

November 22, 2016

California Declaration That Watersheds Are Integral Components of State's Water Infrastructure Unlocks New Funding Sources for Forest Restoration

The role of California's forests in protecting and enhancing the state's water supply for both drinking water and irrigated agriculture is in the spotlight, and with good reason—more than 60 percent of California's **developed water supply** originates in the Sierra Nevada, before serving users throughout the state.

Recognizing the critical role forests, meadows and streams play in a time of climate change on both water quality and supply, this fall Gov. Brown signed **Assembly Bill 2480** (Bloom, D-Santa Monica) into law, adding section 108.5 to the Water Code. AB 2480 adds to the **growing trend** across the United States and abroad of investing in “natural infrastructure” and enshrines in state policy the importance of forest management and watershed restoration by officially recognizing that watersheds supplying local, state and federal water systems are “integral components of California water infrastructure.” (Cal. Water Code § 108.5(a).)

The new law also increases access to state financing for watershed projects and certain federal financing programs. Water Code section 108.5(b)(2) makes specified forest and watershed restoration projects eligible for “the same forms of financing as other water collection and treatment infrastructure.” The law's drafter explains its goal is to not only recognize the fundamental role of watersheds, but also to “set the foundation for a **comprehensive plan** of restoration and conservation, with the potential of future financing such as revenue bonds and **other financing mechanisms**, similar to those available for the built infrastructure.”

As an example of a potential funding source for restoration projects, the **legislative history** calls out the federal **Water Infrastructure Finance and Innovation Act** (WIFIA), a pilot program to promote private-sector investment in water infrastructure by offering government-sponsored financing at below-market cost of capital.

Water Code section 108.5(c) limits eligible restoration projects to vegetation management activities (e.g., thinning), meadow restoration, road removal and repair, stream restoration, conservation easements on private land, and other projects with a “demonstrated likelihood” of increasing snow retention and release. According to the law's **legislative history**, these types of projects to enhance watershed conditions can increase water quality by reducing sediment and lowering stream temperatures, and can increase water quantity by up to 20 percent under certain circumstances.

This document is intended to provide you with general information regarding California Assembly Bill 2480. The contents of this document are not intended to provide specific legal advice. If you have any

questions about the contents of this document or if you need legal advice as to an issue, please contact the attorneys listed or your regular Brownstein Hyatt Farber Schreck, LLP attorney. This communication may be considered advertising in some jurisdictions.

Ryan Waterman

Shareholder

rwaterman@bhfs.com

619.702.7569

Elisabeth L. Esposito

Associate

eesposito@bhfs.com

805.882.1446