



**San Gabriel Valley Council of Governments**  
**AGENDA AND NOTICE OF THE JOINT MEETING OF THE SPECIAL**  
**WATER POLICY COMMITTEE & WATER TECHNICAL ADVISORY**  
**COMMITTEE (TAC)**

**Tuesday, October 8, 2019, 10:00 AM**

**Monrovia Community Center – Senior Game Room**  
**119 W Palm Ave, Monrovia, CA 91016, USA**

**Water Policy Committee**

**Chair: Diana Mahmud**  
City of South Pasadena

**Vice-Chair:**  
**Judy Nelson**  
City of Glendora

**Members**  
Claremont  
Glendora  
Monrovia  
Rosemead  
Sierra Madre  
South Pasadena  
LA County District 1

**Water TAC**

**Chair: Tom Love**  
Upper San Gabriel Valley  
Municipal Water District

**Vice Chair: Alex Tachiki**  
City of Monrovia

**Members**  
Alhambra  
Arcadia  
Bradbury  
Covina  
Duarte  
Monrovia  
Pomona  
Sierra Madre  
LA County DPW  
San Gabriel Valley MWD  
Upper San Gabriel Valley  
MWD

**Ex-Officio Members**  
LA County Sanitation  
Districts  
SG Basin Watermaster

Thank you for participating in today's meeting. The Water Committee encourages public participation and invites you to share your views on agenda items.

**MEETINGS:** *Regular Meetings of the Water Committee are held on the second Tuesday of each month at 10:00 AM at the Upper San Gabriel Valley Municipal Water District Offices (602 E. Huntington Drive, Suite B Monrovia, CA 91016).* The agenda packet is available at the San Gabriel Valley Council of Government's (SGVCOG) Office, 1000 South Fremont Avenue, Suite 10210, Alhambra, CA, and on the website, [www.sgvkog.org](http://www.sgvkog.org). Copies are available via email upon request ([sgv@sgvcog.org](mailto:sgv@sgvcog.org)). Documents distributed to a majority of the Committee after the posting will be available for review in the SGVCOG office and on the SGVCOG website. Your attendance at this public meeting may result in the recording of your voice.

**PUBLIC PARTICIPATION:** Your participation is welcomed and invited at all Water Committee and Water TAC meetings. Time is reserved at each regular meeting for those who wish to address the Committee. SGVCOG requests that persons addressing the Committee refrain from making personal, slanderous, profane or disruptive remarks.

**TO ADDRESS THE COMMITTEE:** At a regular meeting, the public may comment on any matter within the jurisdiction of the Committee during the public comment period and may also comment on any agenda item at the time it is discussed. At a special meeting, the public may only comment on items that are on the agenda. Members of the public wishing to speak are asked to complete a comment card or simply rise to be recognized when the Chair asks for public comments to speak. We ask that members of the public state their name for the record and keep their remarks brief. If several persons wish to address the Committee on a single item, the Chair may impose a time limit on individual remarks at the beginning of discussion. **The Water Committee and Water TAC may not discuss or vote on items not on the agenda.**

**AGENDA ITEMS:** The Agenda contains the regular order of business of the Water Committee and the Water TAC. Items on the Agenda have generally been reviewed and investigated by the staff in advance of the meeting so that the Committee/TAC can be fully informed about a matter before making its decision.

**CONSENT CALENDAR:** Items listed on the Consent Calendar are considered to be routine and will be acted upon by one motion. There will be no separate discussion on these items unless a Committee member or citizen so requests. In this event, the item will be removed from the Consent Calendar and considered after the Consent Calendar. If you would like an item on the Consent Calendar discussed, simply tell Staff or a member of the Committee.



In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the SGVCOG office at (626) 457-1800. Notification 48 hours prior to the meeting will enable the SGVCOG to make reasonable arrangement to ensure accessibility to this meeting.



**PRELIMINARY BUSINESS**

1. Call to Order
2. Roll Call
3. Public Comment (*If necessary, the Chair may place reasonable time limits on all comments*).
4. Changes to Agenda Order: Identify emergency items arising after agenda posting and requiring action prior to next regular meeting.

**CONSENT CALENDAR** (*It is anticipated that the Water Committee/TAC may act on the following matters*)

5. Water Committee/TAC Meeting Minutes – Page 1  
*Recommended Action: Approve Water Committee/TAC meeting minutes.*

**PRESENTATIONS**

6. Water Contaminant Litigation — Ken Sansone, SL Environmental Law Group – Page X  
*Recommended Action: For information only.*

**DISCUSSION ITEMS**

**UPDATE ITEMS**

7. Safe Clean Water Program  
*Recommended Action: For information only.*
8. Legislative Updates  
*Recommended Action: For information only.*
9. Litigation Update  
*Recommended Action: For information only.*
10. E/WMP Updates  
*Recommended Action: For information only.*
11. Water TAC Chair Report  
*Recommended Action: For information only.*
12. Water Supply Update  
*Recommended Action: For information only.*
13. Water Boards Update  
*Recommended Action: For information only.*

**CHAIR'S REPORT**

**ANNOUNCEMENTS**

**ADJOURN**



## **SGVCOG Joint Water Policy Committee/TAC Meeting**

### **Approved Minutes**

Date: September 10, 2019  
Time: 10:00 AM  
Location: Upper San Gabriel Valley Municipal Water District  
602 E. Huntington Drive, Suite B, Monrovia, CA

### **PRELIMINARY BUSINESS**

1. Call to Order: The meeting was called to order at 10:07 A.M.
2. Roll Call

#### **Water Policy Committee Members Present**

J. Stark; Claremont  
G. Boyer, J. Nelson; Glendora  
G. Crudgington; Monrovia  
M. Clark; Rosemead  
J. Capoccia; Sierra Madre  
D. Mahmud; South Pasadena  
H. Nguyen; LA County District #1

#### **Water Policy Committee Members Absent**

#### **Water TAC Members Present**

J. Chavez; Alhambra  
A. Tachiki; Monrovia  
J. Carver; Pomona  
R. Wang; LACPW  
T. Love, P. Cortez; USGVMWD

#### **Water TAC Members Absent**

Arcadia  
Bradbury  
Covina  
Duarte  
Sierra Madre

#### **Ex Officio Members Present**

A. Jimenez; SG Watermaster

#### **Ex Officio Members Absent**

LACSD

#### **Guests**

R. Watson, Richard Watson & Associates, Inc  
A. Desai, Larry Walker Associates

#### **SGVCOG Staff**

P. Hubler  
N. Kaur  
C. Sims

3. Public Comment.  
No public comment was given.
4. Changes to Agenda Order.  
The presentation on the Proposed Bacteria Scientific Study was moved to the beginning of the agenda in order to allow more time for all Committee Members to be present.

### **CONSENT CALENDAR**

5. Water Committee/TAC Meeting Minutes

**There was a motion to approve the consent calendar. (M/S: G. Crudgington/G Boyer).  
[MOTION PASSED]**

<b>AYES:</b>	Claremont, Glendora, Monrovia, Rosemead, Sierra Madre, South Pasadena, LA County District #1, Alhambra, , Pomona, LACPW, USGVMWD
<b>NOES:</b>	
<b>ABSTAIN:</b>	
<b>ABSENT:</b>	Arcadia, Bradbury, Covina, Duarte

## **PRESENTATIONS**

6. Proposed Bacteria Scientific Study — Richard Watson, Richard Watson & Associates, Inc. R. Watson presented on this item. He gave an overview of a proposed study that would explore the causes of bacteria that impact water quality and the bacteria TMDL that MS4 permittees must comply with. The study has been designed to. He noted that 16 out of 19 watershed areas have a bacteria TMDL and struggle to comply because of the lack of data on the causes of bacteria. He presented a draft scope of work that would explore the causes and the scientific study approach, draft study schedule, and cost estimate. He is working to build support for including the study in Watershed Area Stormwater Investment Plans for funding under the Regional Program component of the Safe, Clean Water Program. The Committee members asked additional questions on the proposed scope of work and the proposed approach for conducting the study.

## **DISCUSSION ITEMS**

7. Water Committee Vice-Chair Nomination  
There was a motion to elect Judy Nelson (Glendora) to serve as Vice-Chair of the Water Policy Committee. [who made the motion?]
8. Safe, Clean Water Program  
D. Mahmud presented draft comments regarding the supplemental documents for the Safe Clean Water Program, including the Regional Oversight Operating Committee Guidelines, Scoring Committee Operating Guidelines, Watershed Area Scoring Committee Guidelines, Feasibility Study Guidelines, and the Credit Program Procedures and Guidelines, proposed for submittal to Los Angeles County. There was discussion on the guidelines, specifically around the proposed comment to appoint all members of the Committee to an initial two-year term (rather than the four-year term proposed in the Guidelines).

There was a motion to direct staff to submit the proposed comments, including the reduction of the initial term limit to 2 years for all Committee members. The motion died for lack of second.

**There was a motion to direct staff to submit the proposed comments, removing the proposal to reduce the initial term limit for all Committee members to 2 years. (M/S: G. Crudgington/M. Clark).**

**[MOTION PASSED]**

<b>AYES:</b>	Claremont, Glendora, Monrovia, Rosemead, Sierra Madre, South Pasadena, LA County District #1, Alhambra, , Pomona, LACPW, USGVMWD
<b>NOES:</b>	
<b>ABSTAIN:</b>	
<b>ABSENT:</b>	Arcadia, Bradbury, Covina, Duarte

9. Prop 1 Storm Water Grant Program Guidelines  
Staff was directed to collect comments on the guidelines before their submission on September 20, 2019. A follow-up email with additional information was scheduled to be sent which included details for a webinar regarding the topic.

## **UPDATE ITEMS**

10. Legislative Updates  
P. Hubler provided updates on a number of pieces of legislation. He briefly discussed the meeting with Congresswoman Napolitano regarding HR 1497. He also encouraged cities to send in letters of support of AB 1093 and letters of opposition for SB 205. R. Watson also commented on AB 1298, which would place a bond measure on the November 2020 ballot to finance climate resiliency, fire risk reduction, recycling, groundwater and drinking water supply, clean beaches, and jobs infrastructure projects. E/WMP Updates  
A. Tachiki from the City of Monrovia provided an update on the Rio Hondo/Upper San Gabriel EWMP. The group is working on its feasibility studies and are determining whether they should form a joint powers agreement to facilitate future implementation.
11. Water TAC Chair Report  
T. Love informed the Committee that the TAC has not met. He suggested a presentation topic for next month's meeting regarding PFAS.
12. Water Supply Update  
T. Love reported that the regional water supply was higher than in the past due to runoff from the Colorado River. The San Gabriel Basin is working on an agreement to get surplus water for the Basin over the next five years. He also reported on a stormwater direct use pilot program from being proposed by the Metropolitan Water District (MWD) that would award \$5 million for stormwater direct reuse pilot projects. The program would be used as a data gathering mechanism to determine whether stormwater direct use is feasible for larger scale projects and thus should be considered for funding in the future. .
13. Water Boards Update  
There was no update on this item.
14. Litigation Update  
D. Mahmud informed the Committee that the court has 90 days from August 16, 2019, to determine the judgement and is widely expected that it will be appealed.

## **CHAIR'S REPORT**

### **ANNOUNCEMENTS**

15. The Chair asked committee members to provide comments on the Proposition 1 Storm Water Grant Program Guidelines so that staff could submit comments by the deadline.

## **ADJOURN**

The meeting was adjourned at 12:07 PM.



# REPORT

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DATE: October 8, 2019

TO: Water Committee/Water TAC

FROM: Marisa Creter, Executive Director

RE: **WATER CONTAMINANT LITIGATION**

## **RECOMMENDED ACTION**

For information only.

## **BACKGROUND**

San Gabriel Valley communities are required to comply with drinking water guidelines for detecting and reporting contaminants. These include 1,2,3-TCP and perchlorate – which comes from agricultural sources – and PFAS. PFAS are a class of thousands of different chemicals that have water- and stain-resistant properties. They have been used in a wide variety of applications since the 1940s, including firefighting foam, stain-resistant carpets and clothing, food packaging, and a host of other commercial and consumer products. PFAS have been referred to as “forever chemicals” due to their resistance to biodegradation and tendency to accumulate in human and animal tissue.

The California State Water Resources Control Board has issued notification levels at 6.5 ppt or lower for two of the most widely found PFAS chemicals and has ordered certain systems (including some in the San Gabriel Valley) to test for them due to proximity to potential sources of PFAS contamination. These include airfields or military installations where firefighting foam containing PFAS was used or landfills where commercial and consumer products containing PFAS were buried.

Treating for PFAS and other contaminants is extremely expensive, and several cities are pursuing lawsuits against manufacturers to recover these treatment costs. Several cities across the country have bought lawsuits against large corporations, including 3M and Dupont, alleging that they made and profited from products containing PFAS while knowing of the environmental and human health related risks.

SL Environmental Law Group represents several San Gabriel Valley or Inland Empire communities and other water systems in lawsuits against these manufacturers. Ken Sansone, Partner at SL Environmental Law Group, will be presenting on this topic. The presentation will be provided at the meeting.

Prepared by:



Navneet Kaur  
Management Analyst

# REPORT

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Approved by: Marisa Creter  
Marisa Creter  
Executive Director



# REPORT

DATE: October 8, 2019

TO: Water Committee/Water TAC

FROM: Marisa Creter, Executive Director

RE: **SAFE CLEAN WATER PROGRAM**

## **RECOMMENDED ACTION**

For information only.

## **BACKGROUND**


At its last meeting, the Water Committee directed staff to submit comments to LA County on the guidelines for the operating communities – including the Regional Oversight Committee, Scoring Committee, and Watershed Area Steering Group Committee – and the Feasibility Study Guidelines for the Safe Clean Water Program. The attached letter (Attachment A) was submitted to the County following the last Water Committee meeting. Many of the comments were addressed in the County's updated guidelines. The following comments were not addressed:

- For the Watershed Area Steering Committee Operating Guidelines (Municipal Members p. 6), the SGVCOG had recommended that in the event that an alternate replaces the Primary representative for the unrepresented seats, the municipalities should hold an election for selection of a new alternate rather than have the municipality from whom the outgoing Primary representative was affiliated make an appointment of a new alternate.
- For the Feasibility Study Guidelines (Community Investment Benefits, p. 8), the SGVCOG had recommended adding as a possible community investment benefit the use of the stormwater project site for the location of a renewable electric energy project.
- For the Feasibility Study Guidelines (Exhibit A, Infrastructure Program Project Scoring Criteria, p. 11), the SGVCOG had recommended modifying the specified minimum score of 60 for projects that would capture stormwater that would otherwise flow into the Rio Hondo or San Gabriel Rivers. Those projects will receive little to no water supply benefit points because the county captures most of the flow in those rivers.
- For the Credit Program Procedures and Guidelines (LID Equivalency Volume, p. 2), the SGVCOG had recommended providing a minimum number of years for determination of "long term volume."
- For the Credit Program Procedures and Guidelines (Calculation Guidance, p. 8), the SGVCOG had recommended adding to the potential Community Investment Benefits the use of project site for the establishment of a renewable electric energy project.

In addition, meetings of the Regional Oversight Committee, Scoring Committee, and each of the Watershed Area Steering Committees will be held through the end of October into November.

# REPORT

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Prepared by:   
Navneet Kaur  
Management Analyst

Approved by:   
Marisa Creter  
Executive Director

## **ATTACHMENTS**

Attachment A – Letter to LA County Regarding Committee Operating Guidelines and Feasibility Study Guidelines



September 12, 2019

Los Angeles County Public Works (LACPW)  
Safe Clean Water Program  
900 S. Fremont Ave.  
Alhambra, CA 91803

**OFFICERS**

*President*  
Cynthia Sternquist

*1<sup>st</sup> Vice President*  
Margaret Clark

*2<sup>nd</sup> Vice President*  
Becky Shevlin

*3<sup>rd</sup> Vice President*  
Tim Hepburn

**MEMBERS**

*Alhambra*  
*Arcadia*  
*Azusa*  
*Baldwin Park*  
*Bradbury*  
*Claremont*  
*Covina*  
*Diamond Bar*  
*Duarte*  
*El Monte*  
*Glendora*  
*Industry*  
*Irwindale*  
*La Cañada Flintridge*  
*La Puente*  
*La Verne*  
*Monrovia*  
*Montebello*  
*Monterey Park*  
*Pomona*  
*Rosemead*  
*San Dimas*  
*San Gabriel*  
*San Marino*  
*Sierra Madre*  
*South El Monte*  
*South Pasadena*  
*Temple City*  
*Walnut*  
*West Covina*  
*First District, LA County*  
*Unincorporated Communities*  
*Fourth District, LA County*  
*Unincorporated Communities*  
*Fifth District, LA County*  
*Unincorporated Communities*  
*SGV Water Districts*

**RE: SAFE CLEAN WATER SUPPLEMENTAL DOCUMENTS**

The San Gabriel Valley Council of Governments (SGVCOG) appreciates the opportunity to give input on the development of the Safe Clean Water program through the public review period.

The SGVCOG includes membership of 29 cities, 3 Supervisorial Districts, and 3 Municipal Water Districts, representing over 2 million residents. We understand and take seriously stewardship of environmental resources and to that end enacted a Stormwater Policy in November of 2016 in which we pledged to protect our watersheds and natural environment from polluted stormwater, and to capture stormwater and dry weather runoff to augment local water supplies. We continue to support compliance with water quality standards and strive to comply in a reasonable, practical, feasible and affordable manner. Over the years, the SGVCOG has actively pursued a path toward compliance within the framework of those four guiding principles—reasonable, practical, feasible, and affordable—and earned a reputation within Los Angeles County and the state as a regional leader on stormwater policy.

In an effort to assist in development of the Safe Clean Water program, we offer the following specific categorized recommendations regarding the draft supplemental documents.

**Regional Oversight Committee Operating Guidelines**

- Notice (Page 5): Clarify that meetings of the ROC are subject to compliance with the Brown Act, as committees created by formal action of the BOS are deemed “legislative bodies” under the Brown Act. See Government Code section 54952(b). Brown Act compliance goes far beyond meeting notice requirements.
- Confidentiality (Page 5): There may be some conflict regarding confidentiality in light of the fact that communications amongst committee members and committee meetings are both subject to the Brown Act. More thought needs to be given as to what matters may appropriately be considered confidential; the existing language is too vague to provide useful guidance.
- Compensation for Participation (Page 5): Modify text to clarify a member eligible for compensation from any source are ineligible to claim a stipend (e.g., some organizations provide compensation for their board members to attend meetings, and some consultants may receive compensation for attending meetings). This modification is necessary to avoid conflict with Article V, H.

**Scoring Committee Operating Guidelines**

- Notice (Page 5): Clarify that meetings of the SC are subject to compliance with the Brown Act, as committees created by formal action of the BOS are deemed ‘legislative bodies’ under the Brown Act. See Government Code section 54952(b). Brown Act compliance goes far beyond meeting notice requirements.
- Confidentiality (Page 5): The language is too vague to provide useful guidance for members. There may be some conflict considering communications amongst committee members are subject to the Brown Act.
- Compensation for Participation (Page 5): Modify text to clarify a member eligible for compensation from any source are ineligible to claim a stipend (e.g., some organizations provide compensation for their board members to attend meetings. This modification is necessary to avoid conflict with Article V, H.

#### **Watershed Area Steering Committee Operating Guidelines**

- Municipal Members (Page 6): Recommend that in the event an alternate replaces the Primary representative for the unrepresented seats, the municipalities hold an election for selection of a new alternate rather than have the municipality from whom the outgoing Primary representative was affiliated make an appointment of a new alternate.
- Notice (Page 8): Clarify that meetings of the WASC are subject to compliance with the Brown Act, as committees created by formal action of the BOS are deemed ‘legislative bodies’ under the Brown Act. See Government Code section 54952(b). Brown Act compliance goes far beyond meeting notice requirements.
- Compensation for Participation (Page 9): Modify text to clarify a member eligible for compensation from any source are ineligible to claim a stipend (e.g., some organizations provide compensation for their board members to attend meetings. This modification is necessary to avoid conflict with Article V, K.

#### **Feasibility Study Guidelines**

- Water Supply Benefits (Page 8): This section, which requires that the project developer demonstrate that “the diverted water would not otherwise be diverted/captured downstream” fails to consider that the vast majority of the flow in the Rio Hondo and San Gabriel Rivers is already captured downstream by the County.
- Community Investment Benefits (Page 8): Add as a possible community investment benefit use of the stormwater project site for location of a renewable electric energy project.
- Exhibit A, Infrastructure Program Project Scoring Criteria (Page 11): Consider modifying the specified minimum score of 60 for projects that would capture stormwater that would otherwise flow into the Rio Hondo or San Gabriel Rivers since those projects will receive little to no water supply benefit points because the county captures most of the flow in those rivers.

#### **Credit Program Procedures and Guidelines**

- LID Equivalency Volume (Page 2): Provide a minimum number of years for determination of “long term volume.”

- Calculation Guidance (Page 8): Add to the potential Community Investment Benefits use of project site for establishment of a renewable electric energy project.

Should you have any questions, please contact Navneet Kaur, Management Analyst, at [nkaur@sgvcog.org](mailto:nkaur@sgvcog.org), (626) 457-1800.

Sincerely,



Marisa Creter  
Executive Director  
San Gabriel Valley Council of Governments



# REPORT

DATE: October 8, 2019

TO: Water Policy Committee/ Water TAC

FROM: Marisa Creter, Executive Director

RE: **LEGISLATIVE UPDATES**

## **RECOMMENDED ACTION**

For information only.

## **BACKGROUND**

Below are updates on legislation the Water Committee and Water TAC have taken positions on or are currently tracking:

### **AB 1093 (Rubio) - Municipal Separate Storm Sewer Systems: Financial Capability Analysis**

- **Summary:** This bill would require the State Water Resources Control Board, by July 1, 2020, to establish financial capability assessment guidelines for municipal separate storm sewer system permittees that are adequate and consistent when considering the costs to local jurisdictions.
- **Status:** AB 1093 (Rubio) was vetoed by Governor Newsom.
- **SGVCOG Position:** Support (Sponsor)
- **Support:** Association of California Water Agencies, Los Angeles County Division, League of California Cities, Upper San Gabriel Municipal Water District
- **Opposition:** None recorded.

### **AB 755 (Holden) - California Tire Fee: Stormwater Permit Compliance Fund**

- **Summary:** This bill would increase the California tire fee by \$1.50. The bill would deposit the additional moneys in the Stormwater Permit Compliance Fund, which would be established by the bill, and would make the moneys available to the State Water Resources Control Board Division of Financial Assistance. The bill would continuously appropriate moneys in the fund for competitive grants for projects and programs for municipal storm sewer system permit compliance requirements that would prevent or remediate zinc pollutants caused by tires in the state and for an annual audit of the fund.
- **Status:** On May 29, 2019, AB 755 was ordered to the inactive file at the request of the bill's author and was deemed a two-year bill. It must be pass the Assembly by January 2020 in order to advance.
- **SGVCOG Position:** Support (Sponsor)
- **Support:** LA County Division of the League of California Cities, Upper San Gabriel Municipal Water District, Sierra Club, Heal the Bay.
- **Opposition:** Auto Care Assoc., Automotive Service Councils of California, California Autobody Association, California Automotive Business Coalition, California Chamber of Commerce, California Tire Dealers Association, CAWA, Independent Automotive

Professionals, Specialty Equipment Market Association, U.S. Tire Manufacturers Association.

## **AB 1204 (Rubio) - Primary Drinking Water Standards: Implementation Date**

- **Summary:** This bill would require the adoption or amendment of a primary drinking water standard for a contaminant in drinking water not regulated by a federal primary drinking water standard or that is more stringent than a federal primary drinking water standard to take effect 3 years after the date on which the State Board adopts or amends the primary drinking water standard. The bill would authorize the State Board to delay the effective date of the primary drinking water standard adoption or amendment by no more than 2 additional years as necessary for capital improvements to comply with a maximum contaminant level or treatment technique.
- **Status:** AB 1204 has been deemed a two-year bill and must pass the Assembly by January 2020 in order to advance.
- **SGVCOG Position:** Support
- **Support:** Association of California Water Agencies (Sponsor)
- **Opposition:** Unknown

## **SB 205 (Hertzberg) - Business Licenses: Stormwater Discharge Compliance.**

- **Summary:** This bill would require, when applying to a city or a county for an initial business license or business license renewal, a person who conducts a business operation that is a regulated industry to demonstrate enrollment with the National Pollutant Discharge Elimination System (NPDES) permit program by providing specified information, under penalty of perjury, on the application, including, among other things, the Standard Industrial Classification Code for the business. The bill would apply to all applications for initial business licenses and business license renewals submitted on and after January 1, 2020. The bill would permit a city or county to develop a provisional license procedure for business license renewals that provides businesses 3 months to comply with these provisions. By requiring that the information be submitted under penalty of perjury, this bill would expand the crime of perjury and impose a state-mandated local program.
- **Status:** SB 205 (Hertzberg) was presented to Governor Newsom for signature.
- **SGVCOG Position:** Oppose unless amended
- **Support:** American Rivers, California Coastal Protection Network, California Coastkeeper Alliance, California Metals Coalition, Center for Biological Diversity, Coachella Valley Waterkeeper, Foothill Conservancy, Heal the Bay, Humboldt Baykeeper, Inland Empire Waterkeeper, Los Angeles Waterkeeper, Monterey Coastkeeper, Natural Resources Defense Council, Orange County Coastkeeper, Planning and Conservation League, Russian Riverkeeper, San Diego Coastkeeper, Santa Barbara Channelkeeper, Save the Bay, Surfrider Foundation
- **Opposition:** California Construction and Industrial Materials Association, City of Fullerton

## **SB 414 (Caballero) - Small System Water Authority Act of 2019**

- **Summary:** This bill would enact the Small System Water Authority Act of 2019 and require the State Water Resources Control Board to order the consolidation of certain small water systems that are not in compliance with specified clean drinking water standards through the formation of a small system water authority. This bill would merge these non-



compliant water systems into a larger and more robust public water system that can take advantage of improved economies of scale, streamlined managerial functions, and enhanced financial capacity. The bill includes a framework for the formation of a small water system authority; the internal organization of an authority; requirements for how authority elections would be handled; the powers and purposes related to water, property, contracts, and disputes; and the financial provisions that require the State Water Resources Control Board (SWRCB) to support specified costs.

- **Status:** SB 414 (Caballero) was placed on the suspense file and has thus become a two-year bill.
- **SGVCOG Position:** Support
- **Support:** California Municipal Utilities Association (Co-Sponsor), Eastern Municipal Water District (Co-Sponsor), Economic Development Coalition, California Association of Mutual Water Companies, Calleguas Municipal Water District, Cucamonga Valley Water District, El Toro Water District, Emerald Bay Service District, Independent Special Districts of Orange County, Irvine Ranch Water District, Laguna Beach County Water District, Las Virgenes Municipal Water District, Municipal Water District of Orange County, Murrieta/Wildomar Chamber of Commerce, Rincon del Diablo Municipal Water District, Santa Ana Watershed Project Authority, South Coast Water District, Southwest California Legislative Council, The Metropolitan Water District of Southern California, Three Valleys Municipal Water District, Valley Center Municipal Water District, Western Municipal Water District, Yorba Linda Water District.
- **Opposition:** Clean Water Action (Oppose Unless Amended), Community Water Center (Oppose Unless Amended), Leadership Counsel for Justice and Accountability (Oppose Unless Amended), Rural Communities Assistance Corporation (Oppose Unless Amended), Self-Help Enterprises (Oppose Unless Amended).

## SB 669 (Caballero) - Water Quality: Safe Drinking Water Fund

- **Summary:** This bill would create the Safe Drinking Water Fund. The Fund would be established in the State Treasury and would provide that moneys in the Fund are continuously appropriated to the State Water Resources Control Board. This bill would require the State Board to administer the Fund to assist community water systems in disadvantaged communities that are chronically noncompliant relative to the federal and state drinking water standards and do not have the financial capacity to pay for operation and maintenance costs to comply with those standards.
- **Status:** SB 669 (Caballero) was placed on the suspense file.
- **SGVCOG Position:** Support
- **Support:** Association of California Water Agencies (Sponsor), California Municipal Utilities Association (Sponsor), Amador Water Agency, BizFed, Calaveras County Water District, City of Riverside, Desert Water Agency, Eastern Municipal Water District, El Dorado Irrigation District, Goleta Water District, Howard Jarvis Taxpayers Association, Humboldt Community Services District, Indian Wells Valley Water District, Irvine Ranch Water District, Los Angeles County Business Federation, Metropolitan Water District of Southern California, Northern California Water Association, Orange County Water District, Professional Engineers in California Government, Regional Water Authority, Rincon del Diablo Municipal Water District, Rowland Water District, San Diego County Water Authority, San Gabriel Valley Municipal Water District, San Gabriel Valley Water

Association, San Juan Water District, Southern California Water Coalition, Three Valleys Municipal Water District, Tuolumne Utilities District, Twain Harte Community Services District, Upper San Gabriel Valley Municipal Water District, Vista Irrigation District, Walnut Valley Water District, Western Canal Water District, Yorba Linda Water District

- **Opposition:** No known opposition.

## **HR 1497: Water Quality Protection and Job Creation Act**


- **Summary:** This bill authorizes approximately \$23.5 billion in direct infrastructure investment over the next five years to address wastewater infrastructure and local water quality challenges.
- **Status:** On March 6, HR 1497 was referred to the House Subcommittee on Water Resources and Environment. As of June 25, HR 1497 has 45 cosponsors.
- **SGVCOG Position:** Support
- **Support:** American Public Works Association, American Road & Transportation Builders Association, American Society of Civil Engineers, American Sustainable Business Council, Bipartisan Policy Center, California Association of Sanitation Agencies, Earthjustice, Environmental Law & Policy Center, League of Conservation Voters, National Association of Clean Water Agencies, National Association of Counties, National League of Cities, National Water Resources Association, Natural Resources Defense Council, Sanitation District of Los Angeles County, Sierra Club, U.S. Conference of Mayors
- **Opposition:** No known opposition

Prepared by:



Navneet Kaur  
Management Analyst

Approved by:



Marisa Creter  
Executive Director

# REPORT

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DATE: October 8, 2019

TO: Water Committee/Water TAC

FROM: Marisa Creter, Executive Director

RE: **LITIGATION UPDATE**

## **RECOMMENDED ACTION**

For information only.

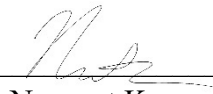
## **BACKGROUND**

The cities of Duarte, Gardena, Huntington Park, and a number of other cities had previously challenged the MS4 permit requirements regarding the numeric effluent limits imposed by the Los Angeles Regional Water Quality Control Board and the State Water Resources Control Board.

On September 24, 2019, the Superior Court of California, County of Orange issued a judgement in the case of the City of Duarte v. State Water Resources Control Board in favor of the City of Duarte. The Writ commanded that any and all provisions in the National Pollutant Discharge Elimination System (NPDES) MS4 Permit that pertain in any way to the Numeric Effluent Limits be set aside. The Writ also commanded that the Permit be reconsidered considering the Court's April 19, 2019, Amended Ruling and the September 24, 2019, Order.

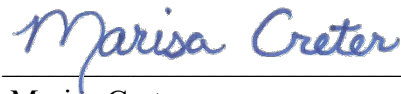
The judgement will be discussed further during the meeting.

Prepared by:



Navneet Kaur  
Management Analyst

Approved by:



Marisa Creter  
Executive Director

## **ATTACHMENTS**

Attachment A – Duarte vs. State Water Resources Control Board Writ of Mandate

Attachment B – Message from California Regional Water Quality Control Board, Los Angeles Region

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE</b> Civil Complex Center 751 W. Santa Ana Blvd Santa Ana, CA 92701	
<b>SHORT TITLE:</b> The Cities of Duarte vs State Water Resources Control Board	
<b>CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE</b>	<b>CASE NUMBER:</b> <b>30-2016-00833614-CU-WM-CJC</b>

I certify that I am not a party to this cause. I certify that the following document(s), Minute Order dated 09/24/19, Order on Writ of Mandate dated 09/24/19, Judgment dated 09/24/19, have been transmitted electronically by Orange County Superior Court at Santa Ana, CA. The transmission originated from Orange County Superior Court email address on September 24, 2019, at 3:58:57 PM PDT. The electronically transmitted document(s) is in accordance with rule 2.251 of the California Rules of Court, addressed as shown above. The list of electronically served recipients are listed below:

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**CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE**

**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF ORANGE  
CIVIL COMPLEX CENTER**

**MINUTE ORDER**

DATE: 09/24/2019

TIME: 02:45:00 PM

DEPT: CX101

JUDICIAL OFFICER PRESIDING: Glenda Sanders

CLERK: Antero Pagunsan

REPORTER/ERM: None

BAILIFF/COURT ATTENDANT: Carolyn J Reza

CASE NO: **30-2016-00833614-CU-WM-CJC** CASE INIT.DATE: 07/02/2015

CASE TITLE: **The Cities of Duarte vs State Water Resources Control Board**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Writ of Mandate

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EVENT ID/DOCUMENT ID: 73133225

EVENT TYPE: Chambers Work - Submitted Matter

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**APPEARANCES**

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There are no appearances by any party.

On 6/20/19, the Court asked the parties for further briefing re: "what are the court's powers under Code of Civil Procedure section 1094.5(g) and CCP 916, the nature of the relief this Court can and should grant in light of its ruling of 4/1[9]/2019, and any other topics raised and discussed on the record." Having considered the supplemental briefs filed by the parties and having heard oral argument on the matter on 8/16/19 the Court makes the following ruling.

Petitioners The Cities of Duarte and Huntington Park (collectively "Duarte") petitioned this Court for a writ of mandate pursuant to CCP § 1094.5 and California Water Code § 13330, seeking to set aside certain portions of the National Pollutant Discharge Elimination System Permit for Municipal Separate Storm Sewer System Discharges Within the Coastal Watersheds of Los Angeles County, with the exception of discharges originating from the City of Long Beach, Order No. R4-2012-0175, NPDES No. CAS004001", as reviewed and modified by the State Board in Order No. WQ-2015-0075 issued on or about June 16, 2015, with the Regional Board thereafter issuing an amended permit on or about July 1, 2015 (the "Permit"). *Duarte Petition*, ¶¶ 6-8.

In addition to seeking a writ, Duarte also sought declaratory and injunctive relief. Under California law, an action for declaratory relief is not appropriate to review an administrative decision. *State of California vs. Superior Ct.* (1974) 12 Cal. 3rd 237, 249; accord, *City of Pasadena vs. Cohen* (2014) 228 Cal. App. 4th 1461, 1466-1467 and cases cited therein. See also *County of Los Angeles v. State Water Resources Control Board* (2006) 143 Cal.App.4th 985, 1002. Further, declaratory relief cannot be joined with a writ of mandate reviewing an administrative decision. *Guilbert vs. Regions of University of*



*California* (1979) 93 Cal. App. 3d 233, 244. Similarly, an injunction may not be used to review the appropriateness of an agency's adjudicatory action. *Viso vs. State* (1979) 92 Cal.App.3d 15, 21.

Accordingly, on **November 10, 2016**, the Court (Judge Andler) granted judgment on Duarte's **5th cause of action for declaratory relief**. For the reasons stated in that 2016 ruling as well as those set forth above in this Order, the Court now also strikes those portions of Duarte's **1st, 2nd and 3rd** causes of action pertaining to declaratory and/or injunctive relief and any references in its Prayer for such relief. The Court construes the remainder of Duarte's petition as requests for administrative mandamus, as sought under its 1st, 2nd, 3rd and 4th causes of action. See *Hill vs. City of Manhattan Beach* (1971) 6 Cal. 3d 279 at 287.

California Code of Civil Procedure § 1094.5(f), gives courts the power to "enter judgment either commanding respondent to set aside the order or decision, or denying the writ." Duarte in its supplemental briefing and in oral argument argued, and the Court agrees, that the Court is not restricted to either setting aside the permit in its entirety or denying the writ but that it also has the power to set aside the specific permit terms challenged, leaving the rest of the permit intact unless respondents opt to do otherwise. See *Bank of America vs. State Water Board* (1974) 42 Cal. App. 3d 198, 214-215; also see *City of Burbank vs. State Board* (2005) 35 Cal. 4th 613 (endorsing by implication the trial court's order setting aside the "Time Schedule Orders ... the Contested Effluent Limits ... and provisions specifying manner of compliance...").

Accordingly, pursuant to § 1094.5, the Court orders Respondents to vacate each and every one of the provisions in the Permit pertaining in any way to any and all Numeric Effluent Limits, and to reconsider the Permit in light of: (1) the Court's April 19, 2019 Amended Ruling on Petitions for Writ of Mandate, and (2) this September 24, 2019 Order clarifying the scope of relief available.

Contrary to Petitioner's contentions, in granting this peremptory writ, the Court is not required to consider the various alternative theories raised in each cause of action seeking the same form of relief, namely administrative mandamus, but need only grant the central or primary relief sought, that is, a peremptory writ. "[T]he law is well settled that *if findings are made on issues that determine the case, other issues become immaterial* and a failure to make additional findings does not constitute prejudicial error [Citations]." *Division of Labor Law Enforcement v. Transpacific Transportation Co.* (1977) 69 Cal.App.3d 268, 278 (emphasis added). While that case dealt with whether a statement of decision should have included findings on certain issues, the above proposition applies equally if not more so to a decision, such as this, which is not subject to the rigors of CCP § 632.

Clerk to give notice to parties.

DATED: September 24, 2019



Hon. Glenda Sanders  
Judge of the Superior Court

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE

**SEP 24 2019**

DAVID H. YAMASAKI, Clerk of the Court

BY: \_\_\_\_\_ DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ORANGE – CIVIL COMPLEX CENTER

**THE CITIES OF DUARTE AND  
HUNTINGTON PARK, et al.**

Petitioners/Plaintiffs,

vs.

**STATE WATER RESOURCES  
CONTROL BOARD; THE CALIFORNIA  
REGIONAL WATER QUALITY  
CONTROL BOARD, LOS ANGELES  
REGION, et al.**

Respondents/Defendants,

Case No. 30-2016-00833614-CU-WM-CJC

[Related Case No. 30-2016-00833722,  
*City of Gardena v. Regional Water Quality  
Control Board-Los Angeles Region, et al.*]

**WRIT OF MANDATE**

TO RESPONDENTS STATE WATER RESOURCES CONTROL BOARD AND  
REGIONAL WATER QUALITY CONTROL BOARD, LOS ANGELES REGION:

A. WHEREAS on September 24, 2019, judgment was entered in this action ordering that a  
peremptory writ of administrative mandamus issue from this Court;

1 B. Whereas the word "Permit" as used in this Writ shall mean: The National Pollutant Discharge  
2 Elimination System Permit for Municipal Separate Storm Sewer System within the Coastal  
3 Watersheds of Los Angeles County, except for discharges originating from the City of Long  
4 Beach MS4, Order No. R4-2012-0175, NPDES No. CAS004001, as amended on June 16, 2015  
5 by State Board Order WQ 2015-0075.

6  
7 YOU ARE HEREBY COMMANDED, upon receipt of this Writ, to:

- 8
- 9 1. Set aside each and every one of those provisions in the Permit pertaining in any way to any and  
10 all Numeric Effluent Limits, and to reconsider the Permit in light of the Court's April 19, 2019  
11 Amended Ruling and its September 24, 2019 Order;
  - 12
  - 13 2. File with this Court a return demonstrating compliance with ¶ 1(a) of the Judgment and ¶ 1 of  
14 this Writ. The return shall be served and filed within 90 days of the date of this Writ.
  - 15
  - 16 3. Nothing herein shall limit or control in any way the discretion legally vested in Respondents.
  - 17
  - 18

19 **Date Judge Signed: 09/24/2019**



20  
21 The Honorable Glenda Sanders  
22 Judge of the Superior Court of California  
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**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE

SEP 24 2019

DAVID H. YAMASAKI, Clerk of the Court

BY: \_\_\_\_\_, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ORANGE – CIVIL COMPLEX CENTER

**THE CITIES OF DUARTE AND  
HUNTINGTON PARK, et al.**

Petitioners/Plaintiffs,

vs.

**STATE WATER RESOURCES  
CONTROL BOARD; THE CALIFORNIA  
REGIONAL WATER QUALITY  
CONTROL BOARD, LOS ANGELES  
REGION, et al.**

Respondents/Defendants,

Case No. 30-2016-00833614-CU-WM-CJC

[Related Case No. 30-2016-00833722,  
*City of Gardena v. Regional Water Quality  
Control Board-Los Angeles Region, et al.*]

**JUDGMENT**

This matter came on regularly for hearing before the Court on November 13-15, 2017 and March 26-29, 2018 in Department CX101, the Honorable Glenda Sanders presiding. Thereafter, briefing, oral argument, supplemental briefing and further oral argument ensued on several days including, August 16, 2019

1 The Court has considered the administrative and the supplemental records, the papers of the  
2 parties and the arguments of counsel, and it has admitted the administrative record into evidence but  
3 declined to receive the supplemental record in evidence as it was unnecessary to its determination. On  
4 April 19, 2019, the Court issued its Amended Ruling on Petitions for Writ of Mandate in which, among  
5 other things, Petitioner Duarte was ordered to prepare, serve and submit a Proposed Judgment. No  
6 timely request was made for a statement of decision so the Amended Ruling, a November 10, 2016  
7 Order entering judgment in favor of Respondents on Petitioner Duarte's 5<sup>th</sup> cause of action for  
8 declaratory relief, and a September 24, 2019 Order clarifying the scope of relief and striking those  
9 portions of Duarte's 1st, 2nd and 3rd causes of action pertaining to declaratory and/or injunctive relief,  
10 constitute the Court's determination of this matter and the form of relief ordered.

11  
12 Duarte submitted its proposed judgment on April 25, 2019. Respondents filed objections to the  
13 proposed judgment on May 7, 2019. On June 20, 2019, the Court ordered further briefing related to  
14 the proposed judgment. On July 24, 2019, as part of that briefing, Duarte submitted a revised proposed  
15 judgment. On August 8, 2019, Respondents filed a response to the revised proposed judgment.

16  
17 The term "Permit" as used in this judgment shall mean: The National Pollutant Discharge  
18 Elimination System Permit for Municipal Separate Storm Sewer System within the Coastal Watersheds  
19 of Los Angeles County, except for discharges originating from the City of Long Beach MS4, Order  
20 No. R4-2012-0175, NPDES No. CAS004001, as amended on June 16, 2015 by State Board Order WQ  
21 2015-0075.

22  
23 Having considered the foregoing:

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25 IT IS ORDERED that:

- 26 1. A peremptory writ of administrative mandamus shall issue under the seal of this Court,  
27 remanding the matter to Respondents and directing Respondents to:

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- a. Set aside each and every one of the provisions in the Permit pertaining in any way to any and all Numeric Effluent Limits, and to reconsider the Permit in light of the Court's April 19, 2019 Amended Ruling, and its September 24, 2019 Order re scope of relief;
  - b. File with this Court a return demonstrating compliance with ¶ 1(a) of this Judgment. The return shall be served and filed within 90 days from the date of this Judgment.
2. The peremptory writ resolves all issues raised in the Petition. The Court has entered judgment on the 5th cause of action and has stricken those portions of Duarte's 1st, 2nd and 3rd causes of action pertaining to declaratory and/or injunctive relief. Any other issues raised in the Petition are immaterial because the findings made in the Amended Ruling, the November 10, 2016 Order, and the September 24, 2019 Order determine the Petition.
3. Nothing in this judgment or the writ shall limit or control in any way the discretion legally vested in Respondents.
4. Petitioner, as the prevailing party, shall recover its costs in this proceeding in the amount of \$\_\_\_\_\_.

1 5. The Court shall reserve jurisdiction to consider any motion for attorneys' fees by Petitioner.  
2 Any motion for attorneys' fees in this matter shall be deemed timely if filed and served within  
3 60 days of the date of this judgment.  
4

5 **Date Judge Signed: September 24, 2019**



6  
7 The Honorable Glenda Sanders  
8 Judge of the Superior Court of California  
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**This is a message from the California Regional Water Quality Control Board, Los Angeles Region (4).**

On Tuesday, September 24, 2019, the Orange County Superior Court issued final Judgments and Writs of Mandate in two related cases: Cities of Duarte and Huntington Park v. State Water Resources Control Board and California Regional Water Quality Control Board, Los Angeles Region and City of Gardena v. State Water Resources Control Board and California Regional Water Quality Control Board, Los Angeles Region. These cases challenge several aspects of the 2012 Los Angeles County MS4 Permit (Los Angeles Water Board Order No. R4-2012-0175), including the incorporation of TMDL-based numeric effluent limitations. The Los Angeles Water Board disagrees with the Superior Court's ruling and we are currently evaluating our options, including appealing the court's decision.

We expect there are many questions from permittees and stakeholder as to how the Superior Court's ruling impacts the applicability of the 2012 Permit. At this time, the 2012 Permit is still in effect. We will provide additional information in the coming weeks on any change in the status of the 2012 Permit.

The Los Angeles Water Board continues to work on the regional MS4 permit that we have been discussing at many of the Board's regularly scheduled meetings. The Board is cognizant of the costs to MS4 permittees associated with implementing projects to improve water quality and has considered, and will continue to consider and factor in, these costs. As the 2012 Permit has done, the forthcoming regional MS4 permit will ensure that water quality impairments due to stormwater and urban runoff are addressed and will support the cities' and counties' efforts to treat stormwater as a resource to improve the region's water resiliency and the wellbeing of our communities.

Renee Purdy

Executive Officer

CalEPA, Los Angeles Water Quality Control Board