

TO: BOARD OF DIRECTORS  
FROM: BRUCE BUEL *BBD*  
DATE: APRIL 6, 2007

**AGENDA ITEM**  
**E-4**  
APRIL 11, 2007

**PROCESS TO MERGE BLACK LAKE AND TOWN WATER FUNDS**

**ITEM**

Review process to merge Black Lake and Town Water Funds and to reset water rates for Black Lake Customers [RECOMMEND ADOPTION].

**BACKGROUND**

Your Honorable Board has discussed the potential for NCSD's two water funds to merge over the past six months and Black Lake community has tentatively indicated that it supports such a merger (official action pending). Since NCSD already owns all of the Black Lake water system assets, the major changes necessary to effect such a merger would be the elimination of the separate rate structure for Black Lake customers and the elimination of the separate fund accounting. According to District Legal Counsel, the only formal action necessary to merge the two systems would be to revise the current rates according to the process set forth in Proposition 218 and the Bighorn Court Decision. Assuming that the merger proceeds, following is staff's proposed process/timeline:


April 11, 2007	Retain the Reed Group to prepare Rate Study
July 13, 2007	Draft Rate Study submitted
July 25, 2007	Board review of Rate Study and development of proposal
August 15, 2007	Proposition 218 Notices Mailed
Early September	Community Meeting
October 10, 2007	Board Consideration of Proposed Rates
January 1, 2008	New Rates become effective

**RECOMMENDATION**

Staff recommends that your Honorable Board review and edit the process/timeline set forth above and ask any questions of staff.

**ATTACHMENT**

None

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**AGENDA ITEM**  
**F**  
**APRIL 11, 2007**

**MANAGER'S REPORT**

**ITEM**

Standing report to your Honorable Board --*Period covered by this report March 23, 2007 through April 4, 2007*

**DISTRICT BUSINESS**

**Administrative**

Staff is recruiting for the District Engineer Position on an "open until filled" basis with two applications submitted to date. Staff expects to interview candidates on April 23, 2007.

Celeste Whitlow has accepted the Water Conservation Coordinator's job. Celeste will start work no later than May 14, 2007.

Staff has held initial discussions with the Sheriff's Office regarding the Sheriff assisting in Graffiti abatement.

Staff has developed a rough draft budget and will review this draft with the Finance, Audit and Personnel Committee at the Committee's April 18<sup>th</sup> Meeting.

District Legal Counsel has submitted the attached excerpt from the FPPC regulations regarding exceptions to the general rule regarding disqualifications.

**Safety Program**

No injury reports during the period.

**Project Activity**

Staff will provide an oral update at the Board meeting.

**Conservation Program Activities**

Staff has been working with the Conservation Committee on the Emergency Shortage Ordinance. The committee is scheduled to continue their discussion on April 9, 2007. Attached is an article from the New York Times regarding drought conditions in the West and the impacts of global warming.

**RECOMMENDATION**

Staff seeks direction and input from your Honorable Board.

**ATTACHMENTS –**

- Excerpt from FPPC Regulations on Disqualification Exceptions
- New York Times article on drought



## FPPC Regulations

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▶ Newly Adopted or Amended Regulations / Proposed Regulations

▶ The Political Reform Act

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▶ Interested Persons' Meetings

▶ Lobbyists

▶ Restrictions on Government Officials and Employees

▶ Ethics Orientation for State Officials

▶ AB 1234 Ethics Training for Local

### TITLE 2, DIVISION 6, CALIFORNIA CODE OF REGULATIONS

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[\(Back to FPPC Regulations\)](#)

(Regulations of the Fair Political Practices Commission, Title 2, Division 6 of the California Code of Regulations.)

#### § 18702.4. Exceptions.

(a) Making or participating in making a governmental decision shall not include:

(1) Actions of public officials which are solely ministerial, secretarial, manual, or clerical;

(2) Appearances by a public official as a member of the general public before an agency in the course of its prescribed governmental function to represent himself or herself on matters related solely to the official's personal interests as defined in Title 2, California Code of Regulations, section 18702.4(b)(1); or

(3) Actions by public officials relating to their compensation or the terms or conditions of their employment or contract. In the case of public officials who are "consultants," as defined in Title 2, California Code of Regulations, section 18701(a)(2), this includes actions by consultants relating to the terms or conditions of the contract pursuant to which they provide services to the agency, so long as they are acting in their private capacity.

(b) Notwithstanding Title 2, California Code of Regulations, section 18702.3(a), an official is not attempting to use his or her official position to influence a governmental decision of an agency covered by that subsection if the official:

(1) Appears in the same manner as any other member of the general public before an agency in the course of its prescribed governmental function solely to represent himself or herself on a matter which is related to his or her personal interests. An official's

Officials	"personal interests" include, but are not limited to:
▶ Conflicts of Interest / Form 700 / COI Codes	(A) An interest in real property which is wholly owned by the official or members of his or her immediate family.
▶ Enforcement	(B) A business entity wholly owned by the official or members of his or her immediate family.
▶ Audit Program	(C) A business entity over which the official exercises sole direction and control, or over which the official and his or her spouse jointly exercise sole direction and control.
▶ Workshops & Seminars	(2) Communicates with the general public or the press.
▶ Legislation	(3) Negotiates his or her compensation or the terms and conditions of his or her employment or contract.
▶ Litigation	(4) Prepares drawings or submissions of an architectural, engineering or similar nature to be used by a client in connection with a proceeding before any agency. However, this provision applies only if the official has no other direct oral or written contact with the agency with regard to the client's proceeding before the agency except for necessary contact with agency staff concerning the processing or evaluation of the drawings or submissions prepared by the official.
▶ Mailing Lists	(5) Appears before a design or architectural review committee or similar body of which he or she is a member to present drawings or submissions of an architectural, engineering or similar nature which the official has prepared for a client if the following three criteria are met:
▶ Links	(A) The review committee's sole function is to review architectural or engineering plans or designs and to make recommendations in that instance concerning those plans or designs to a planning commission or other agency;
▶ Contacting the FPPC	(B) The ordinance or other provision of law requires that the review committee include architects, engineers or persons in related professions, and the official was appointed to the body to fulfill this requirement; and
	(C) The official is a sole practitioner.
	(c) Academic Decisions
	(1) Except as provided in subsection (c)(2), neither disclosure of financial interests nor disqualification is required under Government Code sections 87100, 87302, or any Conflict of Interest Code, in connection with:
	(A) Teaching decisions, including the selection by a teacher of books or other educational materials for use within his or her own school or institution, and other decisions incidental to teaching;
	(B) Decisions made by a person who has teaching or research

responsibilities at an institution of higher education to pursue personally a course of academic study or research, to apply for funds to finance such a project, to allocate financial and material resources for such academic study or research, and all decisions relating to the manner or methodology with which such study or research will be conducted. Provided, however, that the provisions of this subsection (c)(1)(B) shall not apply with respect to any decision made by the person in the exercise of institution or campus wide administrative responsibilities respecting the approval or review of any phase of academic research or study conducted at that institution or campus.

(2) Disclosure (consistent with 2 Cal. Code Regs. section 18755) shall be required under Government Code section 87302 or any Conflict of Interest Code in connection with a decision made by a person or persons at an institution of higher education with principal responsibility for a research project to undertake such research, if it is to be funded or supported, in whole or in part, by a contract or grant (or other funds earmarked by the donor for a specific research project or for a specific researcher) from a nongovernmental entity, but disqualification may not be required under Government Code sections 87100, 87302 or any Conflict of Interest Code in connection with any such decision if the decision is substantively reviewed by an independent committee established within the institution.

Note: Authority cited: Section 83112, Government Code.  
Reference: Section 87100, Government Code.

**History**

- (1) New section filed 10-17-88; effective thirtieth day thereafter.
- (2) Repealer and new section filed 11-23-98; effective upon filing.
- (3) Amendment filed 5-19-05; effective 6-14-05.



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April 4, 2007

## An Arid West No Longer Waits for Rain

By RANDAL C. ARCHIBOLD and KIRK JOHNSON

A Western drought that began in 1999 has continued after the respite of a couple of wet years that now feel like a cruel tease. But this time people in the driest states are not just scanning the skies and hoping for rescue.

Some \$2.5 billion in water projects are planned or under way in four states, the biggest expansion in the West's quest for water in decades. Among them is a proposed 280-mile pipeline that would direct water to Las Vegas from northern Nevada. A proposed reservoir just north of the California-Mexico border would correct an inefficient water delivery system that allows excess water to pass to Mexico.

In Yuma, Ariz., federal officials have restarted an idled desalination plant, long seen as a white elephant from a bygone era, partly in the hope of purifying salty underground water for neighboring towns.

The scramble for water is driven by the realities of population growth, political pressure and the hard truth that the Colorado River, a 1,400-mile-long silver thread of snowmelt and a lifeline for more than 20 million people in seven states, is providing much less water than it had.

According to some long-term projections, the mountain snows that feed the Colorado River will melt faster and evaporate in greater amounts with rising global temperatures, providing stress to the waterway even without drought. This year, the spring runoff is expected to be about half its long-term average. In only one year of the last seven, 2005, has the runoff been above average.

Everywhere in the West, along the Colorado and other rivers, as officials search for water to fill current and future needs, tempers are flaring among competing water users, old rivalries are hardening and some states are waging legal fights.

In one of the most acrimonious disputes, Montana filed a suit in February at the United States Supreme Court accusing Wyoming of taking more than its fair share of water from the Tongue

and Powder Rivers, north-flowing tributaries of the Yellowstone River that supply water for farms and wells in both states.

Preparing for worst-case outcomes, the seven states that draw water from the Colorado River — Colorado, Wyoming, Utah and New Mexico in the upper basin and California, Arizona and Nevada in the lower basin — and the United States Bureau of Reclamation, which manages the river, are considering plans that lay out what to do if the river cannot meet the demand for water, a prospect that some experts predict will occur in about five years.

“What you are hearing about global warming, explosive growth — combine with a real push to set aside extra water for environmental purpose — means you got a perfect situation for a major tug-of-war contest,” said Sid Wilson, the general manager of the Central Arizona Project, which brings Colorado River water to the Phoenix area.

New scientific evidence suggests that periodic long, severe droughts have become the norm in the Colorado River basin, undermining calculations of how much water the river can be expected to provide and intensifying pressures to find new solutions or sources.

The effects of the drought can be seen at Lake Mead in Nevada, where a drop in the water level left docks hanging from newly formed cliffs, and a marina surrounded by dry land. Upriver at Lake Powell, which is at its lowest level since spring 1973, receding waters have exposed miles of mud in the side canyons leading to the Glen Canyon Dam.

In California, Gov. Arnold Schwarzenegger has sounded alarm bells by pushing for a ballot measure in 2008 that would allocate \$4.5 billion in bonds for new water storage in the state. The water content in the Sierra Nevada snowpack has reached the lowest level in about two decades, state hydrologists have reported, putting additional pressure on the nation’s most populous state to find and store more water.

“Scientists say that global warming will eliminate 25 percent of our snowpack by the half of this century,” Mr. Schwarzenegger said recently in Fresno, Calif., “which will mean less snow stored in the mountains, which will mean more flooding in the winter and less drinking water in the summer.”

In Montana, where about two-thirds of the Missouri River and half of the Columbia River have their headwaters, officials have embarked on a long-term project to validate old water-rights claims in an effort to legally shore up supplies the state now counts on.

Under the West’s water laws, claims are hierarchal. The oldest, first-filed claims, many dating

to pioneer days, get water first, with newer claims at the bottom of the pecking order.

Still, some of the sharpest tensions stem more from population growth than cautionary climate science, especially those between Nevada and Utah, states with booming desert economies and clout to fight for what they say is theirs.

Las Vegas, the fastest-growing major city in the country, and the driest, developed the pipeline plan several years ago to bring groundwater from the rural, northern reaches of the state. The metropolitan area, which relies on the Colorado River for 90 percent of its water, is awaiting approval from Nevada's chief engineer.

Ranchers and farmers in northern Nevada and Utah are opposed to the pipeline plan and have vowed to fight it in court, saying it smacks of the famous water grab by Los Angeles nearly a century ago that caused severe environmental damage in the Owens Valley in California.

"Southern Nevada thinks it can come up here and suck all these springs dry without any problems," said Dean Baker, whose family's ranch straddles the Nevada-Utah border, pointing out springs that farmers have run dry with their own wells. "We did this ourselves. Now imagine what pumping for a whole big city is going to do."

Meanwhile, Utah has proposed a \$500 million, 120-mile pipeline from Lake Powell to serve the fast-growing City of St. George and Washington County in the state's southwestern corner. Nevada officials have said they will seek to block that plan if Utah stands in the way of theirs.

"Utah is being very disingenuous, and we're calling them on it," said Patricia Mulroy, the chief executive of the Southern Nevada Water Authority, the agency responsible for finding water for Las Vegas and its suburbs. "St. George, Utah, is growing as fast as southern Nevada, because the growth is going right up the I-15 corridor."

Dennis J. Strong, director of the Utah Division of Water Resources, said Nevada was protesting too much and instead should be cheering the Lake Powell project because Colorado River water that Utah does not use would flow in Nevada's direction. Mr. Strong said that Nevada's protests "may be a bargaining chip." He said he hoped for a compromise that would allow both projects to move forward.

In Yuma, near the Arizona border with Mexico, officials have pinned hopes on a desalination plant built 15 years ago. The plan then had been to treat salty runoff from farms before it made its way into Colorado River headed to Mexico, thus meeting the terms of an old water treaty.



But a series of unusually wet years made it more efficient to meet the treaty obligations with water from Lake Mead, so the plant sat idle. Drought has changed all that. Arizona water managers, who are first in line to have their water cut in a shortage under an agreement with other states, called for the plant to be turned on.

Under an agreement with environmentalists, the federal Bureau of Reclamation plans to monitor the environmental effects of using the plant, and study, among other things, using the purified water for purposes other than meeting its treaty obligations, like supplying the growing communities around Yuma.

“It never made sense to me to just dump bottled-water quality water into the river anyway,” said Jim Cherry, the bureau’s Yuma area manager.

What unites the Western states is a growing consensus among scientists that future climate change and warmer temperatures, if they continue, could hit harder here than elsewhere in the continental United States.

“The Western mountain states are by far more vulnerable to the kinds of change we’ve been talking about compared to the rest of the country, with the New England states coming in a relatively distant second,” said Michael Dettinger, a research hydrologist at the United States Geological Survey who studies the relationships between water and climate.

Mr. Dettinger said higher temperatures had pushed the spring snowmelt and runoff to about 10 days earlier on average than in the past. Higher temperatures would mean more rain falling rather than snow, compounding issues of water storage and potentially affecting flooding.

In some places, the new tensions and pressures could even push water users toward compromise.

Colorado recently hired a mediator to try to settle a long-running dispute over how water from the Rocky Mountains should be shared among users in the Denver area and the western half of the state. Denver gets most of the water and has most of the state’s population. But water users in the mountains, notably the ski resort industry, also have clout and want to keep their share.

Robert W. Johnson, the Bureau of Reclamation commissioner, said he shared the optimism that the disputes could be worked out, but he said he thought it might take a reconsideration of the West’s original conception of what water was for.

The great dams and reservoirs that were envisioned beginning in the 1800s were conceived

with farmers in mind, and farmers still take about 90 percent of the Colorado River's flow. More and more, Mr. Johnson said, the cities will need that water.

An agreement reached a few years ago between farmers and the Metropolitan Water District of Southern California, the chief supplier of water to that region, is one model. Under the terms of the agreement, farmers would let their fields lie fallow and send water to urban areas in exchange for money to cover the crop losses.

"I definitely see that as the future," Mr. Johnson said.

*Randal C. Archibold reported from Yuma, Ariz., and Kirk Johnson from Denver.*

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