PURSUANT TO THE PROVISIONS OF EXECUTIVE ORDER N-29-20 ISSUED BY GOVERNOR GAVIN NEWSOM, THIS MEETING WILL BE CONDUCTED VIRTUALLY. ALL VOTES TAKEN DURING THIS VIRTUAL MEETING WILL BE CONDUCTED BY ORAL ROLL CALL.

This meeting will be accessible as follows:

<table>
<thead>
<tr>
<th>Meeting Access Via Computer (Zoom)*:</th>
<th>Meeting Access Via Telephone*:</th>
</tr>
</thead>
<tbody>
<tr>
<td>• <a href="https://sawpa.zoom.us/j/93208815039">https://sawpa.zoom.us/j/93208815039</a></td>
<td>• 1 (669) 900-6833</td>
</tr>
<tr>
<td>• Meeting ID: 932 0881 5039</td>
<td>• Meeting ID: 932 0881 5039</td>
</tr>
</tbody>
</table>

*Participation in the meeting via the Zoom app (a free download) is strongly encouraged

REGULAR COMMISSION MEETING
TUESDAY, MARCH 2, 2021 – 9:30 A.M.

AGENDA

1. CALL TO ORDER (Jasmin A. Hall, Chair)

2. ROLL CALL

3. PUBLIC COMMENTS
   Members of the public may address the legislative body concerning any item that has been described in the notice for this Special Meeting before or during consideration of that item as authorized by Government Code §54954.3(a).

4. ITEMS TO BE ADDED OR DELETED

5. CONSENT CALENDAR
   All matters listed on the Consent Calendar are considered routine and non-controversial and will be acted upon by the Commission by one motion as listed below.
   
   A. **APPROVAL OF MEETING MINUTES: FEBRUARY 16, 2021** ................................................................. 5
      Recommendation: Approve as posted.

   B. **TREASURER’S REPORT – JANUARY 2021** ......................................................................................... 9
      Recommendation: Approve as posted.

6. NEW BUSINESS
   
   A. **ROTATION OF OFFICER | VICE CHAIR (CM#2021.16)** ................................................................. 15
      Presenter: Jeff Mosher
      Recommendation: Appoint Bruce Whitaker as Commission Vice Chair in accordance with the historical rotation provisions of Resolution No. 355 and acknowledge Bruce Whitaker will serve on the One Water One Watershed (OWOW) Steering Committee as the Convener as set forth in Resolution No. 2018-1.
B. **AB 377 IMPACTS** ................................................................. 21

1. **SAWPA Task Force Impacts**  
   *Presenter:* Mark Norton, SAWPA, and Tess Dunham, KSC  
   *Recommendation:* Receive and file.

2. **Regional Response**  
   *Presenter:* Beth Olhasso, West Coast Advisors  
   *Recommendation:* Receive and file.

C. **LEGISLATIVE REPORT**  
   *Presenter:* Michael Boccadoro, West Coast Advisors  
   *Recommendation:* Receive and file.

7. **INFORMATIONAL REPORTS**  
   *Recommendation:* Receive for information.

   A. **GENERAL MANAGER’S REPORT ON 100-DAY PLAN STATUS**
   B. **CHAIR’S COMMENTS/REPORT**
   C. **COMMISSIONERS’ COMMENTS**
   D. **COMMISSIONERS’ REQUEST FOR FUTURE AGENDA ITEMS**

8. **CLOSED SESSION**  
   There were no Closed Session items anticipated at the time of the posting of this agenda.

9. **ADJOURNMENT**

   PLEASE NOTE:  
   Americans with Disabilities Act: If you require any special disability related accommodations to participate in this meeting, call (951) 354-4220 or email kberry@sawpa.org. 48-hour notification prior to the meeting will enable staff to make reasonable arrangements to ensure accessibility for this meeting. Requests should specify the nature of the disability and the type of accommodation requested.

   Materials related to an item on this agenda submitted to the Commission after distribution of the agenda packet are available for public inspection during normal business hours at the SAWPA office, 11615 Sterling Avenue, Riverside, and available at [www.sawpa.org](http://www.sawpa.org), subject to staff’s ability to post documents prior to the meeting.
**Declaration of Posting**
I, Kelly Berry, CMC, Clerk of the Board of the Santa Ana Watershed Project Authority declare that on February 25, 2021, a copy of this agenda has been uploaded to the SAWPA website at [www.sawpa.org](http://www.sawpa.org) and posted at SAWPA’s office, 11615 Sterling Avenue, Riverside, California.

---

**2021 SAWPA Commission Meetings/Events**

First and Third Tuesday of the Month

(NOTE: All meetings begin at 9:30 a.m., unless otherwise noticed, and are held at SAWPA.)

<table>
<thead>
<tr>
<th>January</th>
<th>February</th>
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</thead>
<tbody>
<tr>
<td>1/5/21</td>
<td>2/2/21</td>
</tr>
<tr>
<td>Commission Workshop [cancelled]</td>
<td>Commission Workshop</td>
</tr>
<tr>
<td>1/5/21</td>
<td>2/16/21</td>
</tr>
<tr>
<td>Special Commission Meeting</td>
<td>Regular Commission Meeting</td>
</tr>
<tr>
<td>1/8/21</td>
<td></td>
</tr>
<tr>
<td>Special Commission Meeting</td>
<td></td>
</tr>
<tr>
<td>1/12/21</td>
<td></td>
</tr>
<tr>
<td>Special Commission Meeting</td>
<td></td>
</tr>
<tr>
<td>1/19/21</td>
<td></td>
</tr>
<tr>
<td>Regular Commission Meeting</td>
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<table>
<thead>
<tr>
<th>March</th>
<th>April</th>
</tr>
</thead>
<tbody>
<tr>
<td>3/2/21</td>
<td>4/6/21</td>
</tr>
<tr>
<td>Commission Workshop</td>
<td>Commission Workshop</td>
</tr>
<tr>
<td>3/16/21</td>
<td>4/20/21</td>
</tr>
<tr>
<td>Regular Commission Meeting</td>
<td>Regular Commission Meeting</td>
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</table>

<table>
<thead>
<tr>
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<th>June</th>
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<tbody>
<tr>
<td>5/4/21</td>
<td>6/1/21</td>
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<tr>
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<td>Commission Workshop</td>
</tr>
<tr>
<td>5/18/21</td>
<td>6/15/21</td>
</tr>
<tr>
<td>Regular Commission Meeting</td>
<td>Regular Commission Meeting</td>
</tr>
<tr>
<td>5/4 – 5/7/21 ACWA Spring Conference, Monterey</td>
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<table>
<thead>
<tr>
<th>July</th>
<th>August</th>
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<tbody>
<tr>
<td>7/6/21</td>
<td>8/3/21</td>
</tr>
<tr>
<td>Commission Workshop</td>
<td>Commission Workshop</td>
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<tr>
<td>7/20/21</td>
<td>8/17/21</td>
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<tr>
<td>Regular Commission Meeting</td>
<td>Regular Commission Meeting</td>
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<table>
<thead>
<tr>
<th>September</th>
<th>October</th>
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<tbody>
<tr>
<td>9/7/21</td>
<td>10/5/21</td>
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<tr>
<td>Commission Workshop</td>
<td>Commission Workshop</td>
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<tr>
<td>9/21/21</td>
<td>10/19/21</td>
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<tr>
<td>Regular Commission Meeting</td>
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<table>
<thead>
<tr>
<th>November</th>
<th>December</th>
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</thead>
<tbody>
<tr>
<td>11/2/21</td>
<td>12/7/21</td>
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<tr>
<td>Commission Workshop</td>
<td>Commission Workshop</td>
</tr>
<tr>
<td>11/16/21</td>
<td>12/21/21</td>
</tr>
<tr>
<td>Regular Commission Meeting</td>
<td>Regular Commission Meeting</td>
</tr>
<tr>
<td></td>
<td>11/30 – 12/3/21 ACWA Fall Conference, Pasadena</td>
</tr>
</tbody>
</table>
# SAWPA COMPENSABLE MEETINGS

**IMPORTANT NOTE:** Due to the spread of COVID-19, and until further notice, the Santa Ana Watershed Project Authority will be holding all upcoming meetings by teleconferencing. Participation information will be included on each posted agenda or meeting notice.

In addition to Commission meetings, Commissioners and Alternate Commissioners will receive compensation for attending the meetings listed below, pursuant to the Commission Compensation, Expense Reimbursement, and Ethics Training Policy. **IMPORTANT NOTE:** These meetings are subject to change. Prior to attending any meetings listed below, please confirm meeting details by viewing the website calendar using the following link:

[https://sawpa.org/sawpa-calendar/](https://sawpa.org/sawpa-calendar/)

**MONTH OF: March 2021**

<table>
<thead>
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<th>DATE</th>
<th>TIME</th>
<th>MEETING DESCRIPTION</th>
<th>LOCATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>3/2/21</td>
<td>10:00 AM</td>
<td>PA 24 Committee Mtg</td>
<td>VIRTUAL/TELEPHONICALLY</td>
</tr>
<tr>
<td>3/3/21</td>
<td>9:30 AM</td>
<td>Imported Water Rechargers Committee Mtg</td>
<td>VIRTUAL/TELEPHONICALLY</td>
</tr>
<tr>
<td>3/9/21</td>
<td>8:30 AM</td>
<td>PA 22 Committee Mtg</td>
<td>CANCELLED</td>
</tr>
<tr>
<td>3/15/21</td>
<td>2:30 PM</td>
<td>Basin Monitoring Program Task Force</td>
<td>VIRTUAL/TELEPHONICALLY</td>
</tr>
<tr>
<td>3/22/21</td>
<td>1:30 PM</td>
<td>Lake Elsinore/Canyon Lake TMDL Task Force Mtg</td>
<td>VIRTUAL/TELEPHONICALLY</td>
</tr>
<tr>
<td>3/25/21</td>
<td>11:00 AM</td>
<td>OWOW Steering Committee Mtg</td>
<td>VIRTUAL/TELEPHONICALLY</td>
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**MONTH OF: April 2021**

<table>
<thead>
<tr>
<th>DATE</th>
<th>TIME</th>
<th>MEETING DESCRIPTION</th>
<th>LOCATION</th>
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</thead>
<tbody>
<tr>
<td>4/6/21</td>
<td>8:30 AM</td>
<td>PA 23 Committee Mtg</td>
<td>VIRTUAL/TELEPHONICALLY</td>
</tr>
<tr>
<td>4/6/21</td>
<td>10:00 AM</td>
<td>PA 24 Committee Mtg</td>
<td>VIRTUAL/TELEPHONICALLY</td>
</tr>
<tr>
<td>4/13/21</td>
<td>8:30 AM</td>
<td>PA 22 Committee Mtg</td>
<td>VIRTUAL/TELEPHONICALLY</td>
</tr>
<tr>
<td>4/15/21</td>
<td>4:00 PM</td>
<td>LESJWA Board of Directors Mtg</td>
<td>VIRTUAL/TELEPHONICALLY</td>
</tr>
<tr>
<td>4/19/21</td>
<td>1:30 PM</td>
<td>MSAR TMDL/Regional WQ Monitoring Task Force Mtg</td>
<td>VIRTUAL/TELEPHONICALLY</td>
</tr>
</tbody>
</table>

*Please Note: We strive to ensure the list of Compensable Meetings set forth above is accurate and up-to-date; the list is compiled based on input from SAWPA staff and Department Managers regarding meeting purpose and content.*

2/24/2021
8:00 AM
The Regular Meeting of the Santa Ana Watershed Project Authority Commission was called to order at 9:32 a.m. by Chair Hall on behalf of the Santa Ana Watershed Project Authority, 11615 Sterling Avenue, Riverside, California. The record will reflect this meeting was conducted virtually.

1. CALL TO ORDER
   Pursuant to the provisions of Executive Order N-29-20, this meeting was conducted virtually. Incoming SAWPA General Manager Jeff Mosher was welcomed; Mosher thanked Rich Haller and Karen Williams for meeting with him over the past few weeks so he could hit the ground running.

2. ROLL CALL
   An oral roll call was duly noted and recorded by the Clerk of the Board.

3. PUBLIC COMMENTS
   There were no public comments; there were no public comments received via email.

4. ITEMS TO BE ADDED OR DELETED
   There were no added or deleted items.

5. CONSENT CALENDAR
   A. APPROVAL OF MEETING MINUTES: FEBRUARY 2, 2021
      Recommendation: Approve as posted.
      
      MOVED, approve the Consent Calendar.
      
      Result: Adopted by Roll Call Vote (Unanimously)
      Motion/Second: Dennstedt/Rowe
      Ayes: Dennstedt, Hall, Hayes, Rowe, Slawson
      Nays: None
      Abstentions: None
      Absent: None
6. **NEW BUSINESS**

A. **AUDIT SERVICES CONTRACT EXTENSION (CM#2021.13)**
   Karen Williams provided a brief report; Joshua Calhoun attended the meeting and was available for questions from the Commission. Secretary-Treasurer Dennstedt suggested amending staff’s recommendation to extend the current contract for an additional one (1) year providing Jeff Mosher an opportunity to scrutinize the firm’s performance during this upcoming audit cycle. If the firm performs to his satisfaction, then the contract extension for an additional one (1) year could be brought back to the Commission for consideration at a future date. Commissioner Hayes moved staff’s recommendation as amended.

**MOVED,** authorize the issuance of a Task Order with Teaman, Ramirez & Smith, Inc. for audit services and extend the current contract for an additional one (1) year.

Result: **Adopted by Roll Call Vote (Unanimously)**
Motion/Second: Hayes/Dennstedt
Ayes: Dennstedt, Hall, Hayes, Rowe, Slawson
Nays: None
Abstentions: None
Absent: None

7. **INFORMATIONAL REPORTS**
   The following oral/written reports/updates were received and filed.

   A. **CASH TRANSACTIONS REPORT – DECEMBER 2020**
   B. **INTER-FUND BORROWING – DECEMBER 2020 (CM#2021.11)**
   C. **PERFORMANCE INDICATORS/FINANCIAL REPORTING – DECEMBER 2020 (CM#2021.12)**
   D. **PROJECT AGREEMENT 25 – OWOW FUND – FINANCIAL REPORT, NOVEMBER 2020**
   E. **PROJECT AGREEMENT 26 – ROUNDTABLE FUND – FINANCIAL REPORT, NOVEMBER 2020**
   F. **SANTA ANA WATERSHED PROJECT AUTHORITY (SAWPA) | COMMISSION AND COMMITTEE STRUCTURE (CM#2021.14)**
   G. **COMMISSIONER COMPENSATION POLICY OVERVIEW (CM#2021.15)**
   H. **GENERAL MANAGER REPORT**
   I. **STATE LEGISLATIVE REPORT**
   J. **CHAIR’S COMMENTS/REPORT**
      There were no comments/reports from the Chair.
   K. **COMMISSIONERS’ COMMENTS**
      There were no Commissioner comments.
   L. **COMMISSIONERS’ REQUEST FOR FUTURE AGENDA ITEMS**
      There were no Commissioner requests for future agenda items.
8. **CLOSED SESSION**

Chair Hall recessed the meeting to Closed Session at 9:41 a.m.

**A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO**
**GOVERNMENT CODE SECTION 54956.9(d)(1)**

Name of Case: Southern California Edison Company vs. The Blue-Sky Institute, LLC
(Riverside County Superior Court Case No. CVRI 2100168)

Chair Hall resumed Open Session at 10:13 a.m. Legal Counsel Andy Turner announced item 8.A. was discussed during Closed Session; staff and legal counsel received direction from the Commission and no reportable action was taken.

9. **ADJOURNMENT**

There being no further business for review, Chair Hall adjourned the meeting at 10:14 a.m.

Approved at a Regular Meeting of the Santa Ana Watershed Project Authority Commission on Tuesday, March 2, 2021.

_____________________________________
Jasmin A. Hall, Chair

Attest:

_____________________________________
Kelly Berry, CMC, Clerk of the Board
Finance Department
Santa Ana Watershed Project Authority
TREASURER'S REPORT

January 2021

During the month of January 2021, the Agency's actively managed temporary idle cash earned a return of 1.793%, representing interest earnings of $12,595. Additionally, the Agency's position in overnight funds L.A.I.F. generated $17,852 in interest, resulting in $30,447 of interest income from all sources. Please note that this data represents monthly earnings only, and does not indicate actual interest received. There were zero (0) investment position purchased, zero (0) positions sold, zero (0) positions matured, and zero (0) positions were called.

This Treasurer's Report is in compliance with SAWPA's Statement of Investment Policy. Based upon the liquidity of the Agency’s investments, this report demonstrates the ability to meet customary expenditures during the next six months.

February 10, 2021

Prepared and Submitted by:

Karen L. Williams, Deputy GM/Chief Financial Officer
## INVESTMENT PORTFOLIO - MARKED TO MARKET - UNREALIZED GAINS & LOSSES

**January 31, 2021**

SAWPA primarily maintains a "Buy and Hold" investment philosophy, with all investments held by US Bank via a third-party safekeeping contract.

<table>
<thead>
<tr>
<th>Investment Type</th>
<th>Security</th>
<th>CUSIP</th>
<th>Dealer</th>
<th>Purchase Date</th>
<th>Maturity</th>
<th>Call Date</th>
<th>Par Value</th>
<th>Yield To Maturity</th>
<th>Investment Cost</th>
<th>Market Value</th>
<th>Unrealized Gain (Loss)</th>
<th>Current Month Gain</th>
<th>Coupon Rate</th>
<th>Interest Earned</th>
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</thead>
<tbody>
<tr>
<td>Agency FHLMC</td>
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<td>WMS 09-16-16 08-12-21</td>
<td>No Call</td>
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<td>$ 512,767.00</td>
<td>$ 510,959.50</td>
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<td>2.375%</td>
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</table>

**Total Actively Invested Funds** $7,738,000.00 $7,719,047.50 $7,920,565.50 $201,518 1.793% 12,594.68

**Total Local Agency Investment Fund** $45,894,072.13 0.458% 17,852.17

**Total Invested Cash** $7,738,000.00 $53,613,119.63 0.651% 30,446.84

### Key to Security Type:
- **FHLB** = Federal Home Loan Bank
- **FHLMC** = Federal Home Loan Mortgage Corporation
- **FNMA** = Federal National Mortgage Association
- **USTN** = US Treasury Note
- **CORP** = Corporate Note
- **CD** = Certificate of Deposit
- **GDB** = Goldman Sachs Bank
- **AEC** = American Express Centurion

### Key to Dealers:
- **FCS** = FinaCorp Securities
- **MBS** = Multi-Bank Securities
- **MS** = Mutual Securities
- **RCB** = RBC Dain Rauscher
- **SA** = Securities America
- **TVI** = Time Value Investments
- **WMS** = Wedbush Morgan Securities
Interest Rate Analysis

Securities: 2.0%
LAIF: 1.0%
Avg Rate of Return: 0.0%

Jan-2021
Investments
$53,613,120

Securities,
$7,719,048,
14%

LAIF,
$45,894,072,
86%
Jan-2021

Interest
$30,447

LAIF,
$17,852,
59%

Securities,
$12,595,
41%
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RECOMMENDATION
It is recommended that the Commission appoint Bruce Whitaker as Commission Vice Chair in accordance with the historical rotation provisions of Resolution No. 355 and acknowledge Bruce Whitaker will serve on the One Water One Watershed (OWOW) Steering Committee as the Convener as set forth in Resolution No. 2018-1.

DISCUSSION

Vice Chair Appointment
On January 19, 2021, the SAWPA Commission authorized the rotation of officers in accordance with the historical rotation provisions of Resolution No. 355 and appointed Kelly E. Rowe Commission Vice Chair. On February 17, 2021, the OCWD Board appointed Bruce Whitaker as their representative to the SAWPA Commission. Accordingly, staff recommends the Commission appoint Bruce Whitaker as Commission Vice Chair in accordance with the historical rotation provisions of Resolution No. 355.

One Water One Watershed (OWOW) Steering Committee
On February 6, 2018, the Commission adopted Resolution No. 2018-1 appointing to the OWOW Steering Committee the Commissioner from the member agencies whose board member has been appointed as Vice Chair and Secretary-Treasurer, with the Vice Chair also serving as OWOW Committee Convener. Staff recommends the Commission acknowledge Bruce Whitaker will serve on the One Water One Watershed (OWOW) Steering Committee as the Convener as set forth in Resolution No. 2018-1.

RESOURCE IMPACTS
None.

Attachments:
1. Resolution No. 355
2. Resolution No. 2018-1
RESOLUTION NO. 355

A RESOLUTION OF THE COMMISSION OF THE
SANTA ANA WATERSHED PROJECT AUTHORITY
ESTABLISHING A PROCEDURE FOR THE
ELECTION OF COMMISSION OFFICERS

WHEREAS, pursuant to Paragraph 20 of the Joint Exercise of Powers Agreement, as modified by Amendment No. 3 to the Joint Exercise of Powers Agreement adopted in 1997, the Commission of the Santa Ana Watershed Project Authority ("SAWPA") shall elect from its membership a Chair, Vice-Chair, Secretary and Treasurer; and

WHEREAS, pursuant to Paragraph 17 of the SAWPA's Joint Exercise of Powers Agreement, the Commission may adopt, from time to time, such rules and regulations for the conduct of its affairs as may be required; and

WHEREAS, SAWPA's Commission desires to establish a procedure for the election of its officers including the establishment of a two-year term for such officers and further desires to maintain the consolidation of the offices of Secretary and Treasurer into one position as Secretary-Treasurer.

NOW, THEREFORE, the Commission hereby resolves as follows:

1. **Consolidation Of The Offices Of Secretary and Treasurer:** As permitted by Section 71342 of the Water Code, the Commission maintains the consolidation of the offices of Secretary and Treasurer into one position as Secretary-Treasurer.

2. **Term Of Office:** The term of office for the positions of Chair, Vice-Chair, and Secretary-Treasurer shall be two years commencing with the first regular or special Commission meeting in January.

3. **Qualifications:** Only those Commissioners' who are also directors on SAWPA's member agencies' governing boards shall serve as SAWPA Commission officers.

4. **Elections:** The election of officers (i.e., Chair, Vice-Chair and Secretary-Treasurer) shall be conducted every two years at the regular or special Commission meeting held in January and may be conducted by a single blanket motion for all three positions.

5. **Rotation Of Officers:** It is the non-binding intention of the Commission to rotate the positions of Chair, Vice-Chair and Secretary-Treasurer among the member agencies. The Chair will be a Commissioner from the Orange County Water District, the Vice-Chair will be a Commissioner from the Western Municipal Water District of Riverside County, and the Secretary-Treasurer will be a Commissioner from the Eastern Municipal Water District. Thereafter, the order of succession will be San Bernardino Valley Municipal Water District and Inland Empire Utilities Agency.
6. Retroactive Application Of This Resolution: This resolution shall be effective retroactively to January 2001, and shall apply to the existing officers. Resolution No. 297 adopted on August 12, 1997, is hereby rescinded and superseded by the adoption of this resolution.

Approved and adopted this 15th day of May 2001.

SANTA ANA WATERSHED PROJECT AUTHORITY

By ____________________________

Jerry King, Chairman
RESOLUTION NO. 2018-1

A RESOLUTION OF THE COMMISSIONERS OF THE
SANTA ANA WATERSHED PROJECT AUTHORITY ESTABLISHING
A ROTATION OF APPOINTMENTS TO THE ONE WATER, ONE WATERSHED
(OWOW) STEERING COMMITTEE
AND RESCINDING RESOLUTION NO. 2017-12

WHEREAS, the SAWPA Commission established and convened the OWOW Steering Committee in 2008 to provide oversight for the development and implementation of the OWOW Plan through a regional stakeholder process;

WHEREAS, the SAWPA Commission approved an amended governance document defining the OWOW Steering Committee roles and membership in January 2013;

WHEREAS, the governance document provides OWOW Steering Committee members shall be appointed to serve terms of four (4) years with staggered end dates;

WHEREAS, the governance document provides for two members of the SAWPA Commission to be appointed to the OWOW Steering Committee by the SAWPA Commission;

WHEREAS, the SAWPA Commission has established a historical rotation of officers among the member agencies;

WHEREAS, the SAWPA Commission desires that SAWPA’s participation in the OWOW Steering Committee be shared by Commissioners on the same rotational basis of member agencies as the historical rotation of officers; and

WHEREAS, the SAWPA Commission desires to provide direction should a Commissioner be unavailable to attend OWOW Steering Committee meetings.

NOW THEREFORE, the SAWPA Commission hereby resolves as follows:

1. The two SAWPA Commission representatives appointed to the OWOW Steering Committee will henceforth be the Commissioner from the member agencies whose board member has been appointed as Vice Chair and Secretary-Treasurer of the Commission.

3. The Vice Chair of the SAWPA Commission shall serve as the Convener of the OWOW Steering Committee.

4. Should either/both the Vice Chair and/or the Secretary-Treasurer of the Commission be unavailable to serve for all or a portion of said four (4) year term, the Commission shall appoint another SAWPA Commissioner to the OWOW Steering Committee in accordance with the established historical rotation of officers among the member agencies, specify the length of the term to be served or portion thereof, and when applicable designate who will serve as Convener.
5. Resolution No. 2017-12 is hereby rescinded upon adoption of this Resolution No. 2018-1.

ADOPTED this 6th day of February, 2018.

SANTA ANA WATERSHED PROJECT AUTHORITY

By: ____________________________
    Susan Lien Longville, Chair

Attest:

_______________________________
Kelly Berry, CMO, Clerk of the Board
Impacts of AB 377 on SAWPA Task Forces

Prepared by Mark Norton, PE, SAWPA Water Resources & Planning Manager
and Tess Dunham, Kahn Soares & Conway (KSC)

Assembly Bill 377, as introduced, Assemblyman Robert Rivas and co-authored by Senator Robert Hertzberg, proposes changes to the enforcement of water quality standards to address impaired waters in the State of California. The bill essentially requires compliance with water quality standards at the end of pipe and takes away State and Regional Board discretion for alternative compliance programs and long-term compliance schedules. The bill prohibits the State and Regional Boards from adopting permits that utilize an alternative compliance pathway. Limits in new or modified permits may never be less than those in a previous permit, regardless of the circumstances. This applies to NPDES permits for discharges to surface waters as well as waste discharge permits for discharges to groundwater and for discharges from nonpoint sources such as irrigated agriculture. Further, offsets for allowing the discharge of recycled water may not be allowed. This means that permits authorizing the discharge of recycled water would need to show that recycled water meets salinity and nutrient standards.

AB 377 limits the ability of Regional Water Boards to adopt schedules of implementation into Basin Plans for any water quality standard that was in existence prior to January 1, 2021. For water quality standards adopted after January 1, 2021, schedules of implementation in Basin Plans are limited to a term of five years and could possibly require the undertaking of physical construction projects.

In the view of the regulatory advisor for three of the SAWPA task forces, Tess Dunham, KSC, this bill could seriously jeopardize the use of offsets and other alternative compliance methodologies utilized in the Santa Ana region to show compliance with various water quality standards. For the three primary Task Forces that Ms. Dunham is involved with, she shared the following potential impacts:

1) Basin Monitoring Program Task Force –
   a. POTWs in the Santa Ana River currently rely on alternative compliance in the way of Maximum Benefit Program demonstrations as a method for meeting salinity and nitrate standards in the Basin Plan. This bill would arguably eliminate the Water Board’s ability to make maximum benefit findings as alternative compliance.
   b. Compliance with groundwater objectives is currently determined through use of evaluating volume weighted averages. This bill would likely eliminate the use of that approach for determining compliance.
   c. Desalters that are used to offset recharge of recycled water in the basin may be considered alternative compliance and thus may not be considered legal for this use under the bill.
2) Lake Elsinore/Canyon Lake Nutrient TMDL Task Force –
   - Calls into question use of offsets generated by the Lake Elsinore Aeration and Mixing System at Lake Elsinore and Alum application at Canyon Lake needed to meet load allocations by upper watershed task force agencies. The bill would likely alter Santa Ana Water Board’s ability to allow compliance through Task Force of the participation of dairies, agricultural operators and stormwater dischargers.
   - The bill would likely eliminate ability of Santa Ana Regional Water Quality Control Board to use the Comprehensive Nutrient Reduction Plan for effluent limits for compliance with stormwater and instead would mandate numeric effluent limits be applied to stormwater discharges.
   - The fill would likely impact the new revised TMDL expected to be brought to the Regional Board for approval in late 2021. It would limit the amount of time that the Water Board could allow for compliance with the revised TMDL.

3) Middle Santa Ana River Watershed Pathogen TMDL Task Force –
   - Bacteria standards are in existence. Accordingly, any future revision to the Basin Plan, including new or revised TMDLs, would not be allowed to include alternative schedules of implementation for meeting bacteria standards. Thus, all dischargers would need to comply with bacteria standards immediately. Task Force is evaluating the potential to revise the TMDL to address the need for additional time for meeting Wet Weather bacteria standards. This would make this effort irrelevant.
   - Further, the bill’s limitations on alternative compliance mechanisms may hinder the Regional Board’s ability to look to the use of Comprehensive Bacteria Reduction Plans as a way for meeting water quality standards. Through Task Force and MS4 efforts, development and implementation of Comprehensive Bacteria Reduction Plans are used to comply with MS4 permit requirements. This bill would prevent Water Boards from looking at this program to show compliance with water quality standards.
   - To meet Wet Weather bacteria standards, Task Force members are starting to evaluate and consider potential offset programs as a way to meet such standards. This bill arguably would prohibit the use of offsets for meeting compliance as that would likely be considered an alternative compliance approach.

For SAWPA, overall, SB 377 as written today would seriously undermine the stakeholder collaboration and Task Force process, and the benefits of participating in such efforts, because the Water Boards would be required to adopt stringent permits (for discharges to surface waters and groundwaters) that ensure strict compliance with water quality standards.

Attachment:
   1. AB 377 Text
An act to add Chapter 3.5 (commencing with Section 13150) to Chapter 3 of Division 7 of the Water Code, relating to water quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 377, as introduced, Robert Rivas. Water quality: impaired waters.
(1) Under existing law, the State Water Resources Control Board and the 9 California regional water quality control boards regulate water quality and prescribe waste discharge requirements in accordance with the federal national pollutant discharge elimination system (NPDES) permit program established by the federal Clean Water Act and the Porter-Cologne Water Quality Control Act. Existing law requires each regional board to formulate and adopt water quality control plans for all areas within the region, as provided.

This bill would require all California surface waters to be fishable, swimmable, and drinkable by January 1, 2050, as prescribed. The bill would prohibit the state board and regional boards from authorizing an NPDES discharge, waste discharge requirement, or waiver of a waste discharge requirement that causes or contributes to an exceedance of a water quality standard, or from authorizing a best management practice permit term to authorize a discharge that causes or contributes to an exceedance of a water quality standard in receiving waters. The bill would prohibit, on or after January 1, 2030, a regional water quality control plan from including a schedule for implementation for achieving a water quality standard that was adopted as of January 1, 2021, and
would prohibit a regional water quality control plan from including a schedule for implementation of a water quality standard that is adopted after January 1, 2021, unless specified conditions are met. The bill would prohibit an NPDES permit, waste discharge requirement, or waiver of a waste discharge requirement from being renewed, reissued, or modified to contain effluent limitations or conditions that are less stringent than those in the previous permit, requirement, or waiver.

(2) Existing law authorizes the imposition of civil penalties for violations of certain waste discharge requirements and requires that penalties imposed pursuant to these provisions be deposited into the Waste Discharge Permit Fund, to be expended by the state board, upon appropriation by the Legislature, for specified purposes related to water quality. For violations of certain other waste discharge requirements, including the violation of a waste discharge requirement effluent limitation, existing law imposes specified civil penalties, the proceeds of which are deposited into the continuously appropriated State Water Pollution Cleanup and Abatement Account, which is established in the State Water Quality Control Fund.

This bill would require, by January 1, 2030, the state board and regional boards to develop an Impaired Waterways Enforcement Program to enforce all remaining water quality standard violations that are causing or contributing to an exceedance of a water quality standard. To ensure any water segments impaired by ongoing pollutants are brought into attainment with water quality standards, the bill would require the state board and regional boards, by January 1, 2040, to evaluate the state’s remaining impaired waters using a specified report. The bill would require, by January 1, 2040, the state board and regional boards to report to the Legislature a plan to bring the final impaired water segments into attainment by January 1, 2050. The bill would create the Waterway Attainment Account in the Waste Discharge Permit Fund and would make moneys in the Waterway Attainment Account available for the state board to expend, upon appropriation by the Legislature, to bring remaining impaired water segments into attainment in accordance with the plan. The bill would create in the Waterway Attainment Account the Waterway Attainment Penalty Subaccount, composed of penalties obtained pursuant to the Impaired Waterways Enforcement Program, and would make moneys in the subaccount available for the state board to expend, upon appropriation by the Legislature, for purposes of the program. The bill would require, by January 1, 2040, and subject to a future legislative act, 50% of the annual...
proceeds of the State Water Pollution Cleanup and Abatement Account to be annually transferred to the Waterway Attainment Account. The bill would require the state board, upon appropriation by the Legislature, to expend 5% of the annual proceeds of the State Water Pollution Cleanup and Abatement Account to fund a specified state board program.


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

SECTION 1. (a) The Legislature finds and declares all of the following:

1. Water is a necessity of human life, and every Californian deserves access to clean and safe water. Yet climate change jeopardizes the quality and safety of our water. Climate change is impacting the state’s hydrology to create water resource vulnerabilities that include, but are not limited to, changes to water supplies, subsidence, increased amounts of water pollution, erosion, flooding, and related risks to water and wastewater infrastructure and operations, degradation of watersheds, alteration of aquatic ecosystems and loss of habitat, multiple impacts in coastal areas, and ocean acidification.

2. Many aspects of climate change and associated impacts will continue for centuries, even if anthropogenic emissions of greenhouse gases are reduced or stopped. Given the magnitude of climate change impacts on California’s hydrology and water systems, the state’s climate change response should include attainment of water quality standards to allow the state’s watersheds to resiliently adapt to forthcoming and inevitable climate change stressors.

3. The federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.) was enacted on October 18, 1972, to establish the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters. The objective of the federal Clean Water Act is to restore and maintain the chemical, physical, and biological integrity of the nation’s waters. To achieve that objective, Congress declared a national goal that the discharge of pollutants into navigable waters be eliminated by 1985.
(4) California has long been a national and international leader on environmental stewardship efforts, including the areas of air quality protections, energy efficiency requirements, renewable energy standards, and greenhouse gas emission standards for passenger vehicles. The program established by this act will continue this tradition of environmental leadership by placing California at the forefront of achieving the nation’s goal of making all waterways swimmable, fishable, and drinkable.

(5) The State Water Resources Control Board, along with the nine California regional water quality control boards, protect and enhance the quality of California’s water resources through implementing the federal Clean Water Act, as amended, and California’s Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code).

(6) The State Water Resources Control Board’s mission is to “preserve, enhance, and restore the quality of California’s water resources and drinking water for the protection of the environment, public health, and all beneficial uses, and to ensure proper water resource allocation and efficient use, for the benefit of present and future generations.”

(7) Under Section 303(d) of the federal Clean Water Act (33 U.S.C. 1313(d)), California is required to review, make changes as necessary, and submit to the United States Environmental Protection Agency a list identifying water bodies not meeting water quality standards (303(d) list). California is required to include a priority ranking of those waters, taking into account the severity of the pollution and the uses to be made of those waters, including waters targeted for the development of total maximum daily loads (TMDLs).

(8) As of the most recent 2018 303(d) list, nearly 95 percent of all fresh waters assessed in California, and over 1,400 water bodies, are listed as impaired, with only 114 TMDLs have been approved since 2009 in California. Of 164,741 assessed miles of rivers and streams, 82 percent were impaired. Of 929,318 assessed acres of lakes, reservoirs, and ponds, 93 percent were impaired. Of 575,000 assessed acres of bays, harbors, and estuaries, 99 percent were impaired. Of 2,180 assessed miles of coastal shoreline, 93 percent were impaired. Of 130,084 assessed acres of wetlands, 99 percent were impaired.
(b) (1) In honor of the federal Clean Water Act’s 50-year anniversary, it is the intent of the Legislature in enacting this act to recommit California to achieve the national goal to restore and maintain the chemical, physical, and biological integrity of the state’s waters by eliminating the discharge of pollutants into impaired waterways.

(2) It is further the intent of the Legislature in enacting this act to require that the State Water Resources Control Board and the California regional water quality control boards meet the national goal of achieving swimmable, fishable, and drinkable waters by no later than January 1, 2050.

SEC. 2. Chapter 3.5 (commencing with Section 13150) is added to Chapter 3 of Division 7 of the Water Code, to read:

Chapter 3.5. State Waters Impairment

13150. All California surface waters shall be fishable, swimmable, and drinkable by January 1, 2050. To bring all water segments into attainment with this requirement, the state board and regional boards shall comply with the requirements of this chapter.

13151. (a) The state board and regional boards shall not do either of the following:

(1) Authorize an NPDES discharge that causes or contributes to an exceedance of a water quality standard.

(2) Authorize an NPDES permit that uses an alternative compliance determination, safe harbor “deemed in compliance” term, or any other best management practice permit term to authorize a discharge that causes or contributes to an exceedance of a water quality standard in receiving waters.

(b) The state board and regional boards shall not do either of the following:

(1) Authorize a permit that does not include monitoring sufficient to demonstrate compliance with water quality standards and, unless infeasible, that does not include end-of-discharge pipe monitoring.

(2) Authorize a permit unless it establishes criteria for, and requires, monitoring to evaluate compliance with water quality standards.
(c) The state board and regional boards shall not do either of the following:

1. Authorize a waste discharge requirement or waiver of a waste discharge requirement for a discharge that causes or contributes to an exceedance of a water quality standard.
2. Authorize a waste discharge requirement or waiver of a waste discharge requirement that uses an alternative compliance determination, safe harbor “deemed in compliance” term, or any other best management practice permit term to authorize a discharge that causes or contributes to an exceedance of a water quality standard in receiving waters.

(d) The state board and regional boards shall not issue an enforcement order pursuant to Chapter 12 (commencing with Section 1825) of Part 2 of Division 2 or Article 1 (commencing with Section 13300) of Chapter 5 that includes a compliance schedule deadline that extends beyond January 1, 2030, to a discharger for a discharge that is causing or contributing to an exceedance of a water quality standard.

13152. (a) Notwithstanding Section 13242, on and after January 1, 2030, a regional water quality control plan, including the program of implementation, shall not include a schedule for implementation for achieving a water quality standard that was adopted in an approved regional water quality control plan as of January 1, 2021. It is the intent of the Legislature in enacting this requirement to ensure that all water quality standards in effect as of January 1, 2021, are fully implemented and achieved by January 1, 2030.

(b) The state board and regional boards shall only include in a regional water quality control plan a schedule for implementation of a water quality standard that is adopted after January 1, 2021, if all of the following conditions are met:

1. The schedule for implementation of the water quality standard is the shortest time necessary, and in no instance exceeds five years.
2. The schedule for implementation is necessary for the permittee to undertake physical construction that is necessary to achieve compliance with the water quality standard.
3. The water quality standard is not substantially similar to a water quality standard that was in effect as of January 1, 2021.
(c) An NPDES permit, waste discharge requirement, or waiver of a waste discharge requirement shall not be renewed, reissued, or modified to contain effluent limitations or conditions that are less stringent than the comparable effluent limitations or conditions in the previous permit, requirement, or waiver.

(d) The state board and regional boards shall not authorize an NPDES permit, waste discharge requirement, or waiver of a waste discharge requirement that does not include a complete antidegradation analysis as set out in State Water Resources Control Board Resolution No. 68-16 and Administrative Procedures Update 90-004.

13153. (a) (1) By January 1, 2030, the state board and regional boards shall develop an Impaired Waterways Enforcement Program to enforce all remaining water quality standard violations pursuant to Chapter 12 (commencing with Section 1825) of Part 2 of Division 2 and Article 1 (commencing with Section 13300) of Chapter 5 that are causing or contributing to an exceedance of a water quality standard.

(2) An enforcement action taken pursuant to the program shall result in sufficient penalties, conditions, and orders to ensure the person subject to the enforcement action is no longer causing or contributing to an exceedance of a water quality standard.

(3) A discharger shall remain liable for a violation of a water quality standard until sampling at the point of discharge demonstrates that the discharge is no longer causing or contributing to the exceedance.

(4) Penalties obtained pursuant to the program shall be deposited into the Waterway Attainment Penalty Subaccount, which is hereby created in the Waterway Attainment Account. Moneys in the subaccount shall be available for the state board to expend, upon appropriation by the Legislature, for purposes of the program.

(b) (1) By January 1, 2040, to ensure any water segments impaired by ongoing legacy pollutants and nonpoint source pollution are brought into attainment with water quality standards, the state board and regional boards shall evaluate the state’s remaining impaired waters using the most current integrated report.

(2) The state board and regional boards shall, by January 1, 2040, report to the Legislature in compliance with Section 9795 of the Government Code a plan to bring the final impaired water segments into attainment by January 1, 2050.
(3) The requirement for submitting a report imposed under paragraph (2) is inoperative on January 1, 2044, pursuant to Section 10231.5 of the Government Code.

(c) (1) The Waterway Attainment Account is hereby created in the Waste Discharge Permit Fund. Moneys in the Waterway Attainment Account shall be available for the state board to expend, upon appropriation by the Legislature, to bring remaining impaired water segments into attainment in accordance with the plan submitted pursuant to paragraph (2) of subdivision (b), subject to subdivision (d).

(2) (A) By January 1, 2040, subject to a future legislative act, 50 percent of the annual proceeds of the State Water Pollution Cleanup and Abatement Account shall be annually transferred to the Waterway Attainment Account.

(B) This paragraph shall become inoperative January 1, 2051, or when all water segments are in attainment with water quality standards, whichever comes first.

(d) Moneys in the Waterway Attainment Account shall be expended by the state board, upon appropriation by the Legislature, to bring impaired waterways into attainment with water quality standards to the maximum extent possible. Moneys in the account shall only be expended on the following:

(1) Restoration projects, including supplemental environmental projects, that improve water quality.

(2) Best management practice research innovation and incentives to encourage innovative best management practice implementation.

(3) Source control programs.

(4) Identifying nonfilers.

(5) Source identification of unknown sources of impairment.

(6) Enforcement actions that recover at least the amount of funding originally expended, which shall be deposited into the Waterway Attainment Account.

(e) The state board shall, upon appropriation by the Legislature, expend 5 percent of the annual proceeds of the State Water Pollution Cleanup and Abatement Account to fund the state board’s SWAMP - Clean Water Team Citizen Monitoring Program in order to inform the integrated report.

13154. This chapter does not affect the process by which voluntary agreements are entered into to assist in the
implementation of new water quality standards lawfully adopted
by the state board.
13155. For purposes of this chapter, the following definitions
apply:
(a) “Best management practice” means a practice or set of
practices determined by the state board or a regional board for a
designated area to be the most effective feasible means of
preventing or reducing the generation of a specific type of nonpoint
source pollution, given technological, institutional, environmental,
and economic constraints.
(b) “Drinkable” applies to waters subject to a regional water
quality control plan and means that the waters are drinkable to the
extent required by the regional water quality control plan.
(c) “Integrated report” means the state report that includes the
list of impaired waters required pursuant to Section 303(d) of the
federal Clean Water Act (33 U.S.C. 1313(d)) and the water quality
assessment required pursuant to Section 305(b) of the federal Clean
Water Act (33 U.S.C. 1315(b)).
(d) “NPDES” means the national pollutant discharge elimination
system established in the federal Clean Water Act (33 U.S.C.A.
Sec. 1251 et seq.).
(e) “Regional board” means a California regional water quality
control board.
(f) “Regional water quality control plan” means a water quality
control plan developed pursuant to Section 13240.
(g) “State board” means the State Water Resources Control
Board.
(h) “State Water Pollution Cleanup and Abatement Account”
means the State Water Pollution Cleanup and Abatement Account
created pursuant to Section 13440.
(i) “Supplemental environmental project” means an
environmentally beneficial project that a person subject to an
enforcement action voluntarily agrees to undertake in settlement
of the action and to offset a portion of a civil penalty.
(j) “Waste Discharge Permit Fund” means the Waste Discharge
Permit Fund created pursuant to Section 13260.
(k) “Waterway Attainment Account” means the Waterway
Attainment Account created pursuant to paragraph (1) of
subdivision (c) of Section 13153.
"Waterway Attainment Penalty Subaccount" means the Waterway Attainment Penalty Subaccount created pursuant to paragraph (4) of subdivision (a) of Section 13153.