

**CALIFORNIA PUBLIC UTILITIES COMMISSION
DIVISION OF WATER AND AUDITS**

Advice Letter Cover Sheet

Utility Name: GOLDEN STATE WATER COMPANY

Date Mailed to Service List: 7/16/2020

District: SANTA MARIA

CPUC Utility #: 133 W

Protest Deadline (20th Day): 7/30/2020

Advice Letter #: 1823-WA

Review Deadline (30th Day): 8/9/2020

Tier 1 2 3 Compliance

Requested Effective Date: 4/17/2020

Authorization

Rate Impact: N/A

Description: STEELHEAD RECOVERY PLAN LEGAL EXPENSES
MEMORANDUM ACCOUNT

The protest or response deadline for this advice letter is 20 days from the date that this advice letter was mailed to the service list. Please see the "Response or Protest" section in the advice letter for more information.

Utility Contact: Ronald Moore

Utility Contact: Nguyen Quan

Phone: (909) 394-3600 x 682

Phone: (909) 394-3600 x 664

Email: rkmoore@gswater.com

Email: nquan@gswater.com

DWA Contact: Tariff Unit

Phone: (415) 703-1133

Email: Water.Division@cpuc.ca.gov

DWA USE ONLY

DATE

STAFF

COMMENTS

APPROVED

WITHDRAWN

REJECTED

Signature: _____

Comments: _____

Date: _____



July 16, 2020

Advice Letter No. 1823-WA

(U 133 W)

California Public Utilities Commission

Golden State Water Company (“GSWC”) hereby transmits the following tariff sheets applicable to its Water Operations:

<u>CPUC Sheet No.</u>	<u>Title of Sheet</u>	<u>Canceling CPUC Sheet No.</u>
Original No. 8721-W*	Preliminary Statement Part MMMM	
Revised No. 8722-W*	Table of Contents Page 1 of 4	Revised No. 8720-W

SUBJECT: Steelhead Recovery Plan Legal Expenses Memorandum Account

SUPPLEMENT

GSWC is supplementing Advice Letter No. 1823-W to change the effective date of the memorandum account to April 17, 2020, to coincide with the date that the United States District Court Central District of California denied the Motions to Dismiss, filed by GSWC and the City of Santa Maria (case no. CV-19-8696-AB (JPRx)) for the Federal Endangered Species Act lawsuit. This supplemental filing will replace Advice Letter No. 1823-W in its entirety.

PURPOSE

GSWC is seeking authorization from the California Public Utilities Commission (“Commission”) to establish the Steelhead Recovery Plan Legal Expenses Memorandum Account (“SRPLEMA”), to track the anticipated legal expenses due to the recent developments involving the Steelhead Salmon Recovery Plan.

BACKGROUND

On March 30, 2011, GSWC filed Advice Letter No. 1442-W, to establish the Santa Maria Steelhead Recovery Plan Memorandum Account (“SMSRPMA”) to track all outside services related to the Santa Maria Steelhead Recovery Plan including consultants and legal services associated with legal expenses,– prepare for and attend meetings and hearings including committee (e.g., finance committee, water resources, administrative, interagency and other committees); Review and respond to board and committee

memoranda; Meetings with stakeholders regarding same including area cities and water rights holders, local elected officials, water board members, utilities and industry; Provide public testimony as needed; Legal and policy research to defend and support positions to protect ratepayers; Identify, analyze, and propose statutory changes to defend and support positions to protect ratepayers; attend meetings and hearings, including committee meetings, as needed; Legal research and other actions including employment of experts to defend against any legislation that has a negative impact on rates, water supply reliability or water rights affecting ratepayers; Review and preparation of legal documents; Review and preparation of technical documents; Meetings with technical staff and experts; Review and respond to various settlement approaches; Legal research to support and defend positions; Policy research to support and defend positions; Legal research regarding potential litigation to protect ratepayers' long term storage costs; Identify, analyze, defend and propose statutory changes to protect long term storage benefits to ratepayers; Draft pleadings and other court documents regarding same; Prepare for and attend meetings with potential litigants; Conduct discovery and file motions; Employ expert witnesses as necessary.

Advice Letter No. 1442-W was filed pursuant to the Settlement Agreement adopted in Decision No. 10-12-059, in GSWC's General Rate Case Application No. 10-01-009. Advice Letter No. 1442-W was approved with an effective date of January 1, 2011.

In GSWC's General Rate Case Applications No. 11-07-017, A. 14-07-006, and A. 17-07-010, GSWC was authorized to continue the SMSRPMA for years 2013-2021, via Decision No. 13-05-011, issued May 13, 2013, D. 16-12-067, issued December 21, 2016 and D. 19-05-044, effective May 22, 2019, respectively.

DISCUSSION

Two Steelhead habitat lawsuits have been filed, to date, regarding the Santa Maria River. The first by the San Luis Obispo Coastkeeper and the Los Padres Forest Watch groups against the Conservation District in State Court and a second Federal Endangered Species Act lawsuit by the San Luis Obispo Coastkeeper, the Environmental Defense Center and the Los Padres Forest Watch against the Conservation District and the Bureau of Reclamation to require releases of water from Twitchell Reservoir, a key element in ensuring groundwater basin recharge under the Santa Maria Adjudication (which GSWC has rights to under the adjudication). GSWC and the City of Santa Maria have intervened in the Federal lawsuit to protect their water rights. The intent of the Steelhead Recovery Plan litigation ("Plan") was to obtain a court order imposing a recovery plan on the operation of Twitchell Reservoir in GSWC's Santa Maria customer service area. The Plan was initiated because the state and federal agencies responsible for the Steelhead Recovery Plan had not taken any action to implement it. Adjusting the operations of Twitchell

Reservoir to accommodate the elements of the Steelhead Recovery Plan will have direct, negative water supply reliability impacts on GSWC's customers.

On April 17, 2020, the United States District Court Central District of California denied the Motions to Dismiss, filed by GSWC and the City of Santa Maria (case no. CV-19-8696-AB (JPRx)) for the Federal Endangered Species Act lawsuit, therefore, GSWC will litigate the release of water from Twitchell Reservoir, a key element in ensuring groundwater basin recharge under the Santa Maria Adjudication (which GSWC has rights to under the Stipulation). As a result of this lawsuit's continuation, GSWC believes that it will incur (and record in the SMSRPMA) legal expenses in excess of \$1,000,000, starting in 2020.

The aforementioned legal ruling has triggered the need to establish the SRPLEMA. The SRPLEMA will track the following:

All outside services including experts and legal fees and costs associated with Legal expenses related to the Santa Maria Steelhead Recovery Plan, and all associated proceedings or efforts focused on fisheries resource recovery, including litigation and /or other proceedings intended to restore fisheries resources. These activities, and related expenses, include but are not limited to: testimony to defend and support positions to protect ratepayers and the water supplies dedicated to serve those ratepayers; Legal activities (research, advocacy and litigation) and other actions, litigation or initiatives that may have negative impacts on rates; Review and preparation of all necessary legal and technical documents related to or arising out of litigation, legislative or regulatory proceedings; Meetings with or among technical staff, legal representatives, consultants and experts, opposing or involved parties; Legal activities (research, advocacy, and litigation) to support and defend positions; Legal activities (research, advocacy, and litigation) to protect ratepayers' interests in the integrity of the water rights and water supplies dedicated to benefit those ratepayers; Identify, analyze, defend and propose statutory changes to protect long term water supplies and ratepayers' interests; Prepare pleadings and other court documents regarding same; Prepare for and attend meetings with litigants; Conduct discovery and file motions and attend court hearings and trial.

TRACKING OF COSTS

GSWC will track the costs being recorded in the proposed Steelhead Recovery Legal Expenses Plan Memorandum Account by coding invoices with a specific subledger.

REQUEST TO ESTABLISH THE STEELHEAD RECOVERY PLAN LEGAL EXPENSES MEMORANDUM ACCOUNT

In accordance with the Commission Standard Practice U-27-W, GSWC requests to establish a memorandum account to track the anticipated legal expenses due to the recent litigation developments involving the Steelhead Recovery Plan.

- a. are not under the utility's control,
The costs to be tracked in the SRPLEMA are not under the control of GSWC. As stated above, under the Federal Endangered Species Act lawsuit by the San Luis Obispo Coastkeeper, the Environmental Defense Center and the Los Padres Forest Watch against the Conservation District and the Bureau of Reclamation to require releases of water from Twitchell Reservoir, a key element in ensuring groundwater basin recharge under the Santa Maria Adjudication (which GSWC has rights to under the adjudication). GSWC is responsible for protecting its interest in the Santa Maria Adjudication.
- b. could not have been reasonably foreseen in the utility's last general rate case, GSWC was unaware of these legal expenses in its last General Rate Case Application filed in 2017.
- c. that will occur before the utility's next scheduled rate case
GSWC's next scheduled rate case is expected to be filed in July 2020. The continuation of the Federal lawsuit in April 2020 was initiated when United States District Court Central District of California denied the Motions to Dismiss, filed by GSWC and the City of Santa Maria (case no. CV-19-8696-AB (JPRx) for the Federal Endangered Species Act lawsuit. GSWC believes that it will incur (and record in the SRPLEMA) legal expenses in excess of \$1,000,000, starting in 2020.
- d. are of a substantial nature in that the amount of money involved is worth the effort of processing a memo account
GSWC estimates that it expects to record legal expenses in excess of \$1,000,000 for outside services, including, but not limited to, all associated proceedings or efforts focused on fisheries resource recovery, including litigation and/or other proceedings intended to restore fisheries resources. These activities, and related expenses, include testimony to defend and support positions to protect ratepayers and the water supplies dedicated to serve those ratepayers; Legal activities (research, advocacy and litigation); Review and preparation of all necessary legal and technical documents related to or arising out of litigation, legislative or regulatory proceedings; Meetings with or among technical staff, legal representatives, consultants and experts, opposing or involved parties; Legal activities (research, advocacy, and litigation) to support and defend positions; Legal activities (research, advocacy, and litigation) to protect ratepayers' interests in the integrity of the water rights and water supplies dedicated to benefit those ratepayers; Identify, analyze, defend and propose statutory changes to protect

long term water supplies and ratepayers' interests; Prepare pleadings and other court documents re: same; Prepare for and attend meetings with litigants; Conduct discovery and file motions and attend court hearings and trial.

e. have ratepayer benefits

GSWC customers will benefit from the establishment of this memo account. A portion of the legal costs incurred will be to protect ratepayers and the water supplies dedicated to serve those ratepayers. Additionally, before recovery is granted, the expenses tracked in the memo account go through a prudency review by the Public Advocates Office and the Commission's Water Division to make sure the company did not spend money without discretion; because of this clear benefit, GSWC's request meets Standard Practice U-27 W's fifth criterion.

REVISIONS TO PRELIMINARY STATEMENT

GSWC is seeking to add the Steelhead Recovery Plan Legal Expenses Memorandum Account to its Preliminary Statement. This memorandum account will track legal expenses it expects to incur in years 2020, 2021 and beyond.

MEMORANDUM ACCOUNT TREATMENT

GSWC is aware that a memorandum account is not a guarantee of eventual recovery of expenses, nor is it carried as a regular account under the uniform system of accounts for water utilities. It is carried "off the books" as a memorandum account. Further, it is also known that the California Public Utilities Commission policy on memorandum account treatment has always been that the burden of proof of the reasonableness of expenses charged to the account is the responsibility of the utility requesting reimbursement of such expenses.

EFFECTIVE DATE

GSWC request that this filing become effective upon regular statutory notice.

TIER DESIGNATION

Pursuant to D. 07-01-024, this advice letter is submitted with a Tier 2 designation.

CUSTOMER NOTICE

Pursuant to Water Industry Rule No. 3.2 in the Commission's General Order 96-B, this advice letter does not require a customer notice nor a customer notice verification.

RESPONSE OR PROTEST

Anyone may submit a response or protest for this Advice Letter (AL). When submitting a response or protest, **please include the utility name and advice letter number in the subject line.**

A **response** supports the filing and may contain information that proves useful to the Commission in evaluating the advice letter. A **protest** objects to the AL in whole or in part and must set forth the specific grounds on which it is based. These grounds are:

1. The utility did not properly serve or give notice of the AL;
2. The relief requested in the AL would violate statute or Commission order, or is not authorized by statute or Commission order on which the utility relies;
3. The analysis, calculations, or data in the AL contain material error or omissions;
4. The relief requested in the AL is pending before the Commission in a formal proceeding; or
5. The relief requested in the AL requires consideration in a formal hearing, or is otherwise inappropriate for the AL process; or
6. The relief requested in the AL is unjust, unreasonable, or discriminatory, provided that such a protest may not be made where it would require re-litigating a prior order of the Commission.

A protest may not rely on policy objections to an AL where the relief requested in the AL follows rules or directions established by statute or Commission order applicable to the utility. A protest shall provide citations or proofs where available to allow staff to properly consider the protest.

DWA must receive a response or protest via email (or postal mail) within 20 days of the date the AL is filed. When submitting a response or protest, **please include the utility name and advice letter number in the subject line.**

The addresses for submitting a response or protest are:

Email Address:

Water.Division@cpuc.ca.gov

Mailing Address:

CA Public Utilities Commission
Division of Water and Audits
505 Van Ness Avenue
San Francisco, CA 94102

On the same day the response or protest is submitted to DWA, the respondent or protestant shall send a copy of the protest to Golden State Water Company at:

Email Address:
regulatoryaffairs@gswater.com

Mailing Address:
Golden State Water Company
Ronald Moore
630 East Foothill Blvd.
San Dimas, CA 91773

Cities and counties that need Board of Supervisors or Board of Commissioners approval to protest should inform DWA, within the 20-day protest period, so that a late filed protest can be entertained. The informing document should include an estimate of the date the proposed protest might be voted on.

REPLIES

The utility shall reply to each protest and may reply to any response. Any reply must be received by DWA within five business days after the end of the protest period, and shall be served on the same day on each person who filed the protest or response to the AL. Cities and counties that need Board of Supervisors or Board of Commissioners approval to protest should inform the Water Division, within the 20-day protest period, so that a late filed protest can be entertained. The informing document should include an estimate of the date the proposed protest might be voted on.

The actions requested in this advice letter are not now the subject of any formal filings with the California Public Utilities Commission, including a formal complaint, nor action in any court of law.

No individuals or utilities have requested notification of filing of tariffs. Distribution of this advice letter is being made to the attached service list in accordance with General Order No. 96-B.

Sincerely,

/s/ Ronald Moore
Ronald Moore
Regulatory Affairs Department
Golden State Water Company

- c: Jim Boothe, CPUC - Water Division
- Bruce DeBerry, CPUC- Water Division
- Eileen Odell, CPUC- PAO
- Victor Chan, CPUC- PAO
- Richard Rauschmeier, CPUC- PAO

Preliminary Statement

Steelhead Recovery Plan Legal Expenses Memorandum Account

MMMM. Steelhead Recovery Plan Legal Expenses Memorandum Account

1. **PURPOSE**

The purpose of the Steelhead Recovery Plan Legal Expenses Memorandum Account ("SRPLEMA") is to track all legal and related expenses associated with the litigation proceedings for the Steelhead Recovery Plan and all related proceedings or efforts focused on fisheries resource recovery.

(N)

On April 17, 2020, the United States District Court Central District of California denied the Motions to Dismiss, filed by GSWC and the City of Santa Maria (case no. CV-19-8696-AB (JPRx) for the Federal Endangered Species Act lawsuit, therefore, GSWC will litigate the release of water from Twitchell Reservoir, a key element in ensuring groundwater basin recharge under the Santa Maria Adjudication, which GSWC has rights to.

The SRPLEMA shall include all outside services including experts and legal fees and costs associated with Legal expenses related to the Santa Maria Steelhead Recovery Plan, and all associated proceedings or efforts focused on fisheries resource recovery, including litigation and /or other proceedings intended to restore fisheries resources. These activities, and related expenses, include but are not limited to: testimony to defend and support positions to protect ratepayers and the water supplies dedicated to serve those ratepayers; Legal activities (research, advocacy and litigation) and other actions, litigation or initiatives that may have negative impacts on rates; Review and preparation of all necessary legal and technical documents related to or arising out of litigation, legislative or regulatory proceedings; Meetings with or among technical staff, legal representatives, consultants and experts, opposing or involved parties; Legal activities (research, advocacy, and litigation) to support and defend positions; Legal activities (research, advocacy, and litigation) to protect ratepayers' interests in the integrity of the water rights and water supplies dedicated to benefit those ratepayers; Identify, analyze, defend and propose statutory changes to protect long term water supplies and ratepayers' interests; Prepare pleadings and other court documents re: same; Prepare for and attend meetings with litigants; Conduct discovery and file motions and attend court hearings and trial.

2. **APPLICABILITY**

The SRPLEMA does not have a rate component.

GSWC shall maintain the SRPLEMA making entries at the end of each month as follows:

- a. A debit entry shall be made to the SRPLEMA at the end of each month to record the expenses.
- b. A debit entry equal to interest on the balance in the account at the beginning of the month and half the balance after the above entry (a.), at a rate equal to one-twelfth of the rate on three-month Commercial Paper, as reported in the Federal Reserve Statistical Release, H.15 or its successor.

3. **EFFECTIVE DATE**

The SRPLEMA shall have the effective date of April 17, 2020.

4. **DISPOSITION**

Disposition of amounts recorded in the SRPLEMA shall be determined in GSWC's next General Rate Case application or by as otherwise determined by the Commission, if the account's cumulative balance exceeds 2% of GSWC's adopted gross revenues.

(N)

(To be inserted by utility)

Advice Letter No. 1823-WA
Decision No. _____

Issued By
R. J. Sprows
President

(To be inserted by P.U.C.)

Date Filed _____
Effective _____
Resolution No. _____

Table of Contents

The following tariff sheets contain all effective rates and rules affecting rates and service of the utility, together with information relating thereto:

<u>Subject Matter of Sheet</u>	<u>Sheet No.</u>	
Title Page	4905-W	
Table of Contents	8722-W*, 8719-W, 8711-W, 8682-W	(T)
Preliminary Statements: 8370-W, 7005-W, 3140-W, 3141-W, 3142-W, 6940-W, 5096-W*, 5097-W*, 5102-W, 5223-W, 5322-W, 6477-W, 6478-W, 6479-W, 7075-W, 7076-W, 5607-W, 5848-W, 5937-W, 6101-W, 8685-W, 8686-W, 6123-W, 6225-W, 6475-W, 6559-W, 6652-W, 6858-W, 7129-W, 6938-W, 7368-W, 7441-W, 7442-W, 7451-W, 7481-W, 7728-W, 7730-W, 7747-W, 7748-W, 7749-W, 7750-W, 7756-W, 7994-W, 8007-W, 8246-W, 8365-W, 8366-W, 8367-W, 8418-W, 8419-W, 8494-W, 8495-W, 8721-W*		(C)
Tariff Area Maps:		
Arden - Cordova		
Arden	6837-W	
Cordova	6838-W	
Barstow	5560-W	
Bay	8189-W	
Calipatria-Niland	6846-W	
Clearlake	6839-W	
Claremont	8487-W	
Desert		
Morongo Valley	8223-W, 6427-W	
Apple Valley North	5802-W	
Apple Valley South	8221-W	
Desert View	8222-W	
Lucerne Valley	5805-W	
Los Osos		
Edna Road	8198-W	
Los Osos	5253-W	
Metropolitan		
Artesia	8292-W	
Norwalk	7732-W	
Bell-Bell Gardens	6675-W	
Florence-Graham	8294-W	
Hollydale	8295-W	
Culver City	8293-W	
Southwest	8196-W	
Willowbrook	6842-W	
Orange County		
Bolsa Chica	4381-W	
Cowan Heights	8251-W	
Cypress-Los Alamitos-Stanton	8252-W	
Placentia-Yorba Linda	6844-W	
San Dimas	8226-W	
San Gabriel Valley		
South Arcadia	8285-W	
South San Gabriel	8005-W	
Santa Maria		
Cypress Ridge	8254-W	
Lake Marie	5705-W	
Orcutt	5558-W	
Sisquoc	5257-W	
Tanglewood	8638-W	
Nipomo	8637-W	
Simi Valley	8639-W	
Wrightwood	6428-W	

(To be inserted by utility)
 Advice Letter No. 1823-WA
 Decision No. _____

Issued By
R. J. Sprowls
 President

(To be inserted by P.U.C.)
 Date Filed _____
 Effective _____
 Resolution No. _____

GOLDEN STATE WATER COMPANY

SERVICE LIST

SANTA MARIA DISTRICT

City of Santa Maria
2065 East Main Street
Santa Maria, CA 93454
lmilong@ci.santa-maria.ca.us

County Counsel
105 East Anapamu Street, Rm. 201
Santa Barbara, CA 93101

County Counsel
County of San Luis Obispo
County Government Center, #D-320
San Luis Obispo, CA 93408

City Clerk & City Attorney
City of Guadalupe
918 Obispo Street
Guadalupe, CA 93434

Santa Barbara LAFCO
105 E. Anapamu Room 406
Santa Barbara, CA 93101
lafco@sblafco.org

County Government Center
1050 Monterey Street – Room 207
San Luis Obispo, CA 93408

Thomas J. MacBride Jr.
505 Sansome St., Suite 900
San Francisco, CA 94111
tmacbride@goodinmacbride.com

Ann Watson:
[watconsult@sbcglobal.net](mailto:watsonconsult@sbcglobal.net)

Larry Versaw
Larryversaw@gmail.com

Ron Green: rgreen2275@charter.net

Nipomo Community Services Dist.
P. O. Box 326
Nipomo, CA 93444
Mike@shipseyandseitz.com
miglesias@ncsd.ca.gov

County Clerk
County of San Luis Obispo
1055 Monterey Street - #D-120
San Luis Obispo, CA 93408

City Clerk & City Attorney
City of Santa Maria
110 East Cook Street
Santa Maria, CA 93454
rgarietz@ci.santa-maria.ca.us
psinco@cityofsantamaria.org – City Interim Attorney

LAFCO
1042 Pacific Street, Suite A
San Luis Obispo, CA 93401
dbloyd@slolafco.com

Cypress Ridge Owner's Association
Attn: President
1400 Madonna Road
San Luis Obispo, CA 93405
Cory.Bauer@managementtrust.com

Robert Miller, Wallace Gp
Nipomo Mesa Management Area
612 Clarion Court
San Luis Obispo, CA 93401

Megan Somogyi
Goodin, MacBride, Squeri & Day, LLP
505 Sansome Street, Suite 900
San Francisco, CA 94111
MSomogy@goodinmacbride.com

Jose Guzman Jr.
JEGuzmanJr@gmail.com

County of Ventura
800 S. Victoria Street
Ventura, CA 93009