



● **Board of Directors**
Legislation Committee

2/8/2011 Board Meeting

8-3

Subject

Express no position on SB 52 (Steinberg, D-Sacramento) - Water Quality: Sacramento Regional County Sanitation District, and continue to monitor the legislation

Description

Background

On December 9, 2010, the Central Valley Regional Water Quality Control Board (Regional Board) approved a new discharge permit for the Sacramento Regional County Sanitation District's (SRCSD's) 181-million-gallon per day (mgd) wastewater treatment plant that discharges to the Sacramento River at Freeport. The new discharge permit requires nitrification/denitrification treatment upgrades to reduce nitrogen that is currently being discharged into the Sacramento-San Joaquin Delta. Nitrogen in the form of ammonium has been shown to be altering the food web to the detriment of native, endangered species. The permit also requires tertiary filtration upgrades to remove pathogens and other constituents that are a public health concern to downstream water districts as well as the California Department of Public Health. SRCSD estimates the compliance costs at approximately \$2.1 billion, although other estimates are much lower.

SRCSD's response to the new permit is threefold: (1) it has appealed the Regional Board permit decision to the State Water Resources Control Board (State Board); (2) it has proposed legislation that would allow SRCSD to market its treated effluent for sale outside of its service area in order to offset the treatment upgrade costs (see Board letter 8-2); and (3) it has proposed this legislation, SB 52, to obtain public financing for a portion of the required treatment upgrades.

Analysis

In November, 2006, the voters approved two bond measures that provide funding for water resources projects. The Disaster Preparedness and Flood Prevention Bond Act of 2006, Proposition 1E, authorizes the issuance of bonds in the amount of \$4,090,000,000 for the purposes of financing disaster preparedness and flood prevention projects. Of those funds, \$300,000,000 is available to the Department of Water Resources (DWR), upon appropriation by the Legislature, for grants for storm water flood management projects that meet prescribed requirements. The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, Proposition 84, authorizes the issuance of bonds in the amount of \$5,388,000,000 for the purposes of financing a safe drinking water, water quality and supply, flood control, and resource protection program. Of those funds, \$130,000,000 is available to DWR for grants to implement Delta water quality improvement projects that protect drinking water supplies.

SB 52, as introduced December 15, 2010, ([Attachment 1](#)), by Senator Steinberg would appropriate \$50 million to DWR from the previously voter-approved bond acts to provide financial assistance to the SRCSD to offset a portion of the costs of capital improvements at the SRCSD wastewater treatment plant to meet the requirements of the SRCSD discharge permit adopted by the Regional Board in December. Specifically, the bill proposes to appropriate \$13 million from Proposition 1E funds for a grant to SRCSD, and appropriate \$37 million from Proposition 84 funds for a grant to SRCSD.

The implementation of wastewater treatment upgrades at the SRCSD wastewater treatment plant to comply with the new discharge permit adopted in December will improve Delta water quality and protect aquatic wildlife, recreational and drinking water beneficial uses. The bond funds appropriated by this bill would provide financial assistance and offset a portion of the costs for the wastewater treatment plant upgrades.

Section 1 of the bill includes legislative findings language that mischaracterizes who is responsible for the costs for upgrades at the SRCSD wastewater treatment plant, and declares that all beneficiaries of the Delta water resources have a shared responsibility for the costs. This language in SB 52 represents a policy position held by SRCSD that does not acknowledge SRCSD's regulatory responsibility to meet the requirements in their discharge permit, and would set a bad precedent in attempting to shift responsibility downstream.

Additionally, the bill could establish a bad precedent by earmarking funding from Propositions 84 and 1E when other projects are competing for those funds. Moreover, it is not clear that the funding accounts specified in the bill are sufficient to cover these proposed earmarks.

Staff Recommendation

Staff recommends that Metropolitan express no position on the bill at this time but continue to monitor the measure, working with the author and sponsor on possible clarifications and amendments. Possible amendments include a revision to the legislative findings language to state that the State of California has an interest in improving Delta water quality and to remove the language stating beneficiaries of Delta water resources have a shared responsibility to pay for the SRCSD wastewater treatment plant upgrades.

Policy

This board action is consistent with the Board's Delta policy principles memorialized in the following prior policy adoptions:

By Minute Item 45753, dated May 11, 2004, and Minute Item 46637, dated April 11, 2006, the Board adopted a set of Delta policy principles to ensure a solid foundation for development of future Metropolitan positions and to provide guidance to Metropolitan staff.

By Minute Item 47135, dated May 25, 2007, the Board supported, in principle, the proposed Delta Action Plan, as set forth in the letter signed by the General Manager.

By Minute Item 47232, dated September 11, 2007, the Board adopted criteria for support of conveyance options in implementation of a long-term Delta improvement plan.

By Minute Item 47605, dated August 19, 2008, the Board approved Delta Governance Principles as outlined in the board letter.

California Environmental Quality Act (CEQA)

CEQA determination for Options #1, #2, and #3:

The proposed action is not defined as a project under CEQA because it involves continuing administrative activities, such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). In addition, where it can be seen with certainty that there is no possibility that the proposed action in question may have a significant effect on the environment, the proposed action is not subject to CEQA (Section 15061(b)(3) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not subject to CEQA pursuant to Sections 15378(b)(2) and 15061(b)(3) of the State CEQA Guidelines.

Board Options

Option #1

Take no position on SB 52 and continue to monitor the legislation.

Fiscal Impact: None

Business Analysis: Potential for adoption of legislative intent language that would establish bad precedent with respect to shifting responsibility for wastewater treatment plant costs to downstream users

Option #2

Adopt the CEQA determination and express a support position on SB 52, if amended, to remove legislative intent language that states beneficiaries of Delta water resources have a shared responsibility to pay for the SRCSD wastewater treatment plant upgrades.

Fiscal Impact: None

Business Analysis: State bond funding would facilitate implementation of important wastewater treatment plant upgrades that will improve Delta water quality.

Option #3

Adopt the CEQA determination and express an oppose position on SB 52.

Fiscal Impact: None

Business Analysis: Lack of funding for the SRCSD treatment plant upgrades could delay water quality improvements to the Delta.

Staff Recommendation

Option #1


Linda Waade
Deputy General Manager, External Affairs

1/27/2011
Date


Jeffrey Kightlinger
General Manager

1/27/2011
Date

Attachment 1 – Senate Bill 52

SENATE BILL**No. 52**

Introduced by Senator SteinbergDecember 15, 2010

An act relating to water, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 52, as introduced, Steinberg. Water quality: Sacramento Regional County Sanitation District.

The Disaster Preparedness and Flood Prevention Bond Act of 2006, a bond act approved by the voters at the November 7, 2006, statewide general election, authorizes the issuance of bonds in the amount of \$4,090,000,000 for the purposes of financing disaster preparedness and flood prevention projects. Of those funds, \$300,000,000 is available to the Department of Water Resources, upon appropriation by the Legislature, for grants for storm water flood management projects that meet prescribed requirements.

The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative bond act approved by the voters at the November 7, 2006, statewide general election, authorizes the issuance of bonds in the amount of \$5,388,000,000 for the purposes of financing a safe drinking water, water quality and supply, flood control, and resource protection program. Of those funds, \$130,000,000 is available to the department for grants to implement water quality improvement projects that meet prescribed requirements.

This bill would appropriate \$50,000,000 to the department from the above bond acts, as specified, to provide financial assistance to the Sacramento Regional County Sanitation District to offset rate increases associated with the costs of capital improvements to the district's regional sewage treatment plant as a result of the issuance of a specified

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national pollutant discharge elimination system permit and waste discharge requirements.

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

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

1 SECTION 1. The Legislature finds and declares that the costs
2 of improving water quality and protecting the beneficial uses of
3 water in the area known as the Sacramento-San Joaquin Delta are
4 a shared responsibility that should be borne by all beneficiaries of
5 water resources from the Sacramento-San Joaquin Delta, and not
6 solely by businesses and residents of the Sacramento region. To
7 that end, it is the intent of the Legislature, in enacting this act, to
8 appropriate funds for the purpose of financing improvements to
9 the Sacramento Regional County Sanitation District regional
10 sewage treatment plant.

11 SEC. 2. The sum of fifty million dollars (\$50,000,000) is hereby
12 appropriated to the Department of Water Resources to provide
13 financial assistance to the Sacramento Regional County Sanitation
14 District to offset rate increases associated with the costs of capital
15 improvements to the district’s regional sewage treatment plant as
16 a result of the issuance of a national pollutant discharge elimination
17 system permit and waste discharge requirements for the regional
18 sewage treatment plant that were adopted by the California
19 Regional Water Quality Control Board, Central Valley Region,
20 on December 9, 2010, in accordance with the following schedule:

21 (a) Thirteen million dollars (\$13,000,000) from the funds made
22 available pursuant to Section 5096.827 of the Public Resources
23 Code for a grant to the Sacramento Regional County Sanitation
24 District for the purposes of this section.

25 (b) Thirty-seven million dollars (\$37,000,000) from the funds
26 made available pursuant to, and consistent with, Section 75029 of
27 the Public Resources Code for a grant to the Sacramento Regional
28 County Sanitation District for the purposes of this section.

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