

Drinking Water Tax – Talking Points

May 11, 2018

- A PROPOSED TAX ON WATER IS PENDING IN SACRAMENTO.
- MOST CALIFORNIANS HAVE ACCESS TO SAFE DRINKING WATER.
- SOME COMMUNITIES, FOR EXAMPLE IN TULARE COUNTY AND THE SALINAS
 VALLEY, DO NOT HAVE ACCESS TO SAFE DRINKING WATER.
- ALL CALIFORNIAN'S DESERVE SAFE DRINKING WATER.
- THE KEY ISSUE IS HOW TO FUND IT.
- A STATE BUDGET TRAILER BILL PROPOSES A STATEWIDE TAX ON DRINKING
 WATER TO FUND SOLUTIONS IN THOSE COMMUNITIES IN TH STATE THAT HAVE
 THE PROBLEM.
- LOCAL WATER CUSTOMERS BOTH RESIDENTIAL AND BUSINESS WOULD SEE
 THE NEW TAX ON THEIR WATER BILLS, AND ALL OF THE MONEY WOULD BE
 COLLECTED BY LOCAL WATER AGENCIES AND SENT TO SACRAMENTO FOR
 DISTRIBUTION TO THOSE COMMUNITIES IN THE STATE FACING DRINKING
 WATER ISSUES.
- THERE ARE ALTERNTIVE WAYS TO FUND THE PROBLEM THAT WOULD NOT INVOLVE A TAX ON DRINKING WATER.
- FOR EXAMPLE, THE TAX COULD BE REPLACED WITH A <u>PACKAGE</u> OF FUNDING, INCLUDING ONGOING FEDERAL SAFE DRINKING WATER FUNDS, GENERAL OBLIGATION BOND FUNDS, THE ASSESSMENTS RELATED TO NITRATES IN GROUNDWATER PROPOSED IN THE BUDGET TRAILER BILL AND A LIMITED AMOUNT OF STATE GENERAL FUND DOLLARS (\$35 MILLION YEAR).
- ANOTHER FUNDING ALTERNATIVE IS A SAFE AND AFFORDABLE DRINKING
 WATER TRUST. THE TRUST WOULD GENERATE INCOME FOR SAFE DRINKING
 WATER INTO PERPETUITY, WITH NO TAX ON DRINKING WATER.
- SO THERE ARE WAYS TO SOLVE THIS WITHOUT A TAX ON WATER.

Updated: May 7, 2018 // Originally Sent: March 7, 2018

The Honorable Bob Wieckowski , Chair Senate Budget Subcommittee No. 2 State Capitol, Room 4085 Sacramento, CA 95814 The Honorable Richard Bloom, Chair Assembly Budget Subcommittee No. 3 State Capitol, Room 2003 Sacramento, CA 95814

Re: Budget Trailer Bill: Safe and Affordable Drinking Water Fund/
TAX ON DRINKING WATER

Position: OPPOSE UNLESS AMENDED

Dear Chair Wieckowski and Chair Bloom:

The below-listed organizations are **OPPOSED UNLESS AMENDED to the drinking water tax** budget trailer bill.

Alameda County Water District

Alhambra Chamber of

Commerce

Amador Water Agency

Anderson-Cottonwood Irrigation

District

Antelope Valley - East Kern

Water Agency

Association of California Water

Agencies

Bella Vista Water District BizFed Los Angeles County

Brooktrails Township

Community Services District Browns Valley Irrigation District

Calaveras County Water District

CalDesal

California Craft Beer Association

California Municipal Utilities

Association

California Special Districts

Association

Calleguas Municipal Water

District

Camrosa Water District

Carlsbad Municipal Water

District

Carmichael Water District

Casitas Municipal Water District

Central Basin Municipal Water

District

Centerville Community Services

District

Ceres Chamber of Commerce Citrus Heights Water District

City of Beverly Hills

City of Corona Department of

Water and Power City of Fairfield City of Garden Grove

City of Glendale Water and

Power

City of Newport Beach City of Oceanside City of Redding

City of Rialto/Rialto Utility

Authority
City of Roseville
City of San Diego
City of Santa Rosa
City of Shasta Lake
Claremont Chamber of

Commerce

Coachella Valley Water District Coastside County Water District

Contra Costa Water District
Crescenta Valley Water District
Crestline-Lake Arrowhead Water

Agency

Cucamonga Valley Water District Del Paso Manor Water District

Desert Water Agency Downtown San Diego

Partnership

Dublin San Ramon Services

District

East Orange County Water

District

East Valley Water District

Eastern Municipal Water District

El Dorado County Chamber

Alliance

El Dorado Irrigation District

El Toro Water District Elk Grove Water District

Elk Grove Chamber of Commerce Elsinore Valley Municipal Water

District

Fair Oaks Water District

Fallbrook Public Utility District
Folsom Chamber of Commerce
Foothill Municipal Water District
Georgetown Divide Public Utility

District

Glendora Chamber of Commerce Glenn-Colusa Irrigation District

Helix Water District

Hidden Valley Lake Community

Services District

Humboldt Bay Municipal Water

District

Humboldt Community Services

District

Idyllwild Water District Indian Wells Valley Water

District

Indio Water Authority
Irvine Ranch Water District
Kern County Water Agency

Kinneloa Irrigation District Kirkwood Meadows Public Utility **Laguna Beach County Water District** Lake Hemet Municipal Water District Las Virgenes Municipal Water District **Long Beach Water Department** Malaga County Water District **Mammoth Community Water District Mariana Ranchos County Water** District McKinleyville Community Services District **Mendocino County Russian River** Flood Control & Water **Conservation Improvement** District **Merced Irrigation District** Mesa Water District Mid-Peninsula Water District **Millview County Water District** Mission Springs Water District Moiave Water Agency Monte Vista Water District **Municipal Water District of Orange County Nevada Irrigation District**

North Marin Water District **North Tahoe Public Utility** District

Northern California Water Association

Olivenhain Municipal Water

District **Orange County Water District**

Orchard Dale Water District Otay Water District

Padre Dam Municipal Water District

Palm Ranch Irrigation District Palmdale Water District Paradise Irrigation District

Pico Water District **Placer County Water Agency Quartz Hill Water District** Rainbow Municipal Water

District

Rancho California Water District Rancho Cordova Chamber of

Commerce

Regional Water Authority Redwood Valley County Water

District

Richvale Irrigation District Rincon del Diablo Municipal

Water District

Rio Alto Water District

Rio Linda Elverta Community

Water District

Roseville Area Chamber of

Commerce

Rowland Water District Sacramento Suburban Water

District

San Diego County Water

Authority

San Diego Regional Chamber of

Commerce

San Dieguito Water District San Gabriel County Water

District

San Gabriel Valley Economic

Partnership

San Gabriel Valley Municipal

Water District

San Juan Water District Santa Clarita Valley Water

Agency

Santa Fe Irrigation District Santa Margarita Water District

Santa Ynez River Water **Conservation District** Improvement District No. 1 **Scotts Valley Water District Shasta Community Services**

District

South Coast Water District

South Tahoe Public Utility

District

Southern California Water

Committee

Stockton East Water District

Sweetwater Authority

Tahoe City Public Utility District Templeton Community Services

District

Textile Rental Service

Association

Three Valleys Municipal Water

District

Torrance Area Chamber of

Commerce

Tulare Irrigation District Tuolumne Utilities District

Twain Harte Community Services

District

United Chamber Advocacy

Network

United Water Conservation

District

Upper Russian River Water

Agency

Upper San Gabriel Valley Municipal Water District **Vallecitos Water District**

Valley Center Municipal Water

District

Valley of the Moon Water

District

Ventura County Economic Development Association Vista Irrigation District Walnut Valley Water District **Westlands Water District Western Canal Water District** Western Municipal Water

District

Yolo County Flood Control Water

Conservation District Yorba Linda Water District **Yuba County Water Agency**

Zone 7 Water Agency

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This budget trailer bill is essentially a modified version of SB 623 (Monning, D-Carmel), which is a 2-year bill. The budget trailer bill would establish a fund to be administered by the State Water Resources Control Board (SWRCB) to assist those who do not have access to safe drinking water. The organizations listed on this letter agree with the intent of the bill. The lack of access to safe drinking water in certain disadvantaged communities is a public health issue and a social issue that the State needs to address. The bill proposes two types of funding: 1) fees related to confined animal facilities excluding dairies (CAFED), fertilizer sales and dairies to address nitrate contamination; and 2) a state-mandated tax on drinking water that the bill would require local water agencies to assess on their local ratepayers and send to Sacramento. No policy committee has heard the proposed tax. The above-listed organizations oppose the proposal for a tax on drinking water.

PROBLEMS WITH A TAX ON DRINKING WATER: Following are examples of problems with a tax on drinking water:

- 1) Requiring local water agencies and cities across the state to impose a tax on drinking water for the State of California is highly problematic and is not the appropriate response to the problem;
- 2) It is not sound policy to tax something that is essential to life;
- 3) State law sets forth a policy of a human right to water for human consumption that is safe, clean, affordable and accessible. Adding a tax on water works against keeping water affordable for all Californians; and
- 4) It is inefficient for local water agencies across the state to collect the tax and send it to Sacramento. Instead of turning local water agencies into taxation agencies for the state, the above-listed organizations suggest the following funding solution:

SUGGESTED ALTERNATIVE FUNDING SOLUTION – A FUNDING PACKAGE:

- 1) Safe Drinking Water State Revolving Fund (SRF) this ongoing federal funding can be used to fund capital costs;
- 2) General Obligation (G.O.) Bonds SB 5 (de León, 2017), which will be on the June 2018 ballot as Proposition 68, proposes \$250 million for safe drinking and clean water, and another bond initiative which is expected to be on the November ballot proposes \$500 million for safe drinking water. These bonds propose to prioritize the drinking water funding to disadvantaged communities (DACs);
- 3) Ag Funding the nitrate-related fees proposed in the bill could be used for replacement water, including point-of-use and point-of-entry treatment, for nitrate contamination; and
- 4) **General Fund** General Fund funding can fund the non-nitrate operation and maintenance (O&M) costs needs at public water systems in certain DACs.

Everyone in California should have access to safe drinking water. The fact that a small percentage of Californians do not makes this issue a public health and social issue for which the General Fund is an appropriate source of funding as part of the above-suggested funding package.

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<u>AMENDMENTS</u>: In addition to including the General Fund as part of a funding package instead of a tax on drinking water, the organizations listed above are suggesting the amendments shown on the attachment to address various concerns regarding this funding measure. The above-listed organizations urge your "No" vote on the budget trailer bill unless the proposed tax on drinking water is removed and replaced with an acceptable funding source.

If you have questions, please contact Cindy Tuck, Deputy Executive Director for Government Relations, Association of California Water Agencies at (916) 441-4545 or at cindyt@acwa.com.

cc: The Honorable Governor Edmund G. Brown Jr.

Honorable Members, Senate Budget Subcommittee No. 2

Honorable Members, Assembly Budget Subcommittee No. 3

The Honorable William W. Monning

Ms. Kim Craig, Deputy Cabinet Secretary, Office of the Governor

Ms. Joanne Roy, Consultant, Senate Budget Subcommittee No. 2

Ms. Susan Chan, Consultant, Assembly Budget Subcommittee No. 3

Mr. Trevor Taylor, Legislative Aide, Office of Senator William W. Monning

Ms. Rocel Bettencourt, Budget Consultant, Senate Republican Caucus

Ms. Barbara Gausewitz, Consultant, Assembly Republican Caucus

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Attachment

SAFE AND AFFORDABLE DRINKING WATER FUND BUDGET TRAILER BILL AMENDMENTS SUGGESTED BY WATER AGENCIES AND WATER ORGANIZATIONS LISTED ON THIS LETTER

- 1) Do NOT include a tax on drinking water. (See Page 3 for the suggested alternative funding solution.)
- 2) Exclude capital costs as an eligible funding category and focus on funding <u>O&M</u> costs, which are difficult to fund through G.O. bonds and cannot be funded with SRF dollars. (G.O. bonds and the SRF are effective in funding capital costs.)
- 3) Limit the funding to disadvantaged communities (DACs) and low income domestic well users that do not have access to safe drinking water, consistent with 4) below.
- 4) Exclude individual domestic wells and "state small water systems" (with 5 to 14 connections) as eligible funding categories (with one exception for nitrate). Data is lacking to support a credible needs assessment. For example, the state does not require owners of private wells to sample their wells, and consequently a comprehensive database for these groundwater sources does not exist. The bill should explicitly exclude these two categories from funding with the exception that funding could be made available for replacement water for individual domestic wells or state small water systems in rural areas of the state for which the local health officer has certified that data documents that the wells for which funding is being sought in that area are contaminated with nitrate. The proposed definition of "replacement water" should be narrowed to make this exception workable. (Bottled water, point-of-use treatment and point-of-entry treatment are reasonable parts of this proposed definition.)
- 5) Make sure the funding goes to address situations where the water is not safe. For example, the proposed language in Section 116769 references systems that "may be at risk of failing." Funding for safe drinking water should go to where there are real problems as opposed to going to where there is a chance of a problem.
- 6) Focus on safe drinking water and recognize that affordability issues are being discussed in the State Water Board's AB 401 implementation process. The language should be deleted from Section 116769 which would include in the needs assessment all CWSs in DACs that charge fees that exceed the affordability threshold in the Clean Water State Revolving Fund Intended Use Plan (i.e., fees that equal or exceed 1.5 percent of the median household income). The State Water Board is currently developing a plan for a low-income water rate assistance program pursuant to AB 401 (Dodd, 2015), and there are many questions being raised about how affordability thresholds should be determined.
- 7) Clarify what is intended by the proposed authority for the State Water Board to take "additional action as may be appropriate for adequate administration and operation of the fund." Instead of simply including this rather vague provision in Section 116768, the bill should be specific as to what this proposed authority is intended to cover.
- 8) Delete the proposal to give the State Water Board and the Board's staff broad liability protection as they implement the Fund. No case has been made as to why they should have such protection for this program.



ACWA Update on Priority Issues

MAR/APR 2018

Prepared by the Association of California Water Agencies

WWW.ACWA.COM

With strong direction from ACWA's Board of Directors and active member involvement through ACWA's policy committees, task forces and regions, ACWA is engaged in numerous arenas to advance priority issues. Here is a high-level look at recent activity and initiatives:

Drinking Water Solutions for Disadvantaged Communities

Much of the language in SB 623 (Monning), which became a two-year bill, is now in a budget trailer bill (BTB) backed by the Brown Administration. ACWA is leading a large coalition (approximately 140 entities) that is actively advocating an oppose-unless-amended position on both measures because they propose a state tax on drinking water. The intent of both measures is to fill gaps in funding for disadvantaged communities without access to safe drinking water. ACWA and its coalition partners agree with that intent but oppose the proposed tax because it is not the right approach to solving this social issue for the state. ACWA and the coalition are advancing a more appropriate funding solution – a package of funds that is comprised of federal safe drinking water funds, general obligation bond funds, assessments related to nitrates in groundwater that are proposed in the bill and funding from the state general fund.

During budget subcommittee hearings in the Assembly and Senate on March 14 and 15, ACWA and many member agencies testified in opposition to the proposed drinking water tax and for ACWA's alternative funding proposal, which would meet the goal of the proposed legislation without a tax on drinking water. No action was taken by either subcommittee – the Assembly Budget Subcommittee No. 3 on Resources and Transportation, and the Senate Budget Subcommittee No. 2 on Resources, Environmental Protection, Energy and Transportation. Action will occur at a yet-to-be determined date. If the BTB is not passed, Sen. Bill Monning (D-Carmel) could attempt to have SB 623 moved to a policy committee or to the Assembly floor, but the focus now is on the trailer bill. Action on a budget trailer bill can follow the Legislature's action on the budget – up until the last day of the Legislative Session. Any proposal for a tax on drinking water will require a two-thirds vote of both houses to pass whether presented as a BTB or as SB 623.

Beyond leading and building the coalition, ACWA is actively engaged in communications work relative to the budget trailer bill.

ACWA members should remain alert and expect further advisories and outreach alerts from ACWA regarding the budget trailer bill.

Water Rates

The State Water Resources Control Board (State Water Board) continues work on drafting a plan for a statewide low-income water rate assistance program as mandated under AB 401 (Dodd-2015). The report is expected to be completed and released later this year. The plan will likely require additional legislation to be implemented. The draft may call for a program that subsidizes water costs for one-third of California households. ACWA has successfully advocated for additional process steps and stakeholder meetings and will continue to consult with ACWA's AB 401 Implementation Working Group.

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Long-Term Conservation Legislation & Regulation

AB 1668 (Friedman) and SB 606 (Skinner/Hertzberg) were made two-year bills in 2017 following months of ACWA advocacy. ACWA maintains an oppose-unless-amended position on both bills. Recently, the association reconvened its State Legislative Committee work group on the bills following amendments to both measures. ACWA is suggesting amendments be added that would clarify issues and concerns address impacting water agencies, including local authority, feasibility and cost effectiveness.

ACWA will continue engaging the Legislature and the Brown Administration to resolve the remaining issues and find a workable approach to state policy on conservation and water-use efficiency.

On the regulatory side, the State Water Resources Control Board (State Water Board) is following through on its November 2017 proposal to make the emergency drought prohibitions permanent by using its authority to prevent waste and unreasonable use of water by designating certain water uses as per se "wasteful water uses." ACWA continues to advocate that many of the proposed prohibitions make sense in principle and are already locally well-implemented and generally supported by Californians, but a number of other prohibitions are far too prescriptive. ACWA and many water agencies are strongly opposed to the State Water Board's intention to use its general authority to prevent "waste and unreasonable use" as a means to categorically prohibit water use practices without consideration of specific water use circumstances as required by law.

At a Feb. 20 State Water Board workshop, staff indicated that the proposal would be slightly revised and re-released for a 15-day comment period and that their intention was to schedule it for consideration and possible final adoption by the State Water Board at the April 17 meeting. However, as of early April the revised proposal has not yet been released and further action by the State Water Board is uncertain. If adopted, this action would need to be approved by the Office of Administrative Law before it becomes effective.

STAFF CONTACT

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Water Storage Investment Program

Last year, 11 storage projects storage were deemed eligible by the California Water Commission (CWC) to compete for the \$2.7 billion authorized through the 2014 passage of Proposition 1. However, preliminary public benefit ratios (PBRs) evaluations released on Feb. 2, showed none of the proposed projects as qualifying for funding.

ACWA, in consultation with project applicants, proposed administrative improvements to the process. The CWC directed its staff to meet with applicants to ensure better understanding of the evaluations to help inform more effective appeals by applicants.

On April 3, in response to legislative and public requests, the CWC directed its staff to schedule another round of meetings with applicants to discuss results of updated technical reviews that are scheduled to be posted April 20.

These additional meetings will take place April 24 and 25, be open to the public and include CWC staff, state agency review team members and applicants. The CWC is expected to determine final PBRs at a public meeting May 1-3, with funding decisions currently scheduled for July 2018.

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Business Development

The Business Development Committee met on March 15 and discussed implementation of the recommendations from the consultant who reviewed non-dues revenue related and made additional recommendations that were presented to the Board for acceptance and approval.

One recommendation the committee discussed was the need to conduct a needs assessment of associates and public agency members. The survey will focus on nondues revenue programs and what programs provide the most return on investments for associates, along with what products/services public agency members would like to see ACWA provide. ACWA has also developed additional sponsorship opportunities, activities in the exhibit hall at ACWA conferences and created a host of advertising opportunities for associates. A comprehensive marketing packet is available.

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Interim Deputy Executive Director for External Affairs

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Upcoming Events - Visit www.acwa.com for more

- ACWA Spring CLE2018 Workshop, Sacramento Convention Center May 8
- ACWA 2018 Spring Conference and Exhibition, Sacramento May 8 thru May 11

STAFF CONTACT

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Bay-Delta Flow Requirements

ACWA continues to accept resolutions or formal letters of support from its members on its policy statement regarding Bay-Delta flow requirements. The policy statement urges the State Water Resources Control Board (State Water Board) to set aside its problematic "unimpaired flow" approach to setting new water quality objectives and to heed Gov. Jerry Brown's call for negotiated agreements.

The stakeholder process continues with the State Water Board simultaneously continuing to consider input on both phases of the Bay-Delta Plan Update. The State Water Board currently plans to release the Phase I Final Substitute Environmental Document (SED) for public review and Phase II Draft SED for public comment in spring 2018. The State Water Board plans to consider adoption of Phase I and II changes to the Bay Delta Plan and certifications of both Final SEDs later in 2018.

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Shutoff Policy

ACWA has taken an oppose-unless-amended position on Senate Bill 998 (Dodd) regarding water service shut-offs for non-payment. The bill in its introduced form would have completely changed the practice of water purveyors (water districts, cities, private water companies, and special districts) which currently implement multiple protocols to ensure that water service is discontinued for non-payment only when a customer fails to follow-through with safeguards that are built into the operations and management of water systems.

ACWA has formed a coalition of water providers including the League of California Cities, California Municipal Utilities Association, California Special Districts' Association and the California Water Association to join forces to secure multiple amendments to the bill. The bill has been amended twice, on March 22 and April 9, to remove language which was not practical and which the coalition requested be deleted from the bill. These amendments included deleting language that would have required county health inspectors to physically visit a household to determine whether there was a threat to public health by disconnection of water service, even temporary water service. Language which took into consideration whether a head of household had been deported was deleted. Lastly, language was added that would allow customer contact by phone or written notice instead of a physical visit prior to service shut-off for bill delinquency and impending shut-off.

Outstanding issues of concern remain which will need to be changed, augmented, or deleted from the bill. These include regulatory compliance overkill with the involvement of the Attorney General, caps on service reconnection fees, and cost shifting from one set of customers to another set of customers, which is prohibited by Proposition 218. ACWA will continue to lead the coalition and push for amendments to address our members' concerns.

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Shut-off Legislation

Consolidation

AB 2050 (Caballero) would create a new process for the consolidation of small water systems that would provide additional authority to the State Water Resources Control Board (State Water Board) and empower local governments to determine the best approach in addressing their drinking water needs. This would differ from the current mandated consolidation process under which the State Water Board can compel larger, adequately funded water agencies in full compliance to absorb small systems that are out of compliance.

The proposed process in AB 2050 would require the State Water Board to identify small water systems that are chronically out of compliance and mandate that the local area formation commission (LAFCO) – in coordination with a State Water Board appointed administrator – identify the most appropriate and effective plan for consolidation. ACWA supports the bill and has recommended several technical amendments that seek clarification regarding funding for implementation and process.

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Groundwater Replenishment

In late 2017, ACWA's State Legislative Committee formed a work group to build consensus around AB 1427, legislation proposed to facilitate groundwater replenishment projects. The ACWA work group developed a proposal regarding possible new water rights administrative permitting, which was distributed and presented to the State Legislative Committee at its March 2 meeting. Work group members and Director of State Regulatory Relations David Bolland will now present the proposal for consideration by senior staff of the State Water Resources Control Board. Additionally, ACWA hosted a webinar to showcase a decision-support "Groundwater Recharge Assessment Tool" (GRAT) developed by Sustainable Conservation and Earth Genome to identify new recharge projects.

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Federal Advocacy on Wildfire-Headwaters Legislation

President Donald Trump signed into law the \$1.3 trillion omnibus appropriation bill March 23 that will provide federal funding for numerous ACWA priorities, including a wildfire budget fix.

The agreement includes a legislative change that ensures a reliable stream of funding for fighting catastrophic wildfires. The 10-year deal adjusts caps to accommodate firefighting needs and end regular "fire borrowing" from non-fire activities within the U.S. Forest Service and U.S. Department of the Interior. This dedicated funding source for fire suppression allows agencies to pay for forest health and restoration projects to help prevent catastrophic fires and get ahead of the conditions that create them. This replaces the previous process of responding to fire emergencies year by year by taking money away from long-term forest programs.

ACWA continues to work with a broad coalition of Western water suppliers on wildfire and headwaters protection legislation.

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