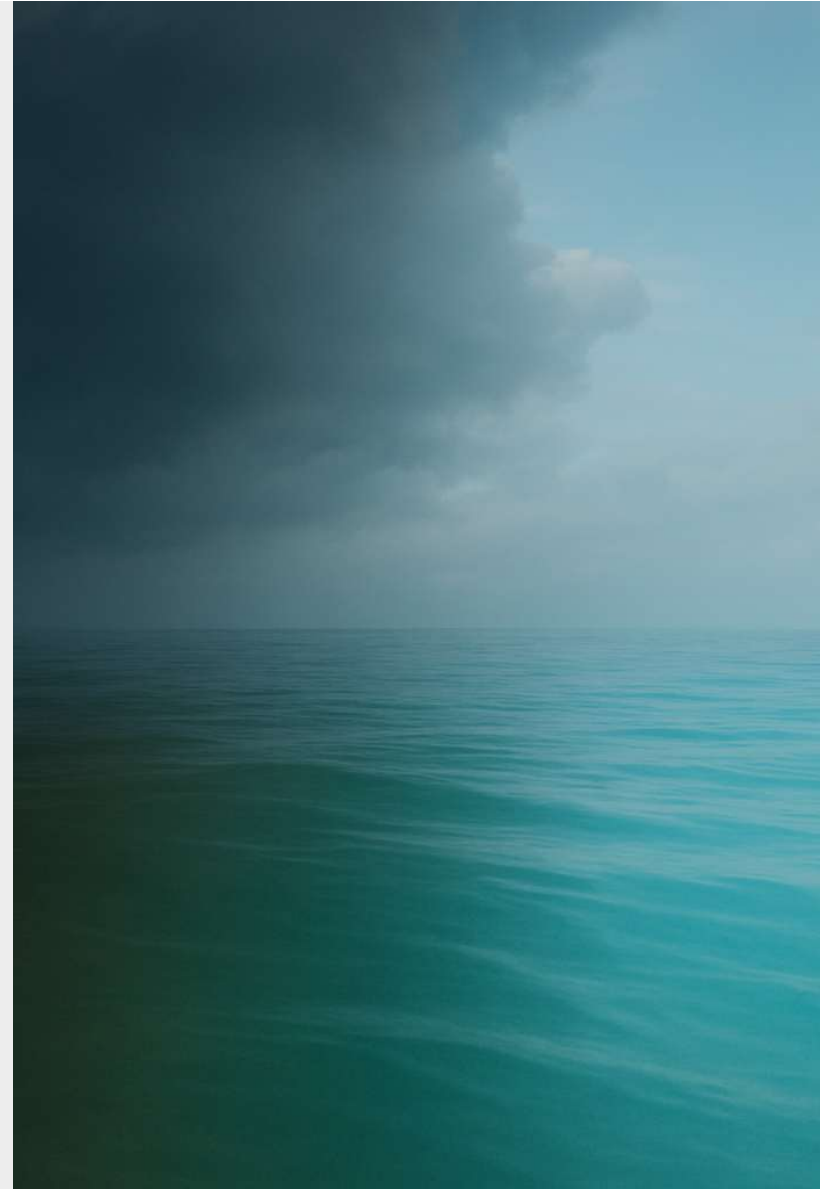


The PFASStrophe

A Legal Overview on What's New in
PFAS Regulation, Legislation, and
Litigation

ACWA 2025 Fall Conference

Wednesday, December 3 | 10:30am-11:45am



Topics to be Covered

1. **Technical** – What is PFAS, where do we find it, what is the history of us discovering it and why is it a problem?
2. **Litigation** – Multi-district litigation, other legal actions – what has happened to date? How much \$ have agencies recovered? What can still be done? Why are we getting sued?
3. **Regulatory** – What happens when you get a hit over the detection limit? NLs/RLs/MCLs
4. **Remediation** – What are the remediation and mitigation issues? Examples from Santa Clarita
5. **Funding** - Non-litigation funding sources for cleanup/mitigation costs– grants, etc.?
6. **General Counsel Perspective: A Case Study from Orange County**
7. **Futurescape** - What's new and what's next with the MCLs and with source control.

Today's Speakers



Steve Cole
Assistant General
Manager



Andrew Gagen
Partner



Ken Sansone
National Litigation
Counsel



Claire Collins
Partner



DISCLAIMER

- ▶ This presentation and our comments are not legal advice and are given solely for informational purposes. Of course.



PFAS: Challenges and Opportunities

Settlements, Litigation, & Next Steps for
Municipalities

Nationwide Litigation

A decorative horizontal band with a wavy, undulating shape. It features a blue and white marbled or water-like texture, resembling ripples on the surface of water or perhaps a microscopic view of a liquid. The pattern is more intense in some areas, with darker blues and whites, while other areas are lighter.

PFAS SETTLEMENTS UPDATE

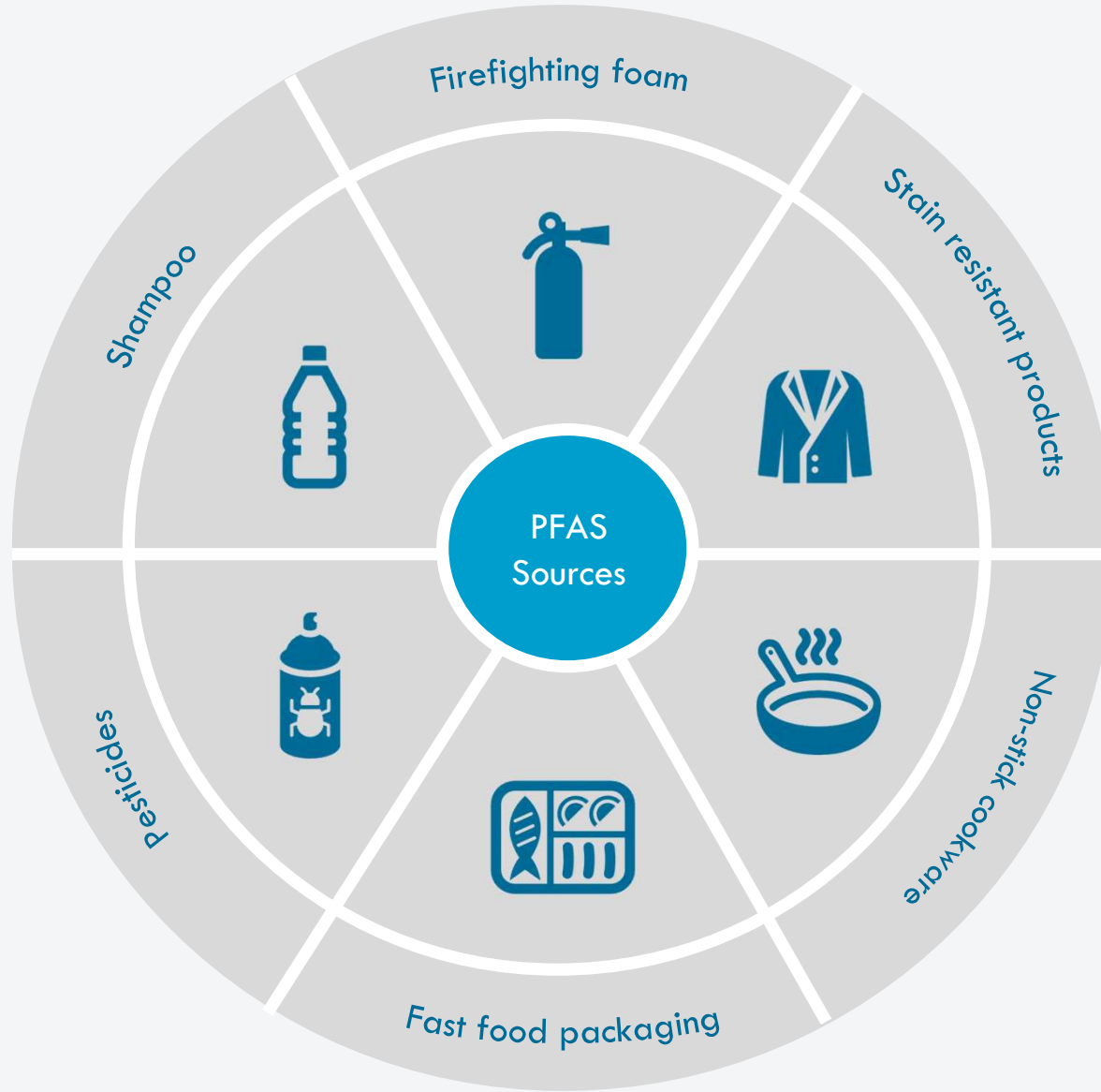
**Timelines and important
deadlines for settlement
participants**

A blue-tinted photograph of laboratory glassware, including beakers and a test tube, with a dropper dispensing liquid into one of the beakers. An orange vertical bar is on the left side of the slide.

WHAT IS PFAS?

- ▶ Umbrella term for thousands of man-made chemicals widely used in manufacturing and household products.
- ▶ Often called “forever chemicals” due to their persistence in the environment and the human body.
- ▶ Linked to various health issues including birth defects, certain cancers, thyroid disease, high cholesterol, preeclampsia, and more.

WHERE DO PFAS COME FROM?



HOW PFAS ENTERS OUR ENVIRONMENT





Aqueous Film-Forming Foams (AFFF) Products Liability Litigation MDL No. 2873

- ▶ Located in the United States District Court of South Carolina
- ▶ Groups together cases from many plaintiffs against the same PFAS manufacturers
- ▶ Water system “bellwether” cases were set to go to trial in June 2023, but 3M and DuPont agreed to settlements before trial could begin

APPROVED PFAS DRINKING WATER SETTLEMENTS

3M DRINKING WATER CLASS ACTION SETTLEMENT



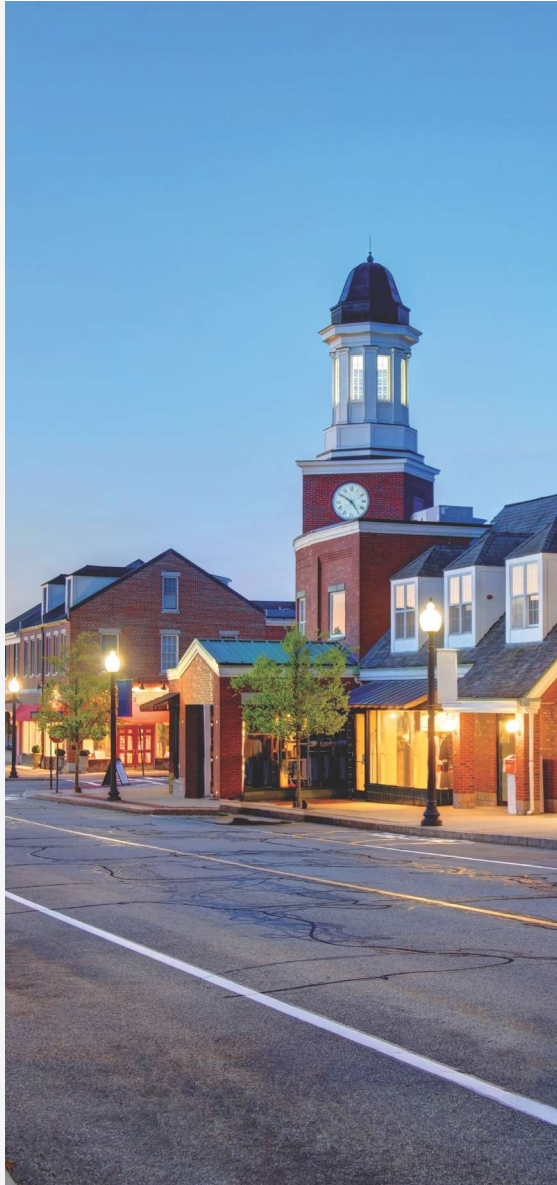
- ▶ \$10.3-\$12.5 billion fund for impacted public water systems
- ▶ Applies only to claims for drinking water; **does NOT apply to claims for contaminated wastewater, soil, etc.**
- ▶ Awards funds even if PFAS levels are below regulatory standards

DUPONT DRINKING WATER CLASS ACTION SETTLEMENT



- ▶ \$1.185 billion fund for impacted public water systems
- ▶ Applies only to claims for drinking water; **does NOT apply to claims for contaminated wastewater, soil, etc.**
- ▶ Awards funds even if PFAS levels are below regulatory standards

Testing deadline if seeking reimbursement for testing costs: **1.1.26**



- ▶ All community water systems are eligible unless they affirmatively “opted out” of these settlements, or serve fewer than 3,300 people **and** operate in a state that does not have its own PFAS testing requirements
- ▶ By not opting out of the settlements, your system has waived its right to sue these defendants in the future for PFAS impacts to drinking water – this is your only option to recover against them
- ▶ If you had a detection of PFAS in your public water system before **June 30, 2023**, you may have missed your opportunity

ALLOCATION PROCEDURES



- ▶ Assign a “score” to each well (or surface water intake) in every water system with at least one reported PFAS detection.
- ▶ Score depends on highest levels of PFAS detections and size (both production capacity and production history) of each source.
- ▶ “Bumps” can enhance score, including whether PFAS levels exceed proposed EPA MCLs, and whether/when system filed a lawsuit.
- ▶ No reductions to score for pre-existing treatment, presence of non-PFAS contaminants.
- ▶ Score used to generate pro rata share of settlement for distribution.



- ▶ Agencies spending money on PFAS before August 1, 2026 can apply for additional reimbursement through the “Special Needs” funds.
- ▶ Claims require detailed documentation but can provide significant additional financial support beyond the main settlements’ funds.
- ▶ Consider planning timing of expenditures to try to maximize claims from the special needs funds.

UPCOMING DEADLINES FOR PHASE 2 SETTLEMENT PARTICIPANTS

Requirement	DuPont Settlement Deadlines	3M Settlement Deadlines
Phase Two Testing Claims Form	January 1 st , 2026	January 1 st , 2026
Phase Two Water Systems Claims Form	June 30 th , 2026	July 31 st , 2026
Phase Two Special Needs Claims Form	August 1 st , 2026	August 1 st , 2026

"Phase 2" = systems with no PFAS detection until after June 2023

LOOKING AHEAD

What if PFAS concentrations increase after claims forms are submitted?

- ▶ If PFAS increases to a level requiring treatment between the time of claim submission and 2030, your system can be entitled to additional funds.
- ▶ Appropriate documentation **MUST** be submitted with your initial claims forms to be eligible for these additional funds.

NEXT STEPS FOR WATER SYSTEMS AFFECTED BY PFAS

- ▶ Settlement participants:
 - ▶ Perform required testing
 - ▶ Collect documentation needed
 - ▶ Submit claims forms before the deadlines
 - ▶ Think strategically about expenditures eligible as “special needs”
- ▶ Systems that opted out can pursue litigation against 3M and DuPont to recover costs

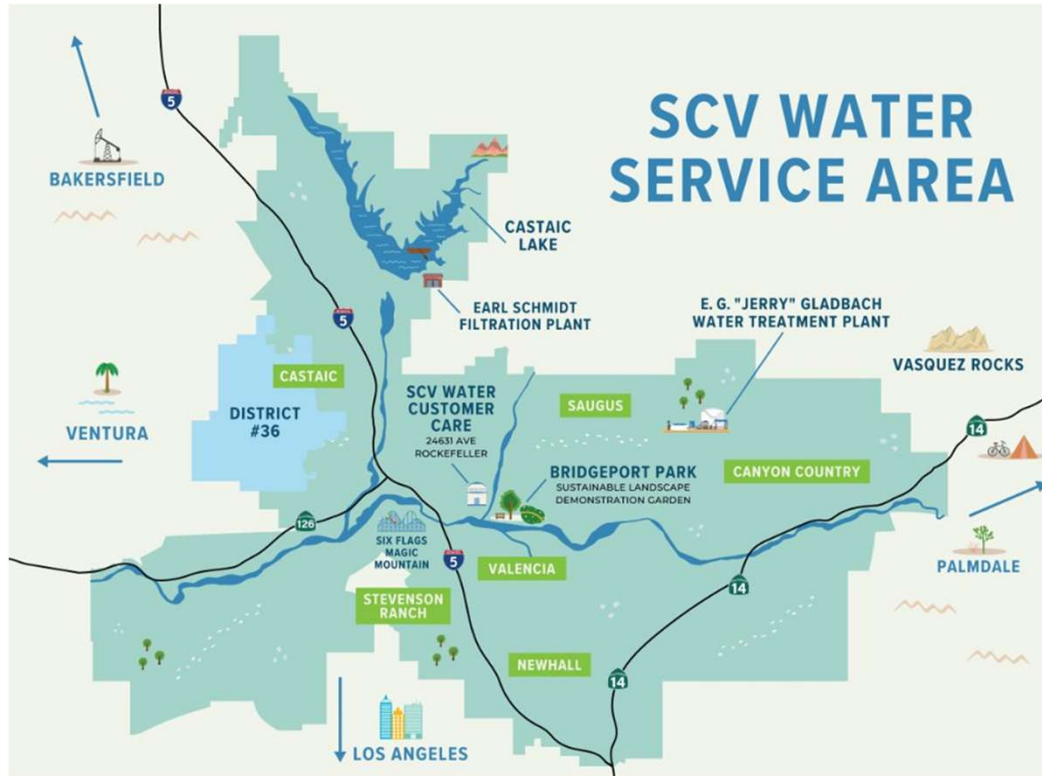
Regulatory

SCV WATER's PFAS JOURNEY

- ❖ Who we are
- ❖ Water Supply Portfolio
- ❖ Evolution of PFAS Regulation
- ❖ GW Basin
- ❖ SCV Water Response
- ❖ Financial Impact



SCV WATER | WHO WE ARE



A full-service regional water agency located in the Santa Clarita Valley

Formed on January 1, 2018, by an act of the State Legislature (SB 634)

SCV Water provides water service to:

-  196.8 square miles
-  75,500+ service connections
-  Nearly 300,000 people

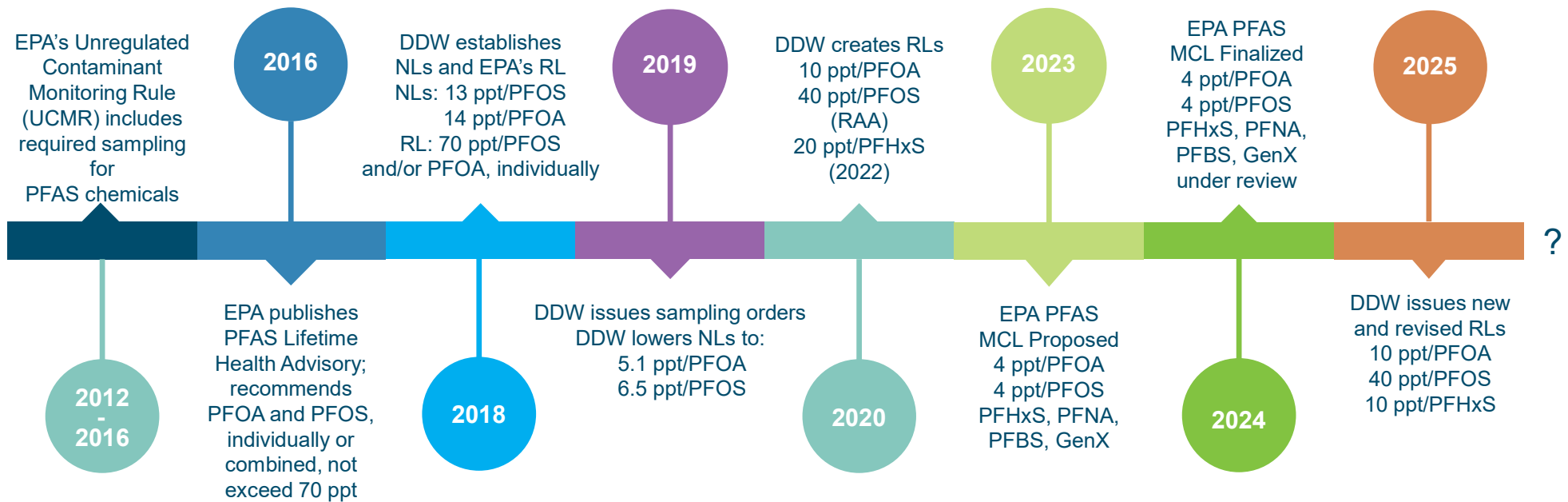
The SCV Water service area is located in northern Los Angeles County, with its western limit generally along the L.A.-Ventura County line.

SCV WATER | WATER SUPPLY PORTFOLIO

- **Imported Water**
 - SWP Contract
 - BVRRB Agreement
- **Water Storage and Banking**
 - Semitropic
 - Rosedale Rio Bravo
 - Sites (potential)
 - Others (potential)
- **Groundwater**
 - Saugus and Alluvial Formations
- **Recycled Water**
- **Water Use Efficiency Programs**

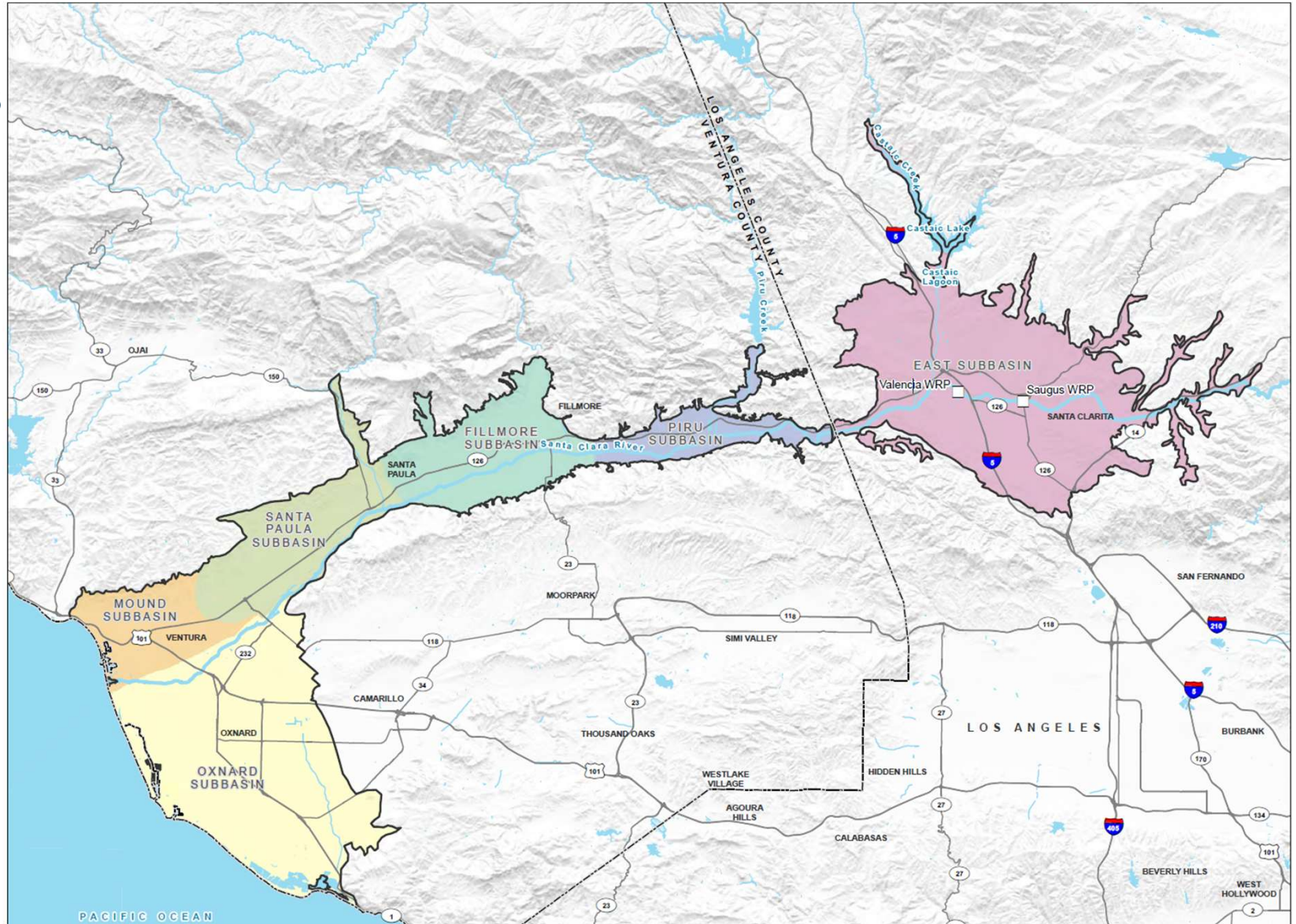


EVOLUTION OF PFAS REGULATIONS

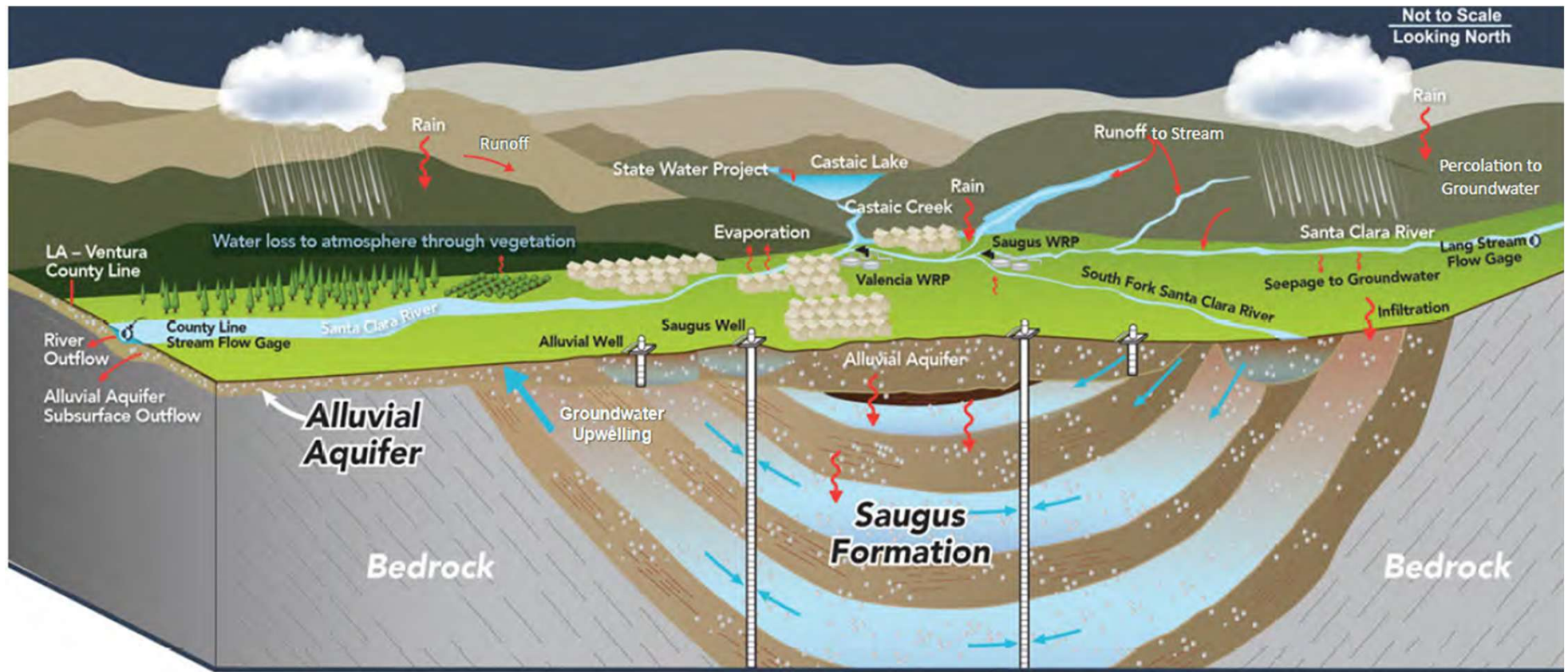


ELAP = Environmental Lab Accreditation Program
EPA = Environmental Protection Agency
DDW = Division of Drinking Water
LHA = Lifetime Health Advisory
MCL = Maximum Contaminant Level
NL = Notification Level
RL = Response Level

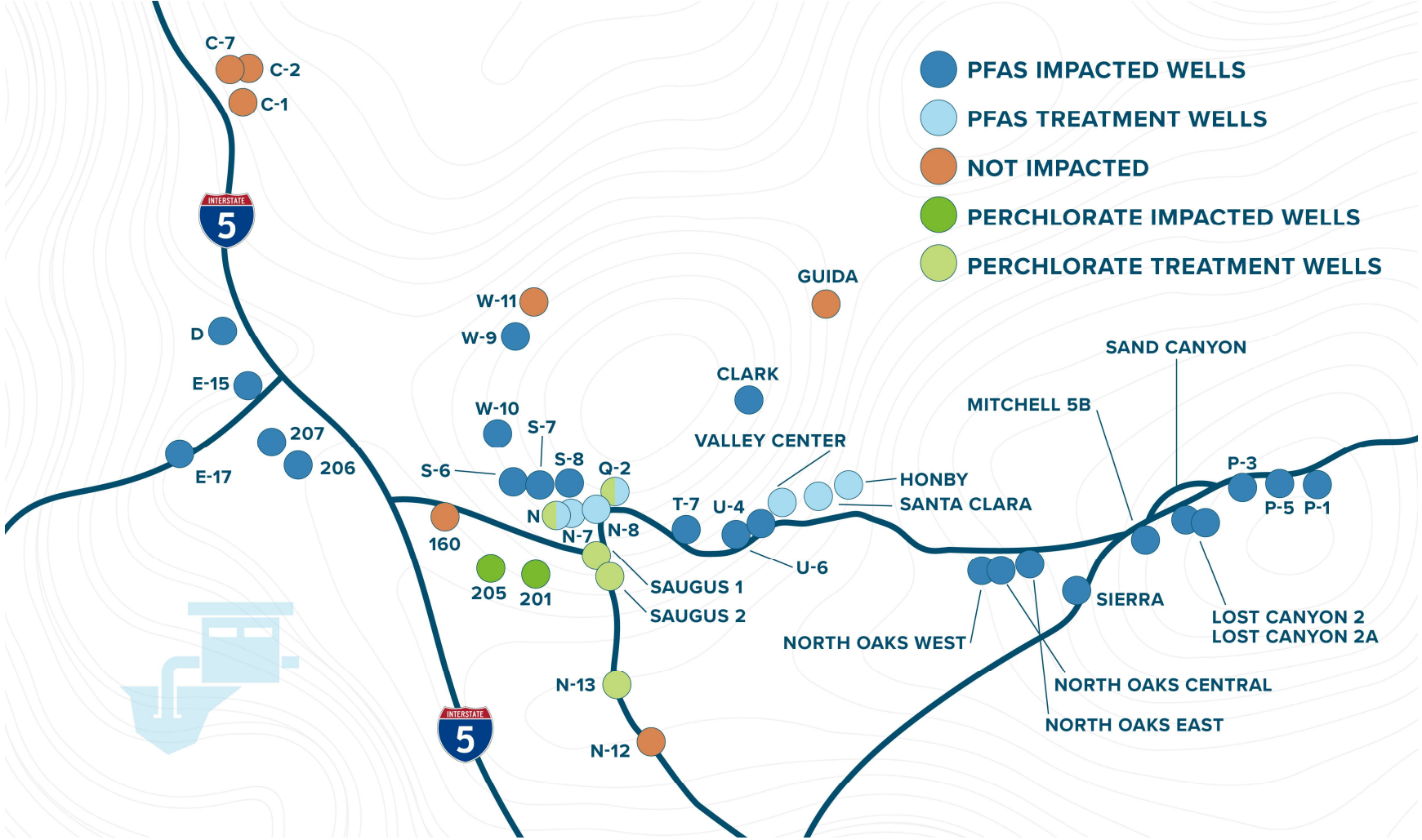
DWR BULLETIN 118 BOUNDARY



GROUNDWATER BASIN - *CONCEPTUAL*

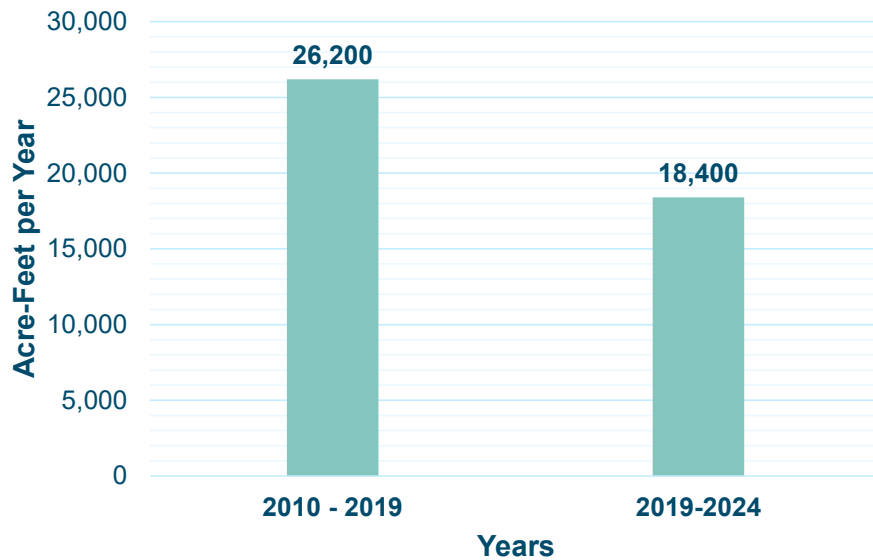


SCV WATER PFAS & PERCHLORATE AFFECTED WELLS

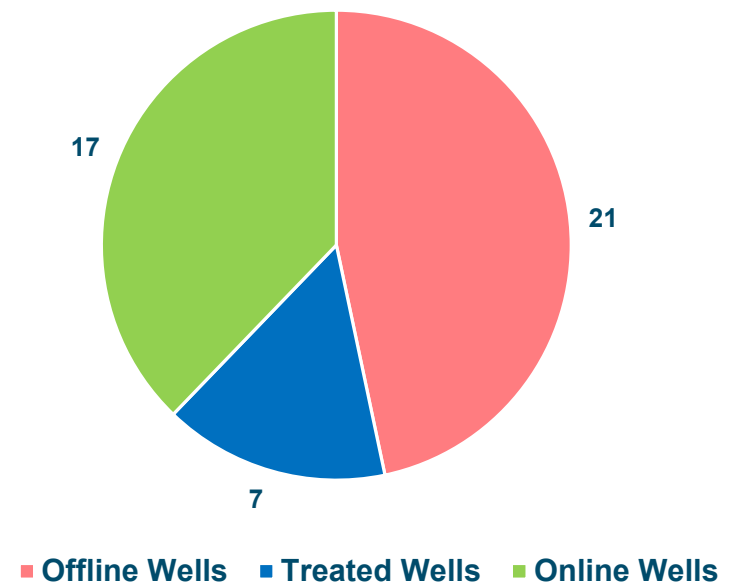


CURRENT PFAS IMPACT ON GROUNDWATER

Annual Pumping Averages



Potable Supply Wells



** 6 treatment plants in planning, design or construction*

N-WELLS PFAS TREATMENT FACILITY

- Completed in October 2020
- Fast track project during drought and COVID
- 6,250 GPM
- Three nearby wells
- Used existing well site in ball field parking lot
- Pre-filters, ion exchange, chemical building and connecting pipelines
- Used different IX media to compare performance in each treatment train



VALLEY CENTER WELL PFAS TREATMENT FACILITY

- Completed in November 2022
- 1,200 GPM
- Used existing well site
- Pre-filters, ion exchange, chemical building and connecting pipelines
- Host site for various bench scale ion exchange media testing projects



SANTA CLARA AND HONBY WELLS PFAS TREATMENT FACILITY

- Completed in November 2024
- Existing well and pump station site
- 2,000 GPM
- Pre-filters, ion exchange media, chemical building
- Connecting Pipelines
- \$3 million grant share



T AND U WELLS PFAS TREATMENT FACILITY

- Under construction, completion in early 2026
- Complex site at Rio Vista Intake Pump Station with several existing treatment systems and imported water pumping plant
- VOC treatment added to Saugus Perchlorate Treatment Facility at same site
- PFAS treatment - 3,450 GPM from 3 wells
- Pre-filters, ion exchange media, chemical building, connecting pipelines



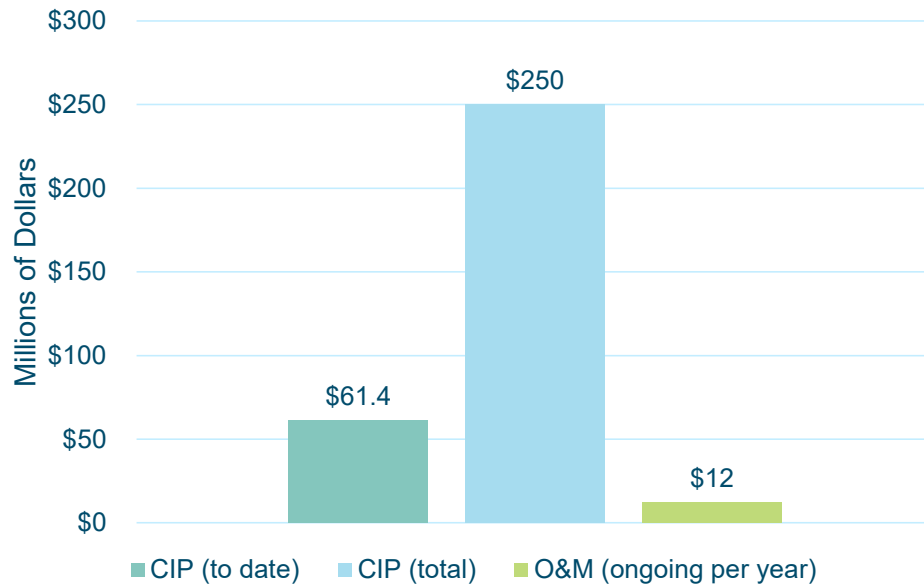
S WELLS PFAS TREATMENT FACILITY

- Recently awarded construction contract, completion in Spring 2027
- Site in residential, park and school area with multi-purpose bike/walking trail adjacent
- PFAS treatment – 4,000 GPM from 3 wells
- Pre-filters, ion exchange media, chemical building, connecting pipelines
- Significant community outreach during planning and design



FINANCIAL IMPACTS OF PFAS ON GROUNDWATER (AT BUILD OUT)

PFAS EXPENSES



PFAS FUNDING



Litigation

THE PFAS Strophe FROM GENERAL COUNSEL'S PERSPECTIVE (A YLWD CASE STUDY)

KIDMAN GAGEN LAW_{LLP}
Water | Environment | Government

December 3, 2025

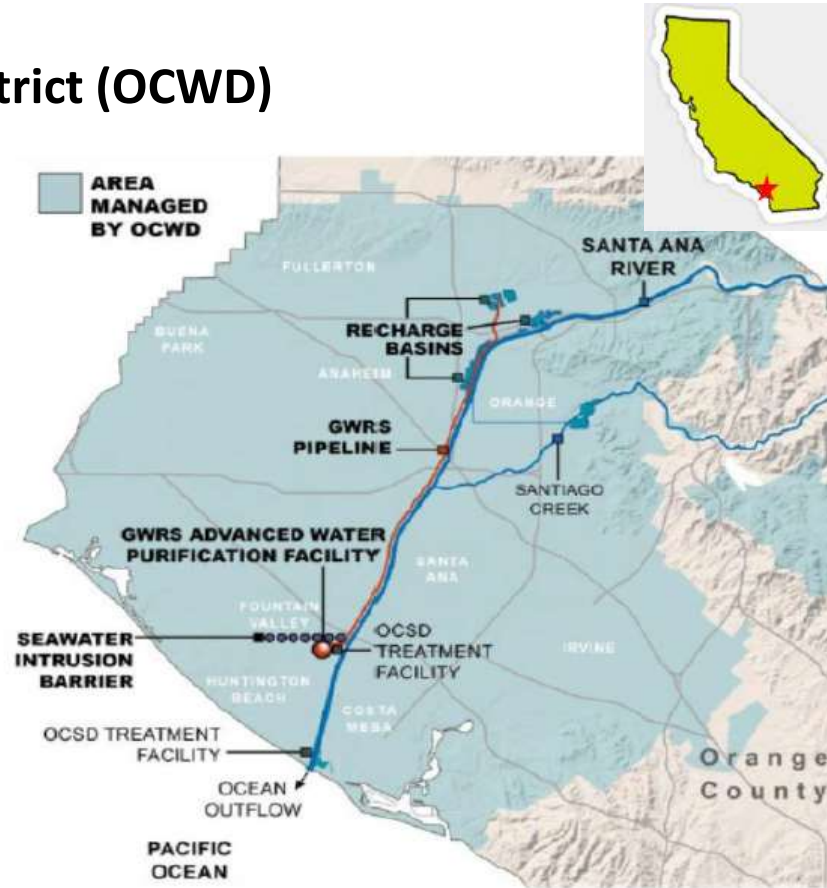
YLW Yorba Linda
Water District



Orange County (OC) Groundwater Basin

Orange County Water District (OCWD)

- Protects, manages, and replenishes the OC Groundwater Basin
- Provides ~80% of water in north & central OC for **19 water producers** and 2.5 million people



Yorba Linda Water District

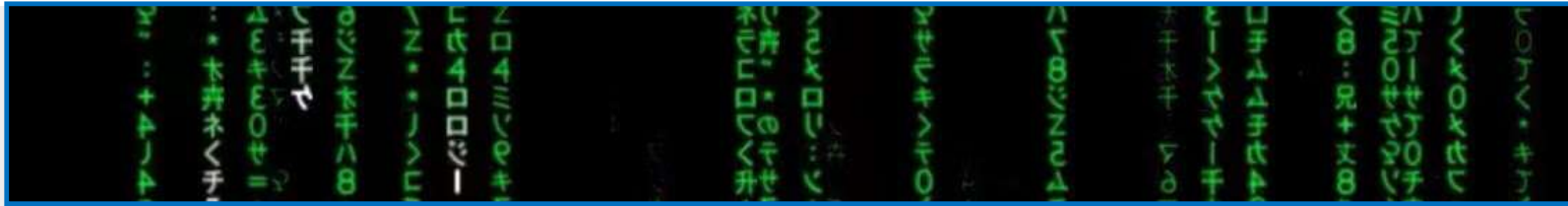
- Established in 1909
- 25,000+ service accounts
- 9 active groundwater wells
- 25 MGD PFAS Water Treatment Plant





“Start a file”

- 1) It was 2018 and California knew little about PFAS regulation and litigation.
- 2) In July 2018, DDW established a “Response Level” and “Notification Level” for PFOA and PFOS
- 3) In November 2019, the movie Dark Waters with Mark Ruffalo was released.
 - OCWD prepared Talking Points for OC Basin Producers re Dark Waters



Into the Matrix

Issue Spotting and Research:

- 1) What is PFAS?
- 2) What legal theories support a claim to recover PFAS treatment costs?
- 3) What lawsuits exist?
- 4) Any Settlements?
- 5) What law firms specialize in PFAS litigation representing municipalities?
- 6) Phone a friend(s)



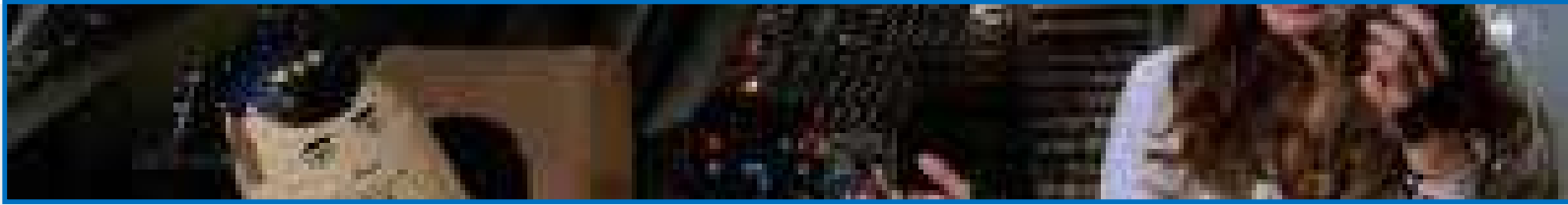
Negotiating from 6 Feet Away

Selecting Legal Representation:

- YLWD and Anaheim interviewed one set of **contingency** law firms and OCWD interviewed a different set of law firms.

Two Agreements:

- 1) PFAS Treatment Facilities and Program Agreement between OCWD and the OC Basin Producers (**release and indemnity**)
- 2) Legal Services Agreement between the Firms and OCWD/Producers (**contingency fee**)



General Counsel on Auto Pilot?

NO.

- 1) YLWD (and Anaheim) negotiated positions on the Executive Committee with OCWD to direct Litigation Team
- 2) Monitor the litigation and report to governing Board
- 3) Facilitate agreements for infrastructure to support the PFAS Treatment Facility, which is the largest IX Treatment Plant in U.S.



Lessons Learned

1. YLWD initially tried to contract to construct its PFAS Treatment Facility
 - YLWD hurried the procurement process because all 9 wells shutdown and incurring significant import costs.
 - Bid Protest.
 - Lost enough time that made sense to partner with OCWD to procure and construct the Facility



Lessons Learned Continued. . . .

2. Communicate ASAP with Basin Authority

Whether it's a GSA, Watermaster, or a creature of statute (OCWD).

- YLWD/Anaheim almost hired legal representation separate from OCWD but now jointly represented.
- Producers and OCWD on opposite sides of the table re PFAS Program Agreement but came together.

** Stronger together: coordinated resin pilot testing and cost shared for treatment costs (CapEx and O&M).*



Lessons Learned Cont. . . .

3. Limited Cost Recovery

- Litigation will recover pennies on the dollar for PFAS treatment costs
- So, must financially plan for significant Capital Expenditure and annual Operations and Maintenance costs
- Increased rates, grants, low-interest loan funding (WIFIA loan), etc.



BEYOND WATER

What other risks and opportunities do water agencies face from PFAS?



- ▶ Wastewater systems are not responsible for producing PFAS – they are passive recipients from other sources.
- ▶ Traditional water and wastewater treatment methods do not consistently remove or decompose PFAS.
- ▶ Because of this, wastewater systems may inadvertently release PFAS back into the environment through effluent and/or biosolids.



2024

- ▶ PFOA and PFOS listed as hazardous substances under CERCLA.
- ▶ EPA released draft risk assessment for PFOA and PFOS in biosolids: 1 ppb (far below typical concentration of PFAS in biosolids)

2025

- ▶ EPA confirmed intention to retain CERCLA designation.
- ▶ Congress still considering "passive receiver" exemption

PFAS CERCLA DESIGNATION: IMPLICATIONS

- ▶ CERCLA hazardous material designation for PFOA and PFOS creates liability for cleanup costs for anyone who generated, handled, or disposed of hazardous substances – including effluent or sludge
- ▶ Wastewater systems face liability if PFAS from their sludge or effluent contaminates another's property/resources – even if the systems were unaware of the risks



OTHER LITIGATION/REGULATORY RISKS OF PFAS IN WASTEWATER

- ▶ Personal injury claims by customers (these are barred under CA law, but some have been filed in other states)
- ▶ Permit requirements limiting PFAS concentrations in effluent
- ▶ Bans on land application or importation of sludge



LEGISLATION TYPE	AFFECTED STATES
Prohibits direct land application of sewage sludge, biosolids, and/or biosolid-derived compost.	Maine – Passed Connecticut – Passed Massachusetts – Proposed Vermont – Proposed Hawaii – Proposed Oklahoma – Proposed
Limits concentration of PFOA/PFOS allowed in biosolids for recycling/land application.	Michigan – Passed Illinois – Passed Rhode Island – Passed New York – Proposed Minnesota – Proposed Maryland – Proposed Texas – Proposed
Prohibits sale of biosolids containing any detectable amount of PFAS.	Connecticut – Passed Massachusetts – Proposed Vermont – Proposed

LEGISLATION TYPE	AFFECTED STATES
State can order cleanup of PFAS-contaminated sites or seek compensation from responsible parties for that cleanup.	Maine – Passed
Requires WWTPs to test biosolids for PFAS contaminants before distribution or land application.	Maryland – Passed Rhode Island – Passed Washington – Passed
Enables wastewater treatment plants to require providers of discharge to test for PFAS.	New Hampshire - Passed
Requires biosolids to be tested for PFAS and State Dept. to set maximum levels for PFAS substances in fertilizer sold. Disclosure of PFAS content in fertilizer would be required.	Massachusetts - Proposed
State requires certain dischargers to test for PFAS before discharging wastewater or biosolids in the environment.	Virginia – Passed Maryland – Passed Minnesota – Proposed Massachusetts - Proposed



Lessons Learned Cont. . . .

3. **Limited Cost Recovery**

- Litigation will recover pennies on the dollar for PFAS treatment costs
- So, must financially plan for significant Capital Expenditure and annual Operations and Maintenance costs
- Increased rates, grants, low-interest loan funding (WIFIA loan), etc.

Questions?