**Regulatory Committee Meeting Agenda**
**Thursday, October 24, 2024**
**2:00-3:00 p.m.**
**Zoom Meeting**

## Agenda

- Co-Chairs **Kevin Thomas**, Kimley-Horn and **Eric Miller**, Miller Marine Science and Consulting – Welcome

## Update Items

- Events update
    - CalDesal Board of Directors Meeting
        - ACWA Fall Conference – Palm Desert – JW Marriott
        - Wednesday, December 4, 2024 – 7:00 AM (hybrid participation)

    - 2024 CalDesal Fall Mixer (**Attachment**)
        - ACWA Fall Conference – Palm Desert – JW Marriott
        - Wednesday, December 4, 2024 – 6:00 PM

    - 2025 CalDesal Annual Conference
        - Pechanga Resort – Temecula, CA
        - Wednesday, February 5 – Thursday, February 6

## Discussion Items

- OPA 2.0 planning efforts (**Attachment**)

- SWRCB Subsurface Intake Panel Report **(Supplemental Material)**
    - SWRCB response letter **(Attachment)**

- Urban Water Management Plan – Ocean Water Desalination – Discussion – Take-aways?

- Assembly Select Committee on Permitting Reform **(Attachments)**

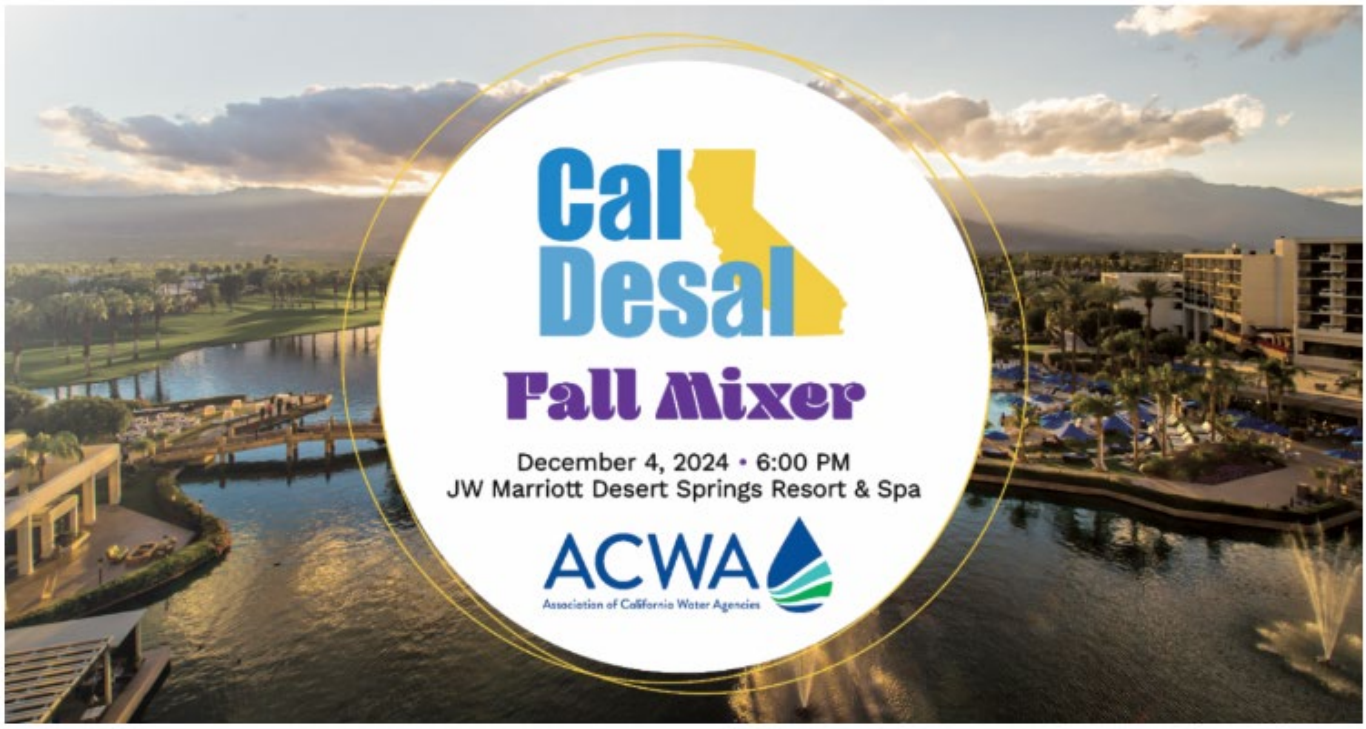
**Recent Project Activity, Upcoming Milestones**

- Doheny Desalination Project
- Monterey Desalination Project
- Carlsbad Desalination Facility Intake Project
- MWD desalination siting and technical studies
- Offshore desalination pilot projects
- Updates on any other ongoing desalination projects?

**Other Items**

**Next Regulatory Committee Meeting:**
**January 2025**

# 2024 CalDesal Fall Mixer – December 4, 2024




Join us at the JW Marriott Desert Springs Resort & Spa in Palm Desert, CA, for the always-popular CalDesal Fall Mixer, taking place on Wednesday, **December 4, 2024**, at 6:00 PM during the ACWA Fall Conference. This event attracts hundreds of water professionals, making it a fantastic opportunity to showcase your organization and connect with key industry leaders.

Sponsorship opportunities for the CalDesal Fall Mixer are now open, providing your organization with the perfect platform to elevate your brand at this high-profile networking event. Don't miss your chance to secure visibility and build relationships with influential professionals in the water industry!

# OPA 2.0 Working Group – Issues Matrix

## Priority Issues:

(1) De facto prohibition on open intakes
(2) Rejection of any concept requiring the State or a state agency to make a determination of "need" for water associated with consideration of a desalination project
(3) Cost of water
(4) Allow flow augmentation to be considered as a viable discharge option, and eliminate brine diffusers as the best available technology
(5) Eliminate shearing mitigation for projects that comply with the SWB streamlining recommendations by utilizing subsurface intakes and commingling discharge with an existing wastewater outfall
(6) Mitigation
    - Timing – requirement for mitigation to be in place prior to operations of a facility is problematic
    - Fee-based mitigation; artificial reef efficacy
(7) Offshore/deep-sea desalination permitting (and for pilot projects)

| ISSUE | CONTEXT | KEY TALKING POINTS | ARGUMENT JUSTIFICATION (Reports/Data/References) | CHAMPION(S) |
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| **For desalination plant discharge, allow flow augmentation to be considered as a viable discharge option, and eliminate brine diffusers as the best** | Flow augmentation can result in less impact than diffusers and should be included in discharge analysis.<br><br>Recent analysis of discharges using flow augmentation model have conclusively demonstrated that coastal | All brine dilution methods should be included in analysis to determine which has least impact, on a project by project basis.<br><br>Recent analysis of discharges using flow augmentation model have conclusively demonstrated | | |

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| **available technology (which biases decision-making to use of diffuser technology)** | marine environments continue to support the full suite of beneficial use and that the discharge is not disturbing the receiving water quality or environment outside the brine mixing zone. | that coastal marine environments continue to support the full suite of beneficial use and that the discharge is not disturbing the receiving water quality or environment outside the brine mixing zone. | | |
| **Eliminate shearing mitigation for projects that comply with the SWB streamlining recommendations by utilizing subsurface intakes and commingling discharge with an existing wastewater outfall.** | Differentiating brine from freshwater in an existing wastewater outfall ignores the fact that the brine makes the freshwater more similar to the receiving waters and thereby reduces shearing effects because the more similar water masses mix more readily. Just as a subsurface intake is assumed to minimize entrainment and impingement to the point no mitigation for marine life impacts is needed, the same logic should be applied to commingled discharges. | Using the BTA for intake and discharge should result in no mitigation needed as the impacts to all forms of marine life have been minimized to the extent possible. Freshwater causes shear just like brine because dissimilar liquids (freshwater and marine receiving waters) are being forcibly mixed. Pre-mixing brine and freshwater wastewater reduces the liquid dissimilarity and results or less energetic mixing needing less shear. An overall environmental benefit.<br><br>The state does not regulate shearing in wastewater discharge and it's scientifically inconsistent to apply this standard only to desalination plants. | | |
| **De facto prohibition on open intakes** | Subsurface intakes are not feasible everywhere and cannot provide sufficient | Subsurface is not possible everywhere. We cannot replace the water volumes lost to | | |

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| | source water for the large plants the arid southwest will need to offset the aridification-induced water losses.<br><br>The "Draft Seawater Desalination Siting and Streamlining Report to Expedite Permitting," released for public comment in July 2023 by the California Seawater Desalination Interagency Group, doesn't live up to the water resilience objectives outlined in the Governor's Strategy and falls far short of the resourcefulness called for in the Governor's report. Instead, the Desalination Interagency Group's Draft Siting Criteria report sets the stage for moving California desalination into small, land-based distributed, "boutique" projects that are incapable of scaling in a meaningful way to provide the necessary production capacity that will provide real water resilience benefits for the state's agricultural, urban, and environmental needs. | aridification without open intakes.<br><br>Cost must be considered. Lots of small plants with subsurface intakes could result in higher water costs. Brings in the EJ/SJ issue opponents have been focused on.<br><br>Utilize arguments outlined in July 2023 correspondence to SWRCB regarding the siting criteria report. | | |

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| | Further, little if any mention can be found in the Draft Siting Criteria report related to newer technology provided by the emerging presence of "offshore" desalination facilities, which can be aggregated to provide for "scaling-up" as the need grows for more reliable water supplies throughout the state.<br><br>The aridification of California – coupled with the rapidly changing and more uncertain climate and hydrology facing the state – requires a much deeper investment in alternatives to our existing water supply sources. Large-scale, regional desalination plants that are planned, designed, constructed, and operated to provide California with a reliable and resilient water supply option going forward – for California's urban, agricultural, and environmental needs – are critical buffers against increasing climate change challenges and the uncertainties and unreliability of the Colorado River and | | | |

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| | Bay-Delta hydrologic systems. By focusing entirely on small, distributed, subsurface desalination options – and essentially creating and establishing a predisposition toward those technologies and sizes of projects – the report misses the opportunity to really focus on solving California's hotter and drier future within the context of the bigger picture of California's water resilience needs for all sectors of our state. **In virtually every other facet of water and wastewater management in California, the state encourages regional collaboration.** But in the Draft Siting Criteria report, the state is proposing a complete 180-degree turn by **ONLY** encouraging small, distributed desalination plants and creating a predisposition away from regionally collaborative and larger-scale desalination. | | | |
| Specify a sequential order for assessing site, design, | Each Water Code element needs to be evaluated with equal weight for each project. | The current process is untenable for most developers or municipalities when there are so | | |

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| technology, and mitigation under the Water Code Section 13142.5(b) determination process *(Siting Criteria Report)* | No project should be summarily denied because an element reviewed early in the process is determined to be less than ideal. | many potential ways to stop a project. Making stage-gates reduces risk for project proponents and increases certainty. | | |
| **Offshore/deep-sea desalination evaluation and permitting** | Should be given a pathway to compliance like all rather than disregarded because it is in a less studied habitat. | Flexibility in the final regulations is required to leave space for new technologies | | |
| **Offshore/deep-sea desalination pilot project permitting** | There needs to be a clear and definitive streamlined and expedited path for permitting offshore/deep-sea desalination pilot projects so they can actually be examined along the California coastal environment. | The path for permitting offshore desalination pilot projects is cumbersome and lengthy, leading many pilot project efforts to be relocated elsewhere for testing, which doesn't effectively allow for examination of pilot projects along the California coastal environment. | | |
| Articulate criteria for studies necessary to demonstrate subsurface intake feasibility *(Siting Criteria Report)* | | | | |
| Align the desalination provisions with the Coastal Act requirements regarding energy consumption and | | | | |

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| Resolution No. 2017-0012 *(Siting Criteria Report)* | | | | |
| **Timing – requirement for mitigation to be in place prior to operations of a facility is problematic** | Mitigation need is quantified too late in the permitting process to allow for a mitigation project to be feasibly designed, permitted, constructed, and demonstrated as successful. Either allow after-the-fact mitigation or increase the range of mitigation banks allowed in California that can be used by desalination developers, or both. | This proposed provision is not legal because it renders projects infeasible. Evidence shows that coastal wetlands take 20 years to site, design, permit and build, not taking into account demonstrating performance. Such a provision is in conflict with the state's definition of feasible as a project cannot be successfully developed in a reasonable period of time.<br><br>No project - public or private - would be able to secure construction financing with such a permit condition, leaving a project in limbo for an unspecified period of time. | | |
| **Mechanisms – Fee-based mitigation; artificial reef efficacy** | | Establishing a fee-based program, as provided for in the 2016 OPA, is the best way to streamline the development of desalination projects. | | |
| Clarify that "preservation" is not an acceptable means of mitigation under the Ocean Plan *(Siting Criteria Report)* | | | | |

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| **Rejection of any concept requiring the State or a state agency to make a determination of "need" for water associated with consideration of a desalination project** | Many provisions of the Draft Siting Criteria report identify state agency roles extending into the traditional purview of locally-elected officials, or, in the case of investor-owned utilities under the purview of the California Public Utilities Commission (CPUC), which is responsible for setting just and reasonable rates to ensure the provision of safe and reliable water service for investor-owned utilities. California's special districts and municipalities are governed by individuals elected by members of the communities they serve. These elected officials are expected to make decisions in the best interests of their electorate, their communities, and the state, and they often have very difficult jobs to balance perspectives and arrive at decisions that represent the people they are elected to serve. For water agency officials, virtually every decision that is voted upon by a governing body is viewed through a lens of need, reliability, location, community impacts, and affordability. Those are factors that a local governing body is elected to determine for the communities it serves. We are concerned that the Draft Siting Criteria proposes to | Utilize arguments outlined in July 2023 correspondence to SWRCB regarding the siting criteria report. | | |

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| | substantially extend the reach of state agencies far into the purview of locally elected officials. | | | |
| Provide guidance on the information needed to prepare a Water Supply and Demand Assessment *(Siting Criteria Report)* | | | | |
| Provide guidance on the application of existing policies and regulatory requirements relating to EJ, including siting projects with proactive community engagement and locally scoped EJ in mind at the onset of the permitting process *(Siting Criteria Report)* | | | | |
| Align the desalination provisions with the Human Right to Water and all applicable racial equity resolutions | | | | |

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| *(Siting Criteria Report)* | | | | |
| **Cost of water as a consideration (rate-making)** | | | | |

**TO**: Concur, Inc.

**FROM**: Phil Crader
Deputy Director
**DIVISON OF WATER QUALITY**

**DATE**: 9/6/2024

**SUBJECT**: RESPONSE TO *FINAL DESALINATION SUBSURFACE INTAKE PANEL REPORT* DATED APRIL 29, 2024

This memo documents the State Water Resource Control Board's (State Water Board's) response to the *Final Desalination Subsurface Intake Panel Report* (Final Report) submitted by Concur, Inc. on April 29, 2024, under grant agreement number D2215001. The State Water Board Division of Water Quality requests that this memo be included at the beginning of the Final Report.

The State Water Board entered into a grant agreement with Concur, Inc. to convene a Panel to develop guidance and recommendations to assist proposed seawater desalination facility owners or operators in preparing information for the regional water boards to review when evaluating subsurface intake feasibility as required by the Water Quality Control Plan for Ocean Waters of California (Ocean Plan). The Panel was to, at a minimum, consider the factors listed in Chapter III.M.2.d.(1)(a)i. of the Ocean Plan, such as geotechnical data, hydrogeological information, benthic topography, oceanographic conditions, project life cycle costs, facility energy use, and design constraints (engineering, constructability).

The Final Report proposes a methodology broadly focused on the overall permitting process for projects rather than a technical methodology for evaluating subsurface intake feasibility considering the factors listed in Chapter III.M.2.d.(1)(a)i of the Ocean Plan. The Final Report therefore does not provide sufficient technical guidance to project proponents and Water Board staff on determining the feasibility of subsurface intakes and the State Water Board does not recommend the Final Report be used solely by potential desalination facility owners or operators as guidance for preparing analyses to comply with the Ocean Plan requirements for evaluating subsurface intake feasibility.

The State Water Board has the following comments on the Final Report.

1) **The Final Report focuses largely on procedural and permitting elements of subsurface intake feasibility rather than scientific and technical studies for analyzing feasibility.**

The Final Report proposes a methodology for collecting and presenting information but does not focus on data and analyses; rather, as described further below, the proposed methodology focuses on the timing and sequencing of preparing information. The suggested methodology in the Final Report identifies procedural recommendations to regulators that are not implementable under the existing Ocean Plan and could lead to confusion among the public and project proponents if interpreted as existing procedure.

The Final Report is focused on the overall permitting process rather than on technical and scientific elements of subsurface intake feasibility. The Panel recognized that it had a "very narrow focus – to provide technical guidance to project proponents evaluating SSI feasibility" (Final Report, page 1), yet developed a methodology that aligns more with recently published policy goals of accelerating permitting process for water projects than with existing process.

Further, the Panel describes in Appendix D of the Final Report that the proposed SSI [Subsurface Intake] Feasibility Evaluation is presented "within the context of the overall permitting process that a project proponent of a seawater desal plant would likely need to complete" (Appendix D, page D-1). The Panel stated that it included this context because it provides the "necessary background for specifying certain key attributes of any project that a project proponent may decide to pursue" and because it emphasizes "the magnitude and effort likely required before a proposed project plan is sufficiently detailed and 'mature' to subject the project to the feasibility assessment currently being considered by the Regional Board" (Appendix D, page D-1).

The State Water Board did not request that the Final Report include a description of existing or proposed permitting processes, or that the feasibility assessment be developed based on expected timing and sequencing of regulatory agency review. State agencies have public processes by which they can solicit input on procedural improvements. The greater need is for project applicants to have sufficient technical guidance on a stepwise process for identifying potential locations for subsurface intakes and other technical aspects to support the use of subsurface intakes. This technical guidance by itself could help streamline the desalination permitting process.

The proposed methodology in the Final Report, presented as a decision tree in Section 4, describes steps to gather and present information in stages: preplanning (stage 1) scope of work development (stage 2), desktop evaluation (stage 3), intermediate feasibility assessment and a go-no go decision point (stage 4), pilot testing (stage 5), and final feasibility assessment (stage 6). These stages lack description of scientific and technical studies necessary to analyze subsurface intake feasibility. For example, in stage 3, desktop evaluation, the Final Report lists relevant data that could be used by a

project proponent, such as aerial photographs, topographic maps, and current and historic well water levels, but does not describe in enough detail the evaluation or analysis that should be conducted to determine if a subsurface intake is feasible.

2) **The Final Report generalizes information about subsurface intake feasibility and defers site-specific decisions on data and analyses to later dates and to experts retained by project proponents.**

The Final Report does not contain guidance on scientific and technical studies to evaluate subsurface feasibility for the types of geologic conditions on the California coast. The Final Report repeatedly states that data and analyses are "site specific" even when the "the coastal geology of California (e.g., geological units and aquifers locally present) is sufficiently well known to guide initial evaluations of SSI [subsurface intake] options" (section 4.3, page 38). Project proponents need more information on coastal California geology (e.g., presence and thickness of permeable geologic units and how these effect intakes and permeate) and more information regarding the useful life of a subsurface intake and maintenance and other aspects to prevent potential clogging.

The Final Report states that field studies are "highly site-specific, depending upon intake type and location and the amount and quality of data already available," that the "project proponent technical teams should include an expert(s) in the various techniques to design a field testing program that efficiently meets the project data needs," and that "issues need to be resolved in consultation with the appropriate regulatory agency" (section 4.6.1, page 48). These recommendations maintain the status quo and do not provide additional guidance on the data and analyses that could help evaluate subsurface intake feasibility, which could ultimately help streamline permitting.

The Final Report does not differentiate levels of effort or degrees of accuracy for various stages of the feasibility assessment. The Final Report states that if the desktop analysis confirms the need for field studies, then "collection of additional site-specific data on local geology, hydrogeology, aquifer hydraulic parameters, water quality, and land uses" would be required (section 4.6.1, page 47). However, the Final Report does not describe the types of data or the physical site conditions that would require data to be collected and does not indicate what values would indicate that a subsurface intake is feasible.

The Final Report did not answer the question posed in the Terms of Reference: What criteria should be used to determine whether additional data collection is necessary? As mentioned in other places in this memo, relying on experts hired by a project proponent to determine best practices on a site-specific basis maintains the status quo and does not advance the process or describe the level of accuracy needed to define key system design parameters that determine feasibility and which could potentially streamline permitting. While the Panel stated that they "intentionally avoided very prescriptive guidance," project proponents need more technical guidance to assist them in determining feasibility.

**3) The Final Report focuses on the challenges and barriers to subsurface intakes rather than objectively identifying a scientifically defensible analytical approach to determine feasibility or offering solutions to navigate the challenges.**

The Final Report focuses heavily on the challenges associated with subsurface intakes, such as cost, financing, and limited evidence of their use, without presenting the necessary scientific and technical analysis to determine whether such challenges exist (e.g., specific models, data collection, and desktop analyses). Based on recommendations from three Scientific Advisory Panels, and an external scientific peer review, the State Water Board identified subsurface intakes as the preferred intake technology because they are the best method for minimizing intake and mortality of all forms of marine life. An owner or operator can only use screened surface intakes if subsurface intakes are not feasible. The Final Report identifies challenges associated with subsurface intakes, but does not provide project proponents with guidance, direction, or approaches to work through these challenges.

For example, the Final Report focuses strongly on the challenge associated with subsurface intakes as it relates to capacity limitation for “large-scale facilities;” and states that there is a relatively limited application of subsurface intakes producing more than 10 million gallons per day (MGD), which creates a financial risk for facility owners that makes the technology economically infeasible. The Final Report concludes that costs associated with subsurface intakes may be higher than surface water intakes because of “uncertainty given their relatively limited application at a scale above 10 MGD of produced water” (section 6.2, page 63). However, no citation was provided for this statement and the Final Report does not fully account for the environmental and social benefits of constructing a small or medium-sized facility using subsurface intakes or the cost savings from fewer environmental studies, faster permitting, reduced or eliminated pretreatment, and significantly reduced mitigation.

The Final Report’s discussion of permittability focuses on barriers to permitting rather than potential streamlining benefits associated with the use of subsurface intakes. Where the potential benefits of subsurface intakes in the context of permittability include 1) the Water Boards and Coastal Commission are generally supportive of subsurface intakes (per Ocean Plan, 1314.25(b), and Coastal Act provisions), and 2) while some aspects of subsurface intake review will take time (e.g., initial hydrogeological studies), subsurface intake review will generally not require a year or longer entrainment study and development of marine life mitigation for operational mortality from intakes.

The Final Report often mentions financial risk of subsurface intakes as a reason they would be economically infeasible. For example, the Final Report states that “the ability to secure project financing will affect project life cycle costs, as well as overall project feasibility” (section 3.5.1, page 3) and “Uncertainty surrounding the reliability and performance of SSI for large desalination facilities (those producing more than 10 MGD of treated water) may also affect the ability of project applicants to obtain necessary project financing (see Section 5.3.2)” (section 3.5, page 2). The ability to secure project

financing is not a sufficient reason for determining that subsurface intakes are infeasible. However, the Ocean Plan requires consideration for project life cycle costs and states, “Subsurface intakes shall not be determined to be economically infeasible solely because subsurface intakes may be more expensive than surface intakes.” And that “Subsurface intakes may be determined to be economically infeasible if the additional costs or lost profitability associated with subsurface intakes, as compared to surface intakes, would render the desalination facility not economically viable.”

The Final Report makes assumptions that all facilities will require larger production capacities to be economically feasible, which appears to bias the Final Report against subsurface intakes and does not include citations to recent scientific literature. The Final Report does not provide options to reduce costs to navigate this challenge, nor does it provide specific direction for project proponents or the Water Boards to make this determination regarding economic viability. The Final Report’s discussion of cost does not include information on the potential cost savings from subsurface intakes that result from reduced environmental analyses requirements, faster permitting times, lower or no pre-treatment costs, operational savings over the project’s lifecycle, and significantly reduced mitigation costs.

4) **The Final Report misrepresents existing permitting processes.**

The proposed methodology in the Final Report misrepresents Water Boards’ permitting procedures and may cause confusion to project applicants when preparing information to submit to the regional water boards. For example, in section 4.5.1, page 42, the Final Report states that “there are many components of the desalination project that will already have been vetted by the Regional Board and potentially other agencies.” The statement is based on the Panel’s interpretation of the *Seawater Desalination Siting and Streamlining Report to Expedite Permitting* rather than existing state requirements. State Water Board staff did communicate to Concur and the Panel that the *Seawater Desalination Siting and Streamlining Report to Expedite Permitting* does not contain regulation or represent existing procedure and only contains recommendations for potential future changes the Water Board can consider.

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Assembly
California Legislature

BUFFY WICKS
CHAIR, APPROPRIATIONS COMMITTEE
ASSEMBLYMEMBER, FOURTEENTH DISTRICT

COMMITTEES
NATURAL RESOURCES
PRIVACY AND CONSUMER PROTECTION
TRANSPORTATION

SELECT COMMITTEES
CHAIR, PERMITTING REFORM
MOBILITY IN THE GOLDEN STATE
RESTORATIVE JUSTICE
SOCIAL HOUSING
THE DIGITAL FRONTIER AND TECHNOLOGICAL ACCOUNTING AND TRANSPARENCY
WINE

CAUCUSES
VICE CHAIR, BAY AREA CAUCUS
PROGRESSIVE CAUCUS
WOMEN'S CAUCUS

# Informational Hearing of the Assembly Select Committee on Permitting Reform

**"Permitting Reform to Facilitate Climate Resiliency"**

**Milton Marks Auditorium**
**455 Golden Gate Ave, San Francisco, CA 94102**
**Wednesday, October 16, 2024**
**1:30pm-4:30pm**

## AGENDA

**I. Opening Remarks from Chair Wicks and Select Committee Members**

**II. Panel 1: Permitting Reform Needed to Address Sea Level Rise and Flooding**

a. Liz Whiteman, California Ocean Science Trust
b. Sahrye Cohen, USEPA presenting on the Bay Restoration Regulatory Integration Team
c. Len Materman, OneShoreline San Mateo County
d. John Bourgeois, Valley Water

**III. Panel 2: Permitting Reform Needed to Prepare for Drought Conditions**

a. Ellen Hanak, Public Policy Institute of California
b. Sarah Woolf, Water Wise San Joaquin Valley
c. Matt Dias, California Forestry Association
d. JoAnna Lessard, Yuba Water Agency

**IV. Panel 3: Permitting Reform Needed to Facilitate the Reduction and Removal of Atmospheric Carbon**

a. Caspar Donnison, Lawrence Livermore National Laboratory
b. Julia Levin, Bioenergy Association of California
c. Christian Theuer, Heirloom Carbon
d. Josiah Hunt, Pacific Biochar
e. Harris Cohn, Charm Industrial

**V. Public Comment and Closing Statements**

October 9, 2024

The Honorable Buffy Wicks
Assembly Select Committee on Permitting Reform
1021 O Street, Suite 8140
Sacramento, CA 95814

**RE: Assembly Select Committee on Permitting Reform**

Dear Chair Wicks:

The undersigned organizations represent a broad cross-section of California water including: public and private water agencies, wastewater providers, recycled water, agriculture, and business. We want to thank you for your leadership on this important issue, as well as the time and dedication of the members of the Assembly Select Committee on Permitting Reform (Select Committee), as we collectively work on innovative solutions to adapt California's infrastructure and practices for climate change. We write specifically to emphasize the critical nature of including water supply development, treatment, and distribution in the conversations of the Select Committee. Permit reform, climate change, and housing are inextricably linked to water; without these generational investments in water, California will not be able to maintain its current way of life.

Building and Maintaining Water Infrastructure is Critical to our Future

In the face of climate change and population growth, water and wastewater providers have spent the last several decades planning and implementing solutions to create efficiencies, maintain and increase water supply, manage for floods, and respond quickly to climate-driven emergency situations. Private industry has also made major investments and implemented innovative practices to more efficiently utilize this limited resource. Adapting to climate change requires substantial rehabilitation and modification of existing water facilities and significant investments in new water infrastructure. As detailed in California's Water Supply Strategy released by Governor Newsom's Administration in August 2022, California must make a substantial number of new investments in water management, including significantly increase above and below-ground storage capacity to mitigate for our disappearing snowpack. In addition, new and enhanced conveyance facilities are essential for moving collected and stored water, connecting suppliers with different supply sources, transferring water among water users, recharging groundwater, and storing water for multiple purposes, including environmental purposes. Development of alternative water supplies – including recycled water and potable reuse, desalination,

and stormwater management – will also be critically important to advancing California's water and climate resilience.

While the need for water supply and flood protection infrastructure is evident, getting these critical projects approved and built can be a significant challenge. Even after the California Environmental Quality Act (CEQA) process is complete, the permitting process can be mired in delays caused by overlapping jurisdictions of state and federal agencies, confusion over what's required for a completed application, and state agency and project applicant staffing issues. [See Attachment 1 for a breakdown of required permits for a dam retrofit project as an example. Other types of water-related projects involve similarly complex and lengthy permitting processes among multiple agencies, as well.] Local agencies have made, and continue to make, significant investments in these projects; according to the Public Policy Institute of California (PPIC), local funding accounts for about 84 percent of the funding for water supply development projects, with the State and Federal investments at 13 percent and three percent respectively. As delays occur, costs increase, and depending on the size of the project, delays can ultimately cost water rate payers and taxpayers tens of millions of dollars. This regulatory gridlock can also lead to worse environmental outcomes and delay projects that will benefit the environment. It is imperative that permitting processes provide the needed protections they are intended to without unduly delaying or preventing these critical investments in our future.

Permitting Must Look at the Watershed-Scale for Better Environmental Outcomes and Efficiencies

One way that permitting could be reformed to provide better outcomes for both the environment and infrastructure projects is to implement permitting at the watershed scale. Supporting climate adaptation will require watershed-scale management that benefits people, species, and ecosystems alike. The Public Policy Institute of California (PPIC) has released several reports emphasizing the importance of watershed-scale management. In Advancing Ecosystem Restoration with Smarter Permitting, one of the key takeaways is that California needs to shift emphasis from single-species management to ecosystem-based management at the watershed scale. Another report, Priorities for California's Water, advocates for ecosystem-based management in order to improve ecosystem health for a wide range of benefits and ultimately because it is the most effective way to support protected species and prevent the need for further listings. Permitting agencies often work within a narrow lens when examining an issue within their purview, which can lead to outcomes that fail to consider the larger impacts of permitting decisions. By emphasizing a watershed-scale approach for permitting, water projects are likely to have a more significant benefit to both people and ecosystems.

The undersigned organizations appreciate your time and dedication to this critical issue as the State works toward climate adaptation. Attached to this letter are a few brief examples of permitting delays and challenges for your consideration as the Select Committee continues this important work. We are available for questions and appreciate your support.

Sincerely,

Julia Bishop Hall
Legislative Manager
Association of California Water Agencies

Alexandra Biering
Senior Policy Advocate
California Farm Bureau

Tricia Geringer
Vice President of Government Affairs
Agriculture Council of California

Jennifer Capitolo
Executive Director
California Water Association

Kristopher M. Anderson, Esq.
Legislative Advocate
California Chamber of Commerce

Anthony J. Tannehill
Legislative Representative
California Special Districts Association

Jennifer Pierre
General Manager
State Water Contractors

Tracy Hernandez
Founding CEO
Los Angeles County BizFed

Charles Wilson
Executive Director
Southern California Water Coalition

Tracy Hernandez
CEO
New California Coalition

Austin Ewell
Voluntary Executive Director
Water Blueprint for the San Joaquin Valley

Brenley McKenna
Managing Director
WateReuse California

Mark Donovan
Board Chair
CalDesal

cc: Honorable Members, Assembly Select Committee on Permitting Reform
Steve Wertheim, Staff, Assembly Select Committee on Permitting Reform
Jeff Bellisario, Executive Director, Bay Area Council Economic Institute
Adrian Covert, Senior Vice President, Public Policy, Bay Area Council

**Attachment 1 – Permitting Process Example**

There are a myriad of agencies and permits that are involved in large water infrastructure projects. The sheer number of permits required while simultaneously coordinating with multiple agencies and various staff members inevitably leads to confusion and project delays. Below is an example of the variety of permits required for a project related to a dam retrofit. In a situation like this, if the dam is not retrofitted in a timely manner, it could spell disaster for the water system and the people that rely on it. A streamlined permitting process is needed so that projects that protect people and wildlife can be executed in a reasonable timeframe.

| Jurisdiction | Agency | Permit / Approval / Consultation |
|---|---|---|
| Federal | Federal Energy Regulatory Commission (FERC) | Provides licensing and oversight of the safety of dams and acts as lead on National Environmental Policy Act compliance. |
| | National Marine Fisheries Service | Magnuson-Stevens Act – Essential Fish Habitat impact assessment. |
| | U.S. Army Corps of Engineers | Section 404 of the Clean Water Act – permit or permit amendment for discharge of dredged or fill materials. |
| | U.S. Fish and Wildlife Service | Federal Endangered Species Act – Authorization under incidental take for Covered Species and Activities. |
| | | Federal Endangered Species Act – Consultation for non-Covered Species or Activities. |
| State | California Department of Fish and Wildlife | Lake or Streambed Alteration Agreement for any portion of the project that might have impacts. |
| | | California Endangered Species Act – Authorization under incidental take provisions for Covered Species and activities. |
| | | California Endangered Species Act - Permit for Non-Covered Species or Activities. |
| | California Department of Water Resources - Division of Safety of Dams | Approval of repairs or alterations to a dam or reservoir. |
| | | Approval of dam safety and dam repairs or alterations. |
| | State Water Resources Control Board | Clean Water Act – water quality certification. |
| | | Clean Water Act – Notification under Construction Stormwater General Permit. |
| | | Water rights license amendments. |
| Regional/Local | Air quality boards | Authorities to Construct and Permits to Operate stationary source equipment |
| | Counties | Approval of access/activities on County owned land and consultation on the reestablishment of recreational facilities |
| | | Other County approvals as applicable |
| | Cities | Encroachment permit, temporary right of entry |
| | | Other municipal approvals as applicable |