



## MEMORANDUM

TO: Water Resources Committee and Alternates, Board of Directors and Alternates

FROM: Scott Petersen, Water Policy Director

DATE: April 5, 2021

RE: Water Resources Committee to Consider Recommendations on Legislation /  
Board of Directors to Consider Same

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### Recommendation

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Recommend to the Board of Directors to adopt the following positions on legislation:

- Adopt a position of “Support” on draft legislation S. \_\_\_\_ (Feinstein)/H.R. \_\_\_\_ (Costa), Canal Conveyance Capacity Restoration Act
- Adopt a position of “Support” on draft legislation S. \_\_\_\_ (Feinstein), STREAM Act
- Adopt a position of “Support” on S. 914 (Duckworth), Drinking Water and Wastewater Infrastructure Act of 2021
- Adopt a position of “Favor” on H.R. 1563 (Garcia), To extend the authorities under the Water Infrastructure Improvements for the Nation Act of 2016 providing operational flexibility, drought relief, and other benefits to the State of California.

### Summary

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S. \_\_\_\_ (Feinstein)/H.R. \_\_\_\_ (Costa) – Canal Conveyance Capacity Restoration Act

RECOMMENDATION: SUPPORT

OBJECTIVE: Improve Water Infrastructure Affecting Authority Member Agencies

#### Summary

This bill would authorize the Secretary of the Interior to provide financial assistance for the design, planning, and construction of the Delta-Mendota Canal, San Luis Canal, Friant-Kern Canal, and the non-federal pools of the California Aqueduct. Specifically, the legislation would authorize the following nonreimbursable federal funding amounts for the following:

- \$183,900,000 for the Delta-Mendota Canal
- \$194,000,000 for the San Luis Canal
- \$180,000,000 for the Friant-Kern Canal



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- \$95,500,000 for the non-federal pools of the California Aqueduct
  - \$180,000,000 to implement the Restoration Goal of the San Joaquin River Restoration Settlement Act

#### Status

S. \_\_\_ and H.R. \_\_\_ are expected to be introduced in early April.

#### Importance to the Authority

This bill would authorize nonreimbursable federal funding to support subsidence repair costs of up to one-third of the total cost of subsidence repair costs to the Delta-Mendota (DMC), San Luis, and Friant-Kern Canals, and the California Aqueduct. This would provide up to \$183.9 million for subsidence mitigation along the DMC and up to \$194 million for repairs along the San Luis Canal.

#### Pros:

- The bill would provide up to a one-third cost share of nonreimbursable federal funds for capacity restoration of key conveyance for Authority member agencies.

#### Cons:

- None identified at this time.

#### Committee Options

##### Option 1

Recommend that the Board authorize the Executive Director and delegated staff to express support to S. \_\_\_ and H.R. \_\_\_, Canal Conveyance Capacity Restoration Act, when introduced in a substantially similar form.

**Fiscal Impact:** Unknown. Reduce costs associated with infrastructure finance.

**Business Analysis:** Reduce costs associated with infrastructure finance.

##### Option 2

Take no action.

**Fiscal Impact:** Unknown. SLDMWA may be subject to additional costs associated with infrastructure development/repair.

**Business Analysis:** SLDMWA and its member agencies could be subject to additional costs resulting from infrastructure construction/repair.

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#### S. \_\_\_ (Feinstein) – STREAM Act

#### RECOMMENDATION: SUPPORT

#### OBJECTIVE: Improve Water Infrastructure Affecting Authority Member Agencies

#### Summary

This bill authorizes \$1.65 billion in federal funds for a number of projects, programs and activities, including:

- \$750 million for groundwater and surface storage projects and conveyance



- \$250 million for water recycling projects
- \$250 million in environmental funding, including \$150 million for competitive grants for habitat restoration
- \$100 million in desalination funding
- \$100 million for drinking water assistance to disadvantaged communities
- \$50 million for natural water retention and release projects
- \$150 million for loans at 30-year Treasury rate for water supply projects (expected to make available \$8-12 billion in lending authority)

Additionally, the legislation establishes a two-tiered project authorization process by allowing Interior to approve water recycling, desalination and non-federal storage projects less with less than \$250 million in federal funding. For federal projects or projects with greater than \$250 million in federal funding, the legislation establishes a “Reclamation WRDA” process to expedite Congressional review and approval of projects.

The legislation also promotes multi-benefit storage projects by requiring that Reclamation score all storage projects based on statutory criteria and only projects scoring above a certain threshold could be authorized or funded. Each project’s score is based on three factors counting one-third each: 1). Its cost-benefit analysis, 2). Its relative environmental impact, including the project’s benefits and negative environmental impacts, and 3). Its contribution to regional drought preparedness. A project’s score can also be adjusted by bonus points for other factors including drinking water assistance to disadvantaged communities or rural populations.

Finally, the legislation requires that projects must have environmental or other public benefits in order to receive the maximum federal cost-share. Specifically, the legislation provides that for federal projects, a project can receive a maximum 50% federal cost share, but only if at least 10% of the project benefits are environmental or other federal benefits, while non-federal projects can receive a maximum 25% federal cost share, but only if at least 10% of the project benefits are environmental or other federal benefits.

#### Status

S. \_\_\_ is expected to be introduced in April.

#### Importance to the Authority

This bill would authorize significant funding for water infrastructure and habitat restoration in Reclamation states, while establishing a consistent process to expedite Congressional authorization of federal and/or major projects. Overall, the changes to project funding criteria for priority projects for the Authority, including the Delta-Mendota Canal subsidence mitigation and the B.F. Sisk Dam Raise and San Luis Reservoir Expansion would be beneficial relative to existing WIIN Act funding authorities that are subject to expire on December 31, 2021.

#### Pros:

- The bill would streamline Congressional authorizations for federal and “major” non-federal projects, significantly increase federal authorizations for water and habitat improvement projects in Reclamation states, and improve federal funding for rural and disadvantaged community drinking water needs.



Cons:

- Requires explicit Congressional authorization for federal projects, which has delayed project advancement for some projects

Committee Options

Option 1

Recommend that the Board authorize the Executive Director and delegated staff to express support to S. \_\_\_ and H.R. \_\_\_\_, STREAM Act, when introduced in a substantially similar form.

**Fiscal Impact:** Unknown. Reduce costs associated with infrastructure projects.

**Business Analysis:** Reduce costs associated with infrastructure projects.

Option 2

Take no action.

**Fiscal Impact:** Unknown. SLDMWA may be subject to additional costs associated with infrastructure development/repair.

**Business Analysis:** SLDMWA and its member agencies could be subject to additional costs resulting from infrastructure construction/repair.

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## [S. 914 \(Duckworth\) – Drinking Water and Wastewater Infrastructure Act of 2021](#)

### RECOMMENDATION: SUPPORT

#### OBJECTIVE: Improve Water Infrastructure Affecting Authority Member Agencies

##### Summary

This bill would reauthorize the Drinking Water State Revolving Fund at boosted levels, increase the focus on small and disadvantaged communities in federal grant and loan programs, promote water utilities' sustainability and resilience efforts, and require EPA to conduct an assessment of the number of households across the country that can't afford their water bills. It also includes several provisions that would aim to address the dangers of lead pipes in the drinking water system, including increasing the authorization of EPA's lead reduction grants program to \$100 million annually and boosting the agency's program that helps schools and childcare centers test for lead.

Importantly, the legislation also reauthorizes EPA's WIFIA program at \$50 million annually through 2026 and includes language that would address the scoring issue that prevented the Authority from being able to access the WIFIA program for the Jones Pumping Plant Unit rewind project. The legislation includes language to expand the program eligibility to include projects that have a federal title, provided that the loan is being issued to a non-federal entity and that non-federal funds are used to repay the WIFIA loan.

##### Status

S. 914 was introduced in the United States Senate on March 23, 2021 and referred to the Committee on Environment and Public Works. On March 24, 2021, the Senate Environment and Public Works Committee ordered the bill favorably reported with an amendment in the nature of a substitute on a 20-0 vote. The measure now awaits consideration by the full Senate, just as Democrats are pushing for major



investments in the nation's water systems as part of a broader infrastructure bill that may be advanced through the budget reconciliation process. The substitute amendment includes a number of policy provisions that would not be permitted under reconciliation rules.

#### Importance to the Authority

The legislation reauthorizes EPA's WIFIA program at \$50 million annually through 2026 and includes language that would address the scoring issue that prevented the Authority from being able to access the WIFIA program for the Jones Pumping Plant Unit rewind project. The legislation includes language to expand the program eligibility to include projects that have a federal title, provided that the loan is being issued to a non-federal entity and that non-federal funds are used to repay the WIFIA loan.

Additionally, in its capacity as the Regional Water Management Group for the Westside San Joaquin Integrated Regional Water Management Plan, the Authority coordinates with local agencies and disadvantaged communities that have projects for which the Drinking Water State Revolving Fund is an excellent funding program. The program is significantly underfunded relative to needs, so increased funding levels provided by the legislation would be beneficial.

#### Pros:

- The bill increases federal investments in the Drinking Water State Revolving Fund and increases access to EPA's WIFIA loan program.

#### Cons:

- Funding levels in the House measure to reauthorize the Drinking Water State Revolving Fund are significantly higher.

#### Committee Options

##### Option 1

Recommend that the Board authorize the Executive Director and delegated staff to express support to S. 914, Drinking Water and Wastewater Infrastructure Act of 2021.

**Fiscal Impact:** Unknown. Reduce costs associated with infrastructure finance.

**Business Analysis:** Reduce costs associated with infrastructure finance.

##### Option 2

Take no action.

**Fiscal Impact:** Unknown. SLDMWA may be subject to additional costs associated with infrastructure development/repair.

**Business Analysis:** SLDMWA and its member agencies could be subject to additional costs resulting from infrastructure construction/repair.



H.R. 1563 (Garcia) – To extend the authorities under the Water Infrastructure Improvements for the Nation Act of 2016 providing operational flexibility, drought relief, and other benefits to the State of California.

**RECOMMENDATION: FAVOR**

**OBJECTIVE:** Restore Central Valley Project Water Supply for Member Agencies  
Improve Water Infrastructure Affecting Authority Member Agencies

Summary

The bill would extend the authorities under the Water Infrastructure Improvements for the Nation Act of 2016 providing operational flexibility, drought relief, and other benefits to the State of California.

Status

H.R. 1563 was introduced in the U.S. House of Representatives on March 3, 2021 and has been referred to the House Natural Resources Committee and the House Science, Space and Technology Committee. Additional key cosponsors include the 10 Members of the California Republican Congressional delegation.

Importance to the Authority

The bill extends Subtitle J of the Water Infrastructure Improvements for the Nation (WIIN) Act of 2016, legislation that provides key operational provisions for the Central Valley Project and funding for water storage and conveyance projects, water recycling, desalination, and environmental restoration projects, and authorized the contract conversions and prepayment completed by many Authority member agencies. Importantly, the authorities provided by the WIIN Act expire at the end of this calendar year.

Pros:

- The legislation would extend beneficial provisions of the WIIN Act, including the water storage account funding, water recycling funding, and operations provisions, for 7 years. If enacted, the legislation would provide opportunities to continue to fund Authority and member agency projects, including the restoration of the conveyance capacity of the Delta-Mendota Canal and an expansion of San Luis Reservoir.

Cons:

- H.R. 737, the Renew WIIN Act, which the Board adopted a support position on at the March 4, 2021, meeting, extends the WIIN Act for 10 years.

Committee Options

Option 1

Recommend that the Board authorize the Executive Director and delegated staff to express a favor position on H.R. 1536, To extend the authorities under the Water Infrastructure Improvements for the Nation Act of 2016 providing operational flexibility, drought relief, and other benefits to the State of California.

**Fiscal Impact:** Unknown. Federal funding provided through WIIN Act authorities could reduce member fees for key Authority projects and additional water supplies provided by operational provisions could increase year-to-year water supply reliability.



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**Business Analysis:** Unknown.

Option 2  
Take no action.

**Fiscal Impact:** Unknown. SLDMWA may be subject to lower federal funding for projects, reduced allocations or lost water supply resulting from expired authorities.

**Business Analysis:** SLDMWA may be subject to reduced allocations or lost water supply resulting from expired authorities.

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## Guidelines for Taking Positions on Legislation

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A number of controversial bills are introduced each year in the Congress and in the California Legislature. It is important to understand how the Authority takes positions on legislation.

### Policy

By Agenda Item 8, dated December 10, 2020, the Board adopted the Fiscal Year 2022 Objectives.

### Water Authority's Positions on Legislation

The Water Authority takes positions on legislation that, if enacted, would impact Water Authority members, consistent with Water Authority Board adopted Goals and Objectives. The Water Authority may take the following positions on legislation: Oppose, Support, Oppose Unless Amended, Support if Amended, Not Favor, Favor, Not Favor Unless Amended, Favor if Amended, and Watch (neutral). The Water Authority's staff testifies and advocates with legislators and staff through meetings and member agency contacts on all positions except Watch, Favor and Not Favor. For Favor and Not Favor positions, written communication of the Water Authority's position is provided to the legislator. Nothing in this section should be read to preclude the Executive Director or his or her delegee from taking an informal support or informal oppose position on behalf of the Water Authority that is consistent with adopted legislative or policy objectives, or to preclude the Executive Director from communicating a position on emergency legislation after obtaining the concurrence of the Chair, or the Chair's designee, provided that the Executive Director informs the Board regarding such positions on emergency legislation no later than the next regularly scheduled Board meeting.

### Amendment Development Process

If the Water Authority takes an Oppose Unless Amended or Support if Amended position, the Water Authority will typically discuss the concepts for the amendments at the meeting. Then Water Authority staff, in consultation with Committee and/or Board Members as needed, will develop the amendments after the meeting.

### Information Sharing

To provide adequate information to the entire Water Authority membership, the Water Authority provides legislative updates, posts positions and other information on our website, and sends out advisories and alerts on key legislation.



Memo to SLDMWA Water Resources Committee and Board Members

April 5, 2021

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The Water Authority's legislative department is available to provide specific information on bills on request and Board Members are encouraged to communicate Water Authority positions on priority legislation in meetings with legislative staff, consistent with Water Authority policy. The Water Authority's Water Policy Director appreciates being informed by Water Authority members of positions taken by Water Authority members on legislation.





## Tracked Legislation

### Federal Legislation

Bill Number(s)	Sponsor(s)	Bill Title	Summary	Position	Status
<b>H.R. 644</b>	Calvert (R-CA-42)	REBUILD Act	<p>This bill authorizes (1) the assignment to states of federal environmental review responsibilities under relevant federal environmental laws for projects funded by, carried out by, or subject to approval by federal agencies; and (2) states to assume all or part of those responsibilities.</p> <p>Each responsible federal official who is authorized to assign such responsibility must promulgate regulations that establish requirements relating to information required to be contained in state applications to assume those responsibilities.</p> <p>An official may approve an application only if (1) public notice requirements have been met, (2) the state has the capability to assume the responsibilities, and (3) the head of the state agency having primary jurisdiction over the projects enters into a written agreement with an official to assume the responsibilities and to maintain the financial resources necessary to carry them out.</p> <p>The officials must audit state compliance with federal laws for which responsibilities are assumed. The officials may terminate the responsibilities assigned to states after providing notice to states of any noncompliance and an opportunity to take corrective action.</p>	Support	Introduced and referred to the House Committee on Natural Resources (2/1/2021)



<b>H.R. 737</b>	Valadao (R-CA-21)	RENEW WIIN Act	The bill would extend the authorities under the Water Infrastructure Improvements for the Nation Act of 2016 for 10 years, providing operational flexibility, drought relief, and other benefits to the State of California.	Support	Introduced and referred to the House Committee on Natural Resources (2/2/2021)
<b>H.R. 866</b>	Calvert (R-CA-42)	FISH Act	This bill gives the Fish and Wildlife Service (FWS) the sole authority to protect endangered or threatened species that are anadromous species (species of fish that spawn in fresh or estuarine waters and that migrate to ocean waters) or catadromous species (species of fish that spawn in ocean waters and migrate to fresh waters). Currently, the FWS shares this authority with the National Marine Fisheries Service.	Support	

State Legislation

Bill Number(s)	Sponsor(s)	Bill Title	Summary	Position	Status
<b>SB 559</b>	Hurtado	Department of Water Resources: water conveyance systems: Canal Conveyance Capacity Restoration Fund.	This bill would establish the Canal Conveyance Capacity Restoration Fund in the State Treasury to be administered by the department. The bill would require all moneys deposited in the fund to be expended, upon appropriation by the Legislature, in support of subsidence repair costs, including environmental planning, permitting, design, and construction and necessary road and bridge upgrades required to accommodate capacity improvements. The bill would require the department to expend from the fund, upon appropriation by the Legislature, specified monetary amounts to restore the capacity of 4 specified water conveyance systems, as prescribed, with 2 of those 4 expenditures being in the form of a grant to the Friant Water Authority and to the San Luis and Delta-Mendota Water Authority. The bill would make these provisions inoperative on July 1, 2030, and would repeal the provisions as of January 1, 2031.	Support	Set for Hearing on April 27, 2021 at 9:00 am.