

**MEETING OF THE EXTERNAL AFFAIRS COMMITTEE
WATER REPLENISHMENT DISTRICT OF SOUTHERN CALIFORNIA
4040 PARAMOUNT BLVD., LAKEWOOD, CALIFORNIA
12:00 P.M., MONDAY, MAY 16, 2011**

AGENDA

EACH ITEM ON THE AGENDA, NO MATTER HOW DESCRIBED, SHALL BE DEEMED TO INCLUDE ANY APPROPRIATE MOTION, WHETHER TO ADOPT A MINUTE MOTION, RESOLUTION, PAYMENT OF ANY BILL, APPROVAL OF ANY MATTER OR ACTION, OR ANY OTHER ACTION. ITEMS LISTED AS "FOR INFORMATION" MAY ALSO BE THE SUBJECT OF AN "ACTION" TAKEN BY THE BOARD OR A COMMITTEE AT THE SAME MEETING.

- 1. DETERMINATION OF A QUORUM**
- 2. PUBLIC COMMENT**
- 3. MINUTES OF THE MEETING OF APRIL 18, 2011**
Staff Recommendation: Approve as submitted.
- 4. LEGISLATIVE REPORT**
Staff Recommendation: For information.
- 5. AB 83 (JEFFRIES) – ENVIRONMENT: CEQA EXEMPTION: RECYCLED WATER PIPELINE**
Staff Recommendation: For discussion.
- 6. AB 591 (WIECKOWSKI) – OIL AND GAS PRODUCTION: HYDRAULIC FRACTURING**
Staff Recommendation: Support AB 591 (Wieckowski).
- 7. AB 741 (HUFFMAN) – ONSITE WASTEWATER DISPOSAL**
Staff Recommendation: Support AB 741 (Huffman).
- 8. H.R. 470 (HECK) /S. 519 (REID) – HOOVER POWER ALLOCATION ACT**
Staff Recommendation: Support HR 470 (Heck)/S 519 (Reid).
- 9. DEPARTMENT REPORT**
- 10. DIRECTORS' REPORTS, INQUIRIES, AND FOLLOW UP OF DIRECTIONS TO STAFF**
- 11. ADJOURNMENT**

Posted by Abigail C. Andom, Deputy Secretary, May 13, 2011.

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.

UNAPPROVED
MINUTES

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MINUTES

**MINUTES OF APRIL 18, 2011
MEETING OF THE EXTERNAL AFFAIRS COMMITTEE
OF THE BOARD OF DIRECTORS
WATER REPLENISHMENT DISTRICT OF SOUTHERN CALIFORNIA**

A meeting of the External Affairs Committee of the Board of Directors of the Water Replenishment District of Southern California was held on April 18, 2011 at 12:45 p.m. at the District Office, 4040 Paramount Boulevard, Lakewood, California. Director Willard H. Murray, Jr. called the meeting to order. Deputy Secretary Abigail C. Andom recorded the minutes.

1. DETERMINATION OF A QUORUM

Committee: Willard H. Murray, Jr. and Albert Robles
Staff: Elsa Lopez, Adeline Yoong,
Ron Beilke, Thomas Martin, Greg Osti,
Olga Quiñones

2. PUBLIC COMMENT

WRD Board President Sergio Calderon was an observer.

The agenda items were taken out of order.

4. LEGISLATIVE REPORT

Bob Reeb of Millennium Advocates provided an update on state legislative activities via videoconference. Mr. Reeb stated that the Legislature is on spring break and will be back in session next week. He provided an update on AB 954 (Calderon) and SB 701 (Calderon).

Director Robles thanked Mr. Reeb and staff for their efforts during the recently concluded WRD state legislative trip, noting the hard work and outreach efforts done by Directors Rob Katherman and Lillian Kawasaki.

Jacob Johnson of Brownstein Hyatt Farber and Schreck on behalf of the federal team provided an update on federal legislative activities also via videoconference. Mr. Johnson stated that Congress is in recess until May 2 and much activity was concentrated on the fiscal year budget discussions.

3. MINUTES OF MEETING OF MARCH 21, 2011

The minutes were approved as submitted.

**5. AB 83 (JEFFRIES) – ENVIRONMENT: CEQA EXEMPTION:
RECYCLED WATER PIPELINE**

The Committee recommended the Board support AB 83 ((Jeffries).

6. **AB 359 (HUFFMAN) – GROUNDWATER MANAGEMENT PLANS: COMPONENTS**

The Committee recommended the Board support AB 359 (Huffman).

7. **ACR 20 (HUFFMAN) – WATER AWARENESS MONTH**

The Committee recommended the Board support ACR 20 (Huffman).

8. **SB 263 (PAVLEY) – WELLS: REPORTS: PUBLIC AVAILABILITY**

The Committee recommended the Board support SB 263 (Pavley).

9. **REQUEST FOR FUNDING FOR BELL GARDENS' JOHN ANSON FORD PARK FIELD #5 WATER CONSERVATION PROJECT**

Manager of External Affairs Elsa Lopez stated that the City of Bell Gardens is seeking assistance to complete the construction of Phase 1 of Field #5 using synthetic turf in an effort to conserve water. Ms. Lopez explained that Phase 1 of the Field #5 project is projected at \$410,000 of which \$359,000 has been secured. Funds were provided by Central Basin MWD at \$90,000, City of Bell Gardens at \$110,000, and the Los Angeles County Department of Parks and Open Space at \$159,000. She indicated that President Calderon recommended that WRD contribute \$5,000 to the project.

Discussion followed and the Committee recommended a \$5,000 contribution to the City of Bell Gardens John Anson Ford Park Field #5 with the caveat that the money be released when all the funds to complete the project have been secured by the City.

10. **DEPARTMENT REPORT**

Manager of External Affairs Elsa Lopez provided an update on the External Affairs Department's activities. Ms. Lopez stated that staff will be very busy participating in Earth Day activities, such as the Go Green Expo at the L.A. Convention Center and the LA LIVE Earth Day event.

Ms. Lopez also provided the Committee with information on four email outreach proposals. She requested that the Committee members get back to her with a recommendation.

11. **DIRECTORS REPORTS, INQUIRIES, AND FOLLOW UP OF DIRECTIONS TO STAFF**

The Committee requested an update on the following items for the next Committee meeting: WRD bottled water, WRD pins, and WRD logo.

Online Technology and Data Specialist Greg Osti presented the updated WRD web site.

12. ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 2:10 p.m.

Chair

ATTEST:

Director



MEMORANDUM

ITEM NO. 4

*Prepared by: Adeline Yoong
Reviewed by: Elsa Lopez
Approved by: Robb Whitaker*

DATE: MAY 16, 2011
TO: EXTERNAL AFFAIRS COMMITTEE
FROM: ROBB WHITAKER, GENERAL MANAGER
SUBJECT: LEGISLATIVE REPORT

SUMMARY

Legislative Calendar

State Legislature

- May 6 Last day for policy committees to hear and report to Fiscal Committees fiscal bills introduced in their house
- May 13 Last day for policy committees to hear and report to Fiscal Committees non-fiscal bills introduced in their house
- May 20 Last day for policy committees to meet prior to June 6
- May 27 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 6.
- May 31 - June 3 Floor session only. No committees may meet for any purpose.
- June 3 Last day for bills to be passed out of the house of origin.
- June 6 Committee meetings may resume
- June 15 Budget must be passed by midnight

Congress

- May 30 – June 3 Senate district work period
- June 6 – 10 House 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. 5

Prepared by: Adeline Yoong

Reviewed by: Elsa Lopez

Approved by: Robb Whitaker

DATE: MAY 16, 2011

TO: EXTERNAL AFFAIRS COMMITTEE

FROM: ROBB WHITAKER, GENERAL MANAGER

SUBJECT: AB 83 (JEFFRIES) – ENVIRONMENT: CEQA EXEMPTION: RECYCLED WATER PIPELINE

LEGISLATIVE BILL ANALYSIS

- Bill Summary and Status

AB 83 would exempt the installation of recycled water pipeline up to 8 miles in public streets from CEQA requirements. Currently, a general exemption is available for projects under one mile in length. A more specific exemption is available for projects up to eight miles in length involving maintenance and replacement, but not expansion, of pipelines regulated under the Pipeline Safety Act (e.g. petroleum pipelines).

The measure was heard in the Assembly Natural Resources Committee on April 11, 2011, and failed passage on a vote of 3-6.

- Impact to WRD

Promotes recycled water use by helping accelerate the process of getting alternative water supply projects on line.

- Support

According to the author, the exemption is intended to reduce costs associated with environmental review and expedite projects.

- Elsinore Valley Water District (*sponsor*)
- Associated Builders and Contractors of California
- Association of California Water Agencies
- California Association of Sanitation Agencies
- California Chamber of Commerce
- Los Angeles Economic Development Corporation
- Eastern Municipal Water District
- Western Municipal Water District
- WaterReuse

- Opposition

Opponents would want a project to go through the full CEQA process.

- Audubon California
- California Coastal Protection Network
- California League of Conservation Voters
- California Native Plant Society

- Forests Forever
- Natural Resources Defense Council
- Planning and Conservation League
- Physicians for Social Responsibility

The External Affairs Committee voted to recommend a “support” position on April 18, 2011. This bill is being brought back to Committee for reconsideration.

STAFF RECOMMENDATION

For discussion.

ATTACHMENTS

- Bill Text
- Bill Analysis (Assembly Natural Resources Committee)

ASSEMBLY BILL

No. 83

Introduced by Assembly Member Jeffries

January 5, 2011

An act to amend Section 21080.21 of the Public Resources Code, relating to the environment.

LEGISLATIVE COUNSEL'S DIGEST

AB 83, as introduced, Jeffries. Environment: CEQA exemption: recycled water pipeline.

(1) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA exempts specified pipeline projects from the above requirements.

This bill would additionally exempt a project for the installation of a new pipeline, not exceeding a specified length, for the distribution of recycled water within an improved public street, highway, or right-of-way. Because a lead agency, which may include a local agency, is required to determine whether a project qualifies for those exemptions, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 21080.21 of the Public Resources Code
 2 is amended to read:

3 21080.21. (a) This division does not apply to any project of
 4 less than one mile in length within a public street ~~or highway or~~
 5 ~~any other public, highway, or right-of-way~~ for the installation of
 6 a new pipeline or the maintenance, repair, restoration,
 7 reconditioning, relocation, replacement, removal, or demolition
 8 of an existing pipeline. ~~For purposes of this section, "pipeline"~~
 9 ~~includes subsurface facilities but does not include any surface~~
 10 ~~facility related to the operation of the underground facility.~~

11 (b) *This division does not apply to a project of less than eight*
 12 *miles in length for the installation of a new pipeline for the*
 13 *distribution of recycled water, as defined in Section 13050 of the*
 14 *Water Code, within a paved public street, highway, or right-of-way.*

15 (c) *For the purposes of this section, "pipeline" includes*
 16 *subsurface facilities but does not include any surface facility*
 17 *related to the operation of an underground facility.*

18 (d) *This section does not limit an obligation to conduct a study*
 19 *for a pipeline project, including a traffic study, required pursuant*
 20 *to other law.*

21 SEC. 2. No reimbursement is required by this act pursuant to
 22 Section 6 of Article XIII B of the California Constitution because
 23 a local agency or school district has the authority to levy service
 24 charges, fees, or assessments sufficient to pay for the program or
 25 level of service mandated by this act, within the meaning of Section
 26 17556 of the Government Code.

BILL ANALYSIS

AB 83
Page 1

Date of Hearing: April 4, 2011

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Wesley Chesbro, Chair
AB 83 (Jeffries) - As Introduced: January 5, 2011

SUBJECT : California Environmental Quality Act: exemption

SUMMARY : Establishes an exemption from the California Environmental Quality Act (CEQA) for installation of new recycled water pipelines less than eight miles in length.

EXISTING LAW , CEQA, requires lead agencies with the principal responsibility for carrying out or approving a proposed project to prepare a negative declaration, mitigated negative declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA. CEQA includes an exemption for any pipeline project less than one mile in length within a public street, highway, or right-of-way, as well as a limited exemption for a project involving an existing intrastate liquid pipeline subject to the Pipeline Safety Act if the project is less than eight miles in length.

THIS BILL :

- 1) Exempts from review under CEQA installation of a new recycled water pipeline less than eight miles in length within a paved public street, highway, or right-of-way.
- 2) Provides that the bill does not limit an obligation to conduct a study for a pipeline project, including a traffic study, pursuant to other law.

FISCAL EFFECT : Unknown

COMMENTS :

Background. CEQA provides a process for evaluating the environmental effects of applicable projects undertaken or approved by public agencies. If a project is not exempt from CEQA, an initial study is prepared to determine whether the project may have a significant effect on the environment. If the initial study shows that there would not be a significant effect on the environment, the lead agency must prepare a negative declaration. If the initial study shows that the

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AB 83
Page 2

project may have a significant effect on the environment, the lead agency must prepare an EIR.

Generally, an EIR must accurately describe the proposed project, identify and analyze each significant environmental impact expected to result from the proposed project, identify mitigation measures to reduce those impacts to the extent feasible, and evaluate a range of reasonable alternatives to the proposed project. Prior to approving any project that has received environmental review, an agency must make certain findings. If mitigation measures are required or incorporated into a project, the agency must adopt a reporting or monitoring program to ensure compliance with those measures.

□

AB 83
Page 3

If a mitigation measure would cause one or more significant effects in addition to those that would be caused by the proposed project, the effects of the mitigation measure must be discussed but in less detail than the significant effects of the proposed project.

CEQA and pipelines. CEQA includes limited exemptions for relatively small-scale pipeline maintenance and installation projects. A general exemption is available for projects under one mile in length. A more specific exemption is available for projects up to eight miles in length involving maintenance and replacement, but not expansion, of pipelines regulated under the Pipeline Safety Act (e.g. petroleum pipelines).

This bill would establish an exemption for water pipeline projects less than eight miles in length. According to the author, the exemption is intended to reduce costs associated with environmental review and expedite projects.

REGISTERED SUPPORT / OPPOSITION :

Support

Associated Builders and Contractors of California
 Association of California Water Agencies
 California Association of Sanitation Agencies
 California Chamber of Commerce
 Eastern Municipal Water District
 Western Municipal Water District

Opposition

Audubon California
 California Coastal Protection Network
 California League of Conservation Voters
 California Native Plant Society
 Forests Forever
 Natural Resources Defense Council
 Planning and Conservation League
 Physicians for Social Responsibility

Analysis Prepared by : Lawrence Lingbloom / NAT. RES. / (916)
319-2092

□

AB 83
Page 4



MEMORANDUM

ITEM NO. 6

Prepared by: Adeline Yoong

Reviewed by: Elsa Lopez

Approved by: Robb Whitaker

DATE: MAY 16, 2011

TO: EXTERNAL AFFAIRS COMMITTEE

FROM: ROBB WHITAKER, GENERAL MANAGER

SUBJECT: AB 591 (WIECKOWSKI) – OIL AND GAS PRODUCTION: HYDRAULIC FRACTURING

LEGISLATIVE BILL ANALYSIS

- **Bill Summary and Status**

AB 591 (Wieckowski), Oil and gas production: hydraulic fracturing, would require an operator of an oil and gas well to file an application with the California Department of Conservation Division of Oil, Gas, and Geothermal Resources (CDOGG) before drilling a well. The application to commence drilling would include specific information related to hydraulic fracturing operations.

The measure was passed by the Assembly Natural Resources Committee on April 25, 2011, on a vote of 6-3 and is currently in the Assembly Appropriations Committee.

- **Analysis and Impact to WRD**

Hydraulic fracturing is a technique used to extract oil and natural gas from underground shale formations. Once an oil or natural gas well is drilled and lined with steel casing, fluids are injected at pressures high enough to cause cracks in shale formations. These cracks or fractures allow oil and natural gas to flow more freely.

Although oil production formations are typically much deeper (thousands of feet) and well-separated from the shallower drinking water aquifers, hydrofrac has been controversial in the news. The U.S. Environmental Protection Agency (EPA) has reported that two water wells in Texas were contaminated by gas from hydraulic fracturing. An investigative news website, ProPublica, found over 1,000 reports of water contamination near drilling sites.

There is currently no oversight of the hydrofrac process. EPA was stripped of its ability to regulate hydrofrac in 2005 (except when diesel is used in the process). At the state level, CDOGG does not regulate hydraulic fracturing, reporting that there are no reporting requirements or regulatory parameters for the process.

There are nearly 9,700 capped or uncapped oil wells and 60 gas wells located within WRD's service area. As far as District staff knows, there are no cases of groundwater contamination from hydro fracturing injection.

- **Support**

The author acknowledges CDOGG'S limited resources and budget constraints to expand its regulatory program to include hydraulic fracturing. The bill will start the collection of information so a determination can be made regarding the regulation of hydrofrac.

- California Coastal Protection Network
- California Water Association
- Clean Water Action
- Environment California
- Planning and Conservation League
- Rural Coalition of Southern Monterey County
- Sierra Club California
- Ventana Conservation and Land Trust of Southern Monterey County

- **Opposition**

The oil and gas industry asserts that the fracturing fluids are injected thousands of feet below water tables -- WSPA indicates that fracturing occurs close to 9,000 feet below ground level. CDOGG states that hydraulic fracturing does not occur on a large scale in California and that it is generally not used in gas production in Northern California because of problems with sand formations and production costs.

- American Chemistry Council
- California Independent Petroleum Association
- Western States Petroleum Association

WRD staff recommends that the External Affairs Committee recommend a "support" position to the WRD Board. AB 591 will help protect the groundwater supply from accidental groundwater contamination as a result of hydraulic fracturing injection by starting the collection of information regarding the process within the state.

STAFF RECOMMENDATION

Support AB 591 (Wieckowski).

ATTACHMENTS

- Bill text (as amended on 4/12/11)
- Bill analysis (Assembly Committee on Natural Resources)
- Map of oil, gas, and water wells within WRD's service area

AMENDED IN ASSEMBLY APRIL 12, 2011

CALIFORNIA LEGISLATURE—2011—12 REGULAR SESSION

ASSEMBLY BILL

No. 591

**Introduced by Assembly Member Wieckowski
(Principal coauthor: Assembly Member Dickinson)**

February 16, 2011

An act to amend Sections ~~3106, 3107, and 3270~~ *3107 and 3203* of the Public Resources Code, relating to oil and gas production.

LEGISLATIVE COUNSEL'S DIGEST

AB 591, as amended, Wieckowski. Oil and gas production: hydraulic fracturing.

Under

(1) *Under existing law, the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation regulates the drilling, operation, maintenance, and abandonment of oil and gas wells in the state. The State Oil and Gas Supervisor supervises the drilling, operation, maintenance, and abandonment of wells and the operation, maintenance, and removal or abandonment of tanks and facilities related to oil and gas production within an oil and gas field regarding safety and environmental damage. Existing law requires the district deputy to prepare maps regarding oil and gas production in each district and to collect information regarding the presence of oil and gas and the location and extent of strata bearing water or surface water suitable for irrigation or domestic purposes.*

~~Existing law also requires the supervisor to supervise the drilling, operation, maintenance, and abandonment of wells so as to permit the owners and operators of the wells to utilize all methods and practice known to the industry for the purpose of increasing the ultimate recovery~~

of underground hydrocarbons. It is the policy of the state generally to allow an operator in producing and removing hydrocarbons to perform certain procedures, as the injection of air, gas, water, or other fluids, or the application of pressure heat.

~~This bill would include in that policy the process of hydraulic fracturing. The bill also would~~ *instead* require the district deputy for oil and gas production in each district of the state to show on maps through a special designation each well where hydraulic fracturing is being used, including in restimulation of a well. The bill would require the division, by regulation, in prescribing minimum facility maintenance standards for production facilities to compile a list of any chemicals or components used in the process of hydraulic fracturing: *to collect information on the presence of oil and gas deposits and the location and extent of strata bearing water or surface water suitable for irrigation, domestic, industrial, or wildlife purposes that might be affected. The bill would also require the maps prepared by the district deputy to be posted, as specified, on the division's Internet Web site.*

(2) Existing law requires the operator of a well, before commencing the work of drilling the well, to file with the supervisor or the district deputy a written notice of intention to commence drilling, and prohibits the commencement of drilling until approval is given by the supervisor or the district deputy. The existing Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) prohibits any person, in the course of doing business, from knowingly and intentionally exposing any individual to a chemical known to the state to cause cancer or reproductive toxicity without giving a specified warning, or from discharging or releasing such a chemical into any source of drinking water, except as specified.

This bill would revise that procedure to instead require the operator to file an application before commencing drilling and would require additional information to be included in the application, including information regarding the chemicals, if any, to be injected into the well. The bill would require the supervisor to post the information regarding the type of process and list of chemicals on the division's Internet Web site. The bill would require the operator to notify every property owner and occupant of property within one mile of a well if the application includes a chemical known to cause cancer or reproductive toxicity pursuant to the list adopted in accordance with the Safe Drinking Water and Toxic Enforcement Act of 1986.

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. The Legislature finds and declares all of the
2 following:

3 (a) *Hydraulic fracturing is a technique used in the production*
4 *of oil and gas that involves the pressurized injection of water and*
5 *a mix of chemical into an underground geologic formation in order*
6 *to fracture the formation, thereby causing or enhancing the*
7 *production of oil or gas from a well.*

8 (b) *Hydraulic fracturing has been used in California for several*
9 *decades to extract oil and gas and is likely to be used more*
10 *extensively as the industry seeks to develop additional oil and gas*
11 *bearing formations.*

12 (c) *The Division of Oil, Gas, and Geothermal Resources in the*
13 *Department of Conservation, which has the obligation to protect*
14 *public health and the resources of the state, including groundwater*
15 *resources, has the authority to regulate all oil and natural gas*
16 *drilling in the state, but currently does not require the disclosure*
17 *of pertinent information regarding hydraulic fracturing or*
18 *ascertain what specific types of production and exploration are*
19 *taking place at permitted wells.*

20 (d) *Given California's geologic, seismic complexity, and finite*
21 *and significantly compromised water resources, it is important to*
22 *collect basic information about natural resource production*
23 *processes. The state and the public should know when and where*
24 *hydraulic fracturing is occurring and what chemicals are being*
25 *used in the process.*

26 ~~(a) Hydraulic fracturing is a technique used in the production~~
27 ~~of oil and gas that involves the injection under great pressure of~~
28 ~~water, a proppant, such as sand or ceramic beads, and a small mix~~
29 ~~of chemicals into an underground geologic formation in order to~~
30 ~~fracture the formation, thereby causing the flow of oil or gas to~~
31 ~~the surface.~~

32 ~~(b) Although hydraulic fracturing is not as widely used in~~
33 ~~California as in some parts of the country, it has been used in~~
34 ~~California to extract oil and gas and has the potential to be used~~
35 ~~more extensively.~~

1 ~~(c) The chemicals used in the practice of hydraulic fracturing~~
2 ~~have the potential to migrate into nearby strata and aquifers.~~

3 ~~(d) The Division of Oil, Gas, and Geothermal Resources in the~~
4 ~~Department of Conservation, which has the obligation to protect~~
5 ~~public health and the resources of the state, including groundwater~~
6 ~~resources, has the authority to regulate all oil and gas drilling in~~
7 ~~the state, but has not been regulating hydraulic fracturing;~~
8 ~~apparently due to the lack of the adoption of specific regulations.~~

9 ~~(e) The state and public should know where hydraulic fracturing~~
10 ~~is occurring and what chemicals are being used in the process.~~

11 ~~SEC. 2. Section 3106 of the Public Resources Code is amended~~
12 ~~to read:~~

13 ~~3106. (a) The supervisor shall supervise the drilling, operation,~~
14 ~~maintenance, and abandonment of wells and the operation,~~
15 ~~maintenance, and removal or abandonment of tanks and facilities~~
16 ~~attendant to oil and gas production, including pipelines not subject~~
17 ~~to regulation pursuant to Chapter 5.5 (commencing with Section~~
18 ~~51010) of Part 1 of Division 1 of Title 5 of the Government Code~~
19 ~~that are within an oil and gas field, in order to prevent, as far as~~
20 ~~possible, damage to life, health, property, and natural resources;~~
21 ~~damage to underground oil and gas deposits from infiltrating water~~
22 ~~and other causes; loss of oil, gas, or reservoir energy; and damage~~
23 ~~to underground and surface waters suitable for irrigation or~~
24 ~~domestic purposes by the infiltration of, or the addition of,~~
25 ~~detrimental substances.~~

26 ~~(b) The supervisor shall also supervise the drilling, operation,~~
27 ~~maintenance, and abandonment of wells in order to permit an~~
28 ~~owner or operator of a well to utilize all methods and practices~~
29 ~~known to the oil industry for the purpose of increasing the ultimate~~
30 ~~recovery of underground hydrocarbons and which, in the opinion~~
31 ~~of the supervisor, are suitable for this purpose in each proposed~~
32 ~~case. To further the elimination of waste by increasing the recovery~~
33 ~~of underground hydrocarbons, it is hereby declared as a policy of~~
34 ~~this state that the grant in an oil and gas lease or contract to a lessee~~
35 ~~or operator of the right or power, in substance, to explore for and~~
36 ~~remove all hydrocarbons from any lands in the state, in the absence~~
37 ~~of an express provision to the contrary contained in the lease or~~
38 ~~contract, is deemed to allow the lessee or contractor, or the lessee's~~
39 ~~or contractor's successors or assigns, to do what a prudent operator~~
40 ~~using reasonable diligence would do, having in mind the best~~

1 interests of the lessor, lessee, and the state in producing and
2 removing hydrocarbons, including, but not limited to, the injection
3 of air, gas, water, or other fluids into the productive strata, the
4 application of pressure heat or other means for the reduction of
5 viscosity of the hydrocarbons, the process of hydraulic fracturing,
6 the supplying of additional motive force, or the creating of enlarged
7 or new channels for the underground movement of hydrocarbons
8 into production wells, when these methods or processes employed
9 have been approved by the supervisor, except that nothing
10 contained in this section imposes a legal duty upon the lessee or
11 contractor, or the lessee's or contractor's successors or assigns, to
12 conduct these operations:

13 (c) ~~The supervisor may require an operator to implement a~~
14 ~~monitoring program, designed to detect releases to the soil and~~
15 ~~water, including both groundwater and surface water, for~~
16 ~~aboveground oil production tanks and facilities.~~

17 (d) ~~To best meet oil and gas needs in this state, the supervisor~~
18 ~~shall administer this division so as to encourage the wise~~
19 ~~development of oil and gas resources.~~

20 SEC. 3.

21 SEC. 2. Section 3107 of the Public Resources Code is amended
22 to read:

23 3107. (a) A district deputy in each district, designated by the
24 supervisor, shall collect all necessary information regarding the
25 oil and gas wells in the district, with a view to determining the
26 presence of oil and gas sands and the location and extent of strata
27 bearing water suitable for irrigation or domestic purposes that
28 might be affected. *presence of oil and gas deposits and the location*
29 *and extent of strata bearing water or surface water suitable for*
30 *irrigation, domestic, industrial, or wildlife purposes that might be*
31 *affected.*

32 (b) The district deputy shall prepare maps and other accessories
33 necessary to determine the presence of oil and gas sands and the
34 location and extent of strata bearing water suitable for irrigation
35 or domestic purposes or surface water suitable for those purposes.
36 Each well where hydraulic fracturing is being used, including in
37 restimulation of a well, shall be shown on these maps through a
38 special designation. *deposits and the location and extent of strata*
39 *bearing water or surface water suitable for irrigation, domestic,*
40 *industrial, or wildlife purposes. The maps prepared by the district*

1 *deputy pursuant to this section shall be posted on the division's*
2 *Internet Web site, as a modification to any existing maps, and shall*
3 *include the information obtained pursuant to paragraph (2) of*
4 *subdivision (c) of Section 3203.*

5 (c) This work shall be done with the view to advising an operator
6 as to the best means of protecting the oil and gas sands and the
7 water-bearing strata and surface water, and with a view to aiding
8 the supervisor in ordering tests or repair work at wells. All data
9 shall be kept on file in the office of the district deputy of the
10 respective district and in the supervisor's office, and shall be made
11 available to any member of the public who requests to view it.
12 *deputy of the respective district.*

13 SEC. 4. Section 3270 of the Public Resources Code is amended
14 to read:

15 3270. (a) The division shall, by regulation, prescribe minimum
16 facility maintenance standards for all production facilities in the
17 state. The regulations shall include, but are not limited to, standards
18 for all of the following:

- 19 (1) ~~Leak detection.~~
- 20 (2) ~~Corrosion prevention and testing.~~
- 21 (3) ~~Tank inspection and cleaning.~~
- 22 (4) ~~Valve and gauge maintenance, and secondary containment~~
23 ~~maintenance.~~

24 (5) ~~Other facility or equipment maintenance that the supervisor~~
25 ~~deems important for the proper operation of production facilities~~
26 ~~and that the supervisor determines are necessary to prevent damage~~
27 ~~to life, health, property, and natural resources; damage to~~
28 ~~underground oil and gas deposits from infiltrating water and other~~
29 ~~causes; loss of oil, gas, or reservoir energy; and damage to~~
30 ~~underground and surface waters suitable for irrigation or domestic~~
31 ~~purposes by the infiltration of, or the addition of, detrimental~~
32 ~~substances.~~

33 (6) ~~A complete list of any chemicals or components used in the~~
34 ~~process of hydraulic fracturing.~~

35 (b) ~~An operator who constructs, acquires, maintains, or alters~~
36 ~~an oil well or a production facility shall comply with the standards~~
37 ~~prescribed pursuant to subdivision (a).~~

38 (c) ~~In a form and at a time prescribed by the division in~~
39 ~~regulation, an operator shall notify the supervisor of the~~

1 construction, alteration, or decommissioning of a production
2 facility:

3 ~~(d) An operator shall maintain at the production facility's local~~
4 ~~office records of maintenance and repair operations, tests, and~~
5 ~~inspections, and shall provide the supervisor with access to these~~
6 ~~records at all times during normal business hours and with copies~~
7 ~~of the records immediately, upon request.~~

8 *SEC. 3. Section 3203 of the Public Resources Code is amended*
9 *to read:*

10 3203. (a) The operator of ~~any a~~ well, before commencing the
11 work of drilling the well, shall file with the supervisor or the district
12 deputy ~~a written notice of intention~~ *an application* to commence
13 drilling. Drilling shall not commence until approval *of the*
14 *application* is given by the supervisor or the district deputy. If the
15 supervisor or the district deputy fails to give the operator *a written*
16 *response to the notice application* within 10 working days from
17 the date of receipt, that failure shall be considered as an approval
18 ~~of the notice and the notice application, and the application,~~ for
19 the purposes and intents of this chapter, shall be deemed a written
20 report of the supervisor. If operations have not commenced within
21 one year of receipt of the ~~notice application,~~ *the notice application*
22 shall be deemed canceled. The ~~notice application~~ shall contain the
23 pertinent data the supervisor requires on printed forms supplied
24 by the division or on other forms acceptable to the supervisor. The
25 supervisor may require other pertinent information to supplement
26 ~~the notice application.~~

27 *(b) (1) On and after January 1, 2012, in addition to the*
28 *pertinent information required to be collected pursuant to*
29 *subdivision (a), the application shall include all of the following*
30 *information:*

31 *(A) The type of exploration and production techniques that the*
32 *operator will use at the well or wells.*

33 *(B) A complete list of the chemicals, if any, that will be injected*
34 *into the well for hydraulic fracturing or other production*
35 *enhancement methods in the exploration or production process or*
36 *processes. This list shall include all of the following:*

37 *(i) The name of the chemical.*

38 *(ii) The purpose of the chemical in the production or exploration*
39 *process.*

40 *(iii) The Chemical Abstract Service numbers for the chemical.*

- 1 (iv) *The estimated total amount of the chemical used.*
- 2 (v) *The actual rate or concentration of the chemical expressed*
3 *as pounds per thousand gallons or gallons per thousand gallons*
4 *and expressed as a percentage by volume of the total hydraulic*
5 *fracturing fluid or other injected fluid used.*
- 6 (C) *The estimated amount and source of water that will be used*
7 *in the exploration or production from the well that is being*
8 *proposed to be permitted.*
- 9 (D) *Any radiological components or tracers to be injected into*
10 *the well and a description of the recovery method, if any, for those*
11 *elements or tracers, the expected recovery rate and disposal*
12 *method for recovered components or tracers.*
- 13 (E) *The location of any known seismic faults within five miles*
14 *of the well.*
- 15 (2) *The supervisor shall post the type of process and list of*
16 *chemicals obtained pursuant to paragraph (1) on the division's*
17 *Internet Web site in such a way that it is accessible to the public.*
- 18 (3) *If any of the information required pursuant to paragraph*
19 *(1) changes over the course of the exploration and production*
20 *process, the operator shall immediately notify the supervisor.*
- 21 (4) *Notwithstanding any other law, if a chemical listed in the*
22 *application pursuant to subparagraph (B) of paragraph (1) is also*
23 *listed as a chemical known to cause cancer or reproductive toxicity*
24 *pursuant to the list adopted in accordance with Section 25249.8*
25 *of the Health and Safety Code, the operator shall notify every*
26 *property owner and occupant of property within one mile of the*
27 *well that this chemical is to be injected into the ground.*
- 28 ~~(b)~~
- 29 (c) *After the completion of any well, this section also applies*
30 *as far as may be, to the deepening or redrilling of the well, ~~any an~~*
31 *operation involving the plugging of the well, or any operations*
32 *permanently altering in any manner the casing of the well. The*
33 *number or designation of ~~any a~~ well, and the number or designation*
34 *specified for ~~any a~~ well in a ~~notice an~~ application filed as required*
35 *by this section, shall not be changed without first obtaining a*
36 *written consent of the supervisor.*
- 37 ~~(e)~~
- 38 (d) *If an operator ~~has failed~~ fails to comply with an order of the*
39 *supervisor, the supervisor may deny approval of proposed well*
40 *operations until the operator brings its existing well operations*

1 into compliance with the order. If an operator ~~has failed~~ *fails* to
2 pay a civil penalty, remedy a violation that it is required to remedy
3 to the satisfaction of the supervisor pursuant to an order issued
4 under Section 3236.5, or to pay any charges assessed under Article
5 7 (commencing with Section 3400), the supervisor may deny
6 approval to the operator's proposed well operations until the
7 operator pays the civil penalty, remedies the violation to the
8 satisfaction of the supervisor, or pays the charges assessed under
9 Article 7 (commencing with Section 3400).

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BILL ANALYSIS

AB 591
Page 1

Date of Hearing: April 25, 2011

ASSEMBLY COMMITTEE ON NATURAL RESOURCES
Wesley Chesbro, Chair
AB 591 (Wieckowski) - As Amended: April 12, 2011

SUBJECT : Oil and gas production: hydraulic fracturing

SUMMARY : Requires an operator of an oil and gas well, before drilling a well, to file with the Division of Oil, Gas, and Geothermal Resources (DOGGR) an application to commence drilling that includes specific information related to hydraulic fracturing operations.

EXISTING LAW :

- 1)Creates DOGGR in the Department of Conservation.
- 2)Requires DOGGR to supervise activities related to oil and gas wells, tanks, and facilities so as to prevent damage to life, health, property, natural resources, and underground and surface waters suitable for irrigation or domestic purposes.
- 3)Requires DOGGR to collect information and prepare maps regarding oil and gas wells and the location and extent of groundwater and surface water for irrigation or domestic purposes that might be affected.
- 4)Requires the operator of any well, before commencing the work of drilling the well, to file with DOGGR a written notice of intention to commence drilling. Authorizes drilling only after DOGGR approves the notice of intention to commence drilling.

THIS BILL :

- 1)Requires DOGGR to collect information and prepare maps regarding oil and gas wells and the location and extent of groundwater and surface water for irrigation, domestic, industrial, or wildlife purposes that might be affected. Requires the maps to be posted on DOGGR's internet Web site.
- 2)Requires an operator of a well, before drilling a well, to file with DOGGR an application to commence drilling.

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AB 591
Page 2

- 3)Requires the application to include the following information:
 - a) The type of exploration and production techniques that the operator will use at the well or wells.
 - b) Information regarding the chemicals, if any, that will be injected into the well for hydraulic fracturing or other production enhancement methods in the exploration or production process.
 - c) The estimated amount and source of water that will be used in the exploration or production from the well.
 - d) Any radiological components or tracers to be injected into the well and a description of the recovery method, if any, for those elements or tracers, the expected recovery rate, and disposal method for recovered components or tracers.
 - e) The location of any known seismic faults within five miles of the well.
- 4)Requires an operator of a well to immediately notify DOGGR if the information provided in the application changes over the course of the exploration and production process.
- 5)Requires an operator of a well to notify every property owner and occupant of property within one mile of the well of any chemicals that were injected into the ground that are known to cause cancer or reproductive toxicity.

FISCAL EFFECT : Unknown

COMMENTS :

- 1)Background. Recent news events have brought to light the use of hydraulic fracturing in underground shale formations for

oil and gas development. Mostly due to innovative hydraulic fracturing techniques, companies have been able to tap enormous amounts of gas from underground shale formations throughout the United States. There has been, however, an environmental cost associated with hydraulic fracturing. For example, in Pennsylvania, there was a report of tens of thousands of gallons of toxic fracturing fluid that leaked onto residential property, killing trees and contaminating

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AB 591
Page 3

water. The U.S. Environmental Protection Agency (EPA) has reported that two water wells in Texas were contaminated by gas from hydraulic fracturing. The investigative news Web site ProPublica, which Congress relies on for information on this subject matter, found over 1,000 reports of water contamination near drilling sites.

In response to the controversy surrounding hydraulic fracturing, several states, local governments, and even Quebec, Canada have imposed moratoriums on hydraulic fracturing or required disclosure of fracturing fluid information. Many other states have introduced hydraulic fracturing related legislation this year.

According to the oil and gas industry, hydraulic fracturing has been used in California for decades. Reports from various sources suggest that hydraulic fracturing in California will likely increase significantly in the upcoming years. DOGGR, although having statutory authority to regulate hydraulic fracturing, has not yet developed regulations to address the activity. Moreover, DOGGR does not have information that indicates where and how often hydraulic fracturing occurs within the state, nor does it have data on the safety, efficacy, and necessity of hydraulic fracturing as currently employed in California.

The bill requires an oil and gas company to provide DOGGR with specific information related to hydraulic fracturing before commencing drilling. This information will help DOGGR understand the extent to which hydraulic fracturing is used in California and to identify any health, safety, and environmental issues that have gone undetected. This information could also be used in the future to develop legislation and/or regulations to reasonably and effectively regulate hydraulic fracturing.

2)Hydraulic Fracturing. According to the Western States Petroleum Association (WSPA), hydraulic fracturing is one energy production technique used to obtain oil and natural gas in areas where those energy supplies are trapped in rock and sand formation. Once an oil or natural gas well is drilled and properly lined with steel casing, fluids are pumped down to an isolated portion of the well at pressures high enough to cause cracks in shale formations below the earth's surface. These cracks or fractures allow oil and natural gas to flow

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AB 591
Page 4

more freely. Often, a propping agent such as sand is pumped into the well to keep fractures open.

In many instances, the fluids used in hydraulic fracturing are water-based. There are some formations, however, that are not fractured effectively by water-based fluids because clay or other substances in the rock absorb water. For these formations, complex mixtures with a multitude of chemical additives may be used to thicken or thin the fluids, improve the flow of the fluid, or even kill bacteria that can reduce fracturing performance.

According to a congressional report, between 2005 and 2009, oil and gas companies throughout the United States used hydraulic fracturing products containing 29 chemicals that are (1) known or possible human carcinogens, (2) regulated under the Safe Drinking Water Act for their risk to human health, or (3) listed as hazardous air pollutants under the Clean Air Act. In some cases, companies injected fluids containing chemicals that they themselves could not identify-they did not have access to proprietary information about products purchased "off the shelf" from chemical suppliers.

The volume of fluid needed for hydraulic fracturing varies by site and type of formation. The EPA has reported that two to

five million gallons of fracturing fluids may be necessary to fracture one well in a shale formation. The California Energy Commission reports that in the development of an entire field, the amount of water injected into a shale formation could reach into the hundreds of millions of gallons.

When the injection fluid mixes with the shale, it may become contaminated with radioactivity in the ground while growing increasingly brackish. The fluid is brought back to the surface. This wastewater is then either recycled or disposed of.

3) Problems with Hydraulic Fracturing.

Migrating Fracturing Fluid. Although some fracturing fluids are removed from the well at the end of the fracturing process, a significant amount remains underground-estimates of the fluids recovered range from 15-80% of the volume injected depending on the site. Migration of these fluids is not entirely predictable and many concerns have been raised about

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AB 591
Page 5

the fluids contaminating nearby groundwater. While the industry claims that the fracturing fluids are injected thousands of feet below water tables-a WSPA fact sheet shows a diagram of fracturing occurring close to 9,000 feet below ground level-EPA indicates that wells may extend to depths less than 1,000 feet. In parts of the United States, companies reported operating wells in shallower formations that meet the federal Safe Drinking Water Act definition of drinking water.

A 2004 EPA review on hydraulic fracturing, which is frequently cited by industry, concluded that the injection of hydraulic fracturing fluids into wells poses a minimal threat to underground sources of drinking water. But this EPA report has been criticized, and the science is open enough that EPA is beginning a comprehensive new study of the relationship between hydraulic fracturing and drinking water.

Well Casings. Well casing protects the underground water table from oil, gas, and chemicals traveling through the well. DOGGR does have a regulatory program that governs well casing construction. Despite regulations, well failures still occur. A 2000 Society of Petroleum Engineers (SPE) article regarding an oil field in Kern County explained that "the well failure rate, although lower than that experienced in the 1980s, is still economically significant at 2 to 6% of active wells per year." Recently, in Pennsylvania, poor cementing around a well casing allowed methane to contaminate the water wells of 19 families.

Disposal. Concerns have been raised about the ultimate outcome of chemicals that are recovered and disposed of in wastewater.

While there is no known recent information in California suggesting that the disposal of fracturing fluids in California is threatening public health and safety and the environment, reports in other parts of the country cite major problems with disposal, especially as it related to radioactive materials. For example, in 2009 and 2010, public sewage treatment plants directly upstream from drinking-water intake facilities in Pennsylvania accepted wastewater that contained radioactivity levels as high as 2,122 times the drinking-water standards. Most of these sewage plants are not required to monitor for radioactive elements in wastewater.

4) Hydraulic Fracturing in California. According to a 2008 SPE

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AB 591
Page 6

article, hydraulic fracturing "has been applied to a large scale in many Central and Southern California fields to enable economic development and reasonable hydrocarbon recovery." The article further explains that "based on initial experience and formation properties, hydraulic fracturing has a significant potential in many Northern California gas reservoirs."

The Monterey shale, which stretches from Northern to Southern California, is considered the largest onshore shale opportunity in the United States. The Monterey shale has not received much attention in the past due to the lack of exploration; however, a number of oil companies have purchased

leases to drill the Monterey shale that together amount to several hundreds of thousands of acres. One company is expected to spend \$100 million in the Monterey shale this year by drilling 30 wells, completing a 3D seismic survey, and leasing. If these investments produce positive results, the state could see a proliferation of hydraulic fracturing operations by various oil companies in a matter of a few years.

5) Lack of Regulatory Oversight. Most injections of chemicals are subject to the protections of the federal Safe Drinking Water Act and require a permit under the underground injection control program. The purpose of this permitting requirement is to distinguish between underground injections that threatened drinking water supplies, which are denied permits, and those that do not, which are allowed to go forward. EPA's regulations prohibit any underground injection that "allows the movement of fluid containing any contaminant into underground sources of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation or may otherwise adversely affect the health of persons."

Congress in 2005 modified the law to exclude "the underground injection of fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities" from the Safe Drinking Water Act protections. Unless oil and gas companies use diesel in the hydraulic fracturing process, the permanent underground injection of chemicals used in hydraulic fracturing is not regulated by the EPA.

AB 591

Page 7

With regard to diesel injections, a congressional investigation discovered that from 2005 to 2009, up to 14 companies injected 26,466 gallons of hydraulic fracturing fluids containing diesel into California wells. The same investigation revealed that not one underground injection permit had ever been sought or granted for diesel fuel or hydraulic fracturing fluids containing diesel.

At the state level, DOGGR does not regulate hydraulic fracturing. In a February 16, 2011 response letter to Senator Fran Pavley, DOGGR could not provide any detail regarding hydraulic fracturing in California because "there are neither reporting requirements nor regulatory parameters" regarding the activity. In response to the senator's question regarding information about potential risks to human or environmental health associated with hydraulic fracturing, DOGGR simply provided a link to EPA's "Draft Plan to Study the Potential Impacts of Hydraulic Fracturing on Drinking Water Resources." Despite admitting to not having information regarding hydraulic fracturing, DOGGR has made assertions that hydraulic fracturing does not occur on a large scale in California and that it is generally not used in gas production in Northern California because of problems with sand formation and production costs. These claims are contradicted by several industry and engineering reports.

It should be noted that DOGGR is seriously affected by the current economic recession and the state budget crisis. It is extremely difficult at this time for DOGGR to expand its regulatory programs or to hire new staff. The bill recognizes DOGGR's limitations and simply requires industry to provide information so DOGGR and policy makers can determine how it should prioritize the regulation of hydraulic fracturing.

6) Suggested Amendments. Industry groups have explained that they do not always know the specific information regarding their planned hydraulic fracturing operations at the time that they apply for a drilling permit. Industry groups are also concerned that the bill does not indicate whether all seismic faults must be reported in the application or just active faults. The author and the committee may wish to consider amendments to the bill that (1) allow a well operator to report hydraulic fracturing related information no less than 10 working days before drilling if the information is not known at the time the application is submitted, (2) specify

AB 591

Page 8

that the reporting requirements pertain only to active seismic

faults; and (3) make clean up amendments in the bill where there were minor drafting errors .

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AB 591
Page 9

REGISTERED SUPPORT / OPPOSITION :

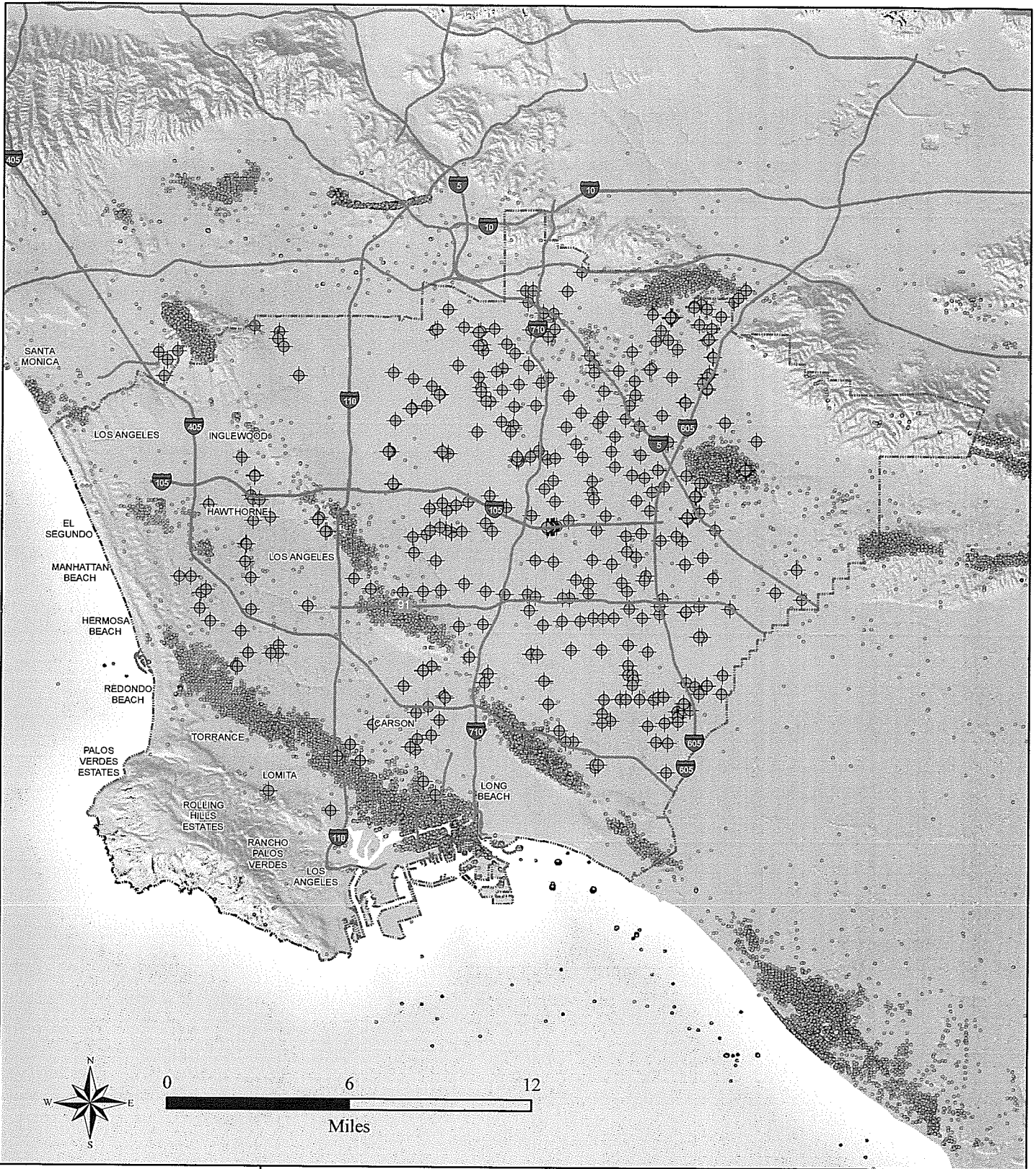
Support

California Coastal Protection Network
California Water Association
Clean Water Action
Environment California
Planning and Conservation League
Rural Coalition of Southern Monterey County
Sierra Club California
Ventana Conservation and Land Trust of Southern Monterey County

Opposition




American Chemistry Council
California Independent Petroleum Association
Western States Petroleum Association

Analysis Prepared by : Mario DeBernardo / NAT. RES. / (916)
319-2092



Oil Wells and Water Wells

Legend

-  WRD Boundary
-  Water Wells
-  Oil Wells
(from CA Department of Conservation)



MEMORANDUM

ITEM NO. 7

Prepared by: Adeline Yoong

Reviewed by: Elsa Lopez

Approved by: Robb Whitaker

DATE: MAY 16, 2011

TO: EXTERNAL AFFAIRS COMMITTEE

FROM: ROBB WHITAKER, GENERAL MANAGER

SUBJECT: AB 741 (HUFFMAN) – ONSITE WASTEWATER DISPOSAL

LEGISLATIVE BILL ANALYSIS

- Bill Summary and Status
AB 741 (Huffman), Onsite wastewater disposal, would allow entities to enter into an agreement with property owners for the financing of onsite sewer improvement and laterals.

The measure is in the Senate, having passed out of the Assembly on May 9, 2011.

- Impact to WRD
This would protect water quality and the groundwater basins from potential sewage spills and backup.
- Support
Supporters assert that AB 741 provides property owners with options on financing the needed sewer and lateral conversions, which will encourage property owners to convert from septic systems to community sewer systems and to replace aging and damaged sewer laterals. Supporters also believe that the bill protects water quality, the environment, and public health from contamination caused by these aging infrastructures.
 - Irvine Ranch Water District (*co-sponsor*)
 - North Bay Watershed Association (*co-sponsor*)
 - American Fence Association, CA Chapter
 - Association of CA Water Agencies
 - CA Association of Realtors
 - CA Association of Sanitation Agencies
 - CA Fence Contractors
 - CA Municipal Utility Association
 - CA Special Districts Association
 - CA State Association of Counties
 - City of San Diego
 - Cucamonga Valley Water District
 - Desert Water Agency
 - East Bay Municipal Utility District
 - Eastern Municipal Water District
 - El Dorado Irrigation District
 - Engineering Contractors Association
 - Marin Builders' Association
 - Municipal Water District of Orange County
 - North Bay Watershed Association
 - Novato Sanitary District
 - Santa Margarita Water District
 - Sonoma County Water Agency
 - Three Valleys Municipal Water District
- Opposition
None on file

STAFF RECOMMENDATION

Support AB 741 (Huffman).

ATTACHMENTS

- Bill Text (as amended on 4/11/11)
- Bill Analysis (Assembly Floor)

AMENDED IN ASSEMBLY APRIL 11, 2011
AMENDED IN ASSEMBLY MARCH 14, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 741

**Introduced by Assembly Member Huffman
(Coauthors: Assembly Members Miller and Wagner)**

February 17, 2011

An act to add Section 5465 to the Health and Safety Code, relating to wastewater.

LEGISLATIVE COUNSEL'S DIGEST

AB 741, as amended, Huffman. Onsite wastewater disposal.

Existing law prohibits the discharge of sewage or other waste, or the effluent of treated sewage or other waste, in any manner that will result in contamination, pollution, or a nuisance. Under existing law, when the State Department of Public Health or any local health officer finds that a contamination exists, the department or the officer is required to order the contamination abated, as provided.

Under existing law, an owner or reputed owner of property included within an assessment district for construction of a main trunkline or collector sewer lines may request the governing board to construct all necessary plumbing to connect his or her property to the adjoining public sewer system, the cost of which constitutes a lien on the property.

This bill would authorize defined entities to use this provision for the purpose of converting properties from onsite septic systems and connecting them to the sewer system and for replacing *or repairing* existing sewer laterals connecting pipes to a sewer system.

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 5465 is added to the Health and Safety
2 Code, to read:
3 5465. (a) The procedures specified in this section may be used
4 by a public agency that is an entity, as defined in Section 5470.
5 (b) An entity may use the procedures specified in Section 5464
6 for either of the following purposes, whether or not an order or
7 other action has been issued or taken for an abatement of
8 contamination created by sewage disposal:
9 (1) Converting properties from onsite septic systems and
10 connecting them to a sewer system. The conversion improvements
11 and costs may include, but are not limited to, pipes, pumps and
12 other equipment, septic system abandonment, and associated
13 sewage treatment capacity.
14 (2) Replacing *or repairing* existing sewer laterals connecting
15 pipes to a sewer system. The cost of the lateral replacement *or*
16 *repair* shall constitute the cost of an improvement for connection
17 to a sewer system.
18 (c) For purposes of this section, and in addition to any other
19 power, an entity may exercise the powers specified in Article 4
20 (commencing with Section 5470).
21 (d) The authority granted by this section shall be in addition to,
22 shall not be in derogation of, and shall not affect, any authority
23 granted by other law relating to recovering the cost incurred by an
24 entity for connecting properties to the public sewer system, or the
25 entity's exercise of powers pursuant to any other law. This section
26 shall be deemed to provide a complete and supplemental method
27 for exercising the powers authorized by this section, and shall be
28 deemed supplemental to the powers conferred by other applicable
29 laws.
30 (e) For purposes of this section, the following definitions shall
31 apply:
32 (1) "Assessment district" as used in statutes referenced in this
33 section also means an improvement district or any other area served
34 by the entity's sewer collection system.

- 1 (2) "Governing board" and "governing body" mean the
- 2 governing body of the entity.
- 3 (3) "Ordinance" as used in statutes referenced in this section
- 4 also means a resolution.

BILL ANALYSIS

AB 741
Page 1

ASSEMBLY THIRD READING
AB 741 (Huffman)
As Amended April 11, 2011
Majority vote

LOCAL GOVERNMENT 9-0

Ayes:	Smyth, Alejo, Bradford,		
	Campos, Davis, Gordon,		
	Hueso, Knight, Norby		

SUMMARY : Authorizes a local agency that is authorized to acquire, construct, maintain and operate sanitary sewers and sewerage systems to use to, at a property owner's request, construct all necessary plumbing to connect his or her property to the adjoining public sewer system, the cost of which constitutes a lien on the property. Specifically, this bill :

- 1) Authorizes a county, city and county, city, sanitary district, county sanitation district, county service area, sewer maintenance district, and other public corporations and districts that are authorized to acquire, construct, maintain and operate sanitary sewers and sewerage systems to, at a property owner's request, construct all necessary plumbing to connect his or her property to the adjoining public sewer system, the cost of which constitutes a lien on the property.
- 2) Specifies that the process listed above in 1) may be used for either of the following purposes, whether or not an order or other action has been issued or taken for an abatement of contamination created by sewage disposal:
 - a) Converting properties from onsite septic systems and connecting them to a sewer system. The conversion improvements and costs may include, but are not limited to, pipes, pumps and other equipment, septic system abandonment, and associated sewage treatment capacity; or,
 - b) Replacing or repairing existing sewer laterals connecting pipes to a sewer system. The cost of the lateral replacement or repair shall constitute the cost of an improvement for connection to a sewer system.

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AB 741
Page 2

- 3) Specifies that the authority granted by this measure shall be in addition to, shall not be in derogation of, and shall not affect, any authority granted by other law relating to recovering the cost incurred by an entity for connecting properties to the public sewer system, or the entity's exercise of powers pursuant to any other law.
- 4) States that this section shall be deemed to provide a complete and supplemental method for exercising the powers authorized by this section, and shall be deemed supplemental to the powers conferred by other applicable laws.

EXISTING LAW :

- 1) Specifies that any owner who has his or her property included within an assessment district for the construction of a main trunkline or collector sewer lines, may request the governing board to construct all necessary plumbing to connect his or her property to the adjoining street public sewer system.
- 2) Requires the person employed by the governing board to do the work to have a lien upon the property, for work done and materials furnished at the request of the property owner.
- 3) Authorizes the governing board of an agency to pay all, or any part, of the cost or price of the connection to the person or persons who furnished labor, materials, or equipment and, to the extent that the governing board pays the cost or price of the connection; at which time the lien would be transferred to the governing board.
- 4) Authorizes, alternatively to the procedures described above, the governing body of the public agency performing the work of connection to the public sewer to, by the power of ordinance approved by a two-thirds vote of the members of the

legislative body, do the following:

- a) Fix the cost of improvement for connection to the sanitation or sewerage facilities;
- b) Fix the times at which such costs shall become due;
- c) Provide for the payment of the costs prior to the

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AB 741
Page 3

construction and connection or in installments over a period, not to exceed 15 years;

- d) Provide a rate of interest, not to exceed 6% per year, to be charged on the unpaid balance of the costs; and,
 - e) Provide that the amount of the costs and the interest shall constitute a lien against the respective lots or parcels upon which the facilities are constructed.
- 5) Specifies that a governing body can alternatively, by ordinance approved by a two-thirds vote of the members of the legislative body, do the following:
- a) Fix fees or charges for the privilege of connecting to its sanitation or sewerage facilities and improvements constructed by the entity pursuant to specified provisions;
 - b) Fix the time or times at which the fees or charges shall become due;
 - c) Provide for the payment of the fees or charges prior to connection or in installments over a period of not to exceed 30 years;
 - d) Provide the rate of interest, not to exceed 12% per year, to be charged on the unpaid balance of the fees or charges; and,
 - e) Provide that the amount of the fees or charges and the interest shall constitute a lien against the respective lots or parcels of land to which the facilities are connected at the time and in a specified manner.

FISCAL EFFECT : None

COMMENTS : According to the United States Environmental Protection Agency, septic systems that are properly planned, designed, sited, installed, operated and maintained can provide excellent wastewater treatment. However, systems that are sited in densities that exceed the treatment capacity of regional soils and systems that are poorly designed, installed, operated or maintained can cause problems. The most serious documented problems involve contamination of surface waters and groundwater

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AB 741
Page 4

with disease-causing pathogens and nitrates. Other problems include excessive nitrogen discharges to sensitive coastal waters and phosphorus pollution of inland surface waters, which increases algal growth and lowers dissolved oxygen levels. Contamination of important shellfish beds and swimming beaches by pathogens is also a concern in some coastal regions.

According to the author, converting from a septic to sewer system protects public and environmental health by ensuring that wastewater is collected and conveyed to treatment and disposal facilities with minimal risk and increases water quality benefits. But the cost to convert a septic system to a sewer system can be expensive. There can be multiple major costs in converting from a septic system to sewer service, including: the public sewer infrastructure, side sewer construction, septic system abandonment, and connection fees. The co-sponsor, Irvine Ranch Water District (IRWD), states that the costs to customers of converting their septic systems to a community sewer system, or for replacing aging sewer laterals, are often prohibitive, costing \$2,000 to \$14,000 for septic conversions and \$3,000 to \$12,000 for laterals. If pumps or pump replacements are needed, this can be an additional \$10,000.

This bill builds on existing law by authorizing public

wastewater agencies to offer voluntary private liens to private property owners to finance lateral replacements and conversions from septic to sewer systems. According to IRWD, this change in law would help private property owners finance the costs of converting from a septic system to a community sewer system and the replacement of sewer laterals. IRWD believes that by making these improvements feasible this bill would protect water quality, the environment and public health from contamination caused by leaking septic tanks, eroding pipes and other aging sewage infrastructure.

Support arguments: Supporters argue that this bill provides property owners with options on financing the needed sewer and lateral conversions, which will encourage property owners to convert from septic systems to community sewer systems and to replace aging and damaged sewer laterals. Moreover, supporters believe that the bill protects water quality, the environment, and public health from contamination caused by these aging infrastructures.

□

AB 741
Page 5

Opposition arguments: Opposition could argue that this bill does not provide any protections to the local agencies when entering into an agreement with a property owner to do these costly upgrades. The Legislature may wish to consider if it might be prudent to require a local agency establishing these liens to verify the credit worthiness of the property owner prior to entering into an agreement.

Analysis Prepared by : Katie Kolitsos / L. GOV. / (916)
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MEMORANDUM

ITEM NO. 8

Prepared by: Adeline Yoong

Reviewed by: Elsa Lopez

Approved by: Robb Whitaker

DATE: MAY 16, 2011

TO: EXTERNAL AFFAIRS COMMITTEE

FROM: ROBB WHITAKER, GENERAL MANAGER

SUBJECT: H.R. 470 (HECK) /S. 519 (REID) – HOOVER POWER ALLOCATION ACT

LEGISLATIVE BILL ANALYSIS

- Bill Summary and Status

The Hoover Power Plant Act of 1984, among other things, allocates power from the Hoover Dam through contracts with state, municipal, and other utilities. Contractors receiving power allocations under the act are required to pay for the operation, maintenance, upkeep for Hoover Dam's power facilities. Under the law, the contracts are slated to expire in 2017. The law allocates power from the Hoover Dam to various contractors including Metropolitan Water District of Southern California (MWD), City of Los Angeles, Southern California Edison, and the City of Vernon.

H.R. 470 (Heck), the Hoover Power Allocation Act, would allow Hoover power contractors to retain 95 percent of their current power allocation under a new contract for another 50 years through 2067. The Act also requires new contractors benefitting from the remaining 5 percent of the power to repay existing contractors for a portion of prior capital improvement costs as well as to pay a proportionate share of the costs associated with the Lower Colorado River Multi-Species Conservation Program (MSCP). The MSCP provides Endangered Species Act compliance for operations of the Hoover Dam and power plant. The Hoover Act sets a higher maximum capacity rating for the Dam's power plant and requires that a specified amount of the 5 percent of Hoover power reserved for new contractors must be allocated within each of the states of Arizona, Nevada and California.

H.R. 470 currently has 33 bipartisan cosponsors from Arizona, California, and Nevada, including the following members of WRD's congressional delegation: Representative Judy Chu (D-CA-32), Representative Karen Bass (D-CA-33), Representative Lucille Roybal-Allard (D-CA-34), Representative Laura Richardson (D-CA-37), Representative Grace Napolitano (D-CA-38), and Representative Gary Miller (R-CA-42). H.R. 470 is pending before the House Natural Resources Committee, Subcommittee on Water and Power.

S. 519 is the companion Senate bill introduced by Senate Majority Leader Harry Reid (D-NV) with cosponsors Dianne Feinstein (D-CA), Barbara Boxer (D-CA), and John Ensign (R-NV). Senator Reid's bill is pending before the Senate Committee on Energy and Natural Resources. No hearings have been scheduled to date.

The Hoover Act is the result of nearly four years of negotiations between the existing Hoover power contractors and other interests. Expiration of existing contracts in 2017 without passage of the Hoover Power Allocation Act may lead to possible changes in allocation, new contract terms, and the potential for litigation as occurred previously.

- Impact to WRD

The Hoover Dam power supplies approximately 50 percent of the power needed for Metropolitan Water District's Colorado River Aqueduct (CRA). According to MWD, the Hoover Act is necessary because it "ensures that Metropolitan retains a substantial share of its current allocation of Hoover power through a long-term contract, providing a reliable source of power for CRA pumping operations. ... The renewable power from Hoover is lower in cost than an equivalent replacement; it is priced at its production cost thus avoiding the typical energy market price volatility and it does not have any associated greenhouse gas emissions, making it a valued component of Metropolitan's power supply portfolio."

Since MWD water rate includes a power rate component, cost pressures on its energy rates would directly impact imported water costs WRD purchases for replenishment purposes.

Additionally, WRD receives its electricity at the Goldsworthy Desalter, Vander Lans Advanced Water Treatment Facility, and office headquarters from Southern California Edison (SCE). SCE has testified in Congress in support of identical legislation that was offered during the previous session of Congress but not enacted.

- Support
 - MWD
 - ACWA
- Opposition
Unknown

STAFF RECOMMENDATION

Support HR 470 (Heck)/S 519 (Reid).

ATTACHMENTS

- Bill text

112TH CONGRESS
1ST SESSION

H. R. 470

To further allocate and expand the availability of hydroelectric power generated at Hoover Dam, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 26, 2011

Mr. HECK (for himself, Mrs. NAPOLITANO, Mr. BACA, and Mr. DREIER) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To further allocate and expand the availability of hydroelectric power generated at Hoover Dam, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Hoover Power Alloca-
5 tion Act of 2011”.

1 **SEC. 2. ALLOCATION OF CONTRACTS FOR POWER.**

2 (a) SCHEDULE A POWER.—Section 105(a)(1)(A) of
 3 the Hoover Power Plant Act of 1984 (43 U.S.C.
 4 619a(a)(1)(A)) is amended—

5 (1) by striking “renewal”;

6 (2) by striking “June 1, 1987” and inserting
 7 “October 1, 2017”; and

8 (3) by striking Schedule A and inserting the
 9 following:

“Schedule A

Long-term Schedule A contingent capacity and associated firm energy for offers of contracts to
 Boulder Canyon project contractors

Contractor	Contingent capacity (kW)	Firm energy (thousands of kWh)		
		Summer	Winter	Total
Metropolitan Water District of Southern California	249,948	859,163	368,212	1,227,375
City of Los Angeles Southern California Edison Company ..	495,732	464,108	199,175	663,283
City of Glendale	280,245	166,712	71,448	238,160
City of Pasadena	18,178	45,028	19,297	64,325
City of Burbank	11,108	38,622	16,553	55,175
Arizona Power Authority	5,176	14,070	6,030	20,100
Colorado River Commission of Nevada	190,869	429,582	184,107	613,689
United States, for Boulder City	190,869	429,582	184,107	613,689
	20,198	53,200	22,800	76,000
Totals	1,462,323	2,500,067	1,071,729	3,571,796”.

10 (b) SCHEDULE B POWER.—Section 105(a)(1)(B) of
 11 the Hoover Power Plant Act of 1984 (43 U.S.C.
 12 619a(a)(1)(B)) is amended to read as follows:

1 “(B) To each existing contractor for power generated
 2 at Hoover Dam, a contract, for delivery commencing Octo-
 3 ber 1, 2017, of the amount of contingent capacity and
 4 firm energy specified for that contractor in the following
 5 table:

“Schedule B

Long-term Schedule B contingent capacity and associated firm energy for offers of contracts to
 Boulder Canyon project contractors

Contractor	Contingent capacity (kW)	Firm energy (thousands of kWh)		
		Summer	Winter	Total
City of Glendale	2,020	2,749	1,194	3,943
City of Pasadena	9,089	2,399	1,041	3,440
City of Burbank	15,149	3,604	1,566	5,170
City of Anaheim	40,396	34,442	14,958	49,400
City of Azusa	4,039	3,312	1,438	4,750
City of Banning	2,020	1,324	576	1,900
City of Colton	3,030	2,650	1,150	3,800
City of Riverside	30,296	25,831	11,219	37,050
City of Vernon	22,218	18,546	8,054	26,600
Arizona	189,860	140,600	60,800	201,400
Nevada	189,860	273,600	117,800	391,400
Totals	507,977	509,057	219,796	728,853”.

6 (c) SCHEDULE C POWER.—Section 105(a)(1)(C) of
 7 the Hoover Power Plant Act of 1984 (43 U.S.C.
 8 619a(a)(1)(C)) is amended—

9 (1) by striking “June 1, 1987” and inserting
 10 “October 1, 2017”; and

11 (2) by striking Schedule C and inserting the
 12 following:

“Schedule C
Excess Energy

Priority of entitlement to excess energy	State
First: Meeting Arizona’s first priority right to delivery of excess energy which is equal in each year of operation to 200 million kilowatthours: Provided, That in the event excess energy in the amount of 200 million kilowatthours is not generated during any year of operation, Arizona shall accumulate a first right to delivery of excess energy subsequently generated in an amount not to exceed 600 million kilowatthours, inclusive of the current year’s 200 million kilowatthours. Said first right of delivery shall accrue at a rate of 200 million kilowatthours per year for each year excess energy in an amount of 200 million kilowatthours is not generated, less amounts of excess energy delivered.	Arizona
Second: Meeting Hoover Dam contractual obligations under Schedule A of subsection (a)(1)(A), under Schedule B of subsection (a)(1)(B), and under Schedule D of subsection (a)(2), not exceeding 26 million kilowatthours in each year of operation.	Arizona, Nevada, and California
Third: Meeting the energy requirements of the three States, such available excess energy to be divided equally among the States.	Arizona, Nevada, and California”.

1 (d) SCHEDULE D POWER.—Section 105(a) of the
2 Hoover Power Plant Act of 1984 (43 U.S.C. 619a(a)) is
3 amended—

4 (1) by redesignating paragraphs (2), (3), and
5 (4) as paragraphs (3), (4), and (5), respectively; and

6 (2) by inserting after paragraph (1) the fol-
7 lowing:

8 “(2)(A) The Secretary of Energy is authorized to and
9 shall create from the apportioned allocation of contingent
10 capacity and firm energy adjusted from the amounts au-

1 thorized in this Act in 1984 to the amounts shown in
 2 Schedule A and Schedule B, as modified by the Hoover
 3 Power Allocation Act of 2011, a resource pool equal to
 4 5 percent of the full rated capacity of 2,074,000 kilowatts,
 5 and associated firm energy, as shown in Schedule D (re-
 6 ferred to in this section as ‘Schedule D contingent capac-
 7 ity and firm energy’):

“Schedule D

Long-term Schedule D resource pool of contingent capacity and associated firm energy for new allottees

State	Contingent capacity (kW)	Firm energy (thousands of kWh)		
		Summer	Winter	Total
New Entities Allocated by the Secretary of Energy	69,170	105,637	45,376	151,013
New Entities Allocated by State				
Arizona	11,510	17,580	7,533	25,113
California	11,510	17,580	7,533	25,113
Nevada	11,510	17,580	7,533	25,113
Totals	103,700	158,377	67,975	226,352

8 “(B) The Secretary of Energy shall offer Schedule
 9 D contingency capacity and firm energy to entities not re-
 10 ceiving contingent capacity and firm energy under sub-
 11 paragraphs (A) and (B) of paragraph (1) (referred to in
 12 this section as ‘new allottees’) for delivery commencing
 13 October 1, 2017 pursuant to this subsection. In this sub-
 14 section, the term ‘the marketing area for the Boulder City
 15 Area Projects’ shall have the same meaning as in appendix
 16 A of the General Consolidated Power Marketing Criteria
 17 or Regulations for Boulder City Area Projects published

1 in the Federal Register on December 28, 1984 (49 Fed-
2 eral Register 50582 et seq.) (referred to in this section
3 as the ‘Criteria’).

4 “(C)(i) Within 36 months of the date of enactment
5 of the Hoover Power Allocation Act of 2011, the Secretary
6 of Energy shall allocate through the Western Area Power
7 Administration (referred to in this section as ‘Western’),
8 for delivery commencing October 1, 2017, for use in the
9 marketing area for the Boulder City Area Projects 66.7
10 percent of the Schedule D contingent capacity and firm
11 energy to new allottees that are located within the mar-
12 keting area for the Boulder City Area Projects and that
13 are—

14 “(I) eligible to enter into contracts under sec-
15 tion 5 of the Boulder Canyon Project Act (43 U.S.C.
16 617d); or

17 “(II) federally recognized Indian tribes.

18 “(ii) In the case of Arizona and Nevada, Schedule
19 D contingent capacity and firm energy for new allottees
20 other than federally recognized Indian tribes shall be of-
21 fered through the Arizona Power Authority and the Colo-
22 rado River Commission of Nevada, respectively. Schedule
23 D contingent capacity and firm energy allocated to feder-
24 ally recognized Indian tribes shall be contracted for di-
25 rectly with Western.

1 “(D) Within 1 year of the date of enactment of the
2 Hoover Power Allocation Act of 2011, the Secretary of
3 Energy also shall allocate, for delivery commencing Octo-
4 ber 1, 2017, for use in the marketing area for the Boulder
5 City Area Projects 11.1 percent of the Schedule D contin-
6 gent capacity and firm energy to each of—

7 “(i) the Arizona Power Authority for allocation
8 to new allottees in the State of Arizona;

9 “(ii) the Colorado River Commission of Nevada
10 for allocation to new allottees in the State of Ne-
11 vada; and

12 “(iii) Western for allocation to new allottees
13 within the State of California, provided that Western
14 shall have 36 months to complete such allocation.

15 “(E) Each contract offered pursuant to this sub-
16 section shall include a provision requiring the new allottee
17 to pay a proportionate share of its State’s respective con-
18 tribution (determined in accordance with each State’s ap-
19 plicable funding agreement) to the cost of the Lower Colo-
20 rado River Multi-Species Conservation Program (as de-
21 fined in section 9401 of the Omnibus Public Land Man-
22 agement Act of 2009 (Public Law 111–11; 123 Stat.
23 1327)), and to execute the Boulder Canyon Project Imple-
24 mentation Agreement Contract No. 95–PAO–10616 (re-

1 ferred to in this section as the ‘Implementation Agree-
2 ment’).

3 “(F) Any of the 66.7 percent of Schedule D contin-
4 gent capacity and firm energy that is to be allocated by
5 Western that is not allocated and placed under contract
6 by October 1, 2017, shall be returned to those contractors
7 shown in Schedule A and Schedule B in the same propor-
8 tion as those contractors’ allocations of Schedule A and
9 Schedule B contingent capacity and firm energy. Any of
10 the 33.3 percent of Schedule D contingent capacity and
11 firm energy that is to be distributed within the States of
12 Arizona, Nevada, and California that is not allocated and
13 placed under contract by October 1, 2017, shall be re-
14 turned to the Schedule A and Schedule B contractors
15 within the State in which the Schedule D contingent ca-
16 pacity and firm energy were to be distributed, in the same
17 proportion as those contractors’ allocations of Schedule A
18 and Schedule B contingent capacity and firm energy.”.

19 (e) TOTAL OBLIGATIONS.—Paragraph (3) of section
20 105(a) of the Hoover Power Plant Act of 1984 (43 U.S.C.
21 619a(a)) (as redesignated as subsection (d)(1)) is amend-
22 ed—

23 (1) in the first sentence, by striking “schedule
24 A of section 105(a)(1)(A) and schedule B of section

1 105(a)(1)(B)” and inserting “paragraphs (1)(A),
2 (1)(B), and (2)”;

3 (2) in the second sentence—

4 (A) by striking “any” and inserting
5 “each”;

6 (B) by striking “schedule C” and inserting
7 “Schedule C”; and

8 (C) by striking “schedules A and B” and
9 inserting “Schedules A, B, and D”.

10 (f) POWER MARKETING CRITERIA.—Paragraph (4)
11 of section 105(a) of the Hoover Power Plant Act of 1984
12 (43 U.S.C. 619a(a)) (as redesignated as subsection (d)(1))
13 is amended to read as follows:

14 “(4) Subdivision E of the Criteria shall be deemed
15 to have been modified to conform to this section, as modi-
16 fied by the Hoover Power Allocation Act of 2011. The Sec-
17 retary of Energy shall cause to be included in the Federal
18 Register a notice conforming the text of the regulations
19 to such modifications.”.

20 (g) CONTRACT TERMS.—Paragraph (5) of section
21 105(a) of the Hoover Power Plant Act of 1984 (43 U.S.C.
22 619a(a)) (as redesignated as subsection (d)(1)) is amend-
23 ed—

24 (1) by striking subparagraph (A) and inserting
25 the following:

1 “(A) in accordance with section 5(a) of the
2 Boulder Canyon Project Act (43 U.S.C. 617d(a)),
3 expire September 30, 2067;”;

4 (2) in the proviso of subparagraph (B)—

5 (A) by striking “shall use” and inserting
6 “shall allocate”; and

7 (B) by striking “and” after the semicolon
8 at the end;

9 (3) in subparagraph (C), by striking the period
10 at the end and inserting a semicolon; and

11 (4) by adding at the end the following:

12 “(D) authorize and require Western to collect
13 from new allottees a pro rata share of Hoover Dam
14 repayable advances paid for by contractors prior to
15 October 1, 2017, and remit such amounts to the
16 contractors that paid such advances in proportion to
17 the amounts paid by such contractors as specified in
18 section 6.4 of the Implementation Agreement;

19 “(E) permit transactions with an independent
20 system operator; and

21 “(F) contain the same material terms included
22 in section 5.6 of those long-term contracts for pur-
23 chases from the Hoover Power Plant that were made
24 in accordance with this Act and are in existence on

1 the date of enactment of the Hoover Power Alloca-
2 tion Act of 2011.”.

3 (h) EXISTING RIGHTS.—Section 105(b) of the Hoo-
4 ver Power Plant Act of 1984 (43 U.S.C. 619a(b)) is
5 amended by striking “2017” and inserting “2067”.

6 (i) OFFERS.—Section 105(c) of the Hoover Power
7 Plant Act of 1984 (43 U.S.C. 619a(c)) is amended to read
8 as follows:

9 “(c) OFFER OF CONTRACT TO OTHER ENTITIES.—
10 If any existing contractor fails to accept an offered con-
11 tract, the Secretary of Energy shall offer the contingent
12 capacity and firm energy thus available first to other enti-
13 ties in the same State listed in Schedule A and Schedule
14 B, second to other entities listed in Schedule A and Sched-
15 ule B, third to other entities in the same State which re-
16 ceive contingent capacity and firm energy under sub-
17 section (a)(2) of this section, and last to other entities
18 which receive contingent capacity and firm energy under
19 subsection (a)(2) of this section.”.

20 (j) AVAILABILITY OF WATER.—Section 105(d) of the
21 Hoover Power Plant Act of 1984 (43 U.S.C. 619a(d)) is
22 amended to read as follows:

23 “(d) WATER AVAILABILITY.—Except with respect to
24 energy purchased at the request of an allottee pursuant
25 to subsection (a)(3), the obligation of the Secretary of En-

1 ergy to deliver contingent capacity and firm energy pursu-
2 ant to contracts entered into pursuant to this section shall
3 be subject to availability of the water needed to produce
4 such contingent capacity and firm energy. In the event
5 that water is not available to produce the contingent ca-
6 pacity and firm energy set forth in Schedule A, Schedule
7 B, and Schedule D, the Secretary of Energy shall adjust
8 the contingent capacity and firm energy offered under
9 those Schedules in the same proportion as those contrac-
10 tors' allocations of Schedule A, Schedule B, and Schedule
11 D contingent capacity and firm energy bears to the full
12 rated contingent capacity and firm energy obligations.”.

13 (k) CONFORMING AMENDMENTS.—Section 105 of the
14 Hoover Power Plant Act of 1984 (43 U.S.C. 619a) is
15 amended—

16 (1) by striking subsections (e) and (f); and

17 (2) by redesignating subsections (g), (h), and
18 (i) as subsections (e), (f), and (g), respectively.

19 (l) CONTINUED CONGRESSIONAL OVERSIGHT.—Sub-
20 section (e) of section 105 of the Hoover Power Plant Act
21 of 1984 (43 U.S.C. 619a)) (as redesignated by subsection
22 (k)(2)) is amended—

23 (1) in the first sentence, by striking “the re-
24 newal of”; and

1 (2) in the second sentence, by striking “June 1,
2 1987, and ending September 30, 2017” and insert-
3 ing “October 1, 2017, and ending September 30,
4 2067”.

5 (m) COURT CHALLENGES.—Subsection (f)(1) of sec-
6 tion 105 of the Hoover Power Plant Act of 1984 (43
7 U.S.C. 619a) (as redesignated by subsection (k)(2)) is
8 amended in the first sentence by striking “this Act” and
9 inserting “the Hoover Power Allocation Act of 2011”.

10 (n) REAFFIRMATION OF CONGRESSIONAL DECLARA-
11 TION OF PURPOSE.—Subsection (g) of section 105 of the
12 Hoover Power Plant Act of 1984 (43 U.S.C. 619a) (as
13 redesignated by subsection (k)(2)) is amended—

14 (1) by striking “subsections (c), (g), and (h) of
15 this section” and inserting “this Act”; and

16 (2) by striking “June 1, 1987, and ending Sep-
17 tember 30, 2017” and inserting “October 1, 2017,
18 and ending September 30, 2067”.

19 **SEC. 3. PAYGO.**

20 The budgetary effects of this Act, for the purpose of
21 complying with the Statutory Pay-As-You-Go Act of 2010,
22 shall be determined by reference to the latest statement
23 titled “Budgetary Effects of PAYGO Legislation” for this
24 Act, submitted for printing in the Congressional Record
25 by the Chairman of the House Budget Committee, pro-

- 1 vided that such statement has been submitted prior to the
- 2 vote on passage.

○