



S A W P A

SANTA ANA WATERSHED PROJECT AUTHORITY
11615 Sterling Avenue, Riverside, California 92503 • (951) 354-4220

PURSUANT TO THE PROVISIONS OF EXECUTIVE ORDER N-29-20 ISSUED BY GOVERNOR GAVIN NEWSOM, THIS MEETING WILL BE CONDUCTED VIRTUALLY. ALL VOTES TAKEN DURING THIS VIRTUAL MEETING WILL BE CONDUCTED BY ORAL ROLL CALL.

This meeting will be accessible as follows:

Meeting Access Via Computer (Zoom)*:	Meeting Access Via Telephone*:
<ul style="list-style-type: none"> • https://sawpa.zoom.us/j/93208815039 	<ul style="list-style-type: none"> • 1 (669) 900-6833
<ul style="list-style-type: none"> • Meeting ID: 932 0881 5039 	<ul style="list-style-type: none"> • Meeting ID: 932 0881 5039
* Participation in the meeting via the Zoom app (a free download) is strongly encouraged	

REGULAR COMMISSION MEETING TUESDAY, MARCH 2, 2021 – 9:30 A.M.

AGENDA

1. CALL TO ORDER (Jasmin A. Hall, Chair)

2. ROLL CALL

3. PUBLIC COMMENTS

Members of the public may address the legislative body concerning any item that has been described in the notice for this Special Meeting before or during consideration of that item as authorized by Government Code §54954.3(a).

4. ITEMS TO BE ADDED OR DELETED

5. CONSENT CALENDAR

All matters listed on the Consent Calendar are considered routine and non-controversial and will be acted upon by the Commission by one motion as listed below.

A. APPROVAL OF MEETING MINUTES: FEBRUARY 16, 2021 5
Recommendation: Approve as posted.

B. TREASURER’S REPORT – JANUARY 2021 9
Recommendation: Approve as posted.

6. NEW BUSINESS

A. ROTATION OF OFFICER | VICE CHAIR (CM#2021.16) 15
Presenter: Jeff Mosher
Recommendation: Appoint Bruce Whitaker as Commission Vice Chair in accordance with the historical rotation provisions of Resolution No. 355 and acknowledge Bruce Whitaker will serve on the One Water One Watershed (OWOW) Steering Committee as the Convener as set forth in Resolution No. 2018-1.

B. AB 377 IMPACTS21

1. SAWPA Task Force Impacts

Presenter: Mark Norton, SAWPA, and Tess Dunham, KSC

Recommendation: Receive and file.

2. Regional Response

Presenter: Beth Olhasso, West Coast Advisors

Recommendation: Receive and file.

C. LEGISLATIVE REPORT

Presenter: Michael Boccadoro, West Coast Advisors

Recommendation: Receive and file.

7. INFORMATIONAL REPORTS

Recommendation: Receive for information.

A. GENERAL MANAGER’S REPORT ON 100-DAY PLAN STATUS

B. CHAIR’S COMMENTS/REPORT

C. COMMISSIONERS’ COMMENTS

D. COMMISSIONERS’ REQUEST FOR FUTURE AGENDA ITEMS

8. CLOSED SESSION

There were no Closed Session items anticipated at the time of the posting of this agenda.

9. ADJOURNMENT

PLEASE NOTE:

Americans with Disabilities Act: If you require any special disability related accommodations to participate in this meeting, call (951) 354-4220 or email kberry@sawpa.org. 48-hour notification prior to the meeting will enable staff to make reasonable arrangements to ensure accessibility for this meeting. Requests should specify the nature of the disability and the type of accommodation requested.

Materials related to an item on this agenda submitted to the Commission after distribution of the agenda packet are available for public inspection during normal business hours at the SAWPA office, 11615 Sterling Avenue, Riverside, and available at www.sawpa.org, subject to staff’s ability to post documents prior to the meeting.

Declaration of Posting

I, Kelly Berry, CMC, Clerk of the Board of the Santa Ana Watershed Project Authority declare that on February 25, 2021, a copy of this agenda has been uploaded to the SAWPA website at www.sawpa.org and posted at SAWPA's office, 11615 Sterling Avenue, Riverside, California.

2021 SAWPA Commission Meetings/Events

First and Third Tuesday of the Month

(NOTE: All meetings begin at 9:30 a.m., unless otherwise noticed, and are held at SAWPA.)

January 1/5/21 Commission Workshop [cancelled] 1/5/21 Special Commission Meeting 1/8/21 Special Commission Meeting 1/12/21 Special Commission Meeting 1/19/21 Regular Commission Meeting	February 2/2/21 Commission Workshop 2/16/21 Regular Commission Meeting
March 3/2/21 Commission Workshop 3/16/21 Regular Commission Meeting	April 4/6/21 Commission Workshop 4/20/21 Regular Commission Meeting
May 5/4/21 Commission Workshop 5/18/21 Regular Commission Meeting 5/4 – 5/7/21 ACWA Spring Conference, Monterey	June 6/1/21 Commission Workshop 6/15/21 Regular Commission Meeting
July 7/6/21 Commission Workshop 7/20/21 Regular Commission Meeting	August 8/3/21 Commission Workshop 8/17/21 Regular Commission Meeting
September 9/7/21 Commission Workshop 9/21/21 Regular Commission Meeting	October 10/5/21 Commission Workshop 10/19/21 Regular Commission Meeting
November 11/2/21 Commission Workshop 11/16/21 Regular Commission Meeting	December 12/7/21 Commission Workshop 12/21/21 Regular Commission Meeting 11/30 – 12/3/21 ACWA Fall Conference, Pasadena

SAWPA COMPENSABLE MEETINGS

IMPORTANT NOTE: Due to the spread of COVID-19, and until further notice, the Santa Ana Watershed Project Authority will be holding all upcoming meetings by teleconferencing. Participation information will be included on each posted agenda or meeting notice.

In addition to Commission meetings, Commissioners and Alternate Commissioners will receive compensation for attending the meetings listed below, pursuant to the Commission Compensation, Expense Reimbursement, and Ethics Training Policy.

IMPORTANT NOTE: These meetings are subject to change. Prior to attending any meetings listed below, please confirm meeting details by viewing the website calendar using the following link:

<https://sawpa.org/sawpa-calendar/>

MONTH OF: March 2021

DATE	TIME	MEETING DESCRIPTION	LOCATION
3/2/21	10:00 AM	PA 24 Committee Mtg	VIRTUAL/TELEPHONICALLY
3/3/21	9:30 AM	Imported Water Rechargers Committee Mtg	VIRTUAL/TELEPHONICALLY
3/9/21	8:30 AM	PA 22 Committee Mtg	CANCELLED
3/15/21	2:30 PM	Basin Monitoring Program Task Force	VIRTUAL/TELEPHONICALLY
3/22/21	1:30 PM	Lake Elsinore/Canyon Lake TMDL Task Force Mtg	VIRTUAL/TELEPHONICALLY
3/25/21	11:00 AM	OWOW Steering Committee Mtg	VIRTUAL/TELEPHONICALLY

MONTH OF: April 2021

DATE	TIME	MEETING DESCRIPTION	LOCATION
4/6/21	8:30 AM	PA 23 Committee Mtg	VIRTUAL/TELEPHONICALLY
4/6/21	10:00 AM	PA 24 Committee Mtg	VIRTUAL/TELEPHONICALLY
4/13/21	8:30 AM	PA 22 Committee Mtg	VIRTUAL/TELEPHONICALLY
4/15/21	4:00 PM	LESJWA Board of Directors Mtg	VIRTUAL/TELEPHONICALLY
4/19/21	1:30 PM	MSAR TMDL/Regional WQ Monitoring Task Force Mtg	VIRTUAL/TELEPHONICALLY

Please Note : We strive to ensure the list of Compensable Meetings set forth above is accurate and up-to-date; the list is compiled based on input from SAWPA staff and Department Managers regarding meeting purpose and content.



**SAWPA COMMISSION
REGULAR MEETING MINUTES
FEBRUARY 16, 2021**

COMMISSIONERS PRESENT

Jasmin A. Hall, Chair, Inland Empire Utilities Agency
Kelly E. Rowe, Vice Chair, Orange County Water District
Brenda Dennstedt, Secretary-Treasurer, Western Municipal Water District
David J. Slawson, Eastern Municipal Water District
June D. Hayes, San Bernardino Valley Municipal Water District

COMMISSIONERS ABSENT

None

ALTERNATE COMMISSIONERS PRESENT; NON-VOTING

T. Milford Harrison, Alternate, San Bernardino Valley Municipal Water District
Mike Gardner, Alternate, Western Municipal Water District

STAFF PRESENT

Jeff Mosher, Karen Williams, Mark Norton, Dean Unger, David Ruhl, Carlos Quintero, Rick Whetsel, Kelly Berry

OTHERS PRESENT

Andrew D. Turner, Lagerlof, LLP; Rich Haller; Bruce Whitaker, OCWD Board Member; Joshua Calhoun, Teaman, Ramirez & Smith, Inc.

The Regular Meeting of the Santa Ana Watershed Project Authority Commission was called to order at 9:32 a.m. by Chair Hall on behalf of the Santa Ana Watershed Project Authority, 11615 Sterling Avenue, Riverside, California. The record will reflect this meeting was conducted virtually.

1. CALL TO ORDER

Pursuant to the provisions of Executive Order N-29-20, this meeting was conducted virtually. Incoming SAWPA General Manager Jeff Mosher was welcomed; Mosher thanked Rich Haller and Karen Williams for meeting with him over the past few weeks so he could hit the ground running.

2. ROLL CALL

An oral roll call was duly noted and recorded by the Clerk of the Board.

3. PUBLIC COMMENTS

There were no public comments; there were no public comments received via email.

4. ITEMS TO BE ADDED OR DELETED

There were no added or deleted items.

5. CONSENT CALENDAR

A. APPROVAL OF MEETING MINUTES: FEBRUARY 2, 2021

Recommendation: Approve as posted.

MOVED, approve the Consent Calendar.

Result:	Adopted by Roll Call Vote (Unanimously)
Motion/Second:	Dennstedt/Rowe
Ayes:	Dennstedt, Hall, Hayes, Rowe, Slawson
Nays:	None
Abstentions:	None
Absent:	None

6. NEW BUSINESS

A. AUDIT SERVICES CONTRACT EXTENSION (CM#2021.13)

Karen Williams provided a brief report; Joshua Calhoun attended the meeting and was available for questions from the Commission. Secretary-Treasurer Dennstedt suggested amending staff's recommendation to extend the current contract for an additional one (1) year providing Jeff Mosher an opportunity to scrutinize the firm's performance during this upcoming audit cycle. If the firm performs to his satisfaction, then the contract extension for an additional one (1) year could be brought back to the Commission for consideration at a future date. Commissioner Hayes moved staff's recommendation as amended.

MOVED, authorize the issuance of a Task Order with Teaman, Ramirez & Smith, Inc. for audit services and extend the current contract for an additional one (1) year.

Result:	Adopted by Roll Call Vote (Unanimously)
Motion/Second:	Hayes/Dennstedt
Ayes:	Dennstedt, Hall, Hayes, Rowe, Slawson
Nays:	None
Abstentions:	None
Absent:	None

7. INFORMATIONAL REPORTS-

The following oral/written reports/updates were received and filed.

- A. CASH TRANSACTIONS REPORT – DECEMBER 2020**
- B. INTER-FUND BORROWING – DECEMBER 2020 (CM#2021.11)**
- C. PERFORMANCE INDICATORS/FINANCIAL REPORTING – DECEMBER 2020 (CM#2021.12)**
- D. PROJECT AGREEMENT 25 – OWOW FUND – FINANCIAL REPORT, NOVEMBER 2020**
- E. PROJECT AGREEMENT 26 – ROUNDTABLE FUND – FINANCIAL REPORT, NOVEMBER 2020**
- F. SANTA ANA WATERSHED PROJECT AUTHORITY (SAWPA) | COMMISSION AND COMMITTEE STRUCTURE (CM#2021.14)**
- G. COMMISSIONER COMPENSATION POLICY OVERVIEW (CM#2021.15)**
- H. GENERAL MANAGER REPORT**
- I. STATE LEGISLATIVE REPORT**
- J. CHAIR'S COMMENTS/REPORT**
There were no comments/reports from the Chair.
- K. COMMISSIONERS' COMMENTS**
There were no Commissioner comments.
- L. COMMISSIONERS' REQUEST FOR FUTURE AGENDA ITEMS**
There were no Commissioner requests for future agenda items.

8. CLOSED SESSION

Chair Hall recessed the meeting to Closed Session at 9:41 a.m.

A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(1)

Name of Case: Southern California Edison Company vs. The Blue-Sky Institute, LLC
(Riverside County Superior Court Case No. CVRI 2100168)

Chair Hall resumed Open Session at 10:13 a.m. Legal Counsel Andy Turner announced item 8.A. was discussed during Closed Session; staff and legal counsel received direction from the Commission and no reportable action was taken.

9. ADJOURNMENT

There being no further business for review, Chair Hall adjourned the meeting at 10:14 a.m.

Approved at a Regular Meeting of the Santa Ana Watershed Project Authority Commission on Tuesday, March 2, 2021.

Jasmin A. Hall, Chair

Attest:

Kelly Berry, CMC, Clerk of the Board

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*Santa Ana Watershed
Project Authority*



Finance Department

Santa Ana Watershed Project Authority
TREASURER'S REPORT

January 2021

During the month of January 2021, the Agency's actively managed temporary idle cash earned a return of 1.793%, representing interest earnings of \$12,595. Additionally, the Agency's position in overnight funds L.A.I.F. generated \$17,852 in interest, resulting in \$30,447 of interest income from all sources. Please note that this data represents monthly earnings only, and does not indicate actual interest received. There were zero (0) investment position purchased, zero (0) positions sold, zero (0) positions matured, and zero (0) positions were called.

This Treasurer's Report is in compliance with SAWPA's Statement of Investment Policy. Based upon the liquidity of the Agency's investments, this report demonstrates the ability to meet customary expenditures during the next six months.

February 10, 2021

Prepared and Submitted by:

A handwritten signature in blue ink, which appears to read "Karen L. Williams". The signature is written in a cursive style and is positioned above a horizontal line.

*Karen L. Williams, Deputy GM/Chief Financial
Officer*

Santa Ana Watershed Project Authority

INVESTMENT PORTFOLIO - MARKED TO MARKET - UNREALIZED GAINS & LOSSES

January 31, 2021

SAWPA primarily maintains a "Buy and Hold" investment philosophy, with all investments held by US Bank via a third-party safekeeping contract.

Investment	Security		Purchase	Maturity	Call Date		Yield To	Investment	Market Value	Unrealized	Coupon	Interest	
Type	Type	CUSIP	Dealer	Date	Date	(if appl)	Par Value	Maturity	Cost	Current Month	Gain / (Loss)	Rate	Earned
Agency	FHLMC	3137EAEC9	WMS	09-16-16	08-12-21	No Call	\$ 1,000,000.00	1.335%	\$ 990,060.00	\$ 1,005,587.00	\$ 15,527	1.125%	\$ 1,133.79
Agency	FHLMC	3137EADB2	WMS	04-17-17	01-13-22	No Call	\$ 500,000.00	2.375%	\$ 512,767.00	\$ 510,959.50	\$ (1,808)	2.375%	\$ 1,008.56
Agency	FHLB	313379Q69	WMS	12-14-17	06-10-22	No Call	\$ 1,000,000.00	2.150%	\$ 998,930.00	\$ 1,027,294.00	\$ 28,364	2.125%	\$ 1,826.12
Agency	FHLB	3130A3GE8	MBS	02-04-20	12-13-24	No Call	\$ 500,000.00	1.414%	\$ 531,250.00	\$ 546,330.00	\$ 15,080	2.750%	\$ 600.51
Agency	FNMA	3135G0X24	MBS	02-04-20	01-07-25	No Call	\$ 500,000.00	1.398%	\$ 505,380.00	\$ 525,103.50	\$ 19,724	1.625%	\$ 593.71
Agency	FNMA	3135G05X7	WMS	10-30-20	08-25-25	No Call	\$ 1,000,000.00	0.460%	\$ 995,952.00	\$ 999,146.00	\$ 3,194	0.375%	\$ 390.68
Agency	USTN	912828S76	WMS	12-14-17	07-31-21	No Call	\$ 1,000,000.00	2.013%	\$ 969,062.50	\$ 1,005,078.00	\$ 36,016	1.125%	\$ 1,709.51
CORP	Apple Inc	037833AK6	WMS	10-15-18	05-03-23	No Call	\$ 500,000.00	3.360%	\$ 479,898.50	\$ 523,513.00	\$ 43,615	2.400%	\$ 1,426.86
CORP	Toyota Motor Corp Credit	89236TFNO	WMS	10-15-18	09-20-23	No Call	\$ 500,000.00	3.550%	\$ 497,747.50	\$ 539,554.50	\$ 41,807	3.450%	\$ 1,507.53
CD	American Express	02587DP85	WMS	04-19-17	04-19-21	No Call	\$ 248,000.00	2.250%	\$ 248,000.00	\$ 248,000.00	\$ -	2.250%	\$ 473.92
CD	American Express BK FSB	AN4199708	WMS	05-10-17	05-10-21	No Call	\$ 248,000.00	2.200%	\$ 248,000.00	\$ 248,000.00	\$ -	2.200%	\$ 463.39
CD	Sallie Mae BK SLT Lake City	7954503Q6	MBS	07-01-19	06-27-22	No Call	\$ 247,000.00	2.250%	\$ 247,000.00	\$ 247,000.00	\$ -	2.250%	\$ 472.01
CD	Morgan Stanley Bank NA	6169OUHP8	MBS	07-05-19	07-05-22	No Call	\$ 247,000.00	2.200%	\$ 247,000.00	\$ 247,000.00	\$ -	2.200%	\$ 461.52
CD	Goldman Sachs Bank USA	38148PUV7	WMS	12-20-17	12-20-22	No Call	\$ 248,000.00	2.500%	\$ 248,000.00	\$ 248,000.00	\$ -	2.500%	\$ 526.58
Total Actively Invested Funds							\$ 7,738,000.00		\$ 7,719,047.50	\$ 7,920,565.50	\$ 201,518	1.793%	\$ 12,594.68
Total Local Agency Investment Fund									\$45,894,072.13			0.458%	\$ 17,852.17
Total Invested Cash							\$ 7,738,000.00		\$53,613,119.63			0.651%	\$ 30,446.84

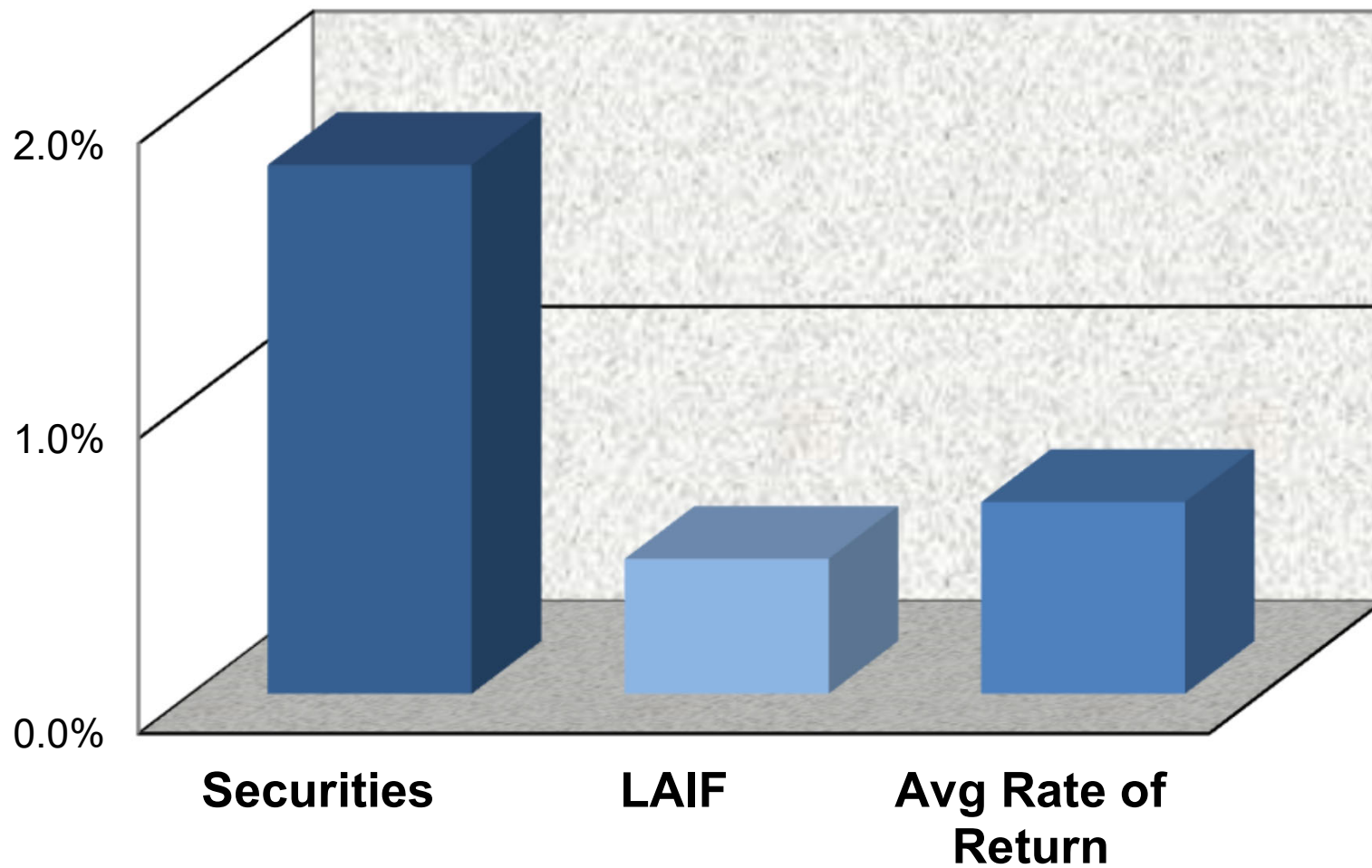
Key to Security Type:

FHLB	= Federal Home Loan Bank
FHLMC	= Federal Home Loan Mortgage Corporation
FNMA	= Federal National Mortgage Association
USTN	= US Treasury Note
CORP	= Corporate Note
CD	= Certificate of Deposit
GDB	= Goldman Sachs Bank
AEC	= American Express Centurion

Key to Dealers:

FCS	= FinaCorp Securities
MBS	= Multi-Bank Securities
MS	= Mutual Securities
RCB	= RBC Dain Rauscher
SA	= Securities America
TVI	= Time Value Investments
WMS	= Wedbush Morgan Securities

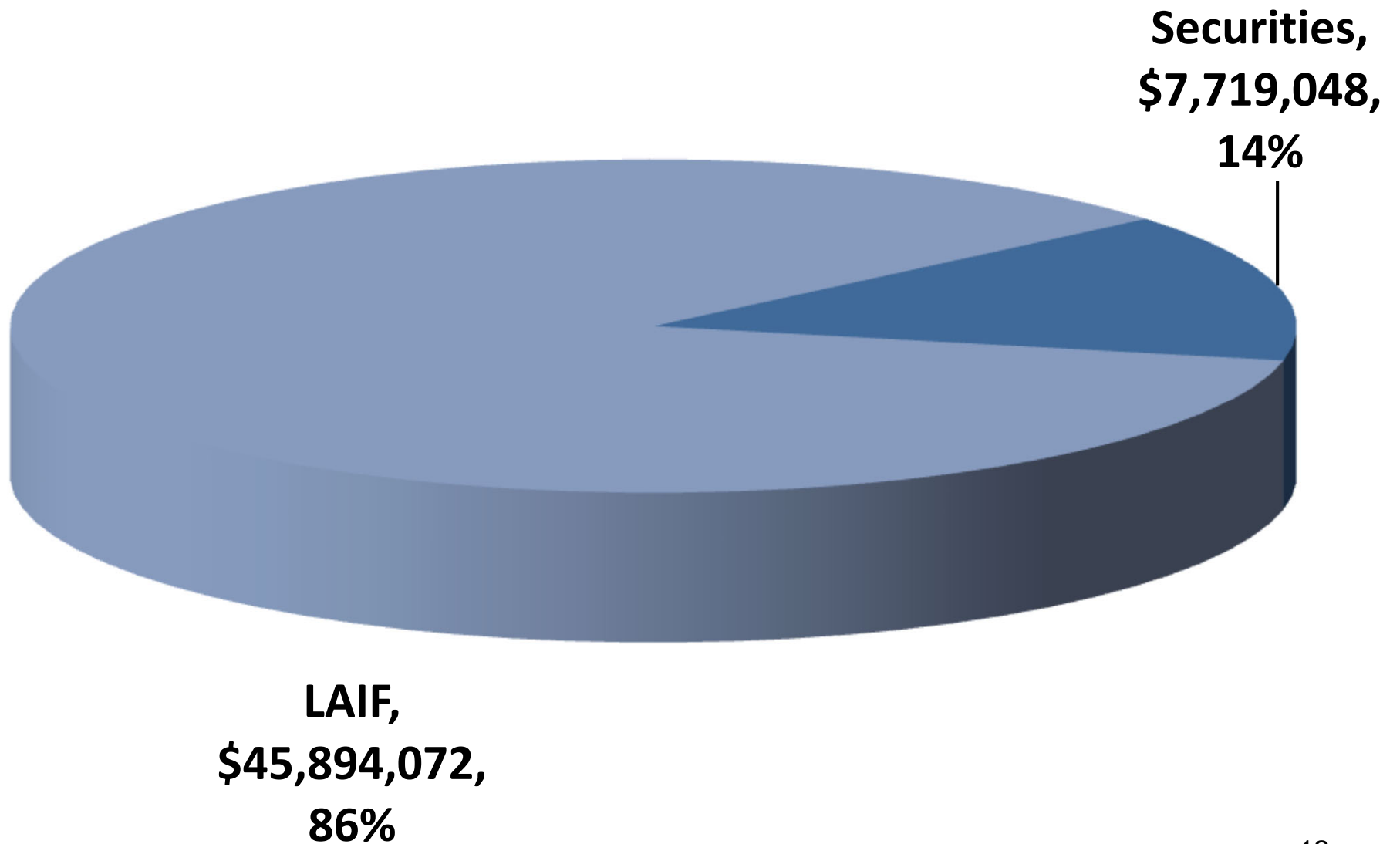
Interest Rate Analysis

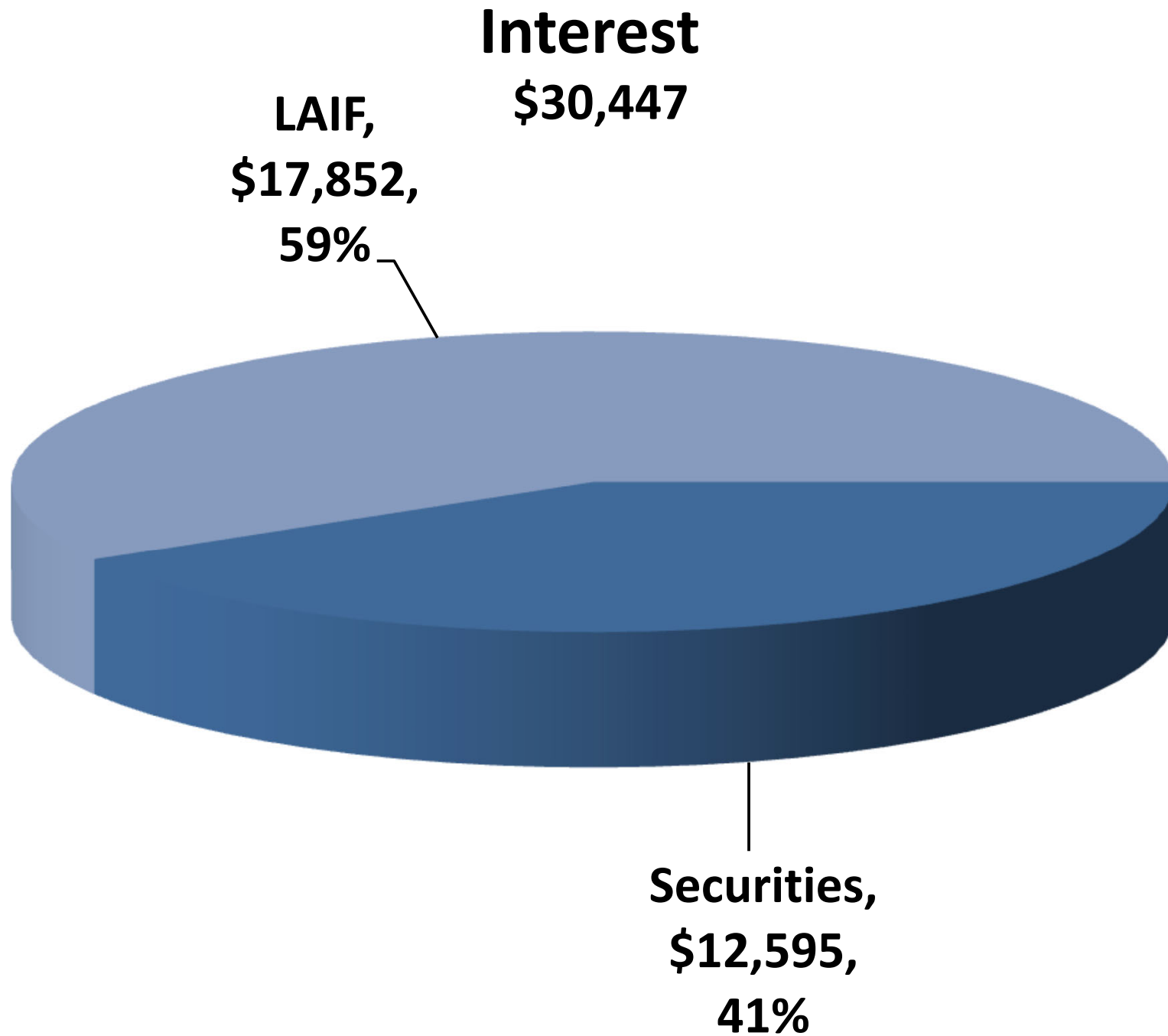


Jan-2021

Investments

\$53,613,120





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COMMISSION MEMORANDUM NO. 2021.16

DATE: March 2, 2021
TO: SAWPA Commission
SUBJECT: Rotation of Officer | Vice Chair
PREPARED BY: Kelly Berry, Administrative Services Manager | Clerk of the Board

RECOMMENDATION

It is recommended that the Commission appoint Bruce Whitaker as Commission Vice Chair in accordance with the historical rotation provisions of Resolution No. 355 and acknowledge Bruce Whitaker will serve on the One Water One Watershed (OWOW) Steering Committee as the Convener as set forth in Resolution No. 2018-1.

DISCUSSION

Vice Chair Appointment

On January 19, 2021, the SAWPA Commission authorized the rotation of officers in accordance with the historical rotation provisions of Resolution No. 355 and appointed Kelly E. Rowe Commission Vice Chair. On February 17, 2021, the OCWD Board appointed Bruce Whitaker as their representative to the SAWPA Commission. Accordingly, staff recommends the Commission appoint Bruce Whitaker as Commission Vice Chair in accordance with the historical rotation provisions of Resolution No. 355.

One Water One Watershed (OWOW) Steering Committee

On February 6, 2018, the Commission adopted Resolution No. 2018-1 appointing to the OWOW Steering Committee the Commissioner from the member agencies whose board member has been appointed as Vice Chair and Secretary-Treasurer, with the Vice Chair also serving as OWOW Committee Convener. Staff recommends the Commission acknowledge Bruce Whitaker will serve on the One Water One Watershed (OWOW) Steering Committee as the Convener as set forth in Resolution No. 2018-1.

RESOURCE IMPACTS

None.

Attachments:

1. Resolution No. 355
2. Resolution No. 2018-1

RESOLUTION NO. 355

A RESOLUTION OF THE COMMISSION OF THE
SANTA ANA WATERSHED PROJECT AUTHORITY
ESTABLISHING A PROCEDURE FOR THE
ELECTION OF COMMISSION OFFICERS

WHEREAS, pursuant to Paragraph 20 of the Joint Exercise of Powers Agreement, as modified by Amendment No. 3 to the Joint Exercise of Powers Agreement adopted in 1997, the Commission of the Santa Ana Watershed Project Authority ("SAWPA") shall elect from its membership a Chair, Vice-Chair, Secretary and Treasurer; and

WHEREAS, pursuant to Paragraph 17 of the SAWPA's Joint Exercise of Powers Agreement, the Commission may adopt, from time to time, such rules and regulations for the conduct of its affairs as may be required; and

WHEREAS, SAWPA's Commission desires to establish a procedure for the election of its officers including the establishment of a two-year term for such officers and further desires to maintain the consolidation of the offices of Secretary and Treasurer into one position as Secretary-Treasurer.

NOW, THEREFORE, the Commission hereby resolves as follows:

1. Consolidation Of The Offices Of Secretary and Treasurer: As permitted by Section 71342 of the Water Code, the Commission maintains the consolidation of the offices of Secretary and Treasurer into one position as Secretary-Treasurer.

2. Term Of Office: The term of office for the positions of Chair, Vice-Chair, and Secretary-Treasurer shall be two years commencing with the first regular or special Commission meeting in January.

3. Qualifications: Only those Commissioners' who are also directors on SAWPA's member agencies' governing boards shall serve as SAWPA Commission officers.

4. Elections: The election of officers (i.e., Chair, Vice- Chair and Secretary-Treasurer) shall be conducted every two years at the regular or special Commission meeting held in January and may be conducted by a single blanket motion for all three positions.

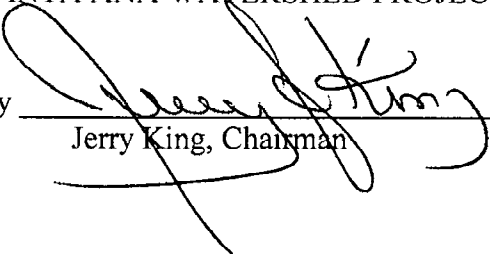
5. Rotation Of Officers: It is the non-binding intention of the Commission to rotate the positions of Chair, Vice-Chair and Secretary-Treasurer among the member agencies. The Chair will be a Commissioner from the Orange County Water District, the Vice-Chair will be a Commissioner from the Western Municipal Water District of Riverside County, and the Secretary-Treasurer will be a Commissioner from the Eastern Municipal Water District. Thereafter, the order of succession will be San Bernardino Valley Municipal Water District and Inland Empire Utilities Agency.

6. Retroactive Application Of This Resolution: This resolution shall be effective retroactively to January 2001, and shall apply to the existing officers. Resolution No. 297 adopted on August 12, 1997, is hereby rescinded and superseded by the adoption of this resolution.

Approved and adopted this 15th day of May 2001.

SANTA ANA WATERSHED PROJECT AUTHORITY

By



Jerry King, Chairman

RESOLUTION NO. 2018-1

**A RESOLUTION OF THE COMMISSIONERS OF THE
SANTA ANA WATERSHED PROJECT AUTHORITY ESTABLISHING
A ROTATION OF APPOINTMENTS TO THE ONE WATER, ONE WATERSHED
(OWOW) STEERING COMMITTEE
AND RESCINDING RESOLUTION NO. 2017-12**

WHEREAS, the SAWPA Commission established and convened the OWOW Steering Committee in 2008 to provide oversight for the development and implementation of the OWOW Plan through a regional stakeholder process;

WHEREAS, the SAWPA Commission approved an amended governance document defining the OWOW Steering Committee roles and membership in January 2013;

WHEREAS, the governance document provides OWOW Steering Committee members shall be appointed to serve terms of four (4) years with staggered end dates;

WHEREAS, the governance document provides for two members of the SAWPA Commission to be appointed to the OWOW Steering Committee by the SAWPA Commission;

WHEREAS, the SAWPA Commission has established a historical rotation of officers among the member agencies;

WHEREAS, the SAWPA Commission desires that SAWPA's participation in the OWOW Steering Committee be shared by Commissioners on the same rotational basis of member agencies as the historical rotation of officers; and

WHEREAS, the SAWPA Commission desires to provide direction should a Commissioner be unavailable to attend OWOW Steering Committee meetings.


NOW THEREFORE, the SAWPA Commission hereby resolves as follows:

1. The two SAWPA Commission representatives appointed to the OWOW Steering Committee will henceforth be the Commissioner from the member agencies whose board member has been appointed as Vice Chair and Secretary-Treasurer of the Commission.
3. The Vice Chair of the SAWPA Commission shall serve as the Convener of the OWOW Steering Committee.
4. Should either/both the Vice Chair and/or the Secretary-Treasurer of the Commission be unavailable to serve for all or a portion of said four (4) year term, the Commission shall appoint another SAWPA Commissioner to the OWOW Steering Committee in accordance with the established historical rotation of officers among the member agencies, specify the length of the term to be served or portion thereof, and when applicable designate who will serve as Convener.

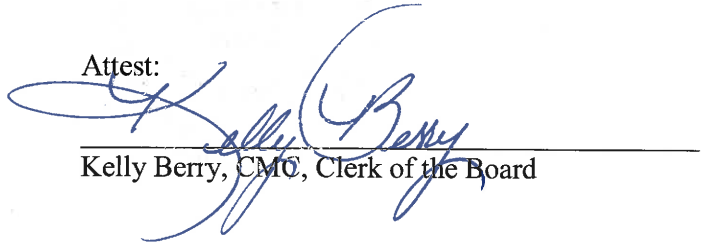
5. Resolution No. 2017-12 is hereby rescinded upon adoption of this Resolution No. 2018-1.

ADOPTED this 6th day of February, 2018.

SANTA ANA WATERSHED PROJECT AUTHORITY

By: 
Susan Lien Longville, Chair

Attest:


Kelly Berry, CMC, Clerk of the Board

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Impacts of AB 377 on SAWPA Task Forces

Prepared by **Mark Norton, PE, SAWPA Water Resources & Planning Manager**
and **Tess Dunham, Kahn Soares & Conway (KSC)**

Assembly Bill 377, as introduced, Assemblyman Robert Rivas and co-authored by Senator Robert Hertzberg, proposes changes to the enforcement of water quality standards to address impaired waters in the State of California. The bill essentially requires compliance with water quality standards at the end of pipe and takes away State and Regional Board discretion for alternative compliance programs and long-term compliance schedules. The bill prohibits the State and Regional Boards from adopting permits that utilize an alternative compliance pathway. Limits in new or modified permits may never be less than those in a previous permit, regardless of the circumstances. This applies to NPDES permits for discharges to surface waters as well as waste discharge permits for discharges to groundwater and for discharges from nonpoint sources such as irrigated agriculture. Further, offsets for allowing the discharge of recycled water may not be allowed. This means that permits authorizing the discharge of recycled water would need to show that recycled water meets salinity and nutrient standards.

AB 377 limits the ability of Regional Water Boards to adopt schedules of implementation into Basin Plans for any water quality standard that was in existence prior to January 1, 2021. For water quality standards adopted after January 1, 2021, schedules of implementation in Basin Plans are limited to a term of five years and could possibly require the undertaking of physical construction projects.

In the view of the regulatory advisor for three of the SAWPA task forces, Tess Dunham, KSC, this bill could seriously jeopardize the use of offsets and other alternative compliance methodologies utilized in the Santa Ana region to show compliance with various water quality standards. For the three primary Task Forces that Ms. Dunham is involved with, she shared the following potential impacts:

- 1) Basin Monitoring Program Task Force –
 - a. POTWs in the Santa Ana River currently rely on alternative compliance in the way of Maximum Benefit Program demonstrations as a method for meeting salinity and nitrate standards in the Basin Plan. This bill would arguably eliminate the Water Board's ability to make maximum benefit findings as alternative compliance.
 - b. Compliance with groundwater objectives is currently determined through use of evaluating volume weighted averages. This bill would likely eliminate the use of that approach for determining compliance.
 - c. Desalters that are used to offset recharge of recycled water in the basin may be considered alternative compliance and thus may not be considered legal for this use under the bill.

2) Lake Elsinore/Canyon Lake Nutrient TMDL Task Force –

- Calls into question use of offsets generated by the Lake Elsinore Aeration and Mixing System at Lake Elsinore and Alum application at Canyon Lake needed to meet load allocations by upper watershed task force agencies. The bill would likely alter Santa Ana Water Board’s ability to allow compliance through Task Force of the participation of dairies, agricultural operators and stormwater dischargers.
- The bill would likely eliminate ability of Santa Ana Regional Water Quality Control Board to use the Comprehensive Nutrient Reduction Plan for effluent limits for compliance with stormwater and instead would mandate numeric effluent limits be applied to stormwater discharges.
- The bill would likely impact the new revised TMDL expected to be brought to the Regional Board for approval in late 2021. It would limit the amount of time that the Water Board could allow for compliance with the revised TMDL.

3) Middle Santa Ana River Watershed Pathogen TMDL Task Force –

- Bacteria standards are in existence. Accordingly, any future revision to the Basin Plan, including new or revised TMDLs, would not be allowed to include alternative schedules of implementation for meeting bacteria standards. Thus, all dischargers would need to comply with bacteria standards immediately. Task Force is evaluating the potential to revise the TMDL to address the need for additional time for meeting Wet Weather bacteria standards. This would make this effort irrelevant.
- Further, the bill’s limitations on alternative compliance mechanisms may hinder the Regional Board’s ability to look to the use of Comprehensive Bacteria Reduction Plans as a way for meeting water quality standards. Through Task Force and MS4 efforts, development and implementation of Comprehensive Bacteria Reduction Plans are used to comply with MS4 permit requirements. This bill would prevent Water Boards from looking at this program to show compliance with water quality standards.
- To meet Wet Weather bacteria standards, Task Force members are starting to evaluate and consider potential offset programs as a way to meet such standards. This bill arguably would prohibit the use of offsets for meeting compliance as that would likely be considered an alternative compliance approach.

For SAWPA, overall, SB 377 as written today would seriously undermine the stakeholder collaboration and Task Force process, and the benefits of participating in such efforts, because the Water Boards would be required to adopt stringent permits (for discharges to surface waters and groundwaters) that ensure strict compliance with water quality standards.

Attachment:

1. AB 377 Text

ASSEMBLY BILL

No. 377

Introduced by Assembly Member Robert Rivas
(Principal coauthor: Senator Hertzberg)

February 1, 2021

An act to add Chapter 3.5 (commencing with Section 13150) to Chapter 3 of Division 7 of the Water Code, relating to water quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 377, as introduced, Robert Rivas. Water quality: impaired waters.

(1) Under existing law, the State Water Resources Control Board and the 9 California regional water quality control boards regulate water quality and prescribe waste discharge requirements in accordance with the federal national pollutant discharge elimination system (NPDES) permit program established by the federal Clean Water Act and the Porter-Cologne Water Quality Control Act. Existing law requires each regional board to formulate and adopt water quality control plans for all areas within the region, as provided.

This bill would require all California surface waters to be fishable, swimmable, and drinkable by January 1, 2050, as prescribed. The bill would prohibit the state board and regional boards from authorizing an NPDES discharge, waste discharge requirement, or waiver of a waste discharge requirement that causes or contributes to an exceedance of a water quality standard, or from authorizing a best management practice permit term to authorize a discharge that causes or contributes to an exceedance of a water quality standard in receiving waters. The bill would prohibit, on or after January 1, 2030, a regional water quality control plan from including a schedule for implementation for achieving a water quality standard that was adopted as of January 1, 2021, and

would prohibit a regional water quality control plan from including a schedule for implementation of a water quality standard that is adopted after January 1, 2021, unless specified conditions are met. The bill would prohibit an NPDES permit, waste discharge requirement, or waiver of a waste discharge requirement from being renewed, reissued, or modified to contain effluent limitations or conditions that are less stringent than those in the previous permit, requirement, or waiver.

(2) Existing law authorizes the imposition of civil penalties for violations of certain waste discharge requirements and requires that penalties imposed pursuant to these provisions be deposited into the Waste Discharge Permit Fund, to be expended by the state board, upon appropriation by the Legislature, for specified purposes related to water quality. For violations of certain other waste discharge requirements, including the violation of a waste discharge requirement effluent limitation, existing law imposes specified civil penalties, the proceeds of which are deposited into the continuously appropriated State Water Pollution Cleanup and Abatement Account, which is established in the State Water Quality Control Fund.

This bill would require, by January 1, 2030, the state board and regional boards to develop an Impaired Waterways Enforcement Program to enforce all remaining water quality standard violations that are causing or contributing to an exceedance of a water quality standard. To ensure any water segments impaired by ongoing pollutants are brought into attainment with water quality standards, the bill would require the state board and regional boards, by January 1, 2040, to evaluate the state's remaining impaired waters using a specified report. The bill would require, by January 1, 2040, the state board and regional boards to report to the Legislature a plan to bring the final impaired water segments into attainment by January 1, 2050. The bill would create the Waterway Attainment Account in the Waste Discharge Permit Fund and would make moneys in the Waterway Attainment Account available for the state board to expend, upon appropriation by the Legislature, to bring remaining impaired water segments into attainment in accordance with the plan. The bill would create in the Waterway Attainment Account the Waterway Attainment Penalty Subaccount, composed of penalties obtained pursuant to the Impaired Waterways Enforcement Program, and would make moneys in the subaccount available for the state board to expend, upon appropriation by the Legislature, for purposes of the program. The bill would require, by January 1, 2040, and subject to a future legislative act, 50% of the annual

proceeds of the State Water Pollution Cleanup and Abatement Account to be annually transferred to the Waterway Attainment Account. The bill would require the state board, upon appropriation by the Legislature, to expend 5% of the annual proceeds of the State Water Pollution Cleanup and Abatement Account to fund a specified state board program.

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

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

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) Water is a necessity of human life, and every Californian
4 deserves access to clean and safe water. Yet climate change
5 jeopardizes the quality and safety of our water. Climate change is
6 impacting the state's hydrology to create water resource
7 vulnerabilities that include, but are not limited to, changes to water
8 supplies, subsidence, increased amounts of water pollution, erosion,
9 flooding, and related risks to water and wastewater infrastructure
10 and operations, degradation of watersheds, alteration of aquatic
11 ecosystems and loss of habitat, multiple impacts in coastal areas,
12 and ocean acidification.

13 (2) Many aspects of climate change and associated impacts will
14 continue for centuries, even if anthropogenic emissions of
15 greenhouse gases are reduced or stopped. Given the magnitude of
16 climate change impacts on California's hydrology and water
17 systems, the state's climate change response should include
18 attainment of water quality standards to allow the state's
19 watersheds to resiliently adapt to forthcoming and inevitable
20 climate change stressors.

21 (3) The federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.)
22 was enacted on October 18, 1972, to establish the basic structure
23 for regulating discharges of pollutants into the waters of the United
24 States and regulating quality standards for surface waters. The
25 objective of the federal Clean Water Act is to restore and maintain
26 the chemical, physical, and biological integrity of the nation's
27 waters. To achieve that objective, Congress declared a national
28 goal that the discharge of pollutants into navigable waters be
29 eliminated by 1985.

1 (4) California has long been a national and international leader
2 on environmental stewardship efforts, including the areas of air
3 quality protections, energy efficiency requirements, renewable
4 energy standards, and greenhouse gas emission standards for
5 passenger vehicles. The program established by this act will
6 continue this tradition of environmental leadership by placing
7 California at the forefront of achieving the nation’s goal of making
8 all waterways swimmable, fishable, and drinkable.

9 (5) The State Water Resources Control Board, along with the
10 nine California regional water quality control boards, protect and
11 enhance the quality of California’s water resources through
12 implementing the federal Clean Water Act, as amended, and
13 California’s Porter-Cologne Water Quality Control Act (Division
14 7 (commencing with Section 13000) of the Water Code).

15 (6) The State Water Resources Control Board’s mission is to
16 “preserve, enhance, and restore the quality of California’s water
17 resources and drinking water for the protection of the environment,
18 public health, and all beneficial uses, and to ensure proper water
19 resource allocation and efficient use, for the benefit of present and
20 future generations.”

21 (7) Under Section 303(d) of the federal Clean Water Act (33
22 U.S.C. 1313(d)), California is required to review, make changes
23 as necessary, and submit to the United States Environmental
24 Protection Agency a list identifying water bodies not meeting water
25 quality standards (303(d) list). California is required to include a
26 priority ranking of those waters, taking into account the severity
27 of the pollution and the uses to be made of those waters, including
28 waters targeted for the development of total maximum daily loads
29 (TMDLs).

30 (8) As of the most recent 2018 303(d) list, nearly 95 percent of
31 all fresh waters assessed in California, and over 1,400 water bodies,
32 are listed as impaired, with only 114 TMDLs have been approved
33 since 2009 in California. Of 164,741 assessed miles of rivers and
34 streams, 82 percent were impaired. Of 929,318 assessed acres of
35 lakes, reservoirs, and ponds, 93 percent were impaired. Of 575,000
36 assessed acres of bays, harbors, and estuaries, 99 percent were
37 impaired. Of 2,180 assessed miles of coastal shoreline, 93 percent
38 were impaired. Of 130,084 assessed acres of wetlands, 99 percent
39 were impaired.

1 (b) (1) In honor of the federal Clean Water Act’s 50-year
2 anniversary, it is the intent of the Legislature in enacting this act
3 to recommit California to achieve the national goal to restore and
4 maintain the chemical, physical, and biological integrity of the
5 state’s waters by eliminating the discharge of pollutants into
6 impaired waterways.

7 (2) It is further the intent of the Legislature in enacting this act
8 to require that the State Water Resources Control Board and the
9 California regional water quality control boards meet the national
10 goal of achieving swimmable, fishable, and drinkable waters by
11 no later than January 1, 2050.

12 SEC. 2. Chapter 3.5 (commencing with Section 13150) is added
13 to Chapter 3 of Division 7 of the Water Code, to read:

14
15 CHAPTER 3.5. STATE WATERS IMPAIRMENT

16
17 13150. All California surface waters shall be fishable,
18 swimmable, and drinkable by January 1, 2050. To bring all water
19 segments into attainment with this requirement, the state board
20 and regional boards shall comply with the requirements of this
21 chapter.

22 13151. (a) The state board and regional boards shall not do
23 either of the following:

24 (1) Authorize an NPDES discharge that causes or contributes
25 to an exceedance of a water quality standard.

26 (2) Authorize an NPDES permit that uses an alternative
27 compliance determination, safe harbor “deemed in compliance”
28 term, or any other best management practice permit term to
29 authorize a discharge that causes or contributes to an exceedance
30 of a water quality standard in receiving waters.

31 (b) The state board and regional boards shall not do either of
32 the following:

33 (1) Authorize a permit that does not include monitoring
34 sufficient to demonstrate compliance with water quality standards
35 and, unless infeasible, that does not include end-of-discharge pipe
36 monitoring.

37 (2) Authorize a permit unless it establishes criteria for, and
38 requires, monitoring to evaluate compliance with water quality
39 standards.

1 (c) The state board and regional boards shall not do either of
2 the following:

3 (1) Authorize a waste discharge requirement or waiver of a
4 waste discharge requirement for a discharge that causes or
5 contributes to an exceedance of a water quality standard.

6 (2) Authorize a waste discharge requirement or waiver of a
7 waste discharge requirement that uses an alternative compliance
8 determination, safe harbor “deemed in compliance” term, or any
9 other best management practice permit term to authorize a
10 discharge that causes or contributes to an exceedance of a water
11 quality standard in receiving waters.

12 (d) The state board and regional boards shall not issue an
13 enforcement order pursuant to Chapter 12 (commencing with
14 Section 1825) of Part 2 of Division 2 or Article 1 (commencing
15 with Section 13300) of Chapter 5 that includes a compliance
16 schedule deadline that extends beyond January 1, 2030, to a
17 discharger for a discharge that is causing or contributing to an
18 exceedance of a water quality standard.

19 13152. (a) Notwithstanding Section 13242, on and after
20 January 1, 2030, a regional water quality control plan, including
21 the program of implementation, shall not include a schedule for
22 implementation for achieving a water quality standard that was
23 adopted in an approved regional water quality control plan as of
24 January 1, 2021. It is the intent of the Legislature in enacting this
25 requirement to ensure that all water quality standards in effect as
26 of January 1, 2021, are fully implemented and achieved by January
27 1, 2030.

28 (b) The state board and regional boards shall only include in a
29 regional water quality control plan a schedule for implementation
30 of a water quality standard that is adopted after January 1, 2021,
31 if all of the following conditions are met:

32 (1) The schedule for implementation of the water quality
33 standard is the shortest time necessary, and in no instance exceeds
34 five years.

35 (2) The schedule for implementation is necessary for the
36 permittee to undertake physical construction that is necessary to
37 achieve compliance with the water quality standard.

38 (3) The water quality standard is not substantially similar to a
39 water quality standard that was in effect as of January 1, 2021.

1 (c) An NPDES permit, waste discharge requirement, or waiver
2 of a waste discharge requirement shall not be renewed, reissued,
3 or modified to contain effluent limitations or conditions that are
4 less stringent than the comparable effluent limitations or conditions
5 in the previous permit, requirement, or waiver.

6 (d) The state board and regional boards shall not authorize an
7 NPDES permit, waste discharge requirement, or waiver of a waste
8 discharge requirement that does not include a complete
9 antidegradation analysis as set out in State Water Resources
10 Control Board Resolution No. 68-16 and Administrative Procedures
11 Update 90-004.

12 13153. (a) (1) By January 1, 2030, the state board and regional
13 boards shall develop an Impaired Waterways Enforcement Program
14 to enforce all remaining water quality standard violations pursuant
15 to Chapter 12 (commencing with Section 1825) of Part 2 of
16 Division 2 and Article 1 (commencing with Section 13300) of
17 Chapter 5 that are causing or contributing to an exceedance of a
18 water quality standard.

19 (2) An enforcement action taken pursuant to the program shall
20 result in sufficient penalties, conditions, and orders to ensure the
21 person subject to the enforcement action is no longer causing or
22 contributing to an exceedance of a water quality standard.

23 (3) A discharger shall remain liable for a violation of a water
24 quality standard until sampling at the point of discharge
25 demonstrates that the discharge is no longer causing or contributing
26 to the exceedance.

27 (4) Penalties obtained pursuant to the program shall be deposited
28 into the Waterway Attainment Penalty Subaccount, which is hereby
29 created in the Waterway Attainment Account. Moneys in the
30 subaccount shall be available for the state board to expend, upon
31 appropriation by the Legislature, for purposes of the program.

32 (b) (1) By January 1, 2040, to ensure any water segments
33 impaired by ongoing legacy pollutants and nonpoint source
34 pollution are brought into attainment with water quality standards,
35 the state board and regional boards shall evaluate the state's
36 remaining impaired waters using the most current integrated report.

37 (2) The state board and regional boards shall, by January 1,
38 2040, report to the Legislature in compliance with Section 9795
39 of the Government Code a plan to bring the final impaired water
40 segments into attainment by January 1, 2050.

1 (3) The requirement for submitting a report imposed under
2 paragraph (2) is inoperative on January 1, 2044, pursuant to Section
3 10231.5 of the Government Code.

4 (c) (1) The Waterway Attainment Account is hereby created
5 in the Waste Discharge Permit Fund. Moneys in the Waterway
6 Attainment Account shall be available for the state board to expend,
7 upon appropriation by the Legislature, to bring remaining impaired
8 water segments into attainment in accordance with the plan
9 submitted pursuant to paragraph (2) of subdivision (b), subject to
10 subdivision (d).

11 (2) (A) By January 1, 2040, subject to a future legislative act,
12 50 percent of the annual proceeds of the State Water Pollution
13 Cleanup and Abatement Account shall be annually transferred to
14 the Waterway Attainment Account.

15 (B) This paragraph shall become inoperative January 1, 2051,
16 or when all water segments are in attainment with water quality
17 standards, whichever comes first.

18 (d) Moneys in the Waterway Attainment Account shall be
19 expended by the state board, upon appropriation by the Legislature,
20 to bring impaired waterways into attainment with water quality
21 standards to the maximum extent possible. Moneys in the account
22 shall only be expended on the following:

23 (1) Restoration projects, including supplemental environmental
24 projects, that improve water quality.

25 (2) Best management practice research innovation and incentives
26 to encourage innovative best management practice implementation.

27 (3) Source control programs.

28 (4) Identifying nonfilers.

29 (5) Source identification of unknown sources of impairment.

30 (6) Enforcement actions that recover at least the amount of
31 funding originally expended, which shall be deposited into the
32 Waterway Attainment Account.

33 (e) The state board shall, upon appropriation by the Legislature,
34 expend 5 percent of the annual proceeds of the State Water
35 Pollution Cleanup and Abatement Account to fund the state board's
36 SWAMP - Clean Water Team Citizen Monitoring Program in
37 order to inform the integrated report.

38 13154. This chapter does not affect the process by which
39 voluntary agreements are entered into to assist in the

1 implementation of new water quality standards lawfully adopted
2 by the state board.

3 13155. For purposes of this chapter, the following definitions
4 apply:

5 (a) “Best management practice” means a practice or set of
6 practices determined by the state board or a regional board for a
7 designated area to be the most effective feasible means of
8 preventing or reducing the generation of a specific type of nonpoint
9 source pollution, given technological, institutional, environmental,
10 and economic constraints.

11 (b) “Drinkable” applies to waters subject to a regional water
12 quality control plan and means that the waters are drinkable to the
13 extent required by the regional water quality control plan.

14 (c) “Integrated report” means the state report that includes the
15 list of impaired waters required pursuant to Section 303(d) of the
16 federal Clean Water Act (33 U.S.C. 1313(d)) and the water quality
17 assessment required pursuant to Section 305(b) of the federal Clean
18 Water Act (33 U.S.C. 1315(b)).

19 (d) “NPDES” means the national pollutant discharge elimination
20 system established in the federal Clean Water Act (33 U.S.C.A.
21 Sec. 1251 et seq.).

22 (e) “Regional board” means a California regional water quality
23 control board.

24 (f) “Regional water quality control plan” means a water quality
25 control plan developed pursuant to Section 13240.

26 (g) “State board” means the State Water Resources Control
27 Board.

28 (h) “State Water Pollution Cleanup and Abatement Account”
29 means the State Water Pollution Cleanup and Abatement Account
30 created pursuant to Section 13440.

31 (i) “Supplemental environmental project” means an
32 environmentally beneficial project that a person subject to an
33 enforcement action voluntarily agrees to undertake in settlement
34 of the action and to offset a portion of a civil penalty.

35 (j) “Waste Discharge Permit Fund” means the Waste Discharge
36 Permit Fund created pursuant to Section 13260.

37 (k) “Waterway Attainment Account” means the Waterway
38 Attainment Account created pursuant to paragraph (1) of
39 subdivision (c) of Section 13153.

- 1 *(l)* “Waterway Attainment Penalty Subaccount” means the
- 2 Waterway Attainment Penalty Subaccount created pursuant to
- 3 paragraph (4) of subdivision (a) of Section 13153.

O