

**SPECIAL MEETING OF THE EXTERNAL AFFAIRS COMMITTEE  
WATER REPLENISHMENT DISTRICT OF SOUTHERN CALIFORNIA  
4040 PARAMOUNT BLVD., LAKEWOOD, CALIFORNIA  
12:00 P.M., THURSDAY, APRIL 15, 2010**

**AGENDA**

THE EXTERNAL AFFAIRS COMMITTEE IS A STANDING COMMITTEE OF THE ENTIRE BOARD OF DIRECTORS. PURSUANT TO THE ADMINISTRATIVE CODE, ANY DECISIONS OF THE EXTERNAL AFFAIRS COMMITTEE SHALL BE SUBJECT TO REVIEW BY THE FULL BOARD.

- 1. DETERMINATION OF A QUORUM**
- 2. PUBLIC COMMENT**
- 3. LEGISLATIVE REPORT**  
*Staff Recommendation:* For information.
- 4. WRD SOURCE NEWSLETTER UPDATE**  
*Staff Recommendation:* For discussion.
- 5. AB 1774 (SALDANA) – RECYCLED WATER: STATE AGENCY LANDSCAPE IRRIGATION**  
*Staff Recommendation:* Recommends a “support” position.
- 6. AB 1793 (SALDANA) – COMMON INTEREST DEVELOPMENTS: ARTIFICIAL TURF**  
*Staff Recommendation:* Recommends a “support” position.
- 7. SB 1284 (DUCHENY) – WATER QUALITY: MANDATORY MINIMUM CIVIL PENALTIES**  
*Staff Recommendation:* Recommends a “support” position.
- 8. 4<sup>TH</sup> ANNUAL “TRIBUTE TO SHEROES” AWARDS CEREMONY**  
*Staff Recommendation:* For discussion.
- 9. DEPARTMENT REPORT**  
*Staff Recommendation:* For information.
- 10. DIRECTORS’ REPORTS, INQUIRIES, AND REVIEW OF DIRECTIONS TO STAFF**
- 11. ADJOURNMENT**

Posted by Abigail C. Andom, Deputy Secretary, April 14, 2010.

In compliance with the Americans with Disabilities Act (ADA), if special assistance is needed to participate in the Board meeting, please contact Deputy Secretary Abigail Andom at (562) 921-5521 for assistance to enable the District to make reasonable accommodations.

All public records relating to an agenda item on this agenda are available for public inspection at the time the record is distributed to all, or a majority of all, members of the Board. Such records shall be available at the District office located at 4040 Paramount Boulevard, Lakewood, California 90712.

Agendas and minutes are available at the District's website, [www.wrd.org](http://www.wrd.org).



## MEMORANDUM

ITEM NO. 3

*Prepared by:* Adeline Yoong

*Reviewed by:* Elsa Lopez

*Approved by:* Robb Whitaker

**DATE:** APRIL 15, 2010  
**TO:** EXTERNAL AFFAIRS COMMITTEE  
**FROM:** ROBB WHITAKER, GENERAL MANAGER  
**SUBJECT:** LEGISLATIVE REPORT

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### SUMMARY

#### **Legislative Calendar**

##### State Legislature

April 23 Last day for policy committees to hear and report to fiscal committees  
fiscal bills introduced in their house

May 7 Last day for policy committees to hear and report to nonfiscal committees  
fiscal bills introduced in their house

May 14 Last day for policy committees to meet prior to June 7 when committee  
meetings may resume

May 7 Last day for fiscal committees to hear and report to the floor bills  
introduced in their house. Last day for fiscal committees to meet prior to  
June 7 when committee meetings may resume

##### Congress

May 31– June 9 District Work Period

#### **Legislative Report**

Verbal updates will be provided on state and federal matters.

### FISCAL IMPACT

None.

### STAFF RECOMMENDATION

For information.



## MEMORANDUM

ITEM NO. 4

*Prepared by: Elsa Lopez*

*Reviewed by: Robb Whitaker*

*Approved by: Robb Whitaker*

**DATE: APRIL 15, 2010**

**TO: EXTERNAL AFFAIRS COMMITTEE**

**FROM: ROBB WHITAKER, GENERAL MANAGER**

**SUBJECT: WRD SOURCE NEWSLETTER UPDATE**

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### SUMMARY

The WRD *Source* newsletter is a quarterly publication that is mailed to 100,000 random homes within WRD's service area (20,000 per division). The *Source* is an effective resource for dissemination of the Districts accomplishments and water facts.

The *Source* is currently being printed on a high level of recycled paper (FSC certified mixed-source recycled paper versus standard recycled paper) and is printed with biodegradable inks. The FSC certified mixed-source recycled paper contains 30% to 50% of recycled materials versus standard recycled paper that uses only 10% recycled materials. This higher level of recycled paper and biodegradable inks helps WRD to meet its new L.E.E.D. procurement practices.

The *Source* is presently being developed and designed by WRD staff and is being printed and mailed by a printing vendor. The total cost to print the *Source* is \$60,000 for four issues and \$77,000 for postage for all four issues. Currently we have the *Source* on our website and staff is building an email database of interested constituents who prefer to receive the *Source* electronically.

Staff will discuss how it intends to proceed with future newsletters.

### FISCAL IMPACT

Budgeted in External Affairs budget for FY 2009-2010 for the last two issues.

### STAFF RECOMMENDATION

For discussion.



## MEMORANDUM

ITEM NO. 5

*Prepared by:* Adeline Yoong

*Reviewed by:* Elsa Lopez

*Approved by:* Robb Whitaker

**DATE:** APRIL 15, 2010

**TO:** EXTERNAL AFFAIRS COMMITTEE

**FROM:** ROBB WHITAKER, GENERAL MANAGER

**SUBJECT:** AB 1774 (SALDANA) – RECYCLED WATER: STATE AGENCY LANDSCAPE IRRIGATION

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### LEGISLATIVE BILL ANALYSIS

- **Bill Summary and Status**  
AB 1774 (Saldana), Recycled water: state agency landscape, authorizes a public agency to require a state agency whose property is located within the jurisdiction of the public agency to use recycled water for landscape irrigation of that property if certain requirements are met.

The measure passed the Assembly Committee on Water, Parks and Wildlife with a vote of 12-0 on March 23<sup>rd</sup>. It is now in the Assembly Appropriations Committee, but has not been calendared. A copy of the Assembly Water, Parks and Wildlife Committee analysis is attached.

- **Impact to WRD**  
This bill supports the implementation of the State Water Resources Control Board's Recycled Water Policy adopted in 2009 of using 1 million afy of recycled water. It will also help the state meet the goal of reducing potable water use by 20% by 2020 as stated in SBx7-7 (Steinberg) passed last year.
- **Support**  
San Diego County Water Authority (Sponsor)  
Desert Water Agency  
East Bay Municipal Utility District  
El Dorado Irrigation District  
ACWA
- **Opposition**  
None on file.

### STAFF RECOMMENDATION

Recommends a "support" position.

## **ATTACHMENTS**

- Bill text (as amended on 3/24/10)
- Assembly Water, Parks & Wildlife Committee analysis

AMENDED IN ASSEMBLY MARCH 24, 2010  
AMENDED IN ASSEMBLY MARCH 16, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1774**

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**Introduced by Assembly Member Saldana**

February 9, 2010

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An act to amend Section 13552.2 of, and to add Section 13552.3 to, the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 1774, as amended, Saldana. Recycled water: state agency landscape irrigation.

Existing law sets forth legislative findings and declarations stating that the use of potable domestic water for the irrigation of residential landscaping is a waste or unreasonable use of water if recycled water is available for that use, as determined by the State Water Resources Control Board. Existing law authorizes a public agency to require the use of recycled water for the irrigation of residential landscaping if recycled water is available for that use, as determined by the board, and other requirements are met.

This bill would state legislative findings and declarations that the use of potable domestic water for the irrigation of landscaping generally is a waste or an unreasonable use of water if recycled water is available for that use, as determined by the board. The bill would authorize a public agency, including local public agencies, to require ~~the a state agency whose property is located within the jurisdiction of the public agency to use~~ of recycled water for *landscape* irrigation of ~~landscaping by the property of that state agency~~ if certain requirements are met.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

1 SECTION 1. Section 13552.2 of the Water Code is amended  
2 to read:

3 13552.2. (a) The Legislature hereby finds and declares that  
4 the use of potable domestic water for the irrigation of landscaping  
5 is a waste or an unreasonable use of water within the meaning of  
6 Section 2 of Article X of the California Constitution if recycled  
7 water, for this use, is available to the user and meets the  
8 requirements set forth in Section 13550, as determined by the state  
9 board after notice and a hearing.

10 (b) The state board may require a public agency or person  
11 subject to this section to submit information that the state board  
12 determines may be relevant in making the determination required  
13 in subdivision (a).

14 SEC. 2. Section 13552.3 is added to the Water Code, to read:

15 13552.3. A public agency, including a state agency, city,  
16 county, city and county, district, or any other political subdivision  
17 ~~of the state may require the use of recycled water for irrigation of~~  
18 ~~landscaping by a state agency, if all of the following requirements~~  
19 *of the state may require a state agency whose property is located*  
20 *within the jurisdiction of the public agency to use recycled water*  
21 *for landscape irrigation of the property of that state agency, if all*  
22 *of the following requirements are met:*

23 (a) Recycled water is available to the user and the source of  
24 recycled water is of adequate quality for the proposed use.

25 (b) The use of recycled water does not cause any loss or  
26 diminution of any existing water right.

27 (c) The irrigation systems are constructed in accordance with  
28 Chapter 3 (commencing with Section 60301) of Division 4 of Title  
29 22 of the California Code of Regulations.

30 (d) The recycled water can be furnished at a reasonable cost to  
31 the state agency user. In determining reasonable cost to the state  
32 agency user, the public agency requiring the use of recycled water  
33 by the state agency shall consider all relevant factors, including,  
34 but not limited to, the present and projected costs of supplying,  
35 delivering, and treating potable domestic water for the proposed

1 use and the present and projected costs of supplying and delivering  
2 ~~and delivering~~ recycled water for the proposed use, and shall find  
3 that the cost of supplying the recycled water is comparable to, or  
4 less than, the cost of supplying, delivering, and treating the potable  
5 domestic water. For existing irrigation systems, the cost analysis  
6 shall include the amount necessary for the state agency to  
7 reasonably retrofit the irrigation system to meet applicable  
8 permitting requirements.

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## MEMORANDUM

ITEM NO. 6

*Prepared by:* Adeline Yoong

*Reviewed by:* Elsa Lopez

*Approved by:* Robb Whitaker

**DATE:** APRIL 15, 2010

**TO:** EXTERNAL AFFAIRS COMMITTEE

**FROM:** ROBB WHITAKER, GENERAL MANAGER

**SUBJECT:** AB 1793 (SALDANA) – COMMON INTEREST DEVELOPMENTS: ARTIFICIAL TURF

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### LEGISLATIVE BILL ANALYSIS

- Bill Summary and Status

Existing law requires a local agency to adopt a specified updated model ordinance regarding water-efficient landscapes or a water-efficient landscape ordinance that is at least as effective in conserving water as the updated model ordinance. Existing law allows certain water providers to take specified actions regarding water conservation.

This bill would provide that a provision of any of the governing documents of an HOA/CID (common interest development) association would be void and unenforceable if it prohibits, or includes conditions that have the effect of prohibiting the use of artificial turf or any other synthetic surface that resembles grass.

The measure will be heard by the Assembly Housing and Community Development Committee on April 14, 2010. A committee analysis is not available.

- Impact to WRD

WRD has a water conservation program to help decrease the region's consumption of water. Outdoor irrigation can account for more than 50% of the water used by a typical household. To that end, artificial turf can help reduce overall water consumption.

Last year, WRD supported AB 1061 (Lieu) which clarified that water conservation ordinances and regulations adopted by local governments and water districts take precedence over the governing documents of an HOA/CID association. This bill would add the use of artificial turf to those provisions.

- Support  
San Diego Water Authority (*sponsor*)  
ACWA
- Opposition  
None on file.

**STAFF RECOMMENDATION**

Recommends a “support” position.

**ATTACHMENTS**

- Bill text (as introduced)

**ASSEMBLY BILL**

**No. 1793**

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**Introduced by Assembly Member Saldana**

February 10, 2010

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An act to amend Section 1353.8 of the Civil Code, relating to common interest developments.

LEGISLATIVE COUNSEL'S DIGEST

AB 1793, as introduced, Saldana. Common interest developments: artificial turf.

Existing law requires a local agency to adopt a specified updated model ordinance regarding water-efficient landscapes or a water-efficient landscape ordinance that is at least as effective in conserving water as the updated model ordinance. Existing law allows certain water providers to take specified actions regarding water conservation.

The Davis-Stirling Common Interest Development Act provides for the creation and regulation of common interest developments. That act provides that a provision of any of the governing documents of a common interest development is void and unenforceable if it prohibits, or includes conditions that have the effect of prohibiting, the use of low water-using plants as a group, or if it has the effect of prohibiting or restricting compliance with a local water-efficient landscape ordinance or water conservation measure as described above.

This bill would provide that a provision of any of the governing documents of a common interest development would be void and unenforceable if it prohibits, or includes conditions that have the effect of prohibiting, the use of artificial turf or any other synthetic surface that resembles grass.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

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

1 SECTION 1. Section 1353.8 of the Civil Code is amended to  
2 read:  
3 1353.8. (a) Notwithstanding any other law, a provision of any  
4 of the governing documents of a common interest development  
5 shall be void and unenforceable if it does any of the following:  
6 (1) Prohibits, or includes conditions that have the effect of  
7 prohibiting, the use of low water-using plants as a group.  
8 (2) *Prohibits, or includes conditions that have the effect of*  
9 *prohibiting, the use of artificial turf or any other synthetic surface*  
10 *that resembles grass.*  
11 ~~(2)~~  
12 (3) Has the effect of prohibiting or restricting compliance with  
13 either of the following:  
14 (A) A water-efficient landscape ordinance adopted or in effect  
15 pursuant to subdivision (c) of Section 65595 of the Government  
16 Code.  
17 (B) Any regulation or restriction on the use of water adopted  
18 pursuant to Section 353 or 375 of the Water Code.  
19 (b) This section shall not prohibit an association from applying  
20 landscaping rules and regulations established in the governing  
21 documents, to the extent the rules and regulations fully conform  
22 with the requirements of subdivision (a).



## MEMORANDUM

ITEM NO. 7

*Prepared by:* Adeline Yoong

*Reviewed by:* ElsaLopez

*Approved by:* Robb Whitaker

**DATE:** APRIL 15, 2010

**TO:** EXTERNAL AFFAIRS COMMITTEE

**FROM:** ROBB WHITAKER, GENERAL MANAGER

**SUBJECT:** SB 1284 (DUCHENY) – WATER QUALITY: MANDATORY MINIMUM CIVIL PENALTIES

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### LEGISLATIVE BILL ANALYSIS

- **Bill Summary and Status**

Current law gives the State Water Resources Control Board (State Board or SWRCB) and the California Regional Water Quality Control Boards (Regional Board) the authority to prescribe waste discharge requirements in accordance with the federal Clean Water Act and the Porter-Cologne Water Quality Control Act. The Porter-Cologne Act, with certain exceptions, imposes a mandatory minimum penalty of \$3,000 for each “serious waste discharge violation.” Civil liability may be imposed administratively by the State Board or a regional board or those boards may request the Attorney General to petition the superior court to impose the liability.

SB 1284 (Ducheny), Water quality: mandatory minimum civil penalties, specifies three circumstances when mandatory minimum penalties are waived for failure to file discharge monitoring reports: (1) if there is no discharge during the reporting period, (2) if discharges do not violate effluent limitations contained in waste discharge requirements, and (3) when the State Board or Regional Board does not inform the dischargers of the alleged violation within 90 days of the date the report is due to be filed.

The measure has been referred to the Assembly Committee on Environmental Quality, but has not been calendared. A committee analysis is not available.

- **Impact to WRD**

A coalition of water agencies within the District’s service area has been working to address the Regional Board’s assessment of exorbitantly high penalties on water districts for minor infractions such as failure to file when there is no discharge during a reporting period, if discharges do not violate effluent limitations contained in waste discharge requirements, or when the State Board or Regional Board does not inform the dischargers of the alleged violation within 90 days of the date the report is due. In fact, some water agencies have fines in excess of \$600,000 for failure to file monitoring reports for no discharges.

When the original statute defining what a “serious violation” was put into place, the intent was to target intentional polluters. SB 1284 will remedy that issue by eliminating mandatory minimum penalties for the referenced circumstances.

- Support  
ACWA (Cosponsor)  
Regional Council of Rural Counties (Cosponsor)  
California Chamber of Commerce (Cosponsor)
- Opposition  
None on file.

**STAFF RECOMMENDATION**

Recommends a "support" position.

**ATTACHMENTS**

- Bill text (as introduced)

**Introduced by Senator Ducheny**February 19, 2010

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An act to amend Sections 13385 and 13385.1 of the Water Code, relating to water quality.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1284, as introduced, Ducheny. Water quality: mandatory minimum civil penalties.

(1) Under existing law, the State Water Resources Control Board and the California regional water quality control boards prescribe waste discharge requirements in accordance with the federal Clean Water Act and the Porter-Cologne Water Quality Control Act (state act). The state act, with certain exceptions, imposes a mandatory minimum penalty of \$3,000 for each serious waste discharge violation or for certain other described violations if those violations occur 4 or more times in any period of 6 consecutive months, as prescribed. Civil liability may be imposed administratively by the state board or a regional board or those boards may request the Attorney General to petition the superior court to impose the liability.

This bill would provide that certain violations involving the failure to file a discharge monitoring report are not subject to those mandatory minimum penalties if certain requirements are met.

(2) The state act includes within the exceptions to the imposition of those mandatory minimum penalties a violation of an effluent limitation if the waste discharge complies with a certain time schedule order and other requirements are met. The act prohibits, for the purposes of that exception, a time schedule order from exceeding 5 years in length, except as otherwise provided.

This bill, for the purposes of that exception, would instead prohibit that the time schedule order from exceeding 10 years in length. The bill would also revise the term "publicly-owned treatment work serving a small community" for purpose fo these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

- 1 SECTION 1. Section 13385 of the Water Code is amended to  
2 read:  
3 13385. (a) Any person who violates any of the following shall  
4 be liable civilly in accordance with this section:  
5 (1) Section 13375 or 13376.  
6 (2) Any waste discharge requirements or dredged or fill material  
7 permit issued pursuant to this chapter or any water quality  
8 certification issued pursuant to Section 13160.  
9 (3) Any requirements established pursuant to Section 13383.  
10 (4) Any order or prohibition issued pursuant to Section 13243  
11 or Article 1 (commencing with Section 13300) of Chapter 5, if the  
12 activity subject to the order or prohibition is subject to regulation  
13 under this chapter.  
14 (5) Any requirements of Section 301, 302, 306, 307, 308, 318,  
15 401, or 405 of the Clean Water Act, as amended.  
16 (6) Any requirement imposed in a pretreatment program  
17 approved pursuant to waste discharge requirements issued under  
18 Section 13377 or approved pursuant to a permit issued by the  
19 administrator.  
20 (b) Civil liability may be imposed by the superior court in an  
21 amount not to exceed the sum of both of the following:  
22 (1) Twenty-five thousand dollars (\$25,000) for each day in  
23 which the violation occurs.  
24 (2) Where there is a discharge, any portion of which is not  
25 susceptible to cleanup or is not cleaned up, and the volume  
26 discharged but not cleaned up exceeds 1,000 gallons, an additional  
27 liability not to exceed twenty-five dollars (\$25) multiplied by the  
28 number of gallons by which the volume discharged but not cleaned  
29 up exceeds 1,000 gallons.  
30 The Attorney General, upon request of a regional board or the  
31 state board, shall petition the superior court to impose the liability.

1 (c) Civil liability may be imposed administratively by the state  
2 board or a regional board pursuant to Article 2.5 (commencing  
3 with Section 13323) of Chapter 5 in an amount not to exceed the  
4 sum of both of the following:

5 (1) Ten thousand dollars (\$10,000) for each day in which the  
6 violation occurs.

7 (2) Where there is a discharge, any portion of which is not  
8 susceptible to cleanup or is not cleaned up, and the volume  
9 discharged but not cleaned up exceeds 1,000 gallons, an additional  
10 liability not to exceed ten dollars (\$10) multiplied by the number  
11 of gallons by which the volume discharged but not cleaned up  
12 exceeds 1,000 gallons.

13 (d) For purposes of subdivisions (b) and (c), "discharge"  
14 includes any discharge to navigable waters of the United States,  
15 any introduction of pollutants into a publicly owned treatment  
16 works, or any use or disposal of sewage sludge.

17 (e) In determining the amount of any liability imposed under  
18 this section, the regional board, the state board, or the superior  
19 court, as the case may be, shall take into account the nature,  
20 circumstances, extent, and gravity of the violation or violations,  
21 whether the discharge is susceptible to cleanup or abatement, the  
22 degree of toxicity of the discharge, and, with respect to the violator,  
23 the ability to pay, the effect on its ability to continue its business,  
24 any voluntary cleanup efforts undertaken, any prior history of  
25 violations, the degree of culpability, economic benefit or savings,  
26 if any, resulting from the violation, and other matters that justice  
27 may require. At a minimum, liability shall be assessed at a level  
28 that recovers the economic benefits, if any, derived from the acts  
29 that constitute the violation.

30 (f) (1) Except as provided in paragraph (2), for the purposes of  
31 this section, a single operational upset that leads to simultaneous  
32 violations of more than one pollutant parameter shall be treated  
33 as a single violation.

34 (2) (A) For the purposes of subdivisions (h) and (i), a single  
35 operational upset in a wastewater treatment unit that treats  
36 wastewater using a biological treatment process shall be treated  
37 as a single violation, even if the operational upset results in  
38 violations of more than one effluent limitation and the violations  
39 continue for a period of more than one day, if all of the following  
40 apply:

1 (i) The discharger demonstrates all of the following:

2 (I) The upset was not caused by wastewater treatment operator  
3 error and was not due to discharger negligence.

4 (II) But for the operational upset of the biological treatment  
5 process, the violations would not have occurred nor would they  
6 have continued for more than one day.

7 (III) The discharger carried out all reasonable and immediately  
8 feasible actions to reduce noncompliance with the applicable  
9 effluent limitations.

10 (ii) The discharger is implementing an approved pretreatment  
11 program, if so required by federal or state law.

12 (B) Subparagraph (A) only applies to violations that occur  
13 during a period for which the regional board has determined that  
14 violations are unavoidable, but in no case may that period exceed  
15 30 days.

16 (g) Remedies under this section are in addition to, and do not  
17 supersede or limit, any other remedies, civil or criminal, except  
18 that no liability shall be recoverable under Section 13261, 13265,  
19 13268, or 13350 for violations for which liability is recovered  
20 under this section.

21 (h) (1) Notwithstanding any other provision of this division,  
22 and except as provided in subdivisions (j), (k), and (l), a mandatory  
23 minimum penalty of three thousand dollars (\$3,000) shall be  
24 assessed for each serious violation.

25 (2) For the purposes of this section, a "serious violation" means  
26 any waste discharge that violates the effluent limitations contained  
27 in the applicable waste discharge requirements for a Group II  
28 pollutant, as specified in Appendix A to Section 123.45 of Title  
29 40 of the Code of Federal Regulations, by 20 percent or more or  
30 for a Group I pollutant, as specified in Appendix A to Section  
31 123.45 of Title 40 of the Code of Federal Regulations, by 40  
32 percent or more.

33 (i) (1) Notwithstanding any other provision of this division,  
34 and except as provided in subdivisions (j), (k), and (l), a mandatory  
35 minimum penalty of three thousand dollars (\$3,000) shall be  
36 assessed for each violation whenever the person does any of the  
37 following four or more times in any period of six consecutive  
38 months, except that the requirement to assess the mandatory  
39 minimum penalty shall not be applicable to the first three  
40 violations:

1 (A) Violates a waste discharge requirement effluent limitation.

2 (B) Fails to file a report pursuant to Section 13260.

3 (C) Files an incomplete report pursuant to Section 13260.

4 (D) Violates a toxicity effluent limitation contained in the  
5 applicable waste discharge requirements where the waste discharge  
6 requirements do not contain pollutant-specific effluent limitations  
7 for toxic pollutants.

8 (2) For the purposes of this section, a "period of six consecutive  
9 months" means the period commencing on the date that one of the  
10 violations described in this subdivision occurs and ending 180  
11 days after that date.

12 (j) Subdivisions (h) and (i) do not apply to any of the following:

13 (1) A violation caused by one or any combination of the  
14 following:

15 (A) An act of war.

16 (B) An unanticipated, grave natural disaster or other natural  
17 phenomenon of an exceptional, inevitable, and irresistible  
18 character, the effects of which could not have been prevented or  
19 avoided by the exercise of due care or foresight.

20 (C) An intentional act of a third party, the effects of which could  
21 not have been prevented or avoided by the exercise of due care or  
22 foresight.

23 (D) (i) The operation of a new or reconstructed wastewater  
24 treatment unit during a defined period of adjusting or testing, not  
25 to exceed 90 days for a wastewater treatment unit that relies on a  
26 biological treatment process and not to exceed 30 days for any  
27 other wastewater treatment unit, if all of the following requirements  
28 are met:

29 (I) The discharger has submitted to the regional board, at least  
30 30 days in advance of the operation, an operations plan that  
31 describes the actions the discharger will take during the period of  
32 adjusting and testing, including steps to prevent violations and  
33 identifies the shortest reasonable time required for the period of  
34 adjusting and testing, not to exceed 90 days for a wastewater  
35 treatment unit that relies on a biological treatment process and not  
36 to exceed 30 days for any other wastewater treatment unit.

37 (II) The regional board has not objected in writing to the  
38 operations plan.

39 (III) The discharger demonstrates that the violations resulted  
40 from the operation of the new or reconstructed wastewater

1 treatment unit and that the violations could not have reasonably  
2 been avoided.

3 (IV) The discharger demonstrates compliance with the  
4 operations plan.

5 (V) In the case of a reconstructed wastewater treatment unit,  
6 the unit relies on a biological treatment process that is required to  
7 be out of operation for at least 14 days in order to perform the  
8 reconstruction, or the unit is required to be out of operation for at  
9 least 14 days and, at the time of the reconstruction, the cost of  
10 reconstructing the unit exceeds 50 percent of the cost of replacing  
11 the wastewater treatment unit.

12 (ii) For the purposes of this section, "wastewater treatment unit"  
13 means a component of a wastewater treatment plant that performs  
14 a designated treatment function.

15 (2) (A) Except as provided in subparagraph (B), a violation of  
16 an effluent limitation where the waste discharge is in compliance  
17 with either a cease and desist order issued pursuant to Section  
18 13301 or a time schedule order issued pursuant to Section 13300,  
19 if all of the following requirements are met:

20 (i) The cease and desist order or time schedule order is issued  
21 after January 1, 1995, but not later than July 1, 2000, specifies the  
22 actions that the discharger is required to take in order to correct  
23 the violations that would otherwise be subject to subdivisions (h)  
24 and (i), and the date by which compliance is required to be achieved  
25 and, if the final date by which compliance is required to be  
26 achieved is later than one year from the effective date of the cease  
27 and desist order or time schedule order, specifies the interim  
28 requirements by which progress towards compliance will be  
29 measured and the date by which the discharger will be in  
30 compliance with each interim requirement.

31 (ii) The discharger has prepared and is implementing in a timely  
32 and proper manner, or is required by the regional board to prepare  
33 and implement, a pollution prevention plan that meets the  
34 requirements of Section 13263.3.

35 (iii) The discharger demonstrates that it has carried out all  
36 reasonable and immediately feasible actions to reduce  
37 noncompliance with the waste discharge requirements applicable  
38 to the waste discharge and the executive officer of the regional  
39 board concurs with the demonstration.

1 (B) Subdivisions (h) and (i) shall become applicable to a waste  
2 discharge on the date the waste discharge requirements applicable  
3 to the waste discharge are revised and reissued pursuant to Section  
4 13380, unless the regional board does all of the following on or  
5 before that date:

6 (i) Modifies the requirements of the cease and desist order or  
7 time schedule order as may be necessary to make it fully consistent  
8 with the reissued waste discharge requirements.

9 (ii) Establishes in the modified cease and desist order or time  
10 schedule order a date by which full compliance with the reissued  
11 waste discharge requirements shall be achieved. For the purposes  
12 of this subdivision, the regional board may not establish this date  
13 later than five years from the date the waste discharge requirements  
14 were required to be reviewed pursuant to Section 13380. If the  
15 reissued waste discharge requirements do not add new effluent  
16 limitations or do not include effluent limitations that are more  
17 stringent than those in the original waste discharge requirements,  
18 the date shall be the same as the final date for compliance in the  
19 original cease and desist order or time schedule order or five years  
20 from the date that the waste discharge requirements were required  
21 to be reviewed pursuant to Section 13380, whichever is earlier.

22 (iii) Determines that the pollution prevention plan required by  
23 clause (ii) of subparagraph (A) is in compliance with the  
24 requirements of Section 13263.3 and that the discharger is  
25 implementing the pollution prevention plan in a timely and proper  
26 manner.

27 (3) A violation of an effluent limitation where the waste  
28 discharge is in compliance with either a cease and desist order  
29 issued pursuant to Section 13301 or a time schedule order issued  
30 pursuant to Section 13300 or 13308, if all of the following  
31 requirements are met:

32 (A) The cease and desist order or time schedule order is issued  
33 on or after July 1, 2000, and specifies the actions that the discharger  
34 is required to take in order to correct the violations that would  
35 otherwise be subject to subdivisions (h) and (i).

36 (B) The regional board finds that, for one of the following  
37 reasons, the discharger is not able to consistently comply with one  
38 or more of the effluent limitations established in the waste  
39 discharge requirements applicable to the waste discharge:

1 (i) The effluent limitation is a new, more stringent, or modified  
2 regulatory requirement that has become applicable to the waste  
3 discharge after the effective date of the waste discharge  
4 requirements and after July 1, 2000, new or modified control  
5 measures are necessary in order to comply with the effluent  
6 limitation, and the new or modified control measures cannot be  
7 designed, installed, and put into operation within 30 calendar days.

8 (ii) New methods for detecting or measuring a pollutant in the  
9 waste discharge demonstrate that new or modified control measures  
10 are necessary in order to comply with the effluent limitation and  
11 the new or modified control measures cannot be designed, installed,  
12 and put into operation within 30 calendar days.

13 (iii) Unanticipated changes in the quality of the municipal or  
14 industrial water supply available to the discharger are the cause  
15 of unavoidable changes in the composition of the waste discharge,  
16 the changes in the composition of the waste discharge are the cause  
17 of the inability to comply with the effluent limitation, no alternative  
18 water supply is reasonably available to the discharger, and new or  
19 modified measures to control the composition of the waste  
20 discharge cannot be designed, installed, and put into operation  
21 within 30 calendar days.

22 (iv) The discharger is a publicly owned treatment works located  
23 in Orange County that is unable to meet effluent limitations for  
24 biological oxygen demand, suspended solids, or both, because the  
25 publicly owned treatment works meets all of the following criteria:

26 (I) Was previously operating under modified secondary  
27 treatment requirements pursuant to Section 301(h) of the Clean  
28 Water Act (33 U.S.C. Sec. 1311(h)).

29 (II) Did vote on July 17, 2002, not to apply for a renewal of the  
30 modified secondary treatment requirements.

31 (III) Is in the process of upgrading its treatment facilities to  
32 meet the secondary treatment standards required by Section  
33 301(b)(1)(B) of the Clean Water Act (33 U.S.C. Sec.  
34 1311(b)(1)(B)).

35 (C) The regional board establishes a time schedule for bringing  
36 the waste discharge into compliance with the effluent limitation  
37 that is as short as possible, taking into account the technological,  
38 operational, and economic factors that affect the design,  
39 development, and implementation of the control measures that are  
40 necessary to comply with the effluent limitation. For the purposes

1 of this subdivision, the time schedule ~~may~~ *shall* not exceed ~~five~~  
2 ~~10~~ years in length, ~~except that the time schedule may not exceed~~  
3 ~~10~~ years in length for the upgrade described in subclause (III) of  
4 ~~clause (iv) of subparagraph (B)~~. If the time schedule exceeds one  
5 year from the effective date of the order, the schedule shall include  
6 interim requirements and the dates for their achievement. The  
7 interim requirements shall include both of the following:

8 (i) Effluent limitations for the pollutant or pollutants of concern.

9 (ii) Actions and milestones leading to compliance with the  
10 effluent limitation.

11 (D) The discharger has prepared and is implementing in a timely  
12 and proper manner, or is required by the regional board to prepare  
13 and implement, a pollution prevention plan pursuant to Section  
14 13263.3.

15 (4) *A violation for a failure to file a discharge monitoring report*  
16 *for which the state board or a regional board does not inform the*  
17 *discharger of the alleged violation within 90 days of the date on*  
18 *which the discharge monitoring report was required to be filed.*

19 (5) *A violation that consists of a failure to file a discharge*  
20 *monitoring report for any period in which no discharge occurred.*

21 (6) *A violation that consists of a failure to file a discharge*  
22 *monitoring report for any period in which discharges do not violate*  
23 *effluent limitations contained in waste discharge requirements*  
24 *that include numeric effluent limitations.*

25 (k) (1) In lieu of assessing all or a portion of the mandatory  
26 minimum penalties pursuant to subdivisions (h) and (i) against a  
27 publicly owned treatment works serving a small community, the  
28 state board or the regional board may elect to require the publicly  
29 owned treatment works to spend an equivalent amount towards  
30 the completion of a compliance project proposed by the publicly  
31 owned treatment works, if the state board or the regional board  
32 finds all of the following:

33 (A) The compliance project is designed to correct the violations  
34 within five years.

35 (B) The compliance project is in accordance with the  
36 enforcement policy of the state board, excluding any provision in  
37 the policy that is inconsistent with this section.

38 (C) The publicly owned treatment works has prepared a  
39 financing plan to complete the compliance project.

1 (2) For the purposes of this subdivision, "a publicly owned  
2 treatment works serving a small community" means a publicly  
3 owned treatment works serving a population of ~~10,000~~ 20,000  
4 persons or fewer or a rural county, with a financial hardship as  
5 determined by the state board after considering such factors as  
6 median income of the residents, rate of unemployment, or low  
7 population density in the service area of the publicly owned  
8 treatment works.

9 (j) (1) In lieu of assessing penalties pursuant to subdivision (h)  
10 or (i), the state board or the regional board, with the concurrence  
11 of the discharger, may direct a portion of the penalty amount to  
12 be expended on a supplemental environmental project in  
13 accordance with the enforcement policy of the state board. If the  
14 penalty amount exceeds fifteen thousand dollars (\$15,000), the  
15 portion of the penalty amount that may be directed to be expended  
16 on a supplemental environmental project may not exceed fifteen  
17 thousand dollars (\$15,000) plus 50 percent of the penalty amount  
18 that exceeds fifteen thousand dollars (\$15,000).

19 (2) For the purposes of this section, a "supplemental  
20 environmental project" means an environmentally beneficial project  
21 that a person agrees to undertake, with the approval of the regional  
22 board, that would not be undertaken in the absence of an  
23 enforcement action under this section.

24 (3) This subdivision applies to the imposition of penalties  
25 pursuant to subdivision (h) or (i) on or after January 1, 2003,  
26 without regard to the date on which the violation occurs.

27 (m) The Attorney General, upon request of a regional board or  
28 the state board, shall petition the appropriate court to collect any  
29 liability or penalty imposed pursuant to this section. Any person  
30 who fails to pay on a timely basis any liability or penalty imposed  
31 under this section shall be required to pay, in addition to that  
32 liability or penalty, interest, attorney's fees, costs for collection  
33 proceedings, and a quarterly nonpayment penalty for each quarter  
34 during which the failure to pay persists. The nonpayment penalty  
35 shall be in an amount equal to 20 percent of the aggregate amount  
36 of the person's penalty and nonpayment penalties that are unpaid  
37 as of the beginning of the quarter.

38 (n) (1) Subject to paragraph (2), funds collected pursuant to  
39 this section shall be deposited in the State Water Pollution Cleanup  
40 and Abatement Account.

1 (2) (A) Notwithstanding any other provision of law, moneys  
2 collected for a violation of a water quality certification in  
3 accordance with paragraph (2) of subdivision (a) or for a violation  
4 of Section 401 of the Clean Water Act (33 U.S.C. Sec. 1341) in  
5 accordance with paragraph (5) of subdivision (a) shall be deposited  
6 in the Waste Discharge Permit Fund and separately accounted for  
7 in that fund.

8 (B) The funds described in subparagraph (A) shall be expended  
9 by the state board, upon appropriation by the Legislature, to assist  
10 regional boards, and other public agencies with authority to clean  
11 up waste or abate the effects of the waste, in cleaning up or abating  
12 the effects of the waste on waters of the state or for the purposes  
13 authorized in Section 13443.

14 (o) The state board shall continuously report and update  
15 information on its Internet Web site, but at a minimum, annually  
16 on or before January 1, regarding its enforcement activities. The  
17 information shall include all of the following:

18 (1) A compilation of the number of violations of waste discharge  
19 requirements in the previous calendar year, including stormwater  
20 enforcement violations.

21 (2) A record of the formal and informal compliance and  
22 enforcement actions taken for each violation, including stormwater  
23 enforcement actions.

24 (3) An analysis of the effectiveness of current enforcement  
25 policies, including mandatory minimum penalties.

26 (p) The amendments made to subdivisions (f), (h), (i) and (j)  
27 during the second year of the 2001–02 Regular Session apply only  
28 to violations that occur on or after January 1, 2003.

29 (q) *The amendments made to this section by this act during the*  
30 *second year of the 2009–10 Regular Session of the Legislature*  
31 *apply to violations without regard to the date on which the*  
32 *violations occurred or occur.*

33 SEC. 2. Section 13385.1 of the Water Code is amended to read:  
34 13385.1. (a) (1) For the purposes of subdivision (h) of Section  
35 13385, a "serious violation" also means a failure to file a discharge  
36 monitoring report required pursuant to Section 13383 for each  
37 complete period of 30 days following the deadline for submitting  
38 the report, if the report is designed to ensure compliance with  
39 limitations contained in waste discharge requirements that contain

1 effluent limitations. *This paragraph applies only to violations that*  
2 *occur on or after January 1, 2004.*

3 (2) *For the purposes of paragraph (1), a discharge monitoring*  
4 *report required pursuant to Section 13383 is not designed to ensure*  
5 *compliance with effluent limitations contained in waste discharge*  
6 *requirements if no discharges occur during the applicable*  
7 *reporting period.*

8 (b) *For the purposes of subdivision (h) of Section 13385, a*  
9 *"serious violation" does not include the failure to file a discharge*  
10 *monitoring report required pursuant to Section 13383 if during*  
11 *the period covered by the discharge monitoring report, the*  
12 *discharge or discharges do not violate effluent limitations*  
13 *contained in waste discharge requirements that include numeric*  
14 *waste discharge requirements. In that event, the failure to file the*  
15 *discharge monitoring report is subject to penalties in accordance*  
16 *with subdivision (e) of Section 13385.*

17 ~~(2) Paragraph (1) applies only to violations that occur on or~~  
18 ~~after January 1, 2004.~~

19 ~~(b)~~

20 (c) (1) Notwithstanding any other provision of law, moneys  
21 collected pursuant to this section for a failure to timely file a report,  
22 as described in subdivision (a), shall be deposited in the State  
23 Water Pollution Cleanup and Abatement Account.

24 (2) Notwithstanding Section 13340 of the Government Code,  
25 the funds described in paragraph (1) are continuously appropriated,  
26 without regard to fiscal years, to the state board for expenditure  
27 by the state board to assist regional boards, and other public  
28 agencies with authority to clean up waste or abate the effects of  
29 the waste, in responding to significant water pollution problems.

30 ~~(e)~~

31 (d) For the purposes of this section, paragraph (2) of subdivision  
32 (f) of Section 13385, and subdivisions (h), (i), and (j) of Section  
33 13385 only, "effluent limitation" means a numeric restriction or  
34 a numerically expressed narrative restriction, on the quantity,  
35 discharge rate, concentration, or toxicity units of a pollutant or  
36 pollutants that may be discharged from an authorized location. An  
37 effluent limitation may be final or interim, and may be expressed  
38 as a prohibition. An effluent limitation, for those purposes, does  
39 not include a receiving water limitation, a compliance schedule,  
40 or a best management practice.

1     (e) *The amendments made to this section by this act during the*  
2 *second year of the 2009–10 Regular Session of the Legislature*  
3 *apply to violations without regard to the date on which the*  
4 *violations occurred or occur.*

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## MEMORANDUM

ITEM NO. 8

*Prepared by: Elsa Lopez*

*Reviewed by: Scott Ota*

*Approved by: Robb Whitaker*

**DATE: APRIL 15, 2010**

**TO: EXTERNAL AFFAIRS COMMITTEE**

**FROM: ROBB WHITAKER, GENERAL MANAGER**

**SUBJECT: 4<sup>TH</sup> ANNUAL "TRIBUTE TO SHEROES" AWARDS CEREMONY**

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### SUMMARY

The WIN Project in conjunction with State Senator Curren D. Price Jr. is co-sponsoring the 4th Annual "Tribute to SHeroes" Awards Ceremony. This award ceremony was inaugurated in 2007 by Senator Price to pay tribute each year to female leaders in his district who have made extraordinary contributions to their communities. The award winners are leaders in their fields, innovators of unique and successful programs and services, and prime examples of lifelong commitment to improving the communities in which they live. This year's event will take place on Sunday, May 2, 2010 from 1:30pm-4:00pm at the Radisson Hotel at USC, 3540 S Figueroa St., Los Angeles, CA 90007.

The Water Replenishment District has supported this event in the past and the WIN Project is requesting the same support of \$5,000 for this year. With a contribution WRD would be acknowledged verbally and in writing the day of the event.

The WIN Project, not to be confused with WRD's Water Independence Now (WIN), is a 501(c)(3) nonprofit organization dedicated to developing affordable housing for low to moderate income families. Their mission is to create a supply of housing for purchase and rental within the State of California by acquiring and developing vacant land and/or rehabilitating multi unit and single family properties. By doing so, they benefit the individuals and families who would otherwise not have the opportunity to live in affordable, decent, safe and sanitary housing. In addition, they employ local workers; in the process improving the economy and the overall conditions of our neighborhoods as well.

### FISCAL IMPACT

Not budgeted in the External Affairs FY2009-2010 Budget

### STAFF RECOMMENDATION

For discussion.