

TO: BOARD OF DIRECTORS

FROM: MICHAEL S. LEBRUN   
GENERAL MANAGER

DATE: FEBRUARY 24, 2012

**AGENDA ITEM  
F  
FEBRUARY 29, 2012**

## GENERAL MANAGER'S REPORT

### ITEM

Standing report to your Honorable Board -- *Period covered by this report is February 3, 2012 through February 23, 2012*

### DISTRICT BUSINESS

#### Administrative

- Operations recruitment;
  - Staff conducted seven second interviews for the open Customer Service positions on February 6 and 7. Background checks have been completed and two offers have been tendered.
- Special District Risk Management Authority longevity distributions, \$708 for Worker Compensation Account and \$3,015 for Property/Liability General Account. See attached materials.
- City of Santa Maria Resolution consenting to District formation of Assessment District to fund Supplemental Water Project – approved by City Council on February 21, 2012. See attached materials.
- Emissions and Throughput Report for San Luis Obispo County Air Pollution Control District. See attached Report.
- Santa Maria River Instream Flow Study final stakeholder meeting. See attached announcement.
- California Special Districts Association news and information on Pension Reform. See attached materials.
- California Special Districts Association announcement regarding Special District Legislative Days 2012. See attached notice.
- Industry Article; Is Your Drinking Water Safe?, March 2012 Good Housekeeping. See attached article.

#### Meetings

##### *Meetings attended:*

- *February 3, NMMA Technical Group*
- *February 3, SWP Partners*
- *February 6 & 7, Operations Interviews*
- *February 8, Regular Board Meeting*
- *February 9, Quarterly All Staff*
- *February 9, Hiring Team*
- *February 9, Management Coordination*
- *February 10, Outreach Ad Hoc*
- *February 21, Coordination with District Engineer*
- *February 21, Coordination with Board Officers*
- *February 22, Coordination with Operations Superintendent*
- *February 22, GM Woodlands Mutual Water Company regarding Sales Agreement*

- *February 23, Bond Team regarding Southland WWTF Phase I Improvements financing and Supplemental Water Project Assessment District Formation.*
- *February 24, NMMA Technical Group*

*Meetings Scheduled:*

- *February 27, Finance Committee*
- *February 27, Capital Improvements Update with Operations and Engineering*
- *February 28, tentative – Tribune Editorial Review Board on Supplemental Water Project Endorsement*
- *February 28, SB/SLO County Water Conservation partners*
- *February 29, Regular Board Meeting*
- *March 1, Human Resources Webinar on staff management*
- *March 1, Automatic Electronic Defibrillator Training*
- *March 1, Management Coordination*
- *March 2, Coordination with General Counsel*
- *March 5, Coordination with Board Officers*
- *March 7, Southland WWTF Phase I improvements Bond/Finance Team*

**Safety Program**

No accidents, incidents, or injuries to report.

**RECOMMENDATION**

Staff seeks direction and input from your Honorable Board

**ATTACHMENTS**

- SDRMA longevity distribution notices (two)
- City of Santa Maria Council Agenda Report
- Emission Report for APCD
- Santa Maria River Instream Flow Study announcement
- CSDA Pension reform news
- CSDA Legislative Days news
- Good Housekeeping Article

Special District Risk  
Management Authority

Maximizing Protection,  
Minimizing Risk.

1112 I Street, Suite 300  
Sacramento, California 95814-2865  
T 916.231.4141  
T 800.537.7790  
F 916.231.4111  
www.sdrma.org



February 6, 2012

Nipomo Community Services District  
Ms. Lisa Bognuda  
Finance Director/Assist GM  
Post Office Box 326  
Nipomo, California 93444-0326

RECEIVED

FEB 10 2012

NIPOMO COMMUNITY  
SERVICES DISTRICT

Dear Ms. Bognuda,

On January 4, 2012, the SDRMA Board of Directors approved a longevity distribution for the third year in a row. The Longevity Distribution Policy was originally approved by the Board in 2010 to recognize and reward members for their loyalty and commitment to SDRMA programs. The policy is consistent with the goals and objectives of the Board's strategic business plan and helps ensure pool stability by rewarding members for remaining in our Property/Liability and Workers' Compensation programs.

There is no action required by your agency. Every member that has completed the 3 full program year initial commitment period for either the Property/Liability or Workers' Compensation program is eligible to receive the longevity distribution for that particular program. The longevity distribution may only be declared by the Board of Directors each year only after all Board policy reserve requirements have been met. The amount available for the longevity distribution is the amount of investment earnings on reserves above the Board approved confidence level for each program as of June 30. The distribution is weighted based on the member's length of time in that program and the amount of the member's annual contributions compared to the total contributions of all pool members.


This year, the Board approved a longevity distribution in the amount of \$316,084 for Property/Liability members and \$556,020 for Workers' Compensation members. For the Property/Liability program, the average length of membership is over 13 years with over 93% of members receiving the distribution and for the Workers' Compensation program, the average length of membership is over 10 years with over 90% of members receiving the distribution.

Congratulations! Since you have participated in our Workers' Compensation program for 7 years as of June 30, 2011, we are pleased to present your agency with a longevity distribution check in the amount of \$708.00! We hope that you will share this valuable news with your governing body (*to help prevent possible fraud, please do not include a copy of the actual check in your board packet!*)

In addition, we are pleased to provide a copy of the SDRMA 2010-11 Annual Report. The report highlights the strength of our programs, the diversity of our membership and the financial security of our pool as well as other important information!

Thank you for your participation and helping make SDRMA a premier risk management program! If you have any questions, please contact the SDRMA Finance Department at 800.537.7790 or 916.231.4141.

Sincerely,  
Special District Risk Management Authority

  
David Aranda, President  
Board of Directors



Date	Invoice Number	Comment	Amount	Discount Amount	Net Amount
2/6/2012	06302011	SDRMA Longevity Distribution	708.00	0.00	708.00
GL#:	4150	Longevity Distrib		708.00	

Check: 002436      2/6/2012      Nipomo Community Services Dist      Check Total:      708.00

THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER

**SDRMA**  
 Special District Risk Management Authority  
 1112 "I" Street, Suite 300  
 Sacramento, CA 95814  
 (916) 231-4141

River City Bank  
 2485 Natomas Park Dr.  
 Sacramento, CA 95833  
 90-3341/1211  
 WORKERS COMPENSATION ACCOUNT

**002436**

Date      Amount  
 2/6/2012      \*\*\*\*\*708.00\*

Pay: \*SEVEN HUNDRED EIGHT AND XX / 100

Two Signatures Required

To The Order Of Nipomo Community Services District  
 Post Office Box 326  
 Nipomo, CA 93444-0326

*Gregory Hall*

*E. Paul Frydendal*



SECURITY FEATURES INCLUDED. DETAILS ON BACK.

⑈002436⑈ ⑆1121133416⑆0811090523⑈

Special District Risk  
Management Authority

Maximizing Protection  
Minimizing Risk

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Sacramento, California 95814-2865  
T 916.231.4141  
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www.sdrma.org



February 6, 2012

Nipomo Community Services District  
Ms. Lisa Bognuda  
Finance Director/Assist GM  
Post Office Box 326  
Nipomo, California 93444-0326

Dear Ms. Bognuda,

On January 4, 2012, the SDRMA Board of Directors approved a longevity distribution for the third year in a row. The Longevity Distribution Policy was originally approved by the Board in 2010 to recognize and reward members for their loyalty and commitment to SDRMA programs. The policy is consistent with the goals and objectives of the Board's strategic business plan and helps ensure pool stability by rewarding members for remaining in our Property/Liability and Workers' Compensation programs.

There is no action required by your agency. Every member that has completed the 3 full program year initial commitment period for either the Property/Liability or Workers' Compensation program is eligible to receive the longevity distribution for that particular program. The longevity distribution may only be declared by the Board of Directors each year only after all Board policy reserve requirements have been met. The amount available for the longevity distribution is the amount of investment earnings on reserves above the Board approved confidence level for each program as of June 30. The distribution is weighted based on the member's length of time in that program and the amount of the member's annual contributions compared to the total contributions of all pool members.

This year, the Board approved a longevity distribution in the amount of \$316,084 for Property/Liability members and \$556,020 for Workers' Compensation members. For the Property/Liability program, the average length of membership is over 13 years with over 93% of members receiving the distribution and for the Workers' Compensation program, the average length of membership is over 10 years with over 90% of members receiving the distribution.

Congratulations! Since you have participated in our Property/Liability program for 17 years as of June 30, 2011, we are pleased to present your agency with a longevity distribution check in the amount of \$3015.00! We hope that you will share this valuable news with your governing body (*to help prevent possible fraud, please do not include a copy of the actual check in your board packet!*)

In addition, we are pleased to provide a copy of the SDRMA 2010-11 Annual Report. The report highlights the strength of our programs, the diversity of our membership and the financial security of our pool as well as other important information!

Thank you for your participation and helping make SDRMA a premier risk management program! If you have any questions, please contact the SDRMA Finance Department at 800.537.7790 or 916.231.4141.

Sincerely,  
Special District Risk Management Authority

  
David Aranda, President  
Board of Directors



Date	Invoice Number	Comment	Amount	Discount Amount	Net Amount
2/6/2012	06302011	SDRMA Longevity Distribution	3,015.00	0.00	3,015.00
GL#:	4150-000-00	Longevity Distribution		3,015.00	

Check: 025348      2/6/2012      Nipomo Community Services Dist      Check Total:      3,015.00

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Special District Risk Management Authority  
 1112 "I" Street, Suite 300  
 Sacramento, CA 95814  
 (916) 231-4141

River City Bank  
 2485 Natomas Park Dr.      90-3341/1211  
 Sacramento, CA 95833  
 PROPERTY/LIABILITY GENERAL ACCOUNT

**025348**

Date	Amount
2/6/2012	*****3,015.00*

Pay: \*THREE THOUSAND FIFTEEN AND XX / 100

Two Signatures Required

To The Order Of Nipomo Community Services District  
 Post Office Box 326  
 Nipomo, CA 93444-0326



*Gregory Stoll*  
 \_\_\_\_\_  
*E. Paul Frydendal*  
 \_\_\_\_\_

SECURITY FEATURES INCLUDED. DETAILS ON BACK.

⑈025348⑈ ⑆121133416⑆0811090507⑈

## COUNCIL AGENDA REPORT

February 21, 2012

**TO:** City Council

**FROM:** City Manager  
Prepared by: Utilities Director

**SUBJECT: CONSENT TO THE FORMATION OF AN ASSESSMENT DISTRICT BY  
THE NIPOMO COMMUNITY SERVICES DISTRICT**

### **RECOMMENDATION:**

That the City Council adopt a resolution consenting to the formation of the Assessment District by the Nipomo Community Services District, and approve the Resolution of Intention and the improvements.

### **SUMMARY:**

The Nipomo Community Services District (NCSD) needs to secure a supplemental water supply to offset groundwater overdraft of groundwater in the Nipomo Mesa Management Area. The Stipulated Agreement incorporated in the judgment for the Santa Maria Groundwater Adjudication (Stipulated Agreement) requires the City of Santa Maria (City) provide the Nipomo Management Area with supplemental water. The City and the NCSD entered into a Wholesale Water Supply Agreement (Agreement) in January of 2010 for the City to supply this water to the NCSD. To convey this water to the NCSD, the NCSD must construct a pipeline and related facilities. This project is entitled the Waterline Intertie Project (Project). The cost for construction of the Project is approximately \$26 million. The Santa Maria City Council, as a responsible agency, approved a resolution considering an Environmental Impact Report (EIR) and Addendum for the Project in 2010.

The NCSD is actively engaged in the process of forming a special assessment district to provide funding for the Project. As required by law, due to a portion of the Project being constructed within the City limits, for the assessment district formation to proceed the Santa Maria City Council must consent to the formation of the assessment district, and approve the proposed resolution of intention and the improvements proposed to be constructed. There are no assessments being proposed within the City limits or on City residents.

## **BACKGROUND:**

The NCSD provides water, sewer, and solid waste services within its boundaries to the community of Nipomo. The NCSD needs to secure a supplemental water supply to offset overdraft of groundwater in the Nipomo Mesa Management Area of the Santa Maria Groundwater Basin. Overdraft can lead to salt water intrusion and a decline in both the water table and water quality.

The City has sufficient water resources to meet the demands of its retail customers AND the NCSD's water supply needs. The City Council entered into an MOU with the NCSD on September 7, 2004. The MOU set the basic terms under which the City and the NCSD would negotiate for the NCSD to purchase supplemental water, of certain quality and quantity, from the City.

The City and the NCSD are parties to a certain groundwater adjudication lawsuit commonly referred to as the Santa Maria Groundwater Litigation (Litigation). In January of 2008 a judgment was issued for this Litigation. The ruling incorporated the Stipulated Agreement. The Stipulated Agreement imposes a physical solution, establishing a legal and practical means for ensuring the Basin's long-term sustainability. The Stipulated Agreement provides that "the NCSD and the City shall employ their best efforts to timely implement the Nipomo Supplemental Water Project." The Stipulated Agreement recognized the MOU between the City and the NCSD.

The Project is made up of water lines, pump stations, and the necessary infrastructure to deliver water from Santa Maria to Nipomo. The final design of the Project is nearing completion. The Project will extend from Nipomo under the Santa Maria River and the Levee to Blosser Road. The pipeline would then extend south along Blosser Road to West Taylor Street, where the pipeline would connect into an existing Santa Maria water main (Attachment "A"). The NCSD prepared an Environmental Impact Report (EIR) for the Project and certified the Final EIR on April 22, 2009. The Santa Maria City Council, as a responsible agency, approved a resolution considering an EIR and Addendum, and making findings and a Statement of Overriding Considerations under the California Environmental Quality Act on January 5, 2010. The Agreement to formalize the terms and conditions set forth in the MOU was approved by the NCSD Board on October 28, 2009, and by the City Council January 5, 2010.

Key points of the Agreement are as follows:

### Terms:

The Agreement terms are from the effective date until June 30, 2085. After June 30, 2035, the Agreement is subject to the renewal of the contract between the City and Central Coast Water Authority for the State Water Project.

### Quantity:

The Agreement details the minimum amount of supplemental water that the City must



deliver and the NCSD must purchase, as follows:

Years 1 through 10	- 2,000 AF per year
Years 11 through 19	- 2,500 AF per year
Years 20 through end of Term	- 3,000 AF per year

The NCSD may request up to an additional 3,200 AF per year per the Agreement.

**Quality:**

The City must deliver supplemental water to the NCSD from the sources used to provide water to the City's retail customers per the Agreement. Currently, there are two sources of water for Santa Maria; high-quality State water and groundwater. State water is blended with groundwater supplies to provide a consistent water quality throughout the service area.

**Purchase Price:**

The purchase price for the supplemental water delivered to the NCSD is based on Tier 1 of the City's Water Consumption Rate, and a factor that reflects the cost of energy. The Tier 1 rate is the rate the City charges retail customers for water.

**DISCUSSION:**

The next step for the NCSD is to obtain funding for the construction of the Project. The Project is estimated to cost approximately \$26 million and deliver water in June 2014. The NCSD has initiated the process to form a special assessment district to provide funding for the Project. Assessment districts are commonly used because they help spread out the costs to both developed and undeveloped properties to provide for a more equitable allocation of costs. Formation of the assessment district will require a majority of benefit units responding to the assessment district ballot to do so in the affirmative. Responses will be through a mailed ballot. There will be no assessment or charge to any property in Santa Maria.

The Improvement Act of 1911 requires that when a public agency (NCSD) initiates proceedings under the Improvement Act to consider the formation of an assessment district with improvements in another City (Santa Maria), the City Council of the City must consent to the formation of the assessment district and approve the proposed resolution of intention and the improvements proposed to be constructed. This must be done prior to the adoption of the Resolution of Intention by the public agency.

**Alternatives:**

Do not consent to the formation of an assessment district by the NCSD for the funding of the Waterline Intertie Project. This alternative is not recommended for the following reasons:

- The City has sufficient water of quality and quantity to supply to NCSD.

- The assessment district follows the intent and object of the approved MOU and Agreement between the City of Santa Maria and the NCSD.
- The assessment district provides the ability for "the NCSD and the City to employ their best efforts to timely implement the Nipomo Supplement Water Project" as required by the Stipulated Agreement.
- The assessment district does not lien or charge any parcel in the City of Santa Maria.

Fiscal Considerations:

The assessment district will fund the construction of all of the Project improvements from Santa Maria to Nipomo. This will allow the City to sell supplemental water to the NCSD. Based on fiscal projections, this sale will be revenue neutral in the worst case scenario, and generate revenue under most scenarios. The wholesale sale of water to the NCSD is consistent with the City's longstanding judicial use of fiscal assets.

Impact to the Community:

The assessment district will be another step toward the sale of supplemental water to the NCSD. This will be a positive impact to the community by implementing groundwater restoration and preservation, and by improving the groundwater basin balance.

There would be traffic impacts to the community during construction of the Waterline Intertie Project. Motorists on North Blosser Road may experience detours and delays during construction of the Project. To minimize any impact, the Utilities Department will work with the NCSD and the contractor to provide sufficient public notification and signage before and during construction.

Other Agency Review:

The assessment district formation process was approved by the San Luis Obispo County Board of Supervisors and the NCSD. The NCSD will consider approval of a Notice of Intent to form an assessment district in the near future.

  
RICHARD G. SWEET, P.E.  
Director of Utilities

ATTACHMENTS:

Attachment "A" – Water Intertie Project Map



RESOLUTION NO. 2012- 17

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MARIA GRANTING CONSENT TO THE FORMATION OF AN ASSESSMENT DISTRICT BY THE NIPOMO COMMUNITY SERVICES DISTRICT**

**WHEREAS**, the Board of Directors of the Nipomo Community Services District ("NCSD") proposes to adopt a Resolution of Intention (the "Resolution of Intention") to initiate proceedings to consider the formation of a special assessment district designated as Nipomo Community Services District Assessment District No. 2012-1 (Supplemental Water Project) (the "Assessment District"), under the provisions of the Municipal Improvement Act of 1913, being Division 12 (commencing with Section 10000) of the Streets and Highways Code of the State of California, (the "Improvement Act"), Article XIII D of the Constitution of the State of California ("Article XIII D") and the Proposition 218 Omnibus Implementation Act (Government Code Sections, 53750, and following) (together with the Improvement Act and Article XIII D, the "Assessment Law"), to finance the acquisition or construction of certain water improvements to be located in the City of Santa Maria (the "City"); and

**WHEREAS**, Section 5118 of the Improvement Act of 1911, being Division 7 (commencing with Section 5000) of the Streets and Highways Code, and Section 10303 of the Improvement Act provide that, when another public agency initiates proceedings under the Improvement Act to consider the formation of an assessment district (the "Assessment District") to include improvements within territory of the City, the City Council of the City must consent to the formation of such assessment district and approve the proposed resolution of intention of such legislative body to form such assessment district and the improvements proposed to be constructed (the "Resolution of Intention"), prior to the adoption of such Resolution of Intention by such legislative body; and

**WHEREAS**, the Board of Directors of the NCSD has requested that the City Council of the City consent to the formation of the Assessment District and approve the Resolution of Intention, attached hereto, and the improvements described in the Exhibit "A" to the Resolution of Intention (the "Improvements"); and,

**NOW, THEREFORE, IT IS HEREBY RESOLVED** by the City Council of the City of Santa Maria, California, as follows:

Section 1. The above recitals are all true and correct.

Section 2. Pursuant to the Improvement Act, the City Council of the City of Santa Maria hereby consents to NCSD's formation of the Assessment District and approve of its Resolution of Intention and the improvements.

Section 3. The foregoing approval of the City Council of the City of Santa Maria is conditional upon (a) compliance by the NCSD with the provisions of

the Assessment Law in undertaking the proceedings to consider the formation of the Assessment District and in levying any assessment upon the properties within the Assessment District; and (b) the agreement by NCSD as specified in Section 6 of the Resolution of Intention that NCSD shall hold harmless and indemnify the City, its officers, agents and employees, and the members of the City Council from any and all causes of action, claims, losses or damages, and expenses, including attorneys fees and litigation costs resulting or arising, directly or indirectly, from the action of the City in reviewing and granting its consent to the formation of the Assessment District and approving the Resolution of Intention and the Improvements.

Section 4. The Acting Chief Deputy City Clerk of the City is hereby directed to certify and transmit a copy of this Resolution to the Secretary of NCSD.

Section 5. This resolution shall take effect immediately upon its adoption.

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Santa Maria held February 21, 2012.

ATTEST:


\_\_\_\_\_  
CHIEF DEPUTY CITY  
CLERK

\_\_\_\_\_  
Mayor

APPROVED AS TO  
FORM:

BY:   
CITY ATTORNEY

CONTENTS:

BY:   
DEPARTMENT  
HEAD

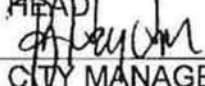
BY:   
CITY MANAGER

EXHIBIT "A"

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NIPOMO COMMUNITY SERVICES DISTRICT DECLARING ITS INTENTION TO ORDER IMPROVEMENTS FOR PROPOSED ASSESSMENT DISTRICT NO. 2012-1 (SUPPLEMENTAL WATER PROJECT) PURSUANT TO THE MUNICIPAL IMPROVEMENT ACT OF 1913 AND IN ACCORDANCE WITH ARTICLE XIID OF THE CALIFORNIA CONSTITUTION, AND TAKING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH

**WHEREAS**, the Board of Directors of the Nipomo Community Services District ("District"), desires to initiate proceedings for the formation of an assessment district (the "Assessment District"), pursuant to the provisions of the Municipal Improvement Act of 1913 (the "Improvement Act"), being Division 12 (commencing with Section 10000) of the Streets and Highways Code of the State of California, Article XIID of the Constitution of the State of California ("Article XIID"), the Special Assessment Investigation, Limitation and Majority Protest Act of 1931, being Division 4 of the Streets and Highways Code of the State of California (commencing with Section 2800), and the Proposition 218 Omnibus Implementation Act (commencing with Section 53750) of the Government Code of the State of California, and for the issuance of bonds in the proceedings under the Improvement Bond Act of 1915, being Division 10 of the Streets and Highways Code of the State of California (commencing with Section 8500) (the "Bond Act"), for the purpose of financing certain public capital water improvements (the "Improvements"), of benefit to the properties within the proposed Assessment District; and

**WHEREAS**, the territory proposed for inclusion in the proposed Assessment District includes parcels of land located within the District as well as certain other parcels of land located in whole or in part within the County of San Luis Obispo ("San Luis Obispo County") that, in the opinion of the Board of Directors, will be specially benefited by the Improvements; and

**WHEREAS**, a portion of the Improvements are proposed to be located within San Luis Obispo County and the City of Santa Maria (the "City of Santa Maria"); and

**WHEREAS**, pursuant to Section 10103 of the Improvement Act and Sections 5117 and 5118 of the Improvement Act of 1911, Division 7 (commencing with Section 5000) of the Streets and Highways Code, before the Board of Directors may adopt a resolution of intention initiating such proceedings, it must submit the proposed Resolution of Intention to and obtain the consent of (i) the Board of Supervisors of the San Luis Obispo County (the "San Luis Obispo County Board"), (ii) the City Council of the City of Santa Maria (the "Santa Maria City Council") to the formation of the proposed Assessment District and the approval of the Resolution of Intention and the proposed Improvements; and

**WHEREAS**, the Board of Directors has received consent from San Luis Obispo County Board as to the inclusion of territory outside the boundaries of the District, and has received consent

from the San Luis Obispo County Board and Santa Maria City Council for the proposed Improvements; and

**WHEREAS**, the public interest and convenience require the construction and acquisition of the Improvements.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Nipomo Community Services District:

**Section 1.** The above recitals are true and correct.

**Section 2.** The proposed improvements (the "Improvements") generally consist of the acquisition and financing of certain public capital water improvements as more particularly described on Exhibit A attached hereto.

**Section 3.** In the opinion of the Board of Directors, the Board of Directors hereby finds and determines that the public interest and convenience require that the proposed Improvements is of such a character that it directly and peculiarly affects property in one or more jurisdictions, and that the purposes sought to be accomplished by the proposed Improvements can best be accomplished by a single, comprehensive scheme of work, thereby requiring inclusion of Improvements and property that lie outside the territorial limits of the District.

**Section 4.** In the opinion of the Board of Directors, the Board of Directors hereby finds and determines that the public interest and convenience require that property within the boundaries of the Assessment District lying outside the jurisdiction of the District will be benefitted by the proposed Improvements, and that the consents of the legislative bodies having jurisdiction over any such property proposed to be assessed have been obtained to (i) the formation of the Assessment District and (ii) the assumption by the District of jurisdiction thereover. The consents of the legislative bodies which contain the proposed Improvements that lie outside of the boundaries of the District have been obtained to (y) the formation of the Assessment District and the proposed Improvements to be done within such territory, and (z) the assumption by the District of jurisdiction thereover.

**Section 5.** The District shall hold harmless and indemnify San Luis Obispo County, its officers and employees, from any and all causes of action, claims, losses or damages which may arise, directly or indirectly, from the action of the San Luis Obispo County Board in reviewing and granting its consent to the formation of the Assessment District and approving this Resolution of Intention form and the Improvements.

**Section 6.** The District shall hold harmless and indemnify the City of Santa Maria, its officers and employees, from any and all causes of action, claims, losses or damages which may arise, directly or indirectly, from the action of the Santa Maria City Council in reviewing and granting its consent to the formation of the Assessment District and approving this Resolution of Intention form and the Improvements.

**Section 7.** The Board of Directors hereby (i) finds that the public interest, necessity and convenience require the acquisition, improvement, and financing of the Improvements, and (ii) declares its intention to order the Improvements and form an assessment district to be known as the "Nipomo Community Services District Assessment District No. 2012-1 (Supplemental Water Project)" pursuant to the Improvement Act. Unless otherwise specifically provided, all Improvements and work to be funded by the Assessment District shall be made and done pursuant to the Improvement Act.

**Section 8.** The Board of Directors hereby declares that the territory within the boundaries hereinafter specified and described as the Assessment District is the land benefitted by the Improvements to be made and to be assessed to pay the costs and expenses thereof; that the expense of the Improvements is hereby made chargeable upon the Assessment District; and that the exterior boundaries of the Assessment District are hereby specified and described to be shown on that certain map now on file in the office of the Secretary of the District entitled "Nipomo Community Services District Assessment District No. 2012-1 (Supplemental Water Project) Assessment Diagram/Boundary Map," which map indicates by a boundary line the extent of the territory included in the proposed Assessment District. On the original and a copy of the map of the Assessment District on file in the Secretary's office, the Secretary shall endorse the certificate evidencing the date and adoption of this Resolution of Intention. The Secretary shall file the original of such map in his or her office and, within fifteen (15) days after adoption of the resolution fixing the time and place of hearing on the formation and extent of the Assessment District, the Secretary shall file a copy of such map so endorsed in the records of the County Recorder, County of San Luis Obispo, State of California.

**Section 9.** The Board of Directors hereby appoints and designates the District Engineer to perform the duties and functions of the Superintendent of Streets in connection with such proceedings.

**Section 10.** The proposed Improvements are hereby referred to the Assessment Engineer to make and file with the Secretary of the District a report in writing in accordance with Article XIID, Section 4 of the California Constitution and Section 10204 of the Improvement Act. The District intends to comply with the requirements of Part 7.5 of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931, and hereby directs the Assessment Engineer to include in the report all of the information required in Section 2961 of the California Streets and Highways Code.

**Section 11.** The Board of Directors hereby determines that it is in the public interest and more economical to do work on private property to eliminate any disparity in level or size between the proposed Improvements and private property than to adjust the work on public property to eliminate such disparity.

**Section 12.** The Board of Directors hereby declares its intention to enter into an agreement or agreements with the City of Santa Maria and any other public agency, regulated public utility or mutual water company pursuant to Chapter 2 of the 1913 Act (commencing with Section 10100) if any of the Improvements are to be owned, managed or controlled by any other public agency, regulated public utility or mutual water company.



**Section 13.** Pursuant to Section 4 of Article XIID of the Constitution of the State of California, parcels within the assessment district that are owned or used by any agency, the State of California or the United States shall not be exempt from assessment, unless the District can demonstrate by clear and convincing evidence that such publicly owned parcels in fact receive no special benefit.

**Section 14.** Notice is hereby given that bonds to represent unpaid assessments, and which bear interest at a fixed or variable interest rate of not to exceed twelve percent (12%) per annum, or such higher maximum interest rate as may be provided in the resolution of issuance, will be issued hereunder in the manner provided in the Bond Act, and the last installment of such bonds shall mature in not to exceed 39 years from the second of September next succeeding twelve (12) months from their date. The alternate procedure for collecting assessments and advance retirement of bonds as set forth in Part 11.1 of the Bond Act shall apply herein. Pursuant to Section 8650.1 of the Bond Act, the Board of Directors may determine that the principal amount of bonds maturing or becoming subject to mandatory prior redemption each year shall be other than the amount equal to an even annual proportion of the aggregate principal of the bonds.

**Section 15.** The Board of Directors hereby further declares that it is its intention to covenant that, upon default of any assessment payment due (except under certain circumstances to be specified in the fiscal agent agreement or trust indenture for the bonds) it will cause foreclosure proceedings to be brought within 150 days of such default, as permitted by Section 8830(b) of the Bond Act.

**Section 16.** The Board of Directors hereby further declares that it is its intention to create a special reserve fund as permitted by Sections 8880-8886 of the Bond Act.

**Section 17.** The Board of Directors hereby finds and determines that if the assessment proposed herein results in a surplus in the improvement fund to be provided for in the proceedings hereafter taken pursuant to this Resolution of Intention, after the improvements are acquired or constructed, the surplus shall be used or allocated in accordance with the provisions of Sections 10427 to 10427.2, inclusive, of the Improvement Act.

**Section 18.** The Board of Directors hereby designates the General Manager and Secretary to the Board of Directors (General Manager or Secretary depending on the context), or the designated agent of the General Manager, to collect and receive the assessments.

**Section 19.** Pursuant to Streets and Highways Code Section 8769, the Board of Directors hereby determines and declares that the District will not obligate itself to advance available funds from the District treasury to cure any deficiency which may occur in the bond redemption fund; provided, however, this determination shall not prevent the District from, in its sole and unbridled discretion, advancing funds for such purpose as otherwise provided in the Bond Act.

**Section 20.** The Board of Directors hereby further declares that the bonds issued for Assessment District No. 2012-1 shall be refundable in accordance with the provisions of the

"Refunding Act of 1984 for 1915 Improvement Act Bonds." The specific conditions under which said bonds may be refunded include the condition that there be a reduction in the interest cost to maturity by reason of the refunding of such bonds and the condition that the refunding bonds shall bear interest at a maximum rate, and shall have a maximum number of years to maturity, not in excess of the maximum rate and years to maturity, respectively, then permitted by law. Any adjustment to assessments resulting from any such refunding will be done on a pro rata basis.

**Section 21.** Whenever, in the Improvement Act or in the Bond Act a notice, resolution, order or other matter relative to said proceedings for the work, acquisitions and improvements in said assessment district is required to be published, the Secretary is hereby ordered to publish such notice, resolution or other matter in the Santa Maria Times and/or the Tribune, which is hereby selected by the Board of Directors for that purpose.

**Section 22.** The Secretary shall transmit a certified copy of this Resolution of Intention and Boundary Map to the County Clerk of San Luis Obispo and the City Clerk of the City of Santa Maria.

**Section 23.** This resolution shall take effect immediately.

Upon a motion by Director \_\_\_\_\_, seconded by Director \_\_\_\_\_, on the following roll call vote, to wit:

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

the foregoing resolution is hereby passed and adopted on this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
JAMES HARRISON  
President of the Board

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
MICHAEL S. LEBRUN

Secretary to the Board

\_\_\_\_\_  
JON S. SEITZ

District Legal Counsel

## EXHIBIT A

The improvements proposed to be funded through Assessment District No. 2012-1 are briefly described as follows:

The design and construction of certain public capital water facilities, together with appurtenances and appurtenant work related thereto, including construction of a waterline to connect the City of Santa Maria water distribution system with the Nipomo Community Services District water distribution system, involving an underground pipeline with a nominal capacity of 3000 acre-feet to be installed under the Santa Maria river using horizontal directional drilling technique, the construction of a storage tank and booster station to deliver the water into the District's system, and all related permits, fees, bonds, construction management, and construction engineering (e.g. soils, survey, archeological).

**PROPOSED BOUNDARIES**

- of  
**Nipomo Mesa Supplemental Water Project  
Assessment District No. 1**  
Nipomo Community Services District  
State of California



1 inch = 3,000 feet

**Clerk's Certificate of Filing**

Filed in the Office of the Clerk of the Board of Supervisors of the County of San Luis Obispo, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Clerk of the Board of Supervisors

**Clerk's Certificate of Board Approval**

I hereby certify that the within map showing the proposed boundaries of the Nipomo Mesa Supplemental Water Project Assessment District No. 1, in the County of San Luis Obispo, State of California was approved by the Board of Supervisors of the County of San Luis Obispo, at a regular meeting thereof, held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by its Resolution No. \_\_\_\_\_

\_\_\_\_\_  
Clerk of the Board of Supervisors

**County Recorder's Certificate**

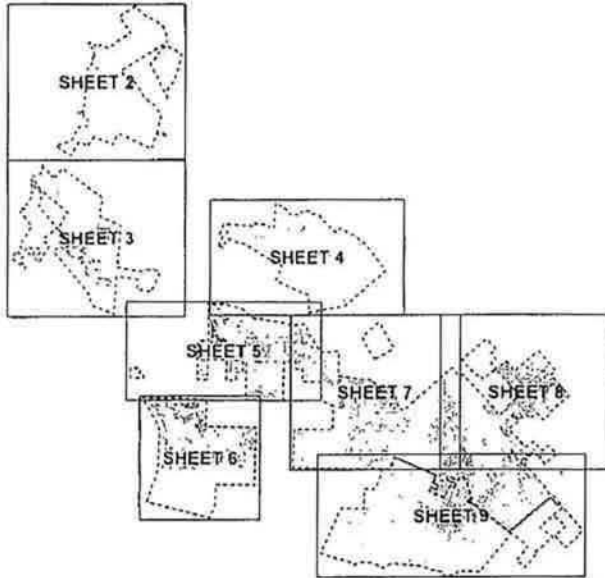
Filed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at the hour of \_\_\_\_\_ o'clock \_\_\_\_\_ m. in Book \_\_\_\_\_ of Maps of Assessment and Community Facilities Districts at page \_\_\_\_\_ in the office of the County Recorder in the County of San Luis Obispo, State of California.

\_\_\_\_\_  
County Recorder of the County of San Luis Obispo

**County Surveyor's Certificate**

Recorded in the office of the County Surveyor of the County of San Luis Obispo this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
County Surveyor  
County of San Luis Obispo,  
State of California



111 CUMBER STREET  
SAN LUIS OBISPO, CA 93401  
TEL: 805-481-1111 FAX: 805-481-1112  
www.haldar-engineering.com

**SHEET 10**

Sheet 1 of 19 Sheets

# NIPOMO COMMUNITY

## BOARD MEMBERS

JAMES HARRISON, PRESIDENT  
LARRY VIERHEILIG, VICE PRESIDENT  
MICHAEL WINN, DIRECTOR  
ED EBY, DIRECTOR  
DAN A. GADDIS, DIRECTOR



*Serving the Community Since 1965*

# SERVICES DISTRICT

## STAFF

MICHAEL S. LEBRUN, GENERAL MANAGER  
LISA BOGNUDA, ASSISTANT GENERAL MANAGER  
PETER SEVCIK, P.E., DISTRICT ENGINEER  
TINA GRIETENS, UTILITY SUPERINTENDENT  
JON SEITZ, GENERAL COUNSEL

---

148 SOUTH WILSON STREET POST OFFICE BOX 326 NIPOMO, CA 93444 - 0326  
(805) 929-1133 FAX (805) 929-1932 Website address: ncsd.ca.gov

---

February 21, 2012

Dean Carlson, Air Pollution Control Engineer  
Air Pollution Control District  
3433 Roberto Court  
San Luis Obispo, CA 93401-7126

Dear Mr. Carlson

**SUBJECT: EMISSIONS AND THROUGHPUT DATA FOR NIPOMO COMMUNITY  
SERVICES DISTRICT**

Nipomo Community Services District is submitting the completed data certification and emissions inventory forms for inventory year 2011 for the following facilities:

Maria Vista Lift Station	Facility ID# 2875
Nipomo CSD WWTP	Facility ID# 2323
Nipomo CSD Blacklake Booster	Facility ID# 2340
Nipomo CSD Tefft Street Lift Station	Facility ID# 2339
Nipomo CSD Sundale Well	Facility ID# 2828

Please contact me with any questions.

Very truly yours,

NIPOMO COMMUNITY SERVICES DISTRICT

Tina Grietens  
Utility Superintendent

Enclosure(s): Emissions Inventory forms, Data Certification and Engine Operating logs for:  
Maria Vista Lift Station,  
Nipomo CSD WWTP,  
Blacklake Booster,  
Tefft Street Lift Station  
Sundale Well

c: Michael LeBrun, General Manager  
file



Air Pollution Control District  
San Luis Obispo County

RECEIVED  
FEB - 6 2012  
NIPOMO COMMUNITY  
SERVICES DISTRICT

January 31, 2012

TINA GRIETENS  
NIPOMO CSD WWTP  
P.O. BOX 326  
NIPOMO CA 93444

SUBJECT: Request for Emissions and Throughput Data for Nipomo CSD - Maria Vista  
Lift Station (Facility ID # 2875)

Dear Ms. Grietens:

The Air Pollution Control District is required to achieve and maintain state ambient air quality standards. As part of our effort to comply, the District has developed a plan to monitor and reduce air pollutant emissions. To track our progress toward achieving the goals of our plan, the District must survey local businesses to verify the sources, types, and amounts of air pollution.

Please complete the enclosed forms and provide all requested information for inventory year 2011. Please note that the Facility ID No. referenced above will need to be included on the form.

Additional forms are available on our website: [www.slocleanair.org/business/online-forms.php](http://www.slocleanair.org/business/online-forms.php)

If you have suggestions to improve these forms, please indicate in your submittal where improvements can be made. The District welcomes your input.

After completing the enclosed forms, FAX or mail them to the District Office by February 24, 2012. If you have any questions, contact Alyssa Roslan at (805) 781-5759.

Sincerely,

A handwritten signature in black ink that reads 'Dean Carlson' in a cursive script.

Dean Carlson  
Air Pollution Control Engineer

Enclosures: Emission Inventory Forms: 1, 32



**DATA CERTIFICATION FORM**

**For Inventory Year - 2011**

Please fill in all spaces and retain a copy for your records. Completed forms may be faxed. Print your name and sign this form in the spaces provided. Submit completed forms by due date to avoid fines or penalties.

A. Please print clearly.

Company Name	NIPOMO COMMUNITY SERVICES DISTRICT		
Contact Name	TINA GRIETENS	Title	Utility Superintendent
Mailing Address	P.O. BOX 326		
City, State ZIP	NIPOMO, CA 93444		
Contact Phone	805 929-1133	Fax	805 929-1932
Equipment Address	1844 VISTA DEL SOL, NIPOMO		
City, State ZIP	NIPOMO, CA 93444		
Facility ID (see cover letter)	2875		
Type of Business	Water & Wastewater Utility		

B. Is trade secret data included?

Yes  No   
If yes, attach explanation.

C. Are there any **NEW** sources of criteria pollutants: oxides of nitrogen, oxides of sulfur, particulate matter, or volatile organic compounds (VOCs)?

Yes  No   
If yes, describe in box below.

D. Are there any emission sources no longer in service?

Yes  No   
If yes, write permit number in box below.

Remarks

new permit issued in 2011 1816-1

Under California Health and Safety Code sections 40701 and 42303, the District has the right to request data needed to estimate pollutant emissions. Consequently, you are obligated to provide all requested data by the due date. This data is also requested under the authority of the Air Toxics Hot Spots program. The data may be used to determine permit renewal fees. Failure to provide complete data by the due date may result in fines or penalties.

I Tina Grietens (Clearly Print Name), certify that the data provided above and in all attachments is complete and accurate to the best of my knowledge.

Signature: Tina Grietens Date: 2-21-12



**EMISSIONS INVENTORY INFORMATION**  
For Inventory Year – 2011

**STAND-BY/BACKUP GENERATORS**

Company Name Nipomo Community SERVICES DISTRICT Contact Initials TG

Use this form to report all Stand-By and Backup Generators. List each device separately. Please fill in all spaces and include supporting data where requested. Retain a copy for your records.

-----Please also include a copy of the operating log for calendar year 2011 as required by your Permit to Operate.-----

Copy of document found at www.NoNewWpTax.com

Device No.	Device Description	Equipment Rating <sup>(1)</sup>	Fuel Type <sup>(2,3)</sup>	Annual Fuel Use	Unit of Measure <sup>(4)</sup>	Yearly Hour Use <sup>(5)</sup>	Maintenance Hours <sup>(6)</sup>	Meter Reading <sup>(7)</sup>
7	100kW Olympian D100P4	157	diesel	0	gal	8.5	2.6	98.8

- (1) For internal combustion engines, specify horsepower (hp) or design heat input (mm BTU/hr).
- (2) Examples: natural gas, propane gas, diesel fuel, fuel oil. If fuel oil is burned, specify grade (example: fuel oil No. 2).
- (3) If a device burns more than one fuel, use a separate line for each fuel.
- (4) Include units of measure (therms, mcf, mmcf, gal, mgal, bbl, or mdbl). **Be sure that your units of measure are correct!!!**
- (5) The total number of hours the unit has been run for the current calendar year.
- (6) The number of hours the device has been used for maintenance.
- (7) The end of year hour meter reading from the device.



# NIPOMO COMMUNITY SERVICES DISTRICT

## Calendar Year Engine Operating Log

### 2011

Permit # **1816-1**  
 Facility **MARIA VISTA LIFT STATION**  
 Engine: **Caterpillar- Olympian P100P4 SN# D4P00954**  
 Year: **2004**

**UNIT #7**

Note: Repair costs do not include consumable items used for regular maintenance, such as filters, hoses, belts, fluids, and glow plugs. Detailed records of all repairs shall be kept.

DATE	Operating Mode (MAINT EMERGENCY OR DISTRICT TESTING)	ENGINE HR METER AT START-UP	ENGINE HR METER AT SHUT-DOWN	OPERATING HRS FOR THIS DATE	Running TOTAL calendar YR OP HRS	Running TOTAL CALENDAR YR MAINT OP HRS	Running TOTAL CALENDAR YR EMERGENCY OP HRS	Running TOTAL CALENDAR YR District TESTING HRS	Estimate of FUEL USE IN GALLONS FOR THIS DATE	Running TOTAL CALENDAR FUEL USE IN GALLONS	FUEL BOUGHT IN GALLONS	REPAIR COSTS \$	REPAIR COSTS TOTAL-TO-DATE \$
1/11/2011	MAINT	90.3	90.3	0	0	0	0						
2/18/2011	EMERG	90.3	94	3.7	3.7		3.7						
2/25/2011	MAINT	94	94.1	0.1	3.8	0.1	3.7						
3/10/2011	MAINT	94.1	down on maint.	0	3.8	0.1	3.7						
4/4/2011	O.S.												
4/19/2011	MAINT	94.1	94.3	0.2	4.0	0.4	3.7					\$ 303.20	\$ 303.20
5/25/2011	EMERG	94.3	96.6	2.3	6.3	0.4	6.0						
5/31/2011	MAINT	96.6	96.7	0.1	6.4	0.5	6.0						
6/13/2011	MAINT	96.7	97.0	0.3	6.7	0.8	6.0						
7/21/2011	MAINT	97.0	97.3	0.3	7.0	1.1	6.0						
8/3/2011	MAINT	97.3	97.8	0.5	7.5	1.6	6.0						
8/31/2011	MAINT/SERV	97.8	97.9	0.1	7.6	1.7	6.0					\$ 1,079.30	\$ 1,382.50
9/27/2011	MAINT	97.9	98.0	0.1	7.7	1.8	6.0						
10/18/2011	MAINT	98	98.5	0.5	8.2	2.3	6.0						
11/9/2011	maint	98.5	98.7	0.2	8.4	2.5	6.0						
12/5/2011	MAINT	98.7	98.8	0.1	8.5	2.6	6.0						
Level 2 PM annual maintenance/service 8/31/2011													
Block heater replaced in April													

Copy of document found at www.NoNewWpTax.com



Air Pollution Control District  
San Luis Obispo County

January 31, 2012

TINA GRIETENS  
NIPOMO CSD WWTP  
P.O. BOX 326  
NIPOMO CA 93444

SUBJECT: Request for Emissions and Throughput Data for Nipomo CSD WWTP  
(Facility ID # 2323)

Dear Ms. Grietens:

The Air Pollution Control District is required to achieve and maintain state ambient air quality standards. As part of our effort to comply, the District has developed a plan to monitor and reduce air pollutant emissions. To track our progress toward achieving the goals of our plan, the District must survey local businesses to verify the sources, types, and amounts of air pollution.

Please complete the enclosed forms and provide all requested information for inventory year 2011. Please note that the Facility ID No. referenced above will need to be included on the form.

Additional forms are available on our website: [www.slocleanair.org/business/online-forms.php](http://www.slocleanair.org/business/online-forms.php)

If you have suggestions to improve these forms, please indicate in your submittal where improvements can be made. The District welcomes your input.

After completing the enclosed forms, FAX or mail them to the District Office by February 24, 2012. If you have any questions, contact Alyssa Roslan at (805) 781-5759.

Sincerely,

A handwritten signature in black ink that reads "Dean Carlson".

Dean Carlson  
Air Pollution Control Engineer

Enclosures: Emission Inventory Forms: 1, 7, 32



**DATA CERTIFICATION FORM**

**For Inventory Year - 2011**

Please fill in all spaces and retain a copy for your records. Completed forms may be faxed. Print your name and sign this form in the spaces provided. Submit completed forms by due date to avoid fines or penalties.

A. Please print clearly.

Company Name	NIPOMO COMMUNITY SERVICES DISTRICT		
Contact Name	Tina Grietens	Title	Utility Superintendent
Mailing Address	P.O. Box 326		
City, State ZIP	NIPOMO, CA 93444		
Contact Phone	805 929-1133	Fax	805 929-1932
Equipment Address	509 Southland Ave		
City, State ZIP	Nipomo CA 93444		
Facility ID (see cover letter)	2323		
Type of Business	Water + Wastewater Facility		

B. Is trade secret data included?

Yes  No   
If yes, attach explanation.

C. Are there any **NEW** sources of criteria pollutants: oxides of nitrogen, oxides of sulfur, particulate matter, or volatile organic compounds (VOCs)?

Yes  No   
If yes, describe in box below.

D. Are there any emission sources no longer in service?

Yes  No   
If yes, write permit number in box below.

Remarks
---------

Under California Health and Safety Code sections 40701 and 42303, the District has the right to request data needed to estimate pollutant emissions. Consequently, you are obligated to provide all requested data by the due date. This data is also requested under the authority of the Air Toxics Hot Spots program. The data may be used to determine permit renewal fees. Failure to provide complete data by the due date may result in fines or penalties.

I Tina Grietens (Clearly Print Name), certify that the data provided above and in all attachments is complete and accurate to the best of my knowledge.

Signature: Tina Grietens Date: 2-21-12



**EMISSIONS INVENTORY INFORMATION**  
**Inventory Year - 2011**

**WASTE WATER TREATMENT**

Company Name NIPOMO COMMUNITY SERVICES DISTRICT Contact Initials TG

Please fill in all spaces and retain a copy for your records.

1. Average daily throughput (million gallons per day): 0.64 mmgal/day (A)

2. Influent annual average BOD5 (milligrams per liter): 243 mg/L

3. Emissions (lb/year):

( 0.64 (A)mmgal/day) x (106 lb/mmgal/day/year\*) = 67.84 lb/year

\* Note that the emission factor listed above was based on estimated VOC emissions from average POTW's with flows of less than 10 mmgal/day in southern California. **If another emission factor is used**, please provide documentation supporting its use.

Alternate Emission Factor = \_\_\_\_\_ lb/mmgal/day/year (B)

3b. Emissions (lb/year):

( \_\_\_\_\_ (A)mmgal/day) x ( \_\_\_\_\_ (B)) = \_\_\_\_\_ lb/year



**EMISSIONS INVENTORY INFORMATION**  
**For Inventory Year – 2011**

**STAND-BY/BACKUP GENERATORS**

Company Name NIPOMO COMMUNITY SERVICES Contact Initials TG

Use this form to report all Stand-By and Backup Generators. List each device separately. Please fill in all spaces and include supporting data where requested. Retain a copy for your records.

-----Please also include a copy of the operating log for calendar year 2011 as required by your Permit to Operate.-----

Device No.	Device Description	Equipment Rating <sup>(1)</sup>	Fuel Type <sup>(2,3)</sup>	Annual Fuel Use	Unit of Measure <sup>(4)</sup>	Yearly Hour Use <sup>(5)</sup>	Maintenance Hours <sup>(6)</sup>	Meter Reading <sup>(7)</sup>
1	250KW CAT SR4B	382HP	DIESEL	Ø	GAL	8.7	4.7	16.3

- (1) For internal combustion engines, specify horsepower (hp) or design heat input (mm BTU/hr).
- (2) Examples: natural gas, propane gas, diesel fuel, fuel oil. If fuel oil is burned, specify grade (example: fuel oil No. 2).
- (3) If a device burns more than one fuel, use a separate line for each fuel.
- (4) Include units of measure (therms, mcf, mmcf, gal, mgal, bbl, or mbbl). **Be sure that your units of measure are correct!!!**
- (5) The total number of hours the unit has been run for the current calendar year.
- (6) The number of hours the device has been used for maintenance.
- (7) The end of year hour meter reading from the device.

Copy of document found at www.NoNewWpTax.com

# NIPOMO COMMUNITY SERVICES DISTRICT

## Calendar Year Engine Operating Log

### 2011

**UNIT #1**

Permit # **905-2**

Facility **SOUTHLAND WWTP**

Facility ID 2323

Engine: **250 kW Caterpillar, Model SR4B, 382 HP, Model 3306, turbocharged, aftercooled, SN#**

**9NR04046**

Year: **1999**

Note: Repair costs do not include consumable items used for regular maintenance, such as filters, hoses, belts, fluids, and glow plugs. Detailed records of all repairs shall be kept.

DATE	Operating Mode (MAINT EMERGENCY OR DISTRICT TESTING)	ENGINE HR METER AT START- UP	ENGINE HR METER AT SHUT- DOWN	OPERATING HRS FOR THIS DATE	Running TOTAL calendar YR OP HRS	Running TOTAL CALENDAR YR MAINT OP HRS	Running TOTAL CALENDAR YR EMERGENCY OP HRS	Running TOTAL CALENDAR YR District TESTING HRS	Estimate of FUEL USE IN GALLONS FOR THIS DATE	Running TOTAL CALENDAR FUEL USE IN GALLONS	FUEL BOUGHT IN GALLONS	REPAIR COSTS \$	REPAIR COSTS TOTAL- TO-DATE \$	
1/11/2011	MAINT	8.2	8.4	0.2	0.2	0.2								
2/18/2011	EMERGENCY	8.4	10	1.6	1.6	0.2	2.2							
2/25/2011	MAINT	10	10.4	0.4	2.8	0.6	2.2							
3/10/2011	MAINT	10.4	10.8	0.4	3.2	1	2.2							
4/4/2011	MAINT	10.8	11.2	0.4	3.6	1.4	2.2							
4/26/2011	EMERGENCY	11.2	13	1.8	5.4	1.4	4.0							
5/27/2011	MAINT	13	13.4	0.4	5.8	1.8	4.0							
5/27/2011	BATTERY REPLACEMENT											\$1,031.33	\$1,031.33	
6/13/2011	MAINT	13.4	13.8	0.4	6.2	2.2	4.0							
7/21/2011	MAINT	13.8	14.3	0.5	6.7	2.7	4.0							
8/3/2011	MAINT	14.3	14.7	0.4	7.1	3.1	4.0							
8/31/2011	MAINT/SERV	14.7	15	0.3	7.4	3.4	4.0					\$1,267.05	\$2,298.38	
9/27/2011	MAINT	15	15.4	0.4	7.8	3.8	4.0							
10/18/2011	MAINT	15.4	15.8	0.4	8.2	4.2	4.0							
11/9/2011	maint	15.8	16.3	0.5	8.7	4.7	4.0							
<b>Level 2 PM annual maintenance/service 8/31/2011</b>														



Air Pollution Control District  
San Luis Obispo County

January 31, 2012

TINA GRIETENS  
NIPOMO CSD WWTP  
P.O. BOX 326  
NIPOMO CA 93444

SUBJECT: Request for Emissions and Throughput Data for Nipomo CSD Black Lake  
Booster (Facility ID # 2340)

Dear Ms. Grietens:

The Air Pollution Control District is required to achieve and maintain state ambient air quality standards. As part of our effort to comply, the District has developed a plan to monitor and reduce air pollutant emissions. To track our progress toward achieving the goals of our plan, the District must survey local businesses to verify the sources, types, and amounts of air pollution.

Please complete the enclosed forms and provide all requested information for inventory year 2011. Please note that the Facility ID No. referenced above will need to be included on the form.

Additional forms are available on our website: [www.slocleanair.org/business/online-forms.php](http://www.slocleanair.org/business/online-forms.php)

If you have suggestions to improve these forms, please indicate in your submittal where improvements can be made. The District welcomes your input.

After completing the enclosed forms, FAX or mail them to the District Office by February 24, 2012. If you have any questions, contact Alyssa Roslan at (805) 781-5759.

Sincerely,

A handwritten signature in black ink that reads 'Dean Carlson'.

Dean Carlson  
Air Pollution Control Engineer

Enclosures: Emission Inventory Forms: 1, 32



**DATA CERTIFICATION FORM**

**For Inventory Year - 2011**

Please fill in all spaces and retain a copy for your records. Completed forms may be faxed. Print your name and sign this form in the spaces provided. Submit completed forms by due date to avoid fines or penalties.

A. Please print clearly.

Company Name	NIPOMO COMMUNITY SERVICES DISTRICT		
Contact Name	TINA GRIETENS	Title	Utility Superintendent
Mailing Address	PO. BOX 326		
City, State ZIP	NIPOMO, CA 93444		
Contact Phone	805 929-1133	Fax	805 929-1932
Equipment Address	1340 Willow Road		
City, State ZIP	NIPOMO, CA 93444		
Facility ID (see cover letter)	2340		
Type of Business	Water + Wastewater Utility		

B. Is trade secret data included?

Yes  No   
If yes, attach explanation.

C. Are there any **NEW** sources of criteria pollutants: oxides of nitrogen, oxides of sulfur, particulate matter, or volatile organic compounds (VOCs)?

Yes  No   
If yes, describe in box below.

D. Are there any emission sources no longer in service?

Yes  No   
If yes, write permit number in box below.

Remarks

Under California Health and Safety Code sections 40701 and 42303, the District has the right to request data needed to estimate pollutant emissions. Consequently, you are obligated to provide all requested data by the due date. This data is also requested under the authority of the Air Toxics Hot Spots program. The data may be used to determine permit renewal fees. Failure to provide complete data by the due date may result in fines or penalties.

I Tina Grietens (Clearly Print Name), certify that the data provided above and in all attachments is complete and accurate to the best of my knowledge.

Signature: Tina Grietens Date: 2-21-12





**EMISSIONS INVENTORY INFORMATION**  
For Inventory Year – 2011

**STAND-BY/BACKUP GENERATORS**

Company Name NIPOMO COMMUNITY SERVICES DISTRICT Contact Initials TG

Use this form to report all Stand-By and Backup Generators. List each device separately. Please fill in all spaces and include supporting data where requested. Retain a copy for your records.

-----Please also include a copy of the operating log for calendar year 2011 as required by your Permit to Operate.-----

Device No.	Device Description	Equipment Rating <sup>(1)</sup>	Fuel Type <sup>(2,3)</sup>	Annual Fuel Use	Unit of Measure <sup>(4)</sup>	Yearly Hour Use <sup>(5)</sup>	Maintenance Hours <sup>(6)</sup>	Meter Reading <sup>(7)</sup>
3	100KW CAT SR4	156 HP	DIESEL	84	gal	1.5	1.5	93.3

- (1) For internal combustion engines, specify horsepower (hp) or design heat input (mm BTU/hr).
- (2) Examples: natural gas, propane gas, diesel fuel, fuel oil. If fuel oil is burned, specify grade (example: fuel oil No. 2).
- (3) If a device burns more than one fuel, use a separate line for each fuel.
- (4) Include units of measure (therms, mcf, mmcf, gal, mgal, bbl, or mbbl). **Be sure that your units of measure are correct!!!**
- (5) The total number of hours the unit has been run for the current calendar year.
- (6) The number of hours the device has been used for maintenance.
- (7) The end of year hour meter reading from the device.

Copy of document found at www.NoNewWpTax.com





Air Pollution Control District  
San Luis Obispo County

January 31, 2012

TINA GRIETENS  
NIPOMO CSD WWTP  
P.O. BOX 326  
NIPOMO CA 93444

SUBJECT: Request for Emissions and Throughput Data for Nipomo CSD Tefft Street  
Lift Station (Facility ID # 2339)

Dear Ms. Grietens:

The Air Pollution Control District is required to achieve and maintain state ambient air quality standards. As part of our effort to comply, the District has developed a plan to monitor and reduce air pollutant emissions. To track our progress toward achieving the goals of our plan, the District must survey local businesses to verify the sources, types, and amounts of air pollution.

Please complete the enclosed forms and provide all requested information for inventory year 2011. Please note that the Facility ID No. referenced above will need to be included on the form.

Additional forms are available on our website: [www.slocleanair.org/business/online-forms.php](http://www.slocleanair.org/business/online-forms.php)

If you have suggestions to improve these forms, please indicate in your submittal where improvements can be made. The District welcomes your input.

After completing the enclosed forms, FAX or mail them to the District Office by February 24, 2012. If you have any questions, contact Alyssa Roslan at (805) 781-5759.

Sincerely,

A handwritten signature in black ink that reads "Dean Carlson".

Dean Carlson  
Air Pollution Control Engineer

Enclosures: Emission Inventory Forms: 1, 32



**DATA CERTIFICATION FORM**

**For Inventory Year - 2011**

Please fill in all spaces and retain a copy for your records. Completed forms may be faxed. Print your name and sign this form in the spaces provided. Submit completed forms by due date to avoid fines or penalties.

A. Please print clearly.

Company Name	NIPOMO COMMUNITY SERVICES DISTRICT		
Contact Name	TINA GRIETENS	Title	Utility Superintendent
Mailing Address	P.O. Box 326		
City, State ZIP	NIPOMO CA 93444		
Contact Phone	(805) 929-1133	Fax	(805) 929-1932
Equipment Address	295 W. Tefft St NIPOMO		
City, State ZIP	NIPOMO, CA 93444		
Facility ID (see cover letter)	2339		
Type of Business	Water + Wastewater Utility		

B. Is trade secret data included?

Yes  No   
If yes, attach explanation.

C. Are there any **NEW** sources of criteria pollutants: oxides of nitrogen, oxides of sulfur, particulate matter, or volatile organic compounds (VOCs)?

Yes  No   
If yes, describe in box below.

D. Are there any emission sources no longer in service?

Yes  No   
If yes, write permit number in box below.

Remarks

Generator was replaced with new during 2011 - Tier 3  
New permit to operate # 906-3

Under California Health and Safety Code sections 40701 and 42303, the District has the right to request data needed to estimate pollutant emissions. Consequently, you are obligated to provide all requested data by the due date. This data is also requested under the authority of the Air Toxics Hot Spots program. The data may be used to determine permit renewal fees. Failure to provide complete data by the due date may result in fines or penalties.

I Tina Grietens (Clearly Print Name), certify that the data provided above and in all attachments is complete and accurate to the best of my knowledge.

Signature: Tina Grietens Date: 2-21-12



EMISSIONS INVENTORY INFORMATION  
For Inventory Year – 2011

STAND-BY/BACKUP GENERATORS

Company Name NIPDMO COMMUNITY SERVICES DISTRICT Contact Initials TG

Use this form to report all Stand-By and Backup Generators. List each device separately. Please fill in all spaces and include supporting data where requested. Retain a copy for your records.

-----Please also include a copy of the operating log for calendar year 2011 as required by your Permit to Operate.-----

Device No.	Device Description	Equipment Rating <sup>(1)</sup>	Fuel Type <sup>(2,3)</sup>	Annual Fuel Use	Unit of Measure <sup>(4)</sup>	Yearly Hour Use <sup>(5)</sup>	Maintenance Hours <sup>(6)</sup>	Meter Reading <sup>(7)</sup>
2	100KW CAT XQ100	156Hp	DIESEL	167 *	gal	0.3	0.3	1.4

- (1) For internal combustion engines, specify horsepower (hp) or design heat input (mm BTU/hr).
- (2) Examples: natural gas, propane gas, diesel fuel, fuel oil. If fuel oil is burned, specify grade (example: fuel oil No. 2).
- (3) If a device burns more than one fuel, use a separate line for each fuel.
- (4) Include units of measure (therms, mcf, mmcf, gal, mgal, bbl, or mdbl). **Be sure that your units of measure are correct!!!**
- (5) The total number of hours the unit has been run for the current calendar year.
- (6) The number of hours the device has been used for maintenance.
- (7) The end of year hour meter reading from the device.

\* filled when new







Air Pollution Control District  
San Luis Obispo County

January 31, 2012

TINA GRIETENS  
NIPOMO CSD WWTP  
P.O. BOX 326  
NIPOMO CA 93444

SUBJECT: Request for Emissions and Throughput Data for Nipomo CSD - Sundale Well (Facility ID # 2828)

Dear Ms. Grietens:

The Air Pollution Control District is required to achieve and maintain state ambient air quality standards. As part of our effort to comply, the District has developed a plan to monitor and reduce air pollutant emissions. To track our progress toward achieving the goals of our plan, the District must survey local businesses to verify the sources, types, and amounts of air pollution.

Please complete the enclosed forms and provide all requested information for inventory year 2011. Please note that the Facility ID No. referenced above will need to be included on the form.

Additional forms are available on our website: [www.slocleanair.org/business/online-forms.php](http://www.slocleanair.org/business/online-forms.php)

If you have suggestions to improve these forms, please indicate in your submittal where improvements can be made. The District welcomes your input.

After completing the enclosed forms, FAX or mail them to the District Office by February 24, 2012. If you have any questions, contact Alyssa Roslan at (805) 781-5759.

Sincerely,

A handwritten signature in black ink that reads "Dean Carlson".

Dean Carlson  
Air Pollution Control Engineer

Enclosures: Emission Inventory Forms: 1, 32





**DATA CERTIFICATION FORM**  
**For Inventory Year - 2011**

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A. Please print clearly.

Company Name	NIPOMO COMMUNITY SERVICES DISTRICT		
Contact Name	Tina Grietens	Title	Utility Superintendent
Mailing Address	P.O. Box 326		
City, State ZIP	NIPOMO, CA 93444		
Contact Phone	805 929-1133	Fax	805 929-1932
Equipment Address	1604 Camino Caballo		
City, State ZIP	Nipomo, Ca 93444		
Facility ID (see cover letter)	2828		
Type of Business	Water & Wastewater Utility		

B. Is trade secret data included?

Yes  No   
If yes, attach explanation.

C. Are there any **NEW** sources of criteria pollutants: oxides of nitrogen, oxides of sulfur, particulate matter, or volatile organic compounds (VOCs)?

Yes  No   
If yes, describe in box below.

D. Are there any emission sources no longer in service?

Yes  No   
If yes, write permit number in box below.

Remarks
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Under California Health and Safety Code sections 40701 and 42303, the District has the right to request data needed to estimate pollutant emissions. Consequently, you are obligated to provide all requested data by the due date. This data is also requested under the authority of the Air Toxics Hot Spots program. The data may be used to determine permit renewal fees. Failure to provide complete data by the due date may result in fines or penalties.

I Tina Grietens (Clearly Print Name), certify that the data provided above and in all attachments is complete and accurate to the best of my knowledge.

Signature: Tina Grietens Date: 2-21-12



EMISSIONS INVENTORY INFORMATION  
For Inventory Year – 2011

STAND-BY/BACKUP GENERATORS

Company Name NIPOMO COMMUNITY SERVICES DISTRICT Contact Initials TG

Use this form to report all Stand-By and Backup Generators. List each device separately. Please fill in all spaces and include supporting data where requested. Retain a copy for your records.

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Device No.	Device Description	Equipment Rating <sup>(1)</sup>	Fuel Type <sup>(2,3)</sup>	Annual Fuel Use	Unit of Measure <sup>(4)</sup>	Yearly Hour Use <sup>(5)</sup>	Maintenance Hours <sup>(6)</sup>	Meter Reading <sup>(7)</sup>
8	Cat XQ 300	480 Hp	DIESEL	37.6	gal	5.3	5.3	10.2

- (1) For internal combustion engines, specify horsepower (hp) or design heat input (mm BTU/hr).
- (2) Examples: natural gas, propane gas, diesel fuel, fuel oil. If fuel oil is burned, specify grade (example: fuel oil No. 2).
- (3) If a device burns more than one fuel, use a separate line for each fuel.
- (4) Include units of measure (therms, mcf, mmcf, gal, mgal, bbl, or mbbl). **Be sure that your units of measure are correct!!!**
- (5) The total number of hours the unit has been run for the current calendar year.
- (6) The number of hours the device has been used for maintenance.
- (7) The end of year hour meter reading from the device.

Copy of document found at www.NoNewWpTax.com



**Michael LeBrun**

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**From:** Steph Wald [steph@centralcoastsalmon.com]  
**Sent:** Thursday, February 23, 2012 4:21 PM  
**To:** 'Steph Wald'  
**Subject:** Stakholder Meeting for the Santa Maria River Instream Flow Study  
**Attachments:** Final Public Agenda.docx

Dear Santa Maria River stakeholder-

Please find below the link to the Santa Maria River Instream Flow Study Draft Report for your review prior to the final stakeholder meeting to be held next Wednesday, February 29th. Also, find the attached agenda for the meeting which will be held at the Santa Maria Public Library's Shepard Hall starting at 1pm.

The link to the Santa Maria River Case Studies page can be found at:  
[http://www.stillwatersci.com/case\\_studies.php?cid=66](http://www.stillwatersci.com/case_studies.php?cid=66) The report link is under the "Materials for February 29, 2012 meeting." The report is about 3.3MB.

Please let me know if I can be of assistance prior to the meeting and I hope to see you all there and then.

Stephnie Wald  
Watershed Projects Manager  
Central Coast Salmon Enhancement  
229 Stanley Ave.  
Arroyo Grande, CA 93420  
(805) 473-8221 OFFICE  
(805) 471-3789 CELL  
(805) 473-8167 FAX

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**Santa Maria River Instream Flow Study**  
Stakeholder Meeting Agenda  
February 29, 1:00 to 3:30 p.m.  
Santa Maria Public Library Shepard Hall

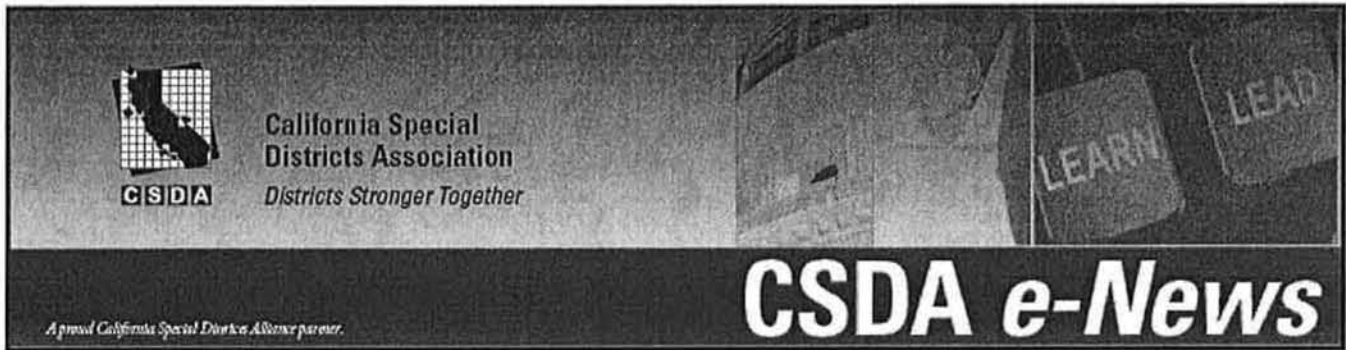
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|------|--|---|
| I.   | Welcome and Meeting Guidelines<br>5 minutes  | Stephnie Wald<br>Central Coast Salmon Enhancement |
| II.  | Purpose and Need for the Study<br>How Results May be Used<br>5 minutes   | Michael Bowen<br>State Coastal Conservancy        |
| III. | Involved Agencies<br>5 minutes   | Stephnie Wald                                     |
| IV.  | Scope of Work and Study Area<br>10 minutes   | Derek Booth<br>Stillwater Sciences                |
| V.   | Findings<br>45 minutes   | Derek Booth<br>Jordan Kear<br>Kear Groundwater    |
|      | <ul style="list-style-type: none"><li>▪ Hydrologic conditions in the main valley and groundwater monitoring</li><li>▪ Estuary conditions</li><li>▪ Sisquoc River habitat</li><li>▪ Steelhead passage criteria and preliminary hydraulic analyses</li><li>▪ Preliminary hydrologic analyses</li><li>▪ Recommendations</li></ul> |   |
| VI.  | Questions/Comments<br>45 minutes   |   |
|      | Agency representatives <ul style="list-style-type: none"><li>▪ National Marine Fisheries Service</li><li>▪ California Department of Fish and Game</li><li>▪ State Water Resources Control Board</li></ul>  |   |
| VII. | Thank you<br>5 minutes   | Michael Bowen and Stephnie Wald                   |

For information on the project, see [http://www.stillwatersci.com/case\\_studies.php?cid=66](http://www.stillwatersci.com/case_studies.php?cid=66)

**Contact Information**

Stephnie Wald, Project Outreach Coordinator  
805-473-8221  
[steph@centralcoastsalmon.com](mailto:steph@centralcoastsalmon.com)  
229 Stanley Ave.  
Arroyo Grande, CA 93420  
[www.centralcoastsalmon.com](http://www.centralcoastsalmon.com)





## Pension Reform Continues to Top Headlines

Last Wednesday, California Pension Reform, headed by Dan Pellissier, announced that it was suspending its campaign to put public employee pension reform on the November 2012 ballot after determining the title and summary issued by the Attorney General made the initiatives nearly impossible to pass. The group had submitted two measures that qualified for signature gathering. One would have placed public employees into defined contribution plans, while the other would have created a hybrid plan that blends pensions with a 401(k)-style system. California Pension Reform reaffirmed its commitment to moving forward with the initiative proposals but will now turn its focus to qualifying the measures for the November 2014 ballot.

In response to the announcement that California Pension Reform will not move forward with efforts to place initiatives on the 2012 ballot, Senate President pro Tem Darrell Steinberg took the opportunity to reiterate his pledge saying, "We are committed to getting pension reform done," even specifying his commitment to passing pension reform before adoption of a state budget this year. Senator Steinberg said that he intends to address all 12 points from Governor Jerry Brown's pension reform plan, although he also specified that not every point will be addressed as the governor suggests, speaking to the controversial hybrid issue.

Lastly, the Conference Committee on Public Employee Pensions has scheduled its fourth hearing for Tuesday, *February 28 at 9:30 a.m. Room 4203 of the State Capitol*. The subject is: Examining the Impact of Increasing Normal Retirement Age.

For more information regarding public employee pension reform, please visit CSDA's [Grassroots Action Center](#).

[California Special Districts Association](#) | 1112 I Street | Suite 200 | Sacramento, CA 95814 | 877.924.CSDA (2732)

A Proud California Special Districts Alliance Partner



# **A Preliminary Analysis of Governor Brown's Twelve Point Pension Reform Plan**

*Prepared by the California Public Employees' Retirement System (CalPERS)*

Working Draft



## **Introduction**

*On October 27, 2011, the Governor announced a pension reform plan that highlights, in concept, twelve pension reform proposals. Details regarding the proposals have not been proposed yet, nor has statutory language. Although the pension reform proposals are still conceptual in nature, CalPERS has prepared this preliminary analysis of the proposals and the potential impacts. The intent of this preliminary analysis is to explore the reform concepts within the broader context of CalPERS' operations, procedures, finances and primary governing laws, namely the California Public Employees' Retirement Law, state and federal tax law, and the California and United States Constitutions.*

*However, insofar as the proposals are still undeveloped, this preliminary analysis is not intended to address all issues which may result from the Governor's plan, nor is it intended to address any particular legislative proposals which may eventually be proposed. The merits and impact of any new legislative proposal will have to be analyzed based on its own unique terms and conditions, and CalPERS will respond to each proposal individually. Similarly, this preliminary analysis should be treated as a working document that will evolve over time as additional information about the proposals becomes available. To that end, it should not be relied upon as a definitive statement of the impact that the Governor's plan may have on CalPERS, its existing defined benefit plans, or its members and employers. None of the information provided in this preliminary analysis is intended or written to be used as legal advice or opinion, and accordingly should not be relied upon as such.*

*CalPERS has previously published papers on the vested rights of members and the implications of closing the defined benefit plan. This document does not repeat the issues and facts identified in these documents, but should be read in conjunction with these documents.*

*CalPERS is committed to being an honest broker of information. We welcome the opportunity to provide this information and we look forward to participating in the ongoing discussions about pensions and pension reform.*



## GOVERNOR'S TWELVE POINT PENSION REFORM PLAN

<b>1. Equal Sharing of Pension Costs: All Employees and Employers</b> The funding of annual normal pension costs should be shared equally by employees and employers.	Effective Date
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### BACKGROUND

Currently, contributions toward annual pension costs come from both employees and employers. Employees typically contribute a fixed percentage of their earnings. The employee contribution rate is generally fixed by statute or memorandum of understanding, and varies from approximately 5% to 11% of an employee's salary. The employer contribution is determined on an annual basis by the plan's actuaries.

Employers may also pay all or a portion of the employee contribution pursuant to an adopted contract option, resolution or written labor agreement, effectively reducing the employee contribution rate to zero.

### IMPACTS

LEGAL	WORKLOAD	FISCAL	POTENTIAL PROs/CONs
<p>Increasing employee contributions may impair vested rights in some cases, depending upon the extent of the increase as well as other factors. Vested rights may also be impaired where the Legislature or employer did not reserve the right to increase contributions (i.e., in statute or memorandum of understanding).</p> <p>How will this impact existing memorandums of understanding and other employment contracts? How will this impact the bargaining process going forward?</p>	<p>The workload will depend on how this proposal is implemented. Is the equal sharing only a target or is the intent to literally require the employer and employee to each contribute half of the total normal cost?</p> <p>If the final language actually sets the employee contribution rate at 50%, it would result in employee contribution rates changing annually and likely increase the administrative workload for both the system and employers (i.e., statutory clean-up, rate setting and payroll reporting, etc.).</p>	<p><b><u>Program Costs:</u></b></p> <p>If it only applies to normal cost there will be very little savings, if any, for state plans because with the recent bargaining agreements most state employees are paying more than or close to half the total normal cost.</p> <p>For most local contracting agencies, LRS, and JRS this could result in increased employee contributions and reduced employer contributions. The actual impact will vary by employer and will depend on the benefit formula</p>	<p><b>PROs:</b></p> <ul style="list-style-type: none"> <li>May make it clearer to the public who is paying each portion of pension costs.</li> <li>Reduces fiscal pressure on public agencies that are paying the members' share of contributions.</li> </ul> <p><b>CONs:</b></p> <ul style="list-style-type: none"> <li>Eliminates ability to negotiate contribution rates and employer paid member contributions (and thereby eliminates bargaining options).</li> <li>Because the actual normal cost varies by an employee's entry</li> </ul>

<p>Is the intent of the proposal to eliminate an employer's ability to pay member contributions on behalf of members (referred to as employer paid member contributions)?</p> <p>Would the proposal preserve the pre-tax treatment of member contributions under federal tax law (specifically under Section 414(h)(2) Internal Revenue Code)? If so, the proposal should address this.</p>	<p>Additional workload will depend on the answers to the following questions:</p> <ul style="list-style-type: none"> <li>• How should normal cost increases or decreases due to demographic or assumption changes be executed?</li> <li>• How will the ramp-up of new employee contributions to half the normal cost be handled? This could vary from employer to employer? Who is responsible for monitoring?</li> </ul> <p>Will sharing the normal cost result in employers or employee groups wanting to split their rate plans by benefit formula and/or bargaining unit?</p>	<p>and the current cost sharing arrangement.</p> <p><b><u>Administrative Costs:</u></b> From an administrative standpoint there will be increased workload due to updating employer contracts and resolutions.</p> <p>Costs will be greater if employee contribution is actually 50% of the total rate due to the need to annually update computer systems, added complexity for certain service credit purchase and potential increase in the number of actuarial valuations per contracting agency.</p>	<p>age, the proposal may create fairness issues between employees who enter service at different ages.</p> <ul style="list-style-type: none"> <li>• Normal Cost could vary by each employer's plan due to the average entry age of its employees, and vary by retirement systems due to the use of different assumptions.</li> <li>• Normal cost is recalculated each year to reflect the most recent demographics. Normal cost will be different from year to year and can either decrease or increase, which in turn may lead to unpredictable contribution rates for members and financial hardship.</li> </ul>
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<p><b>2. "Hybrid" Risk-Sharing Pension Plan: New Employees</b></p> <p>Would require all new employees to enter a hybrid pension plan that would target a 75% replacement ratio after a full career of 30 years for safety employees and 35 years for non-safety employees. The retirement benefit should be provided equally from the Defined Benefit (DB) component, Defined Contribution (DC) component and Social Security. If the employee is not in Social Security then the DB component would provide 2/3<sup>rd</sup>s and the DC component would provide 1/3<sup>rd</sup> of the retirement benefit. The DB portion would also include a cap to ensure employers do not bear an unreasonable liability for high-income earners.</p>	<p>Effective Date</p>
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**BACKGROUND**

CalPERS currently administers defined benefit pension plans, as primary retirement plans for its members. CalPERS also administers three supplemental income plans that are available to various State and local government employers and their employees. These supplemental income plans are intended to supplement the benefits received from the primary defined benefit plans.

CalPERS' defined benefit plans provide guaranteed lifetime retirement income based on a predetermined formula that includes an employee's age at retirement, length of service, and highest one-year or three-year average compensation. A CalPERS pension provides employees with a predictable monthly retirement benefit.

IMPACTS			
LEGAL	WORKLOAD	FISCAL	POTENTIAL PROs/CONs
<p>How will the defined contribution component be designed to ensure that it is a tax-deferred plan?</p> <p>Will the defined contribution component include employee contributions? If so, will the contributions be elective or mandatory? In either case, there will be specific federal tax requirements that must be satisfied which should be considered during the plan design phase.</p> <p>A hybrid pension structure will likely require significant legislative action, including statutory and administrative restructuring, which will require time and resources to implement. No assets from the <b>Public Employees' Retirement Fund</b> may be used to design or implement any other plan, nor may such assets be used to administer any other plan.</p> <p>How will the defined benefit component be designed? Will it be part of the existing defined benefit plan, or will a separate defined benefit plan be established (with the effect of closing the existing defined benefit plan to new employees)?</p>	<p>Workload impact would depend on the structure and design of the hybrid plan and who administers the DC component.</p> <p>For example when considering the DB component:</p> <ul style="list-style-type: none"> <li>• Will the DB component be part of the existing plan or be its own plan?</li> <li>• What are the permitted plan designs/formulas?</li> <li>• What optional benefits will be permitted in the DB portion?</li> <li>• How will the cap work? Is it necessary since earnings are capped under 401(a)(17) and the lower formulas will mean that it would be difficult to get to \$100K (indexed?) under the DB portion of the hybrid?</li> </ul> <p>When looking at the DC component of the hybrid plan one needs to consider:</p> <ul style="list-style-type: none"> <li>• For the State, should the DC component be the DC plans administered by Department of Personnel Administration?</li> </ul>	<p>In order to complete a fiscal impact one would need to know</p> <ul style="list-style-type: none"> <li>• What income level should be used in determining whether a particular design achieves the target? For example a benefit design that provides 75% replacement ratio to an employee with a final compensation of \$50,000 will not likely provide that same percentage to employees earning above or below \$50,000.</li> <li>• What assumptions should be used (especially for the DC portion) in determining if the 75% replacement is met? For example, Social Security replaces a higher portion of income for low paid workers – to achieve a uniform 75% replacement rate; either the DB or the DC piece of the hybrid would have to provide extra benefits to high paid employees. Assuming that is not intended then it will be necessary to choose an income level at which the 75% is to be achieved.</li> </ul> <p>The following are high level comments regarding fiscal impact:</p>	<p>PROs:</p> <ul style="list-style-type: none"> <li>• Reduces long-term employer risks associated with defined benefit liabilities by shifting a portion of those risks to employees.</li> <li>• Fundamentally changes public pensions in a way that may satisfy calls for reform.</li> <li>• Reduces employer cost.</li> </ul> <p>CONs:</p> <ul style="list-style-type: none"> <li>• <b>May reduce public employers' recruiting success</b> to the extent skilled workers value traditional pension benefits.</li> <li>• May result in increased cost for funding the benefits of current members.</li> <li>• Reduces employee benefits.</li> <li>• Creates unequal treatment between new and current employees who are similarly situated.</li> <li>• Closing the existing defined benefit plan would threaten its actuarial soundness.</li> </ul>

<p>If the existing defined benefit plan is closed to new employees, there may be sustainability concerns which, among other things, may impair the vested rights of existing employees to an actuarially sound retirement fund.</p> <p>Additional issues arise if the existing defined benefit plan is closed to new employees. See issue brief on <i>The Impact of Closing the Defined Benefit Plan at CalPERS</i>.</p> <p>Is the proposed 75% replacement ratio target intended to be an actual limit, or is it intended to be a design estimate? In other words, will the benefit stop accruing when the 75% replacement ratio is triggered?</p> <p>Would the Alternative Retirement Plan for new state hires be eliminated?</p>	<ul style="list-style-type: none"> <li>• What are the payout options under the DC portion?</li> <li>• What tax vehicle will be used?</li> </ul> <p>It is also important to know how the hybrid plan in its entirety will coordinate with other benefits that are part of the existing DB design structure:</p> <ul style="list-style-type: none"> <li>• Will there be a change to the COLA or PPPA provisions? Currently public agencies have a guaranteed 80% PPPA benefit whereas State and School members have a non-guaranteed 75% PPPA benefit. This affects the cost structure and any savings that could be achieved.</li> <li>• How will the plan coordinate with industrial and non-industrial disability benefits?</li> <li>• How will the plan coordinate with pre-retirement and special death benefits?</li> </ul> <p>Finally, will there only be one hybrid design to implement or will employers have an option of multiple designs?</p>	<p><b><u>Program Costs:</u></b></p> <p>It would appear that the Governor's intent is to reduce the employers cost and risk by reducing benefits and transferring risk to the employee. The actual amount of cost savings will depend on the reduction of the DB benefit and the design of the DC component. DC component could increase employer's administrative costs depending on how it is structured.</p> <p>It should be noted that if the design of the Hybrid Plan results in the closing of the current DB plan there would be a significant cost impact to the employer due to changes in asset allocation and amortization methods.</p> <p>Even if the Hybrid Plan design does not result in closing the existing plan, the reduction in the DB portion of the benefit package compared to the benefit provided to current members will over time lead to higher cost for the existing DB plan. The reasons for the impact will be the requirement for a more conservative investment strategy as the current members retire. The quantification of this impact is difficult to predict and will depend on how the DB portion of</p>
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		<p>the proposed hybrid plan is designed and implemented.</p> <p><b><u>Administrative Costs:</u></b> Regardless of final design one should anticipate substantial workload and costs to implement and administer new benefit plan(s).</p>	
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<p><b>3. Increase Retirement Ages: New Employees</b> Increase retirement age for most new miscellaneous employees to align with Social Security retirement age which is currently set at age 67. The retirement age for new safety employees will be less than 67, but commensurate with the ability of those employees to perform their jobs in a way that protects public safety.</p>	<p>Effective Date</p>
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**BACKGROUND**

Currently, to be eligible for service retirement, most CalPERS members must be at least age 50 with a minimum of five years of CalPERS-credited service. In some cases, members who retire prior to the normal retirement age (as determined by the applicable retirement benefit formula) receive a modified benefit, reduced to reflect the member's age at retirement. For example, for the State Miscellaneous 2% @ 60 formula, at age 50 the benefit factor is 1.09%

**IMPACTS**

LEGAL	WORKLOAD	FISCAL	POTENTIAL PROs/CONs
<p>How will the proposal address public safety employees?</p> <p>How will the proposal address industrial and non-industrial disability?</p> <p>Is the intent that the new minimum retirement age would apply to existing public employees when they change public employers (as opposed to applying only to new employees who have not yet acquired service credit under CalPERS or a public pension system that has reciprocity with CalPERS)? If so, how will the</p>	<p>The workload will depend on how this provision is coordinated with the Hybrid Plan structure and whether any corresponding changes are made to the industrial and non-industrial disability retirement benefits.</p> <p>Will higher retirement ages result in more industrial or non-industrial disability retirement applications? This may be an issue, especially if no corresponding changes are made to the disability retirement laws.</p>	<p><b><u>Program Costs:</u></b> It is difficult to determine any cost savings without knowing:</p> <ul style="list-style-type: none"> <li>• The retirement age for Safety Classifications, and</li> <li>• The multipliers at ages other than the full retirement age.</li> </ul> <p>Will higher retirement ages result in more disability retirements which could impact plan costs?</p> <p><b><u>Administrative Costs:</u></b> Will higher retirement ages have the unintended consequence of incenting disability retirements</p>	<p>PROs:</p> <ul style="list-style-type: none"> <li>• Potentially reduces employers' liabilities for other post-employment benefits, such as retiree health.</li> <li>• Reduces employer costs.</li> </ul> <p>CONs:</p> <ul style="list-style-type: none"> <li>• Employees who have to retire early due to health or other unforeseen reasons may not have an adequate pension.</li> <li>• May increase the number of industrial or ordinary disability retirements.</li> <li>• Reduces employee benefits.</li> </ul>

<p>proposal address cases where a member has two different minimum retirement ages that apply to different portions of his or her service credit?</p> <p>What does "new employee" mean in this context? Does it include existing public employees who obtain new employment with a different public employer (i.e., moving from employment with the State to employment with a contracting agency)? If so, vested rights may be impaired if the older retirement age applies to the service credit acquired with the first public employer.</p>		<p>resulting in increased applications and administrative costs?</p>	
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<p><b>4. Require Three-Year Final Compensation to Stop Spiking: New Employees</b>                  Final compensation for new employees of all California public agencies would be defined as the highest average annual compensation during a consecutive 36 month period.</p>	Effective Date
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**BACKGROUND**

CalPERS' defined benefit pension plans provide members with a guaranteed lifetime retirement income based on a predetermined formula that includes an employee's age at retirement, length of service, and the member's highest one-year or three-year average compensation with a CalPERS covered employer.

**IMPACTS**

LEGAL	WORKLOAD	FISCAL	POTENTIAL PROs/CONs
<p>Is the intent that this change would only eliminate 12 month final compensation (meaning it would not otherwise change CalPERS current three year final compensation statutes and regulations)?</p> <p>What does "new employee" mean</p>	<p>Will three-year final compensation for new employees be implemented in coordination with the hybrid plan for new employees?</p> <p>If so, many of the implementation tasks could be combined.</p>	<p><b><u>Program Costs:</u></b>                  Will likely reduce employer contributions over the long term.</p> <p><b><u>Administrative Costs:</u></b>                  Minor one-time costs to create new contract packages.</p>	<p>PROs:</p> <ul style="list-style-type: none"> <li>• Might encourage employees who take promotions late in their career to stay longer (retention).</li> </ul>

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in this context? Does it include existing public employees who obtain new employment with a different public employer (i.e., moving from employment with the State to employment with a contracting agency)? If so, vested rights may be impaired with respect to service credit acquired with the first employer if the employee is currently entitled to 12 month final compensation.	If not, staff would need to make computer system changes and amend contracts for those employers that have yet to contract for three-year final compensation.	Draft	
<b>5. Calculate Benefits Based on Regular, Recurring Pay to Stop Spiking: New Employees</b> Final compensation would be defined as the normal rate of base pay, excluding special bonuses, unplanned overtime, payouts for unused vacation or sick leave, and other pay perks.			Effective Date
BACKGROUND			
Final compensation is currently defined as the highest average "compensation earnable" by a member during twelve or thirty-six consecutive months of employment at any time during such member's employment with a CalPERS employer (or, in some instances with reciprocal employers).			
Currently, for CalPERS purposes, "compensation earnable" is made up of the pay rate and special compensation of the member and must be included in written pay schedules, ordinances, or other documents that are available for public scrutiny.			
IMPACTS			
LEGAL	WORKLOAD	FISCAL	POTENTIAL PROs/CONs
What is meant by "normal rate of base pay"? The proposal should specifically define this term or incorporate terms used in existing law.  Is the intent to eliminate special compensation or otherwise change the scope and definition of special compensation? If so, how would the definition of special compensation change?	Workload will depend on how employers and employees react to the new rules. Will employers continue to pay special comp to all employees and administer two sets of reporting rules, continuing to report special comp for existing employees but not for new employees? Or move away from special compensation for all employees?  Trying to administer differing	<u><b>Program Costs:</b></u> The cost impact will depend on whether base salaries increase over time to offset loss of reporting special compensation  <u><b>Administrative Costs:</b></u> Will these new rules reduce complexity and result in fewer payroll reporting errors? Or add to the complexity by creating the need to administer two sets of rules?	PROs: <ul style="list-style-type: none"> <li>• Could eliminate disputes over reportable compensation.</li> <li>• Increases salary transparency.</li> <li>• May reduce payroll reporting errors.</li> <li>• Reduces employer cost.</li> <li>• Likely reduces the opportunities for pension spiking or abuse.</li> </ul> CONs: <ul style="list-style-type: none"> <li>• Could result in eliminating</li> </ul>

<p><b>What does "new employee" mean in this context? Does it include existing public employees who obtain new employment with a different public employer (i.e., moving from employment with the State to employment with a contracting agency)? If so, vested rights may be impaired with respect to service credit acquired with the first employer.</b></p> <p>This proposal will require additional statutory and administrative restructuring to conform to the many other parts of the Public Employees' Retirement Law addressing compensation.</p>	<p>reporting requirement for special compensation could result in increased workload due to added complexity, while moving away from special compensation could have the opposite effect.</p>	<p style="text-align: center; font-size: 48px; opacity: 0.3;">Draft</p>	<p>special compensation from current employees.</p> <ul style="list-style-type: none"> <li>• Reduces employee benefits.</li> <li>• Create unequal treatment between new and current employees who are similarly situated.</li> </ul>
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<p><b>6. Limit Post-Retirement Public Employment: All Employees</b>                  Would limit all employees who retire from public service to working 960 hours or 120 days per year for a public employer.                  Would prohibit all retired employees who serve on public boards and commissions from earning any retirement benefits for that service.</p>	Effective Date
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**BACKGROUND**

Currently, a retired member can be reinstated from retirement and perform services for the State or a contracting agency. When a retired member is reinstated from retirement, his or her retirement allowance is canceled and he or she becomes of member of the system as of his or her date of reinstatement.

Subject to certain limitations and restrictions related to compensation, position and hours worked, a retired member may also be able to perform services for a CalPERS covered employer without being reinstated.

**IMPACTS**

LEGAL	WORKLOAD	FISCAL	POTENTIAL PROs/CONs
Is the intent that this change would be consistent with CalPERS' existing post-retirement employment statutes and requirements?	Will depend on final language that is adopted – may be very similar to current rules followed by CalPERS members.	If similar to the post-retirement rules that CalPERS already administers, increased program or administrative costs are not anticipated.	PROs: <ul style="list-style-type: none"> <li>• May create clearer and more consistent guidelines for employers who wish to employ</li> </ul>



			annuitants without reinstatement.
<b>7. Felons Forfeit Pension Benefits: All Employees</b> Would require that public officials and employees forfeit pension and related benefits if they are convicted of a felony in carrying out official duties, in seeking an elected office or appointment, or in connection with obtaining salary or pension benefits.			Effective Date
<b>BACKGROUND</b>			
In limited circumstances, current law provides for suspension of benefits for state members of CalPERS and members of the Legislators' Retirement System upon indictment for specified felonies. In addition, in limited circumstances, current law provides for some benefit forfeiture for certain members of Judges' Retirement Systems I and II and elected public officials.			
<b>IMPACTS</b>			
<b>LEGAL</b>	<b>WORKLOAD</b>	<b>FISCAL</b>	<b>POTENTIAL PROs/CONs</b>
<p>This proposal may impair vested rights of existing employees who have already acquired substantial rights to their pensions prior to the time that the statute takes effect and/or prior to the time the felony is committed.</p> <p>How will the proposal define final conviction, and how will public pension systems determine when a conviction is final?</p> <p>Which benefits will be forfeited (i.e., benefits acquired after the statute goes into effect and/or after the felony is committed)?</p> <p>If forfeited benefits only include those which are acquired after the felony is committed, how will public pension systems determine the date on which the felony is committed, particularly in cases</p>	<p>The impact depends on the number of felony convictions. However, it should be noted that the cases that do arise may require a significant amount of work based on our experience and difficulty of administering pension forfeit laws.</p> <p>Who would be responsible for monitoring and enforcing?</p>	<p><b>Program Costs:</b> Employer savings would depend on the number of convictions and the amount of the benefit forfeited.</p> <p><b>Administrative Costs:</b> Will depend on the number of benefit forfeitures processed and whether litigation costs are incurred in enforcing this expanded application of the forfeiture statutes.</p>	<p>PROs:</p> <ul style="list-style-type: none"> <li>• May create greater consistency with existing laws which provide that elected officials and judges forfeit public pension benefits for certain crimes.</li> <li>• Provides a possible deterrent for those who would consider committing these acts as a public employee.</li> <li>• May address some public concerns regarding member abuse of system.</li> </ul> <p>CONs:</p> <ul style="list-style-type: none"> <li>• May be difficult and impractical to implement and enforce.</li> <li>• Could negatively impact the future benefits of a spouse or dependent.</li> <li>• May impair vested rights</li> <li>• Currently, there is no way to enforce this for retirees who go</li> </ul>

<p>where the felonious acts are ongoing in nature or not obviously limited to a specific date?</p> <p>What types of crimes will be covered by the proposal?</p>		<p>to work for public agencies other than from which they retired.</p> <ul style="list-style-type: none"> <li>Does not address pleas bargains from felony to a lesser charge.</li> </ul>
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<b>8. Prohibit Retroactive Pension Increases: All Employees</b> All California public employers would be prohibited from granting any future retroactive pension benefit increases, such as benefit formula improvements that credit prior service.	Effective Date
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**BACKGROUND**

Under current law, when a CalPERS employer amends its contract with CalPERS to improve employee benefits, the improvement applies retroactively, meaning it applies to past service rendered for that employer by active members.

**IMPACTS**

LEGAL	WORKLOAD	FISCAL	POTENTIAL PROs/CONs
<p>Would the proposal apply only to the basic benefit formula, or would it apply to other benefit enhancements, such as cost of living increases, post-retirement survivor allowances, industrial death benefits and disability benefits, among others?</p> <p>How will the proposal address cases where a member changes from one classification to another classification with a better benefit formula (such as from miscellaneous to safety)?</p>	<p>Will this change cause an increase in the amount of contract activity for contracting agencies, either requests for cost analysis or actual contract amendments?</p>	<p><b><u>Program Costs:</u></b> Eliminates the cost and risk associated with retroactive benefit increases</p> <p><b><u>Administrative Costs:</u></b> Depends on the number of requests for cost analysis and actual amendments to increase pension benefits retroactively.</p>	<p>PROs:</p> <ul style="list-style-type: none"> <li>Reduces the cost to increase benefit formulas because increased formulas would not apply retroactively.</li> <li>Reduces employer rate volatility that would otherwise be triggered by retroactive formula increases.</li> </ul> <p>CONs:</p> <ul style="list-style-type: none"> <li>Eliminates the ability to negotiate retroactive pension formula increases and thereby eliminates a bargaining option.</li> </ul>

<b>9. Prohibit Pension Holiday: All Employees and Employers</b> Would prohibit all employers from suspending employer and/or employee contributions necessary to fund annual pension costs.	Effective Date
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**BACKGROUND**

Generally, employee contributions are a fixed percentage of salary, and employer contributions fluctuate based on the annual actuarial valuations of

retirement system assets compared to liabilities. When investment earnings on assets are high, employer contributions can generally be reduced, and when investment earnings are low, employer contribution rates generally are increased. Under certain circumstances, the actuarially determined employer contribution rate may be zero, resulting in a contribution holiday for employers.

In 2005, the Board adopted an Employer Rate Stabilization Policy (ERSP) to help reduce volatility in the employer contribution rates. The ERSP requires that any surplus assets be amortized over a period of 30 years. The result of the ERSP is that the possibility of contribution holidays is minimized but it is still possible.

### IMPACTS

LEGAL	WORKLOAD	FISCAL	POTENTIAL PROs/CONs
<p>Will the proposal be sufficiently limited so that it does not interfere with the Board's constitutional authority and fiduciary obligations (i.e., authority to set employer contribution rates)?</p> <p>Will the proposal be sufficiently limited so that it does not inadvertently permit or require superfunding<sup>1</sup> which could compromise the tax qualified status of the plan?</p> <p>Will the proposal be consistent with CalPERS current Employer Rate Stabilization Policy and the recommendation of the Governor's Post-Employment Benefits Commission?</p>	<p>Workload will depend on how closely the actual proposal matches current Board policies.</p> <p>May require actuarial system or fiscal system changes.</p> <p>What happens when a plan becomes superfunded? Will there be limits or parameters put on how these surplus assets are managed or used?</p>	<p><b><u>Program Costs:</u></b></p> <p>This proposal will not have an immediate impact on most employers due to the current funding levels. It will increase the cost of the few public agencies that are currently overfunded and contribute less than the normal cost.</p> <p><b><u>Administrative Costs:</u></b></p> <p>This will depend on how closely the proposal matches current Board policies.</p>	<p>PROs:</p> <ul style="list-style-type: none"> <li>• Could stabilize rates at normal cost from year to year over time.</li> </ul> <p>CONs:</p> <ul style="list-style-type: none"> <li>• Could lead to unnecessary accumulation of funds for plans that are already superfunded.</li> <li>• Could result in pressure to increase benefits if surplus assets build up.</li> <li>• Would create immediate cost pressure on overfunded contracting agencies for no apparent benefit.</li> <li>• May infringe on the CalPERS Board's constitutional authority to set rates.</li> <li>• May increase pressure on the CalPERS Board to change certain actuarial methods or assumptions as plans become better funded.</li> <li>• Potential tax implications if</li> </ul>

<sup>1</sup> A superfunded plan is considered to already have enough assets to pay for all past and expected future service accrual.  
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			proposal does not adequately address superfunding.
<b>10. Prohibit Purchases of Airtime: All Employees</b> Would prohibit all current and future members of all state and local retirement systems from purchasing additional retirement service credit			Effective Date
<b>BACKGROUND</b>			
State law, enacted in 2003, allows any active CalPERS member with at least five years of earned service credit to purchase up to five years of Additional Retirement Service Credit (Airtime). Inactive and retired members are ineligible for this purchase unless they made their election while they were still active employees. Only one Airtime purchase may be made by a member, even if the member chooses to purchase less than the maximum of five years. Airtime purchases must be made in whole-year increments.			
To date, approximately 49,000 members have elected to purchase Airtime.			
<b>IMPACTS</b>			
<b>LEGAL</b>	<b>WORKLOAD</b>	<b>FISCAL</b>	<b>POTENTIAL PROs/CONs</b>
<p>This proposal may impair the vested rights of existing employees to purchase service credit under the terms that currently exist which allow a member to purchase service credit prior to retirement.</p> <p>Will the proposal impact existing service credit elections, such as elections that are made before the proposal takes effect (whether or not fully paid for)? If so, there will likely be tax problems and vested rights issues.</p> <p>Is the intent that this change would only apply to additional service credit as described in Government Code Section 20909, or would it apply to others forms of service credit purchases?</p>	<p>This proposal may result in a spike of airtime requests causing new workload. Otherwise, should reduce ongoing workload associated with processing estimates, purchase requests &amp; payments for airtime.</p>	<p><b><u>Program Costs:</u></b> Eliminates the risk transfer to employers that results when assumptions are not met.</p> <p><b><u>Administrative Costs:</u></b> Will a spike in requests or litigation over vested rights occur? Otherwise eliminates the administrative costs associated with processing air-time requests in the future.</p> <p>Legal costs will be incurred if litigation is brought to challenge this provision as violation of vested rights.</p>	<p>PROs:</p> <ul style="list-style-type: none"> <li>Eliminates the risk employers would assume from airtime purchases in the future.</li> </ul> <p>CONs:</p> <ul style="list-style-type: none"> <li>Potential vested rights issue.</li> <li>Could impact employees that have a break in public service to care for an ailing child or parent, or to follow a spouse that changes jobs, etc.</li> <li>Reduces members' retirement planning flexibility.</li> <li>Potential impact on recruitment of senior/experienced workers.</li> </ul>

<b>11. Increase Pension Board Independence and Expertise: CalPERS Board of Administration</b> Would add 2 independent, public members with financial expertise to the CalPERS Board and replace the SPB rep with the Director of DOF.				Effective Date
<b>BACKGROUND</b>				
Currently, CalPERS is administered by a 13-member Board of Administration that is intended to be representative of CalPERS' constituents. The Board consists of six member-elected members, three appointed members, and four ex officio members.				
<b>IMPACTS</b>				
<b>LEGAL</b>	<b>WORKLOAD</b>	<b>TSC</b>	<b>POTENTIAL PROs/CONs</b>	
Will the proposal preserve sufficient authority and independence for Board members to carry out their fiduciary duties?	Additional workload to provide staff support to the two additional board members.  Will the additional Board members be elected or appointed?  If elected, will CalPERS be responsible for holding the election?	<u><b>Program Costs:</b></u> None  <u><b>Administrative Costs:</b></u> Increased costs for travel, staff support, training and accommodating additional Board members within existing facilities.  Will <b>new</b> Board members be eligible for a daily stipend?	<b>PROs:</b> <ul style="list-style-type: none"> <li>Diversifies perspectives on the Board.</li> </ul> <b>CONs:</b> <ul style="list-style-type: none"> <li>Additional costs to reconfigure auditorium and Board chambers.</li> <li>Makes the Board more unwieldy and less efficient.</li> <li>Will not impact benefit packages agreed to by employers and employees.</li> </ul>	
<b>12. Reduce Retiree Health Care Costs: New State Employees</b> Would change the vesting requirements for new state employees to 15 years of service to become eligible for the minimum employer contribution and 25 years of service to receive the maximum employer contribution. Also, would change the anomaly of retirees paying less for health care premiums than current employees.				Effective Date
<b>BACKGROUND</b>				
Currently, the vesting requirements for employer-paid retiree health benefits differ for various CalPERS' members (State, CSU, judicial, public agency and school members). The number of years of state service required for a member to fully vest ranges between 5 years of state service and 20 years of state service.				
The maximum employer contribution for State annuitants is 100% of health care premium costs, while the maximum State contribution for the dependents of State annuitants is 90%. For most active State employees, the employer contribution is 80% for both the employee and his or her dependents. The percentage varies based on collective bargaining for each unit. The actual dollar amount this				

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represents is based on a weighted average employee premium cost for the four most popular health care benefit plans CalPERS provides to the State, schools and contracting agencies.

IMPACTS			
LEGAL	WORKLOAD	FISCAL	POTENTIAL PROs/CONs
Is the intent that this change would be consistent with CalPERS existing statutes and regulations, except that vesting requirements would change for new State employees?	Will require statutory changes.	<p>It is difficult to determine any cost savings without knowing what changes will be made to the employer contribution formula for future retirees.</p> <p><b><u>Program Costs:</u></b> Unknown employer savings – A combination of the new vesting requirements and "Hybrid" plan may result in later retirement dates.</p> <p><b><u>Administrative Costs:</u></b> Probably little or no impact</p>	<p><b>PROs:</b> Reduces the employer's liabilities for retiree health care costs (i.e., OPEB liabilities).</p> <p><b>CONs:</b></p> <ul style="list-style-type: none"> <li>Increased retiree health benefit costs combined with lower pension benefits.</li> </ul>

Working Draft

## **Vested Rights of CalPERS Members**

*Protecting the pension promises made  
to public employees*

July 2011



## CalPERS Profile

The California Public Employees' Retirement System (CalPERS) is the nation's largest public pension fund with assets of approximately \$240 billion.

Headquartered in Sacramento, CalPERS provides retirement and health benefit services to more than 1.6 million members and 3,033 school and public employers. The System also operates eight Regional Offices located in Fresno, Glendale, Orange, Sacramento, San Diego, San Bernardino, San Jose, and Walnut Creek. Led by a 13-member Board of Administration, consisting of member-elected, appointed, and ex officio members, CalPERS membership consists of approximately 1.1 million active and inactive members and more than 500,000 retirees, beneficiaries, and survivors from State, school and public agencies.

Established by legislation in 1931, the System became operational in 1932 for the purpose of providing a secure retirement to State employees who dedicate their careers to public service. In 1939, new legislation allowed public agency and classified school employees to join the System for retirement benefits. CalPERS began administering health benefits for State employees in 1962, and five years later, public agencies joined the Health Program on a contract basis.

A defined benefit retirement plan, CalPERS provides benefits based on a member's years of service, age, and highest compensation. In addition, benefits are provided for disability and death.

Today CalPERS offers additional programs, including a deferred compensation retirement savings plan, member education services, and an employer trust for post-retirement benefits. Learn more at our website at [www.calpers.ca.gov](http://www.calpers.ca.gov).



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## I. Introduction

Recent economic crises affecting the world's governments and markets have brought fiscal pressures on state and local budgets in California. Budgetary constraints have focused attention on the cost of providing public services, and no cost has received more attention than the compensation and benefits earned by our public employees. Commissions, political leaders and private citizens all have weighed in on the subject, each proposing wide-ranging "reforms" aimed at reducing the retirement benefits earned by public servants. Proposals have included, for example: moving to less advantageous benefit formulas, imposing caps on pensionable compensation, changing the definition of pensionable compensation to exclude items that are currently included, lengthening the "final compensation" period on which benefits are calculated, restricting employees' rights to purchase additional service credit, lengthening eligibility periods, increasing employee contributions and eliminating employer paid member contributions. Many of these proposals seek to apply these "reforms" to currently active employees as well as those who may be hired in the future.

Understandably, this attention on the compensation and benefits of members of the California Public Employees' Retirement System ("CalPERS") has raised concerns as to the level of assurance the law provides that promised pensions will be available upon retirement.

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CalPERS has prepared this paper for two purposes:

- To articulate the current state of California law regarding the nature of its members' pension rights and the extent to which such rights have become "vested" and may not be impaired; and
- To explain the role of CalPERS in ensuring that its members' vested rights are honored.

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This paper is not intended to respond to any particular proposed legislation or initiative. Rather, it is intended to present CalPERS' institutional views in the broader context of its primary governing laws: the California Public Employees' Retirement Law (Gov't Code §§ 20000, et seq.) (the "PERL") and the California and United States Constitutions. The merits and enforceability of any new proposal must be analyzed on its own unique terms and conditions.

Finally, although some of the general principles and authorities discussed in this paper may be relevant to plans CalPERS administers other than the Public Employee Retirement Fund defined benefit plan, this paper is not intended to address any issues related to the CalPERS' health benefits plans, defined contribution plans, the Legislators' Retirement System or the Judges' Retirement Systems (I and II).

## II. Overview: Member Benefits And Contributions

California law clearly establishes that public employee retirement benefits are a form of deferred compensation and part of the employment contract. Rights to this deferred compensation are earned when the employee provides service to the public employer.

By statute and contract, public employers, not CalPERS, decide how much of an employee's compensation will be paid currently and how much will be deferred and paid in the future. Simply put, employers grant the benefits owed to CalPERS' members. CalPERS in turn serves as the trustee of the trust created to fund these benefits, through the prudent administration and investment of the retirement fund.

The rights of all CalPERS members are established by statute. In the case of local agencies, members' rights are also governed by the contract between the agency and CalPERS. When contracting with CalPERS, local agencies may choose from a menu of options. Benefits for CalPERS members are often the product of collective bargaining.

This section provides a general overview of the core benefits earned by CalPERS members. It is not intended to be a comprehensive description of all benefits and rights of all CalPERS members.

### A. Service Retirement Allowance

Each CalPERS member earns service credit towards a lifetime retirement allowance after employment, calculated under a formula which accounts for the member's years of credited service, the member's "final compensation" and the member's age at retirement. Each benefit formula is commonly referred to as a specified percentage of a member's "final compensation" for each year of service, based on a particular age at retirement. For example, under a "2% at 55" benefit formula, a member receives 2% of his or her "final compensation" per year of credited service, if that member retires at age 55. If the member retires earlier or later than age 55, the member receives a lower or higher percentage of "final compensation," according to a statutory table. For example, under the "State 2% at 55" table, a member retiring at age 50 receives 1.1% of "final compensation" per year of credited service. A member retiring at age 63 or older receives 2.5% of "final compensation" per year of credited service.

As noted, each formula applies a multiplier to a member's "final compensation." For some members, "final compensation" means the highest one-year average pensionable "compensation earnable" that they earn during their careers. For other members, the highest annualized three-year average "compensation earnable" that they earn during their careers is used. In general terms, "compensation earnable" includes the member's "payrate" (essentially base salary) and certain items of "special compensation," which are established as pensionable by law or regulation. "Compensation earnable" generally does not include items such as overtime pay and amounts that are not available to employees in the same group or class of public employment.

## B. Disability Retirement Allowance

If a member has an injury or illness that prevents the member from performing the customary duties of his or her regular position, the member may be eligible for a disability retirement. If a member's disability is the result of a job-related illness or injury, and the member is a school, local or State safety, State peace officer/firefighter, State industrial, or State patrol member, the member may be entitled to an industrial disability retirement. Local miscellaneous members also may be eligible if their employer contracts with CalPERS to provide for an industrial disability retirement.

A member who is granted a disability retirement receives the greater of the service retirement allowance (if eligible) or an allowance based on a specified formula applicable to that member. A member who is granted an industrial disability retirement allowance receives the greater of his or her service retirement allowance (if eligible) or a specified percentage of the member's "final compensation" (usually 50%, but 60% for some members), plus an annuity purchased with his or her accumulated additional contributions.

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"California law clearly establishes that public employee retirement benefits are a form of deferred compensation and part of the employment contract."

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## C. Purchase of Service Credit

If they meet eligibility requirements, active members are entitled to purchase additional retirement service credit, which increases their retirement allowance. Additionally, where eligible, members can purchase service credit for prior public service, military service and certain other types of service. The member's cost to purchase additional service credit is set by statute and is based on actuarial assumptions and methodologies determined by the Board of Administration ("Board").

## D. Death and Survivor Benefits

CalPERS provides benefits to the beneficiaries of active and retired members upon the member's death. Benefits and eligible recipients vary based on whether the member was still working at the time of death or was retired, and by the member's employer, occupation and the specific provisions in the contract between CalPERS and the employer. Additionally, a member may opt to have his or her retirement allowance reduced in order to increase the benefits that will become payable to the member's beneficiaries after the member's death.

### E. Cost of Living Adjustments

A member's (or beneficiary's) initial allowance is subject to annual cost-of-living adjustments ("COLAs") that account for changes in the applicable cost of living index each year. Members and beneficiaries also may receive additional "Purchasing Power Protection" when annual COLAs have been substantially eroded by inflation over time.

### F. Member Contribution Rates

Members generally contribute portions of their paychecks towards the cost of their future retirement benefits. These member contributions are established in various ways, including among other by statute, ordinance and memorandum of understanding, and they vary widely based on such things as the member's employer, occupation and bargaining unit, if any. In general, member contribution rates are established as a percentage of the member's monthly compensation. With respect to member contributions established by statute under the PERL: "The Legislature reserves the right to increase or otherwise adjust the rates of [member] contribution ... in amounts and in a manner it may from time to time find appropriate." Some member contribution rates also are expressly subject to collective bargaining.

Some employers may choose to pay a portion or all of the retirement contributions otherwise required of their employees. These payments typically are negotiated during collective bargaining and the law provides that the employer may "periodically increase, reduce, or eliminate" such payments.

### G. Reciprocity

The "reciprocity" provisions of the PERL (and related provisions in the retirement laws governing other California public retirement system) provide for certain reciprocal retirement benefits for a person who works for two or more public employers during his or her career, with membership in two or more California public retirement systems.

The primary purpose of reciprocity is to "eliminate[] the adverse consequences a member might otherwise suffer when moving from one retirement system to another." Reciprocity provisions accomplish this in a number a ways, including, for example, allowing a member to use his or her highest compensation in any reciprocal system to determine the compensation used to calculate benefits from all such systems.

### III. Overview: Employer Funding Obligations

The California Supreme Court long ago established that a promise of a pension made by a public employer to its employees is a promise the employer must keep. In other words, public employers in California are legally required to honor promises to current and former employees regardless of how much money they have set aside for that purpose.

In order to ensure that their promises are kept, the law requires California's public employers to pre-fund the benefits they owe by making contributions to CalPERS along with the contributions of their employees. By investing the combined contributions of members and employers, CalPERS is able to pay all of the benefits as they come due.

To successfully fund all promised benefits, the law requires the Board to maintain an actuarially sound retirement fund. As one court explained: "Actuarial soundness of [CalPERS] is necessarily implied in the total contractual commitment, because a contrary conclusion would lead to express impairment of employees' pension rights." Further, employees have a vested right to statutorily required employer contributions, even where those contributions are not linked to providing an "actuarially sound" retirement system.

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"...a promise of a pension made by a public employer... is a promise the employer must keep. In other words, public employers in California are legally required to honor promises to current and former employees..."

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The California Constitution provides that the Board "shall [] have sole and exclusive responsibility to administer the system in a manner that will assure prompt delivery of benefits and related services to the participants and their beneficiaries" and "consistent with the exclusive fiduciary responsibilities vested in it, shall have the sole and exclusive power to provide for actuarial services in order to assure the competency of the assets of the public pension or retirement system." The Board has authority to determine an actuarially sound rate of contributions that, together with investment earnings, will "assure the competency of the assets" of CalPERS such that all promised benefits are paid now and in the future. It is the Board's exclusive responsibility to determine the contributions that will be required of the participating employers and the participating employers then have a mandatory "ministerial" duty to pay the contributions that the Board determines are necessary. This obligation will be quickly enforced by the courts, by writ of mandate, if an employer fails to meet it.

As stated by the United States Supreme Court, a defined benefit plan "is one where the employee, upon retirement, is entitled to a fixed periodic payment. The asset pool [available to pay benefits] may be funded by employer or employee contributions, or a combination of both. But the employer typically bears the entire investment risk and ... must cover any underfunding as the result of a shortfall that may occur from the plan's investments."

## IV. California Contract Clause as Applied to Public Employees' Retirement Benefit Rights

A “vested” benefit is one that has matured into an irrevocable contractual right, which cannot be taken away or otherwise impaired without the member’s consent, except in extremely limited circumstances. A “non-vested” benefit, on the other hand, is one that has been promised conditionally. It is generally alterable or completely revocable by the appropriate authority (usually the Legislature or the employer) without the member’s consent. A public employee’s right to the retirement benefits earned during employment is generally a vested right.

California has a strong public policy, enunciated through published legal decisions over the past half century, establishing that public employee retirement benefits are contractual obligations entitled to the protection of the “Contract Clause” of the State Constitution. That clause, found at Article I, section 9 of the California Constitution provides: “A ... law impairing the obligation of contracts may not be passed.” (Article I, section 10 of the United States Constitution similarly prohibits a state from impairing the obligation of contracts.) This means that an employee’s vested pension rights may not be impaired except under extremely limited circumstances.

The fundamental doctrine protecting California public employee pension rights is succinctly stated: “A public employee’s pension constitutes an element of compensation, and a vested contractual right to pension benefits accrues upon acceptance of employment. Such a pension right may not be destroyed, once vested, without impairing a contractual obligation of the employing public entity.”

This doctrine has been applied and refined by dozens of California appellate cases since the 1940s. Several general rules have emerged through this jurisprudence:

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### **RULE 1:**

#### **Employees Are Entitled To Benefits In Place During Their Employment**

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Public employees obtain a vested right to the provisions of the applicable retirement law that exist during the course of their public employment. Promised benefits may be increased during employment, but not decreased, absent the employees’ consent.

These rules apply to all active CalPERS members, whether or not they have yet performed the requirements necessary to qualify for certain benefits that are part of the applicable retirement law. For example, even if a member has not yet satisfied the five year minimum service prerequisite to receiving most service and disability benefits, the member’s right to qualify for those benefits upon completion of five years of service vests as soon as the member starts work.

The courts have established that this rule prevents not only a reduction in the benefits that have already been earned, but also a reduction in the benefits that a member is eligible to earn during future service. For example, a ballot proposition that purported to eliminate future benefit accruals for legislators was held unconstitutional because legislators were entitled to continue earning benefits under the law in place when they were first elected.



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**RULE 2:****Employees Are Entitled Only to Amounts Reasonably Expected from the Contract**

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Vested rights protection does not extend to unreasonable or unanticipated windfalls. In other words, the Contract Clause only protects the benefits that are reasonably expected from the contract, and does not protect “unforeseen advantages.”

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**RULE 3:****Only Lawful Contracts with Mutual Consideration Are Protected by the Contract Clause**

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“The contract clause does not protect expectations that are based upon contracts that are invalid, unenforceable, or which arise without the giving of consideration. Nor does the contract clause protect expectations which are based upon legal theories other than contract, such as quasi-contract or estoppel.”

For this reason, it is not an “impairment of contract” for CalPERS to correct an error by a member, the member’s employer or CalPERS’ staff that may have resulted in more favorable treatment to the member than the law allows. The PERL specifically authorizes CalPERS to correct such errors.

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**RULE 4:****Future Employees Have No Vested Rights to the Current Statutory Scheme**

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Employees to be hired in the future do not have vested rights to any particular retirement benefits because they have not yet entered into public employment. Thus, there is no constitutional impediment to unilaterally reducing (or even eliminating) retirement benefits for new hires of public employers, even if the public employers historically have provided such benefits to their employees as part of past employment contracts.

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**RULE 5:****Retired and Inactive Members Have Vested Rights to the Benefits Promised to Them When They Worked**

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Like active employees, retirees and inactive members have a vested right to the benefits that were in place when they were employed. However, retirees and inactive members generally do not have vested rights to beneficial changes created after their employment terminates. This is because a “member whose employment terminated before enactment of a statute offering additional benefits does not exchange services for the right to the benefits.” An exception to the general rule that benefits granted after retirement are not vested arises when the retiree

or inactive member gives up another right acquired during employment in exchange for the right to receive post-employment improvements. In that case, the right to a post-employment improvement is generally a vested right.

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**RULE 6:**

**Active Employees' Vested Rights May Be Unilaterally Modified Only Under Extremely Limited Circumstances**

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Active public employees have a vested right to a substantial pension, but, under limited circumstances, the terms of their retirement rights may be modified before they retire. The California Supreme Court has explained: “[V]ested contractual pension rights may be modified prior to retirement for the purpose of keeping a pension system flexible to permit adjustments in accord with changing conditions and at the same time maintain the integrity of the system. Nonetheless, such modifications must be reasonable, and to be sustained as such, alterations of employees’ pension rights must bear some material relation to the theory of a pension system and its successful operation, and changes in a pension plan which result in disadvantage to employees should be accompanied by comparable new advantages. Further, it is advantage or disadvantage to the particular employees whose own contractual pension rights, already earned, are involved which are the criteria by which modifications to pension plans must be measured.”

There are numerous California published decisions that discuss the circumstances under which modifications to the vested rights of active employees may be permitted. There are four primary steps for determining whether a modification is permissible:

- (a) The first step in determining whether a modification is permissible is to determine if the unmodified right is in fact vested, meaning neither the employer nor the Legislature reserved the right to change the benefit. This is because the applicable retirement laws often contemplate changes. Indeed, the laws sometimes expressly reserve to the employer or the Legislature the right to modify or eliminate certain benefits. A member’s vested right is only to the law as it is written at the time of employment, including all of its conditions.
- (b) If a vested right exists, the next step is to determine whether that vested right has been changed in a way that is disadvantageous to the member.
- (c) If it is determined that a vested right has been changed in a way that is disadvantageous to a member, the next step is to determine whether the change has a “material relation to the theory of a pension system and its successful operation.” If it does not, then the modification is not permissible. Case law is clear that “changes made to effect economies and save the employer money do bear some material relation to the theory of a pension system and its successful operation,” but, as discussed immediately below, this finding alone is not sufficient to justify a disadvantageous change to a member’s vested rights.

(d) If the change bears a “material relation to the theory of a pension system and its successful operation,” the final step is to determine whether the disadvantaged employees will receive a “comparable new advantage.” When a court conducts this analysis, it looks specifically at what may be taken from and provided to the individually impacted employees. This member-by-member analysis, however, does not necessarily take into account each member’s unique personal circumstances. Thus, a member does not get to pick and choose which advantages or disadvantages will apply to him, and then argue that his vested rights have been unconstitutionally impaired.

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**RULE 7:****The State’s “Emergency” Powers Are Extremely Limited and Cannot Be Used to Reduce the Benefits that Have Been Promised**

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The courts have carved out one narrow exception to the constitutional prohibition against the impairment of contracts, although there is no case where a court has actually applied that exception in a way that has reduced the long term costs of public retirement benefits in California. Both the California and United States Supreme Courts have held that “a substantial impairment may be constitutional if it is “reasonable and necessary to serve an important public interest” during an emergency. The courts pay little heed, however, to the “legislative assessment of reasonable and necessary,” because “the State’s self-interest is at stake [and a] governmental entity can always find a use for extra money, especially when taxes do not have to be raised.” Thus, the courts apply a rigorous four-prong test when determining if this limited exception applies: (a) the legislative enactment must serve to protect “basic interests of society;” (b) there must be an “emergency justification for the enactment,” (c) the enactment must be “appropriate for the emergency;” and (d) the enactment must be “designed as a temporary measure, during which time the vested contract rights are not lost but merely deferred for a brief period, interest running during the temporary deferment.”

Thus, even if vested pension rights may be temporarily impaired in a true emergency situation, it is clear that the State’s emergency powers do **not** enable it to solve its budgetary problems by eliminating or reducing the long term benefit promises it has made.

## V. Federal Contract Clause as Applied to Public Employees' Rights in California

As stated above, it is clear that the "Contract Clause" of the California Constitution provides broad protections of the vested pension rights of California's public employees. Some current "reform" proposals suggest changing the State Constitution to reduce or eliminate public employee retirement benefits, in some instances even amending the Contract Clause itself. Presumably, proponents of these measures assume that by amending the State Constitution, they can avoid a constitutional challenge to their proposed impairment of vested retirement benefits. The assumption is misplaced, for two reasons:

First, if a proposed pension reform were to be enacted in the form of a constitutional amendment, it would still have to pass muster under the Contract Clause of the State Constitution. In other words, any new provision of the State Constitution would still be subject to the requirement that it not impair the obligation of contracts. Absent actually eliminating the entire Contract Clause, the fact that a pension reform measure may be adopted by way of a constitutional amendment would not assure its validity.

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"Some current 'reform' proposals suggest changing the State Constitution to reduce or eliminate public employee retirement benefits...Presumably, proponents of these measures assume that by amending the State Constitution, they can avoid a constitutional challenge to their proposed impairment of vested retirement benefits. The assumption is misplaced..."

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Second, even if a proposed amendment eliminated the State Constitution's Contract Clause in its entirety, *the Contract Clause in the United States Constitution would give rise to the same protection of vested pension rights* as the State Constitution. Most of the published California cases that have analyzed the constitutionality of modifying vested pension rights of public employees have not meaningfully distinguished between the Contract Clause in the California Constitution and the Contract Clause in the United States Constitution. In 1991, the California Supreme Court removed any doubt that the United States Constitution protects public employee pension rights in California to the same extent as the California Constitution, by explaining that prior case law had "never rejected the federal clause as a source of protection" and "in light of prior California decisions consistently extending federal contract clause protection to state public officers, it is simply 'too late' to retreat from the clear implication of those holdings."

Therefore, amending the California Constitution likely would not open the way to lawfully impairing vested pension rights. All of the rules discussed in Section IV above likely would still apply, no matter how the California Constitution may be amended, so long as the Contract Clause of the United States Constitution remains unchanged.

## VI. CalPERS Members' Rights

Based on the legal analysis set forth above, CalPERS here articulates its understanding of the current state of vested rights law in California, as it applies to CalPERS members' benefits. Analyzing any particular member's vested rights, however, must be done on a case-by-case basis. Thus, nothing in this section is intended to express a view on any individual member's rights or any specific legislative or constitutional proposal. Further, the discussion in this section is not intended to be exhaustive, but rather to provide a general overview of our members' primary rights.

### A. Vested Rights

In general, CalPERS members have vested rights to:

- » Have their service retirement allowance determined based on the benefit formula that existed in the law when they provided service, if they satisfy all eligibility requirements.
- » Have their retirement allowance based upon all service credit that they accrued by providing service or by purchasing service credit.
- » Have their retirement allowance calculated using the definition of "final compensation" that existed in the law when they provided service.
- » Have their "final compensation" determined according to the definition of "compensation earnable" that existed in the law when they provided service.
- » Receive a disability allowance or an industrial disability allowance determined in accordance with the law that existed when they provided service, if the member satisfies all eligibility requirements.
- » Purchase service credit under the terms that existed in the law when they provided service, if the member satisfies all eligibility requirements.
- » Receive cost of living adjustments to their retirement allowance under the terms that existed in the law when they provided service. This includes "Purchasing Power Protection."
- » Have their beneficiaries receive death and survivor benefits provided under the terms that existed in the law when the member provided service.
- » Receive the benefits of reciprocity that existed in the law when they provided service, if they satisfy all eligibility requirements.
- » Withdraw their contributions, plus accrued interest, upon separation from employment, when eligible for such a withdrawal.
- » Have an actuarially sound retirement fund, which requires (a) that the CalPERS Board establish employer contribution rates sufficient to maintain the actuarial soundness of the system so that the competency of its assets is assured, and (b) that the employers timely pay those rates.

Because the above rights of CalPERS members are vested, they may only be modified if such modifications are “reasonable, and to be sustained as such, alterations of employees’ pension rights must bear some material relation to the theory of a pension system and its successful operation, and changes in a pension plan which result in disadvantage to employees should be accompanied by comparable new advantages.”

Finally, there remains a question as to whether vested rights may be consensually modified through collective bargaining without offending the Contracts Clause.

## B. Non-Vested Rights

In general, CalPERS members do not have vested rights to:

- » Benefit improvements that are granted to them after they have terminated employment (e.g., the “ad hoc” cost of living improvements granted to retirees based upon retirement date), unless such benefit improvements have been granted in exchange for a vested right that the retired members gave up voluntarily.
- » Windfall benefits that arise out of circumstances that were never contemplated to be part of the employment contract.
- » Payments in excess of those authorized by law, or arising from an error by the member, the member’s employer or CalPERS.
- » Perpetuation of the Board’s discretionary actions affecting contributions and benefits. For example, the Board may change its actuarial assumptions and methodologies for calculating the cost for purchasing service credit, or for determining actuarial equivalency (for a variety of purposes). The Board has full authority to change actuarial assumptions and methodologies in the sound exercise of its discretion, and doing so does not impair any vested right, even if a change does not appear favorable to CalPERS members.
- » Continuation of a benefit or contribution rate where the benefit or contribution rate is subject to change under the terms of the applicable statute, memorandum of understanding or employment contract.
- » Continued employment with their employer or the continuation of the historical compensation practices of that employer, even if those practices impact the calculation of members’ “compensation earnable” and “final compensation.” For example, an employer may have historically paid certain premium amounts that qualify as pensionable “compensation earnable.” While the member has a vested right to have such amounts included in “compensation earnable” when paid, the member does not have a vested right to continue to be paid those amounts.

Because the above rights are not “vested” under the Contract Clauses of the California and United States Constitutions, there is no constitutional impediment to the Legislature or a member’s public employer (or the Board, in the case of its own discretionary acts) from unilaterally altering those rights. Unless and until such alterations are made, however, members of course have a right to receive all benefits provided to them under law. Further, other laws may limit the ability to make such alterations. For example, although specific employment practices may not be vested in perpetuity, the terms of a collective bargaining agreement must be honored during the period of that agreement’s applicability.

## VII. The Role of CalPERS in Protecting Members' Vested Rights

Under the State Constitution and the PERL, the Board (which is the 13-member governing body of CalPERS) has the exclusive and plenary authority and fiduciary duty to administer CalPERS in a manner that will assure prompt delivery of benefits and related services to the members and beneficiaries of the system. Board members are either elected by members of the system, appointed by State elected officials or sit *ex officio*.

One court explained the fiduciary duties of members of a public retirement board thusly: “[A] trustee’s primary duty of loyalty is to the beneficiaries of the trust. The trustee is under a duty to the beneficiary to administer the trust solely in the interest of the beneficiary. The trustee must not be guided by the interest of any third person. This unwavering duty of complete loyalty to the beneficiary of the trust must be to the exclusion of the interest of all other parties. Under the rule against divided loyalties, a fiduciary cannot contend that although he had conflicting interests, he served his masters equally well or that his primary loyalty was not weakened by the pull of his secondary one.”

The California Constitution provides: “A retirement board’s duty to its participants and their beneficiaries shall take precedence over any other duty.” The California Supreme Court has explained: “[P]ension plans create a trust relationship between pensioner beneficiaries and the trustees of pension funds who administer retirement benefits and the trustees must exercise their fiduciary trust in good faith and must deal fairly with the pensioners-beneficiaries.”

The Board will act consistently with these principles. With respect to legislative and constitutional proposals that may impact its members’ vested rights, the Board will exercise its best judgment and act appropriately under all existing circumstances. In doing so, the Board will observe certain general guidelines, including:

- » CalPERS will make reasonable efforts to keep its members and beneficiaries apprised of changes or potential changes to the law that may impact their rights and responsibilities.
- » CalPERS will ensure that funds spent in any process relating to potential changes in funding or benefit structures are appropriate expenditures of trust funds under Article XVI, section 17 of the California Constitution and other applicable law.
- » CalPERS’ actions will be carried out in a manner that implements the law. In the event CalPERS questions whether changes in the PERL or other applicable law may cause an unconstitutional impairment of its members’ vested rights, CalPERS will exercise its best judgment, based on all existing circumstances, as to whether to initiate or participate in judicial challenges to such changes.



## VIII. Conclusion

CalPERS is dedicated to administering the system in a manner that will ensure that the promises made to CalPERS' members and beneficiaries will be kept. CalPERS acknowledges the budgetary challenges that the State and other public agencies throughout California are presently facing, and will play an appropriate role in the addressing these challenges. In this process, it will be vitally important for all interested parties to heed the legal rules protecting the vested rights of CalPERS' members, which have developed over the course of many decades. Without due consideration of these rules, well-intentioned proposals may not achieve the purposes for which they are designed; indeed, they may lead only to additional litigation and administrative costs, which can only increase the long term cost of delivering the benefits that have been promised to CalPERS members. It is the hope of CalPERS that this paper will provide guidance to all parties as they address these challenges.



**California Public Employees'**

**Retirement System**

400 Q Street

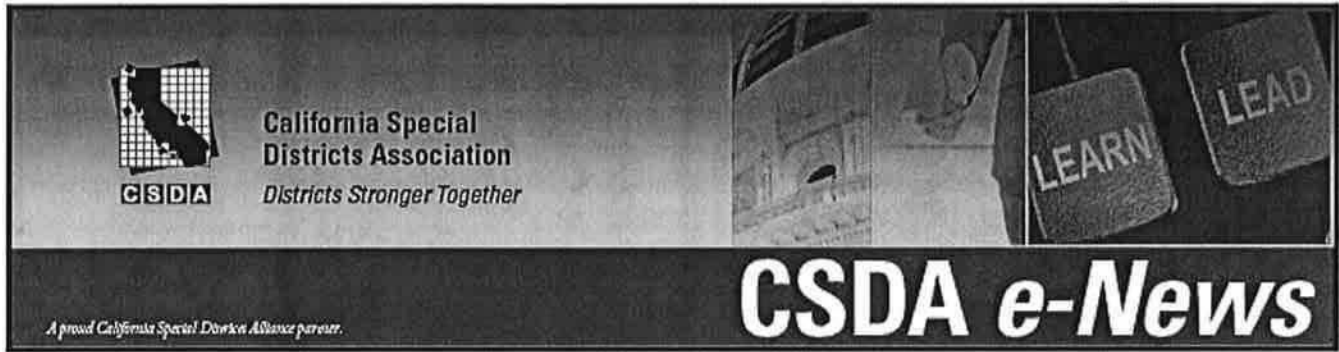
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(916) 795-3507 fax

TTY: (916) 795-3240



## Michael Cohen Confirmed for SDLD

CSDA is excited to announce that Michael Cohen, Chief Deputy Director of the Department of Finance (DOF), has confirmed to speak at Special Districts Legislative Days (SDLD). SDLD will be held at the Sacramento Convention Center on May 16-17 where attendees will engage in the very latest issues affecting the way special districts receive funding, how they are regulated, and their overall role in delivering core local services.

From 1997 to 2010, Cohen worked at the Legislative Analyst's Office (LAO). Most recently, he served as Deputy Legislative Analyst and advised the Legislature on a wide range of matters relating to state and local government. Today, in his role at the DOF, Cohen regularly represents the Brown Administration at Legislative budget hearings and other events, playing a key role on development of fiscal policies, including issues impacting special district revenues such as the dissolution of redevelopment agencies.

Each year numerous special district leaders and staffers travel to Sacramento to educate themselves on the key policy issues confronting special districts. **If you would like to attend SDLD, register [here](#).**

[California Special Districts Association](#) | 1112 I Street | Suite 200 | Sacramento, CA 95814 | 877.924.CSDA (2732)

A Proud California Special Districts Alliance Partner

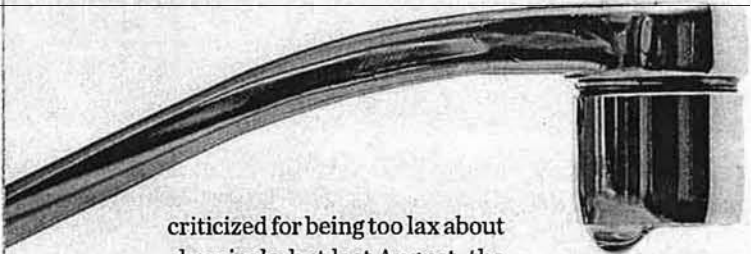
# IS YOUR TAP WATER SAFE?

Hormones, drugs, even pesticides could be flowing from your faucet. No one can say for sure, because the government doesn't require testing for them. But in groundbreaking research, Good Housekeeping found ordinary water pitchers and refrigerator filters that can get rid of these scary chemicals

It's mid-afternoon, and I'm at my desk writing, eating leftover pasta, and sipping a glass of water. I hear the mailbox creak open outside and hop up to retrieve its contents. Bills. More bills. And my yearly water report. I pop open the circle of plastic tape and read the results: no violations. My water is in compliance with every drinking-water standard regulated by the Environmental Protection Agency (EPA). Not that it's perfect: Barium, chromium, copper, lead, nitrate, and other chemicals, as well as *E. coli* (*E. coli!*?), have been detected over the past year.

In fact, those contaminants are proverbial drops in the bucket. Antibiotics, hormones, a cancer drug, a chemical found in gasoline, antiseizure medication... research shows that hundreds of unregulated contaminants may be flowing from my tap—largely invisible, tasteless, and undetectable. They won't be on my water report (or yours) because they are not on the government's list of contaminants to monitor. And although they're at low levels, no one knows how dangerous they might be when they're all mixed together in the water supply and consumed over a lifetime. The government has frequently been

By Rachael Moeller Gorman



criticized for being too lax about chemicals, but last August, the nonpartisan Government Accountability Office issued a report urging the EPA to coordinate research on what contaminants like these could be doing to us.

That's why, to help you take matters into your own hands, Good Housekeeping partnered with the Arizona Laboratory for Emerging Contaminants at the University of Arizona, one of the world's leading labs for study of unregulated chemicals. Together with the GH Research Institute, the lab performed extensive testing—the first-ever such analysis—to see whether everyday filters, like the ones in water pitchers and refrigerators, can remove some of these chemicals. GH also joined forces with the Water Sciences Laboratory at the University of Nebraska in order to test home contaminant-detection kits.

Here's what you need to know, plus smart, easy ways to protect your family.

## What's (Sort of) Regulated

By law, your local water system must test municipal drinking water for some 90 substances and organisms—including copper, uranium, and lead—and report whether any have been found and at what levels, as well as whether any exceed federally mandated Maximum Contaminant Levels—MCLs (see “How to Read Your Water Report,” page 183). And if the levels are

# DIRTY 15

Chemical cocktails may be flowing from your tap. These 15, all of which have been found in drinking water, were used in our tests of water filters

- Atrazine (herbicide)
- BPA (bisphenol A, used in production of plastics and in resins in many metal can liners)
- Carbamazepine (anticonvulsant)
- DEET (insect repellent)
- Estrone (hormone)
- Fluoxetine (Prozac, an antidepressant)
- Ibuprofen (pain reliever)
- PFOA (perfluorooctanoic acid, used to make nonstick-cookware coatings and other products)
- PFOS (perfluorooctanesulfonic acid, a key ingredient in stain repellents)
- Primidone (anticonvulsant)
- Sucralose (artificial sweetener)
- Sulfamethoxazole (antibiotic)
- TCEP (flame retardant)
- Tonalide (fragrance)
- Trimethoprim (antibiotic)

too high? Then, under the federal Safe Drinking Water Act and Amendments, your town is supposed to take measures to lower them.

Yet in fiscal year 2010 (the latest data available), 10% of all community water systems—serving more than 23 million people—sold water to consumers that violated at least one health-based EPA standard. Many of those violations were due to elevated levels of coliform bacteria, an indicator of how well a treatment plant is (or isn't) cleaning the water. When coliform levels are high, it can mean the water isn't being adequately disinfected—and other bacteria, such as *E. coli*, could well be thriving, too. The treatment plant must then do further testing for the more dangerous bacteria, including those that cause GI illnesses (diarrhea, vomiting), which can be particularly risky for small children and the elderly.

Most of the other 2010 violations were caused by excessive amounts of a chemical, such as arsenic or nitrate. Arsenic is especially worrisome: Studies show that it may be linked to an array of health problems, from developmental disorders and heart disease to numerous types of cancer, including bladder, lung, liver, skin, and kidney. Even more concerning, some experts think that arsenic might be harmful *below* its current EPA standard, a level that was already lowered (from 50 parts per billion to 10) in 2001. “As newer studies come out, they're showing health problems at lower and lower doses [of arsenic], including some conditions, such as immune problems and cognitive effects in children, we've never associated with it before,” says Joshua W. Hamilton, Ph.D., a project leader in the Dartmouth Toxic Metals Superfund Research Program at Dartmouth College. In preliminary research

## Spikes of dangerous chemicals may be averaged into your water report—and you'll never know it

in Hamilton's lab, when pregnant and lactating mice were given drinking water containing arsenic at the current EPA standard, their pups had significant defects in growth and development and weakened immune systems.

And those are just the violations we know about; some areas don't check their water at all or, if they do, don't report test results. We're not talking about just a few rogue violators: In 2009, 28% of all U.S. systems broke at least one significant EPA rule. If the violation is “innocent”—a town lacks the resources or technical expertise to meet the standards—the state or the EPA may lend assistance or money to help. But EPA grants *continued on page 134*

FROM THE GOOD HOUSEKEEPING RESEARCH INSTITUTE

**TESTED**

# FILTERS THAT REALLY WORK

No home filter has been certified to remove pharmaceuticals and certain other (emerging) contaminants. But as it turns out, some refrigerator filters do a great job of it, and some tabletop pitchers work very well, too. That's what months of testing by the GH Research Institute, partnering with the Arizona Laboratory for Emerging Contaminants at the University of Arizona, revealed in a groundbreaking experiment.



## FILTER

**MSWF Refrigerator Filter**  
\$41.15

**Whirlpool Filter 1 Refrigerator Filter** \$40

**Brita Riviera 8-Cup Pitcher**  
\$35

**Pur CR-6000 7-Cup Pitcher**  
\$15

**ZeroWater 8-Cup Pitcher**  
\$35

## WHAT IT REMOVED

Above 92% for all contaminants except BPA, which it removed above 90% on all readings but first two (81% and 81%)

Above 92% for all contaminants

Above 60% for all contaminants except PFOA (55%) and sucralose (49%), but for only half the filter's life

All estrone. It removed above 71% of all drugs as well as PFOS, and above 80% of DEET, tonalide, TCEP, and BPA

Above 95% of estrone, PFOA, PFOS, fluoxetine, BPA, ibuprofen; above 80% of atrazine, tonalide, TCEP, DEET, and all other drugs but primidone (73%)

## GOOD TO KNOW

Works only with GE refrigerators

Works only with certain Whirlpool refrigerators

Throughout the filter's life, its removal rate for all contaminants decreased more sharply than those of the others tested

Removed atrazine, sucralose, and PFOA slightly less effectively than other contaminants (under 65% at the end of filter's life)

Since our testing, the company has modified the filter to speed up its flow rate, which may affect its performance

## FILTER LIFE SPAN

3 months or 60 gallons

Six months or 200 gallons

Two months or 40 gallons

Two months or 40 gallons

Based on readings of included test meter

**WE TESTED** The laboratory spiked Tucson, AZ, municipal tap water with 15 contaminants of concern that all been found in drinking water (for technical reasons, TCEP was not tested on the refrigerator filters; complete list of test contaminants, see "Dirty 15," *opposite*). Then, to simulate the weeks or months of that pitcher and fridge filters would get in a real home, the researchers passed gallons and gallons of contaminated water through each device until it reached the manufacturer's estimated filter lifetime. The filters were also tested at four points along the way to see if a filter's performance began to fall off earlier.

are scarce, so while communities wait for them, residents continue to drink suspect water. The EPA can take legal action as well, or fine a water authority that won't comply—but in the past 10 years, out of thousands and thousands of violations, there have been only 349 cases of towns, other water suppliers, or industry paying a fine for violating any part of the Safe Drinking Water Act.

Even among the lawful, accidents happen. "Although we probably have one of the safest drinking-water systems in the world, every year there are some breaks in the system," says Linda Birnbaum, Ph.D., director of the National Institute of Environmental Health Sciences. In 2007–2008, 36 outbreaks from drinking water led to 4,128 cases of illness (including a salmonella outbreak in Colorado that sickened 1,300 people) and three deaths. But the worst case in recent times occurred in 1993, when an estimated 403,000 Milwaukee residents got sick—and 54 died—from water contaminated with the spore of cryptosporidium, a parasite that causes diarrheal disease, after a treatment plant failed to properly filter water from Lake Michigan. Nothing on that scale has happened since, but waterborne microbes cause an estimated 19.5 million cases of illness each year in the U.S.

Water can also become contaminated after it leaves the treatment plant but before it reaches your faucet, says Shane Snyder, Ph.D., codirector of the Arizona Laboratory for Emerging Contaminants and professor of chemical and environmental engineering at the University of Arizona. "Water may sit in a tank, sometimes for over a week, mixing with the chlorine used for disinfection—which may result in elevated levels of disinfection by-products," he says. The consequence: chemicals that might be harmful.

Your own home could be a problem, too. Older houses may have pipes that can leach lead into the water above the EPA cutoff of 15 parts per billion. Such levels sound minuscule, but lead is so potent, it can harm brain and nervous system development in fetuses and children.

**SNEAKY SPIKES** While public water systems are required to check the water, they are legally allowed to test anywhere from quarterly to once a year (or even less, depending

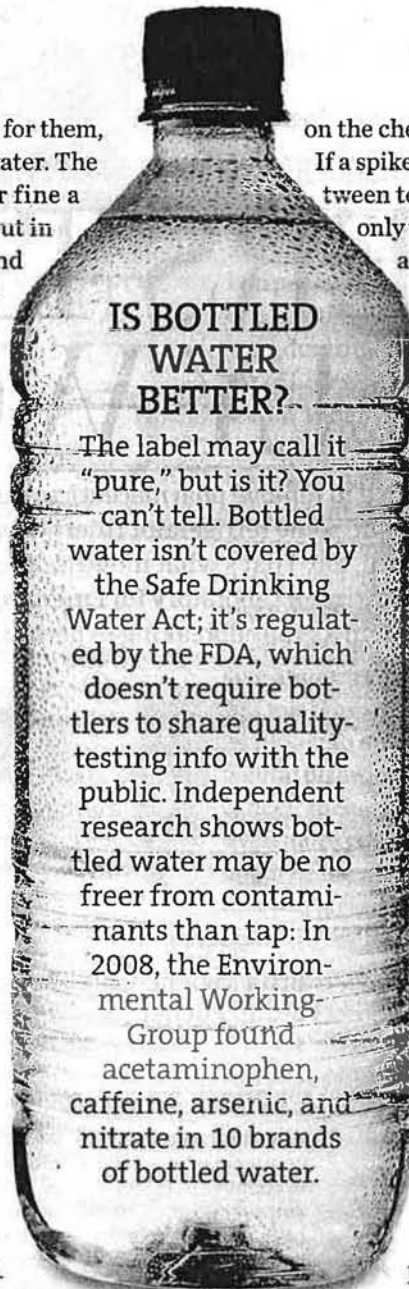
on the chemical and the size of the water system). If a spike in a dangerous contaminant occurs between tests, it can simply be missed. Also, when only the "running annual average" is counted, any upticks (if they happen to be measured) are merged with the rest of the year's results, yielding a deceptively clean bill of health.

Take atrazine, a weed killer that's widely used on agricultural crops (especially corn) as well as on golf courses and residential lawns and along highways. The herbicide, linked to reproductive abnormalities and to immune system problems, is banned in the European Union, and some experts believe that would be a good idea in this country, too. "Given the health and environmental concerns, and the fact that there are safer alternatives, there's good reason to phase it out," says Andrew Wetzler, director of the Land & Wildlife Program of the Natural Resources Defense Council (NRDC).

Even if your water is "legal" overall for atrazine, you could still have problems at certain times of the year. In agricultural regions, levels of the herbicide spike in tap water in spring and summer, after farmers apply it to their fields. In a 2009 report from the NRDC, 39% of public water systems surveyed in the midwestern and southern U.S.—including corn-farming Illinois, Indiana, Kansas, Kentucky, Louisiana, Missouri, and Nebraska—had

one-time atrazine peaks above the EPA limit of 3 parts per billion. Yet, because spikes like these are averaged in (or not counted), only three of the 139 water systems sampled were considered in violation of the atrazine standard.

Meanwhile, "people are using and drinking the water for days or weeks at a time," says Wetzler. This is particularly worrisome if a high concentration of atrazine coincides with a vulnerable stage of life: In a 2009 study, researchers at Purdue University found that the risk of mothers' delivering small babies—with birth weights below the 10th percentile—increased as the concentration of atrazine (along with other herbicides also present) increased. Even when concentrations were almost 30 times lower than the legal standard, babies were significantly smaller. What this means for their health is unknown, though other research has shown *continued on page 180*



# SAFE AT HOME

## YOUR WATER QUESTIONS, ANSWERED

- **Do I have to be concerned about water used for cooking—say, to boil pasta?**  
Boiling kills viruses and bacteria, including *E. coli*, but it can concentrate other contaminants like nitrate, arsenic, and lead, making them potentially harmful. The best way to protect yourself is to “know the source of your water,” says Catherine Thomasson, M.D., executive director of Physicians for Social Responsibility. Your yearly water report will tell you that. (Look for an online copy of your report at [cfpub.epa.gov/safewater/ccr/index.cfm](http://cfpub.epa.gov/safewater/ccr/index.cfm); if it's not there, the site provides contact info for all water systems.) If the source is a major river that flows past farms and industrial sites or carries treated wastewater from major cities, then consider using filtered water for cooking and drinking. But if your water comes from a pristine source up in the mountains or from a deep, pure aquifer, you probably don't need to.
- **Is it safe to rinse fruits and vegetables with tap water?**  
Yes. It's not just safe; it's necessary. You need to wash produce in order to remove any soil and microbes, says the U.S. Department of Agriculture, and Dr. Thomasson points out that the water runs off in the process. But if the source of your tap water is suspect (per the examples in the answer above), you might want to use filtered water.
- **Should I worry about contaminants when I shower?**  
There are a few toxins, primarily volatile organic compounds (VOCs), that can be “aerosolized” such that you could inhale them, says Dr. Thomasson. Some VOCs are already monitored in drinking water, but others are not. The highest risk would be well water that has not been tested, especially if there's industrial dumping or hydraulic fracturing (fracking) going on near your home.
- **What about babies and small children—is it safe for them to take a bath in water that hasn't been filtered?**  
“I wouldn't bother with filtered water unless your tap water source is extremely problematic,” says Dr. Thomasson. In that case, of course, you would also want to use filtered water for drinking.
- **Will letting the tap run really get rid of lead?**  
It can flush the metal out of water that's been sitting in old pipes for over six hours (run till the water feels cold). But to be safest, have your water tested (use the first water of the morning). If the lead levels are high, use a filter that's certified to remove lead. And if you live in an apartment building, definitely have your water tested, since flushing the pipes may not do the trick.



Photograph, this page: iStockphoto. Opposite page: Andreas Kuehn/Stone/Getty Images.



## Is Your Tap Water Safe?

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that smaller babies may be more prone to learning difficulties, obesity, and other problems later in life.

In addition to developing fetuses, pregnant women and children going through puberty may also be sensitive to environmental chemicals. Rapid changes are happening in the body at these times, which may make it especially vulnerable to the long-term effects of pollutants, says Birnbaum. And studies on atrazine in fish and amphibians have found that their immune systems don't work as well; they also have more infections and changes in sex organs. In 2009, following the NRDC report, the EPA announced that it would begin re-evaluating how risky atrazine is to our health and whether it needs to be regulated in a different way. A scientific advisory panel and the EPA are still working on that review. "It's good they're looking into it," says Wetzler, "but it's moving far too slowly."

### What's Not Regulated: Drugs in Your Water

About 15 years ago, researchers testing tap water in Berlin kept coming up with one unexpected compound. It turned out to be clofibric acid, the by-product of a cholesterol-lowering drug—and the first medication ever found in drinking water.

Other scientists became concerned; the U.S. Geological Survey (USGS), a government agency that provides scientific information about the country's natural resources, began to work on developing the technology to study the problem. In 2004, USGS water specialist Paul Stackelberg and his colleagues found numerous pharmaceuticals in raw (untreated) water and low levels of an antiseizure drug, as well as insect-repellent ingredients and other contaminants, in drinking water. Three years later, Snyder, whose team tested both raw and



### WELL WATER: DIGGING FOR ANSWERS

The issues are even murkier if your water doesn't come from a public facility. Here, extra steps you should take to be safe

**P**riate wells are not regulated by the federal government—which means that unless you've had your own water tested, what you're drinking and bathing in could be unhealthy. In New Hampshire, for example, more than 10% of wells exceed the EPA limit for arsenic. Well water in Arizona, California, Colorado, Maine, Michigan, Nevada, and New Mexico also contains high levels.

By EPA guidelines, wells should be tested yearly for total coliform bacteria as well as for nitrate, total dissolved solids, and pH levels. Your county may test for nitrate and bacteria; for other substances, it's best to use a state-certified lab. You might want to ask what contaminants are locally problematic so you can test specifically for those. The EPA's website ([water.epa.gov/drink/index.cfm](http://water.epa.gov/drink/index.cfm)) can tell you more about local contaminants or nearby conditions that might call for having your well tested.



drinking-water samples at 18 U.S. sites, added ibuprofen, meprobamate (an anti-anxiety medication), and phenytoin (another antiseizure drug), along with other pharmaceuticals, to the list. Then, in 2008, an Associated Press investigation of tests conducted by water suppliers all over the country found low concentrations of dozens more pharmaceuticals in drinking water—including antibiotics, aspirin, blood pressure medications, and an antidepressant. "It was eye-opening," says Dana Kolpin, team leader of the Emerging Contaminants in the Environment project at the USGS. "Even though the pharmaceuticals were at low levels, we didn't know then—and we still don't know—how toxic this cocktail of drugs and other contaminants might be."

You won't be seeing these chemicals on your water report for one simple reason: The government doesn't regulate them. The EPA has placed some on its latest Contaminant Candidate List, a collection of chemicals it is considering overseeing. But of the thousands of pharmaceuticals on the market, "just 10 that are loosely defined as pharmaceuticals have made it to the list," says Snyder. What's more, the list seems to be engraved in stone. Only one chemical of any kind has actually moved off the Contaminant Candidate List in order to be regulated since the list was first published in 1998. It was perchlorate (used to produce rocket fuel). Don't hold your breath waiting for the others: Even the Association of Metropolitan Water Agencies, which represents the nation's largest public water suppliers, was moved in 2008 to urge the EPA to focus on new ways to remove drugs from water.

True, the levels of these drugs are so low that individually they might not pose much threat. "You wouldn't get enough aspirin to cure your headache," says John Sumpter, Ph.D., a British researcher who studies environmental contaminants. "But

**TESTED**

## HOME WATER TESTS: THE CLAIMS, THE TRUTH

The GH Research Institute worked with the Water Sciences Laboratory at the University of Nebraska-Lincoln to test four popular models of at-home water-test kits for accuracy. **BOTTOM LINE** >> No kit was perfect, though PurTest came the closest. First Alert was rated second. Three kits failed to detect some water conditions or regulated contaminants, and three measured them too low or too high—a potential problem, since you may have no way to know whether you need to take any clean-up or other action. To see which problems each kit detected, go to [goodhousekeeping.com/water-tests](http://goodhousekeeping.com/water-tests).

	DETECTION ACCURACY	MISSED	TOO LOW	TOO HIGH	WHAT ELSE YOU SHOULD KNOW
Complete Home Water Quality Test Kit \$25	4 of 13*	Hardness, total chlorine, copper	Iron, nitrate	Chloride, sulfate, alkalinity, free chlorine	Instructions recommend that you use an ultraviolet light to read results on the E. coli test, though regular light seemed to work fine
First Alert Drinking Water Test Model WT1 \$17	8 of 9*	Total chlorine	None	None	No duplicate strips were provided for most of the tests, so if you use, test carefully
Pro-Lab Water Quality Do It Yourself Test Kit Model WQ105 \$7	6 of 10*	Copper, total chlorine	Alkalinity (but too high in another test), hardness	Alkalinity	Although there's a chemical test for hydrogen sulfide, this kit relies on a sniff test instead
PurTest Home Water Analysis Model P33 \$40	10 of 12*	None	None	Iron, alkalinity	Easiest kit to use

**HOW WE TESTED** First, lab researchers tested the kits using Lincoln, NE, tap water that had been analyzed for contaminants and water-quality conditions. Next, they spiked water samples with carefully measured concentrations of two herbicides (atrazine and simazine), nitrate, copper, lead, bacteria, and other common contaminants. They then followed each test kit's instructions—as you would at home—to see how it performed.

\*contaminants/water conditions

we're not dealing with one chemical here—we're dealing with hundreds."

Or more. Over 80,000 chemicals are registered for use in the U.S., and each year some 2,000 new ones are introduced for use in foods, drugs, household cleaners, lawn-care products, and personal-care items like deodorants and shampoo. Every day, as we excrete and flush these items, the chemical-laden wastewater goes through a sewage-treatment plant, and treated water is released into streams and rivers. But many of these pollutants remain—and make their way to a drinking-water treatment plant downstream. Or, if we toss the products in the trash, they often wind

up in landfills, where they can seep into groundwater—and ultimately can come through our taps.

**IFFY COCKTAILS** Adding together even low levels of chemicals might mean a lot of little risks compounded into a bigger potential danger. And in some cases chemicals may interact, producing an even more worrisome compound. A chemical, for example, may react with a disinfectant used to purify water at the treatment plant. A 2006 study found that adding a chlorine disinfectant to water contaminated with acetaminophen (the active ingredient in Tylenol) produced two toxic compounds—one may damage genes; the other hurts the liver. And

when Canadian researchers added a different disinfectant (chloramine) to 20 pharmaceuticals and personal-care products, they ended up making nitrosamines—probable carcinogens.

We don't know the exact levels of these compounds in our drinking water, but since millions of us pop a Tylenol when our heads hurt, and since chlorine and chloramine use is ubiquitous, risky by-products could be widespread in water, says Snyder.

### Tiny Doses, Big Problems

One type of chemical doesn't have to mix with anything to be risky: a compound known as an endocrine →

## Is Your Tap Water Safe?

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### WHAT HOME SYSTEMS CAN (AND CAN'T) DO

**C**onfronted with a problem with their water, many homeowners use under-the-sink or countertop units that contain special filters. Or people may install whole-house filters (known as point-of-entry devices), which cover not just the water they're drinking, but what flows into tubs, showers, and appliances.

**I**f the water is too "hard"—loaded with calcium and magnesium—minerals can build up in pipes and washing and dishwashing machines, causing everything from skin irritations to spotted glassware. An ion-exchange filter (water softener) draws in the harder minerals, trading them for "softer" sodium and potassium. Other types of filters tackle different problems. An activated carbon filter gets rid of unpleasant odors and tastes; a reverse-osmosis system filters out many EPA-regulated contaminants; and an ultraviolet filter kills bacteria and other microorganisms.

**T**hese filters can work well. In a 2009 University of California, Berkeley, study of older adults, those who used a combo reverse-osmosis/UV filter suffered about 12% fewer gastrointestinal illnesses than participants who drank regular unfiltered water. But point-of-entry filters have two major drawbacks: They're expensive (costing anywhere from about \$200 for a simple carbon filter to \$2,000 for a reverse-osmosis system), and they've been certified mainly to clear EPA-regulated contaminants—the ones on your water report. It's uncertain how well they might filter other potentially risky compounds.

disruptor, which knocks your body's hormones out of whack. Hormones affect "just about every physiological process you can imagine—our cardiovascular, reproductive, and central nervous systems," says Sumpter. These chemicals are not like regular toxins—with those, if you're exposed to a high enough dose, you may get sick right away. Rather, with endocrine disruptors, if you take in even a tiny amount at a critical point of development, especially in utero or during infancy, the exposure could trigger reproductive problems or illnesses when you're older—everything from learning issues to infertility, heart disease, or cancer. Even the Endocrine Society, a group of typically nose-to-the-lab-bench scientists, has become sufficiently concerned about the potential risks of endocrine disruptors

that it has taken an uncharacteristically activist stand. In a review study published in 2009, endocrinologists writing on behalf of the society urged the association to "actively engage in lobbying for regulation...to decrease human exposure to the many endocrine-disrupting agents."

To understand the consequences of such exposure, in 2001 a team of scientists from Canada and the U.S. EPA began regularly adding a synthetic hormone found in birth control pills to a test lake in northwestern Ontario where they were studying fathead minnows. The concentration was tiny—just 5 to 6 parts per trillion, an amount sometimes found in streams and rivers that receive municipal wastewater, say the scientists. Still after just seven weeks, the male minnows were

### HOW TO BE CLEANER...AND GREENER

Everyone lives downstream of someone else: I use bug spray...and you may drink DEET. In addition to protecting our own families, we need to be good neighbors. The following steps can help reduce the impact on our drinking water of the chemicals we use every day.

**DISPOSE OF MEDICINES PROPERLY** Instead of flushing unused pills or potions down the toilet (so they end up in a sewage-treatment plant that may not be able to remove them) or tossing them in the trash (if they end up in a landfill, they could leach into the groundwater), bring your half-finished bottle to a hazardous-waste collection site or to a drugstore or other center that has a take-back program. To find a participating pharmacy near your home, go to [disposemymeds.org](http://disposemymeds.org) and click on the locator link.

**CHOOSE MORE NATURAL PRODUCTS** The fewer chemicals you use, the fewer will end up in the water. GoodGuide ([goodguide.com](http://goodguide.com)), an organization led by a team of scientific

experts, rates thousands of personal-care, food, and household products for their impact on the environment.

**SUPPORT ENVIRONMENTAL LEGISLATION** Unlike Europe, the United States has allowed chemicals to be sold without requiring much research into the ways they affect human health. Last year, in hopes of tightening regulation, Senator Frank Lautenberg (D-NJ) proposed the Safe Chemicals Act. This modernization of the Toxic Substances Control Act would require companies to provide health and environmental information to prove substances are safe before they could be sold or remain on the market. For updates, go to [govtrack.us/congress](http://govtrack.us/congress) and enter "Safe Chemicals" in the search box.

# HOW TO READ YOUR WATER REPORT

Under the federal Safe Drinking Water Act, all community water systems must provide a water-quality report to their customers yearly, by July 1. Then you have to read it! Here, from one community report, is help.

1 Contaminants regulated by the EPA—only those detected during testing are listed

2 Maximum Contaminant Level Goal: In an ideal world, we wouldn't be exposed to more than this level

3 Maximum Contaminant Level: The highest amount of a substance allowed by the EPA, it's based on health risks as well as the cost and technical difficulty of removing the contaminant

4 How high and low the chemical's concentration was found to be over the course of two or more tests

5 Whether the level detected fell within EPA standards

6 This report noted that a small, though legal, amount of lead had been detected. In a footnote, the water authority suggested that those with concerns might wish to have their water tested or let the tap run before using the water

7 Here, authorities detected one sample of this bacteria. They shut down the well and, after finding two additional samples, disinfected it before distribution

## The Results Are In

Your water has been tested for more than 100 compounds that are important to public health. Only 13 of these were detected, all of which were below the amounts allowed by state and federal law. Most of these compounds are either

naturally occurring or introduced as treatment to improve water quality. Monitoring frequency varies from daily to once every nine years per EPA regulation, depending on the parameter. Our testing encompasses the full range of

regulated radiological, inorganic, and organic compounds and microbiological and physical parameters. Results shown below are for detected compounds only.

Substance	Highest Allowed by Law		Compliance	Test Date	Detected Level	
	MCLG	MCL			Average	Range
<b>Inorganic Compounds</b>						
Barium	2 ppm	2 ppm	YES	2010	0.022	0.018 - 0.120
Chromium	100 ppb	100 ppb	YES	2010	1	ND < 1 - 1
Copper	1.3 ppm	AL = 1.3 ppm	YES	2009	0.53*	0.80 - 1.40
Fluoride	4.0 ppm	4.0 ppm	YES	2010	1.20	
Lead	0 ppb	AL = 15 ppb	YES	2009	3**	0.140 - 0.470
Nitrate	10 ppm	10 ppm	YES	2010	0.09+	0.06 - 0.14
<b>Microbials</b>						
Turbidity	N/A	TT = 1 ntu max	YES	2010	100%	
Turbidity	N/A	TT = 95% of samples < 0.3 NTU	YES	2010		
<b>Disinfectant</b>						
Chlorine	MRDLG 4 ppm	MRDL 4 ppm	YES	2010	0.63	0.01 - 1.69
<b>Organic Compounds</b>						
Total Trihalomethanes	N/A	80 ppb	YES	2010	57***	20 - 71
Total Haloacetic Acids	N/A	60 ppb	YES	2010	26***	5 - 44
<b>Inorganic Compounds</b>						
Chloride	N/A	SMCL = 250 ppm	N/A	2010	72.7	ND < 0.5 - 76.0
Sodium	N/A	ORSG = 20 ppm	N/A	2010	47.3	33.0 - 48.0
Sulfate	N/A	SMCL = 250 ppm	N/A	2010	34.9	8.4 - 38.0

Substance	Highest Allowed by Law		Compliance	Test Date	Before Treatment Detected Level	
	MCLG	MCL			Result	Range
<b>Microbials</b>						
E. coli ++ (at the well water source)	N/A	N/A	YES	6/28/2010 6/29/2010	3 samples positive for E. coli	0 - 3 samples positive for E. coli

producing high levels of a protein that helps make eggs in female fish. After one year, males were producing less sperm; eventually, they started developing eggs and largely stopped reproducing.

After three years, the researchers ceased adding the hormone to the lake. Still, by the five-year mark, the fish had almost died off in the lake—near-extinction of a species due to an infinitesimal amount of a hormone. In year six, however—after three

years of no hormone exposure—the fish recovered.

As it turns out, male fish all over the U.S. are being made more feminine—not by the actions of scientists studying hormone disruption, but by the wastewater that flows into their habitats. And now, troubling evidence suggests that humans are being affected, too. In a study published last November, researchers showed that in countries where birth control pills are widely used, rates of prostate cancer are also high. “Although the

amount of estrogen one woman would excrete is minimal, when millions of women take it for a long period of time, it may have an environmental effect,” says study coauthor David Margel, M.D., a urologist at the University of Toronto.

Although this research is very preliminary, it shows the urgent need to learn more about the chemicals lurking in the water we drink every day. And until we do know more, we also need to understand how we can protect our families. Fortunately, the testing undertaken by Good Housekeeping provides answers.