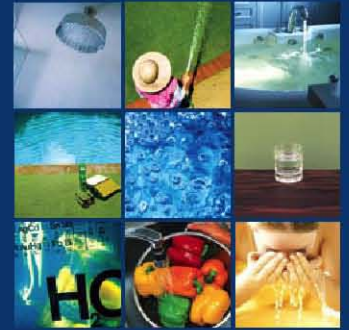


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# The Weekly Wrap



**April 20, 2012**

**No. 2012-16**

TO: CWA Member Companies  
FROM: Jack Hawks, Executive Director  
SUBJECT: Highlights for the Week Ending April 20, 2012

**CPUC Votes Out Complicated, Confusing WRAM Decision**—It took an inordinate 19 months, but the California PUC finally approved a decision at its April 19<sup>th</sup> Open Meeting on the September 2010 Water Revenue Adjustment Mechanism (WRAM) amortization applications of California Water Service (CWS), Golden State Water (GSW), and Park Water (PW)/Apple Valley Ranchos (AVR). The decision, **D.12-04-048**, should have been a relatively simple matter of reconciling the net amounts in the companies' balancing accounts that were tracking their WRAM and Modified Cost Balancing Account (MCBA) balances.

Had it done so, the Commission would finally be treating the water utilities in a manner comparable to the energy utilities for the past 25 years. Instead, it managed to conclude that accelerated recovery of the balances to comport with financial accounting standards was "unreasonable" – even though those unrecovered revenues were deemed "reasonable" in the utilities' last general rate case (GRC). While D.12-04-048 gives the companies adequate relief in the short term, it creates doubt about the Commission's water conservation policy and the efficacy of decoupling as an incentive to promote conservation by doing the following:

- Allows for 12-month recovery of undercollections of WRAM/MCBA balances that are within 2%-5% of the last authorized revenue requirement;
- Allows for 18-month recovery of undercollections that are within 5%-15% of the authorized revenue requirement and allows a sliding scale recovery period for balances up to 30% using a 10% cap (equivalent to 15% over 18 months), with balances more than 30% amortized over 36 months – BUT only allows this on a temporary basis until the next or pending GRC;

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- After the Test Year of the next or pending GRC, caps surcharge recovery of total WRAM/MCBA balances in effect at any time at 10% and requires the utilities to address balances (for the years prior to and including their next GRC Test Year) exceeding 10% via advice letter filings for the first Test Year of their pending or next GRCs (2013 for GSW and PW; 2014 for CWS; and 2015 for AVR);
- Requires “a more rigorous review of the WRAM/MCBA mechanisms,” as well as the current sales forecasting methodology, and the following “options” that must be addressed via testimony in the utilities’ pending or upcoming GRCs:
  1. Should the Commission adopt a Monterey-style WRAM rather than the existing full (decoupling) WRAM?
  2. Should the Commission adopt a mechanism that bands the level of recovery, or refund, of account balances based on the relative size of the account balance?
  3. Should the Commission place WRAM/MCBA surcharges only on higher tiered volumes of usage, thereby benefitting customers who have usage only in Tier 1 or [who] have reduced their usage in the higher tier levels?
  4. Should the Commission eliminate the WRAM mechanism?
  5. Should the Commission move all customer classes to increasing block rate design and extend the WRAM/MCBA mechanisms to these classes?

Clearly, for each of the utilities, the actual sales in their first Test Year will have to be at or very close to the adopted sales forecast in that GRC in order to stay under the 10% cap and continue with an orderly amortization. As you can see, the Decision goes far afield from the applications submitted by the companies in September 2010, which were simply an attempt to shorten the amortization process from 36 months to 18 months for balances over 5%. In other words, unfortunately, they asked the CPUC for the time, and they got a lecture on how they should design an exotic new Swiss watch.

And there are regrettable inconsistencies in the Decision, as well. For example, the Decision’s Ordering Paragraph 3 states in the first sentence that the Commission is adopting an amortization schedule “with a cap on total net WRAM/MCBA surcharges of

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10% of the last authorized revenue requirement. The last sentence in that ordering paragraph, though, seems to override the “total net WRAM/MCBA surcharges” phrase by stating that “WRAM/MCBA account balances incurred prior to the first test year continue to be amortized under the adopted amortization schedule without being subject to the surcharge cap.”

So, the first sentence says all balances, including that for the first Test Year, are subject to the cap, while the last sentence says only the balances in the first Test Year and subsequent years is subject to the cap. In fact, there are two 10% caps in the Decision – one that is in effect until the company’s next GRC and a different one that becomes effective upon the first Test Year of the next GRC – but this distinction isn’t obvious from reading the Decision.

For GSW and PW, because they are so far along in their present GRCs, it is highly unlikely that the analysis envisioned by the Decision can be accomplished without unduly disrupting and delaying their GRCs. Worse, as Regulatory Attorney Marty Mattes pointed out in last-minute ex-parte communications with Commission Advisors, the provision of Ordering Paragraph 4 that would give the ALJs in those current GRCs unlimited discretion “to conduct a different WRAM/MCBA mechanism review” presents a very real risk of arbitrary and prejudicial results. Certainly, a reasonable solution is to defer implementation of the 10% cap to the next GSW and PW GRCs, not the current ones, such that they will be similarly situated with CWS and AVR.

I hope that Commissioner Catherine Sandoval, as the Assigned Commissioner in both cases, will resolve this problem promptly and satisfactorily. For the time being, the companies involved can take some solace in being able to recognize more of their WRAM/MCBA revenue in the current financial period, thus improving cash flow. Also, the decision will reduce the number and duration of overlapping surcharges, which generate confusion among customers.

In other action at the Open Meeting, the California PUC:

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- **Approved D.12-04-009**, which adopts a partial settlement between Suburban Water Systems and the Division of Ratepayer Advocates (DRA) in the former's GRC that results in a 24.31% increase in revenues of \$12,975,000 for Test Year 2012. The Decision also resolved six litigated issues.
- **Approved Resolution W-4908**, which grants in part, Valencia Water's request to permit payment of water bills with a credit or debit card. The Decision, among other things, reduces the convenience fee charge to \$2.50 per transaction.
- **Approved D.12-04-020**, which grants authority to Angel Gonzales to sell the 42-customer Central Water System to Plainview Mutual Water Company.
- **Approved Resolution W-4912**, which grants recovery of \$2.2 million (plus \$6,873 in interest) to California American Water for payments made to the California Dept. of Fish and Game and recorded in its NOAA/Endangered Species Act Memorandum Account.
- **Approved D.12-04-033**, which resolves a complaint proceeding against Golden State Water by residents of Santa Maria involving charges for private fire protection service and repair and maintenance for an associated back-flow device. The complainants will pay 25% of the monthly service and 25% of the \$4,000 repair charge.
- **Approved Resolution W-4913**, which authorizes California American Water to specify its Highland Avenue Tank Project in the Pressure Reducing Valve Modernization and Energy Recovery Memorandum Account.
- **Approved D.12-04-037**, which extends the statutory deadline for a complaint proceeding against Phillip and Linda Shuey, doing business as Shell Canyon Water Company, until April 20, 2013.
- **Approved D.12-04-040**, which awards \$22,485.80 (plus interest) to the National Consumer Law Center for its contribution to D.11-05-004, the decision that completed the second phase of the 2007 Conservation OII involving conservation policies and low-income conservation data tracking. The Class A water companies will pay this award.
- **Approved D.12-04-041**, which awards \$9,992.10 (plus interest) to the National Consumer Law Center for contribution to D.11-05-020, the decision on low-income customer information-sharing. The Class A water companies will share payment of this award with the affected energy utilities.

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- **Held** the application of California-American Water (**A.10-09-018**) for authorization to implement the Carmel River Reroute and San Clemente Dam Removal Project and to recover the costs associated with the Project in rates.
- **Approved Order Instituting Investigation 12-04-011**, which opens an OII on Great Oaks Water Co.'s "failure to inform the Commission and its staff that it had withheld its payment to the Santa Clara Valley Water District of the pump tax revenues collected from its customers."

#### **CWA Sends Flurry of Legislative Letters, Including Amendments to SB 1364—**

CWA sent six position letters to state legislators on April 18<sup>th</sup>, articulating various positions that CWA's Legislative Committee had taken in previous meetings. Leading the list was an Oppose Unless Amended Letter (one of my usual "short, concise" single-spaced eight-page missives) that meticulously challenged all seven sections in the bill, mostly on the grounds of necessity and the dramatic rise in costs to customers if they become part of the Public Utilities Code. Here's a summary of what CWA's letter asked for in the form of amendments:

- Elimination of Sections 6 and 7, which deal with the egregious lower court review option for Commission decisions and the intervenor compensation provisions for "local government agencies;"
- A substantial rewrite of Section 2, which originally was going to require a second, very expensive customer notice for all advice letter filings of projects approved in a general rate case. CWA's amendments remove this provision and replace it with (1) a much more reasonable and less expensive option, limited just to Class A and B companies that will require the initial GRC public notice to include more detail on the potential rate impacts of the requested projects; and (2) a requirement that the utilities inform customers, in a separate letter or through a bill insert, at the corporation's discretion, of the commission's final decision in the GRC, including the approved rates and the approved capital projects that will subsequently be executed by way of an advice letter. Further, we requested that such an announcement be within 60 days if the utility operates on a 30-day billing cycle, or within 90 days if the utility operates on a 60-day billing cycle. In other words, not much more than the companies do now.

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- Amendments to Sections 1,3,4 and 5, dealing with affiliate transactions, that will have the statutory language comport with the existing affiliate transactions rules – and only applicable to the Class A and B water utilities.

SB 1364 will be heard by the Senate Energy, Utilities & Communications (EU&C) Committee on April 24<sup>th</sup>, hopefully with all our amendments intact. Here are the other bills on which CWA took written positions:

- **SB 1498 (Emmerson)** – This week apparently was our week to send in opposition letters on Republican bills. CWA sent an Oppose letter on SB 1498 to the Senate Governance & Finance Committee, detailing our concerns with the bill’s intent to have local agency formation commissions (LAFCOs) allow public agencies to provide services (like drinking water and sewer) outside their spheres of influence. Our letter detailed the problems with such a blanket imprimatur and noted the conflicts with the Service Duplication Law.
- **SB 1165 (Wright)** – For the same reasons CWA argued against intervenor compensation for municipalities in SB 1364, CWA sent an Oppose letter to the EU&C Committee, objecting to the classification of “school districts, community college districts and county offices of education” as “customers” of a regulated utility for the purpose of intervening in a California PUC proceeding and potentially receiving compensation from the utility’s customers. This bill will be heard on April 24<sup>th</sup> with SB 1364. CWA will testify on both bills.
- **SB 1063 (Gaines)** – Late last week, CWA sent a Support letter to the Senate Environmental Quality Committee on SB 1063, which would reinstate a prior exemption for recreational activity in Bear Lake Reservoir (Amador County), which is the source of water for CWA member Lake Alpine Water Company. Unfortunately, the bill was amended on April 19<sup>th</sup> to Lake Alpine’s detriment, and CWA will have to switch its position to Support If Amended until the unnecessary requirement for UV treatment is removed.
- **AB 2439 (Eng)** – CWA opposed this bill, which would require new reports to the Office of the Controller on corporate income tax payments. CWA noted the redundancy and negligible benefits between the proposed requirements and what regulated utilities already provide to the California PUC.

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- **AB 2595 (Hall)** – CWA sent a Support letter to the Assembly Committee on Natural Resources, endorsing Isadore Hall's proposal for a Seawater Desalination Permit Streamlining Task Force.

**Ventura Public Water Agencies Get IOWC Perspective for the First Time—**

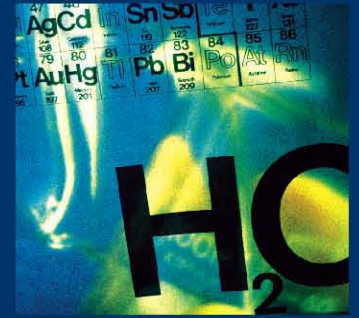
I was delighted to represent CWA in Oxnard on April 19<sup>th</sup> at the 20th Annual Water Symposium of the Association of Water Agencies of Ventura County (AWAVC), which had as its theme CWA Small Company Committee Chair Jim Downey's favorite phrase, "Welcome to the New Normal," a reference to managing water utilities in a world of declining customer usage and rising costs. I spoke on a panel titled "Is the Price Right?" and my topic was "How Urban Systems are Addressing the Pricing Challenge."

Joining me on the panel was Rick Giardina, who is vice-chair of AWWA's Rates and Charges Committee, chair of its Editorial Committee and chair of the working group updating the AWWA M1 Manual, Principles of Water Rates, Fees and Charges. Also on the panel was Danny Merkley, Director of Water Resources for the California Farm Bureau Federation. It was chaired by Joe Gibson, Partner with Meridian Consultants LLC. It was a lively panel to say the least. In my remarks, I outlined the principal elements of the pricing challenge:

- Customers use less water and the utility goes in for a rate increase;
- Tap water is priced at less than a penny a gallon, while bottled water and Starbucks coffee are anywhere from \$10 to \$20 a gallon, yet water utilities get hammered in the press for a proposed rate increase from \$0.0045/gallon to \$0.0062/gallon; and
- Water utilities have controlled costs, minimized capital outlays, are complying with the 20% by 2020 law, yet they still need rate increases just to get back to their revenue levels of 2009.

I asked the rhetorical question, "What's wrong with this picture?" for all three scenarios and got a lot of nodding of heads from the 125 people in the audience. I noted other pricing challenges common to public and private water utilities, such as the fact that general inflation is low, but water utility inflation continues to exceptionally high because of health care costs, infrastructure, compliance, etc.

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I then drew from CWA's 2010 white paper that analyzed the revenue requirement and rate component differences of public agencies and PUC-regulated utilities and spent time on the many factors that impact rates and revenue requirements, explaining that these factors, not the public vs. private dichotomy, are the primary reasons why rates differ between neighboring utilities of all stripes. I explained what investor-owned water utilities are doing to address the rate increase hostility (keeping rates and costs current, media outreach, customer outreach in the form of community meetings, tours, rate workshops, improved public participation hearings, etc.) and closed with an affirmative "Yes" to the question, "Is the Price Right?", if rates accurately reflect the costs of providing service, if the utility infrastructure is maintained properly, and if the water supply is safe, reliable and sustainable.

The *Ventura County Star* covered the symposium and described my remarks thusly: "One problem is that when customers conserve water, water companies make less and need to charge more to keep revenues steady, according to Jack Hawks, executive director of the California Water Association, a trade group that represents investor-owned water utilities. Hawks said the rising cost of health insurance, pension plan contributions, infrastructure investment and water quality regulations also are driving up rates of companies regulated by the California Public Utilities Commission."

In a thank you note to me, Joe Gibson and AWAVC Executive Director Kelle Pistone said I "added a special insight to our discussion that our local water community does not often hear, and you provided needed understanding and context to subjects that are going to demand huge effort from all of our water agencies for decades." ACWA Executive Director Tim Quinn, who spoke in the panel after mine, also complimented me on the presentation. It was a good day.

**AWWA Cal-Nevada Section Releases 2011 Water Rate Survey**—The California-Nevada Section of the American Water Works Association released its *2011 California-Nevada Water Rate Survey* on April 19<sup>th</sup>, and it contains a wealth of information. Conducted by CA-NV AWWA and Raftelis Financial Consultants, Inc. (RFC), the survey provides data on 223 water service providers (216 in California and 7 in Nevada).



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Further, the survey uses a benchmark of 15 Ccf (hundred cubic feet) or 11,220 gallons of consumption per month as an approach to make comparisons between cities, counties and regions. The survey also provides insight to pricing practices used utilities, which are grouped by county and sorted by city. Importantly, the survey participants include water systems with diverse ownership (including investor-owned water companies - IOWCs) and operating characteristics.

The California survey results include several analyses involving bill frequency, rate structure and user charges between 2009 and 2011. They are done on the four regions of California: Northern, San Joaquin Valley, Central Coast, and Southern. Golden State Water's John Dewey provided some interesting observations when he sent me the survey, including:

- As CWA and its members have said repeatedly, the cost of water can vary greatly from one provider to the next. In California, the average monthly cost per county for 15 Ccf ranged from \$25.13 in Sutter County to \$96.22 in Lake County.
- 70 percent of all public water agencies updated their rates in the last two years. Since IOWCs are on a three-year cycle, this fact refutes the contention that IOWCs are changing their rates too often. These results suggest that IOWCs do not change their rates as frequently as most public agencies.
- Public agencies subsidize their rates with connection fees, and those fees have risen 46 percent from 2009 to 2011. Some individual fees are as high as \$34,732, while the average connection fee charged was \$3,330. IOWC rates are not subsidized by connection fees.
- 70 percent of public agencies also report using inclining block or tiered rates, which is an increase from 55 percent in 2009. The IOWCs' adoption of tiered rates is in line with what is occurring statewide with public agencies.

The report makes the usual cautionary note about drawing conclusions from rate comparisons, saying they should only follow evaluation of community characteristics such as geography, climate, and service area, as well as the use of taxes, subsidies and grants. It notes that the survey findings alone should not be used to judge the performance of any individual utility or to generalize about all water-sector utilities.

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You can access the report at <http://ca-nv-awwa.org/canv/downloads/CA-NV2011WaterRateSurvey.pdf>.

**Senate Rules Committee Votes for Mark Cowin as DWR Director**—The Senate Rules Committee voted 5-0 April 18<sup>th</sup> to recommend confirmation of Mark Cowin as Director of the Department of Water Resources (DWR). The nomination has been sent to the Senate floor for full confirmation, and I anticipate the full vote will occur on April 30<sup>th</sup>. During the hearing, Cowin, who has been with DWR for 30 years and who has served as Director and Acting Director since February 2010, was asked about his plans for the Delta. He finessed the answer nicely, saying that he would move forward with “collaborative solutions in the Delta” while continuing aggressive investments in local resources development to meet the state’s water needs.

He made sure the committee members understood that climate change and other uncertainties pose “unprecedented challenges for water resources management,” and that the state will need “every tool in the toolbox” to meet the twin goals of supply reliability and ecosystem restoration. “We absolutely need to invest in all strategies. It’s not a zero sum game,” said Cowin. “I don’t think we can get one answer that tells us what our water plan is for the future. It really is a matter of risk management and dealing with uncertainty.” He specifically mentioned that focusing solely on demand-reduction or Delta conveyance will not be enough.

Natural Resources Secretary John Laird introduced Cowin at the beginning of the hearing, saying, “We are (at an important time) where every decade or generation, a window opens for us to make a significant water decision. The Legislature opened that window in 2009 with passage of the comprehensive water package.” “Because of that,” Laird said, “we have a chance to do tens of thousands of acres of restoration in the Delta, and also meet the goal of reliability in our water supply. We have to work with stakeholders, contractors, federal agencies, and Delta counties in a way that can maneuver between all those, while running a significant organization.”

“Mark Cowin has stepped up in every single one of those areas,” Laird said.

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After serving as Acting Director since the beginning of the Brown Administration, Cowin's status has changed quickly. Governor Brown appointed him as Director on April 13<sup>th</sup>, and the Rules Committee had its hearing on April 18<sup>th</sup>. It looks like he'll have full status in another 10 days or so.

**Man Bites Dog? Fullerton Halts Water System Surcharge for City Use**—In a twist on the usual practice of having a city's general fund help subsidize the municipal water system's operations, the Fullerton City Council voted April 17<sup>th</sup> to stop transferring the proceeds from a 10 percent surcharge on customers' monthly water bills to the City's general fund, where the monies had been used for purposes unrelated to the water system. The full elimination of the fee will be considered at a future council meeting. For the time being, the money collected — about \$225,000 per month — will be kept in an escrow account.

In its coverage on the issue, the *Orange County Register (OCR)* said the decision would save the water fund \$2.6 million next year if it continues to be collected, according to a staff report. "It really resembles a tax in my opinion," Councilman Bruce Whitaker said in the *OCR* article. "The voters have never had the opportunity to adopt this tax or reject this tax. That is the real problem here."

The surcharge has been in place for 40 years and has been controversial for some time. An 11-member citizens' ad hoc committee was tasked a year ago with examining the city's water issues, particularly the 10 percent surcharge. The group recently sent a formal letter to the Council recommending that the fee be eliminated. The ad hoc committee may regret its decision though because next on its plate is a recommendation on how Fullerton must update its water utility infrastructure. The committee's consultant, in evaluating the elimination of the surcharge, said the cost of running Fullerton's water utility is really only \$1.67 million a year, a number that probably didn't consider all the investments that need to be made.

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I have a feeling that, despite the outcry that the surcharge is illegal and that water customers have been overcharged for decades, the escrowed money may find its way back to the utility, so that the rate increases can be minimized. Interestingly, the Howard Jarvis Taxpayers Association (HJTA) has weighed in on this issue. "If a private company provided water service to the residents of Fullerton, the City could charge the private company a negotiated franchise fee for occupying public rights of way with its pipelines," said the HJTA.

The Howard Jarvis folks went on to say, "That is not the case in Fullerton, however, as the City operates its own municipal water utility. The rates the City may charge are governed by the California Constitution, which limits rates to just the amount required to provide service, and prohibits transferring rate revenue for use elsewhere.

This one may be worth watching.

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### Upcoming Industry Meetings/Conferences/Events:

- April 25, 2012 – Groundwater Resources Association – Annual Legislative Symposium and Lobby Day (8:00a – 4:30p; Citizen Hotel; 926 J St., Sacramento 95814); J. Hawks may attend.
- April 27, 2012 – CA Water Plan Update 2013 Groundwater Caucus (9:00a – 12:30p; Cal EPA Building, 1001 I St., Sacramento 95814); J. Hawks will attend.
- May 7, 2012 – Water for People Reception (6:30p-9:00p; California Academy of Sciences; 55 Music Concourse Drive, San Francisco 94118).
- May 8-11, 2012 – Association of California Water Agencies – Spring Conference (Portola and Marriott Hotels, Monterey, CA); J. Hawks will attend in part.
- May 10, 2012 – California PUC Open Meeting (9:00a – 12:00p; Fresno City Council, 2600 Fresno St., Room 2097, Fresno, CA 93721)
- May 13-18, 2012 – Center for Public Utilities Advanced Regulatory Training for Water and Wastewater Utilities (8:00a – 5:00p each day; Sheraton Uptown Hotel; 2600 Louisiana NE, Albuquerque, NM).

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- May 15, 2012 – CWA Directors Meeting (9:30a-2:30p; Valencia Water; 24631 Avenue Rockefeller, Valencia, CA 91355); J. Hawks will attend.
- May 16, 2012 – California Urban Water Conservation Council Board of Directors Meeting (9:30a – 3:00p; Kennedy Jenks, 2775 Ventura Blvd., Suite 100, Oxnard, CA 93036; J. Hawks will attend.
- May 16, 2012 – CWA Utility Supplier Diversity Committee Meeting (10:00a – 2:00p; Park Water Co., 9750 Washburn Rd., Downey, CA 90241).
- May 24, 2012 – California PUC Open Meeting (9:00a – 12:00p; 505 Van Ness Ave., San Francisco 94102)
- May 30-31, 2012 – CUWCC NorCal Water Conservation Coordinator I/Water Use Efficiency I Workshop (9:00a–3:00p; San Francisco PUC; 1000 El Camino Real, Millbrae 94030); <http://www.cuwcc.org/WorkArea/showcontent.aspx?id=18714>.
- June 6-8, 2012 – CWA Annual Spring Conference/Regulatory, Small Company Seminar/Directors Meeting (1:00p on June 6; adjourns at 11:00a on June 8; Citizen Hotel; 926 J St., Sacramento 95814)
- June 11-13, 2012 – Western Conference of Public Service Commissioners Annual Meeting (8:00a – 5:00p; Sunriver Resort; 17600 Center Dr., Sunriver, OR 97707); J. Hawks will attend.
- June 18, 2012 – National Association of Water Companies Government Relations Committee Meeting (9:30a – 3:30p; Hyatt Regency Capitol Hill; 400 New Jersey Ave., N.W. Washington, DC 20001).
- June 19-20, 2012 – National Association of Water Companies Annual Report to Congress/Two-Day Fly-In (9:00a – 5:00p; Hyatt Regency Capitol Hill; 400 New Jersey Ave., N.W. Washington, DC 20001).
- June 19, 2012 – California Urban Water Conservation Council Advanced Metering Infrastructure Symposium (8:30a – 4:30p; LA Dept. of Water & Power; 1350 S. Wall St., Los Angeles, CA 90021); J. Hawks may attend.
- June 20, 2012 – CUWCC Plenary Meeting (9:30a – 3:00p; LA Dept. of Water & Power; 1350 S. Wall St., Los Angeles, CA 90021); J. Hawks will attend.
- June 28, 2012 – California Water Association Annual Northern California Contractors-Vendors Meeting (7:30a – 11:30a; location TBD).

—CWA—