



May 9, 2016

Mark Cowin  
Director  
California Department of Water Resources  
P.O. Box 942836, Room 1115-1  
Sacramento, CA 94236-0001

Jill Duerig  
General Manager  
Zone 7 Water Agency  
100 North Canyons Parkway  
Livermore, CA 94551

Thomas Birmingham  
General Manager  
Westlands Water District  
P.O. Box 6056  
Fresno, CA 93703-6056

Jeff Kightlinger  
General Manager  
Metropolitan Water District  
P.O. Box 54153  
Los Angeles, CA 90054-0153

James M. Beck  
General Manager  
Kern County Water Agency  
P.O. Box 58  
Bakersfield, CA 93302-0058

Norma Camacho  
Interim Chief Executive Officer  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118-3686

**Subject: Public Records Act Request for information on state and water contractor funding for California WaterFix**

Dear Ms. Duerig, Ms. Camacho, and Mssrs. Cowin, Kightlinger, Beck, and Birmingham:

Restore the Delta is a grassroots campaign by residents and organizations committed to restoring the Sacramento-San Joaquin Delta so that fisheries and farming can thrive there together again. We work through public education and outreach so that all Californians recognize the Sacramento-San Joaquin Bay Delta as part of California's natural heritage, deserving of restoration. We fight for a Delta with waters that are fishable, swimmable, drinkable, and farmable, able to support the health of the estuary, San Francisco Bay, and the ocean beyond. Our coalition envisions the Sacramento-San Joaquin Delta as a place where a vibrant local economy, tourism, recreation, farming, wildlife, and fisheries thrive for future generations as a result of resident efforts to protect our waterway commons.

**42 N. Sutter Street, Suite 506 • Stockton, CA 95202 • (209) 475-9550**  
[www.restorethedelta.org](http://www.restorethedelta.org)

Pursuant to the California Public Records Act, Government Code Sections 6250 et seq., we request that the California Department of Water Resources (DWR), Metropolitan Water District of Southern California, Kern County Water Agency, Westlands Water District, Santa Clara Valley Water District, and Zone 7 Water Agency (referred to herein as “addressee contractors” or “contractors”) prepare and make available for inspection and copy all documents, meeting minutes, agendas, visual presentations, contracts for services and contract-related accounting (including payments and invoices for payment), financing agreements, financing proposals for commercial paper and bond issues, requests for qualifications and proposals and received statements of qualifications and proposals concerning underwriting or other financial services, and other related public records available in your emails, files, and archives, that address:

**General Questions for All Addressees:**

We request the addressee contractors each respond to these questions for the period from September 30, 2014 to May 9, 2016:

- 1) Specifically, how have the addressee contractors funded planning and design of the Bay Delta Conservation Plan (BDCP) and now the proposed California WaterFix Project? What has DWR’s role been? What shares have all water contractors paid to date since 2006, and for what purposes?
- 2) Which funding sources, including debt, have DWR and the addressee contractors used and how much funding have they raised, by source? Which contractors, if any, used debt financing for California WaterFix and BDCP planning and design activities, in what amounts, when, and how was their debt issuance secured? If debt was used, which entity issued debt and what was the contractor’s relationship to it?
- 3) If any contractors have raised funds for BDCP and California WaterFix planning and design, have they done so consistent with substantive and procedural requirements of Proposition 218 and Proposition 26? If so, how was this accomplished? If not, what rationale and findings did the contractor follow in choosing not to follow procedures in state law and constitution? If they are raising such funds for the proposed project, have they disclosed to ratepayers and taxpayers that they are using specific local revenue sources to raise these funds, or that they have raised revenues to provide security for debt issued to fund BDCP and now California WaterFix, and if so, how was public notice provided?
- 4) What is the status of addressee contractors using ad valorem property tax revenue to cover their payment obligations to the State Water Project? Which addressee contractors employ ad valorem property taxes to help meeting their state water contract obligations? What rates does each contractor charge property owners in their service areas, and are property owners receiving water service for the water-related taxes, fees, and charges they pay?

### **Questions for Specific Addressees:**

We request that these specific addressee contractors address the following questions, regardless of date:

- 5) **DWR:** How did the California Department of Water Resources determine it could contract with Hallmark Group for design and construction enterprise services, including the kind of bid process selected and the department's rationale for selecting Hallmark Group? What is the Conveyance Project Coordinating Agency; who are its members; and when was it chartered? What has been the source and amounts of funding for the Conveyance Project Project Coordinating Agency?
- 6) **Westlands Water District:** What fees and charges are specifically levied by the District in Cantua Creek (Fresno County Service Area 32)? What amounts of water have the 77 customers used since 2012 in that area, how much were they billed each year? What is the formula and charges used to aggregate municipal and industrial rate payer costs for residential users in Westlands Water District? What is the verification process that irrigators who receive municipal and industrial water are using these M&I allotments for municipal and industrial uses, and not irrigation of fields? What was the rationale that led to the Bureau of Reclamation paying for Westlands Water District's share of planning and design costs for BDCP and California WaterFix?

If you believe a portion of the information we request is exempt from disclosure by express provisions of the law, Government Code Section 6257 requires segregation and deletion of that material in order that the remainder of the information may be released. If you believe that an express provision of law exists to exempt from disclosure all or a portion of the material we request, Government Code Section 6256 also requires you notify us of the reasons for the determination not later than 10 days from your receipt of this request. If you plan to charge Restore the Delta for any expense incurred in complying with this request, please notify us in advance. Please make this information available to:

Tim Stroshane, Policy Analyst  
Restore the Delta  
639 San Carlos Avenue  
Albany, CA 94706  
(510) 524-6313

We attach a bibliography indicating those items from your agencies we already possess, and which are not requested by us, so that your agency may avoid unnecessary effort and duplicative disclosure of information.

### **Rationale for the Public Record Act Request**

We believe there is broad confusion throughout California concerning the California WaterFix project about:

- Whether the proposed project's lack of state or federal legislative authorization precludes continued funding for its planning and design.
- How the continued planning and design of the proposed project is funded by each major water contractor who may benefit from its construction, operation and maintenance, and who provide security for state and federal debt issuance.
- Whether the methods (e.g., use of engineered benefit assessment reports to allocate costs of service and assign water rates or property taxes to properties in service areas) of funding the proposed project by the water contractors represent best practices consistent and compliant with the taxation principles of the California Constitution as amended by Propositions 218 and 26.
- Whether the water contractors anticipate using property tax or benefit assessment revenue sources either to provide security for bonded debt or for commercial paper or directly to fund the proposed project.
- When addressee contractors as project beneficiaries might be expected to commit to funding and financing plans for California WaterFix, what financing and funding alternatives they are considering, and what public processes they anticipate using to do this.

Restore the Delta will submit a request to have the State Auditor perform a discretionary audit about these concerns through our local legislators to the Joint Legislative Audit Committee later this year.

Thank you for your timely fulfillment of this request. As mentioned, we attach to this letter a bibliography so as to avoid duplicative disclosures. If you have other questions, please feel free to contact us.

Sincerely,



Barbara Barrigan-Parrilla  
Executive Director  
[barbara@restorethedelta.org](mailto:barbara@restorethedelta.org)  
209.479.2053



Tim Stroshane  
Policy Analyst  
[tim@restorethedelta.org](mailto:tim@restorethedelta.org)  
510.524.6313

Attachment: Bibliography

cc: Hon. Lois Wolk, California Senate District 3

Hon. Susan Talamantes Eggman, California Assembly District 13

## Bibliography

California Department of Water Resources. 2014. Confidential Memorandum: Agreement in Principle for Water Supply Contract Extension.” From Cathy Crothers, Perla Netto-Brown, and Robert Cooke to Carl A. Torgersen, Laura King Moon, and Mark W. Cowin. July 8. Accessible at <http://www.water.ca.gov/swpao/watercontractextension/docs/SignedAIP.pdf>.

California Department of Water Resources. 2015. Agreement Regarding Construction of Conveyance Project Between the Department of Water Resources and the Conveyance Project Coordination Agency. Revised date August 10.

California Department of Water Resources. 2016. Preliminary Official Statement Dated April 26, 2016 for \$107,735,000 Central Valley Project Water System Revenue Bonds Series AV.

Fresno County. 2015. Special Districts Annual Water Report. Draft. March 10.

Goldman Sachs. 2014. State Water Project Contractors Authority: Response to Request for Qualifications and Proposals for Underwriting Services. March 19.

J.P. Morgan. 2014. State Water Project Contractors Authority: J.P. Morgan Response to Request for Qualifications and Proposals for Underwriting Services. March 19.

Kern County Water Agency. 2014a. Comprehensive Annual Financial Report, Fiscal Year Ended June 30, 2014.

Kern County Water Agency. 2014b. Update on Bay Delta Conservation Plan Activities. October 23.

Kern County Water Agency. 2014c. Update on Bay Delta Conservation Plan Activities. November 19.

Kern County Water Agency. 2015. Comprehensive Annual Financial Report, Fiscal Year Ended June 30, 2015.

Metropolitan Water District of Southern California. 2015a. Comprehensive Annual Financial Report for the Fiscal Years Ended June 30, 2015 and 2014.

Metropolitan Water District of Southern California. Board of Directors Finance and Insurance Committee. 2013a. Mid-cycle Biennial Budget Review and Recommendations for Use of Reserves over Target. June 11.

Metropolitan Water District of Southern California. Board of Directors Finance and Insurance Committee. 2013b. Suspend the tax rate limitations in Section 124.5 of the Metropolitan Water District Act to maintain the ad valorem tax rate for fiscal year 2013/14. June 11.

Metropolitan Water District of Southern California. Board of Directors Finance and Insurance Committee. 2016. Adopt resolutions fixing and adopting water rates and charges for 2017 and 2018; and the resolution finding that continuing an ad valorem tax rate at the rate levied for fiscal year 2015/16 is essential to Metropolitan's fiscal integrity. Approve biennial budget for fiscal years 2016/17 and 2017/18, proposed ten-year forecast, proposed revenue requirements for fiscal years 2016/2017 and 2017/18, and recommended water rates and charges to be effective on January 1, 2017 and January 1, 2018. April 12.

Metropolitan Water District of Southern California. 2016. Urban Water Management Plan. May. Accessible at [http://mwdh2o.granicus.com/MetaViewer.php?view\\_id=12&event\\_id=797&meta\\_id=121098](http://mwdh2o.granicus.com/MetaViewer.php?view_id=12&event_id=797&meta_id=121098).

Metropolitan Water District of Southern California. Office of the General Manager. 2015. Bay-Delta Management Report. December 8.

Metropolitan Water District of Southern California. Office of the General Manager. 2016. Bay-Delta Management Report. Summary of activities related to the Bay-Delta for March 2016. April 12.

Morgan Stanley. 2014. State Water Project Contractors Authority: Response to Request for Qualifications and Proposals for Underwriting Services. March 19.

Raftelis Financial Consultants, Inc. 2010. Review of the Santa Clara Valley Water District's Cost of Service and Rate Setting Methodology for Setting FY 2011 Groundwater Production Charges. Final Report. March 5. Accessible at [http://valleywater.org/Services/Clean\\_Reliable\\_Water/Water\\_Charges/2013-2014\\_Charge\\_Setting\\_Process/Review\\_of\\_FY\\_2011\\_groundwater\\_production\\_charges\\_rate-setting\\_methodology.aspx](http://valleywater.org/Services/Clean_Reliable_Water/Water_Charges/2013-2014_Charge_Setting_Process/Review_of_FY_2011_groundwater_production_charges_rate-setting_methodology.aspx).

Raftelis Financial Consultants, Inc. 2011. Reporting Documenting the Reasonableness of the Conjunctive Use Benefit of Treated Water to Groundwater and Surface Water Customers and the Benefit of Agriculture Customers to Municipal & Industrial Customers. For the Santa Clara Valley Water District. Final Report. February 17. Accessible at [http://valleywater.org/Services/Clean\\_Reliable\\_Water/Water\\_Charges/2013-2014\\_Charge\\_Setting\\_Process/Treated\\_Water\\_Conjunctive\\_Use\\_Benefit\\_Study\\_2011.aspx](http://valleywater.org/Services/Clean_Reliable_Water/Water_Charges/2013-2014_Charge_Setting_Process/Treated_Water_Conjunctive_Use_Benefit_Study_2011.aspx).

Raftelis Financial Consultants, Inc. 2015. Report Documenting the Reasonableness of the Conjunctive Use Benefit of Surface Water and Recycled Water to Groundwater Customers. For the Santa Clara Valley Water District. Final Report. February 27. Accessible at [http://valleywater.org/Services/Clean\\_Reliable\\_Water/Water\\_Charges/2015-2016\\_Surface\\_Water\\_Production\\_Charge-Setting\\_Process/Surface/Recycled\\_Water\\_Conjunctive\\_Use\\_Benefit\\_Study\\_2015.aspx](http://valleywater.org/Services/Clean_Reliable_Water/Water_Charges/2015-2016_Surface_Water_Production_Charge-Setting_Process/Surface/Recycled_Water_Conjunctive_Use_Benefit_Study_2015.aspx).

Raymond James. 2014. State Water Project Contractors Authority: Response to Request for Qualifications and Proposals for Underwriting Services. March 19.

Santa Clara Valley Water District. 2015. Continue Public Hearing - Annual Report on the Protection and Augmentation of Water Supplies - February 2015 and Recommended Groundwater production and Other Water Charges for Fiscal Year 2015-2016 (FY 2015-16). April 28. Accessible at [http://cf.valleywater.org/About\\_Us/Board\\_of\\_directors/Board\\_meetings/2015\\_Published\\_Meetings/MG57079/AS57085/AS57086/AI57236/DO57353/DO\\_57353.pdf](http://cf.valleywater.org/About_Us/Board_of_directors/Board_meetings/2015_Published_Meetings/MG57079/AS57085/AS57086/AI57236/DO57353/DO_57353.pdf).

Santa Clara Valley Water District. 2016a. Water Utility Enterprise Operations Plan: FY 2017-21. Accessible at <http://valleywater.org/Services/2017-21WUEOpsPlan.aspx>.

Santa Clara Valley Water District. 2016b. Review and Comment to the Board on the Fiscal Year 2017 Preliminary Groundwater Production Charges. April 13. Item 4.1, with associated PowerPoint presentation. Accessible at <http://www.valleywater.org/WorkArea/DownloadAsset.aspx?id=13346>.

Santa Clara Valley Water District. 2016c. Update on Bay Delta Conservation Plan and Imported Water with Respect to Board Ends Policy 2.1: Reliable Water. April 13. Item. 4.2, with associated PowerPoint presentation. <http://www.valleywater.org/WorkArea/DownloadAsset.aspx?id=13346>.

Santa Clara Valley Water District. 2016d. Santa Clara Valley Water District statement regarding false claims from Restore the Delta. April 20. Accessible at <http://www.valleywater.org/EkContent.aspx?id=13983>.

Santa Clara Valley Water District. 2016e. Protection and Augmentation of Water Supplies. February 26. Accessible at <http://valleywater.org/PAWS2016>.

Securities and Exchange Commission. 2016. Order Instituting Cease-And-Desist-Proceedings Pursuant to Section 8A of the Securities Act of 1933, Making Findings, and Imposing a Cease-and-Desist Order. March 9. Accessible at <http://www.sec.gov/litigation/admin/2016/33-10053.pdf>.

State Water Project Contractors Authority. 2014. Request for Qualifications and Proposals for Underwriting Services. February 26.

State Water Project Contractors. 2014a. Bay Delta Conservation Plan Pre-Construction Funding Agreement, Draft Term Sheet: Department of Water Resources and Metropolitan Water District. September 18.

State Water Project Contractors. 2014b. Bay Delta Conservation Plan Pre-Construction Funding Agreement, Draft Term Sheet: Department of Water Resources and Metropolitan Water District. September 30.

United States Bureau of Reclamation and 22 other signatories. 2006. Planning Agreement regarding the Bay Delta Conservation Plan. October 6. Accessible at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=10903>.

United States Bureau of Reclamation. 2016. Letter from David G. Murrillo, Mid-Pacific Regional Director, to Carolee Krieger, Executive Director, California Water Impact Network, regarding funding agreements with the California Department of Water Resources for planning and design of BDCP and California WaterFix. April 13.

Wells Fargo Securities. 2014. State Water Project Contractors Authority: Response to Request for Qualifications and Proposals for Underwriting Services. March 19.

Westlands Water District. 2009a. Notice of Hearing and Regular Meeting and Agenda. Meeting Minutes Excerpts for April 21.

Westlands Water District. 2009b. 2009-10 Water Rates & Charges Adopted by Board. June 16.

Westlands Water District. 2011a. Notice of Hearing and Regular Meeting and Agenda. Meeting Minutes Excerpts for February 15.

Westlands Water District. 2011b. 2011-12 Water Rates & Charges Adopted by Board. June 21.

Westlands Water District. 2013a. Notice to Landowners of Proposed Water Rates, Charges, and Land-Based Charges. January 4.

Westlands Water District. 2013b. Notice of Hearing and Regular Meeting and Agenda. Meeting Minutes Excerpts for February 19.

Westlands Water District. 2013c. 2013-14 Water Rates & Charges Adopted by Board. May 21.

Westlands Water District. 2013d. Water Management Plan, 2012.

Westlands Water District. 2014. Audited Financial Statements, Fiscal Year Ended February 28, 2014.

Westlands Water District. 2015a. Audited Financial Statements, Fiscal Year Ended February 28, 2015.

Westlands Water District. 2015b. Municipal and Industrial Water Users List. 2015-16.

Westlands Water District. 2015c. Community Meeting Regarding Water Rates. Powerpoint presentation. November 3.