TO: BOARD OF DIRECTORS

FROM: MICHAEL S. LEBRUN MSL
GENERAL MANAGER

DATE: OCTOBER 19, 2012

AGENDA ITEM F
OCTOBER 24, 2012

GENERAL MANAGER'S REPORT

ITEM

Standing report to your Honorable Board -- *Period covered by this report is October 6, 2012 through October 19, 2012.*

DISTRICT BUSINESS

Administrative

- Issued Work Orders for Corrpro Companies to provide annual maintenance program for District water storage tanks.
- Provided verification of water service and fire-hydrant readiness for customer at 735 Sandydale Drive in support of an addition.
- Refunded Tract 2650 deposit for suspended District connection fee phasing program.
- On October 11, General Manager and Finance Director attended a webinar on public employee pension reform – Assembly Bill 340. Presentation slides from the training are provided in Attachment A.
- An overview of public employee pension reform by the law firm Best Best, & Krieger is provided in Attachment B.

Water/Wastewater News of Interest

- County rain gauge reports for area gauges are provided – See Attachment C.
- Twitchell Reservoir storage capacity summary is provided – See Attachment D.
- CSDA e-News; Top Ten Passed and Prevented Laws of 2012 – See Attachment E.
- Willow Road Extension ribbon cutting event scheduled for Friday, October 26 – See flyer Attachment F.
- Sewage to biomass plant in trouble – Attachment G.
- Monterey County desal struggles continue – Attachment H.
- State Water Resources Control Board postpones vote to amend Recycled Water Policy – Attachment I.
- City of SLO faces fines over water and environmental regulation compliance – Attachment J.
- USEPA releases a smartphone application to check waterway health – Attachment K.
- New EIR ordered for proposed Monterey Peninsula water supply – Attachment L.

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Connection Report

(No change since last report)

Nipomo Community Services District
Water and Sewer Connections

End of Month Report 2012

	Dec-11	JAN-12	FEB-12	MAR-12	APR-12	MAY-12	JUN-12	JUL-12	AUG-12
Water Connections (Total)	4232	4232	4239	4239	4239	4240	4240	4244	4244
Sewer Connections (Total)	3022	3022	3035	3035	3035	3036	3036	3040	3040
Meters turned off (Non-payment)	23	28	22	18	28	13	39	16	20
Meters off (Vacant)	62	64	62	64	68	67	63	60	65
Sewer Connections off (Vacant)	20	24	22	22	27	28	25	23	25
New Water Connections	0	0	7	0	0	1	0	4	0
New Sewer Connection	0	0	13	0	0	1	0	4	0
Galaxy & PSHH at Orchard and Division Sewer Connections billed to the County	460	460	460	460	460	460	460	461	461

Meetings

Meetings attended:

- *October 11, Pension reform webinar*
- *October 12, Lunch with Operations staff*
- *October 11, Management coordination*
- *October 15, Board Officers*
- *October 17, Phillips 66 management*
- *October 17, County Planning staff*

Meetings Scheduled:

- October 25, Conservation Committee
- October 26, Public Information Assistant candidate
- October 26, City of Santa Maria Utilities Director with SWAEC, sub-committee
- October 26, Willow Road Extension ribbon cutting.

Safety Program

No accidents or injuries to report.

RECOMMENDATION

Staff seeks direction and input from your Honorable Board

ATTACHMENTS

A. Pension reform webinar presentation
B. BB&K overview of pension reform
C. Nipomo area rain gauge data
D. Twitchell Reservoir data
E. CSDA e-News
F. Willow Road Extension flyer
G. October 16, 2012, SlurryCarb? article
H. October 16, 2012, Monterey County desal article

I. October 16, 2012, SWRCB article
J. October 18, 2012, City of SLO fines article
K. October 18, 2012, USEPA water application
L. October 12, 2012, New EIR for Monterey Peninsula water project article

OCTOBER 24, 2012

ITEM F

ATTACHMENT A

CSDA, BB&K and CALPERS Pension Reform Webinar

Isabel C. Safie, Best Best & Krieger LLP
Danny Brown, CalPERS
David Lamoureux, CalPERS

October 11, 2012

What is AB 340?

- Relevant Dates
  - Adopted by Legislature – August 31, 2012
  - Signed by Governor – September 12, 2012
  - Takes Effect - January 1, 2013
- Pension reform consists of California Public Employees' Pension Reform Act ("PEPRA") and amendments to PERL, 1937 Act, TRL, LRL and JRS
- PEPRA applies to all state and local public retirement systems and their participating employers

Who is a New Member?

- The term new member refers to:
  - An individual who has never been a member of any public retirement system prior to January 1, 2013
  - If a member of any public retirement system prior to January 1, 2013, not subject to reciprocity
  - An individual who moved between public retirement systems or between public employers within a public retirement system after more than a 6 month break in service

Definitions

- New Employee
  - Never been employed by a public employer prior to January 1, 2013
  - If so employed, not subject to reciprocity
- Public Retirement System
  - Pension or retirement system of a public employer, including an independent retirement plan
- Public Employer
  - State and state entities
  - Political subdivision
  - Instrumentality of the State or political subdivision

Additional Definitions

- What is the normal cost?
  - Portion of the present value of projected benefits attributable to the current year of service
- What is the normal cost rate?
  - Normal cost expressed as a percentage of payroll
  - It is not the required employer contribution
  - It is not the normal member contribution

Share of Costs

New Members

- Initial contribution of new members is the greater of:
  - 50% of normal cost rate of defined benefit plan; or
  - Current contribution rate of similarly situated employees
- Public employer cannot pay any part of the required new member contribution
  - EPMC not available for new members

Share of Costs

New Members

- Impaired contract exception
- Adjustment of initial contribution rate
- Employee contributions can be more than 50% of the normal cost rate if:
  - Agreed to through collective bargaining
  - Uniform with non-represented employees in same membership classification
  - Cannot use impasse procedures

Share of Costs

Current Members

- AB 340 amends PERL to add Section 20516.5
- Establishes a two prong standard
  - Current members pay at least 50% of normal costs
  - Public employer cannot pay any part of the required current member contribution
- Permissive statute, not mandatory

Share of Costs

Current Members

- As of January 1, 2018
  - Public employer may require that current members pay 50% of normal cost subject to certain limitations
  - For represented employees the bargaining process must be completed before implementing these changes
  - Not operative if public employer and current members entered into cost sharing arrangement under Section 20516
- Before January 1, 2018
  - Current Section 20691 authorizes a contracting agency to reduce or eliminate the EPMC
  - Collective bargaining

Required Retirement Formulas

- Applies to new members only
- Single misc. formula of 2% @ 62 and 3 safety formulas

Required Retirement Formulas

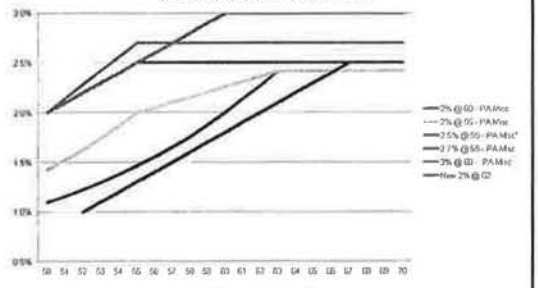
- Employees hired on or after January 1, 2013 but not new members
  - Formula in effect for similarly situated employees hired before December 31, 2012
- Exceptions to Retirement Formulas
  - Lower retirement formula
  - Defined contribution plan in lieu of defined benefit
  - May not be practical for CalPERS employers

Total Normal Cost – Miscellaneous Plans

Benefit Formula	Low	Median	High	Employee Contribution
2% at Age 60	13.9%	13.9%	15.9%	7%
2% at Age 55	15.6%	16.1%	18.8%	7%
2.5% at Age 55	17.8%	18.3%	20.4%	8%
2.7% at Age 55	15.0%	19.7%	22.5%	6%
3% at Age 60	19.5%	20.2%	22.4%	8%
2% at Age 62		12%		Varies

New Retirement Formulas

Miscellaneous Formulas

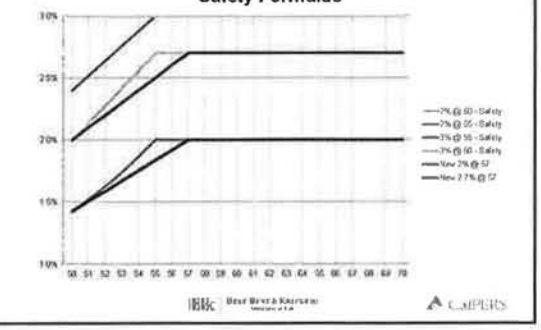


Total Normal Cost – Safety Plans

Benefit Formula	Low	Median	High	Employee Contribution
2% at Age 55	20.7%	20.7%	22.6%	7%
2% at Age 50	24.3%	24.3%	28.5%	9%
3% at Age 55	26.4%	27.3%	31.0%	9%
3% at Age 50	28.7%	29.6%	37.3%	9%
2% at Age 57		17%		Varies
2.7% at Age 57		21%		Varies

New Retirement Formulas

Safety Formulas



Pooled Plans

- New tier = new plan (two separate rates)
- Ultimate savings = difference in pool normal cost and surcharges
- Immediate cost change includes pool's UAL cost
- No side fund for second tier
- Increasing side fund rate for first tier

Non-Pooled Plan

- New tier = part of same plan (one combined rate)
- Ultimate savings = difference in normal cost
- ER Rate will trend down over time

Supplemental Defined Benefit Plans

- PEPRA prohibits the use of supplemental defined benefit plans
  - What is it?
  - Public employer cannot establish after 2012
  - Employees hired on or after cannot participate in plan in existence before 2013
  - Current employees may continue to participate in existing plan, but coverage cannot be extended to members of employee group not covered before 2013

Health Benefits

- Vesting schedule for retiree health coverage must not be discriminatory
  - May not be more generous for elected or appointed officials, unrepresented employees or managers than for all other employees
  - PEMHA provision of health benefits only refers to "health benefit vested schedule"
  - Applied on the basis of related retirement membership classifications

Employment of Retirees

- PEPRA supersedes if it conflicts with other laws
- Existing PERL restrictions (amended by AB 1028 and SB 1021)
  - Section 21221(h)
  - Section 21224
- PEPRA restrictions apply within public retirement system only
- PEPRA rule similar in some ways to Section 21224
  - Limited circumstances for appointment
  - 960 hour limit for all employers in public retirement system
  - Rate of pay is not less than nor more than amount paid by public employer to employees performing comparable duties
  - Rate of pay converted to hourly rate (divided by 173.333)

Employment of Retirees

- New or expanded limitations under PEPRA
  - 180 day sit out period unless:
    - Employer certification and governing body approval; or
    - Retiree is a safety employee
  - If retiree received a retirement incentive, the sit out period is compulsory, no exceptions
  - Broader limitation if retiree received unemployment benefits during preceding 12 months
- Where PERL rules are more restrictive
  - Section 21221(h) – vacant position, single appointment, compensation limited to base pay
  - Section 21224 – compensation limited to base pay

Cap on Pensionable Compensation

- Applies to new members only
- Pensionable Compensation Limits
  - Social security wage base if covered by Social Security
  - If not, 120% of Social Security wage base
  - Subject to annual adjustment

Cap on Pensionable Compensation

- Applicable whenever used to calculate benefits, including retirement, disability and survivor benefits
- Public employer may not offer a defined benefit on compensation in excess of the foregoing limits
- 401(a) plan can provide contribution based on compensation in excess of pensionable compensation
  - Contribution rate above cap cannot exceed rate below it

Anti-Spiking Provisions

- Limits on pensionable compensation
  - Adopts PERL definition of "payrate"
  - New member pensionable compensation limited to regular, recurring pay
  - New member pensionable compensation excludes certain items of compensation otherwise considered special compensation for current members
- Final compensation period
  - New member final compensation based on retiree's highest 3 year average pensionable compensation
  - Current members subject to 3 year average cannot change to single year highest compensation period after 2012

Other Pension Reform Measures

- Expanded list of felonies causing forfeiture of retirement benefits
  - Applies to all public employees and appointed officials
- Retroactive benefit enhancements prohibited
- Purchase of air time eliminated
  - All members cannot purchase after 2012
  - Current members can purchase if they submit a valid application before 2013
  - Purchase of service-related credit is still permitted
- Pension Funding Holidays Prohibited
  - Normal cost for each year must be contributed

Final Note on Pension Reform

- No reduction in existing unfunded liability
- Small savings in the short term
- Takes time for any material savings to appear (depends on turnover)

Q & A

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Thank You

- For more information visit:
  www.csda.net/grassroots
  www.calpers.ca.gov

This webinar is provided for general information only and is not offered or intended as legal advice. Attendees should seek the advice of an attorney when confronted with legal issues and attorneys should perform an independent evaluation of the issues raised in this webinar.

OCTOBER 24, 2012

ITEM F

ATTACHMENT B

AN OVERVIEW OF THE CALIFORNIA PUBLIC EMPLOYEES' PENSION REFORM ACT AND OTHER PENSION REFORM MEASURES

INTRODUCTION

On the last day of the 2012 legislative session, the California Legislature adopted Assembly Bill 340 ("AB 340") – comprehensive state-wide pension reform unlike anything seen before in California, or anywhere in the nation. AB 340, which goes into effect on January 1, 2013, amends various provisions of the Public Employees' Retirement Law ("PERL"), Teachers' Retirement Law ("TRL") and County Employees' Retirement Law of 1937 ("CERL"). However, the centerpiece of AB 340 is the California Public Employees' Pension Reform Act ("Act").

The extent to which AB 340 will affect your agency will vary based on the retirement system in which your agency participates, or the provisions of your retirement plan if your agency has adopted a stand alone plan. It will also depend on the terms of any contract covering retirement benefits, including memoranda of understanding, personnel policies or employment contracts. **This summary will provide a general overview of the changes enacted by AB 340 so that you may identify provisions that may affect your agency.**

The Act applies to nearly all public employers in California. However, the U.C. system, charter cities and charter counties are exempt unless these entities participate in retirement systems governed by state statute (e.g., CalPERS, CalSTRS or county plans adopted pursuant to CERL). Accordingly, the framework of this summary will be based on the various pension reforms contained in the Act, as they apply to nearly all public employers with the exceptions stated above. Where specific changes have been made by AB 340 to PERL, TRL or CERL, those will be discussed separately in the application sections. However, unless stated otherwise, the general discussion of the Act's provisions will apply to those retirement systems as well.

This summary covers **key provisions of AB 340 that will be of interest to local public agencies, including counties, cities, special districts and school districts.** Accordingly, this summary will not cover those provisions that cover State employees, the Judges' Retirement System II or the Legislators' Retirement System.

This summary will provide an overview of the following ten pension reform measures: (1) equal sharing of the annual normal cost of benefits; (2) compulsory reduced retirement formulas and increased retirement ages; (3) limitations on pensionable compensation; (4) anti-spiking provisions; (5) limitations on post-retirement employment; (6) forfeiture of pension benefits upon the conviction of certain felonies; (7) equal health benefits; (8) prohibition of pension funding holidays; (9) final compensation for local elective or appointive office; and (10) improved industrial disability retirement benefit.

While some of these pension reform measures will apply to all employees, **most will only apply to what the Act refers to as new members.** The term "new member" means: (1) an individual who has never been a member of any public retirement system prior to January 1, 2013; (2) an individual who was a member of any other public retirement system prior to January 1, 2013 but was not subject to reciprocity; or (3) an individual who was an active member in a retirement system who returns to active membership in that same system with a new employer after a more than six month break in service.

OVERVIEW OF PENSION REFORM MEASURES

1. SHARING OF NORMAL COST

The Act requires that new members pay at least 50 percent of the annual normal cost rate for the defined benefit plan or the current contribution rate of similarly situated employees, whichever is greater ("Shared Cost"). The term "normal cost rate" means the annual actuarially determined normal cost for the defined benefit plan of an employer expressed as a percentage of payroll. The term "normal cost" is defined as the portion of the present value of projected benefits attributable to the current year of service, as determined by the plan's actuary according to the most recently completed valuation. Thus, the Act does not require that new members pay any share of the cost attributable to unfunded liabilities. As a result, in most cases, the new members' Shared Cost will not exceed the employee contribution rate that their respective retirement systems have established.

The Act specifically prohibits employers from paying any part of this required employee contribution. This means that any current arrangement that provides for the employer to pay any portion of the Shared Cost will have to be eliminated for new members. In addition, the Act provides that employee contributions can exceed 50 percent of the annual normal cost rate if the agreement is reached pursuant to a collectively bargained agreement subject to additional requirements.

The imposition of this requirement is delayed to the extent that imposing the Shared Cost on a new member would impair a contract in effect on January 1, 2013, including a memorandum of understanding. However, the Shared Cost requirement will apply upon termination of the contract or a renewal, amendment or extension of the same.

Changes to PERL. Newly added Government Code Section 20516.5 extends the Act's requirement that new members must pay the Shared Cost, to all members of CalPERS but does so only as a standard. That is, although new members of CalPERS must pay the Shared Cost in accordance with the Act, current members of CalPERS and their employers are encouraged to negotiate the shared cost of the normal cost of benefits through collective bargaining. However, if this is not accomplished through negotiations prior to January 1, 2018, the employer may, but is not required to, impose a shared cost through the impasse process subject to applicable maximum amounts. It appears that the employer may impose the shared cost for unrepresented employees by simply adopting a resolution that rescinds any existing resolution providing for the employer paid member contribution. Further, while Section 20516.5 only refers to sharing the normal cost, unlike the Act which refers to the greater of 50 percent of the normal cost or the required employee contribution rate, it appears that CalPERS is interpreting Section 20516.5 to be consistent with the Act.

AB 340 also amends Government Code Section 20516, which allows employers and employees to agree to share the cost of the required employer contribution. In addition to clarifying that cost-sharing may be with respect to any benefit, not just optional benefits, the amendments made by AB 340 also permit cost-sharing to be implemented by bargaining group, rather than membership classification, even if done pursuant to an amendment to the employer's CalPERS contract. The amendments also retain the option to share the employer's cost of providing retirement benefits pursuant to a memorandum of understanding without an amendment to the employer's CalPERS contract.

Changes to CERL. Government Code Section 31631.5 is added to provide that, as of January 1, 2018, a board of supervisors or the governing body of a district may require that members pay 50 percent of the normal cost of benefits, subject to certain limitations so long as the contributions are uniform by bargaining group or retirement classification. However, before any changes are implemented for represented employees, the public employer must complete the good faith bargaining process. In addition, Government Code Section 31631 is added to allow a board of supervisors or the governing body of a district, without a change in benefits, to require that members pay all or part of the contributions of a member or employer, or both, for retirement benefits. For employees represented in a bargaining unit this requirement may only be implement if approved in a memorandum of understanding. New members, however, must pay the Shared Cost as described in the general discussion above.

> ***BB&K Insight:*** *While the amendments made to PERL and CERL extend the standard that employees pay at least 50 percent of the normal cost of benefits to current employees, at the option of the employer subject to any collective bargaining rights, neither the Act nor the boarder provisions of AB 340 appear to apply a similar standard to the current employees of employers sponsoring a retirement plan under any other system or as a stand alone plan. Thus, whether an employer may impose an employee share with respect to current employees will depend on the terms of the retirement plan. For example, CalSTRS permits an employer to pay all or any portion of the required employee contribution pursuant to Education Code Section 22909 but permits the employer to eliminate this benefit thus transferring the full share of the employee contribution back to the employee, subject to collective bargaining rights.*

2. COMPULSORY REDUCED RETIREMENT FORMULAS AND INCREASED RETIREMENT AGES

The Act adopts compulsory reduced retirement formulas that must apply to new members, other than new CalSTRS members, unless the employer has a lower retirement benefit or defined contribution alternative in place as of January 1, 2013.

For non-safety employees, the Act adopts a single formula equal to 2 percent at age 62. Early retirement is possible at age 52 but with an actuarially adjusted retirement formula equal to 1 percent at age 52. The formula encourages later retirement by providing a maximum benefit factor at age 67 equal to 2.5 percent.

The Act creates three new mandatory retirement formulas for safety employees with a normal retirement age of 50 and a maximum benefit attainable at age 57: (a) the Basic Safety Plan formula is equal to 2 percent at age 57 with 1.426 percent at age 50; (b) the Safety Option Plan One formula is equal to 2.5 percent at age 57 with 2 percent at age 50; and (c) the Safety Option Plan Two formula is equal to 2.7 percent at age 57 with 2 percent at age 50. The 3 percent formulas are eliminated for new members. The employer does not have the choice of one of the preceding three formulas. Rather, the applicable formula is the formula that is closest to, and provides a lower benefit at 55 years of age, than the formula provided to employees in the same retirement classification offered by the employer on December 31, 2012. However, employers and employees in the Safety Option Plan One or Two formulas could agree in a memorandum of understanding to be subject to a lower plan option subject to other requirements.

BB&K Insight: *Unlike the temporary exemption from the requirement that new members pay the Shared Cost for contracts that would be impaired by such a requirement, the Act does not create a similar exemption from the compulsory retirement formulas. We believe that this omission was deliberate in order to preclude a vested rights argument from being raised by new members who would otherwise be eligible for a presumably higher retirement formula if the compulsory retirement formula provision included a temporary exemption similar to the Shared Cost exemption.*

The preceding formulas are compulsory for new members subject to two exceptions. First, if an employer has a lower retirement formula at normal retirement age with a lower normal cost than the applicable compulsory formula in effect before January 1, 2013, the employer may continue to offer the lower retirement formula. In such a case, the compensation subject to that lower retirement formula will not be subject to Pensionable Compensation Limits (defined below). Second, if an employer has a retirement plan consisting solely of a defined contribution plan in effect before January 1, 2013, the employer may continue to offer the defined contribution plan rather than the compulsory formulas. However, if the employer adopts a new benefit formula or a defined benefit plan in lieu of the defined contribution plan, the new benefit formula must comply with the compulsory formula provisions unless the alternative formula is certified to have no greater risk or cost than the compulsory formulas and is approved by the Legislature.

BB&K Insight: *The requirement that the Legislature approve a defined benefit formula, other than the compulsory formulas, which is adopted on or after January 1, 2013 will not impact employers participating in retirement systems administered by someone other than the employer (e.g., CalPERS, CalSTRS, SBCERA, etc.) since the employer is restricted to the retirement formulas offered by those systems. However, stand alone defined benefit plans, other than those adopted by charter counties or cities, may be subject to this requirement to the extent that they do not offer the applicable compulsory formula or they do not fall under one of the preceding exceptions. However, there are currently no guidelines on what the approval process will entail.*

Changes to TRL. For new CalSTRS members first hired on or after January 1, 2013, early retirement age remains at 55 years of age, but normal retirement age has been increased to 62 years of age. These members will receive a retirement benefit consisting of an annual allowance paid in monthly installments. The benefit is calculated using a formula that begins at 2 percent at 62 years of age and maxes out at 2.4 percent at 65 years of age. The new formula essentially requires new members to work an additional two years to receive the benefits of current members. The benefits for members who retire after reaching early retirement age but before reaching normal retirement age will be calculated using a reduced percentage.

3. LIMITATIONS ON PENSIONABLE COMPENSATION

The Act imposes several limitations on the determination of the pensionable compensation of new members, i.e., the compensation used to determine the contributions to the defined benefit plan and to calculate retirement benefits.

Compensation used in calculating the defined benefits of a new member is limited to 100 percent of the social security wage base, $110,100 for 2012, or 120 percent of the social security wage base for new members not covered by social security ("Pensionable Compensation Limits"). The Pensionable Compensation Limits will be adjusted following each actuarial valuation based on changes to the consumer price index for all urban consumers. Further, an employer is precluded from offering new members a defined benefit or any combination of defined benefits on compensation in excess of the Pensionable Compensation Limits. Despite the foregoing, the employer may provide a contribution to a defined contribution plan based on compensation in excess of the foregoing limits if the plan and contributions meet the requirements and limits of federal law and do not exceed certain limits.

The Act also requires that the calculation of retirement benefits of new members be based on regular, recurring pay. For that purpose, pensionable compensation (i.e., "compensation earnable" under CalPERS or "creditable compensation" under CalSTRS) of a new member is defined as the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to a publicly available pay schedule. The Act also excludes various payments from being considered pensionable compensation including compensation deemed to have been paid to increase retirement benefits, cash in lieu of in-kind benefits (e.g., health benefits), any one-time or ad-hoc payments, severance payments received while employed, payments for unused leave regardless of when reported or paid, payments for additional services rendered outside of normal working hours, any employer provided allowance, reimbursement or payment, including but not limited to, one made for housing, vehicle or uniforms, compensation for overtime work, except Section 207(k) overtime, employer contributions to deferred compensation or defined contribution plans, and any bonuses. The Act also includes a catch-all provision that permits the retirement system board to exclude any other compensation that is deemed to be inconsistent with the definition of pensionable compensation. Thus, for new members (with some exceptions for new members in a plan subject to CERL), the Act excludes essentially all but the new members' base pay.

> ***BB&K Insight:*** *The Act requires that pensionable compensation be paid pursuant to a publicly available pay schedule. This term is well known by CalPERS employers since CalPERS adopted a regulation defining the term on August 1, 2011. While the Act does not impose these requirements on non-CalPERS employers, it is prudent for all employers to comply with said requirements to ensure that a new member's base pay is considered pensionable compensation. These requirements are found under Regulation Section 570.5 of Title 2 of the California Code of Regulations and provide that compensation is reportable if it is listed on a pay schedule that meets all of the following requirements: (i) has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws; (ii) identifies the position title for every employee position; (iii) shows the payrate for each identified position, which may be stated as a single amount or as multiple amounts within a range; (iv) indicates the time base; (v) is posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's website; (vi) indicates an effective date and date of any revisions; (vii) is retained by the employer and available for public inspection for not less than five years; and (viii) does not reference another document in lieu of disclosing the payrate.*

Changes to CERL. AB 340, as amended by AB 197, clarifies what is considered compensation earnable. Section 31461 of the Government Code now includes specific examples of items that are not considered compensation earnable. For example, any one-time or ad hoc payments made to members, but not to all similarly situated members in the member's grade or class, are not compensation earnable. Similarly, payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, paid in any manner in an amount that exceeds what is earned and payable in each 12-month period during the final average salary period, regardless of when reported or paid, are not compensation earnable. Any payment made solely due to the termination of employment, but received while the member is employed, are not considered compensation earnable unless the payments do not exceed what is earned and payable in each 12-month period during the final average salary period, regardless of when reported or paid. Payments for additional services rendered outside normal working hours and certain payments made at the termination of employment are also not considered compensation earnable.

In addition, Section 31542 of the Government Code now requires that the retirement system board establish a procedure to determine whether compensation was paid to enhance a member's retirement benefit. The member or employer may present evidence that compensation was not paid for such purpose and may seek judicial review of the board's final determination. Further, when reporting compensation to the board, counties and districts are now required to identify the pay period when it was earned, regardless of when paid. If the retirement system board determines that the county or district knowingly failed to comply with this requirement, it may assess penalties. Finally, changes made by AB 340 to CERL now permit a retirement system board to audit a county or district in order to determine whether retirement benefits, reportable compensation, enrollment in, and reinstatement to, the system have been handled correctly.

Changes to PERL. AB 340 includes a provision to hold contracting agencies liable for the unfunded liability attributable to excess compensation paid by the contracting agency. Specifically, newly added Government Code Section 20791 requires that CalPERS develop requirements for defining a significant increase in actuarial liability due to increased compensation paid to a nonrepresented employee. Further, the Board is tasked with implementing changes to ensure that contracting agencies creating such liabilities bear the related costs through adjusted employer rates. This requirement will apply to any significant increase in actuarial liability due to increased compensation paid to a nonrepresented employee that is determined after January 1, 2013, regardless of when the increase in compensation occurred. CalPERS has stated that it is unlikely that it will have sufficient time to promulgate the necessary regulations to implement this provision by January 1, 2013.

4. ANTI-SPIKING PROVISIONS

In order to prevent the spiking of retirement benefits, the Act implements several requirements or prohibitions that apply to new members and, in some cases, to the future accrual of retirement benefits of current members.

Extended Final Compensation Period. Most significantly, for new members, final compensation will be determined using the highest three-year (or three school years for new CalSTRS members) average of pensionable compensation. In addition, the Act appears to prohibit changing the final compensation period for current members to less than a three-year period, if such members were subject to the three-year final compensation period prior to January 1, 2013.

Prohibits Retroactive Retirement Benefit Enhancements. The Act prohibits employers from granting retroactive retirement benefit enhancements adopted on or after January 1, 2013 to both current and new members. It also provides that if a change in position or membership classification results in a greater retirement benefit, the greater benefit can only apply to future service. However, an increase in a retiree's annual COLA within existing statutory limits is not considered an enhancement to a retirement benefit.

Purchase of "Air-Time" Prohibited. The Act prohibits any member, current or new, from purchasing nonqualified service credit, commonly known as "air-time" (i.e., credit for service which does not correspond to any service actually performed), after January 1, 2013 unless the member's application for the purchase of "air time" is received by the retirement system before January 1, 2013.

Prohibits Replacement Benefits Plans. The Act prohibits an employer from offering a plan of replacement benefits for any new member that is subject to the benefit limitations of Section 415(b) of the Internal Revenue Code. Section 415(b) limits the annual benefit a member can receive at the social security retirement age. This limit is adjusted annually for inflation and varies depending on the age of the member at retirement, among other factors. In 2012, the Section 415(b) limit is $200,000. However, a retirement system may continue to administer a replacement benefit plan for employees first hired prior to January 1, 2013. To the extent that an employer would administer its own replacement benefits plan, and fails to offer such a plan prior to January 1, 2013, the employer may not establish such a plan for any employee. Finally, if the employer has a replacement benefits plan in place before January 1, 2013, it cannot offer the plan to any employee group that was not already covered prior to January 1, 2013.

Eliminates Supplemental Defined Benefit Plans. Unless an employer already offers a supplemental defined benefit plan prior to January 1, 2013, the employer may not offer a supplemental defined benefit plan to any employee on or after January 1, 2013. Further, even if an employer has a supplemental defined benefit plan in place prior to January 1, 2013, the employer cannot offer the plan to any employee group that was not already covered prior to January 1, 2013 and, with the exception of the CalSTRS Defined Benefit Supplemental Plan, cannot offer the existing supplemental defined benefit plan to any employee hired on or after January 1, 2013.

> ***BB&K Insight:*** *New members may not participate in existing supplemental defined benefit plans, including PARS plans, adopted by their employer prior to January 1, 2013. As a result, supplemental plans, usually adopted for the purpose of enhancing an employee's retirement benefit, will be adversely affected by the Act to the extent that such plans depend on the contributions of new members to fund the benefits of retired members.*

5. LIMITATIONS ON POST-RETIREMENT EMPLOYMENT

The Act extends the restrictions contained in Government Code Sections 21221 and 21224, applicable to CalPERS retirees, to retirees of all public retirement systems with certain exceptions for CalSTRS retirees. It also adopts additional restrictions not contained in the CalPERS limitations and provides that the restrictions contained in the Act supersede any other law that is in conflict with these restrictions.

It provides that a retiree may not be employed by an employer in the same retirement system from which the retiree receives benefits without reinstatement except as otherwise permitted. Thus, the restrictions on the employment of a retiree apply on a retirement system by retirement system basis. In other words, a retiree receiving benefits from CalPERS only that works for an SBCERA employer will not be subject to these restrictions.

The Act provides for a limited exception from the restriction on reemployment without reinstatement in the event that a retiree is appointed by the appointing power of an employer either during an emergency to prevent stoppage of public business or because the retiree has skills needed to perform work of limited duration. However, these appointments cannot exceed a total of 960 hours in a year. Further, the rate of pay cannot be less or more than what is paid by the employer to other employees performing similar duties. The Act precludes employment of a retiree if the retiree received unemployment benefits during the preceding 12 month period attributable to prior employment subject to these restrictions.

A significant new restriction not found in PERL is a 180 day sit out period. The waiting period is mandatory if the retiree accepted a retirement incentive. Otherwise, an exception may apply in the following two circumstances: (a) the employer certifies that the appointment is necessary to fill a critically needed position before 180 days have passed and the appointment is approved by the governing body in a public meeting; or (b) the retiree is a public safety officer or firefighter.

> ***BB&K Insight***: *Any appointments made prior to January 1, 2013, including those made in accordance with Government Code Sections 21221(h) or 21224, applicable to CalPERS retirees, will not be subject to the 180 day sit out period.*

Changes to TRL. CalSTRS members will not be required to reinstate for performing certain retired member activities. Generally, the term "retired member activities" means an activity or activities considered "creditable service" within the California public school system that are performed by a member retired for service as an employee of an employer, an independent contractor or, subject to certain exceptions, as an employee of a third party.

Members retired for service performing retired member activities may not be paid less than the minimum nor more than the amount received by other employees performing comparable duties. In any one school year, a member retired for service may generally earn up to an amount, calculated by the CalSTRS board each July 1, equal to one-half of the median final compensation of all members who retired for service during the fiscal year ending in the previous calendar year without a reduction in retirement allowance. Generally, if a member retired for service earns compensation for retired member activities in excess of this limitation, his or her retirement allowance will be reduced by the amount of the excess compensation.

Notwithstanding the preceding limitations, generally no post-retirement compensation may be earned during the first 180 days following a member's most recent retirement for service or during the first six consecutive months after the most recent retirement if the member received additional service credit or any financial inducement to retire from a public employer. If any compensation is earned for retirement member activities during the preceding periods, the member's retirement allowance will be reduced by the amount of such compensation. An exemption, however, may be granted under certain circumstances.

6. FORFEITURE OF PENSION BENEFITS UPON CONVICTION OF CERTAIN FELONIES

Current Government Code Section 1243, renumbered by the Act as Government Code Section 7522.70, will continue to require the forfeiture of pension rights if an elected public officer is convicted, during or after holding office, of any felony that involves accepting or giving, or offering to give any bribe, the embezzlement, extortion or theft of public money, perjury or conspiracy to commit any of the foregoing arising directly out of his or her official duties as an elected public officer. However, Section 7522.70 will not apply on or after January 1, 2013 in situations where Government Code Sections 7522.72 or 7522.74 apply.

Government Code Sections 7522.72 and 7522.74 apply to all current and future public employees and appointed officials, in addition to elected officials ("Public Employees"), and expands the list of felonies covered to the following:

a. A felony for conduct arising out of or in the performance of the public employee's official duties, in pursuit of the office or appointment, or in connection with obtaining salary, disability retirement, service retirement or other benefits; and

b. A felony that was committed within the scope of a public employee's official duties against or involving a child who he or she has contact with as part of his or her official duties.

Public employees convicted of any of the foregoing felonies will forfeit all accrued rights and benefits, as of the earliest date of the commission of the felony to the date of forfeiture, in any public retirement system and will not accrue further benefits effective on the date of the conviction.

7. EQUAL HEALTH BENEFITS

Although AB 340 does not impose any restrictions with respect to the provision of retiree health benefits, it does state that an employer may not provide a more generous health benefit or health benefit "vesting schedule" to an elected or appointed official, trustee, unrepresented employee, employee exempt from civil service, or a manager than that which is provided to other employees in related retirement membership classifications, including represented employees.

8. PROHIBITION ON PENSION FUNDING HOLIDAYS

The Act provides that an employer's contribution to a defined benefit plan, in combination with employee contributions, cannot be less than the total annual normal cost – portion of the present value of projected benefits attributable to the current year of service – for the plan year. However, the retirement board may suspend contributions in certain limited situations if certain requirements are met.

9. FINAL COMPENSATION FOR LOCAL ELECTIVE OR APPOINTIVE OFFICE

The Act requires that the final compensation of a local elected or appointed official, first elected or appointed on or after January 1, 2013, be based on the highest average annual pensionable compensation earned by the member during the period of service attributable to each elective or appointive office

10. IMPROVED INDUSTRIAL DISABILITY RETIREMENT BENEFIT

The Act provides that a safety member that qualifies for an industrial disability retirement will receive a benefit equal to the greater of the following: (a) 50 percent of final compensation plus an annuity purchased with his or her accumulated contributions; (b) a service retirement benefit, if he or she qualifies for such retirement; or (c) if not qualified for service retirement, an actuarially reduced factor for each quarter of a year that his or her service age is less than 50, multiplied by the number of years of safety service subject to the applicable formula. This provision sunsets on January 1, 2018 unless earlier terminated or extended. In effect, this change allows a safety member to receive the benefit that he or she has earned upon qualification for an industrial disability retirement rather than a lower benefit.

CONCLUSION

Public employers that have adopted individual retirement plans will need to review their plans to determine the amendments that will be necessary to comply with the Act. Public employers participating in retirement systems will need to monitor those systems to determine what actions will be necessary including, for example, amendment of their contract or applicable resolutions. All public employers will need to review employment contracts, personnel policies or manuals, and relevant resolutions to determine whether any changes will be necessary. Lastly, all public employers will need to assess how AB 340 will impact their collective bargaining process.

For questions regarding how AB 340 will impact your agency, please contact your BB&K attorney or one of the firm's Employee Benefits attorneys:

John D. Wahlin, John.Wahlin@bbklaw.com, 951-826-8313
Isabel C. Safie, Isabel.Safie@bbklaw.com, 951-826-8309
Allison De Tal, Allison.DeTal@bbklaw.com, 951-826-8420

OCTOBER 24, 2012

ITEM F

ATTACHMENT C

SLOCountyWater.org

San Luis Obispo County Water Resources

Division of Public Works

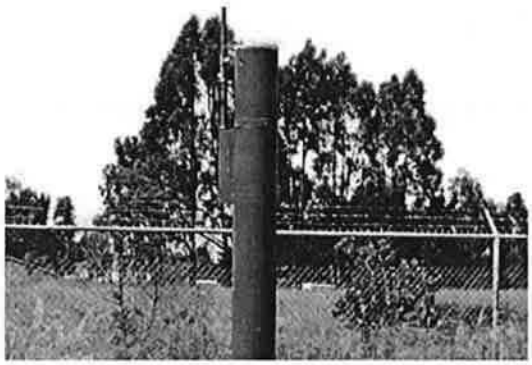
Site Information

Nipomo South (Sensor 730)

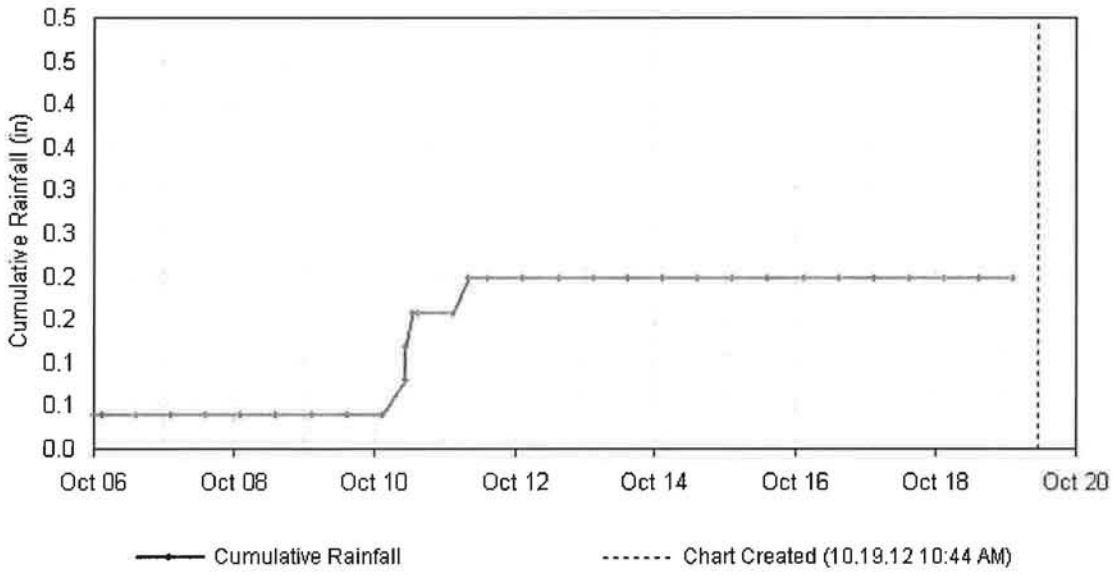
Located
- Nipomo Coummunity Service District (NCSD) equipment yard, Nipomo, CA.

Established
- July 1992

Annual Average Rainfall
- 16 inches



Rainfall



Real-Time Rainfall Data

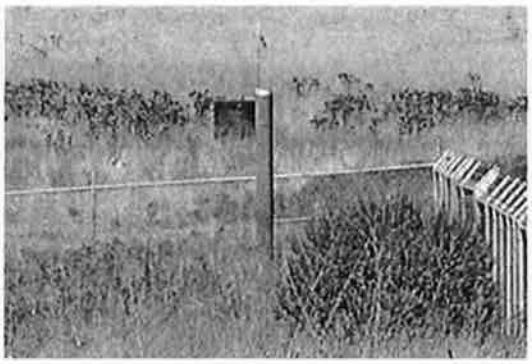
SLOCountyWater.org

San Luis Obispo County Water Resources

Division of Public Works

Site Information

Nipomo East (Sensor 728)

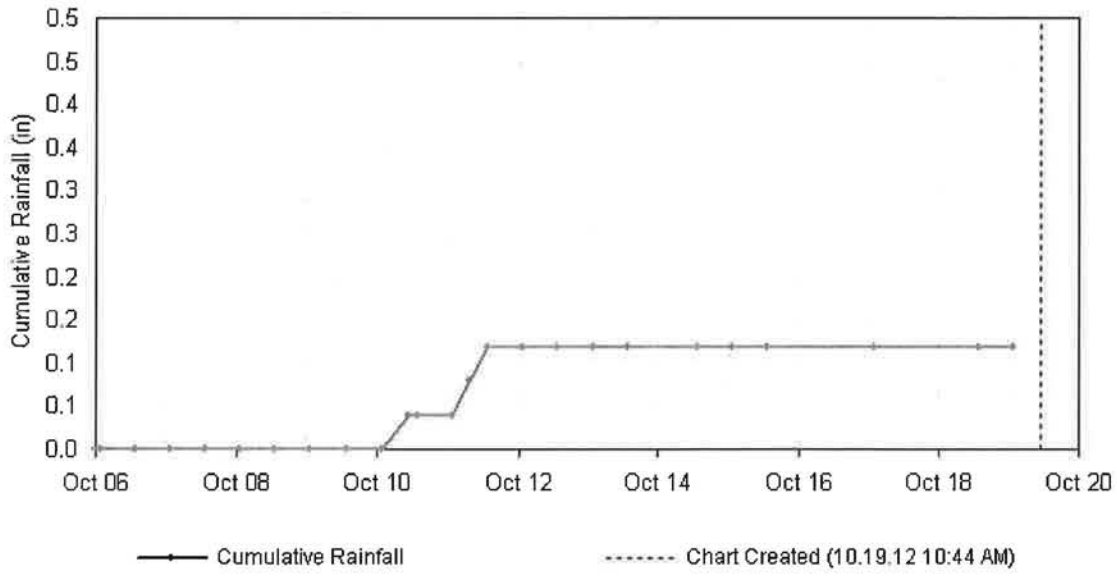


Located
- Nipomo Community Service District (NCSD) water tanks, Nipomo, CA.

Established
- November 18, 1999

Annual Average Rainfall
- 18 inches

Rainfall



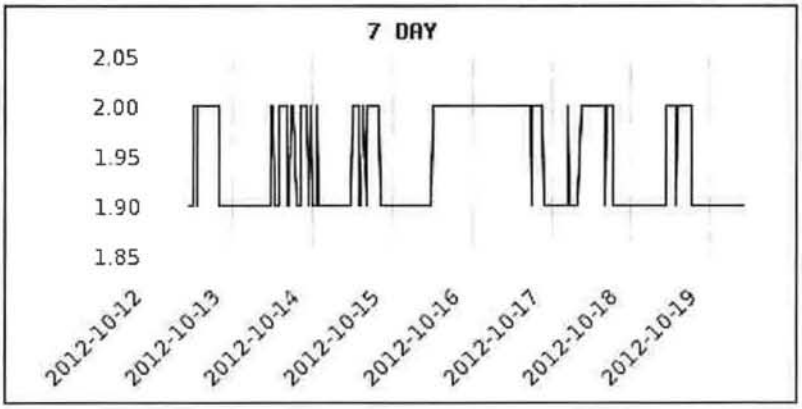
Real-Time Rainfall Data

OCTOBER 24, 2012

ITEM F

ATTACHMENT D

Twitchell Reservoir:Storage Capacity %

Site:	Twitchell Reservoir
Site ID:	598
Sensor:	Storage Capacity % (eq)
Sensor ID:	eq
Latest Report:	1.9 % 2012-10-19 10:27:55 3764 acre-feet Lake Storage Volume
7 DAY Graph	

OCTOBER 24, 2012

ITEM F

ATTACHMENT E

Top Ten: Passed and Prevented Laws of 2012

In a new series over the next ten weeks, CSDA will roll out the top ten laws passed and top ten laws prevented in 2012. Each week two bills will be highlighted in CSDA's *e-News*, one beneficial bill that was passed and one detrimental bill that was prevented from becoming law.

A short synopsis is provided to describe the positive or negative aspects for special districts and reveal the final outcome of the measures. Up first in week one of the series are Senate Bill 192 and Assembly Bill 2451. For any additional information on these pieces of legislation, please click the links below and visit the Legislative Access Services page on the CSDA website by clicking here.

#10 Signed into law:

Senate Bill 192 Validations
The Validating Acts help special districts and other public agencies because they protect investors from minor errors that might otherwise threaten local bonds, boundary changes, and other official acts. As in past years, the passage of a Validating Act in 2012 will ensure that special district bonds receive the highest possible ratings, resulting in the lowest possible borrowing costs for taxpayers and ratepayers.

Every year the Senate Governance and Finance Committee authors these important measures that allow special districts and other local agencies to more efficiently serve their local community. The passage of this validating act is not the only means of validation, but allows districts to spend more time and money on providing core public services instead of seeking individual validation through the courts.

CSDA Position: Support
Signed into Law: 9/7/12 Takes Effect: 1/1/13

#10 Prevented from becoming law:

Assembly Bill 2451 Workers' Compensation: Firefighters
This bill would have doubled the current 240 week timeline from the date of injury through the date workers' compensation benefits commence to 480 weeks for firefighters and peace officers, which had the potential to considerably drive up costs for employers. The bill allowed safety workers' beneficiaries to file a death benefits claim up to one year after the date of death, with a 480 week limit on the period of time between the employee's exposure to and presumable death from cancer, tuberculosis or blood borne pathogens.

The current standards for public safety officers already allow for employees to be fairly compensated on the basis of a disease presumption when that injury is presumed to have job causation. Additionally, the injuries that were covered in AB 2451 do not have the same close connection to work exposures as do asbestosis and HIV, which could have made it nearly impossible for employers to refute the claim.
CSDA POSITION: OPPOSE ; vetoed by Governor 9/30/12

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ITEM F

ATTACHMENT F

SAN LUIS OBISPO COUNTY
WILLOW RD EXTENSION
& HIGHWAY 101
INTERCHANGE

CALTRANS - SLOCOG

WILLOW ROAD PHASE II & INTERCHANGE WITH HIGHWAY 101 RIBBON CUTTING

AT
WILLOW ROAD AT THE HWY 101 BRIDGE, NIPOMO
FRIDAY, OCTOBER 26 AT 3:00PM

PLEASE JOIN THE COUNTY OF SAN LUIS OBISPO, CALTRANS, THE SAN LUIS OBISPO COUNCIL OF GOVERNMENTS AND STATE OFFICIALS IN CELEBRATING THIS PROJECT.

San Luis Obispo Council of Governments Executive Director	Ron De Carli
Caltrans District 5 Director	Tim Gubbins
State Assemblyman	Katcho Achadjian
San Luis Obispo County Supervisor	Paul Teixeira

San Luis Obispo Council of Governments

Caltrans

PUBLIC WORKS
SAN LUIS OBISPO COUNTY

Willow Road Phase II
Ribbon Cutting

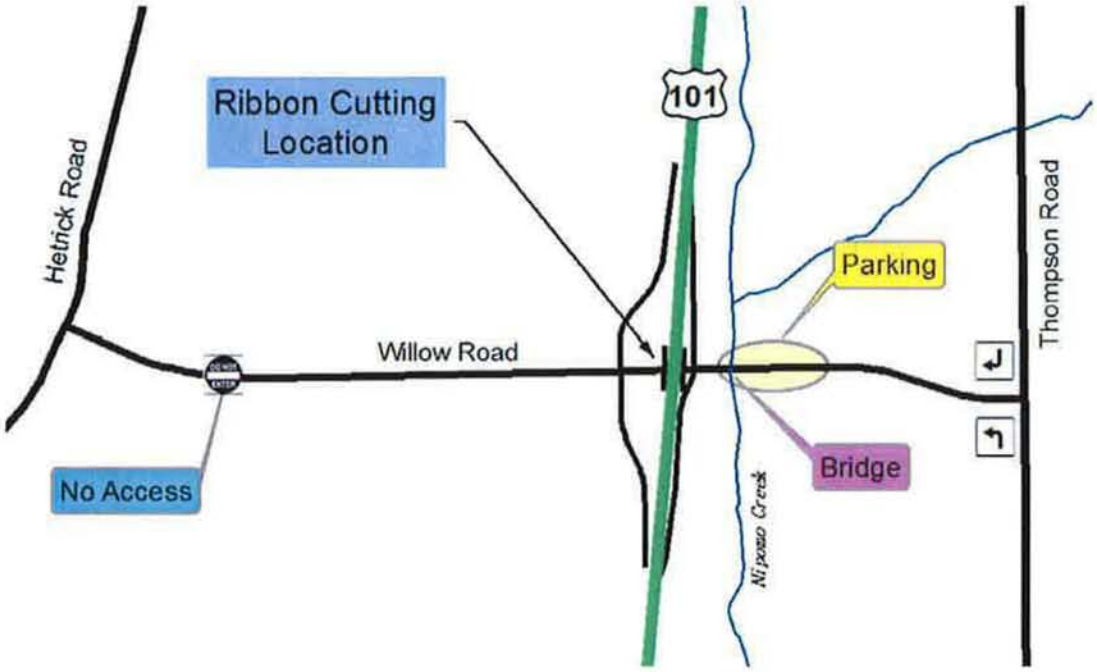
October 26, 2012
3:00 PM

Location –
Willow Road
And
Hwy 101 Interchange Bridges

Ribbon Cutting

Soap Box Derby Race

Reception
At the Red Barn after the Race
(Pomeroy Road and Willow Road)



Enter Off Thompson Avenue
Park near the Nipomo Creek Bridge

OCTOBER 24, 2012

ITEM F

ATTACHMENT G

SlurryCarb? Inland Empire Sewage-to-Biomass Plant In Deep Trouble

by Chris Clarke, Rewire, kcet.org
October 16, 2012 6:00 PM

A plant that once won environmentalist acclaim for converting sewage sludge into renewable energy may be put up for auction if buyers don't come forward, according to a consultant working with the plant's owners to liquidate the facility. The plant was shut down by its owners this year after production problems caused local sanitary agencies to void their contracts.

"They're out of business," Geoffrey Berman told Reuters. Berman, a vice president at the Los Angeles office of Development Specialists, is working with EnerTech to liquidate the company.

The Rialto Regional Biosolids Processing Facility was intended to turn sewage sludge from the Orange County Sanitary District (OCSD) and other local sanitary agencies into what EnerTech called "SlurryCarb," a biomass fuel to replace coal used by local cement kilns. When it launched the facility in 2008, EnerTech was flush with cash: the project received $4,050,000 from bonds issued by the California Statewide Communities Development Authority in 2007, along with an influx of capital from investors such as HDR, FILANC, North American Energy Services, Deutsche Bank, and Lehman Brothers.

EnerTech hyped the facility as being able to process more than 800 wet tons of sewage sludge a day into about 160 tons of dry biomass fuel. Production problems plagued the facility, however, and ratings agencies downgraded EnerTech's bond debt starting in September 2011. The facility was controversial in the Inland Empire, with critics maintaining that the OCSD was effectively subsidizing a failed plant unable to live up to its contractual obligations to process sludge. EnerTech stopped posting updates to the facility's web page in June 2009, which would seem to be about when things started going down the tubes for the facility. OCSD washed its hands of the business partnership in June 2012, its board voting to declare EnerTech in violation of their 2006 contract and to halt all sludge shipments to the Rialto facility.

EnerTech has not filed for bankruptcy.

OCTOBER 24, 2012

ITEM F

ATTACHMENT H

Monterey supervisors wrestle with how to preserve public ownership rule for desal plant

By JIM JOHNSON
Herald Staff Writer
Posted: 10/16/2012 07:40:55 PM PDT
Updated: 10/17/2012 12:06:25 PM PDT

A bid by Supervisor Jane Parker to add the county's public desalination plant ownership rule to the area's coastal growth plan was rejected by the Board of Supervisors on Tuesday.

The rejection came as county officials maneuver to preserve at least part of the law they appear to have accepted as vulnerable to legal challenge.

Parker, who is seeking to replace Santa Cruz County Supervisor Mark Stone on the California Coastal Commission, proposed that the board look at adding the desal ownership ordinance to the Local Coastal Plan. The plan governs development along the county's coast from north of Moss Landing to Big Sur.

But Carl Holm, deputy director of the county Resource Management Agency, opined in a staff report that the ordinance already applied countywide and didn't need to be added to the coastal plan.

A handful of speakers weighed in, with Peninsula water activist George Riley and LandWatch Executive Director Amy White arguing it was an "appropriate" move and would show the county remains serious about defending its legal oversight of desal plants along its portion of the Central Coast.

But Supervisor Simon Salinas, who is also now seeking appointment to the Coastal Commission, said he didn't believe the board needed to "take the extra step right now." He urged those supporting such a move to direct their energy toward seeking state legislative backing for the county's authority over desal ownership.

This month, county attorneys have been in private talks with the state Public Utilities Commission in an effort to salvage the county's desal ownership ordinance. This comes on the heels of a proposed decision from administrative law judge Gary Weatherford arguing that the county's ordinance was pre-empted by the PUC's authority. Weatherford argued the county's ordinance would not apply to California American Water's proposed Peninsula water supply project because the company was under the PUC's jurisdiction.

Early this month, County Counsel Charles McKee and attorney Dan Carroll met with commissioner representatives and expressed concerns that the proposed decision interfered with

the county's efforts to reach a settlement with Cal Am regarding a county lawsuit designed to seek a ruling on the applicability of the desal ownership ordinance.

The attorneys also suggested the proposed decision left the door open for a "favorable disposition" of the case aimed at balancing the county's interests in public health and safety with the commission's authority. They asked the commission to consider postponing a final decision until next month at the earliest to allow more time for negotiations.

At the same time, the county attorneys sought the commission's support for a public governance proposal offered by the Monterey Peninsula Regional Water Authority in conjunction with the county and the Monterey Peninsula Water Management District. The proposal, submitted earlier this month, would allow a three-member panel various levels of input on virtually every aspect of Cal Am's water project.

Cal Am has until Oct. 25 to respond to the proposal, along with proposals submitted by the city of Pacific Grove, and has been directed to consider them in good faith.

Cal Am also has until Nov. 1 to submit a contingency plan in case the water project is delayed or scuttled by a number of potential obstacles. Some have suggested a public ownership plan could be included.

Meanwhile, at Tuesday's board meeting, Supervisor Lou Calcagno mentioned that a letter had been received requesting the board's formal support for Parker's quest for a Coastal Commission seat. Calcagno pointed out that Salinas had also expressed interest in seeking appointment to the commission, and said the board should consider which candidate to support.

Jim Johnson can be reached at jjohnson@montereyherald.com or 753-6753.

OCTOBER 24, 2012

ITEM F

ATTACHMENT I

State Board Postpones Vote on Amendment to Recycled Water Policy

Submitted by Pamela Martineau on Tue, 10/16/2012 - 4:37pm, ACWA

The State Water Resources Control Board postponed action Oct. 16 on a proposed amendment to its Recycled Water Policy to allow more time for staff to finalize responses to comments regarding constituents of emerging concern (CECs). The proposed amendment recommends monitoring for specific CECs in recycled water used for groundwater recharge reuse. CECs are a broad class of substances, which can include pharmaceuticals and body care products that can be present in minute amounts in wastewater.

At its Oct. 16 meeting, the State Water Board listened to a report from a science advisory panel that had been formed in 2009 to provide guidance on possible action regarding CECs. That panel did not recommend monitoring CECs in recycled water used for landscape irrigation, but recommended monitoring of some surrogates in such recycled water.

In May, staff with the State Water Board circulated the proposed amendment for public review and written comment. In June, it also circulated the proposed amendment to scientific peer reviewers. State Water Board staff considered the comments, then made revisions to the proposed amendments. Among the proposed revisions is language that if monitoring results indicate that additional monitoring is required after treatment, the Regional Water Board shall consult with the Department of Public Health and "revise the Monitoring and Reporting Program as appropriate."

The State Water Board deferred taking a vote on the proposed amendment in order to allow staff more time to finalize its response to written comments it has received regarding the amendment. A date for reconsideration has not yet been set.

ACWA submitted comments on the proposed amendment in cooperation with WateReuse California and the California Association of Sanitation Agencies. The letter can be found at http://www.acwa.com/sites/default/files/post/2012/10/acwa-watereuse-casa-comments.pdf.

The proposed amendment is found at : http://www.waterboards.ca.gov/water_issues/programs/water_recycling_policy/docs/amendment_docs/rev_rwp_091412_markup.pdf

OCTOBER 24, 2012

ITEM F

ATTACHMENT J

San Luis Obispo facing millions in environment fines

October 18, 2012

By KAREN VELIE, calcoastnews.com

San Luis Obispo is facing millions of dollars in fines by state and federal agencies investigating the illegal dumping of toxic wastes by city employees and failure to follow environmental regulations. If the fines are levied, city taxpayers could find themselves paying for the city's conduct.

Regulators, residents and some city staffers have accused the city of illegally dumping toxic waste on private and city properties, not complying with permit requirements that are designed to protect community water sources, failing to properly report hazardous waste disposals and conspiring to keep regulators and the public in the dark.

As a result, the city faces hefty fines from two different investigations in which federal and state regulators are looking into environmental mismanagement and illegal dumping. In addition, some concerned city employees said they reported further environmental mismanagement issues to regulators during their interviews.

The investigation into the failure to follow environmental regulations was by a contractor for the U.S. Environmental Protection Agency and staff from the Central Coast Regional Water Quality Control Board. They were checking to see if San Luis Obispo was complying with portions of its storm water management plan permit dealing with construction water runoff and pollution protection.

City staffers told the city council they had passed the audit with high marks. But, an investigation report says regulators found program deficiencies and potential violations that will likely result in a formal notice of violation and fines.

The potential violations are the result of the city's failure to control refuse such as chemicals, litter and sanitary waste at a construction site. In addition, the city has not been keeping required inspection schedules and checklists in place to protect public health and the environment, the report says.

In the city's annual storm water report, Storm Water Manager Freddy Otte signed under penalty of perjury that the city has developed a comprehensive program with inspection checklist and training programs. However, during the audit, management admitted the program was still in the development phase.

In their summary, the investigators slammed the city for having no real controls in place to protect against water pollution at one site. Investigators reported inadequate performances by employees after interviewing Otte, Utilities Director David Hix, Utilities Program Manager Aaron Floyd, Chief Building Official Tim Girvin, Hazardous Materials Coordinator Kerry Boyle and City Community Development Director Derek Johnson.

"City had the ability to not hire 'bad players,' " investigators say in their summary of a public project review.

In addition to the compliance problems, investigators have been told about dumping and pollution at Dan De Vaul's 72-acre ranch on the outskirts of San Luis Obispo. The land includes acres of wetlands and flood plains that help replenish the Los Osos aquifer.

That Los Osos aquifer is contaminated with nitrates. More than a decade ago, De Vaul, seeking income and more workable acreage, agreed to allow the dumping of what was first described as fill dirt on his property, he said.

City management and several local developers paid trucking companies between $200 and $400 a load to remove the refuse. The truckers would then pay De Vaul to empty truckloads of fill dirt, asphalt grindings and grit from the sewer plant on his property, De Vaul and several city employees said.

Grit is the refuse that fails to break down during sewage treatment. Its makeup varies though it generally has high levels of nitrates. Asphalt grindings, produced during the removal of old roadways, are contaminated with numerous toxins known to negatively affect public health and the environment including hydrocarbons and asbestos.

"I know they brought in asphalt grindings, I did not know about the shit from the sewer plant," De Vaul said. "They brought in dirt once from Abercrombie & Fitch they said might be hazardous, but then they said it cleared."

De Vaul said his income from the disposals was cut off abruptly about seven years ago. A city employee said staff was warned the city could be fined if it was discovered they were not following federal and state laws regarding the disposal of waste.

"Then they started taking it to a hazmat place near Kettleman City," De Vaul said.

Even so, city staff failed to report the dumping or to attempt a cleanup. It would not be the last time city employees allegedly conspired to conceal the illegal dumping of hazardous waste.

In Jan. 2011, waste water collections Supervisor Bud Nance ordered staffers to dump between 50 and 60 gallons of hazardous waste in the city's corporation yard on Prado Road. After it was discovered, city employees sent dozens of emails that outlined their plans not to properly clean up or report the illicit dumping. Many of the emails were reported in earlier CalCoastNews stories.

At the time, SLO Fire Department Hazardous Materials Coordinator Kerry Boyle said that the city was not required to report the dumping.

But, after criminal investigators from the California Department of Toxic Substances Control (DTSC) arrived in late 2011, Boyle reversed his position and slapped the city with a notice of violation for breaking 16 laws.

The investigations by the DTSC and the EPA are continuing. The city's failure to report the illegal dumping at the corporate yard could result in fines totaling more than $7 million and indictments of several of the city's mid-level managers.

Another issue facing the city deals with reporting and record-keeping for its hazardous waste disposal. The city of San Luis Obispo, along with other agencies, is supposed to send its hazardous waste manifests to the DTSC, which works to protect California's people and the environment from the harmful effects of

toxic substances through enforcement, pollution prevention and regulations. The regulations apply to the disposal of toxic substances.

A public records request from CalCoastNews for several years of the city's hazardous waste manifests resulted in the receipt of numerous manifests that had never been sent to the DTSC as required by law.

Many of the manifests that were provided by the city were incompletely filled out, others have dates showing that the city was conducting its business on Sundays or have no dates of the disposals and still others bear signatures of employees who contend someone forged their name.

In its response to the records request, the city included a handful of waivers that say it is a Conditionally Exempt Small Quantity Generator (CBSQG) which generates no more than 100 kilograms (27 gallons or 220 pounds) of hazardous waste per month. The waivers say entities that generate small quantities of hazardous waste are not required to use DTSC registered transporters or submit manifests.

But, Charlotte Fadipe, a spokesperson for the DTSC, said that federal laws permitting small generator status are not recognized in California. There are some state allowances for small generators, she said.

"California rules do not recognize CESQG status, nor does the shipping description on a manifest differ for generators of less than 100 kg per month," Fadipe said in an email.

City Attorney Christine Dietrick and Councilman John Ashbaugh said they are confident that the city has followed environmental requirements.

"The City is in compliance with applicable law on disposal of hazardous wastes, and if there are occasional disposal issues or practices that require council attention, we will address them promptly," Ashbaugh said in an email several months ago.

OCTOBER 24, 2012

ITEM F

ATTACHMENT K

New App Lets Users Check Health of Waterways Anywhere

Release Date: 10/18/2012: Julia P. Valentine USEPA

WASHINGTON — The U.S. Environmental Protection Agency (EPA) today launched a new app and website to help people find information on the condition of thousands of lakes, rivers and streams across the United States from their smart phone, tablet or desktop computer. Available at **http://www.epa.gov/mywaterway**, the How's My Waterway app and website uses GPS technology or a user-entered zip code or city name to provide information about the quality of local water bodies. The release of the app and website helps mark the 40th anniversary of the Clean Water Act, which Congress enacted on October 18, 1972, giving citizens a special role in caring for the nation's water resources. Forty years later, EPA is providing citizens with a technology-based tool to expand that stewardship.

"America's lakes, streams and rivers are national treasures. Communities and neighborhoods across the U.S. want to know that their local lakes, rivers and streams are healthy and safe to enjoy with their families," said Nancy Stoner, acting assistant administrator for EPA's Office of Water. "This new app provides easy, user-friendly access to the health of a waterway, whether it is safe for swimming and fishing, and what is being done about any reported problems. People can get this information whether researching at a desktop or standing streamside looking at a smart phone."

How It Works

• **SEARCH:** Go to **http://www.epa.gov/mywaterway** and allow GPS-technology to identify the nearest streams, rivers or lakes or enter a zip code or city name.

• **RESULTS:** Instantly receive a list of waterways within five miles of the search location. Each waterway is identified as unpolluted, polluted or unassessed. A map option offers the user a view of the search area with the results color-coded by assessment status.

• **DISCOVER:** Once a specific lake, river or stream is selected, the How's My Waterway app and website provides information on the type of pollution reported for that waterway and what has been done by EPA and the states to reduce it. Additional reports and technical information is available for many waterways. Read simple descriptions of each type of water pollutant, including pollutant type, likely sources and potential health risks.

• **MORE:** Related links page connects users to popular water information on beaches, drinking water and fish and wildlife habitat based on a user's search criteria.

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ITEM F

ATTACHMENT L

New environmental report ordered for latest water supply project

By JIM JOHNSON
Herald Staff Writer
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A new environmental impact report will be required for California American Water's proposed Peninsula water supply project, and the public can weigh in on what should be included in the study.

A 30-day public scoping period for the EIR began Wednesday, and the state Public Utilities Commission, as lead agency for the environmental review, is soliciting comments through its EIR consultant on the range and type of environmental issues, as well as project alternatives and mitigation measures, to be included in the study.

Cal Am officials initially sought to limit environmental review of the Monterey Peninsula Water Supply Project to a supplemental EIR, which would have served as an addition to the Coastal Water Project EIR that studied the now-defunct regional desalination project.

But the PUC decided a more detailed EIR was more appropriate and pointed to changes involving key components of the project, including the seawater intake system and the desalination plant, as justification for the new study.

Cal Am spokeswoman Catherine Bowie said company officials would "defer" to the PUC to determine the level of study necessary to comply with the state's Environmental Quality Act, adding that it is in "everyone's interest" to ensure that "adequate review" is conducted.

"Making sure the process is correct will help avoid future challenges that could ultimately delay development of a new water supply," Bowie said, noting that an earlier scoping ruling from

PUC administrative law judge Gary Weatherford set the review schedule back nearly a year past Cal Am's proposed schedule. She said it is now "possible, but very unlikely" the project will be developed before the current 2016 deadline.

The new EIR will include project alternatives not considered in the previous EIR, such as Peninsula developer Nader Agha's People's Desal Project, backed by the city of Pacific Grove, and Brett Constantz's Deep Water Desal project — both proposed for Moss Landing. It will use relevant data from the previous EIR, and update the data and prior analyses to address the effects of the new proposal.

Cal Am's proposed project includes a desal plant north of Marina, owned and operated by the private company and capable of producing up to 9 million gallons of potable water per day using brackish water from shoreline slant wells. The plant would be combined with an expanded Seaside aquifer storage and recovery system, and possibly a groundwater replenishment project, in partnership with the Monterey Peninsula Water Management District and the Monterey Regional Water Pollution Control District.

However, the groundwater replenishment element, which would trigger a reduction in the size of the desal plant to 5.4 million gallons per day, will be studied as a project alternative.

The study will also evaluate a conservation alternative that calls for stricter water-use requirements for residential and commercial customers, but it has not been determined if that option will be considered an alternative or would be implemented in conjunction with the project to enable a reduction of the proposed desal plant.

The project is designed to provide a replacement source of water for the Peninsula, which is facing a state-ordered cutback in pumping from the Carmel River that takes full effect at midnight on Dec. 31, 2016.

The public scoping period will include a series of two-hour meetings later this month that will provide a brief presentation on the project and alternatives identified so far.

Meetings will be held:

· 6:30 to 8:30 p.m. Oct. 24 at Rancho Cañada Golf Club, 4860 Carmel Valley Road, Carmel.

· 1:30 to 3:30 p.m. and 6:30 to 8:30 p.m. Oct. 25 at the Oldemeyer Center, 986 Hilby Ave., Seaside.

Comments, which will be accepted until 5 p.m. Nov. 9, can be sent to Andrew Barnsdale at the California Public Utilities Commission, c/o Environmental Science Associates, 550 Kearny St., Ste. 800, San Francisco, CA 94108, or emailed to MPWSP-EIR@esassoc.com.