

# Alerts & Publications



## CA Water Resilience Portfolio Underscores Need for Innovative Financing

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On January 3, 2020, California state agencies released a draft Water Resilience Portfolio (WRP) outlining a broad and diverse plan for securing California's water supply against the impacts of climate change, natural disasters, and ever-increasing demand. The draft WRP was developed in accordance with Governor Newsom's Executive Order N-10-19, which directed state agencies to reassess existing policy priorities with a focus on securing long-term water supplies through increased collaboration and integration. The Administration invites stakeholder feedback on the draft WRP through February 7, 2020, via email to [input@waterresilience.ca.gov](mailto:input@waterresilience.ca.gov).

The draft WRP outlines four broad strategy areas for addressing California's water challenges. While comprehensive in its scope, the WRP's relative absence of detailed funding plans underscores the need for innovative financing and the likely growth of interest in public-private partnerships.

- 1. Maintain and diversify water supplies.** The draft WRP contemplates an increased state role in helping to increase water supply diversity and flexibility at the local and regional levels. Suggested actions include increasing water quality and efficiency standards, supporting the transition to sustainable groundwater use, and enabling broader deployment of desalination technology.
- 2. Protect and enhance natural ecosystems.** The draft WRP proposes greater integration of environmental protection and water management efforts at the state and local levels. Suggested actions include supporting habitat restoration efforts, improving instream flow metrics, and simplifying the permitting process for multi-benefit projects.
- 3. Build connections.** The draft WRP acknowledges that California's water system is challenged with both decentralized management and aging, risk-prone infrastructure. In particular, the WRP notes the need to modernize interregional conveyance infrastructure, simplify the water transfer approval process, and modernize water data systems. Specific proposals include pushing ahead with the Sacramento-San Joaquin Delta tunnel project, conducting a feasibility analysis for expanding the capacity of existing conveyance facilities, and assessing a state role in financing new regional conveyance projects.

- 4. Be prepared.** The draft WRP anticipates increased risk to California's aging water infrastructure due to climate change and natural disasters. Suggested actions include increasing state support for regional flood and drought preparedness planning, along with using emerging technologies and water supply integration to promote climate change adaptation at the regional level.

In outlining a comprehensive vision for state water policy, the WRP acknowledges that “[t]he pace of implementation will depend upon the feasibility and availability of resources,” and that sustained funding is essential to the execution of the outlined agenda. Yet while the WRP reviews the sources of existing funding at the federal, state, and local levels, it refers only broadly to “increas[ing] financial capacity” from all levels without specifying potential new streams of funding.

While the WRP does not explicitly discuss exploring public-private partnerships or other private funding mechanisms, among the action items assigned to the Governor's Administration is to “[c]reate a water financing work group to identify innovative funding mechanisms and new approaches to enable greater funding for water management needs.” Given the scope and scale of the investments that the WRP contemplates—especially as climate change continues to place a growing strain on existing infrastructure—interest in private funding will likely grow across the wide range of stakeholders engaged in managing California's water future.

Already, municipalities across the country are looking to public-private partnerships as an attractive financing option for desperately needed water projects. Examples include the 2015 partnership between Poseidon Water and the San Diego County Water Authority for construction and operation of the US\$1 billion Carl “Bud” Lewis Carlsbad Desalination Plant and a proposed public-private partnership for the development of a new wastewater treatment plant in Lake Oswego, Oregon.

O'Melveny has facilitated groundbreaking and innovative public-private partnerships to meet a wide array of infrastructure needs, including seaports and airports. The firm represented the Port of Oakland in securing a long-term concession for the operation of a 175-acre maritime operations area, launching the first public-private partnership of its kind in the US ports sector. O'Melveny also represented LaGuardia Gateway Partners in its winning bid to design, build, finance, operate, and maintain Terminal B at LaGuardia Airport in New York. This US\$4 billion project was the largest public-private partnership to be undertaken anywhere in the world.

The gap continues to grow between California's increasingly urgent need for water infrastructure and the pace and availability of public funding—and with it, the demand for creative public-private partnerships to secure the state's water supply into the future.



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