



California Association of Wheat Growers

Newsletter
December 2, 2016

**Thank you for your commitment to
the future of agriculture and our membership.**

Attention California wheat industry members:

We invite you to attend the next California Association of Wheat Growers Board of Directors meeting on Wednesday, December 7. We will engage in discussion and review legislative priorities for the coming year and look forward to a productive meeting. The California Wheat Commission Board of Directors Meeting will follow directly after the Association's meeting so please take advantage and attend both meetings to learn what current efforts are underway in policy, marketing and research that affects the California wheat industry.

Executive Director - Nick Matteis

CALIFORNIA ASSOCIATION OF WHEAT GROWERS

**Board of Directors Meeting
Wednesday, December 7, 2016 8:00am**

**Yolo County Farm Bureau
69 West Kentucky Ave.
Woodland, CA**

AGENDA

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|------|---|---------|
| I. | Call to Order & Introductions | Parsons |
| II. | Board Business * | |
| | a. Approval of September 7, 2016 Meeting Minutes | |
| | b. Financial Report | Hunn |
| | c. Membership Report | |
| III. | Issues Update | Matteis |
| | • New Administration | |
| | • Ag Overtime Bill | |
| | • New Farm Bill | |
| | • Trans-Pacific Partnership and Transatlantic Trade and Investment Partnership (TPP and TTIP) | |
| | • State Legislative Report | |
| | • 2016/17 Legislative Priorities Review - Small Grains Research Organization Efforts | |
| IV. | California Wheat Commission | Carter |
| | • Crop Report | |
| | • Current Marketing/Research Efforts | |
| V. | Old Business | |
| VI. | New Business | |
| | • Upcoming Meetings | |
- 2017 NAWG Winter Conference Hyatt Regency Washington on Capitol Hill Jan. 29-Feb. 2
-2017 Commodity Classic San Antonio Texas March 2-4
- VII. Executive Session (if necessary)
- VIII. Adjournment
(* Items require Board action)

California Election Update

by Dennis Albiani, Legislative Advocate

The votes have been tallied and while most of the nation witnessed a wave of Republican victories in Washington and state capitals, here in California, Democrats have secured a two-thirds supermajority in both the Assembly and Senate.

In the Assembly, the Democrats picked up the necessary two Republican seats to gain a two-thirds supermajority. Democrat Josh Newman defeated Assembly Member Ling Ling Chang for the 29th Senate District. In two rematches, former Democrat Assembly Member Al Muratuschi regained his seat taken by Republican Assembly Member David Hadley (District 66) and former Democrat Assembly Member Sharon Quirk-Silva (District 65) regained her seat taken by Republican Assembly Member Young Kim (District 65). Democrat challenger Sabrina Cervantes also edged out incumbent Republican Assembly Member Eric Linder (District 60).

In two other races, Assembly Member Catharine Baker (District 16) was able to fend off a challenge from Democrat Cheryl Cook-Kallio and Assembly Member Marc Steinorth (District 40) defeated Democrat Abigail Medina. Republicans were also able to maintain two open seats with Republican Jordan Cunningham defeating Democrat Dawn Ortiz-Legg in District 35, and Republican Dante Acosta defeating Democrat Christy Smith in District 38.

Several Democrat on Democrat races in the Assembly became heated this year due to the rise of the moderate Democrat. Moderate Democrat Tim Grayson handily defeated progressive Democrat Mae Cendaña Torlakson, the wife of State Superintendent of Public Instruction Tom Torlakson, in District 14. In surprising news, incumbent Assembly Member Cheryl Brown (District 47) was defeated by labor and environment interest backed Democrat Eloise Reyes.

In the state Senate, the Democrats have achieved a supermajority. Democrats held on to all of their seats, including a win by Democrat Henry Stern over Republican Steve Fazio for the 27th Senate District and by former Democrat Assemblyman Anthony Portantino over Republican Mike Antonovich for the 25th Senate District.

Governor Brown can claim a victory in the defeat of Proposition 53, which would have required his Twin Tunnels project to go before a vote of the people before being built, and Republicans can claim a victory in Proposition 54, which requires all legislation to be in print for 72 hours before it is voted on. Proposition 54 went into effect immediately and created a new deadline for the special session on transportation that was called in November and will end without a vote.

The results for all California State Assembly and Senate Elections, U.S. Senate and House

Elections and key Propositions are available [here](#).

California Legislative Update

by Dennis Albiani, Legislative Advocate

On midnight, August 31, 2016 the legislature adjourned the 2015-16 Legislative Session. The legislature sent 1,059 bills to the Governor for consideration by September 30th, Governor Brown's deadline for approving or vetoing legislation.

The 2015-16 legislative session will be known as one marked with historic progressive measures being passed - an increase in the minimum wage, mandatory vaccinations for students, right to die for terminally ill medical patients, and overtime for agricultural workers required after 8 hours. With this progressive legislative leadership and focus, the Association worked tirelessly with strategic coalitions on agriculture, water and business issues among others throughout the session and until the end of the Governor's action period.

Budget

The Legislature passed and the Governor signed the budget in late June. The record high 2016-17 California General Fund Budget went into effect on July 1st . Approximately \$122.6 billion is allocated to the general fund. That amounts to a 5.5 percent increase from last year, and is 42 percent higher than 5 years ago. An allocation of \$45 billion to the California "special funds" and bond fund repayments of \$3 billion brings California's total state budget to approximately \$171 billion.

The budget approved by the legislature increases funding for social services and, at the Governor's insistence, the budget reserve was increased by an additional \$2 billion. In the usual give and take surrounding budget negotiations, Governor Brown agreed to increase spending on child care and also agreed to allow families to receive additional welfare benefits.

As a result of only needing a majority vote in each house to pass the budget, this year's spending plan was approved without the late night drama of previous years. The budget was passed on a nearly party line vote. Senator, Anthony Cannella, was the only Republican in either house to vote in favor of the plan.

SB 830 (Budget and Fiscal Review) was passed on the last night of session and included:

- \$65 million to CDFA with the following breakout
- \$50 Million for Manure Digesters
- \$7.5 million for Healthy Soils Program
- \$7.5 million for SWEEP

Legislative Process

- Nov. 8 -General Election.

- Nov. 30 -Adjournment sine die at midnight (Art. IV, Sec. 3(a)).
- Dec. 5 -2017-18 Regular Session convenes for Organizational Session at 12 noon (Art. IV, Sec. 3 (a)).

Legislation That Has Been Signed into Law

AB 197 (Eduardo Garcia) established a legislative committee on climate change policies to help continue to ensure the state's actions to reduce greenhouse gas emissions are conducted with transparency and accountability. This bill is aimed to assist the state in its goal to reduce emissions by 40 percent below the 1990 levels by the year 2030 and invest in the communities hit hardest by climate change. (Chapter 250, Statutes of 2016)

AB 1066/ AB 2757 (Gonzalez) the Ag Overtime Bill, requires overtime after 8 hours in a day and after 5 days worked in a work week. This legislation mandates overtime to be paid at 1.5 times pay after 8 hours in a day, and five days worked in a week. The original introduction of the bill, AB 2757, was defeated in the Assembly 38-35. (Chapter 313, Statutes of 2016)

AB 1755 (Dodd) enacts the Open and Transparent Water Data Act. The act requires the Department of Water Resources, in consultation with the California Water Quality Monitoring Council, the State Water Resources Control Board, and the Department of Fish and Wildlife, in accordance with a specified schedule, to create, operate, and maintain a statewide integrated water data platform that, among other things, integrate existing water and ecological data information from multiple databases and provide data on completed water transfers and exchanges. (Chapter 506, Statutes of 2016)

AB 1676 (Campos) prohibits employers from seeking salary history information about an employment applicant and requires any employer to furnish an employment application with a "pay scale for a position to an applicant applying for employment." (Chapter 856, Statutes of 2016).

AB 1810 (Levine)amends the CA Seed Act by exempting "Non Commercial" seed vendors from the CA seed law. The California Seed Association worked closely with the author on this legislation. Originally in opposition, the association coordinated with CDFA Seed Program and the American Seed Trade Association (ASTA) and activities occurring in other states, to ensure that the bill is narrowly tailored and does not impact enforcement of the program by CDFA staff. The California Seed Association attempted to incorporate appropriate provisions from the "ASTA's Model Ordinance." (Chapter 259, Statutes of 2016)

AB 1811 (Dodd) addresses the organic fertilizer program, provides more tools for enforcement and inspections, and provides more clarity for manufacturers and consumers on labeling of organic fertilizer and inputs. (Chapter 448, Statutes of 2016)

AB 1826 (Stone) is sponsored legislation by the organization of California Certified Organic Farmers to address the fee structure, advisory board and regulations for organic production. (Chapter 403, Statutes of 2016)

AB 1843 (Stone) prohibits an employer from asking an employment applicant to disclose or to consider in "any condition of employment" information concerning

juvenile court action. (Chapter 686, Statutes of 2016)

AB 1928 (Campos) postpones the date by which the State Energy Resources Conservation and Development Commission is to adopt performance standards and labeling requirements for landscape irrigation equipment and labeling requirements to January 1, 2019, and prohibits the sale or the offer for sale of that equipment manufactured on or after the effective date of the performance standards and labeling requirements, unless the equipment meets the performance standards and labeling requirements and is certified by the manufacturer as meeting the performance standards. (Chapter 326, Statutes of 2016)

AB 1960 (Lackey) proposes an exemption to farmers and ranchers from the Biennial Inspection of Terminals (BIT) program, until January 1, 2023. This exemption applies to pickups and/or pickup and trailer combinations used solely in agriculture not-for-hire, with a total gross combined weight rating of the pickup and trailer that does not exceed 26,000 pounds and the pickup having a GVWR of less than 16,000 pounds. (Chapter 748, Statutes of 2016)

AB 2337 (Burke) mandates employers of 25 or more employees must provide written notice to employees of their rights to take protected time off for domestic violence, sexual assault or stalking. Employers are required to inform each employee of his or her rights upon hire and at any time thereafter upon request by the employee. The Labor Commissioner will develop a form for the notices by July 2017. (Chapter 355, Statutes of 2016)

AB 2446 (Gordon) expands the ability of the State Water Resources Control Board to issue a stay in the case of review by the state board under the Porter-Cologne Water Quality Control Act of a decision or order issued under authority delegated to an officer or employee of the state board where the state board by regulation has authorized a petition for reconsideration. (Chapter 523, Statutes of 2016)

AB 2535 (Ridley-Thomas) sets, in statute, an important clarification that an employer must only track hours worked and record those hours on an itemized wage statement for hourly, non-exempt employees. This ensures that employers do not have to track and record salaried exempt employee hours. (Chapter 77, Statutes of 2016)

AB 2551 (Gallagher) authorizes alternative financing structures for large surface storage projects. Because the bill has minimal costs, it was eligible for a vote. After testimony from supporters including agriculture, water districts and labor, the bill was passed out of the committee and moves to the Assembly floor. The association joined a coalition in support of this measure. (Chapter 760, Statutes of 2016)

SB 3 (Leno) requires the minimum wage for all industries to not be less than specified amounts to be increased from January 1, 2017, to January 1, 2022, inclusive, for employers employing 26 or more employees and from January 1, 2018, to January 1, 2023, inclusive, for employers employing 25 or fewer employees, except when the scheduled increases are temporarily suspended by the Governor. After the last scheduled minimum wage increase, the Director of Finance is required to annually adjust the minimum wage under a specified formula. (Chapter 4, Statutes of 2016)

SB 32 (Pavley) gives broad authority to the California Air Resource Board (CARB) to enact regulations limiting emissions. This bill supports the goals set by AB 32

"California Global Warming Solutions Act of 2006" to reduce greenhouse gas emissions to the 1990 levels by the year 2020. SB 32 is said to reduce the emission goal 80 percent under 1990 levels by the year 2050. (Chapter 249, Statutes of 2016)

SB 37 (Vidak) creates the Kings River East Groundwater Sustainability Agency and establishes the agency's initial boundaries. The agency is required to elect to be a groundwater sustainability agency under the Sustainable Groundwater Management Act for that portion of the Kings Sub-basin that lies within the boundaries of the agency and requires the agency to develop and implement a groundwater sustainability plan to achieve sustainable groundwater management within the territory of the agency. (Chapter 391, Statutes of 2016)

SB 661 (Hill) reforms the "811 Call Before You Dig" program which revises the rules governing steps to be taken during excavation to protect underground structures such as natural gas lines, oil pipelines and fiber optic cables. The bill creates a new State Board within the Office of the State Fire Marshall. The new California Underground Facilities Safe Excavation Board has authority over private landowners, like agriculture, to enforce all provisions related to the rules, including the authority to impose financial penalties for violations. The bill passed the legislature but will need funding and potentially clean up legislation next year. (Chapter 809, Statutes of 2016)

SB 1001 (Mitchell) seeks to add new legal liabilities for employers by making it unlawful for an employer, in the course of satisfying specified work authorization requirements of federal law, to request more or different work authorization documents than are required under specified federal law or to refuse to honor documents tendered that reasonably appear to be genuine from a job applicant. Employers are prohibited from attempting to reinvestigate or re-verify a current employee's authorization to work. If anyone is found to have done any of the above, they will be subject up to a \$10,000 penalty imposed by the Labor Commissioner and liability for equitable relief. (Chapter 782, Statutes of 2016)

SB 1063 (Hall) amends the Equal Pay Act to prohibit employers from paying employees a wage rate less than the rate paid to employees of a different race or ethnicity for substantially similar work. (Chapter 866, Statutes of 2016)

SB 1167 (Mendoza) orders the California Division of Occupational Safety and Health Administration, (Cal/OSHA), by January 1, 2019, to propose to the state Occupational Safety and Health Standards Board, a heat illness and injury prevention standard applicable to workers working in indoor places of employment. The bill does not prohibit the division from proposing, or the standards board from adopting, a standard that limits the application of high heat provisions to certain industry sectors. (Chapter 839, Statutes of 2016)

SB 1234 (DeLeon) establishes the Secure Choice Retirement (SCRSP) program for all covered employees. The provisions mandate the creation of savings accounts for workers whose employers don't offer a pension, 401(k) or other retirement savings option would be automatically enrolled. The program will be phased in over a 36 month period and overseen by the new Secure Choice Retirement Savings Investment Board. (Chapter 804, Statutes of 2016)

SB 1383 (Lara) limits CARB's authority to regulate methane emissions from livestock manure management, and requires the board to make findings that the regulations are

cost effective, feasible and within existing economics of the industry. This bill restricts CARB's ability to regulate enteric emissions from livestock - which includes gas released from "both ends" of the cow. (Chapter 395, Statutes of 2016)

SB 1386 (Wolk) declares it to be the policy of the state that the protection and management of natural and working lands, as defined, is an important strategy in meeting the state's greenhouse gas reduction goals, and would require all state agencies, departments, boards, and commissions to consider this policy when revising, adopting, or establishing policies, regulations, expenditures, or grant criteria relating to the protection and management of natural and working lands. (Chapter 545, Statutes of 2016)

Bills Failing Passage

AB 995 (Bigelow) would have created a new pilot program under the current Special Equipment (SE) Plate program to allow agricultural vehicles that qualify under the current SE program to travel 20 air miles when transporting harvested goods from the point of origin (field) to the first point of processing. These would have been subject to the BIT program and the Motor Carrier program, and required to pay those respective fees. (Vetoed by the Governor on September 28, 2016)

AB 1050 (Low) would have added new notification requirements for California Division of Occupational Safety and Health Administration, (Cal/OSHA) conveyance variance (elevators, lifts, etc.) applicants, creating broad new precedent for who must be notified and who can be party to Cal/OSHA proceedings. (Vetoed by the Governor on September 27, 2016)

AB 1587 (Mathis) would, in implementing the competitive grants for projects that develop and implement groundwater planning requirements, require special consideration be given to those projects that would create groundwater recharge basins in areas of fallow farmland. This bill would have appropriated \$50,000,000 from the proceeds of the bond act for the purpose of that competitive grant program. (Held in Assembly)

AB 1611 (Committee on Budget) would have made it a crime if an entity substantially diverted or obstructed the natural flow of, or substantially changed or used any material from the bed, channel, or bank of, any river, stream, or lake, or from depositing certain material where it may pass into any river, stream, or lake designated by the Department of Fish and Wildlife, without first notifying the department of that activity, and entering into a lake or streambed alteration agreement if required by the department to protect fish and wildlife resources. (Held in the Assembly)

AB 1704 (Dodd)the Water Rights Permitting Reform Act of 1988 would have provided that the State Water Resources Control Board is not required to adopt general conditions for small irrigation use until the board determines that funds are available for that purpose and that a registration for small irrigation use pursuant to the act is not authorized until the board established general conditions for small irrigation use to protect instream beneficial uses, as specified. This bill would have required the board, on or before January 1, 2018, to adopt general conditions that would permit a registrant to construct a facility that would store water for small irrigation use during times of high streamflow in exchange for the registrant reducing diversions during

periods of low streamflow. (Held in the Senate)

AB 1713 (Eggman) Delta Water Fix Vote Requirement - this measure would have required any proposal to implement a Delta Tunnel water conveyance system to be voted upon by the people of California at the next general election. (Held in the Assembly)

AB 2040 (Melendez) would have allowed for taxable years beginning on or after January 1, 2016, and before January 1, 2019, a credit equal to 25% of the amount paid or incurred by a qualified taxpayer for water-efficiency improvements, as defined, on qualified real property in this state. Would have limited the cumulative amount of the credit to \$2,500 for each qualified real property for all taxable years. (Held in the Assembly)

AB 2140 (Hernández) would have authorized the California Tax Credit Allocation Committee to allocate the farmworker housing credit even if the taxpayer receives federal credits for buildings located in designated difficult development areas or qualified census tracts. The bill would have also redefined farmworker housing to mean housing in which at least 50% of the units are available to, and occupied by, farmworkers and their households. (Held in the Senate)

AB 2162 (Chu) would have enacted the Oak Woodlands Protection Act, which would prohibit a person from removing oak trees from an oak woodland specified, unless an oak removal plan and oak removal permit application for the oak tree removal has been submitted to and approved by the Director of Fish and Wildlife. (Held in the Assembly)

AB 2261 (Hernández) would have authorized the Division of Labor Standards Enforcement to, with or without receiving a complaint from an employee, commence an investigation of an employer that it suspects to have discharged or otherwise discriminated against an individual in violation of any law under the jurisdiction of the Labor Commissioner. (Held in the Senate)

AB 2304 (Levine) would have required the Water Market Clearinghouse, on or before December 31, 2018, to create a centralized water market platform on its Internet Web site that provides ready access to information that has been provided about water available for transfer or exchange and information about the process for transferring or exchanging water. Would have required the Secretary of the Natural Resources Agency to convene a Water Market Clearinghouse Task Force and require the task force to make recommendations to the clearinghouse. (Held in the Assembly)

AB 2405 (Gatto) would have required an employer who employs 25 or more employees working at the same location to annually provide an employee who is a parent, as defined, having custody of a child in a licensed child day care facility or in kindergarten or grades 1 to 12, at least 8 hours of paid time off for the purposes of a planned absence to find, enroll, or reenroll their child in a school, to participate in school activities, or address emergency situations at school, subject to specified conditions. (Held in the Assembly)

AB 2504 (Asm Ag Committee) would have established an additional assessment on alfalfa seed to fund research by authorizing the Seed Advisory Board to make recommendations to the secretary of the CDFA to assess seeds sold in the state. Would

have required hay producers to pay a \$0.10 per pound of alfalfa sold. (Pulled from Committee)

AB 2525 (Holden) would have required the Department of Water Resources, upon identification of a funding source, to create the California Water Efficient Landscaping Program for the purpose of encouraging local agencies and water purveyors to use economic incentives that promote the efficient use of water, promote the benefits of consistent landscape ordinances, and support and enhance water inefficient grass replacement. (Held in the Assembly)

AB 2583 (Frazier) would have created additional barriers to implementation of the Delta Water Fix by prohibiting the construction until legally binding financial agreements or contracts are signed by each of the state and federal water contractors that will receive water supplies that commit them to pay for the costs required for the federal Central Valley Project, State Water Project. (Held in the Assembly)

AB 2596 (Bloom) would have expanded existing restrictions on anticoagulant pesticide use in designated raptor feeding zones statewide. Contained Ag exemption but not processing. (Held in the Assembly)

AB 2617 (Mayes) would have required the Department of Water Resources to develop and solicit comments on a proposed report, in consultation with subject matter experts at the University of California, the California State University, the State Water Resources Control Board, the State Energy Resources Conservation and Development Commission, and local water districts, by December 1, 2017, and, by July 1, 2018, to issue a final report that contains recommendations to public entities to help them achieve water-resilient communities and prioritize cost-effective water efficiency measures with low adverse environmental impacts based on local conditions. (Held in the Senate)

AB 2805 (Olsen) would have created a working group consisting of the CHP, CalTrans and agriculture grower representatives to try and cooperate to reduce ag cargo theft. The bill was vetoed with the following message, "Agricultural cargo theft is a growing problem in California, worthy of prioritization. The goals of this bill, however, can be accomplished administratively without another law. I am directing the CHP Commissioner and the Secretary of the State Transportation Agency to examine ways to improve enforcement in this area and carry out the goals of this bill." Supporters of the measure plan to follow up with CHP and Caltrans to ensure the issue is addressed at the administrative level. (Vetoed by the Governor on September 21, 2016)

SB 654 (Jackson) amends the Fair Employment and Housing Act (FEHA) making it an unfair employment practice for an employer of ten or more employees who would not otherwise be covered by either the federal Family and Medical Leave Act or the California Family Rights Act to fail to provide at least 6 weeks of job-protected leave for child birth, adoption, or foster care placement. (In Senate. Consideration of Governor's veto pending.)

SB 995 (Pavley) would have, on or before January 1, 2019, required the Department of Water Resources to update well standards for water wells, monitoring wells, and cathodic protection wells based on existing knowledge and to submit these standards to the State Water Resources Control Board. (Held in the Assembly)

SB 1147 (Galgiani) would have prohibited a city, county, or city and county from enforcing standards for aboveground storage tanks that are more stringent than state or federal standards for aboveground storage tanks unless the city, county, or city and county first adopts an ordinance establishing those standards. (Held in the Assembly)

SB 1247 (Jackson) would have established environmental farming zones around school and day care centers for organic farming - which may have created "no pesticide zones." (Held in the Senate)

SB 1282 (Leno) would have required labeling of commercially available seeds and plants sold at retail establishments, excluding noxious weed seeds and plants, that have been treated with a neonicotinoid pesticide, and, by regulation, designate neonicotinoid pesticides as restricted materials by January 1, 2018. The label would have read, "STATE OF CALIFORNIA SAFETY WARNING: MAY HARM BEES" with logo to be designed by the director. (Defeated in the Senate)

SB 1317 (Wolk) would have required a city or county overlaying a high or medium priority water basin to establish a process for issuing a conditional use permit for new well construction. Additionally, the measure would prohibit the issuance of a conditional use permit for a new well in probationary basins, or basins subject to critical overdraft. (Held in the Assembly; not brought up for a vote.)

SB 1340 (Wolk) requires, on or after July 1, 2018, a local agency to require a permit for the installation of specified automatic irrigation systems, or the expansion of the same specified automatic irrigation systems to increase the irrigated area by 25% or more, for a landscape project. (In Senate. Consideration of Governor's veto pending.)

State Water Project Receives Larger Allocation

On April 21, 2016, the California Department of Water Resources (DWR) announced that the State water project allocation increased. California will deliver more water this year than it has for each of the last three, as spring storms have nearly filled the state's major reservoirs, officials said. Water districts serving nearly a million acres of farmland and 40 million residents will receive 60 percent of the water they requested, the state Department of Water Resources announced.

This is California's fifth consecutive drought year and the fourth such increase in recent months of the allocation, which started in December at 10 percent. In 2014, the agency provided clients as little as 5 percent of what they requested for the year. Northern California this winter received significantly more wet weather than the San Joaquin Valley and Southern California, where reservoirs remain low. Officials say it will take several years for California to recover from the dry spell. Residents statewide for now remain under orders to use at least 20 percent less water than they did before the drought.

Executive Order on Water Conservation

On April 25, 2016, the governor issued executive order, B-37-16. This directs the California Department of Water Resources (DWR) to work with the State Water Resources Control Board to develop new water use targets as part of a permanent framework for urban water agencies. The targets will build on existing law requiring the state to achieve a 20% reduction in urban water use by 2020.

While the new targets were tailored to local conditions, the order directs DWR to

consider indoor residential per capita water use, local outdoor irrigation needs and climate, commercial, industrial and institutional water use and water lost through leaks then issue a proposed draft framework by Jan. 10, 2017.

Additionally, the order:

- Directs DWR to take actions to minimize water system leaks statewide;
- Directs DWR to strengthen standards for local Water Shortage Contingency Plans, including common statewide standards and requirements that plans assume droughts lasting at least five years, as well as more frequent and severe periods of drought;
- Directs DWR to work with the California Department of Food and Agriculture to update and require Agricultural Water Management Plans by water suppliers with more than 10,000 irrigated acres of land;
- Continues current bans on wasteful water use such as hosing off sidewalks, driveways and other hard surfaces; and
- Directs the State Water Board to develop a new proposal for mandatory water use reductions in 2017 should the drought persist.

DWR Director Mark Cowin said strengthening water shortage contingency plans as proposed would create a "playbook" tailored to local agencies to deal with future shortages.

American Disabilities Act Reform

May 11th, 2016 Governor Jerry Brown signed ADA Reform Legislation. The Americans with Disabilities Act (ADA), coupled with the Unruh Civil Rights Act, has provided Californian's with disabilities increased access to public and private buildings and accommodations since they were enacted in 1991. However, it has also proven to be a litigation lightning rod attracting unscrupulous lawyers who file claims against private businesses across the state. There are a small number of lawyers who have become known for filing hundreds of these claims against private businesses and demanding significant fees to settle. The California Legislature has been grappling with balancing appropriate access with necessary reforms. The Governor signed SB 269 (Roth) attempting to provide small business owners with a 120 day litigation protection when presented with the fact their businesses do not meet ADA standards if they have acted proactively to identify issues and a 15 day "right to cure" for technical violations that do not impede access.

While modest, SB 269 seeks to incentivize businesses to proactively take steps to become accessible by providing them with 120 days from receipt of a Certified Access Specialist (CAsp) report to resolve any violations identified without being subject to statutory penalties or litigation costs. This proposal will assist businesses who are trying to ensure they are compliant from being subject to frivolous claims or litigation. SB 269 also provides 15 days from the service of the summons and complaint to resolve any alleged violation regarding signage, parking lot conditions, and detectable warning surfaces. This limited period will provide a small business owner with the opportunity to devote their financial resources to resolving these minor issues before being subjected to statutory penalties and attorney's fees.

SB 269 further requires the California Commission on Disability Access to post educational materials for business owners regarding how to comply with California's

construction-related accessibility standards, as well as share that information with local agencies and departments. Notice and education are key components to helping create more accessible public accommodations and limiting frivolous claims or litigation.

The bill only provides this treatment to smaller business with less than 25 employees. However, it is a start and the author as well as supporters vowed to continue to work to get these provisions expanded to all businesses.

New Emergency Water Conservation Regulations

On May 18, 2016, the State Water Board adopted an emergency water conservation regulation that replaces the February 2 emergency regulation; the amended regulation took effect June 1 and will remain in effect through January 2017.

The State Water Resources Control Board released the staff proposal in May to modify the existing emergency water conservation regulation to reflect improved conditions and allow for more local decision making. The proposal was released in conjunction with an executive order issued by Gov. Jerry Brown outlining long-term water conservation measures aimed at achieving a top priority in the California Water Action Plan - making conservation a way of life.

The new emergency water conservation regulation replaces the existing state-imposed mandatory conservation standards with locally developed standards based on local conditions and supply availability. It requires local urban water agencies to self-certify their water supply availability assuming three additional dry years and customer demands based on 2013 and 2014 averages. Local agencies determine the combination of conservation, alternative supplies and other strategies needed to assure adequate supply over that time.

The new emergency water conservation regulation also requires both urban water suppliers and wholesale suppliers to report the underlying basis for their water supply assessments and require urban water suppliers to continue reporting conservation levels on a monthly basis.

Local water agencies are required to file their supply assessments and targets with the state. The state will then monitor to see that those targets are met.

State Water Board Releases Draft Flow Objectives for San Joaquin River; Salinity Objectives for the Southern Delta

On September 15th, the State Water Resources Control Board released a draft proposal to update water quality requirements for salinity in the southern Delta and water flows in major tributaries to the San Joaquin River (the Stanislaus, Tuolumne, and Merced Rivers), which drain into the southern Delta.

The refined salinity requirements reflect updated scientific information about salt levels. The new flow requirements for the San Joaquin River's major tributaries recognize the role upstream water flows provide for habitat and migratory signals for native fish species. In summary, the draft proposes increasing flows for fish and wildlife and adjusts the salinity requirements to a slightly higher level to reflect updated scientific knowledge.

The San Joaquin River is a key part of the Bay-Delta system. Flow objectives on the San Joaquin River have not been updated since 1995. Since that time salmon and steelhead, including those that spawn and rear in the San Joaquin's tributaries and migrate through the Delta to the Pacific Ocean, have steeply declined. The proposed flow objective for the Lower San Joaquin River and its tributaries is designed to protect at-risk native fish species by leaving more water in the rivers during the critical February through June time period.

Unimpaired flow is a measure of the total amount of water that would flow down a river if it was not diverted or stored in a reservoir. The staff proposal recommends a range of between 30 and 50 percent of unimpaired flow, with a starting point of 40 percent.

Stakeholders are encouraged to work together to present the State Water Board with voluntary agreements that would implement Bay-Delta Plan objectives for fish and wildlife beneficial uses. Voluntary agreements to implement non-flow actions that improve conditions for fish and wildlife may reduce flows needed within the 30 to 50 percent range.

The staff proposal also includes a recommendation to revise salinity objectives in the southern Delta. High concentrations of salt in irrigation water can reduce crop yields. However, studies of the most salt-sensitive crops grown in the southern Delta show that the existing April through August salinity objective is lower than what is needed to reasonably protect agriculture.

The new objective, coupled with the continuation or improvement of management actions to respond to salinity, such as the maintenance of adequate water levels and requirements on federal and state water project operations, in conjunction with increased San Joaquin River flows, would provide the same or better conditions for agricultural uses in the southern Delta as currently exist.

Comments on the draft SED were due on Nov. 15 of this year. A public hearings were held over three days beginning on Nov. 2 in Sacramento, continuing Nov. 4 in the Modesto area, and concluding Nov. 10 in Sacramento.

Stakeholders and Agencies Duel Over Pesticide Issues

The Department of Pesticide Regulation was scheduled to release new regulatory requirements for Telone, a popular fumigant used in agriculture. Prior to the Department's announcement, the Center for Environmental Health sued Dow Chemical alleging they violated California's Proposition 65 statute failing to warn residents and consumers of the health impacts of Telone.

In an unrelated action, the US EPA announced that Glyphosate, the key ingredient in Monsanto Co's Roundup herbicide, is not likely carcinogenic to humans. The EPA has been involved in a decades-long process to assess human and animal health risks, as well as ecological risks, of glyphosate. The EPA's "proposed" position on glyphosate was outlined in a 227-page paper it published on the regulations.gov website, which the EPA manages. After reviewing the available data, the paper states, "The strongest support is for 'not likely to be carcinogenic to humans' at doses relevant to human health risk assessment."

Glyphosate is also the subject of a Proposition 65 listing and lawsuit working its way through the courts.

DPR Announces Pesticide Restrictions Near Schools and Day Care Centers

DPR is proposing a new regulation that would give further protections to children when agricultural pesticides are applied close to schools and child day-care facilities. The full regulation from September 30th can be found at www.cdpr.ca.gov/docs/legbills/rulepkgs.htm

Many K-12 schools and child day-care facilities are located near farming operations and increasingly teachers, parents and the public want to know whether the chemicals being applied could adversely affect them.

While many counties in California currently have varying requirements for notification of certain pesticide applications near schools, the proposed regulation would be the first statewide standard. The regulation would affect about 3,500 schools and child day-care facilities and involve approximately 2,500 growers in California.

The proposal was informed by a series of public workshops held last year in five locations around the state to gather input from school administrators, growers and applicators, parents, teachers and the community. DPR is sought further public comment on the proposed regulation until November 17, 2016, and a final regulation is expected to become effective in September 2017.

The proposed regulation would do the following:

- Prohibit many pesticide applications within a quarter mile of public K-12 schools and child day-care facilities from Monday through Friday between 6am and 6pm. These include all applications by aircraft, sprinklers, air-blast and all fumigant applications. In addition most dust and/or powder pesticide applications such as sulfur would also be prohibited during this time.
- Require California growers and pest control contractors to notify public K-12 schools and child day-care facilities and county agricultural commissioners (CACs) when certain pesticide applications are made within a quarter mile of these schools and facilities.

Under the proposed regulation, California growers would be required to provide two types of notifications to a school or child day-care facility:

(i) An annual notification that lists all the pesticides expected to be used during the upcoming year. This must be provided to the school or child day care facility administrator by April 30 each year**. The notice must include among other things:

- The name of pesticide products (and the main active ingredient) to be used
- A map showing the location of the field to be treated
- Contact information for the grower/operator and the County Agricultural Commissioner
- The web address for the National Pesticide Information Center where additional sources of information or facts on pesticides may be obtained.

(ii) An application-specific notification which must be provided to the school or child

day-care facility 48 hours before each application is made. This begins Jan 1, 2018 and must include among other things:

- Name of pesticide products (and the main active ingredient) to be used;
- Specific location of the application and the number of acres to be treated;
- Earliest date and time of the application.

California has varying microclimates and schools have various extracurricular school activities. Therefore, the regulation will allow the individual school or child day-care facility, the grower and the CAC to develop an alternative written agreement, to which all three parties must consent, that provides equal or more protection than the regulation. This agreement will be enforced by the CAC.

Quick Links...

California Wheat Commission

National Association of Wheat Growers

California Weekly Grain and Feed Report: USDA-AMS

CARB Diesel Fuel Ave Rack Prices

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