tables, a 0.0 reading indicates a change of fewer than 0.1 feet, while a dash is a null value meaning the change could not be calculated due to one or two years of missing data.

Table 7 presents the water-level changes for eight wells measured by the USBR and SBCWA in the forebay of the Lompoc Plain subarea and 27 additional wells measured by the SBCWA in the central and western portions of the Lompoc Plain. In the forebay, water levels increased from Spring 2022 to Spring 2023 in all measured wells. The forebay well not measured by SBCWA and USGS has been dry since March 2016, so the water level change at this location is unknown. The water levels rose over the preceding year in 23 of the 27 measured wells located in the central and western portion of the Lompoc Plain while water levels declined in four wells. The hydrographs of three wells located in the Lompoc Plain subarea are shown in Figure F-1 (Appendix F).

Water-level changes over the preceding year are shown in Table 8 for nine wells measured by the SBCWA in the Lompoc Upland subarea. The water levels rose from Spring 2022 to Spring 2023 in five well and declined in the remaining four wells. Hydrographs for five wells located in the Lompoc Upland subarea are shown in Figure F-2 (Appendix F). The water level in the only well measured in the Lompoc Terrace subarea rose by 1.2 feet over the past year (Table 8 and Figure F-3, Appendix F).

In the Santa Rita Upland water levels rose in two wells, stayed the same in one well, and declined in one wells (Table 9). A hydrograph of Well 7N/33W-27G1 is shown in Figure F-3 (Appendix F).

The change in water levels over the preceding year in all five wells measured in the Buellton Upland subarea is also presented in Table 9. Water levels rose in four of the wells and declined in one well. The hydrograph of well 6N/31W-7F1 showing water-level elevations is included in Figure F-3 (Appendix F).

The change in water levels from Spring 2022 to Spring 2023 in 25 wells located in the Santa Ynez Upland subarea is shown in Table 10. Ten of these wells are located within the District portion of the Santa Ynez Upland subarea. Within the District portion of the subarea, the water level was observed to rise in eight wells and declined in two wells. Hydrographs of two wells located in the Santa Ynez Upland subarea are included in Figure F-4 (Appendix F).

**TABLE 7
WATER-LEVEL CHANGES
LOMPOC PLAIN SUBAREA
2022 TO 2023**

Forebay ^a		Central and Western Plain ^b	
Well No.	Water-Level Change (Feet)	Well No.	Water-Level Change (Feet)
6N/34W-4G4	5.2 ^b	6N/34W-6C4	-
7N/34W-22M6	2.5	7N/34W-20K4	10.8
7N/34W-25F3	0.9	7N/34W-27G6	9.7
7N/34W-26B4	6.3	7N/34W-29E4	12.8
7N/34W-26H3	- ^c	7N/34W-29N6	10.5
7N/34W-26Q5	11.9	7N/34W-29N7	8.8
7N/34W-27F9	9.7 ^b	7N/34W-30L10	10.2
7N/34W-34R1	8.1	7N/34W-31R2	8.8
7N/34W-35K9	7.2	7N/34W-32H2	-
		7N/35W-15M1	0.8
		7N/35W-17M1	-3.5
		7N/35W-17K20	-3.3
		7N/35W-18J2	-1.8
		7N/35W-21G2	-1.4
		7N/35W-22J1	3.3
		7N/35W-22M1	9.3
		7N/35W-23B2	1.0
		7N/35W-23Q2	-
		7N/35W-23Q3	-
		7N/35W-23Q4	6.2
		7N/35W-24J4	10.1
		7N/35W-24K5	1.9
		7N/35W-24N3	10.6
		7N/35W-25F6	5.1
		7N/35W-25F7	0.1
		7N/35W-26F4	11.6
		7N/35W-26L1	1.8
		7N/35W-26L2	5.1
		7N/35W-26L4	8.4
		7N/35W-27C1	9.7
		7N/35W-35A3	10.2

^a Based upon measurements made during March 2023 by the U.S. Bureau of Reclamation.

^b Based upon estimated elevations by the U.S. Bureau of Reclamation.

^c Based upon measurements made during March 2023 by the Santa Barbara County Water Agency. Well 26H3 has been dry since 2016, so change in groundwater elevation could not be determined.

TABLE 8
WATER-LEVEL CHANGES
LOMPOC UPLAND AND LOMPOC TERRACE SUBAREAS
2022 TO 2023

Lompoc Upland Subarea		Lompoc Terrace Subarea	
Well No.	Water-Level Change (Feet)	Well No.	Water-Level Change (Feet)
7N/33W-17M1	-0.7	7N/35W-27P1	1.2
7N/33W-17N2	-0.4		
7N/33W-19D1	-0.1		
7N/33W-20G1	-		
7N/34W-12E1	-0.4		
7N/34W-14F4	3.3		
7N/34W-14L1	2.6		
7N/34W-15D3	2.1		
7N/34W-15E1	2.7		
7N/34W-15P2	1.2		

Based upon measurements made during March 2023 by the Santa Barbara County Water Agency.

TABLE 9
WATER-LEVEL CHANGES
SANTA RITA AND BUELLTON UPLAND SUBAREAS
2022 TO 2023

Santa Rita Upland Subarea		Buellton Upland Subarea	
Well No.	Water-Level Change (Feet)	Well No.	Water-Level Change (Feet)
7N/33W-21G2	0.2	6N/31W-7F1	1.8
7N/33W-21N1	0.0	6N/32W-2Q1	1.8
7N/33W-27G1	1.1	6N/32W-12K2	-1.1
7N/33W-28D3	-0.5	7N/32W-31M1	1.8
		7N/33W-36J1	2.3

Based upon measurements made during March 2023 by the Santa Barbara County Water Agency.

TABLE 10
WATER-LEVEL CHANGES
SANTA YNEZ UPLAND SUBAREA
2022 TO 2023

District Portion of Subarea		Non-District Portion of Subarea	
Well No.	Water-Level Change (Feet)	Well No.	Water-Level Change (Feet)
6N/30W-7G5	-3.8	6N/29W-6F1	3.0
6N/30W-7G6	0.5	6N/29W-6G1	1.8
6N/31W-1P2	-	6N/29W-7L1	7.5
6N/31W-1P3	0.1	6N/29W-8P1	-
6N/31W-2K1	11.8	6N/29W-8P2	-0.6
6N/31W-3A1	1.5	6N/30W-1R3	4.8
6N/31W-4A1	-0.3	6N/30W-11G4	45.7
6N/31W-10F1	3.5	7N/30W-16B1	3.8
6N/31W-11D4	16.2	7N/30W-19H1	0.6
6N/31W-13D1	5.1	7N/30W-22E1	1.1
7N/31W-23P1	-	7N/30W-24Q1	-1.2
7N/31W-36L2	5.0	7N/30W-27H1	7.8
		7N/30W-29D1	22.2
		7N/30W-30M1	-
		7N/30W-33M1	-0.4
		8N/30W-30R1	29.8
		8N/31W-36H1	17.8

Based upon measurements made during March 2023 by the Santa Barbara County Water Agency.

5.2.2. Preceding Year (2022-23) Storage Update

The general status of groundwater conditions in the District can be shown by estimates of changes in groundwater storage of the major sources of groundwater within the District. The USBR, in connection with SWRCB Order No. 89-18, determines monthly the quantity of dewatered storage beneath the forebay on the Lompoc Plain and in the Santa Ynez River alluvial deposits. Under normal water supply conditions, the Santa Ynez River alluvial deposits are replenished yearly. During extended drought periods, some shortages in supply may occur in these deposits.

To monitor the groundwater conditions of the District portions of the Lompoc Upland, Santa Ynez Upland, Lompoc Terrace, Santa Rita Upland, and the eastern portion of the Buellton Upland, nodal systems for each source were established. The nodal systems are used to estimate the annual change in the quantity of groundwater in storage and overdraft for the preceding year (2022-23), and for the past ten years (2013-14 through 2022-23).

5.2.3. Forecasted Change in Storage for the Current Year

The forecasted change in storage for the ongoing current water year (2023-24) is based on aspects of the water budget where partial data for the year is available. For each of the subareas, a statistical regression of measured and reported hydrological data for antecedent conditions, inflows, and outflows was evaluated against the historical period of record.

The estimated annual (Spring to Spring) change in groundwater storage in the alluvium of the Santa Ynez River (Zone A)³ for the past ten years, 2013-14 through 2022-23, and the current year, 2023-24 (forecasted), are summarized in Table 11. For the data on the past years, the change in groundwater storage is based upon the USBR's 25-node system, which extends from Robinson Bridge near Lompoc to Bradbury Dam at Lake Cachuma. One node and a

³ Subsurface water stored in the alluvium is generally characterized in this report as "groundwater" as that term is defined Water Code Section 75502 and provisions of the Water Code governing the District's establishment, levying and collection of groundwater charges and preparation of this report (e.g., Water Code Section 75500, et seq.). In contrast, as mentioned elsewhere, the three GSPs for the Basin have characterized this same subsurface water stored in alluvium as not being part of the groundwater system or "groundwater" as defined by Water Code Section 10721(w) of SGMA, and, accordingly, have characterized such subsurface water as being part of the surface water system. The two different characterizations are not inconsistent, but, rather, are necessary to comply with two different divisions or parts of the Water Code that define groundwater differently.

TABLE 11
ESTIMATED ANNUAL CHANGE OF GROUNDWATER IN STORAGE
IN THE SANTA YNEZ RIVER ALLUVIUM
FOR THE PAST TEN YEARS AND CURRENT YEAR (2023-24)
(Acre-Feet)

Year (Spring to Spring)	Santa Ynez Subarea		Buellton Subarea		Santa Rita Subarea		Total Santa Ynez River Alluvium	
	Change in Storage	Accumulated Dewatered Storage	Change in Storage	Accumulated Dewatered Storage	Change in Storage	Accumulated Dewatered Storage	Change in Storage	Accumulated Dewatered Storage
2012-13		4,100		6,100		6,400		16,600
2013-14	-600	4,700	-300	6,400	1,300	5,100	400	16,200
2014-15	-800	5,500	-200	6,600	-3,500	8,600	-4,500	20,700
2015-16	500	5,000	-100	6,700	1,800	6,800	2,200	18,500
2016-17	1,400	3,600	600	6,100	3,600	3,200	5,600	12,900
2017-18	-1,000	4,600	-200	6,300	-2,500	5,700	-3,700	16,600
2018-19	600	4,000	-300	6,600	1,000	4,700	1,300	15,300
2019-20	400	3,600	1,300	5,300	-1,100	5,800	600	14,700
2020-21	-500	4,100	100	5,200	-200	6,000	-600	15,300
2021-22	0	4,100	600	4,600	900	5,100	1,500	13,800
2022-23	1,100	3,000	400	4,200	2,000	3,100	3,500	10,300
2023-24 ^a	0	3,000	-300	4,500	-200	3,300	-500	10,800

^a Forecasted storage.

Based upon dewatered storage estimated by the U.S. Bureau of Reclamation (USBR). Values are rounded.

portion of another node lie outside the District, upstream of San Lucas Bridge. The totals shown in Table 11 for the Santa Ynez subarea reflect changes in the groundwater storage for these nodes. The forecasted accumulated dewatered storage at the end of March 2024 is about 10,800 acre-feet. As of December 31, 2023, the District had 6,455 acre-feet in the Above Narrows Account in Lake Cachuma which is set aside for replenishment of the Santa Ynez River Alluvium.

The estimated annual (Spring to Spring) change in groundwater storage in the Lompoc Plain subarea for the past ten years, 2013-14 through 2022-23, and the current year, 2023-24 (forecasted), are summarized in Table 12. Table 12 indicates that the forecasted accumulated dewatered storage for March 2024 will be 12,000 acre-feet. There is a forecasted increase in groundwater storage in the Lompoc Plain subarea of 1,400 acre-feet during the current year. As of December 31, 2023, the District had 3,053 acre-feet of water in the Below Narrows Account in Lake Cachuma. This is water retained in Lake Cachuma dedicated to the eventual replenishment of the Lompoc Plain alluvium storage.

The estimated annual change in groundwater storage beneath the Lompoc Upland and the Lompoc Terrace subareas is shown in Table 13 for the past ten years, 2013-14 through 2022-23, and the current year, 2023-24 (forecasted). Table 13 indicates that during those ten years, there has been an average decline of 580 acre-feet per year in the quantity of groundwater in storage in the Lompoc Upland. A decrease of three hundred acre-feet in storage is forecasted for the current year, 2023-24. The estimated total dewatered storage in the Lompoc Upland subarea through Spring 2024 is 37,000 acre-feet. In the Lompoc Terrace during the current year, 2023-24, there is a forecasted decrease in groundwater in storage of two hundred acre-feet. The estimated dewatered storage in the Lompoc Terrace subarea through Spring 2024 is nine hundred acre-feet.

The estimated annual change in groundwater storage in the Santa Rita Upland subarea is shown in Table 14 for the past ten years, 2013-14 through 2022-23, and the current year, 2023-24 (forecasted). Table 14 indicates that during those ten years, there has been an average decline of 40 acre-feet per year in the quantity of groundwater in storage in the Santa Rita Upland subarea. By the end of the current year, 2023-24, there is a forecasted reduction of 2,300 acre-feet of groundwater in storage.

TABLE 12
ESTIMATED ANNUAL CHANGE OF GROUNDWATER IN STORAGE
IN THE LOMPOC PLAIN SUBAREA
FOR THE PAST TEN YEARS AND CURRENT YEAR (2023-24)
(Acre-Feet)

<u>Year</u> <u>(Spring to Spring)</u>	<u>Change in</u> <u>Storage</u>	<u>Accumulated</u> <u>Dewatered Storage</u>
2012-13		15,100
2013-14	100	15,000
2014-15	-4,500	19,500
2015-16	-2,300	21,800
2016-17	1,100	20,700
2017-18	900	19,800
2018-19	1,800	18,000
2019-20	2,900	15,100
2020-21	-200	15,300
2021-22	-2,800	18,100
2022-23	4,700	13,400
2023-24 ^a	1,400	12,000

Based upon dewatered storage estimated by the U.S. Bureau of Reclamation (USBR). Values are rounded.

^a Forecasted storage.

TABLE 13
ESTIMATED ANNUAL CHANGE OF GROUNDWATER IN STORAGE
IN THE LOMPOC UPLAND AND LOMPOC TERRACE SUBAREAS
FOR THE PAST TEN YEARS AND CURRENT YEAR (2023-24)
(Acre-Feet)

Year (Spring to Spring)	Lompoc Upland Subarea		Lompoc Terrace Subarea	
	Change in Storage	Accumulated Dewatered Storage	Change in Storage	Accumulated Dewatered Storage
2012-13		30,900		300
2013-14	-1,400	32,300	-100	400
2014-15	-800	33,100	-200	600
2015-16	-400	33,500	-100	700
2016-17	-1,800	35,300	200	500
2017-18	-300	35,600	-500	1,000
2018-19	-200	35,800	400	600
2019-20	-400	36,200	-100	700
2020-21	-500	36,700	-100	800
2021-22	-700	37,400	-100	900
2022-23	700	36,700	200	700
2023-24	^a -300	37,000	-200	900

^a Forecasted storage.

The accumulated dewatered storage is based upon an estimate of existing dewatered storage of 25,500 acre-feet through 1973 from the Lompoc Upland subarea, and 800 acre-feet from the Lompoc Terrace subarea. The 1973 estimates were based upon review of water-level data and trends, and published USGS investigations.

TABLE 14
ESTIMATED ANNUAL CHANGE OF GROUNDWATER IN STORAGE
IN THE SANTA RITA UPLAND SUBAREA
FOR THE PAST TEN YEARS AND CURRENT YEAR (2023-24)
(Acre-Feet)

<u>Year</u> <u>(Spring to Spring)</u>	<u>Change in</u> <u>Storage</u>	<u>Accumulated</u> <u>Dewatered Storage</u>
2012-13		13,600
2013-14	300	13,300
2014-15	-900	14,200
2015-16	400	13,800
2016-17	100	13,700
2017-18	-700	14,400
2018-19	1,000	13,400
2019-20	-1,000	14,400
2020-21	-2,800	17,200
2021-22	3,000	14,200
2022-23	200	14,000
2023-24 ^a	-2,300	16,300

^a Forecasted storage.

The accumulated dewatered storage is based upon an estimate of existing dewatered storage of 7,400 acre-feet through 1973. The 1973 estimate was based upon review of water-level data and trends, and published USGS investigations.

The estimated annual change in groundwater storage in the eastern portion of the Buellton Upland subarea (deeper aquifer in the Buellton area) is shown in Table 15 for the past ten years, 2013-14 through 2022-23 and the current year, 2023-24 (forecasted). Table 15 indicates that during those ten years, there has been an average decrease of 20 acre-feet per year in the quantity of groundwater in storage. During the current year, 2023-24, the forecast is for an increase of groundwater in storage of 300 acre-feet.

The estimated annual change in groundwater storage within the District portion of the Santa Ynez Upland subarea is summarized in Table 16. The period includes the past ten years, 2013-14 through 2022-23, and the current year, 2023-24 (forecasted). Table 16 indicates that during those ten years, there has been an average decline of about 2,120 acre-feet per year in the quantity of groundwater in storage in the District portion of the subarea. The forecast for the District portion of the Santa Ynez Upland is an increase of groundwater in storage of 100 acre-feet during the current water year, 2023-24. The estimated total dewatered storage in the District portion of the subarea through Spring 2024 is 62,900 acre-feet.

Table 17 summarizes the annual change in storage and accumulated dewatered storage for 2022-23 and 2023-24 for the major sources of groundwater in the District.

5.3. CHANGE IN STORAGE TRENDS

There has been a long-term trend of increase in dewatered storage since 2006 in the Santa Ynez Upland subarea and to a lesser degree in the Lompoc Upland subarea. In the other groundwater subareas, as shown in Figure 7, there appears to be a gradual to no increase in the quantity of accumulated dewatered storage. For the current year, 2024, an overall decrease of groundwater in storage (increase in dewatered storage) is forecasted, mostly expected in the Santa Ynez Upland area.

5.4. SAFE YIELD

Table 18 shows estimates of the average annual pumping safe yield of the principal sources of groundwater within the District.

TABLE 15
ESTIMATED ANNUAL CHANGE OF GROUNDWATER IN STORAGE
IN THE EASTERN PORTION OF THE BUELLTON UPLAND SUBAREA
FOR THE PAST TEN YEARS AND CURRENT YEAR (2023-2024)
(Acre-Feet)

<u>Year</u> (Spring to Spring)	<u>Change in</u> <u>Storage</u>	<u>Accumulated</u> <u>Dewatered Storage</u>
2012-13		2,800
2013-14	-1,700	4,500
2014-15	700	3,800
2015-16	900	2,900
2016-17	100	2,800
2017-18	1,700	1,100
2018-19	-200	1,300
2019-20	-500	1,800
2020-21	-200	2,000
2021-22	-1,100	3,100
2022-23	100	3,000
2023-24	^a 300	2,700

^a Forecasted storage.

Accumulated dewatered storage was originally estimated as 2,000 acre-feet through 1973 based upon review of water-level data and trends and published USGS investigations. Recent (2006) water-level measurements indicated that the accumulated dewatered storage was more likely on the order of 2,400 acre-feet in 1973.

TABLE 16
ESTIMATED ANNUAL CHANGE OF GROUNDWATER IN STORAGE
IN THE DISTRICT PORTION OF THE SANTA YNEZ UPLAND SUBAREA
FOR THE PAST TEN YEARS AND CURRENT YEAR (2023-2024)
(Acre-Feet)

Year (Spring to Spring)	Change in Storage	Accumulated Dewatered Storage
2012-13		41,800
2013-14	-5,300	47,100
2014-15	-3,800	50,900
2015-16	-3,100	54,000
2016-17	-1,200	55,200
2017-18	-2,300	57,500
2018-19	-1,800	59,300
2019-20	200	59,100
2020-21	-3,300	62,400
2021-22	-3,900	66,300
2022-23	3,300	63,000
2023-24	^a 100	62,900

^a Forecasted storage.

The accumulated dewatered storage is based upon an estimate of existing dewatered storage of 42,000 acre-feet through 1973. The 1973 estimate was based upon review of water-level data and trends, and published USGS investigations.

TABLE 17
SUMMARY OF CHANGE IN QUANTITY OF
GROUNDWATER IN STORAGE WITHIN THE DISTRICT
(Acre-Feet)

Source of Groundwater	Change in Storage ^a		Accumulated Dewatered Storage	
	2022-23	Forecasted 2023-24	2022-23	Forecasted 2023-24
Santa Ynez River Alluvium	3,500	-500	10,300	10,800
Lompoc Plain (Lompoc Forebay)	4,700	1,400	13,400	12,000
Lompoc Upland	700	-300	36,700	37,000
Lompoc Terrace	200	-200	700	900
Santa Rita Upland	200	-2,300	14,000	16,300
Buellton Upland (Eastern Portion)	100	300	3,000	2,700
Santa Ynez Upland (District Portion)	3,300	100	63,000	62,900
TOTAL	12,700	-1,500	141,100	142,600

^a Spring to Spring.

ACCUMULATED DEWATERED STORAGE (2004 THROUGH 2026)

WATER YEAR / FISCAL YEAR (JULY - JUNE)

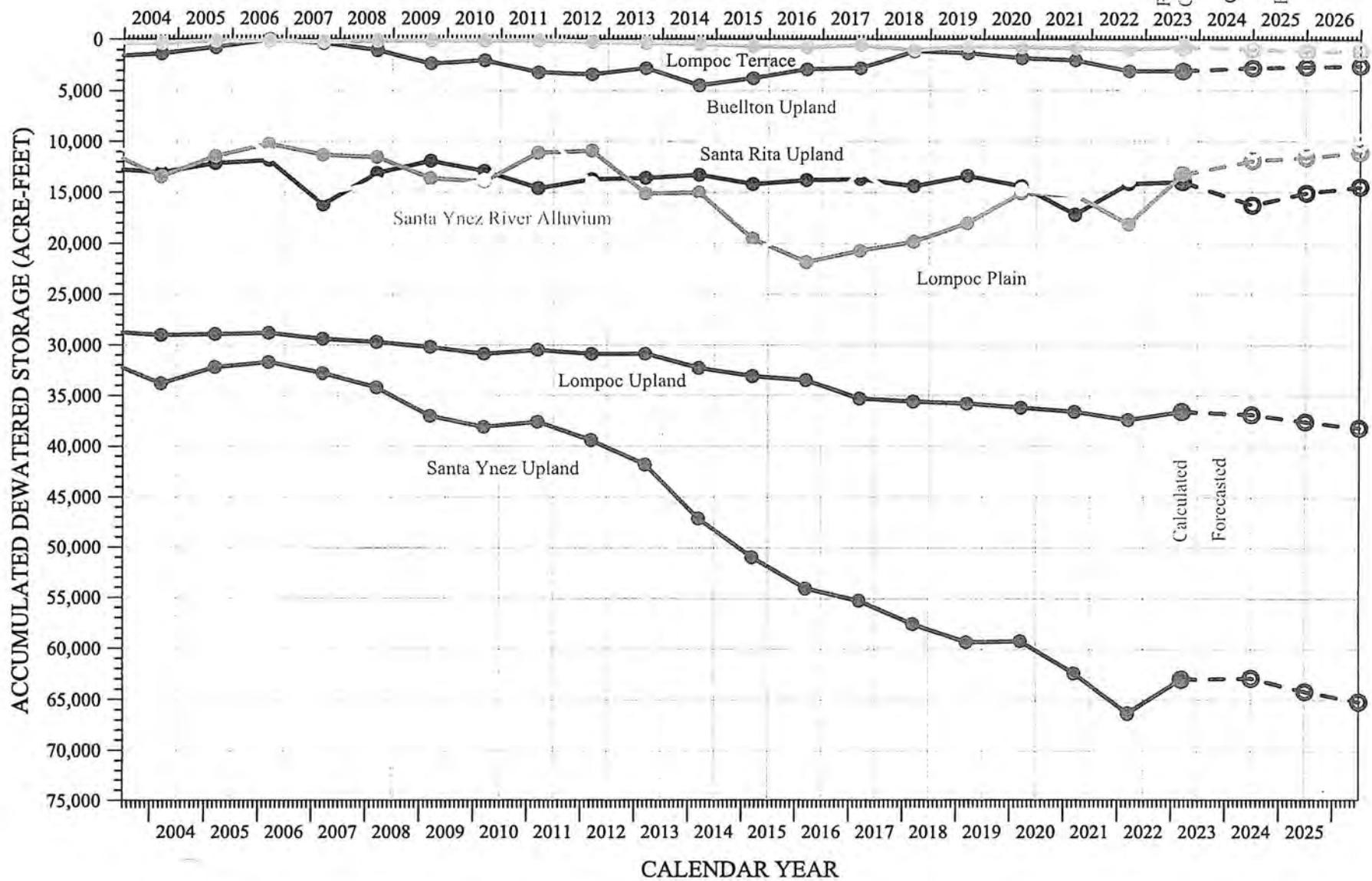


FIGURE 7

TABLE 18
ESTIMATED AVERAGE SAFE YIELD OF
PRINCIPAL SOURCES OF GROUNDWATER WITHIN THE DISTRICT

<u>Source of Groundwater</u>	<u>Safe Yield (Acre-Feet per Year)</u>
Santa Ynez River Alluvium	Subject to shortages during drought periods.
Lompoc Plain Subarea	22,000 - 24,100
Lompoc Upland Subarea	3,000
Lompoc Terrace Subarea	300
Santa Rita Upland Subarea	1,100 - 1,800
Buellton Upland Subarea ^a	2,800
Santa Ynez Upland Subarea ^{a b}	9,800 - 12,200
Bedrock and other deposits	Unknown

Does not include return flow from imported water.

^a Estimated safe yield of entire subarea.

^b One third of the land area, and estimated one third of the pumping in the Santa Ynez Uplands is within the District.

Sources:

Stetson Engineers, January 18, 2022, Groundwater Sustainability Plan. Santa Ynez River Valley Groundwater Basin Western Management Area.

GSI Water Solutions, January 18, 2022, Santa Ynez River Valley Groundwater Basin - Eastern Management Area Groundwater Sustainability Plan. Eastern Management Area Groundwater Sustainability Agency

Stetson Engineers, August 31, 1992, Santa Ynez River Water Conservation District, Water Resource Management Planning. Process, Phase I: Baseline Data and Background Information.

5.5. HISTORICAL GROUNDWATER PRODUCTION

Table 19 shows the estimated reported average historical groundwater production from the principal sources for groundwater within the District for the past ten years (2013-14 through 2022-23).

5.6. OVERDRAFT

For the District portion of each subarea, Table 20 shows the average annual overdraft for the past ten years and the estimated annual overdraft for the current (2023-24) and ensuing (2024-25) years. The information shown in Table 20 is based on estimates of change in the quantity of groundwater in storage. When the annual change in storage is greater than zero (an increase in the water supply), the annual overdraft is set to zero. The values of overdraft were determined solely to meet the provisions in the California Water Code on the implementation of a groundwater charge and do not necessarily represent the hydrologic status of the groundwater basin. Overdraft during the ensuing, 2024-25, water year is forecasted to be 2,200 acre-feet.

Table 21 shows estimates of accumulated overdraft based on estimated groundwater storage depletion. As of December 31, 2023, there were 3,053 acre-feet of water in the Below Narrows Account in Lake Cachuma to partially off-set accumulated overdraft in the alluvium of the Lompoc Plain and 6,455 acre-feet in the Above Narrows Account in Lake Cachuma to off-set the accumulated overdraft in the Santa Ynez River alluvium.

5.7. GROUNDWATER QUALITY

High concentrations of dissolved solids along the coast have been attributed by the USGS to the downward leakage of brackish water from the overlying Santa Ynez River estuary. Graphs showing total dissolved solids, chloride, and sodium concentrations of water from two wells located in the Lompoc Plain are presented in Figure 8. One of the wells (7N/35W-17K20) is located about one mile inland from the ocean. The location of this well means that potential seawater intrusion is in part monitored by changes in groundwater quality at this well.

TABLE 19
ESTIMATED AVERAGE ANNUAL HISTORICAL
REPORTED GROUNDWATER PRODUCTION FROM THE
PRINCIPAL SOURCES OF GROUNDWATER WITHIN THE DISTRICT
(Acre-Feet)

Source of Groundwater	Estimated Average Annual Pumpage for the Past Ten Years (2013-14 through 2022-23)
Zone A Santa Ynez River Alluvium	14,192
Zone B Lompoc Plain, Lompoc Upland, and Lompoc Terrace Subareas	24,217
Zone C All portions of the District not included in other zones	1,191
Zone D Buellton Upland Subarea	3,290
Zone E Santa Ynez Upland Subarea (District Portion)	4,894
Zone F Santa Rita Upland Subarea	2,255
DISTRICT TOTAL	50,039

TABLE 20
AVERAGE ANNUAL OVERDRAFT OF PRINCIPAL SOURCES
OF GROUNDWATER WITHIN THE DISTRICT
(Acre-Feet)

Source of Groundwater	Average Annual Overdraft for the Past Ten Years (2013-14 through 2022-23)	Annual Overdraft (Forecasted)	
		Current Year 2023-24	Ensuing Year 2024-25
Zone A			
Santa Ynez River Alluvium	0	500	0
Zone B			
Lompoc Plain Subarea	0	0	0
Lompoc Upland Subarea	580	300	700
Lompoc Terrace Subarea	40	200	200
Zone C			
Bedrock and other deposits	Unknown	Unknown	Unknown
Zone D			
Buellton Upland Subarea (Eastern Portion)	20	0	0
Zone E			
Santa Ynez Upland Subarea (District Portion)	2,120	0	1,300
Zone F			
Santa Rita Upland Subarea	40	2,300	0
DISTRICT TOTALS	2,800 ±	3,300 ±	2,200 ±

Overdraft is based upon annual estimates of change in groundwater storage.

TABLE 21
ESTIMATED ACCUMULATED OVERDRAFT OF
PRINCIPAL SOURCES OF GROUNDWATER WITHIN THE DISTRICT
(Acre-Feet)

Principal Source of Groundwater	Accumulated Overdraft	
	Through Preceding Year (2022-23)	Through Current Year (2023-24)
Zone A		
Santa Ynez River Alluvium (Subarea is replenished annually. Some shortages in supply during drought periods)	10,300	10,800
Zone B		
Lompoc Plain Subarea	13,400	12,000
Lompoc Upland Subarea	36,700	37,000
Lompoc Terrace Subarea	700	900
Zone C		
Bedrock and other deposits	Unknown	Unknown
Zone D		
Buellton Upland Subarea (Eastern Portion)	3,000	2,700
Zone E		
Santa Ynez Upland Subarea (District Portion)	63,000	62,900
Zone F		
Santa Rita Upland Subarea	14,000	16,300
DISTRICT TOTALS	141,100 ±	142,600 ±

Accumulated overdraft is based upon estimates of accumulated dewatered storage (Table 17).

Current Year is forecasted.

Santa Ynez River

WATER CONSERVATION DISTRICT

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2024

SYRWCD Board of Directors Special Meeting and Public Hearing on 46th Annual Report

- 46th Annual Engineering and Survey Report on Water Supply Conditions of the Santa Ynez River Water Conservation District - A Summary of Findings for the Previous Water Year (2022-2023), Current Water Year (2023-2024), and Ensuing Water Year (2024-2025) - **Received by Board Secretary on March 11, 2024** (/files/372a79a0b/46th_SYRWCD_AR_2023-Recd2024-03-11.pdf)

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Water rates to rise, taxes to double

Southland wholesaler MWD cites lower revenue because of conservation efforts as well as higher costs.

BY IAN JAMES

The Metropolitan Water District of Southern California has announced that it will increase rates and property taxes throughout the region over the next two years as the state grapples with fundamental changes to its water supply and usage.

District leaders said the increases are necessary to cover the costs of importing and treating water, as well as finance climate change adaptations to infrastructure and make up for declines in revenue due to widespread conservation efforts.

“We’ve been successful in conservation to the point where our sales are declining, and we need to make that up somehow,” MWD Board of Directors Chair Adán Ortega Jr. said. “We’ve made up the revenue and stabilized the past rates with the reserves, and we can’t keep doing that.”

The district's 38-member board voted Tuesday to raise water rates 8.5% in 2025 and an additional 8.5% in 2026. This will increase costs for 26 cities and retail suppliers that receive imported water delivered by the MWD.

The budget adopted by the board also calls for doubling the MWD's property tax assessment in its six-county area — the first such increase to its ad valorem (according to value) tax rate in over 30 years.

For a median-value home in Los Angeles County, the MWD's annual property tax bill will increase to \$56 from \$28; in Orange County, it will rise to \$66 from \$33.

“We understand the impact rate increases can have on businesses and residents, so we have taken great steps to limit our increase as much as possible,” MWD General Manager Adel Hagekhalil said. “The difficult reality is, our costs have risen while revenues have dropped, so we need to take the fiscally responsible step of adjusting our rates.”

Hagekhalil said water sales and revenues declined in part because of the extreme drought from 2020 to 2022. And at the same time, the district's expenses have increased with inflation.

The MWD is California's largest urban water district, supplying drinking water to cities and other suppliers that serve 19 million people in six counties from San Diego to Ventura.

The budget adopted by the board includes \$2.4 billion for operations, capital investments and debt service in the next two fiscal years. It also includes nearly \$100 million for conservation programs.

Officials said they also made spending cuts to avert larger rate increases.

As part of the budget discussion, the board considered other options that would have involved splitting the increases differently between rates and property taxes. The board is expected to increase the property tax rate, as outlined in the budget, in August.

Ortega said this budget approach strikes the right balance and ensures investments that are necessary as water management becomes more challenging.

“It’s the cost of climate change,” Ortega said. “The reason why we have to invest in our water systems is because we have to use our water systems differently with climate change.”

He said that includes adding storage capacity, such as an underground facility that opened last year near Lancaster, as well as building interconnections that allow water to be moved where it’s needed during droughts.

“For most residents, it’s probably not on the top of their mind that the water they drink comes from 400 miles away in Northern California, or from over 200 miles away from the Colorado River. But half the water that can be consumed in this region in a given year has to travel that distance,” Ortega said. “You have these costs that remain and escalate. And then you have the complications of climate change that require us to adapt and build the new class of infrastructure that’s required for that adaptation.”

The budget outlines funding for programs over the next two years, and the district’s officials also plan to consider large investments in long-term infrastructure projects as they

develop what they call MWD's Climate Adaptation Master Plan for Water.

“Metropolitan is in a transformational period, facing critical decisions on which long-term projects to invest in to help our region adapt to climate change,” Ortega said. “As we embark on these major changes, this budget provides us the fiscal stability we need for the next two years.”

The district has collected property taxes for decades to pay its costs for importing water from Northern California through the State Water Project. Since the last time the district increased its property tax rate in 1990, the rate has decreased over the years.

According to the MWD, the increase in the property tax will amount to an average of \$2 to \$3 a month for a typical household. Officials said increasing the property tax revenues allowed them to adopt a smaller rate increase than had been initially proposed.

The approach stirred controversy. The board members representing Los Angeles — including Carl E. Douglas, Matt Petersen, Nancy Sutley, Tracy Quinn and Miguel Luna — objected to the increase in the property tax rate and abstained from the vote. They said in a recent letter that “shifting water bill collections onto property taxes will effectively raise the cost of housing for every citizen in the region, especially those in the disadvantaged communities.”

Others spoke against the rate increases. Moorpark Mayor Chris Enegren told the board that the rate increases are “very problematic for our citizens” and reflect “poor management.”

But the board, which has held four public workshops on budget options this year, voted unanimously to adopt the budget and the rate increases. Six board members abstained.

Bruce Reznik, executive director of the advocacy group LA Waterkeeper, supported the approach.

“Relying a bit more on property tax revenue and a bit less on how much water customers pay per gallon of water is both a more reliable way to generate funds for MWD and a more equitable approach to securing water for Southern California residents,” Reznik said.

He pointed out that currently the district brings in only about 20% of its revenues from fixed sources such as property taxes. Relying that heavily on water sales is problematic, Reznik said, because water use can fluctuate greatly year to year.

The increase in property taxes will mean a relatively low impact for Southern California families while improving the stability of the district’s revenues, Reznik said.

“Stabilizing revenues will enhance MWD’s ability to invest in conservation and environmentally sound opportunities for storing and generating local water, like through stormwater capture, wastewater recycling and groundwater cleanup,” he said. “These options are more sustainable and more equitable than continuing to rely on water imports.”

Charming Evelyn, chair of the water committee for the Sierra Club’s local chapter, said her group remained neutral about the options that were considered. But she said water affordability is a concern, as well as how the higher costs could affect renters and those on fixed incomes.

“Budgets should never be balanced on the backs of the working class,” Evelyn said, adding that she thinks MWD leaders “need to be more prudent in the future.”

Board member Juan Garza, who represents the Central Basin Municipal Water District, said before voting in favor of the budget that the MWD faces difficult decisions about rethinking its approach.

“It’s not a perfect budget, but by no means is our future easy,” Garza said. “I think our business model will have to change, and the sooner that we start adopting that mind-set, the better.”



Legal Alerts | 04/10/2024

In Case You Missed It: SB 477 Relocated and Consolidated State ADU Law into a New Government Code Chapter Last Month

State ADU Law Moved — But Without Change

In March 2024, the California Legislature enacted Senate Bill 477 as an urgency measure. SB 477 was signed by Governor Newsom on March 26, 2024, and it took effect immediately. The bill's purpose is to make state law governing Accessory Dwelling Units ("ADUs") and Junior Accessory Dwelling Units ("JADUs") easier to read and navigate. It does so by relocating numerous Government Code sections into a new chapter, and, within that chapter, key regulations are divided into smaller sections by topic area. SB 477's changes to state law are only organizational; none is substantive. Noteworthy features from SB 477 are summarized below.

SB 477 Overview

SB 477 adds a new Chapter 13 to Division 1 of Title 7 of the Government Code. The new Chapter 13 is divided into four articles and each article is further divided into various sections. The articles are organized as follows:

- **Article 1 – General Provisions.** The Legislature's findings and declarations regarding ADUs (formerly located in Government Code section 65852.150) are now provided in Government Code sections 66310, 66311, and 66312. All definitions governing the creation of ADUs and JADUs (formerly located in Government Code sections 65852.2 and 65852.22, respectively) are now provided in Government Code section 66313.
- **Article 2 – ADU Approvals.** The regulations governing the creation of ADUs (formerly located in Government Code sections 65852.2 and 65852.23) are now located in Government Code sections 66314–66332. By and large, each section contains one or more former subdivisions of Government Code section 65852.2 (e.g., the former Government Code section 65852.2(a) is now generally located in Government Code sections 66314–66319, and the former Government Code section 65852.2(e)(1)(A)–(D) is now provided in Government Code section 66323).

- **Article 3 - JADUs.** The regulations governing the creation of JADUs (previously located in Government Code section 65852.22) are now provided in Government Code sections 66333-6339. The same pattern identified above is present in Article 3 (the subdivisions of former Section 65852.22 are now given their own section numbers in this new article).
- **Article 4 - ADU Sales.** Before SB 477, local agencies were required to allow an ADU to be conveyed separately from the primary dwelling if it is developed by a qualifying non-profit entity and restricted to certain households in accordance with Government Code section 65852.26. SB 477 moved Government Code section 65852.26's regulations to Government Code section 66341. Additionally, state law's option for local agencies to allow ADUs to be conveyed as condominiums (previously contained in Government Code section 65852.2(a)(10)) is now located in Government Code section 66342.

Takeaways

SB 477 was enacted as an urgency measure and is now in effect. Its changes are only organizational and not substantive — it relocated and consolidated the state's ADU and JADU regulations into a new Government Code chapter.

Any cross-references to the former Government Code sections (e.g., 65852.2, 65852.22, 65852.26) should be updated as part of the local agency's next ADU ordinance update.

To further understand these changes and to learn more, consult your BBK attorney or contact us.

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Monthly Briefing

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

Proposed FWS Refuge Rule Has Ag in its Sights

The U.S. Fish and Wildlife Service (FWS) has proposed a regulation that would establish a policy to prohibit farming and grazing on public lands in the national wildlife refuge system, unless new, extra-statutory criteria are satisfied. The Family Farm Alliance - and many other agriculture and water organizations across the country - are urging FWS to not adopt the proposed regulations.

"We have drafted a comment letter on this proposed rule, which has implications for farmers across the West," said Alliance Executive Director Dan Keppen. "The fact that some of the most litigious anti-farming and ranching organizations are supportive of this regulation speaks volumes."

This proposal is an update of a policy issued during the last week of the Clinton Administration, and targets, and points to the elimination of longstanding and widespread agricultural practices on those public lands. FWS in late Feb-

ruary agreed to extend the early March public comment period for the proposed regulation by 60 days.



A herd of mule deer gather on a field in the Klamath Basin's Tule Lake National Wildlife Refuge in early March 2020. Photo courtesy of IWJV.

A key concern with the proposed regulation is that the notice of rulemaking recites reductions in wildlife populations and climate change but does not link the specific policy changes to these underlying concerns.

"The justification for the proposed rule ignores the reality that agriculture and human settlement in the Western U.S. have long been tied to ecologically important wetland and riparian resources and the water they provide," said Mr. Keppen.

A new study by the Intermountain West Joint Venture (IWJV) and associated *Intermountain Insights* shows that 60 percent of the wetlands supporting sandhill crane breeding habitat in the Intermountain West are provided by flood-irrigated grass hay agriculture.

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Alliance Supports Amicus Efforts in Two Important Ninth Circuit Water Cases

Two amicus – or, “friend of the court” – briefs were transmitted to the Ninth Circuit Court of Appeals earlier this month in support of legal positions that have implications for agricultural water users throughout the Western United States.

The Family Farm Alliance – with members in 16 Western states – provided support to both amicus efforts.

PCFFA, et al. v. Conant, et al.

On February 21, 2023, the Eastern District of California issued an order in this long-running case, granting summary judgment for Defendants San Luis & Delta-Mendota Water Authority (SLDMWA), the Bureau of Reclamation and Defendant-Intervenor Grassland Water District. The court found that the Grassland Bypass Project – a tile drainage system managed by Reclamation and SLDMWA – does not require a federal Clean Water Act (CWA) permit for discharges into a navigable water because it is within the CWA’s exemption for irrigated agriculture return flows and agricultural stormwater.

Environmentalist plaintiffs – led by the Pacific Coast Federation of Fishermen’s Associations (PCFFA) – have appealed that decision to the 9th Circuit, arguing that the agricultural exemptions must be narrowly construed and are inapplicable because there are alleged additions of pollutants to the Project from nonagricultural sources.

Most Alliance members receive water from federal irrigation projects and rely heavily upon the irrigation and drainage infrastructure – and associated CWA exemption for irrigation return flows – provided by the federal projects.

“The plaintiff’s position is an extreme reading of the CWA,” said Alliance General Counsel Norm Semanko (IDAHO). “If adopted, it would effectively eliminate the CWA’s agricultural exemptions. Because agricultural drains lie in immediate contact with the soil and receive some seepage water with natural constituents that constitute ‘pollutants’ under the CWA, virtually any agricultural drainage that flows out of a drainage conveyance and into a WOTUS would require a CWA point source permit. This would potentially subject operators to penalties for past operations.”

The amicus brief – spearheaded by the Association of California Water Agencies and California Farm Bureau Federation – was filed on March 6. The Alliance and Western Growers Association signed on to the brief, along with 8 California commodity and water organizations.

The amicus explains that irrigated agriculture in the West depends on drainage systems and necessary infrastructure to support crop production. An agricultural drain does not lose the CWA exemption unless project operators affirmatively add or allow discharges of pollutants from another point source unrelated to crop production.

“The District Court’s decision maintains the integrity of the exemption and is consistent with CWA caselaw,” the amicus states. “This Court should uphold the ruling of the district court and maintain the integrity and essential function of the exemption as intended by Congress.”

The amicus is a good product, according to Mr. Semanko, who also thought the U.S. and SLDMWA briefs filed earlier were “very solid”.

“PCFFA’s reply brief will be next, followed by oral argument in front of a three-judge panel,” he said. “Our fingers are crossed for a good result.”

United States of America v. Klamath Drainage District

On September 11, Magistrate Judge Mark Clarke issued a final ruling in a lawsuit brought by the federal government against the Klamath Drainage District (KDD). The ruling held that KDD may not divert water from a canal that it owns, using water rights that are in KDD’s name, unless

the U.S. Bureau of Reclamation authorizes it to do so.

“This is an extraordinary expansion of federal power,” KDD President and family farmer Bill Walker said at the time of the ruling.

For over a century, KDD has diverted water from the Klamath River to serve approximately 27,000 acres of irrigated farmland in Klamath County, Oregon. KDD has contracts with Reclamation that allow KDD to use water released from Upper Klamath Lake, subject to required payments to the United States. In the 1970s, KDD pursued a back-up to its contract with Reclamation. It obtained water rights in its own name and can divert the water either through a federally-owned facility or through a canal built and owned by KDD.

In 2022, Reclamation ordered KDD not to divert water, contending that KDD could only divert water left over after Reclamation furnished water for various fish species under Reclamation’s Endangered Species Act (ESA) obligations and water had been delivered to Project contractors with higher priority contracts. In recent years, this amount of water has been zero.



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Alliance Directors Provide a Glimpse into CA Water Challenges Central Valley and Colo. River Basin are Two Water Hot Spots

Two Californians who also serve on the Family Farm Alliance Board of Directors had guest opinion pieces published last month in Golden State media outlets.

One described the looming regulatory challenges faced by Central Valley Project ag water service contractors who farm on the West side of the Valley.

The other showcased the water conservation efforts already achieved by Imperial Valley producers and water managers who depend on hotly contested Colorado River water supplies.

Regulatory Drought in the Central Valley

In California's Central Valley, where the soil is as diverse as its people, agriculture forms the cornerstone of the economy and culture. Yet, the lifeblood of those farm fields—water—is entangled in a complex web of environmental, societal, and regulatory challenges.

Alliance director William Bourdeau wrote about the myriad of negative consequences that will arise due to an upcoming push by federal water managers to restrict water in his "It's time for equilibrium in California's water policies", published by the *San Joaquin Valley Sun*.

Last month, the Bureau of Reclamation announced an increase in the federal Central Valley Project 2024 water supply allocations, thanks to recent storms that have improved hydrological conditions particularly for Northern California, allowing for a more robust water supply allocation.

"The combination of the abundance of rain and snow from the winter of 2022-2023, the state of the reservoirs, and what has happened this winter gives a high confidence that drought conditions will remain absent in California well into 2025," said AccuWeather California weather expert Ken Clark.

However, environmental regulatory constraints continue to limit supplies to some contractors, particularly south of the Bay-Delta.

"While the series of storms in Northern California improved the water supply outlook, a number of factors, particularly anticipated regulatory constraints throughout the spring, continue to limit the water supply allocation for south-of-Delta agriculture," said California-Great Basin Regional Director Karl Stock.

Statewide, reservoirs are at 115 percent of average for this time of year, with Lake Oroville, the State Water Project's (SWP's) largest reservoir, at 125 percent of average and 86 percent of capacity. Still, the updated SWP allocation forecast announced last month only anticipates delivery of 30 percent of requested supplies to contractors south of the Delta and 50 percent of requested supplies to contractors north of the Delta.

The initial February 21 allocation for CVP South of Delta agricultural contractors, including Westlands Water District, was set at 15 percent of the total water contract. Last month's announcement revised the previous allocation to 35 percent for South of Delta agricultural contractors.

"Missed Opportunity"

The news was met with disappointment by those water users, particularly since the broad public discussions surrounding water management in California have led many to believe that higher levels of delivery would be possible in better hydrologic years, such as this one.

"Inadequate and unpredictable water supplies have a direct impact on the communities and farms in the San Joaquin Valley and their ability to feed the nation and the world," said Allison Febbo, General Manager of Westlands Water District. "With implementation of the Sustainable Groundwater Management Act, our growers rely almost entirely on our CVP surface water deliveries to either reduce our reliance on groundwater pumping in years with relatively good hydrology or recharge our groundwater basins in years with wet hydrology."

Earlier this year, in consideration of the relatively good hydrology, Westlands had been planning to have sufficient CVP surface water allocations to reduce or eliminate its reliance on groundwater pumping. The science regarding operational decisions and the hydrology moving forward appeared to support a higher allocation.

"Today's low allocation update is a missed opportunity to celebrate what appears to be good outcomes for fisheries and to also provide water supplies that are essential for the San Joaquin Valley, an area already struggling with economic challenges and rising unemployment," said Ms. Febbo.

"I'm a California farmer. Other states can learn from our water conservation success."

The *San Diego Union Tribune* last month ran an opinion piece written by Alliance Director Steve Benson - who farms in southern California's Imperial Valley - on solving the Colorado River crisis.

"Protecting our water future is a huge undertaking, and everyone must acknowledge that conservation only happens with incentives, flexibility and greater funding," Mr. Benson wrote.

The Colorado River is a vital water resource in the southwestern United States and northwestern Mexico. It irrigates nearly 5.5 million acres of farmland and sustains life and livelihood for over 40 million people in major metropolitan areas. The Colorado River provides water to two countries, seven western states, 30 Tribal Nations and 40 million residents.

Reclamation and water agencies are working to take extraordinary actions across the Colorado River Basin to find ways to stabilize water storage volumes in Lakes Powell and Mead. A recent Reclamation study found that an average of 1.3 MAF of water is lost annually as it evaporates between Lake Mead and Mexico.

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California Water “Hot Spots” (Cont’d from Page 3)

Mr. Benson’s personal view is one of many held by Alliance members, who operate in all 7 Basin states.

“Despite the diversity of Colorado River policy opinions within our membership, the Alliance board of directors in 2015 and again in 2022 adopted principles and recommendations intended to guide state and federal decision-makers as they negotiate a long-term operating agreement on the Colorado River,” said Alliance Vice-President Don Schwindt (COLORADO).

The 2022 policy paper – which has also been adopted by several water agencies served by the Colorado River– has as its top principle the need to “recognize that Western irrigated agriculture is a strategic and irreplaceable national resource”.

States Submit Upper/Lower Basin Water Management Proposals

Officials from the seven states sharing the Colorado River last month presented conflicting proposals to the Biden Administration regarding how to implement necessary cuts amid worsening water scarcity and decades of drought conditions.

Both Upper Basin (COLORADO/WYOMING/UTAH/NEW MEXICO) and Lower Basin (CALIFORNIA/ARIZONA/NEVADA) states agree on potential cuts of up to 25% of the river’s flows under extreme conditions but disagree on the distribution of the reductions. Disagreements also continue over accounting for water in the Colorado River system, including whether to include smaller reservoirs in the system alongside Lake Mead and Lake Powell.

The Upper Basin’s plan suggests imposing cuts on the Lower Basin, while the Lower Basin’s proposal advocates for shared cuts across all states.

“It’s hugely important for folks to know that the Lower Basin is going to step up, and that we see a desire and a need for the rest of the problem to be solved collectively,” Tom Buschatzke, director of the Arizona Department of Water Resources, told the *Desert Sun* last month. “We can’t do it all. It is not physically possible.”

DOI and Reclamation will review the proposals and work to seek consensus, aiming to draft a long-term operating plan by the end of the year before the current operating guidelines expire in 2026.

“The Upper Basin states continue to believe that the best path forward is for all 7 states to reach agreement on a 7 State consensus alternative. To that end, after the initial submission, we hope to work with the Lower Basin States to refine the two basin alternatives into a single consensus alternative,” wrote the state representatives of the Upper Colorado River Commission.

Despite the gap between the plans, basin state officials

express a willingness to collaborate towards a common solution, recognizing the need for collective action to address the long-term challenges facing the Colorado River Basin.

“If there is interest in getting to a seven-state consensus compromise, all seven states have to actually compromise and recognize this is a massive problem that needs solving, not a party primary or campaign rally,” J.B. Hamby, chair of the Colorado River Board of California, told *E&E News*.

Near-Term Operations

Last month, the Biden Administration released a final Supplemental Environmental Impact Statement (SEIS) for the near-term interim pre-2026 operation of Glen Canyon and Hoover Dams to address the ongoing drought and impacts from chronic water shortages in the Basin. The identified preferred alternative reflects a historic, consensus-based proposal secured in partnership with the seven Colorado Basin states that will lead to at least 3 million acre-feet of system water

conservation savings through 2026, when the current guidelines expire.

“The Biden-Harris administration remains committed to ensuring the long-term sustainability of the Colorado River Basin for decades to come based on the best available science and with robust input from stakeholders across the West,” said

Interior spokesperson Tyler Cherry.

Tribes Present River Management Expectations to BOR

Meanwhile, in a March 11 letter to the Bureau of Reclamation, obtained by *The Arizona Republic*, 20 Colorado River Basin tribes outlined what they expect in new river management guidelines that will take effect when the current guidelines expire Dec. 31, 2026.

The two tribes with Arizona’s largest river allocations — the Colorado River Indian Tribes and the Gila River Indian Community— did not sign the letter.

The tribal leaders presented three key principles they expect the Biden Administration to abide by when developing river management protocols:

- Uphold its trust responsibility to the basin tribes by protecting Indian tribal water rights whether or not they have been quantified.
- Create and support an array of tools to give tribes flexibility in how and when they use their water rights.
- Provide a permanent, formalized structure for tribal participation in implementing the new Colorado River management guidelines during the current negotiations and in any future river policy and governance.

“Basin tribes have long faced systemic barriers to developing and benefiting from their water rights,” the group said.

“All seven basin states make significant contributions to our food supply.... At a time of widespread unrest in the world, food security is a key component of national security.”

Steve Benson, *San Diego Union Tribune* (3/18/24)

House Ag Committee Hopes for Farm Bill Markup Before Summer

A key staff member of the House Committee on Agriculture briefed Family Farm Alliance leaders last month on the status of the next farm bill. All indications are that the committee hopes to see a markup before Memorial Day.

"Chairman G.T. Thompson is in 'go mode' now and we are pressing to mark up as soon as possible," Josh Maxwell, a majority staff member on the Committee, told Alliance directors and Advisory Committee members on a ZOOM call last month.

The farm bill is an omnibus, multiyear law that is typically renewed about every five years. The House leadership chaos of January 2023 had wide implications for the farm bill — including holding up work on the bill and complicating its eventual path to passage.

Given the delays from the debt ceiling and appropriations negotiations, lawmakers have yet to release the draft text of the Farm Bill legislation in both chambers. Key topics of debate between Democrats and Republicans include SNAP (food stamp assistance) and funding levels for climate change and rural energy programs.

Farm Bill Debate over Conservation and Climate Spending Continues

The 2023 Farm Bill, which was supposed to be passed by the end of September 2023, now has a deadline that expires at the end of next September. Challenges remain on reaching agreement between Democrats and Republicans on the House and Senate ag committees.

Last month, Republicans on the Senate Agriculture Committee ramped up efforts to move around \$13 billion from the Inflation Reduction Act's (IRA's) conservation provisions focused on carbon reductions and climate to fund broader conservation programs in the new five-year farm bill. This move aims to boost conservation programs indefinitely and address what they term the "conservation cliff" when IRA provisions expire in 2031.

"There is a bipartisan solution to the conservation cliff," the minority side of the committee said in a recent blog post. "Moving IRA funds into the farm bill could represent a historic bipartisan investment to help farmers, ranchers, foresters, conservationists, and other stakeholders meet their local conservation needs."

On the Democratic side, committee Chair Debbie Stabenow of Michigan has said she won't agree to that, although she's open to transferring money with the climate stipulation intact (*E&E Daily*).

Chairman Thompson thinks that the \$20 billion IRA injected into USDA conservation programs, is the first opportunity for reinvestment. Because of the process used to pass the IRA, this increased conservation funding peaks in 2026 and ultimately all funds expire in 2031. These dollars are limited in use by climate sideboards and federal bureaucracy, as noted above. Chairman Thompson thinks they should be refocused toward programs and policies that allow farmers to continue to make local decisions that work for them.

Of special importance to Chairman Thompson is the Title 1 Safety Net, which has seen a significant decline in spending. There are three areas he is eyeing on how to boost funding for the Title. In addition to the IRA dollars — which he would like to see reinvested into the permanent baseline and research and development, he is looking at the discretionary account set up using Commodity Credit Corporation authorities, and the thrifty food plan of SNAP.

House Ag Committee staff hope to see a committee markup before Memorial Day. The Chairman is in "go mode" now and they are pressing to mark up as soon as possible.

"We're waiting to hear back from the Congressional Budget Office and USDA technical services on a few items," said Mr. Maxwell. "Once that happens, things could break loose any day."

WACC Meeting in Reno

Once again, the Alliance has worked closely with its partners in the Western Agriculture and Conservation Alliance (WACC) on the next Farm Bill. The Alliance and many of its members are strong supporters of the NRCS Watershed and Flood Prevention Operations Program (WFPO, often referred to as the "PL-566" Program).

"We held our 12th annual WACC meeting on Saturday, February 24, under a cloud of sadness for Pat O'Toole's illness and subsequent death," said WACC Coordinator Jeff Eisenberg. "Our focus was on our Farm Bill strategy and in particular determining what should be our next steps in the House."

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Recent CWA Developments Across the Federal Government

Activity surrounding the implementation of the federal Clean Water Act (CWA) continues to simmer in various forums in all three branches of the government following the May 2023 landmark ruling by the Supreme Court of the United States (SCOTUS) in *Sackett v. EPA*.

That decision significantly narrowed much of the federal government's protections for wetlands, tributaries and streams as "waters of the U.S." (WOTUS) under the CWA.

"The Family Alliance has been tracking the WOTUS "ping pong" game for the past 15-plus years, as CWA implementation changes with every new occupant in the White House," said Alliance Executive Director Dan Keppen.

Congress: House Passes GOP Water Permitting Act

The House of Representatives last month passed the *Confidence in Clean Water Permitting Act*, (H.R. 7023), on a 213-205 vote, with only two Democrats — Henry Cuellar of Texas and Don Davis of North Carolina — voting in favor and one Republican voting against it, Rep. Morgan Griffith of Virginia.

"I am proud to see the House pass the *Creating Confidence in Clean Water Permitting Act*," said Rep. Burgess Owens (R-UTAH). "From increasing permitting transparency and certainty to limiting frivolous litigation, this legislation reaffirms the original goals of the CWA and modernizes the path for critical energy and infrastructure projects."

The bill includes modifications to the CWA and was amended on the House floor to codify Florida's wetlands permit program (after a federal judge revoked their authority under the CWA) and to bar Chinese companies from obtaining federal water permits.

While the legislation was defended by Transportation and Infrastructure (T&I) Committee GOP leaders as an improvement to the CWA, Democrats and the White House argue it weakens environmental protections.

"Unfortunately, the Republican majority also continued their ill-advised attacks on the Clean Water Act," said Rep. Rick Larsen (D-WASHINGTON), the Ranking Member of the House T&I Committee. "There are genuinely pressing matters facing our nation's waters and I look forward to investing in our water resources infrastructure in a bipartisan manner by enacting a new Water Resources Development Act this year."

Amendments also address staffing for federal water permits, permit length for public works projects, and exemptions

for certain types of pollutants. However, contentious aspects, such as provisions shielding companies from liability for unlisted pollutants and shifting EPA's system for developing water quality criteria into a formal rulemaking process, drew criticism for potentially endangering water quality.

"Despite passing the House, the bill faces opposition from the Democrat-controlled Senate and the Biden White House and is unlikely to become law in this Congress," said Mark Limbaugh with The Ferguson Group, the Alliance's representative in Washington, D.C.

Executive Branch: Army Corps Announces Post-*Sackett* Wetlands Protections

The Army Corps of Engineers (Corps) announced plans to safeguard wetlands no longer regulated by the CWA following the Supreme Court ruling in *Sackett v. EPA*.

For a wetland to be regulated by the CWA, it must have a continuous surface connection to a regulated "waters of the U.S." or WOTUS. The Corps is planning to utilize existing authorities and resources to conserve what they consider vulnerable water bodies, focusing on

ecosystem restoration projects, nature-based flood solutions, and assisting states and tribes with water protection efforts in regions left vulnerable to development because of the *Sackett* ruling.

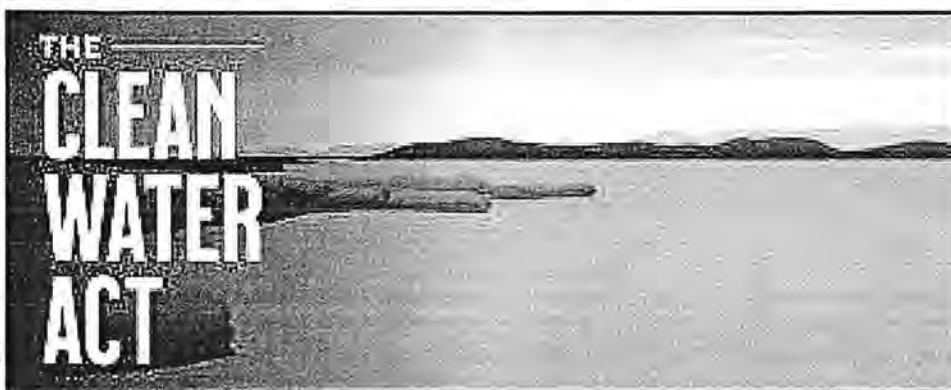
Despite the impacts from *Sackett*, the Corps will continue to require mitigation for wetland losses in permitted projects.

"The definition of "waters of the United States" is limited to the question of Clean Water Act jurisdiction, not for deciding what categories of resources can be restored, enhanced, established, or preserved to provide compensatory mitigation," wrote Assistant Secretary for the Army (Civil Works) Michael Connor in a March 22, 2024 memorandum.

President Biden has in the past emphasized the Administration's commitment to protecting water resources amid concerns over rollbacks to clean water regulations due to *Sackett*.

Meanwhile, some states are pursuing new permitting programs to safeguard waterways, while others, like Indiana, have reduced wetland protections under state law.

Elsewhere, the Waters Advocacy Coalition (WAC), representing various industrial and municipal entities, has submitted a Freedom of Information Act (FOIA) request seeking internal



Continued on Page 13

Biden Administration Releases FY 2025 Budget Request

The Biden Administration last month released their FY 2025 budget request for the federal government. The Republican-led House Budget Committee pushed back on the Biden Administration's budget before it was even released.

"President Biden's reckless spending agenda is a threat to our national security and America's way of life," the GOP Budget Committee website stated. "It threatens to destabilize today's economy and rob future generations of Americans of the blessings of liberty that make our nation exceptional."

Notably, the overall Biden Army Corps of Engineers / Interior Department / NOAA budget refers to supporting the development of a "long-term strategy" to restore Columbia Basin salmon and steelhead and "more effective water management of certain dams".

The administration has led negotiations where removal of dams on the Lower Snake River, raising concerns with agricultural interests in the Pacific Northwest.

"The likelihood of Congress fully adopting the Biden Administration's FY 2025 budget request is highly unlikely as lawmakers typically use the President's request as a marker to create their own budget through the appropriations process," said Mark Limbaugh with The Ferguson Group, the Family Farm Alliance's representative in Washington, D.C.

The budget impacts on some of the departments and agencies the Alliance works with are summarized below.

Department of Interior, Bureau of Reclamation

The FY 2025 budget request includes \$17.8 billion for the Department of Interior (DOI) in FY 2025, emphasizing increased funding for tribal programs, climate change initiatives, and various conservation efforts. The budget request includes \$1.6 billion for Reclamation.

"The President's budget proposal supports Reclamation's critical work delivering water and generating power in the West in the face of a historic drought and a changing climate," said Reclamation Commissioner Camille Calimlim Touton.

The Reclamation budget request includes increased allocations to support the Columbia Basin Restoration Initiative aimed at restoring Pacific Northwest salmon populations.

Additionally, the proposed Reclamation budget seeks to address ongoing drought issues in the western United States, particularly along the Colorado River System.

The budget proposal also includes language reiterating Senate direction of the controversial OpenET program, a platform intended to provide estimates of evapotranspiration (ET). This language notes concerns related to privacy, data quality and potential for regulatory impacts and directs Reclamation to provide a briefing on OpenET as it pertains to Reclamation's assessment of these concerns and potential solutions.

Environmental Protection Agency (EPA)

The Biden Administration's budget request also calls for an increase in the EPA FY 2025 budget to support the Presi-

dent's climate change legacy and support communities facing pollution challenges. The White House has proposed \$11 billion for the EPA in FY 2025, a significant increase compared to the \$9.2 billion appropriated for FY 2024.

The budget aims to enhance EPA staffing levels, environmental justice initiatives, and enforcement efforts. Specifically, it allocates funds for air quality improvement, climate change mitigation, and tackling emerging contaminants like PFAS.

The budget also prioritizes water infrastructure and cleanup programs, Superfund site remediation, and efforts to address toxic substances. Additionally, the proposal includes funding for the expansion of the new American Climate Corps.

Department of Agriculture (USDA)

The administration has requested increased funding for USDA in the next fiscal year to address climate change, farmland conservation, and infrastructure needs. The proposed budget of \$31.6 billion in discretionary spending includes nearly \$12 billion for various climate crisis programs such as clean energy initiatives in rural areas and conservation efforts.

"Looking ahead to 2025, it is critically important that USDA's programs, staff and facilities are funded adequately to live up to its moniker 'The People's Department'," said Agriculture Secretary Tom Vilsack.

The budget also aims to expand USDA regional climate hubs, add roughly \$85 million and more workers to the Natural Resources Conservation Service (NRCS), and promote "equity conservation agreements" for underserved farmers.

Additionally, the budget proposal includes funding for climate hubs programs, outreach on climate change effects in agriculture and forestry, and a program to incentivize farmers to plant cover crops.

Army Corps of Engineers (Corps)

The Biden Administration has proposed a 17 percent reduction in the Corps budget for water resources work, prioritizing funding for projects focused on climate resiliency, public safety, environmental protection, and economic benefits.

"The \$7.2 billion budget request for FY 2025 follows a trend of past Administrations proposing cuts to the agency's budget to allocate resources to other policy priorities, expecting Congress to restore funding later," said Mr. Limbaugh.

The proposed budget allocates \$930 million for operations and maintenance of locks and dams, and \$1.7 billion for coastal port maintenance—a significant reduction from previous years enacted levels. Notable investments include \$444 million for ecosystem restoration in the Everglades and \$145 million for salmon fisheries recovery on the Columbia River.

"The Army Civil Works FY 2025 Budget demonstrates this Administration's ongoing commitment to funding the construction of crucial infrastructure projects across the nation that will strengthen our economy, protect people and property, and restore key ecosystems," said Michael Connor, Assistant Secretary of the Army for Civil Works.

Leadership Changes on the Hill: Implications for Western Water

Senator Mitch McConnell (R-KY) at the end of February announced that he will step down as the GOP leader in the Senate in November, triggering a string of events that could have real impacts on how Senate leadership engages in Western water matters.

"One of life's most underappreciated talents is to know when it's time to move on to life's next chapter," the Senate minority leader said on February 28. "So I stand before you today ... to say that this will be my last term as Republican leader of the Senate."

Senator McConnell began his service in the Senate in 1985 and has served as the Republican Party Leader since 2007.

Senate Republican Conference Chair John Barrasso (R-WYOMING) has decided to run for whip in the next Congress, taking a pass on a race for leader, firmly establishing Senate Minority Whip John Thune (R-SOUTH DAKOTA) as the frontrunner. Senator Barrasso will also be the favorite for the whip position, the No. 2 job in Senate Republican leadership.



Senator John Barrasso (at the dais) pays tribute to the late Pat O'Toole, former president of the Family Farm Alliance, in a Senate floor speech last month. Senator Barrasso is the likely frontrunner for the whip position, the No. 2 job in Senate GOP leadership.

Photo courtesy of the office of Senator Barrasso.

Leadership Changes at Senate ENR

Senator Barrasso's departure from the Senate Energy and Natural Resources (ENR) Committee opens the door for Senator Mike Lee (R-UTAH) to move into the committee's top GOP spot in the next Congress. Capitol Hill observers predict that the top Democrat slot on the committee - currently held by ENR Committee Chair Joe Manchin (D-WV) - will be filled by Senator Martin Heinrich (D-NEW MEXICO).

The ENR Committee is an important one to the Family Farm Alliance, since most Western water legislation is marked up by this panel.

Sens. Lee and Heinrich apparently have a cordial relationship, but each will have differing priorities.

"My priorities are going to continue to be clean energy and managing that transition, and public lands," Senator Heinrich recently told *E&E Daily*.

Senator Lee is critical of government overreach and spending but supports federal land agency efforts to aggressively treat dead and dying forests.

Senator Manchin, who recently decided against a presidential run, is now focusing on energy permitting reform and considers it as potentially the final accomplishment of his congressional career. He plans to collaborate with ENR Ranking Member Barrasso to draft a permitting reform bill by this spring. Despite a decrease in committee activity since announcing his retirement, Sen. Manchin has shown renewed determination to address permitting reform.

"We're going to get it. I am determined", he told AXIOS last month. "We've got one ready and we're working with our Republican friends and everything."

The proposed deal aims to balance Democratic priorities such as transmission build-out with Republican interests in expediting judicial review for energy projects. The main question now is whether Senate Majority Leader Chuck Schumer (D-NY) and the Biden White House will support the bipartisan effort.

Despite challenges from both sides of the aisle, Senator Manchin remains committed to his bipartisan approach to energy policy, emphasizing the importance of innovation and the role of fossil fuels in the nation's current and future

energy production.

"We're trying to make a more perfect bill," he told AXIOS. "We've got to do something in permitting to get something done."

Meanwhile, Kyrsten Sinema, the independent Senator from Arizona, announced that she will not seek reelection to a second term, ending the possibility of a contentious three-way race in a politically competitive state. Sen. Sinema, who switched from Democrat to independent in 2022, cited partisan dysfunction in Congress as a reason for her decision.

"Because I choose civility, understanding, listening, working together to get stuff done, I will leave the Senate at the end of this year," she said in a statement.

In her position on the ENR Committee in the last Congress, she helped lead Western Democrat efforts to secure \$8.3 billion in the Infrastructure Investment and Jobs Act and \$4 billion in the Inflation Reduction Act to help fund Bureau of Reclamation infrastructure and Western drought programs.

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Alliance Raises Concerns with Offsets Proposed in GOP Conservation Bill

House Committee on Natural Resources Chairman Bruce Westerman (R-Ark.) last month rolled out H.R. 7408, *America's Wildlife Habitat Conservation Act* (AWHCA), intended to restore and maintain habitat for America's wildlife.

"This is a forward-thinking bill that gives states and local communities the opportunity to manage the species they know best," said Chairman Westerman. "We're working to make historic investments in America's wildlife habitat because we know what works. Through proven solutions and strategic investment, we can ensure the longevity of our nation's incredible wildlife for generations to come."

This legislation would provide states and tribes with the necessary resources to implement habitat restoration projects vital to preventing the listing of species and to accelerate the delisting of species under the Endangered Species Act (ESA).

While the Family Farm Alliance generally supports the provisions in H.R. 7408, the organization has grave concerns over the choice of offsets used to pay for authorized spending in the bill. The bill offsets its costs in part by rescinding \$1.4 billion in unspent funds from previously appropriated funds, including \$775 million from the Bureau of Reclamation loan and grant programs under the Infrastructure Investment and Jobs Act (IIJA) and the Inflation Reduction Act (IRA).

The Alliance helped lead nation-wide coalitions in support of Congressional action to advance the Western water infrastructure and drought provision contained in the 2021 IIJA and the 2022 IRA.

"These are funds that the Alliance, our Western water coalition and others fought hard to secure," said Alliance Executive Director Dan Keppen.

Shortly after H.R. 7408 was introduced, the Alliance sent letters to Chairman Westerman and House Water, Wildlife and Fisheries Subcommittee Chair Cliff Bentz (R-OREGON), outlining concerns with the proposed offset language.

At a hearing conducted days later by the WWF Subcommittee, groups like the Rocky Mountain Elk Foundation and the Association of Fish and Wildlife Agencies expressed support for the bill. However, Interior Department leaders in the Biden Administration voiced opposition.

Matthew Strickler, Interior Department Deputy Assistant Secretary, Fish and Wildlife and Parks also raised concerns about the proposed offsets.

"To date, Reclamation has committed \$836 million in aging infrastructure funding and \$51 million in aquatic ecosystems funding," he stated in his written testimony. "The Administration strongly opposes the rescinding of BIL and IRA funds and using them as offsets."

Ochoco Irrigation District Completes Partial Title Transfer

Congressman Cliff Bentz (R-OREGON) and Bureau of Reclamation Commissioner Camille Touton last month celebrated the signing of a document that conveyed some federally-owned Crooked River Project facilities to the Ochoco Irrigation District (OID).

"This 'phase one' title transfer of the Crooked River Project's water distribution facilities to OID will provide the District with complete ownership of the water delivery infrastructure and land upon which that infrastructure is located" said Rep. Bentz. "This is an important step toward local control and autonomy for the District."

Title transfer is a voluntary conveyance of ownership for water projects including dams, canals, and other water-related infrastructure to the beneficiaries of those facilities.

Crooked River Project facilities in the title transfer are located near Prineville (OREGON) and comprise eight pump stations, canals, drains, pipelines, and a borrow area at the base of Ochoco Dam. Reclamation and OID have been working together in accordance with title transfer authority provided in the 2019 John D. Dingell, Jr. Conservation, Management, and Recreation Act ("Dingell Act").

Title transfer is an important issue to the Family Farm Alliance. In late 1997, the organization launched an initiative to encourage Congressional action on pending project title transfer legislation. Alliance Advisory Committee member Tom Knutson (NEBRASKA) and Alliance Executive Director Dan Keppen both testified before a House subcommittee in the 115th Congress in support of title transfer legislation.

"Title transfers are one of several positive means of strengthening control of water resources at the local level," said Mr. Keppen. "However, despite the benefits, local water agencies in the past were discouraged from pursuing title transfer because the process was expensive and slow. Plus, every title transfer used to require an act of Congress."

That all changed with the Dingell Act, which included provisions that streamlined the title transfer process. Beginning in 2020, Reclamation used its new administrative and Congressional authorities to transfer federal facilities to local ownership in several Western states.

In years past, approximately 1.2 transfers per year were completed by Reclamation. With the new Interior authority and *Dingell Act* provisions, seven transfers were completed in 2020 alone. Ten transfers have been completed under the Biden Administration, which shows the process is working.

OID in 2019 paid off its project debt, opening the door for them to take advantage of the newly passed Dingell Act. The title transfer process was launched in 2020 and OID was the first entity in Oregon to complete the new process.

Congressman Bentz joined Commissioner Touton in his Washington office to celebrate the signing of the document.

"The District has since been paying for maintenance and operations, so this is a welcome opportunity for the Bureau to hand over the title to this portion of the project," said Rep. Bentz. "I congratulate OID and thank Commissioner Camille Touton for her leadership in making this conveyance a reality."

Alliance Comments on Proposed BOR Directives

The Alliance helped lead nation-wide coalitions in support of Congressional action to advance the 2021 Infrastructure Investment and Jobs Act (IIJA) and the 2022 Inflation Reduction Act (IRA). Now, the organization wants to ensure that most of these dollars would be spent on-the-ground for the intended purpose.

“Over the past two years, we worked with a subset of the Bureau of Reclamation leadership, led by the Commissioner’s office, to find ways to make implementation of the IIJA - particularly the Aging Infrastructure Account (AIA) and the WaterSMART program - more efficient and responsive to water user concerns,” said Alliance Executive Director Dan Keppen.

The IIJA includes \$8.3 billion for Reclamation, as part of a proposal advanced by over 230 water, ag and urban organizations. That coalition was led by a steering committee that included the Alliance, Association of California Water Agencies (ACWA), California Farm Bureau Federation, National Water Resources Association (NWRA) and Western Growers.

The IIJA investment will repair aging water delivery systems, secure dams, complete rural water projects, and protect aquatic ecosystems.

New Directives and Standards (D&S)

Directives and Standards (D&S) provide the level of detail necessary to ensure consistent application of policy Reclamation-wide. They are also structured to provide flexibility to local offices, allowing the unique aspects of each Reclamation project and program to be taken into consideration. D&S are signed by the Senior Executive of the program function as delegated by the Commissioner.

Reclamation has proposed two new implementing documents that impact use of IIJA funds.

CMP 08-01 and PEC 05-03

At the request of the Alliance, Reclamation last February hosted a public outreach session on draft D&S CMP 08-01 (Capital Investment and Repair Needs). Comments on the proposal were due March 15.

“Our comment letter focused on concerns regarding Reclamation’s use of information provided by project sponsors for transferred work extraordinary maintenance (XM) projects they believe are high priority,” said Alliance Executive Director Dan Keppen.

Comments on another draft D&S, PEC 05-03 - “Funding and Extended Repayment of Extraordinary Maintenance Costs” - were due March 22.

The Alliance and National Water Resources Association in 2021 worked closely with Reclamation to address some troubling provisions contained in the original draft D&S. It’s now essentially been completely re-written.

“Overall, we are pleased with the changes Reclamation made to the revised draft PEC 05-03,” said Mr. Keppen. “Importantly, the revised document shows the changes Reclamation has made to address our concerns regarding the requirement to use a large portion of the contractor’s reserve fund prior to using AIA funds.”

The Alliance has remaining concerns in two areas: 1) Contracting and contract requirements; and 2) Eligibility for emergency extraordinary maintenance (EXM). These concerns are further detailed in the Alliance’s March 22, 2024 comment letter.

Proposed FWS Wildlife Refuge Rule (Cont’d from Pg. 1)

Irrigation projects also provide important benefits to wetlands. In California’s Sacramento Valley, rice production provides vitally important surrogate habitat and food for waterfowl and other species.

In the Klamath Basin of California and Oregon, cereal grains and other wildlife-friendly agricultural production is critical to meeting the needs of Pacific Flyway waterfowl. The Klamath Basin is one of North America’s most important wetland systems.

Klamath Project irrigators say that application of the proposed rule to agricultural activities on land covered by the federal Kuchel Act would be contrary to that statute and the Congressional design for continuation of commercial agricultural production on that extremely valuable cropland. The Kuchel Act deals with the entirety of four national wildlife refuges in the Klamath Basin covering over 146,000 acres of public lands.

“Any alteration in management of the Kuchel Act lands would result in negative economic, socioeconomic, and environmental impacts,” a coalition of Klamath Project water users wrote to FWS. For decades, farmers planted crops, flooded fields, and created food and habitat for migrating waterfowl along the Pacific Flyway. Birds thrive on waste grain and green browse fields.

The House Committee on Natural Resources will be conducting an oversight hearing on the proposed regulation on April 10. Marc Staunton, an irrigator who is intimately familiar with leaseland farming on the Klamath national wildlife refuges, will represent the Klamath Water Users Association at the hearing.

“Farmers, ranchers, and constructive NGOs know that the best water and conservation solutions are unique and come from the local, watershed, and state levels,” said Mr. Keppen. “And they understand that species recovery and economic activity do not have to be mutually exclusive.”

Congress Finalizes FY 2024 Government Funding

Congress on March 22 passed the Further Consolidated Appropriations Act, 2024 (H.R. 2882). The \$1.2 trillion second “minibus” package covers the Defense, Financial Services, Homeland Security, Labor-HHS-Education, Legislative Branch, and State-Foreign Operations bills. The House passed the bill by a vote of 286-134, and the Senate followed, passing the bill 74-24. President Biden signed the legislation into law to avoid a partial government shutdown.

This comes after President Biden signed into law the first FY 2024 minibus package of six spending bills on Saturday, March 9.

“Thank you to Leaders Schumer and McConnell, Senators Murray and Collins, Speaker Mike Johnson, Leader Jeffries, and Representatives Granger and De-Lauro, for their leadership,” the White House said in a March 9 press statement.

With these actions, all federal departments and agencies have full-year funding through September 30, 2024. Congress will now pivot to the Fiscal Year 2025 appropriations process following the

release of President Joe Biden’s \$7.3 trillion budget request on March 11.

To try to avert a partial shutdown, House Speaker Mike Johnson (R-LA) defied many of the funding conditions House conservatives forced upon former Speaker Kevin McCarthy — resulting in Rep. Marjorie Taylor Greene (R-Ga.) filing a motion to boot him from the speakership during the March 22 vote.

“Remember, last Congress we were all complaining: ‘We can’t even read these thousands of pages before we have to vote on them.’ We’re now back to the House of hypocrites, and I’m so sick and tired of it,” said Rep. Taylor Greene.

The Alliance’s advocate in Washington, D.C. – The Ferguson Group - published an in-depth analysis of the finalized FY 2024 funding later in the month.

Congress will now pivot to the Fiscal Year 2025 appropriations process following the release of President Joe Biden’s \$7.3 trillion budget request on March 11 (*see related story, Page 7*).



House Speaker Mike Johnson represents the northwest and western regions of Louisiana. Photo source: U.S. House of Representatives

Amicus Support in Ninth Circuit (*Cont'd from Pg. 2*)

KDD contended that for water diverted under its water rights through its facilities, KDD is no different than the many other parties who divert water in the Klamath Basin without the need for federal permission. The Magistrate Judge’s ruling agrees with the United States and enjoins KDD from diverting any water from any location without federal authorization.

“This ruling will send shock waves throughout irrigated agriculture,” said Mr. Walker. “All state water interests should be concerned about this water grab and infringement on state rights.”

The Family Farm Alliance joined Oregon Farm Bureau, Oregon Wheat Growers League, Klamath Water Users Association and Oregon Water Resources Congress in an amicus brief filed March 8 in support of KDD’s appeal to the Ninth Circuit Court of Appeals.

The amicus argues that the District Court’s ruling erroneously assumed ESA discretion over non-federal facilities. Application of ESA Section 7 requires “discretionary involvement or control” under Reclamation’s separate legal authorities or contractual agreements. However, Reclamation does

not have discretion over decisions to divert under a State-issued water right at a non-federal facility.

“The District Court’s decision creates a watermaster role for Reclamation that is not consistent with any legal principle,” said Mr. Semanko.

The amicus brief underscores that the chronic conflict in the Klamath Basin is rooted in the United States’ policy for compliance with and formal consultations under ESA Section 7(a)(2).

“Federal agencies refuse to change their approach, and the consequences have been disastrous for agriculture,” the brief states.

Irrigated agriculture in the Western states produces safe, high-quality food including over 80 percent of the fruits, nuts, and vegetables grown in the United States, and is the cornerstone of the agricultural communities, supporting family farms, farm employees, agriculture support businesses, food production, and main street. Agriculture also supports the local wildlife and bird population that depend on water infrastructure and deliveries for water supply.

Leadership Changes on the Hill (Cont'd from Pg. 8)

House GOP Ranks Continue to Thin

In the House of Representatives, Appropriations Committee Chair Kay Granger (R-TEXAS) announced last month that she would step down as Chair of the powerful Appropriations Committee "as soon as possible," one of several House departure moves made in recent weeks.

"Recognizing that an election year often results in final appropriations bills not getting enacted until well into the next fiscal year, it is important that I do everything in my power to ensure a seamless transition" before work on spending bills for the next fiscal year begins in earnest, Rep. Granger wrote in her resignation letter.

Senior appropriators Tom Cole (R-OKLAHOMA), Ken Calvert (R-CALIF), and Robert Aderholt (R-Ala.) have all stated their intentions to run as Appropriations Committee Chair for the remainder of the current 118th Congress.

Complicating matters for House Republicans for the rest of the 118th Congress is their majority that continues to slim. The GOP will hold a 217-213 majority over Democrats following Rep. Mike Gallagher's (R-Wis.) recent resignation announce-

ment, effective April 19. Rep. Ken Buck (COLORADO), who also is not seeking re-election, abruptly resigned from Congress last month, saying he was tired of the way the House functions now.

"We've taken impeachment and we've made it a social media issue as opposed to a constitutional concept," he told reporters (NBC News). "This place keeps going downhill and I don't need to spend more time here."



House Republicans will only be able to lose one vote and still pass legislation with GOP votes from late April to early June, until former House Speaker Kevin McCarthy's (R-CA) Republican successor is sworn into office following a special May 21 election.

Congresswoman Cathy McMorris Rodgers (R-WA) - pictured at left, with House Ag Committee Chairman GT Thompson - has also announced that she will not run for Congress again.

"Rep. McMorris Rodgers has been a great ally on many issues we've engaged on over the years," said Alliance Executive Director Dan Keppen. "She was a real proponent for modernizing antiquated federal environmental laws like NEPA and was a champion for local control of water resources in the West. We'll miss her leadership."

Recent CWA Developments (Continued from Page 6)

documents related to the implementation of the amended final WOTUS rule by the Corps and EPA. The coalition has concerns regarding internal guidance allegedly contradicting the Supreme Court's *Sackett* ruling.

The FOIA request specifically targets undisclosed guidance statements from the Corps' headquarters to individual district offices.

Industry groups expressed discontent with the agencies' transparency during WOTUS listening sessions, noting concerns over the definition of "continuous surface connection" and its interpretation in the amended WOTUS rule, asserting that the agencies' amended rule fails to adhere to the *Sackett* decision, particularly by omitting the requirement of wetlands to be "indistinguishable" from navigable waters.

"The listening sessions held by the Corps and EPA on implementing the definition of WOTUS were disappointing, to say the least," WAC posted on its website.

"Missing was any meaningful exchange of information or even answers to basic questions," the WAC post added.

Judicial Branch: Kentucky Seeks to Preserve Standing

Kentucky officials are seeking standing to challenge the revised Biden Administration's WOTUS rule, fearing an inability to contest the subsequently narrowed WOTUS rule aligning with the *Sackett* ruling. They argue their regulatory and sovereign interests merit such standing.

In their filing, the U.S. Court of Appeals for the 6th Circuit is urged to vacate the lower district court's dismissal of their complaint against EPA and the Corps due to lack of standing.

EPA argues that it has promulgated a new conforming rule consistent with *Sackett* that amends the challenged rule, so there is no injury and Kentucky's challenge should be dismissed or ruled as moot. Kentucky contends the appeal is not moot despite EPA's conforming WOTUS rule and asserts the district court made errors in their dismissal, highlighting their ongoing concerns with certain other provisions in the new conforming rule.

CORRESPONDENCE LIST**APRIL 2024**

1. March 14, 2024 – Letter from the District sent to two customers regarding past due water service accounts
2. March 14, 2024 – Announcement received from the Los Olivos Community Services District regarding Award of 1st Place Project of the Year for Environmental Projects under \$5 million – from American Public Works Association
3. March 15, 2024 – Notice and Agenda received from the Los Olivos Community Services District for the March 22, 2024 Technical Subcommittee Meeting
4. March 16, 2024 – Notice and Agenda received from the Santa Ynez Community Service District for the March 20, 2024 Regular Board Meeting
5. March 18, 2024 – Letter received from Santa Barbara County Fire Department regarding Fire Department requirements for APN 143-302-015
6. March 20, 2024 – Letter from District to Santa Barbara County Clerk Recorder regarding submittal of Form 700
7. March 20, 2024 – Letter from District to Clerk of the Board, State Water Resources Control Board regarding Comment Letter – Cachuma Project Reconsideration Order – Request for Extension of Time for Written Comments
8. March 21, 2024 – Notice and Agenda received from Cachuma Operation and Maintenance Board for the March 25, 2024 Regular Board Meeting
9. March 22, 2024 – Notice and Agenda received from the Groundwater Sustainability Agency for the Eastern Management Area March 28, 2024 Special Meeting
10. March 20, 2024 – Letter received from Santa Barbara County – Office of the Auditor-Controller regarding Fiscal Year 2023/2024 Property Tax Administration Fees (SB2557)
11. March 27, 2024 – Report received from the Santa Ynez River Water Conservation District titled “46th Annual Engineering and Survey Report on Water Supply Conditions of the Santa Ynez River Water Conservation District”
12. March 27, 2024 – Letter received from Santa Barbara County Fire Department regarding Fire Department requirements for APN 137-030-063
13. March 27, 2024 – Letter received from Santa Barbara County Fire Department regarding Fire Department requirements for APN 141-121-011
14. March 28, 2024 – Press Release received from Santa Ynez River Water Conservation District regarding Precautionary Releases Beginning from Bradbury Dam March 27, 2024
15. March 28, 2024 – Existing Water Service/Can and Will Serve Letter sent for APN 143-220-004

16. April 1, 2024 – Letter from District sent to twenty-six customers regarding backflow testing requirement
17. April 4, 2024 – Letter from the District sent to one customer regarding past due water service account
18. April 5, 2024 - Notice and Agenda received from the Los Olivos Community Services District for the April 10, 2024 Regular Meeting