

I hereby certify that the following agenda was posted at least 24 hours prior to the time of the meeting so noticed below at 24251 Los Alisos Boulevard, Lake Forest, California.



ROBERT R. HILL, Secretary of the
El Toro Water District and the Board of
Directors thereof

AGENDA

EL TORO WATER DISTRICT SPECIAL MEETING OF THE BOARD OF DIRECTORS

AUGUST 8, 2017
7:30 a.m.

CALL MEETING TO ORDER – President Goldman

PLEDGE OF ALLEGIANCE – Director Monin

ORAL COMMUNICATIONS/PUBLIC COMMENTS

Members of the public may address the Board at this time or they may reserve this opportunity with regard to an item on the agenda, until said item is discussed by the Board. Comments on other items will be heard at the time set aside for "DIRECTORS COMMENTS/NON-AGENDA ITEMS." The public will identify themselves when called on and limit their comments to three minutes.

ITEMS RECEIVED TOO LATE TO BE AGENDIZED

Determine need and take action to agendize items(s) which arose subsequent to the posting of the Agenda. (ROLL CALL VOTE: Adoption of this recommendation requires a two-thirds vote of the Board members present, or, if less than two-thirds of the Board members are present, a unanimous vote of those members present.)

ACTION ITEMS

1. **Phase II Recycled Water Expansion Project Construction Contract Award & an Engineering Support Contract** (Reference Material Included)

Staff will review and comment on the construction contract for the West Side System as well as the Engineering Services During Construction Contract associated with the Phase II Recycled Water Distribution System Expansion Project.

Recommended Action: Staff recommends that the Board of Directors authorize the District's General Manager to 1) enter into a contract with E.J. Meyer Company in the amount of \$3,858,888.00 for construction of the West Side System; and 2) enter into a contract with Tetra Tech in the amount of \$145,000.00 for professional engineering services during construction for both phases of construction of the Phase II Recycled Water Distribution System Expansion Project. Staff also recommends that the Board authorize the General Manager to fund the project costs from the District's Capital Reserves in accordance with the District's adopted Capital Reserve Policy.

2. **AB 1000 (Friedman) – Water Conveyance: Use of Facility with Unused Capacity**
(Reference Material Included)

Staff will review and comment on AB 1000 which would prohibit a transferor of water from using a water conveyance facility that has unused capacity to transfer water from a groundwater basin as specified, unless the State Lands Commission, in consultation with the Department of Fish and Wildlife, finds that the transfer of water will not adversely affect the natural or cultural resources, including groundwater resources or habitat, of those federal and state lands. For this prohibition to apply, the groundwater basin must underlie desert lands that are in the vicinity of a national monument, a national preserve, a national park, a state or federal wilderness area, or state lands. Prior to the most recent amendment, the bill was limited to developing Water Conservation: Performance Standards for Water Meters.

Recommended Action: Staff recommends that the Board consider taking an "Oppose" position on AB 1000 (Friedman) – Water Conveyance: Use of Facility with Unused Capacity.

INFORMATION ITEM

3. **SB 623 (Monning): Funding for Safe Drinking Water** (Reference Material Included)

Staff will review and comment on SB 623 which would establish a fund to be administered by the State Water Resources Control Board (SWRCB) to assist those (Disadvantaged Communities across the State) who do not have access to safe drinking water. The intended funding sources for SB 623 have yet to be identified in the bill. However, Senator Monning is considering adding two types of funding, one of which would be a state-mandated tax on water that local water agencies would be required to assess on their ratepayers. ETWD has been added to the ACWA Coalition Letter taking an "Oppose Unless Amended" position on SB 623.

DIRECTOR COMMENTS/NON-AGENDA ITEMS

ATTORNEY REPORT

CLOSED SESSION

At this time the Board will go into closed session pursuant to Government Code Section 54957 to review the General Manager's Employment Agreement.

REGULAR SESSION

REPORT ON CLOSED SESSION (Legal Counsel)

Mr. Granito will provide an oral report on the Closed Session.

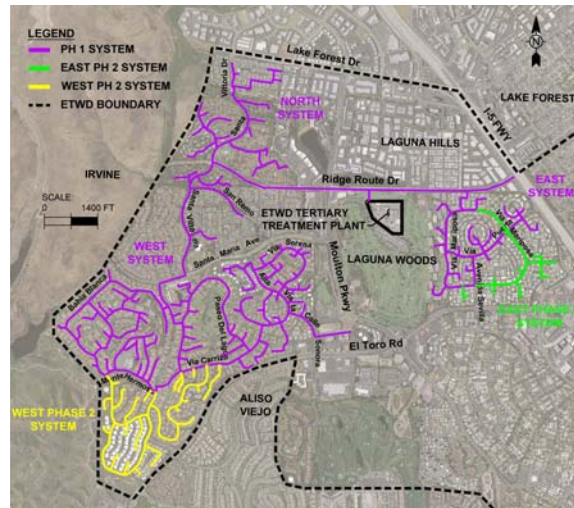
ADJOURNMENT

The agenda material for this meeting is available to the public at the District's Administrative Office, which is located at 24251 Los Alisos Blvd., Lake Forest, Ca. 92630. If any additional material related to an open session agenda item is distributed to all or a majority of the board of directors after this agenda is posted, such material will be made available for immediate public inspection at the same location.

Request for Disability-Related Modifications or Accommodations

If you require any disability-related accommodation, including auxiliary aids or services, in order to participate in this public meeting, please telephone the District's Recording Secretary, Polly Welsch at (949) 837-7050, extension 225 at least forty-eight (48) hours prior to said meeting. If you prefer, your request may be submitted in writing to El Toro Water District, P.O. Box 4000, Laguna Hills, California 92654, Attention: Polly Welsch.

PHASE II RECYCLED WATER DISTRIBUTION SYSTEM EXPANSION PROJECT WEST SIDE DISTRIBUTION SYSTEM CONSTRUCTION CONTRACT



BID EVALUATION

The District issued the Notice Inviting Bids for the construction of the West Side System component of the Phase II Recycled Water Distribution System Expansion Project on June 13, 2017, to six qualified contractors. The West Side System represents the larger of the two projects comprising the Phase II Recycled Water Distribution System Expansion Project. All six contractors attended the mandatory pre-bid meeting. Following the pre-bid meeting and a subsequent deadline for written questions, the District issued one addendum to the original bid documents. The District received and opened five bids at a public bid opening on July 26, 2017.

The apparent low bid following the bid opening was submitted by T.E. Roberts, Inc. Staff performed a detailed evaluation of the bids and discovered an apparent error in the T.E. Roberts bid. The contract bid item for paving defined a quantity of 320,000 square feet. The T.E. Roberts bid sheet for the paving line item showed a unit cost of \$2/sf but a total of only \$64,000 rather than \$640,000. Upon being notified of the apparent error T.E. Roberts discovered that a typographical error resulted in a paving quantity of only 32,000 square feet on their bid take off work sheet. Given the magnitude of the error, T.E. Roberts subsequently requested to withdraw their bid.

The second low bid, and now apparent low bid, was submitted by E.J. Meyer Company. E.J. Meyer is a reputable contractor with significant pipeline construction experience. E.J. Meyer successfully performed the East Side System Project component of the ETWD Phase I Recycled Water Expansion Project.

The bids are described in the attached bid summary tabulation (**Exhibit 1**) and bid summary chart (**Exhibit 2**). As noted on the attached bid summaries, the Engineer's estimate was \$4.32 million. The E.J. Meyer bid, at \$3,858,888 is nearly 11% below the engineer's estimate. The E.J. Meyer bid is only \$44,000, or 1%, less than the next bid submitted by Vido Artukovich & Sons.

Staff in conjunction with the project Construction Manager, MWH Constructors, has evaluated the E.J. Meyer bid for responsiveness. Neither District staff nor MWH identified any errors, deficiencies or omissions in the analysis of the bid package. MWH concurred with Staff's recommendation to award the construction contract to E.J Meyer.

ENGINEERING SERVICES DURING CONSTRUCTION

The construction of the two components of the Project (West Side System and East Side System) will require construction phase services from the design engineer. These services include:

- Attend Construction Meetings as necessary
- Shop Drawing Review
- Respond to Contractor Requests for Information
- Prepare Pipeline Profile Revisions Based on Contractor Pothole Data
- Prepare Pipeline Alignment Revisions Based on Contractor Pothole Data
- Change Order Review and Support
- Start Up Assistance
- Prepare Record Drawings

These services are specific to the project design and must necessarily be provided by the design engineer. The District utilized a similar contract during the Phase I project. Staff negotiated a scope and fee with the design engineer, Tetra Tech. The actual costs associated with the similar services provided during the Phase I project were used to predict the necessary level of effort for the Phase II Project. The proposed contract cost is a budget estimate. The budget will be expended only as necessary. The total fee estimate of \$145,000 is made up of individual scope and fee estimates for the two projects. The total contract cost breakdown is summarized as follows:

West Side System	\$89,000
East Side System	\$56,000
Total	\$145,000

FINANCIAL ANALYSIS

The total project budget (Capital Cost Summary) for the Phase II Recycled Water Distribution System Expansion Project is detailed in **Exhibit 3**. The budget reflects completed costs, bid costs, estimated costs and a construction project contingency equivalent to 10% of the distribution system construction cost made up of the West Side System bid and the East Side System engineers estimate. The total project cost estimate is now approximately \$8.4 million.

Staff prepared a detailed financial analysis for the Project. The analysis compares the projected additional O&M costs and debt service associated with the Phase II Project to the revenue anticipated to be generated from the new recycled water customers and the LRP Rebate. The resulting comparison of expenses and revenues identifies the additional restricted reserves necessary to balance the Recycled Water Cost Center as a result of the Phase II Project.

Phase II Recycled Water Distribution System Expansion Project

West Side System

Page 3

The Phase II Project constructs only an expansion to the recycled water distribution system with no need for further investment in the treatment facilities. The Project benefits from the previously constructed Tertiary Treatment Plant. The lack of any need to construct further treatment results in a project that is significantly more cost effective. The smaller project cost, coupled with the grant funding portion of the SRF funding, results in a loan amount that is significantly smaller than that required for the Phase I Project. The financial analysis performed by staff evaluated loan term options to determine the most efficient funding for the project.

The LRP Agreement defines a rebate payment of \$475/af over a period of 15 years. Per the Agreement, the actual payment of the LRP rebate is based on an annual comparison of the District's actual unitized recycled water costs to the MWD rate for potable water. The full LRP rebate is paid only if the documented actual recycled water costs exceed the MWD potable water rate by \$475 or more. Otherwise, the rebate is reduced accordingly. Staff's financial evaluation therefore considers options to maximize the LRP rebate over the life of the LRP Agreement.

The SRF loan includes a grant component that will pay for 35% of the construction costs. There are also certain cost components, including the retrofits, that are not eligible for SRF funding. The anticipated funding breakdown is as follows:

	Total	Loan	Grant	ETWD Reserves	Total
Planning / Design	\$701,642	\$656,042		\$45,600	\$701,642
Construction	\$6,963,719	\$4,396,417	\$2,367,302	\$200,000	\$6,963,719
Retrofits	\$700,000			\$700,000	\$700,000
Total	\$8,365,361	\$5,052,459	\$2,367,302	\$945,600	\$8,365,361

The anticipated loan amount defined above is approximately \$5 million. The SRF Loan Agreement assumes a term of 20 years. A 20-year amortization of the anticipated loan amount results in an annual debt service of approximately \$300,000. A debt service of this amount coupled with the expected O&M expense would be insufficient to justify the full recovery of the LRP Rebate. Staff tested several loan terms to identify the loan term and associated annual debt service that would maximize the LRP Rebate. The shorter loan terms also result in an overall lower loan cost over the life of the loan. Staff's evaluation of loan terms was intended to identify the loan term that both maximizes the value of the LRP rebate as well as minimizes the utilization of restricted reserves over the long term. The Phase II Project economics actually result in a positive restricted reserve generation after a very short period. As such, for purposes of comparison, the analysis focused on identifying the option that maximized the restricted reserve generation over a period of 20 years. The summary of the financial analyses of varying loan terms, shown in **Exhibit 4**, indicates that the optimal loan term is 12-13 years. Staff intends to confirm the optimal loan term following the bidding of the East Side System. The State Division of Financial Assistance staff has verified that a Final Budget Amendment, submitted following the bidding of the East Side System project, can include an amortization schedule at the term selected by the District.

The analysis demonstrates that the Phase II project is not only financially viable but actually reduces the combined restricted reserve requirement in the Recycled Water Cost Center over the long term.

In addition to the minor use of restricted reserves to supplement the on-going recycled water revenues the project is expected to require the use of restricted reserves to fund certain project capital costs, including the on-site retrofits, that are not eligible for SRF funding. Staff has performed a detailed analysis of the current restricted reserve balance as well as the restricted reserve generation history in an effort to project the available restricted reserves to service the Phase I and Phase II Projects funding requirements. At the end of June, 2017 the restricted reserve balance was approximately \$1.8 million. The restricted reserves are adequate to fund the small additional supplemental restricted reserve draw as well as any capital cost associated with the Phase II Project.

RECOMMENDATION

Recommended Board Action at the August 8, 2017 Meeting:

Staff recommends that the Board of Directors authorize the District's General Manager to 1) enter into a contract with E.J. Meyer Company in the amount of \$3,858,888.00 for construction of the West Side System; and 2) enter into a contract with Tetra Tech in the amount of \$145,000.00 for professional engineering services during construction for both phases of construction of the Phase II Recycled Water Distribution System Expansion Project. Staff also recommends that the Board authorize the General Manager to fund the project costs from the District's Capital Reserves in accordance with the District's adopted Capital Reserve Policy.

Date: August 3, 2017

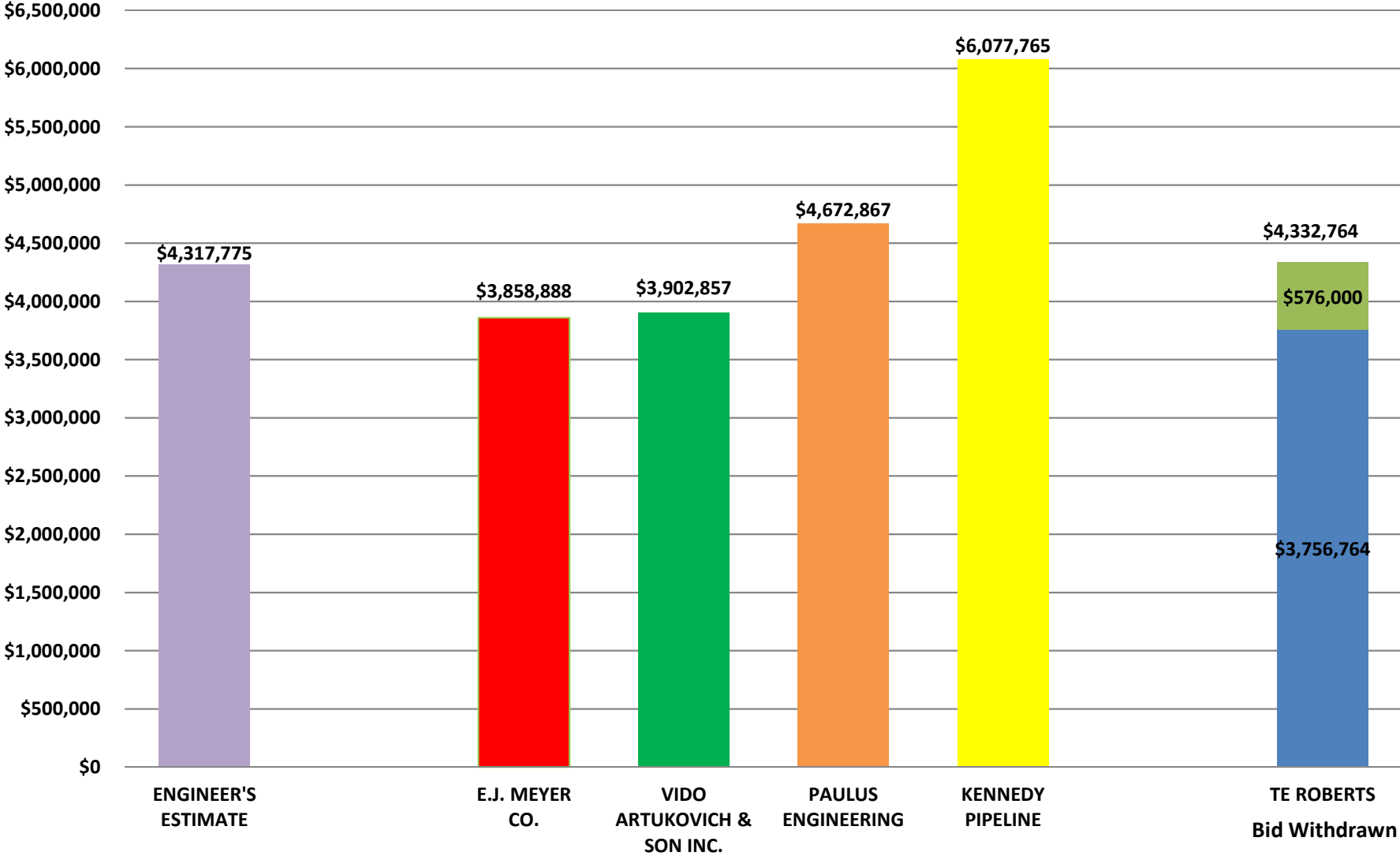
By: Dennis P. Cafferty

**PHASE II RECYCLED WATER
DISTRIBUTION SYSTEM EXPANSION PROJECT
WEST SIDE SYSTEM
BID SUMMARY**

E.J. Meyer Co.	\$3,858,888
Vido Artukovich & Son Inc.	\$3,902,857
Paulus Engineering	\$4,672,867
Kennedy Pipeline	\$6,077,765
TE Roberts **	\$3,756,764
Adjusted for Error	\$4,332,764
Engineer's Estimate	\$4,317,775

**** Bid Withdrawn**

PHASE II RECYCLED WATER DISTRIBUTION SYSTEM EXPANSION PROJECT WEST SIDE SYSTEM BID SUMMARY



**PHASE II RECYCLED WATER
DISTRIBUTION SYSTEM EXPANSION PROJECT
CAPITAL COST SUMMARY**

EXHIBIT 3

Construction

West Side System

Engineers Estimate	\$3,708,888
Allowance for Utility Conflicts (Contingency)	\$150,000
Contingency	\$386,000
Total	\$4,244,888

East Side System

Base Bid	\$1,625,000
Engineers Estimate	\$75,000
Allowance for Utility Conflicts (Contingency)	\$170,000
Contingency	\$1,870,000

Total Construction

Engineers Estimate	\$5,333,888
Allowance for Utility Conflicts (Contingency)	\$225,000
Contingency	\$556,000
Total Construction	\$6,114,888

Engineering Design

Engineering Design (Tetra Tech)	\$241,000
Retrofit Site Plans	\$66,500
Easement Exhibits (Tetra Tech)	\$32,500
Subtotal Design	\$340,000

Planning

CEQA (Dudek)	\$67,805
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Construction Support

CEQA Construction Support	\$50,000
Engineering Construction Support	\$145,000
Construction Management & Inspection - Distribution System	\$435,991
Construction Management & Inspection - Geotech	\$75,000
Labor Compliance Consultant	\$42,840
Miscellaneous Construction Support	\$100,000
Subtotal Construction Support	\$848,831

Administration

Legal	\$50,000
SRF Loan Application (HDR)	\$13,536
Grant Funding Research	\$9,701
Public Relations / Project Outreach	\$75,000
Miscellaneous	\$100,000
Easements Compensation	\$34,600
Title Insurance	\$11,000
Subtotal Administration	\$293,837

On Site Conversions/Retrofits Construction	\$700,000
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Total Project	\$8,365,361
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PHASE II RECYCLED WATER DISTRIBUTION SYSTEM EXPANSION PROJECT ECONOMIC ANALYSIS

Year	FY Ending	Total Expenses	Total Revenue	20 Year Loan Term			15 Year Loan Term			14 Year Loan Term			13 Year Loan Term			12 Year Loan Term			11 Year Loan Term		
				Debt Service	MWD LRP Rebate	Restricted Reserve Requirement	Debt Service	MWD LRP Rebate	Restricted Reserve Requirement	Debt Service	MWD LRP Rebate	Restricted Reserve Requirement	Debt Service	MWD LRP Rebate	Restricted Reserve Requirement	Debt Service	MWD LRP Rebate	Restricted Reserve Requirement	Debt Service	MWD LRP Rebate	Restricted Reserve Requirement
1	2019	\$56,600	\$359,153	\$300,119	\$81,119	\$83,553	\$384,439	\$123,500	\$41,613	\$408,582	\$123,500	\$17,470	\$436,458	\$123,500	(\$10,405)	\$469,000	\$123,500	(\$42,947)	\$507,480	\$123,500	(\$81,427)
2	2020	\$58,600	\$376,946	\$300,119	\$70,899	\$89,126	\$384,439	\$123,500	\$57,407	\$408,582	\$123,500	\$33,264	\$436,458	\$123,500	\$5,388	\$469,000	\$123,500	(\$27,153)	\$507,480	\$123,500	(\$65,634)
3	2021	\$60,700	\$394,047	\$300,119	\$59,999	\$93,227	\$384,439	\$123,500	\$72,407	\$408,582	\$123,500	\$48,264	\$436,458	\$123,500	\$20,389	\$469,000	\$123,500	(\$12,153)	\$507,480	\$123,500	(\$50,633)
4	2022	\$62,800	\$413,088	\$300,119	\$48,579	\$98,748	\$384,439	\$123,500	\$89,349	\$408,582	\$123,500	\$65,206	\$436,458	\$123,500	\$37,330	\$469,000	\$123,500	\$4,788	\$507,480	\$123,500	(\$33,692)
5	2023	\$64,900	\$430,088	\$300,119	\$36,639	\$101,708	\$384,439	\$120,959	\$101,708	\$408,582	\$123,500	\$80,106	\$436,458	\$123,500	\$52,230	\$469,000	\$123,500	\$19,688	\$507,480	\$123,500	(\$18,792)
6	2024	\$67,100	\$446,654	\$300,119	\$24,019	\$103,454	\$384,439	\$108,339	\$103,454	\$408,582	\$123,500	\$94,472	\$436,458	\$123,500	\$66,596	\$469,000	\$123,500	\$34,054	\$507,480	\$123,500	(\$4,426)
7	2025	\$69,400	\$465,532	\$300,119	\$10,719	\$106,732	\$384,439	\$95,039	\$106,732	\$408,582	\$119,182	\$106,732	\$436,458	\$123,500	\$83,174	\$469,000	\$123,500	\$50,632	\$507,480	\$123,500	\$12,152
8	2026	\$71,900	\$484,446	\$300,119	(\$2,901)	\$109,526	\$384,439	\$81,419	\$109,526	\$408,582	\$105,562	\$109,526	\$436,458	\$123,500	\$99,588	\$469,000	\$123,500	\$67,046	\$507,480	\$123,500	\$28,566
9	2027	\$74,500	\$498,979	\$300,119	(\$14,081)	\$110,279	\$384,439	\$70,239	\$110,279	\$408,582	\$94,382	\$110,279	\$436,458	\$122,258	\$110,279	\$469,000	\$123,500	\$78,979	\$507,480	\$123,500	\$40,499
10	2028	\$77,100	\$513,948	\$300,119		\$113,548	\$384,439	\$61,139	\$113,548	\$408,582	\$85,282	\$113,548	\$436,458	\$113,158	\$113,548	\$469,000	\$123,500	\$91,349	\$507,480	\$123,500	\$52,868
11	2029	\$79,800	\$529,367	\$300,119		\$116,747	\$384,439	\$51,619	\$116,747	\$408,582	\$75,762	\$116,747	\$436,458	\$103,638	\$116,747	\$469,000	\$123,500	\$104,067	\$507,480	\$123,500	\$65,587
12	2030	\$82,600	\$545,248	\$300,119		\$162,529	\$384,439	\$42,199	\$120,408	\$408,582	\$66,342	\$120,408	\$436,458	\$94,218	\$120,408	\$469,000	\$123,500	\$117,148			\$462,648
13	2031	\$85,500	\$561,605	\$300,119		\$175,987	\$384,439	\$32,359	\$124,025	\$408,582	\$56,502	\$124,025	\$436,458	\$84,378	\$124,025			\$476,105			\$476,105
14	2032	\$88,500	\$578,454	\$300,119		\$189,835	\$384,439	\$22,099	\$127,614	\$408,582	\$46,242	\$127,614			\$489,954			\$489,954			\$489,954
15	2033	\$91,600	\$595,807	\$300,119		\$204,088	\$384,439	\$11,679	\$131,447			\$504,207			\$504,207			\$504,207			\$504,207
16	2034	\$94,800	\$613,681	\$300,119		\$218,763			\$518,881			\$518,881			\$518,881			\$518,881			\$518,881
17	2035	\$98,200	\$632,092	\$300,119		\$233,773			\$533,892			\$533,892			\$533,892			\$533,892			\$533,892
18	2036	\$101,700	\$651,055	\$300,119		\$249,236			\$549,355			\$549,355			\$549,355			\$549,355			\$549,355
19	2037	\$105,300	\$670,586	\$300,119		\$265,167			\$565,286			\$565,286			\$565,286			\$565,286			\$565,286
20	2038	\$108,900	\$690,704	\$300,119		\$281,685			\$581,804			\$581,804			\$581,804			\$581,804			\$581,804
TOTAL					\$314,988	\$3,107,712		\$1,191,094	\$4,275,482		\$1,390,259	\$4,521,086		\$1,505,651	\$4,682,675		\$1,482,000	\$4,704,982		\$1,358,500	\$4,627,200

August 8, 2017

The Hon. Ricardo Lara
Chairman, Senate Appropriations Committee
State Capitol, Room 2206
Sacramento, CA 95814

The Hon. Pat Bates
Vice Chair, Senate Appropriations Committee
State Capitol, Room 2206
Sacramento, CA 95814

RE: AB 1000 (FRIEDMAN): WATER CONVEYANCE: USE OF FACILITY WITH
UNUSED CAPACITY – OPPOSE

Dear Chairman Lara and Vice Chair Bates:

El Toro Water District is writing to express its opposition to AB 1000 (Friedman). This “gut and amend” legislation seeks to create a new certification process for water conveyed in California’s water transportation systems, which is both unprecedented and undefined.

In our view AB 1000 is of concern because it seeks to impose an unnecessary, unprecedented and duplicative environmental review over and above CEQA for water transfer or infrastructure projects in the state. .

AB 1000 is an inappropriate law that would further constrain much-needed new water supply projects while having potential negative impacts on the entire California water community. The transportation of water in existing conveyance facilities is already a highly-regulated process that must comply with CEQA. The creation of a new legislative layer which will delay water supply projects sets a dangerous precedent that must be stopped. We therefore, respectfully request that you see that this bill is not reported out of the Appropriations Committee when it is up for your consideration.

Respectfully Submitted,

EL TORO WATER DISTRICT

M. Scott Goldman
President

cc: The Hon. Jim Beall
The Hon. Steven Bradford
The Hon. Jerry Hill
The Hon. Jim Nielsen
The Hon. Scott Wiener
The Hon. Laura Friedman

AMENDED IN SENATE JULY 3, 2017

AMENDED IN ASSEMBLY MAY 30, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 1000

Introduced by Assembly Member Friedman

February 16, 2017

An act to add Section ~~25402.14 to the Public Resources 1815 to the~~ *Water Code*, relating to ~~water conservation: water.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1000, as amended, Friedman. ~~Water conservation: performance standards for water meters: conveyance: use of facility with unused capacity.~~

Existing law prohibits the state or a regional or local public agency from denying a bona fide transferor of water from using a water conveyance facility that has unused capacity for the period of time for which that capacity is available, if fair compensation is paid for that use and other requirements are met.

This bill would, notwithstanding that provision, prohibit a transferor of water from using a water conveyance facility that has unused capacity to transfer water from a groundwater basin underlying desert lands, as defined, that is in the vicinity of specified federal lands or state lands to outside of the groundwater basin unless the State Lands Commission, in consultation with the Department of Fish and Wildlife, finds that the transfer of the water will not adversely affect the natural or cultural resources of those federal and state lands.

~~Existing law requires the State Energy Resources Conservation and Development Commission to establish design and construction standards~~

~~and energy and water conservation design standards that increase efficiency in the use of energy and water for new residential and new nonresidential buildings to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy. Existing law requires the commission to establish minimum levels of operating efficiency to promote the use of energy and water efficient appliances. The Water Measurement Law requires every water purveyor to require, as a condition of new water service, the installation of a water meter to measure water service. That law also requires urban water suppliers to install water meters on specified service connections, and to charge water users based on the actual volume of deliveries as measured by those water meters in accordance with a certain timetable.~~

~~This bill would authorize the commission to adopt regulations establishing performance standards for water meters installed in residential and nonresidential buildings, including water meters installed pursuant to the Water Measurement Law.~~

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. Section 1815 is added to the Water Code, to read:
- 2 1815. (a) Notwithstanding Section 1810, a transferor of water
- 3 shall not use a water conveyance facility that has unused capacity
- 4 to transfer water from a groundwater basin underlying desert
- 5 lands that is in the vicinity of a national monument, a national
- 6 preserve, a national park, a state or federal wilderness area, or
- 7 state lands to outside of the groundwater basin unless the State
- 8 Lands Commission, in consultation with the Department of Fish
- 9 and Wildlife, finds that the transfer of the water will not adversely
- 10 affect the natural or cultural resources, including groundwater
- 11 resources or habitat, of those federal and state lands.
- 12 (b) For purposes of this section, “desert lands” means the
- 13 portion of California located south of Interstate 15, east of State
- 14 Highway 247, north of State Highway 62, west of Interstate 95,
- 15 and west of the Nevada state line between Interstate 95 and
- 16 Interstate 15.
- 17 SECTION 1. Section 25402.14 is added to the Public Resources
- 18 Code, to read:

1 ~~25402.14. The commission may adopt regulations to establish~~
2 ~~performance standards for water meters installed in residential and~~
3 ~~nonresidential buildings, including water meters required to be~~
4 ~~installed pursuant to Article 3.5 (commencing with Section 525)~~
5 ~~of Chapter 8 of Division 1 of the Water Code.~~

O

List of Opponents to AB 1000

1. Southern California Water Committee *
2. American Ground Water Trust *
3. Laborers International Union of North America (LIUNA)/SCDCL *
4. International Union of Operating Engineers, Local 12 *
5. Southern California Partnership for Jobs *
6. Southern California Association of Governments *
7. Association of California Cities – Orange County *
8. Orange County – Council of Governments *
9. Municipal Water District of Orange County (MWDOC)
10. Mojave Water Agency *
11. Three Valleys Municipal Water District *
12. Santa Margarita Water District *
13. East Orange County Water District *
14. Laguna Beach County Water Department *
15. Jurupa Community Services District *
16. Twentynine Palms Water District *
17. Cucamonga Valley Water District *
18. Golden State Water Company *
19. Otay Water District *
20. Oak Glen Domestic Water Company
21. Montecito Water District
22. South Orange County Wastewater Authority *
23. City of Mission Viejo *
24. City of Twentynine Palms
25. State Building Trades & Construction Council of California *
26. San Bernardino Farm Bureau
27. Imperial County Farm Bureau
28. California Chamber of Commerce *
29. Inland Empire Economic Partnership *
30. Engineering Contractors Association *
31. San Gabriel Valley Economic Partnership *
32. California Business Properties Association*
33. Building Industry Association of Southern California * (including Baldy View, Orange, Los Angeles/Ventura, Riverside)
34. BIZFED – Los Angeles County Business Federation *
35. Orange County Business Council*
36. South Orange County Economic Coalition *

* Letter sent to California Senate

37. Orange County Taxpayers Association *
38. Terry Foreman, Hydrogeologist PG, CHg *
39. Dennis Williams, Hydrogeologist, PhD, PG, CHg *
40. Anthony Brown, Engineering Hydrologist *
41. Joseph E. Bonadiman & Associates, Inc. *
42. West Yost Associates Inc. *
43. MWH Global Inc. *
44. CH2M Hill *
45. Garney Construction *
46. California Steel Industries, Inc. *
47. Roscoe Moss Company *
48. Lucid Energy *
49. Northwest Pipe Co. *
50. Cadiz Inc. *

LIST OF SUPPORTERS OF AB 1000

1. National Parks Conservation Association (Sponsor)
2. 29 Palms Inn
3. Audubon California
4. California League of Conservation Voters
5. Center for Biological Diversity
6. Coalition to Protect America's National Parks
7. Defenders of Wildlife
8. Environment California
9. Hispanic Access Foundation
10. Inland Empire Waterkeeper
11. Mojave Desert Land Trust
12. Mojave National Preserve Conservancy
13. Morongo Basin Conservation Association
14. Native American Land Conservancy
15. Natural Resources Defense Council
16. Orange County Coastkeeper
17. Sierra Club California
18. The Nature Conservancy
19. Vet Voice Foundation

NOT YET DISTRIBUTED

July X, 2017

The Honorable Lorena Gonzalez Fletcher
Chair, Assembly Appropriations Committee
California State Assembly
State Capitol, Room 2114
Sacramento, CA 95814

Re: Senate Bill 623 (Monning): Funding for Safe Drinking Water
Position: OPPOSE UNLESS AMENDED (As Amended July 3, 2017)

Alameda County Water District
American Water Works Association,
California-Nevada Section
Association of California Water Agencies
Bella Vista Water District
Calleguas Municipal Water District
Cucamonga Valley Water District
Desert Water Agency
East Valley Water District
Eastern Municipal Water District
Elsinore Valley Municipal Water District
El Dorado Irrigation District

Kern County Water Agency
Las Virgenes Municipal Water District
Mesa Water District
Regional Water Authority
Rowland Water District
San Juan Water District
Southern California Water Committee
Three Valleys Municipal Water District
Western Municipal Water District
Yorba Linda Water District
Yuba County Water Agency

Dear Chair Gonzalez Fletcher:

The above-listed organizations are OPPOSED UNLESS AMENDED to SB 623 (Monning), which would establish a fund to be administered by the State Water Resources Control Board (SWRCB) to assist those who do not have access to safe drinking water. We agree with the intent of the bill which is to help fund solutions for disadvantaged communities (DACs). The lack of access to safe drinking water in certain DACs in California is a public health issue and a social issue that needs to be addressed.

As the Legislature departed Sacramento for Summer Recess, the intended funding sources for SB 623 have yet to be identified in the bill. We understand the Author will add the funding sources prior to the Assembly Appropriations Committee voting on the measure. We also understand that Senator Monning is considering adding two types of funding: 1) a nitrate fee(s) related to fertilizer and dairies to address nitrate contamination; and 2) a state-mandated tax on water that local water agencies would be required to assess on their ratepayers. **Requiring local water agencies and cities across the state to impose a new tax on water for the State of California is highly problematic and is not the appropriate response to the problem. THE ORGANIZATIONS LISTED ABOVE ALL OPPOSE THE ADDITION OF A RATEPAYER ASSESSMENT/TAX ON WATER TO SB 623.**

State law sets forth a policy of a human right to water for human consumption that is safe, clean and affordable. The Legislature should not force local agencies to collect a tax for the state on something that is a human right. Further, adding a tax on water works against keeping water affordable. Instead of trying to set state-imposed tax mandates on local agency rate structures, the above-listed organizations suggest the following funding solution.

FUNDING SOLUTION: The State can package funding as follows:

- 1) **Safe Drinking Water State Revolving Fund (SRF)** – this federal funding can be used to fund capital costs;
- 2) **General Obligation (G.O.) Bonds** – SB 5 (de León) proposes \$175 million for safe drinking water and two new bond initiatives have been filed with the Attorney General which propose \$400 million and \$500 million for safe drinking water. All of these bonds propose to prioritize the drinking water funding to DACs;
- 3) **Ag Funding** – the nitrate-related fee(s) can be used for replacement water for the nitrate contamination; and
- 4) **General Fund** – General Fund funding can fund the non-nitrate operation and maintenance (O&M) costs needs at public water systems in certain DACs.

Everyone in California should have access to safe drinking water. The fact that a small percentage of Californians do not makes this issue a social issue for which the General Fund is an appropriate source of funding as part of a funding package.

AMENDMENTS: In addition to including the General Fund as a funding source instead of adding a ratepayer assessment/tax on water, the following amendments are needed:

- 1) **This bill should exclude capital costs as an eligible funding category** and focus on funding operation and maintenance (O&M) costs, which are difficult to fund through G.O. bonds and cannot be funded with SRF funds.
- 2) **The funding should be limited to** DACs in rural, unincorporated areas that do not have access to safe drinking water. The other proposed affordability criteria should be deleted. (As currently drafted, the funding is not limited to DACs.)
- 3) **SB 623 would include individual domestic wells and “state small water systems” (with 5 to 14 connections) as eligible funding categories even though data is lacking to support a credible needs assessment.** The state does not require owners of private wells to sample their wells, and consequently a comprehensive database for these groundwater sources does not exist. State small systems are typically regulated at the local or county level; therefore, a comprehensive database for these groundwater sources does not exist. **The bill should explicitly exclude these two categories from funding with the exception that funding could be made available for replacement water** for individual domestic wells or state small water systems in rural areas of the state for which the local health officer has certified that data documents that the wells for which funding is being sought in that area are contaminated with **nitrate**. The proposed definition of “replacement water” should be

narrowed to make this exception workable. (Bottled water, point-of-use treatment and point-of-entry treatment are reasonable parts of this proposed definition.)

4) SB 623 would require the SWRCB to require testing for individual domestic wells and state small water systems. This proposed requirement should be deleted and replaced with a requirement for the SWRCB, in consultation with the counties and relevant stakeholders, to develop a report to the Legislature with recommendations regarding to what extent and how drinking water data should be collected and evaluated for individual domestic wells and state small water systems in rural, unincorporated areas. This report should take into account issues such as what is the role of the counties, what scope is needed, how owners of individual domestic wells would be informed of the process, and what challenges exist relative to access to wells on private property.

5) The language should be consistent with the existing regulatory program. The language in the bill should, for public water systems, refer to “noncompliance” with the drinking water standards instead of “exceedances.” For some of the maximum contaminant levels, one exceedance does not necessarily equate to noncompliance or unsafe water. (Please see subdivision (i) of Section 64432 of Title 22 of the California Code of Regulations.)

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

The above-listed organizations urge your “No” vote on SB 623 unless these concerns are addressed. The above-listed organizations also urge your “No” vote if a ratepayer assessment (tax on water) is added to the bill.

If you have questions regarding the concerns expressed or amendments suggested above, please contact Cindy Tuck, Deputy Executive Director for Government Relations, Association of California Water Agencies at (916) 441-4545 or at cindy@acwa.com.

cc: The Honorable William W. Monning
Honorable Members, Assembly Appropriations Committee
Ms. Kathy Smith, Senior Legislative Consultant, Office of Senator William W. Monning
Ms. Jennifer Galehouse, Deputy Chief Consultant, Assembly Appropriations Committee
Mr. John Kennedy, Consultant, Assembly Republican Caucus