

October 14, 2026 – Supplemental Correspondence

**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
BOARD POLICY COMMITTEE MEETING**

October 14, 2026

Correspondence and media coverage of interest between September 25, 2026 and October 14, 2026

From: Dave Warner
To: BAWSCA Board Policy Committee
Date: October 12, 2026
Subject: Item #6C Design Drought: Focus on the Need for Data

From: Tom Smegal, BAWSCA CEO/General Manager
To: Dennis Herrera, SFPUC, General Manager
cc: BAWSCA Board of Directors
Date: September 25, 2026
Subject: Use of Water Management Charge in FY 2025-26

Water Infrastructure:

Date: October 14, 2026
Source: CalMatters
Article: Dozens of California dams need repair as El Niño winter draws closer

Water Supply Policy

Date: October 10, 2026
Source: Hoodline.com
Article: Environmental Group, Farmers' Agency Sue California Over Delta Water Pumping

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October 12, 2026

Re: Item 6C Design Drought: Focus on the Need for Data

Dear BAWSCA Policy Committee Members,

In providing guidance to CEO Smegal's proposed request to the SFPUC to revisit its design drought, please focus on the need for data. The 1994 design drought model was based on limited data available at the time. **A wealth of data has become available since 1994**, including 1100 years of tree ring data, high resolution global climate models (GCM's), localized climate change projections and 25,000 years of stochastic data specially developed for the SFPUC's watershed.

Members of the public, including myself, have posited that this data indicates that the probability of the SFPUC's design drought ranges between once in 8,000 years to once in 70,000 years based on climate projections through 2070. Adjusting the design drought to a once in a millennia event would free up 200,000 acre feet or more of storage and is **a potential lynchpin for supply reliability, risk, affordability and the coming decision on interruptible customers.**

The implications are too great not to base the SFPUC's design drought on more than what was used in 1994.

Level of Effort and Cost:

Costs for obtaining design drought probability information appears overstated. The LTVA completed in 2021 was \$750,000 and included much more than a risk analysis of the design drought. Possible ways of managing costs:

- 1) Have the SFPUC **provide the results of past work** on estimating design drought risk, including reasons for not sharing the information.¹ The reason for not sharing the information may be that the design drought was so rare that an accurate estimate wasn't possible. Such data and context may provide valuable insights. **The cost for this should be zero.**
- 2) Have the LTVA team or its successors **use its already assembled data** to derive design drought risk estimates and add it as an addendum to the LTVA. This should be substantially less than the cost of a new analysis.

¹ A chart including a design drought risk estimated on behalf of the SFPUC was included as figure 3 in the attachment to my letter dated August 24, 2026 included in the correspondence materials for the September 17, 2026 BAWSCA Board meeting.

- 3) Request that **cost for the analysis be split** with San Francisco as they too benefit from the work.
- 4) Have the work incorporated as **part of a larger project** to update the LTVA, providing the latest insights into climate change with the latest GCM's and climate science expertise.

Timing of the Analysis

Items to consider relative to timing:

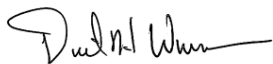
- 1) Any near-term investment in alternative water supply projects (AWS) should be put on hold both for regional water system projects such as PureWater Peninsula along with any local agency projects.²
- 2) Changing the status of interruptible customers, including whether or not to sell additional water to them, should not be made until obtaining design drought risk data.
- 3) It doesn't need to be dependent on the outcome of the Bay Delta Plan. The LTVA was completed under its uncertainty.

Other considerations

- 1) The analysis should look at not only the design drought but also other potential drought models more severe than the 1987-92 drought and less severe than the design drought.

As CEO Smegal alluded to in his contextual memo, past BAWSCA leadership has left the realm of drought planning to SFPUC staff and would not explore or pursue a request for risk data. You have the opportunity to be change agents and get the underlying data that is needed for informed decisions around supply reliability, affordability, the need for alternative water supplies and what to do with our interruptible customers, including whether or not to sell more water to them. Please pursue obtaining design drought risk data in a manner as expedient and low-cost as possible.

Kind regards,



Dave Warner

² Except AWS projects with a very low cost per acre foot should not be paused.



September 25, 2026
Via email to djherrera@sfgwater.org

Mr. Dennis Herrera
General Manager
San Francisco Public Utilities Commission
525 Golden Gate Ave
San Francisco, CA 94102

Subject: Use of Water Management Charge in FY 2025-26

Dear Mr. Herrera,

In accordance with Section 3.06A of the 2025 Amended and Restated Water Supply Agreement Between City and County of San Francisco and Wholesale Customers (WSA), this letter reports on the collection and use of the Water Management Charge in FY 2025-26.

On July 18, 2024, the BAWSCA Board of Directors authorized enactment of the Water Management Charge to fund the development of BAWSCA's Long-Term Reliable Water Supply Strategy 2050 (Strategy 2050) up to a not-to-exceed amount of \$2,447,000 and to allocate charges to all agencies in proportion to their FY 2000-01 water purchases from the San Francisco Public Utilities Commission (SFPUC) (See Water Code §§ 81433 & 81460). The SFPUC was requested to collect the Water Management Charge monthly from October 2024 to March 2026 for all BAWSCA agencies except Stanford University, which paid its share directly to BAWSCA. Excluding Stanford's share, the net total Water Management Charge to be collected by SFPUC on the water bills is \$2,409,277.

In FY 2024-25, \$1,172,169 was collected by the SFPUC through the Water Management Charge and transferred to BAWSCA. The first charge in FY 2024-25 occurred in September 2024 and was transferred to BAWSCA in October 2024. In FY 2025-26, the remainder of the \$2,409,277 net total Water Management Charge was collected by SFPUC and transferred to BAWSCA. The final charge transferred to BAWSCA in FY 2025-26 was collected in March 2026 and transferred in April 2026.

In FY 2025-26, the Water Management Charge was used to fund the development of Strategy 2050 which included the following tasks:

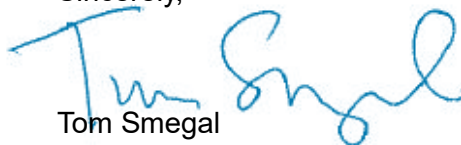
- Evaluation of the current regional regulatory and legislative setting facing member agencies and of regional collaboration opportunities to address priority regulations;

- Assessment of regional emergency resilience, including identification of existing frameworks, best practices from outside the region, and opportunities for BAWSCA to strengthen coordination;
- Identification of regional funding strategies to support member agencies in securing funding for water supply reliability projects;
- Development of planning scenarios and comparative metrics to evaluate water supply and demand management reliability and to identify key drivers of change;
- Evaluation of water affordability within the BAWSCA region; and
- Assessment of dissolved constituent concentrations and trends (including arsenic, chloride, nitrate and PFAS) in regional groundwater to inform screening of water supply and management projects.

Work on Strategy 2050 continues in FY 2026-27 within the currently approved budget. The schedule for the completion of Strategy 2050 is planned for June 2027, and the remaining budget is currently sufficient to complete the scope of work for Strategy 2050.

Please contact me if you have any questions concerning the use of the Water Management Charge in either Fiscal Years.

Sincerely,



Tom Smegal

Chief Executive Officer / General Manager

cc: S. Ritchie, SFPUC Assistant General Manager, Water Enterprise
N. Hom, SFPUC Chief Financial Officer/Asst. GM, Business Services
M. Frieberg, SFPUC Rates Manager
A. Kastama, SFPUC, BAWSCA Liaison
Designated Water Management Representatives
Allison Schutte, Hanson Bridgett LLP

CAL MATTERS: Dozens of California dams need repair as El Niño winter draws closer

Cal Matters | October 14, 2026 | Rachel Becker

An audit found 57 California dams in poor or unsatisfactory condition, and the 40 riskiest sit near big coastal cities. The state has had the power to penalize negligent owners since 2017 but has never done so, and repairs could cost \$28 billion.

With an El Niño winter threatening heavy rain, the State Auditor warns that California's aging dams "continue to pose a risk to public safety," especially in the Bay Area, San Diego, and Los Angeles areas.

Lawmakers gave the state the power to penalize dam owners that violate safety requirements in 2017, after the Oroville spillway failure forced the evacuation of nearly 200,000 people. Water managers have yet to use that power, the audit found.

Even if state water managers had wielded their enforcement powers, dam owners likely couldn't have afforded the fixes.

An audit released Monday found 57 dams in poor or unsatisfactory condition as of May, up from previous counts. That number is likely to keep rising, as state water officials reevaluate aging dams.

The 40 riskiest dams — rated high or extremely high hazard — are located throughout the state, but cluster near densely populated coastal cities.

Should these dams fail, the auditor reported, "they could collectively endanger as many as 1.5 million people and cause more than \$265 billion in economic damage."

Almost a decade ago, lawmakers strengthened the California Department of Water Resources' authority to impose penalties such as reservoir restrictions, property liens, and fines when dam owners violate state safety laws and other requirements.

State engineers have referred owners of 44 dams for enforcement as of April. But, the auditor wrote, the water resources department "has never taken punitive enforcement actions against dam owners that fail to remedy their violations."

Aging dams, limited funds

The problem is that dams are getting older. Many were built when safety standards were softer. State laws never required dam owners to set aside funds to keep them safe, so when concrete crumbles, sediment accumulates and spillways threaten to erode under floodwaters, most dam owners lack the money for repairs.

The state's water resources department oversees the safety of more than 1,220 dams, most of them in satisfactory condition. Responsibility for maintaining the dams falls to the local

governments, utilities, water agencies, and the private landowners and companies that own them. Some of the dams rated in poor condition are owned by state agencies.

Disasters are extremely rare. But when they do occur, like in Oroville, or the 1928 collapse of nearly-new St. Francis dam northwest of Los Angeles — they can be catastrophic.

The auditor applauded the water resources department's inspection program but blasted its failure to enforce against dam owners who fail to meet state planning, safety or other requirements, "thereby allowing serious deficiencies to persist."

One of the cases involved a dam with a 47-foot-wide hole in its spillway that has gone unrepaired for more than 30 years, which the audit said could cause flooding affecting nearly 300 people and more than \$88 million in damage.

The audit doesn't name the dam. State water managers said more specifics could pose security concerns, though the department makes each dam's hazard potential and condition public in an annual report.

State water managers finalized the enforcement regulations in 2022. But they told the auditor they haven't been able to adequately staff an enforcement branch and aren't confident they could afford to defend their actions in a hearing.

Even with staff and money, the auditor concludes, if a dam owner remained noncompliant, the state "cannot act before the dam poses emergency-level danger. This leaves a gap in state law that puts public safety at risk."

Drop in the bucket

Gov. Gavin Newsom touted dam repairs in his drought-era water supply strategy four years ago, as a way to shore up water supplies. Two years later, in 2024, Newsom and lawmakers slashed funding for a dam repair grant program.

Since then, a 2024 ballot proposition delivered a \$464 million infusion for the program. A Federal Emergency Management Agency grant also awarded California \$629,198 this September, according to Jason Ince, a spokesperson for the Department of Water Resources

But the audit cited estimates that repairing the state's less-than-satisfactory dams could cost around \$28 billion, making the funding a drop in the bucket.

The report urged state lawmakers to set deadlines and require dam owners with high and extremely high hazard dams — meaning ones that could kill people if they fail — to submit maintenance and repair plans to state agencies.

It also called for lawmakers to expand state water managers' enforcement authority, and for the agency to use the full force of its powers.

“To ensure that the safety of the public is addressed before a dam’s condition results in an emergency,” the audit said, “the Legislature should amend state law to allow Water Resources to order the condemnation and decommissioning of a dam when Water Resources’ other means of enforcement are unsuccessful.”

Laura Hollender, deputy director of flood management and safety with the Department of Water Resources said that the department worked closely with the State Auditor but disagrees with some of the report’s findings and recommendations.

Still, she said in a statement, they are carefully reviewing the recommendations and preparing for whatever El Niño brings. “Protecting public safety is DWR’s highest priority, and we recognize the critical role that dam safety and levee maintenance play in reducing flood risk for California communities.”

As the wet season approaches, the auditor also highlighted that dam safety planning statewide is incomplete.

The Governor’s Office of Emergency Service has not yet approved emergency plans for 245 dams describing what their owners would do to protect people and property should the dam fail. Officials told the auditor’s office that dam owners haven’t completed required revisions, and state law doesn’t require deadlines.

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Environmental Group, Farmers' Agency Sue California Over Delta Water Pumping

Hoodline.com | October 10, 2026 | Amy Boateng



An environmental group and an agency representing local farmers have sued the State of California, demanding a court order that would force the state to slash water pumping from the Sacramento-San Joaquin River Delta by half. The lawsuit, filed this week in Alameda County Superior Court, targets the State Water Project, a sprawling network of reservoirs, aqueducts, pipelines and pumping plants that moves water more than 700 miles from Northern California to the south, supplying roughly 27 million people and 750,000 acres of farmland.

The California Water Impact Network and the Central Delta Water Agency filed suit against the California Department of Water Resources, according to the Los Angeles Times. The plaintiffs seek a 50% cut in State Water Project Delta exports, court oversight of pumping curtailments, and a long-term plan, arguing the pumping violates both the California Constitution and the Public Trust Doctrine. Carolee Krieger, representing the California Water Impact Network, said the goal is to save the Delta, while Brett Baker said the suit focuses on curbing ecosystem, community and economic degradation in the region, per the Times. The Central Delta Water Agency represents hundreds of local farmers, the paper reports.

A Legal Theory Rooted in a 1983 Water Rights Case

The plaintiffs are leaning on a legal doctrine with deep California roots. In the 1983 case *National Audubon Society v. Superior Court*, the California Supreme Court ruled that the Public Trust Doctrine continually constrains water allocations, giving the state an ongoing duty to protect ecological values in navigable waterways, according to the UC Davis Law Review. That Mono Lake ruling established that water rights granted by the state remain subject to review and modification if they degrade the environment.

The suit also cites Article X, Section 2 of the California Constitution, a 1928 amendment mandating that all water in the state be put to reasonable and beneficial use while barring wasteful or unreasonable diversion methods, per Justia Law. That provision functions as a blanket limit on every water right in California, public or private. According to the Times, excessive pumping draws seawater farther into the estuary, making irrigation water salty and damaging crops, while also triggering toxic algae blooms that pose health threats to people and animals.

Fish Populations Have Collapsed Under Decades of Pumping

The ecological stakes underlying the lawsuit are stark. Chinook salmon, steelhead trout, smelt and sturgeon have declined dramatically over the last few decades, the Times reports, and droughts have turned Delta waterways bright green with algae blooms. California Department of Fish and Wildlife's Fall Midwater Trawl survey recorded zero wild Delta smelt for eight consecutive years through late 2025, according to FISHBIO data cited by Indybay.

Plaintiffs argue that excessive Delta pumping has encouraged more growers to plant almonds and pistachios in the San Joaquin Valley, permanent crops that cannot be fallowed during droughts, compounding the state's water problems, the Times reports. That claim lines up with broader trends: California's bearing almond acreage reached roughly 1.385 million acres in 2026 after decades of expansion, with statewide almond cash receipts totaling \$6.87 billion in 2025, according to Rotner and Associates. About 56% of State Water Project water flows to urban areas and 44% goes to agriculture, per the Times.

State Says It Won't Comment, Defends Its Balancing Act

A Department of Water Resources spokesperson said the agency does not comment on pending litigation, the Times reports. More broadly, Governor Gavin Newsom's administration has defended the state's approach as a balance between Delta pumping, fish and ecosystem protection, and water deliveries. California officials and the Biden administration set new rules in 2024 for operating the state's main water delivery systems aimed at protecting imperiled fish while reliably supplying water to residents, according to the Times, which also notes that climate change threatens to shrink California's reliably deliverable water supply over the next two decades.

Legal scholar Dave Owen predicted the lawsuit will be difficult for the plaintiffs and that the state is likely to prevail, telling the Times he expects state lawyers to argue the case amounts to a political objection to a primary California water-allocation system rather than a legitimate legal claim, and to fight it with significant resources. Owen described the lawsuit as a frontal assault on the State Water Project, per the same report. Environmental advocates have considered bringing a Delta water lawsuit for years, the Times notes.

The Suit Arrives Amid a String of Delta Troubles

The litigation lands as the state's long-term plan for moving more Delta water faces its own obstacles. The Newsom administration has pushed for a 45-mile tunnel beneath the Delta, known as the Delta Conveyance Project, as an alternative to current pumping infrastructure. But a court yanked the tunnel's bond lifeline in January, when a California appellate court invalidated DWR's revenue bond authorization for the \$20.1 billion project, a major legal hurdle for the state's long-term Delta plumbing plans.

Lawmakers approved a \$158.2 million infrastructure package in September that includes \$90.2 million to repair fragile Delta levees, many of which date to the 1800s and do not meet Army Corps standards.

Whatever the court decides in this latest challenge, the outcome will ripple through every corner of a water system that touches tens of millions of Californians.

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