



# Santa Clara Valley Water District

**File No.:** 20-0399

**Agenda Date:** 4/28/2020

**Item No.:** \*3.8.

## SUPPLEMENTAL BOARD AGENDA MEMORANDUM

### SUBJECT:

Recommended Positions on State Legislation: SB 971 (Hertzberg) Small Water Supplier and Countywide Water Shortage Contingency Planning; \*Midpeninsula Regional Open Space District \$20 million Senator Beall Member Budget Request; \*AB 2560 (Quirk) Water Quality: Notification and Response Levels: Procedures; \*AB 3232 (Friedman) Commercial Washing Machines: Microfiber Filters; \*SB 952 (Nielsen) Sales and Use Taxes: Exemption: Backup Electrical Resources: Deenergizing Events; \*SB 1044 (Allen) Firefighting Equipment and Foam: PFAS Chemicals; and Other Legislation Which May Require Urgent Consideration for a Position by the Board.

### REASON FOR SUPPLEMENTAL MEMORANDUM:

This supplemental Board agenda memorandum conveys additional information received after the initial agenda item was released, consistent with Executive Limitations Policy EL-7-10-5.

### RECOMMENDATION:

- A. Adopt a position of "Support" on: SB 971 (Hertzberg) Small Water Supplier and Countywide Water Shortage Contingency Planning;
- B. \*Adopt a position of "Support" on: Midpeninsula Regional Open Space District \$20 million Senator Beall Member Budget Request;
- C. \*Adopt a position of "Support" on: AB 2560 (Quirk) Water Quality: Notification and Response Levels: Procedures;
- D. \*Adopt a position of "Support" on: AB 3232 (Friedman) Commercial Washing Machines: Microfiber Filters;
- E. \*Adopt a position of "Support" on: SB 952 (Nielsen) Sales and Use Taxes: Exemption: Backup Electrical Resources: Deenergizing Events; and
- F. \*Adopt a position of "Support" on: SB 1044 (Allen) Firefighting Equipment and Foam: PFAS Chemicals.

### SUMMARY:

**\*Midpeninsula Regional Open Space District \$20 million Senator Beall Budget Request.**

**Position Recommendation: Support**

**Priority Recommendation: 3**

The Midpeninsula Regional Open Space District (Midpen) is pursuing a member budget request

through Senator Beall for a \$20 million appropriation for the Wildlife and Regional Trail Crossing, a nature overpass to be constructed over U.S. Highway 17. This project is intended to build a bridge overarching the highway that is designed to preserve the habitat for local wildlife by connecting the natural landscape that is fragmented by the highway. This structure would allow wildlife to cross the highway freely and safely while still serving the needs of motorists to safely use the highway.

### *Impacts on Valley Water*

Valley Water is a steward of the environment, as well as endangered species. Constructing this nature overpass would help expand wildlife habitat by connecting species, some of which are endangered, with the natural resources they need to survive.

The nature overpass also could help increase wildlife and improve public safety by reducing the number of vehicle collisions with wildlife on the highway, which are currently a common occurrence.

Staff recommends that the Board adopt a position of “Support” on the Midpeninsula Regional Open Space District \$20 million Senator Beall Member Budget Request.

### *Pros*

- Protects wildlife by allowing safe passage across highway and connecting them to natural resources they otherwise would not be able to access.
- Promotes public safety by reducing the number of collisions with wildlife.
- Preserves California’s natural environment by connecting habitat areas.

### *Cons*

- Roads may be temporarily closed due to construction.

## **\*AB 2560 (Quirk) Water Quality: Notification and Response Levels: Procedures**

**Position Recommendation: Support**

**Priority Recommendation: 3**

AB 2560 would require the State Water Resources Control Board (State Water Board) to follow public notice and public comment processes when establishing or revising water contaminant Notification or Response Levels. The bill would also require the State Water Board to follow and peer review procedures in the process.

Specifically, the bill requires the State Water Board to adhere to the following:

- Electronically post on its website and distribute through email a notice informing interested persons that the State Water Board has initiated the development of a

Notification or Response Level;

- Electronically post on its website and distribute through email a notice that a draft Notification or Response Level is available;
- Submit its draft Notification or Response Level for external peer review;
- Take a formal action to finalize and adopt the Notification or Response Level

The California Safe Drinking Water Act requires the State Water Board to adopt drinking water standards for contaminants in drinking and requires public water systems to ensure its compiling with those drinking water standards. The State Water Board establishes Notification Levels based on Advisory Levels created by the Division in Drinking Water (DDW) for chemicals in drinking water that lack maximum contaminant levels (MCL). Regulatory MCL's are established at levels at which a contaminant has been found to be unsafe, and water systems are required to treat drinking water to reduce contaminants below the established level.

*Impacts to Valley Water*

As public water system, Valley Water is required to meet all regulatory requirements established by DDW for drinking water providers. The State Water Board establishment of a notification or response level is usually the first step to the adoption of a formal Maximum Contaminant Level standard for the specific contaminant in drinking water. However, because a Notification Level is non-regulatory, as it does not require water providers to treat for the contaminant, the process lacks formality and public involvement. AB 2560 is an effort by the sponsors, the California Municipal Utilities Association, to formalize the process and provide the public, including water agencies, the ability to actively engage in that process.

Additionally, AB 2560 would require the State Water Board to provide the public with the scientific studies that were used to establish a Notification Level and to submit the draft notification level or response level for scientific external peer review. This section is intended to ensure that the State Water Board decisions on the establishment of Notification or Response levels is based on sound science.

Staff recommends that the Board adopt a position of "Support" on AB 2560.

*Pros*

- Increases public transparency of governmental decisions.
- Ensures decisions are made based on peer reviewed scientific studies.

*Cons*

- Increases burden on the State Water Board to comply with new transparency requirements.

**\*AB 3232 (Friedman) Commercial washing machines: microfiber filters (I-02/21/2020)**

**Position Recommendation: Support**

**Priority Recommendation: 3**

AB 3232 would require all washing machines for commercial sale in California after January 1, 2023, to include a microfiber filtration system with a 90% or greater filtration rate. The bill is intended to reduce the amount of micro plastic pollution in water sources by trapping the strands of fiber disposed in the wash water from washing machines. These tiny synthetic fibers, including polyester, rayon, and acrylics are washed off clothing and textiles and, if small enough, are not captured during the wastewater treatment process.

*Impacts to Valley Water*

AB 3232 would aid Valley Water's mission to provide a clean and safe water supply. Microfibers are a microplastic pollution that are becoming increasingly present in our waterways and drinking supply after shedding from synthetic clothing and textiles. Requiring filters on commercial washing machines in California would result in fewer microplastics in water ways, which would in turn lead to improved public health and environmental habitat along those waterways.

This bill would also reduce damage to aquatic wildlife. When ingested by marine life, microfibers have been found to cause starvation and reproductive issues. By filtering out 90% of the microfibers from laundry loads, these microfibers will be less prevalent and therefore less likely to cause problems in marine animals.

Staff recommends that the Board adopt a position of "Support" on AB 3232.

*Pros*

- Reduces harm to marine wildlife and the environment by reducing pollution from microfibers.
- Improves the quality of drinking water sources by reducing the microfibers in water supply.

*Cons*

- Increases costs and expenses for manufacturers of commercial washing machines.

**\*SB 952 (Nielsen) Sales and Use Taxes: Exemption: Backup Electrical Resources: Deenergizing Events. (I-2/10/2020)**  
**Position Recommendation: Support**  
**Priority Recommendation: 3**

SB 952 would allow public agencies to purchase backup electric generation equipment and services free of state taxes to ensure that essential government services are maintained during Public Safety Power Shutoffs at a decreased cost to the taxpayer.

Current state sales and use tax laws impose a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail.

This bill would provide exemptions from those taxes with respect to the sale of, or the storage, use, or consumption of, a backup electrical resource that is purchased for exclusive use by a city, county, special district, or other entity of local government during de-energization events.

*Impacts on Valley Water*

As a drinking water provider, Valley Water is required to provide safe, clean, water. As a result of numerous severe wildfires caused by electrical utility infrastructure, the utilities have implemented Public Safety Power Shutoffs (PSPS) which require the de-energization of the electricity grid during high hazard weather events. The provisions established by SB 952 could reduce the costs for Valley Water to purchase backup electric generation equipment by providing tax exemptions for that equipment. This would allow Valley Water to provide essential needs and services at a reduced cost in the event of a PSPS.

Staff recommends that the Board adopt a position of “Support” on SB 952.

*Pros*

- Provides Valley Water potential tax savings on equipment needed during Public Safety Power Shutoffs.

*Cons*

- Tax exemptions lead to loss of revenue to fund state and local budget items.

**\*SB 1044 (Allen) Firefighting Equipment and Foam: PFAS Chemicals (I-2/18/2020)**  
**Position Recommendation: Support**  
**Priority Recommendation: 3**

Beginning January 1, 2022, SB 1044 would require any person, including a manufacturer, that sells

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firefighter personal protective equipment to any person or public entity to provide a written notice to the purchaser at the time of sale if the firefighter personal protective equipment contains perfluoroalkyl and polyfluoroalkyl substances (PFAS), and would provide that a violation of this requirement is punishable by civil penalty. The bill would require the seller and the purchaser to retain the notice on file for at least 3 years and to furnish the notice and associated sales documentation to the State Fire Marshal within 60 days upon request.

Also beginning on January 1, 2022, SB 1044 would prohibit a manufacturer of class B firefighting foam from manufacturing, or selling, foam to which PFAS chemicals have been intentionally added, and would provide that a violation of this prohibition is punishable by civil penalty. The bill would require the manufacturer to recall its products and to notify sellers that carry its products of the recall. Requires the State Fire Marshal to develop guidance, provide information, and offer resources relating to the prohibition of PFAS in these firefighting related products to assist public entities.

Finally, SB 1044 would prohibit the use of class B foam that contains PFAS for training purposes and would provide that a violation of this prohibition is punishable by civil penalty.

### *Impacts to Valley Water*

Providing safe drinking water is central to Valley Water's mission. State and federal drinking water regulators have recently recognized PFAS as a chemical which may cause serious health effects. SB 1044 would remove a known source of PFAS pollution from commerce in California.

SB 1044 also would promote transparency on products containing PFAS. These provisions would yield greater accountability regarding these pollutants and thus would incentivize greater care in treatment of the substances and their potential contact with sources of drinking water supply.

PFAS is a group of 7,800 manmade chemicals, known as "forever" chemicals, which are used in numerous products to increase resistance to heat, water, and oil. They have been used extensively in carpets, clothing, furniture fabric, paper packaging for food, fire-fighting foams, and other materials designed to be waterproof, stain-resistant or non-stick. When washed or discarded, PFAS can contaminate groundwater and spread through a groundwater basin, contaminating water used for human consumption.

Staff recommends that the Board adopt a position of "Support" on SB 1044.

### *Pros*

- Protects the water supply from pollution of PFAS chemicals from firefighting foam.
- Increases transparency of the presence of PFAS substances in firefighting personal protective equipment.
- Holds responsible party accountable for violation of disclosure of product information.

*Cons*

- May reduce the availability of effective firefighting products.

**FINANCIAL IMPACT:**

There is no financial impact associated with these items.

**CEQA:**

The recommended action does not constitute a project under CEQA because it does not have a potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

**ATTACHMENTS:**

None.

**UNCLASSIFIED MANAGER:**

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