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The Weekly Wrap



March 1, 2013

No. 2013-7

TO: CWA Member Companies
FROM: Jack Hawks, Executive Director
SUBJECT: Highlights for the Week Ending March 1, 2013

Third 2013 Snow Survey Shows Continuing Dry Conditions—Surveyors confirmed on Feb. 28th that water content in the mountain snowpack is well below normal for the date. According to the California Department of Water Resources (DWR), the snowpack hasn't actually lost much water content since the season's first survey on January 2, when it was 134 percent of normal for that date, but it hasn't continued to build as winter has deepened because of the continuing warm weather that set in after the storms of late November and early December.

In DWR's words, the snowpack has not kept pace with the calendar. As a result, today's snowpack water content is only 66 percent of average for this time of year, and only 57 percent of the average April 1 reading, when the snowpack normally is at its peak before beginning to melt into the state's streams, reservoirs and aquifers.

The snowpack, which is California's "frozen reservoir," normally provides about a third of the water for the state's needs. With no precipitation in the forecast, the Northern California region is looking at the driest January-February on record (since 1920). This includes the mountainous area from Shasta Lake in the north to the American River basin in the south, where a scant 2.2 inches of rain has fallen since December, 13 percent of average. The next driest January-February was in 1991, with 4 inches of precipitation.

Forecasters note there could be a weather turnaround in March, but it is unlikely late-season storms will make up the water supply deficit. "Near-record dry weather combined with pumping restrictions to protect Delta smelt are making this a gloomy water supply year," said DWR Director Mark Cowin. "This scenario is exactly why we need an alternative water conveyance system as proposed in the Bay Delta Conservation Plan to both protect fish species and give California a reliable water supply."

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DWR currently estimates that it will be able to deliver 40 percent of the slightly more than 4 million acre-feet of State Water Project (SWP) water requested for this calendar year by the 29 public agencies that supply more than 25 million people and nearly a million acres of irrigated farmland. The delivery estimate may change to reflect changing conditions. The final allocation of State Water Project water in calendar year 2012 was 65 percent of requested deliveries. The final allocation was 50 percent in 2010, 40 percent in 2009, 35 percent in 2008, and 60 percent in 2007. The last 100 percent allocation was in 2006.

Despite the dwindling snowpack, most key storage reservoirs are above or near historic levels for the date thanks to November and December storms. An exception is San Luis Reservoir, a critical off-stream reservoir south of the Sacramento-San Joaquin Delta that is only at 69 percent of its historic level for the date. San Luis normally is filled by pumping from the Delta, but today is only 60 percent full because of the Delta smelt pumping restrictions.

Lake Oroville in Butte County, the State Water Project's principal storage reservoir, is at 113 percent of its average level for the date (80 percent of its 3.5 million acre-foot capacity). Shasta Lake north of Redding, the federal Central Valley Project's largest reservoir with a capacity of 4.5 million acre-feet, is at 107 percent of its normal storage level for the date (79 percent of capacity).

CWA Takes Report to Task in Recycled Water Comments—The California Water Association (CWA) Regulatory Committee pulled few punches in its March 1st comments on the Recycled Water Workshop Report, issued Feb. 1st by the California PUC's Division of Water & Audits (DWA) in the Order Instituting Rulemaking (R.10-11-014) on the Commission's motion to consider a comprehensive policy framework for recycled water. CWA appreciated that a number of its recommendations to the Oct. 12, 2012, draft versions of the Policy Guidelines, Minimum Criteria Requirements and Tier 3 Advice Letter Template for recycled water projects were included in the current drafts. However, CWA also acknowledged its concern that, if adopted in their current form, the documents "would unintentionally discourage the development of the partnerships and recycled water projects that they – and the Commission – presumably intended to promote."

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With respect to the Policy Guidelines, CWA provided a number of formatting, grammatical and stylistic edits to improve readability, as well as substantive edits, such as:

1. reminding the Commission that it was imperative to adopt CWA's proposed language to better account for the public interest served by the Service Duplication Law;
2. emphasizing the need to review proposed projects on a case-by-case basis for purposes of rate-setting; and
3. recommending that the footnote defining the acronym "IOWSU" to include all investor-owned water and sewer utilities subject to this proceeding, be revised to state that the Commission will take company size and other such operational differences into account when applying the Guidelines.

With these changes, the guidelines will be a worthy result from this proceeding.

CWA's real heartburn surfaced with the Minimum Criteria Requirements (MCRs) and the Tier 3 Advice Letter Template (ALT), when DWA's Workshop Report recommended applying the MCRs to recycled water projects proposed in general rate cases ("GRCs"), as well as in standalone recycled water applications. CWA noted that, as currently conceived, the MCRs and Tier 3 ALT set up a substantial hurdle for proposing recycled water projects to the Commission.

"Individually, the required criteria may not be objectionable," the comments noted. "However, taken as a whole, the list(s) of requisite calculations, estimates, explanations and justifications combine to create an unnecessary and excessive burden for the sponsoring water company, which is certain to hamper future development of recycled water projects to the ultimate detriment of the citizens of the State of California."

After extensive discussion on the current drafts, CWA's Regulatory Committee decided to make this point the centerpiece of its comments:

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If the CPUC moves forward with guidance on Advice Letter treatment or a standalone application for approval of a recycled water project, the optimal approach is to use what already exists and what already works – the Rate Case Plan (RCP) for Class A companies. Since the RCP already requires water companies to provide all information and analysis necessary to meet the prudence burden associated with significant capital additions, the RCP requirements are a logical extension for recycled water projects submitted for review by Tier 3 Advice Letter and standalone application.

CWA explained that seeking Advice Letter treatment for recycled water projects outside of a rate case is the least desirable approach to obtaining Commission approval for the ratemaking impact of a project. Still, it recognized that there will be instances where it may be necessary to expedite Commission consideration.

Therefore, CWA said, adopting the existing RCP protocols as guidance for recycled water project filings made outside of the GRC by Tier 3 Advice Letter and standalone application will optimize the efforts of the Commission, the Legislature, the State Water Resources Control Board and other policymakers to promote and expand recycled water use in California. The comments emphasized that using the RCP approach will minimize the disincentive to participate in a recycled water project opportunity, which is now inherent to the MCRs and Tier 3 ALT.

CWA went on to hedge its bet in the comments by offering extensive edits to both the MCRs and Tier 3 ALT, just in case the CPUC decides to adopt them “in spite of CWA’s concern for the potential chilling effect they may have on the implementation of recycled water projects.” Its recommended edits sought to avoid creating difficulties and delays that might make recycled water projects impossible to undertake for water companies and their public agency partners.

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Among the many recommendations CWA made in these two draft documents was a plea to remove the mandatory nature of them in favor of having the MCRs and Tier 3 ALT optional for the proposing utility. CWA said the water company already bears the burden of proving the prudence of a proposed recycled water project. Thus, imposing mandatory proposal criteria only limits the ability of the water company to tailor its proposal to the unique circumstances of the particular project.

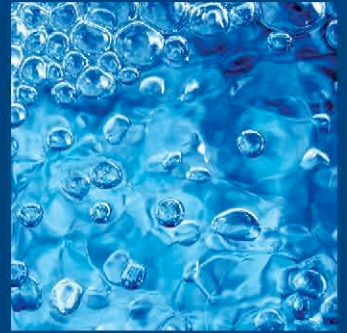
Whether adopted as guidance or imposed as requirements, CWA restated its earlier contention that the Minimum Criteria should not be used in the context of GRCs since the RCP already contains extensive documentation requirements for all capital projects. "Treating recycled water projects differently from other capital projects in a water company's GRC is unnecessary and unjustified because that would impose dissimilar requirements for capital projects considered in the same proceeding. To do otherwise would create administrative inefficiencies and undermine the Commission's effort to facilitate the expeditious processing of GRCs," CWA said.

The comments closed with two requests regarding Advice Letter treatment:

1. Since the purpose of the Tier 3 Advice Letter process is ostensibly to expedite Commission review in between rate cases of straightforward and uncomplicated recycled water projects, then use of the advice letter process should be entirely at the discretion of the water company.
2. Under current practice, authorization to implement a discounted recycled water rate for a recycled water project that has no capital costs may be obtained by Tier 2 Advice Letter. Although not addressed at the workshops, CWA requested that the final decision affirm the current practice with respect to Tier 2 recycled water service. Further, CWA requested the Commission to specifically revise the Tier 3 Advice Letter Template to state that, consistent with current practice, proposed projects that have no revenue impact on the proposing water company's revenue requirement may be submitted by Tier 2 Advice Letter.

The preparation of these comments was an extensive undertaking, one that is usually reserved for proposed decisions, petitions for modification or applications for rehearing. No doubt they were the most comprehensive CWA

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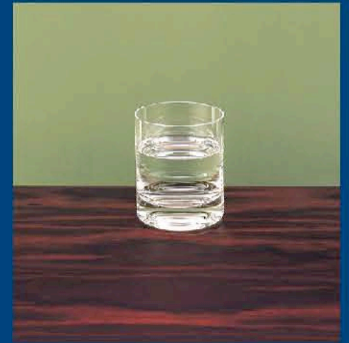
has done for a workshop report. I want to thank CWA Regulatory Attorney Mari Lane of Nossaman LLP for wading through the weeds and preparing a well thought-out and logically produced set of documents (the comments and the accompanying red-line edits to the three draft documents) that served the member companies' needs well. Let's keep our fingers crossed that Administrative Law Judge Gary Weatherford will adopt CWA's approach in his Proposed Decision.

CPUC Approves Cal Water-DRA Home Service Line Settlement—At its Feb. 28th Open Meeting, the California PUC resolved a longstanding issue from California Water Service Co.'s 2006 General Rate Case by approving a settlement between Cal Water and the Division of Ratepayer Advocates (D.13-02-026) involving a 2008 application (A.08-05-019) that allows Cal Water to discontinue its Extended Service Protection (ESP) Program. As you may know, the ESP program is an emergency repair program for customer-owned water lines. It was originally offered through Cal Water's unregulated affiliate, CWS Utility Services, in a manner designed to allow Cal Water to comply with the CPUC's excess capacity rules and affiliate transaction rules.

The 2006 GRC decision (D.07-12-055) raised concerns about whether an unregulated affiliate could provide services under the excess capacity rules (even though that was the case when Cal Water began its ESP program). In fact, the GRC decision created an impossible situation by finding that the affiliate could not provide the service without violating excess capacity rules and that Cal Water could not offer the program without violating affiliate transaction rules (giving new meaning to being stuck between a rock and a hard place)

D.07-12-055 gave Cal Water three options to remedy the problem, and Cal Water selected the third one, which was to discontinue offering the ESP program and transfer it to a Pennsylvania company, HomeServe USA Corp. Because billing and marketing support to HomeServe still came from Cal Water through its unregulated affiliate, a modification in Cal Water's affiliate rules was necessary so the company filed two applications in May and July of 2008 – one to discontinue the ESP program and one to modify its affiliate rules to allow the regulated utility to offer non-tariffed services under the excess capacity rules.

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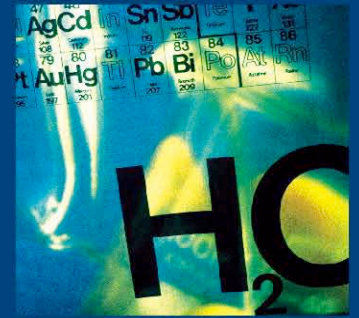
To make a long story short, the two proceedings moved along on largely concurrent schedules, with issues involving compliance with D.07-12-055, use of Cal Water's billing and marketing services by HomeServe, establishment of memorandum accounts to track costs associated with the HomeServe contractual transactions, customer privacy and competitive effects associated with HomeServe's use of Cal Water's name. There was also a gain-on-sale issue related to the transfer of the business to HomeServe.

The entire proceeding was delayed by the 2009-10 development of new affiliate transaction rules and non-tariff products and services rules (among other things), which culminated in D.10-10-019. The Cal Water proceedings resumed in 2011, and evidentiary hearings were held on June 30th and July 1st of that year. Later, Commissioner Mike Florio took over as Assigned Commissioner upon John Bohn's departure from the Commission, and Administrative Law Judge Jeanne McKinney took over from Christine Walwyn.

Cal Water and DRA submitted their proposed settlement in October 2011, which was approved in D.13-02-026 (don't ask me what happened between then and now). Here are the major elements of the Settlement and the Decision:

1. The treatment of the costs and revenues related to the program were reconciled for the period before and after June 30, 2011, including amortization of the A.08-05-019 Memorandum Account;
2. Agreement on a one-time payment to ratepayers in the amount of \$2 million dollars (amortized over a 12-month period) to resolve the gain-on-sale issues; and
3. No penalties or sanctions should be levied related to Cal Water's service to CWSUS during the period prior to June 30, 2011. For the period after June 30, 2011, Cal Water provided billing services to HomeServe under a direct contract, which provides for a monthly-payment to Cal Water and an annual payment to Cal Water. Related costs and revenues continue to be tracked in the Memorandum Account; also, ratepayers began receiving a 10 percent share of the monthly revenues and annual payment, after that time, as well.

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4. As part of the settlement agreement, Cal Water and DRA agree that Cal Water's rights and responsibilities under the June 30, 2011 Contract are consistent with Commission rules and policies, including the affiliate transaction and NTP&S rules.

Congratulations to Cal Water on getting approval of its settlement with DRA. The only other water-related items on the Commission's Open Meeting Agenda for Feb. 28th were held. One involves the sale of common stock in Lake Alpine Water Company, and the other involves an Application for Rehearing by DRA of D.12-06-040, in which the CPUC authorized California America Water to implement the Carmel River Reroute and San Clemente Dam Removal Project.

CWA Submits Support Letter on SB 14 (Gaines)—Speaking of Lake Alpine Water, CWA filed a Support letter Feb. 26th on Senate Bill 14 (Gaines) with the Senate Environmental Quality Committee. Senate Bill 14 would exempt, until Jan. 1, 2017, Lake Alpine Water's domestic water use activity from the prohibition against recreational use in the Bear Lake Reservoir when there is bodily contact with the water.

In its letter, CWA noted that Lake Alpine Water is a member of CWA and that, as the source of drinking water for Lake Alpine Water's local public water system and the source of varied recreational uses for the neighboring resort area, Bear Lake Reservoir has had a longstanding dual role in the local community. CWA stated that Sections 115825-115850 of the Health & Safety Code have long recognized and allowed for multiple uses of public waters in California, as long as they are consistent with public health and public safety.

CWA also acknowledged that with respect to SB 14, the addition of Sec. 115843.6 to the Code will ensure the necessary safeguards for the ongoing recreational uses of Bear Lake Reservoir, as well as the associated domestic water use activities by Lake Alpine Water as the entity responsible for the water treatment program in that reservoir.

SB 14 was originally scheduled for hearing on March 4th, but it has been postponed. We'll keep you posted.

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CWA Provides Customer Information-Sharing Update to LIOB—The California PUC’s Low-Income Oversight Board, on which Dave Stephenson of California American Water represents the water utilities, met Feb. 26th in Burbank. Among the highlights was the introduction of CPUC Commissioner Catherine Sandoval as the Commission’s new voting member on the Board. Comr Sandoval spoke of her continuing concerns over water reliability stemming from risks in the Delta, and she invited the full LIOB for a tour of the Delta sometime in the future.

Also introduced was Carmen Rocha of the Division of Water & Audits, who has replaced Carolina Contreas as DWA’s staff liaison to the LIOB. Carmen introduced me, and I gave the LIOB an update on the latest results in the ongoing customer information data-sharing program between the water and energy programs. I reported that the penetration levels in the water utilities’ low-income rate assistance (LIRA) and California Alternative Rates for Water (CARW) has grown to nearly 60 percent after just one cycle with the energy utilities. My update included the latest numbers from all 10 Class A water companies, and I want to thank the affected companies for their prompt response last week for the update.

I also commended the recent California State Auditor’s assessment of the water rates in southeast Los Angeles County, which in my view, affirmed the California PUC’s regulatory treatment of and programs for its regulated water utilities, including the rate structures and reasons for rate increases during the past five years. I was pleased to see that the LIOB, and Comr Sandoval, were satisfied with the CWA report.

Dave reported on the Feb. 20th Water Subcommittee meeting, at which a white paper on multi-family residential low-income issues and the sustainability of LIRA and CARW programs was discussed. At this point, the LIOB has not decided to formally recommend that the CPUC’s Policy & Planning Division undertake such a white paper, but a request may be forthcoming in the future.

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CA Water Plan Update 2013 Advisory Cte. Edits Progress Report—The Public Advisory Committee (PAC) for the California Water Plan Update 2013 (WPU 2013), which operates under the auspices of the Dept. of Water Resources (DWR) and on which I represent CWA, met Feb. 14th in Sacramento. After a project status update and an update on the Statewide Water Analysis Network (SWAN – the technical arm of the WPU 2013), the PAC engaged on a new element of the plan, a progress report on implementation of the WPU 2009.

The progress report consists of two sections: a summary report on the implementation of each of the Plan's 13 objectives and a spreadsheet detailing the implementation. Among the progress elements are the objective's current status (Good/Neutral/Requires Attention) and trend (Good/Medium/Neutral/Slow/No Progress); Successful Actions to Date; Delayed Items; and Prominent Barriers. As a reminder, here are the 13 objectives:

1. Expand Integrated Regional Water Management
2. Use and Reuse Water More Efficiently
3. Expand Conjunctive Management of Multiple Supplies
4. Protect Surface Water and Groundwater Quality
5. Expand Environmental Stewardship
6. Practice Integrated Flood Management
7. Manage a Sustainable California Delta
8. Prepare Prevention, Response and Recovery Plans
9. Reduce Energy Consumption of Water Systems and Uses
10. Improve Data & Analysis for Decision-Making
11. Invest in New Water Technology
12. Improve Tribal Water and Natural Resources
13. Ensure Equitable Distribution of Benefits

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As we moved through the DWR staff's initial draft of this report, two things became clear. First, the WPU is a long-term plan, with a long view toward an end-state in 2050. It's difficult to make value judgments on action items three years into a 40-year plan. Second, the objectives weren't written to be measured – they are more qualitative in nature and involve multiple related actions across multiple objectives, creating a matrix orientation that isn't conducive to measurement. After considerable discussion, the PAC offered a number of suggestions to improve the draft and agreed with the DWR staff to pursue these recommendations for 2013:

- Write the Objectives with a shorter-term tracking/measurement mechanism in mind;
- In writing the supporting actions for the Objectives, separate the strategic or visionary actions from the measurable ones; and
- Rely on the plan evaluators' commentary to refine the Objectives and Related Actions

It was an interesting session. The final progress report will be distributed in June with the first Public Review Draft of WPU 2013.

Among the other highlights of the meeting was a special presentation from the Pacific Institute (PI) on California's statewide water footprint. PI established a calculation for deriving a water footprint. First, it includes agricultural and industrial goods, and residential, commercial and, institutional direct uses.

Second, PI established these definitions:

- Water footprint: The total volume of water consumed and needed to assimilate pollutants in the production of goods and services used by an individual or jurisdiction (e.g., state, country).
- Internal water footprint (of consumption): The portion of a jurisdiction's water footprint that originates from within that jurisdiction.
- External water footprint (of consumption): The portion of a jurisdiction's water footprint that originates from outside that jurisdiction.

Third, PI depicted three components of a water footprint into Blue (volume of surface or groundwater evaporated), Green (volume of rainwater evaporated) and Gray (volume of polluted water). Fourth, it established a mathematical calculation: Internal Water Footprint + External Water Footprint = Total water footprint of goods consumed in California, where:

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- The Internal Footprint equals the water footprint of goods and services produced in California minus the water footprint of goods produced in California and exported and
- The External Footprint equals the water footprint of goods imported and consumed in California

For the year 2007, PI calculated that the average Californian had a Blue water footprint of about 461 gallons per capita per day (GPCD), in contrast to the average American's Blue footprint of 173 GPCD. In contrast, the average Californian's Green footprint was 1,049 GPCD vs. 1,424 GPCD for the average American. The Gray footprint was 954 GPCD for the average Californian vs. 459 GPCD for the average American. PI concluded the following:

- Californians, compared to the average American
 - have about the same total WF, related to same products
 - rely much more on blue water
 - have a much larger external footprint
- California, as a whole
 - is a net virtual water importer
 - exports half of the blue water that goes into production
 - imports more green water than statewide applied agricultural water

All of the Advisory Committee Meeting materials can be accessed at:

<http://www.waterplan.water.ca.gov/materials/index.cfm?subject=feb1413>.

Revised Total Coliform Rule Published in Federal Register—The Association of California Water Agencies reported last week that the Revised Total Coliform Rule (RTCR), an update from the U.S. Environmental Protection Agency's (EPA) 1989 TCR, was published Feb. 13 in the Federal Register and will go into effect on April 1, 2016.

Under the RTCR, there is no longer a monthly maximum contaminant level (MCL) violation for multiple total coliform detections. Instead, the revisions require systems that have an indication of coliform contamination in the distribution system to assess the problem and take corrective action that may reduce cases of illnesses and deaths due to potential fecal contamination and waterborne pathogen exposure.

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This final rule also updates provisions in other rules that reference analytical methods and other requirements in the 1989 TCR such as public notification and ground water rules.

The revisions are in accordance with the 1996 Safe Drinking Water Act (SDWA) Amendments, which require EPA to review and revise, as appropriate, each national primary drinking water regulation no less often than every six years. These revisions also conform to the SDWA provision that requires any revision to “maintain, or provide for greater, protection of the health of persons.” As with the 1989 TCR, the RTCR applies to all public water systems.

Public water systems and primacy agencies must continue to comply with the 1989 version of the rule until the new rule goes into effect in 2016. For more information or if you have any questions, feel free to contact CWA’s Water Quality Committee Chair, Dawn White, at drwhite@gswater.com. You can access the Revised Total Coliform Rule in the Federal Register [here](#).

Upcoming Industry Meetings/Conferences/Events:

- March 5, 2013 – Association of California Water Agencies 2013 Legislative Symposium (9:00a – 2:30p; Sacramento Convention Center; 1400 J Street, Sacramento 95814); J. Hawks will attend.
- March 7, 2013 – CWA Legislative Committee (In-person) Meeting – Review of Introduced Legislation (10:00a-3:00p; Nossaman Office; 621 Capitol Mall, 25th Floor, Sacramento 95814)
- March 12, 2013 - CWA Directors and Executive Committee Meeting (9:30a – 2:30p; Golden State Water Co., 630 E. Foothill Boulevard, San Dimas, CA 91773).
- March 13, 2013 – California Urban Water Conservation Council Plenary Meeting (9:30a – 3:00p; Inland Empire Utilities Agency – 10435 Ashford St., Rancho Cucamonga, CA 91730; conference Call-in #: 877-273-4202; 4691570#; J. Hawks will attend.

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- March 14-15, 2013 – Water Education Foundation – Annual Executive Briefing (8:30a – 4:30p; Doubletree Hotel – 2001 Point West Way, Sacramento, CA); J. Hawks will attend.
- March 21, 2013 – California PUC Open Meeting (9:00a–12 :00p; 505 Van Ness Ave., San Francisco 94102)
- March 21-22, 2013 – Water Education for Latino Leaders Conference (5:30p-8:00 on 3/21 and 8:30a-4:15p on 3/22; Sportmen’s Lodge Events Center; 12833 Ventura Boulevard, Studio City, CA 91604); CWA is a sponsor; J. Hawks will likely attend.
- March 22, 2013 – California Utility Executive Management Association – “What the Experts See on the Horizon” – Spring Mini-Summit and Russian River Tour (10:00a–5:00p; Sonoma County Water Agency; 404 Aviation Boulevard, Santa Rosa, CA); for more information, please contact Ken Deck at kdeck@rowlandwater.com.
- March 25-28, 2013 – AWWA California-Nevada Section Spring Conference (Tropicana Hotel; 3801 Las Vegas Boulevard South, Las Vegas, NV 89109; for reservations, visit <http://trop.lv/ACyEro>).
- April 4, 2013 – California PUC Open Meeting (9:00a–12 :00p; 505 Van Ness Ave., San Francisco 94102)
- April 11, 2013 – CWA Directors and Executive Committee Meeting (9:30a – 2:30p; San Jose Water Co., 110 West Taylor St., San Jose, CA 95110).
- April 15-17, 2013 – National Association of Water Companies Government Relations Committee (4/15) and Annual Congressional Fly-in (4/16-17) (Hotel George; 15 E St NW, Washington, DC 20001); J. Hawks will not be attending this year.
- April 17, 2013 – California Urban Water Conservation Council Finance and Governance Committee Meetings (9:30a – 3:00p; 716 10th St., Suite 200, Sacramento, CA 95814); J. Hawks will attend.
- April 18, 2013 – California PUC Open Meeting (9:00a–12 :00p; 505 Van Ness Ave., San Francisco 94102)
- April 19-28, 2013 – J. Hawks will be on vacation (out of the country)

—CWA—