

**EXHIBIT 9-B**

**MONTEREY PENINSULA WATER MANAGEMENT  
DISTRICT**

**2018 END OF THE YEAR REPORT**

**PREPARED BY JEA & ASSOCIATES**

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Brief Overview

This 2018 legislative session marks the end of the two-year session, but most notably the end of the historic Brown Administration. In concluding his cumulative sixteen years as California's Governor, he continued to take on the federal government and move the state's progressive ideology by signing a sweeping net neutrality bill prompting a Department of Justice lawsuit, ending cash bail, raising the legal age for rifle purchases to 21 year, requiring publicly held companies to ensure equitable female representation on their boards and requiring California to be 100% reliant on renewable energy by 2045 to mention a few. Unlike previous years, water policy took a "back-seat" to the state battling the federal government and enduring one of the worst fire seasons in our history. With that said, the issue of clean drinking water was the primary and loudest debate this year, with both the Governor and Senate Leadership taking aim at a solution and falling short (*see SB 623 and SB 845 below*).

**MPWMD Position Bills -**

**AB 1668 (Friedman) and SB 606 (Hertzberg)** – These bills require the State Water Resources Control Board (SWRCB) and the Department of Water Resources (DWR) to adopt water efficiency regulations, outlines requirements for water suppliers, specifies penalties for violations, and makes technical, conforming changes.

In July, a draft reference document known as the "Primer" was developed by DWR in conjunction with the State Water Board and the Department of Food and Agriculture. The Primer is meant to summarize the authorities, requirements, and schedules resulting from the legislation. The roles and responsibilities of State agencies, water suppliers, and other parties are highlighted in the document to enhance understanding of the legislation's provisions. ACWA and our water partners will continue to work with those agencies to ensure that any final version of the document is relevant, useful and understandable for MPWMD.

Action: CHAPTERED

MPWMD Position: OPPOSE

**AB 2050 (Caballero)** - Creates the Small System Water Authority Act of 2018, which authorizes the creation of a small system water authority (Authority) that will have powers to absorb, improve, and

## **EXHIBIT 9-B**

competently operate noncompliant public water systems. Requires the State Water Resources Control Board (State Water Board) to send a notice to public water systems that are not in compliance with drinking water standards, and if the system does not return to compliance in a timely manner, requires the State Water Board to first attempt to consolidate the public water system with an existing water system, and, if not, force the dissolution of the public water system and merge that system into a new Authority.

Action: VETOED

MPWMD Position: SUPPORT

**SB 623 (Monning)** – Failing last year in the Assembly, this bill would have created the Safe and Affordable Drinking Water Fund, administered by the State Water Resources Control Board (SWRCB), and imposes water, fertilizer and dairy fees to fund safe drinking water programs. In January, Governor Brown included this policy in his proposed budget. While Senator Monning was authoring the bill, MPWMD took a neutral position publicly as a gesture to the Senator. However, when spearheaded by the Governor in the budget trailer bill, MPWMD publicly opposed the measure and JEA & Associates provided testimony at the numerous budget sub-committee hearings, as well as communicated MPWMD’s concerns to other local legislators. After much resistance from the Senate, they rejected the measure and omitted it from the budget sent to the Governor.

Action: FAILED

MPWMD Position: NEUTRAL

**SB 845 (Monning)** – These two “sister” bills were introduced late in the legislative session as a “compromise” for SB 623 and the Governor’s water tax policy failing. While the intent remained the same, the Senator moved away from a tax onto a fee. Specifically, this bill, beginning July 1, 2019, would require a community water system to provide an opportunity for each customer of a community water system to provide a voluntary remittance as part of the customer’s water bill to advance the purposes of the fund.

This was problematic on several levels, one being that this was an opt-out provision which would have easily triggered a lawsuit on behalf of tax advocacy and consumer groups. MPWMD did not take a formal position, as the bill was never set for hearing due to its lateness and unpopularity in the Assembly.

Action: FAILED

MPWMD Position: N/A

**SB 998 (Dodd)** - This bill requires all public water systems (with more than 200 connections) to have a written policy on discontinuation of residential water service, provide that policy in multiple languages, include provisions for not shutting off water for certain customers that meet specified

## **EXHIBIT 9-B**

criteria, prohibit the shutoff of water service until the bill has been delinquent for 60 days, and cap the reconnection fees for restoring water service.

Through JEA & Associates, MPWMD played an active role in opposing this bill by coordinating weekly with the Association of California Water Agencies (ACWA), drafting and sending in letters and testifying at legislative hearings. In our recent conversations with ACWA staff and other water advocates, we are anticipating a legal challenge to this bill based on the contention that it violates provisions of Prop 218.

Action: CHAPTERED

MPWMD Position: OPPOSE

### **On the Horizon**

**Elections** – While the November elections will not drastically sway party representation in either the legislative and executive branch, there might be a more progressive domination this year, especially among the democrats. Most important is the new Governor, Gavin Newsom, whose politics are very left than that of outgoing Jerry Brown. Couple that with a more liberal/progressive class of democrats into the legislature and executive posts and we can see a more serious revival of issues, like universal healthcare, free college tuition and bolder immigration policies. With that said, Newsom is a staunch environmentalist, like his predecessor, and has campaigned on the state investing more dollars in securing, protecting and cleaning our water. However, it is unclear how he will translate those ideals into policy at this time.

It is still clear that the Assembly will once again regain its “super-majority” bragging rights that they lost in late-2017 due to a number of resignations tendered as a result of harassment allegations. In fact, they might even pick up another seat or two. However, it is murkier in the Senate to secure two-thirds of the needed seats. After a mid-year resignation and voter recall of two Democrats, Leadership was counting on Assemblymember Anna Caballero to ascend to Republican Senator Cannella’s seat to gain that 27<sup>th</sup> seat, which as of this writing was still too close to call.

We do not anticipate any leadership changes at the Speaker and Pro Tem level; we do however see a major shift in committee chairs. This is common every election as new members come in and a younger class of legislators accelerate their fundraising and relevancy.

**Initiatives** – Proposition 3, which would fund \$8.9 billion for drinking and waste water treatment, groundwater sustainability and conservation programs among others failed at the polls.

### **Outlook for 2019 –**

- **The Newsom Administration** – Governor-elect Gavin Newsom is much more progressive than his predecessor Jerry Brown. His campaign highlights his support for increased access to education, protecting rights, building infrastructure, gun safety, etc., however his dominating priorities won’t be unveiled until he releases his budget this January. Another

## **EXHIBIT 9-B**

major shift may lie in his budgeting approach – will he continue Brown’s one-time funding and rainy-day fund pragmatic approach or shift in the state funding major policy initiatives, like universal healthcare. These unknowns will set the foundation for California’s course for the next legislative session and so on.

- **Wildfire Liability** – One of the biggest issues at the end of session was “wildfire liability”, more specifically, altering how California courts have interpreted the legal doctrine known as “inverse condemnation” as it applies to wildfires. Under inverse condemnation, utilities can be held liable for damages caused by wildfires linked to their own equipment — even if the companies followed accepted safety procedures.

But under the Governor Brown-backed proposal, courts would have to balance “the public benefit of the electrical infrastructure” with the damage caused by a wildfire and also determine if “the utility acted reasonably.” This change in interpretation would have significantly impacted homeowners, local agencies and insurance companies as this would open up costly and lengthy lawsuits with the investor-owned utilities (IOU’s). Due to mounting opposition, coupled with a media storm, the conference committee removed the liability provision and passed SB 901 (Dodd) which addressed wildfire issues around training and environmental mitigation. With that said, we have had conversations with representatives at PG&E, who have said that this issue is a priority and will bring it back to the Legislature in some form. MPWMD may wish to weigh in on this from a local agency perspective.

- **Water Tax** – Although SB 623 (Monning), the Governor’s initiative and SB 845 (Monning) failed to pass in the Legislature, through conversations with the Senator and his staff, we are fairly certain that some iteration of the water fee/tax will be introduced in 2019. MPWMD will need to reevaluate their strategy depending on the language and possible change in author.
- **Chromium 6** – The SWRCB is expected to release a new MCL for Chromium 6 contaminants within the next few months. This will have a significant financial impact on regional partners depending on what the revised “acceptable” MCL is designated at.
- **New Funding Opportunities** – With the passage of the Park Bond initiative in June, but the failure of a new Water Bond in Prop 3 November 6th – MPWMD will need to explore if there are new funding opportunities.
- **Relationship Development** – Due to a change in Administration, it is expected that there will be a significant shift in all positions in the state, including Board members of the SWRCB, commissioners at the Public Utilities Commission and overall staff that oversee water and habitat issues at the state. MPWMD Executive Staff and Board Members should prioritize meeting with these new individuals in the upcoming year. Furthermore, MPWMD may want to consider meeting with ACWA’s new Executive Director, Dave Eggerton.