January 23, 2014

PROP 6 AND HB 4: FINANCING, PRIORITIZING, AND CONSERVING TEXAS WATER IN THE 83rd TEXAS LEGISLATURE

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GULF COAST WATER CONSERVATION SYMPOSIUM

BIG SESSION FOR CONSERVATION IN TEXAS
83rd Legislative Session

6 Other Pieces of Conservation Legislation:

HB 857

HB 1461

HB 3604

HB 3605

SB 198

SB 1

annual water audits

consumer notice of water loss

water conservation plans

water loss and financial assistance

$ education

drought resistance landscaping

$ instream flow studies

HOUSE BILL 857

Rep. Lucio III and Sen. Ellis

HOUSE BILL 1461

Rep. Aycock and Sen. Fraser

HOUSE BILLS 3604 & 3605

Rep. Burnam and Sen. Hegar

- Requires implementation of **both DCP and WCP**
- Strengthens requirements for entities receiving financial assistance* from the TWDB:
  - water loss mitigation
  - BMPs
  - industry standards and certifications

***mitigation must be in SWP if entity is using SWIFT**

SENATE BILL 198
Sen. Watson and Rep. Dukes

- Ensures that HOAs cannot prohibit use of drought-resistant landscape or water-conserving natural turf.
- Allows HOAs to require the homeowner to submit a plan for such use.

SENATE BILL 1
Sen. Williams and Rep. Pitts

- Water Conservation Education & Other
  - $1,000,000 education grants *(Avg FY approp is $4.68M)*
  - $2,000,000 for matching grants on ag irrigation metering.
- Environment and Instream Flow Studies
  - $2,000,000

How has financing and prioritization been addressed for the 2012 SWP?

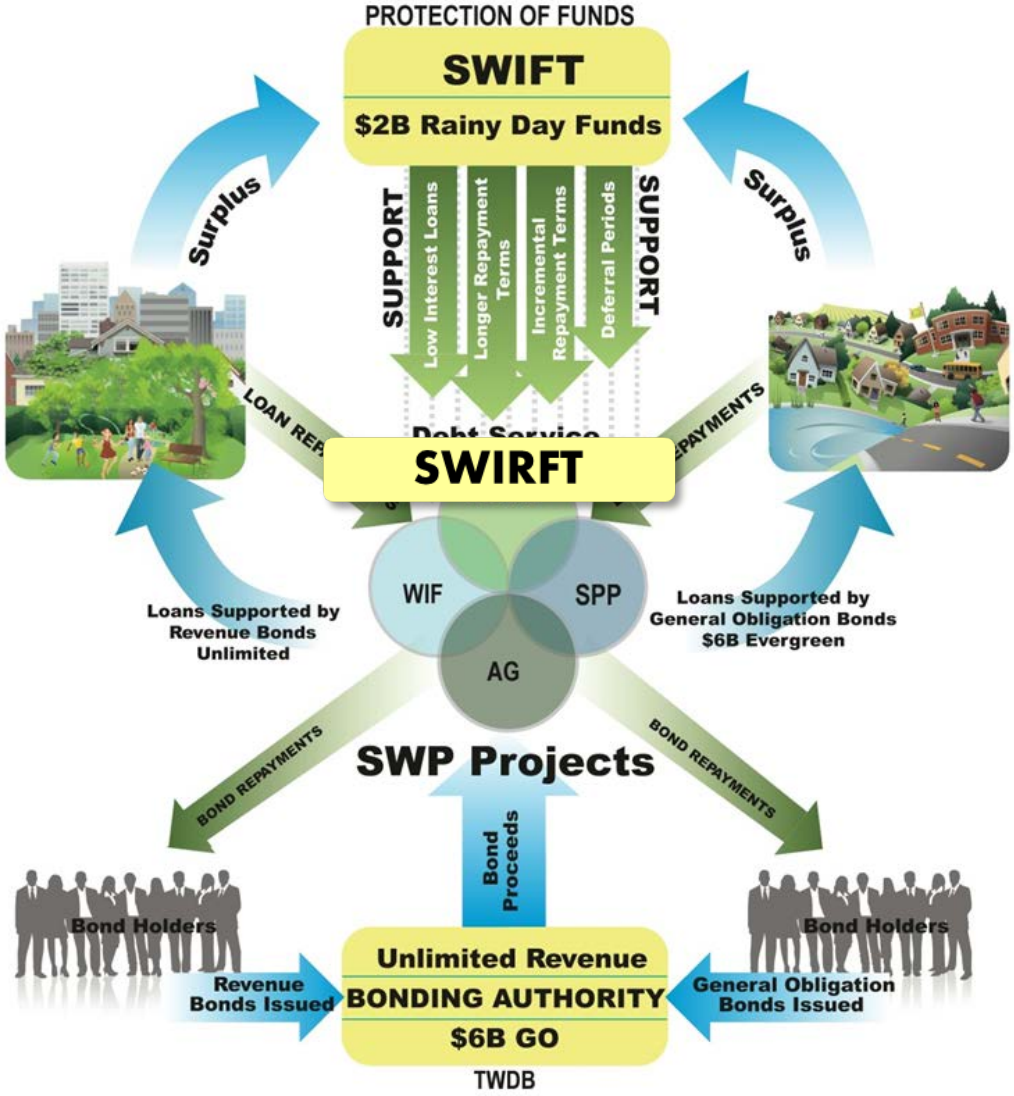
"Trio of Bills"

- **Senate Joint Resolution 1 (Prop 6)**
  - Constitutionally creates the **SWIFT** and **SWIRFT**
    Voter approval in November 5th, 2013 general election by 73%.
- **House Bill 1025**
  - Authorizes a one-time $2B transfer from the Rainy Day Fund to the SWIFT.
- **House Bill 4**
  - Provides for the structure, administration, and oversight of the funds.

HOUSE BILL 4
Rep. Ritter and Sen. Fraser

- **Maximized Financial Structure**
  - $2B cash active management in **SWIFT**
  - Revenue bonding authority in **SWIRFT** + existing General Obligation bonding Authority
- **Administration – BIG ON CONSERVATION**
  - **Embraces conservation and reuse projects** as part of overall strategy to meet future needs and recognizes the need to ensure rural areas are supported; and
  - Requires the **regional and statewide prioritization** of projects in the financing of the state water plan.

LEVERAGED MODEL WITH EXISTING TWDB PROGRAMS



CONSERVATION

- Use of the Fund
- Eligibility
- Prioritization of Projects by TWDB

Independence Creek
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"TARGETED GOAL"

During the life of any 5-year SWP, the board shall undertake to apply:

- 10% agricultural water conservation
- 20% water conservation or reuse

FINANCIAL ASSISTANCE

Applicant must:

- submit and implement a water conservation plan
- complete a water infrastructure financing survey.

**All projects must be included in the state water plan*

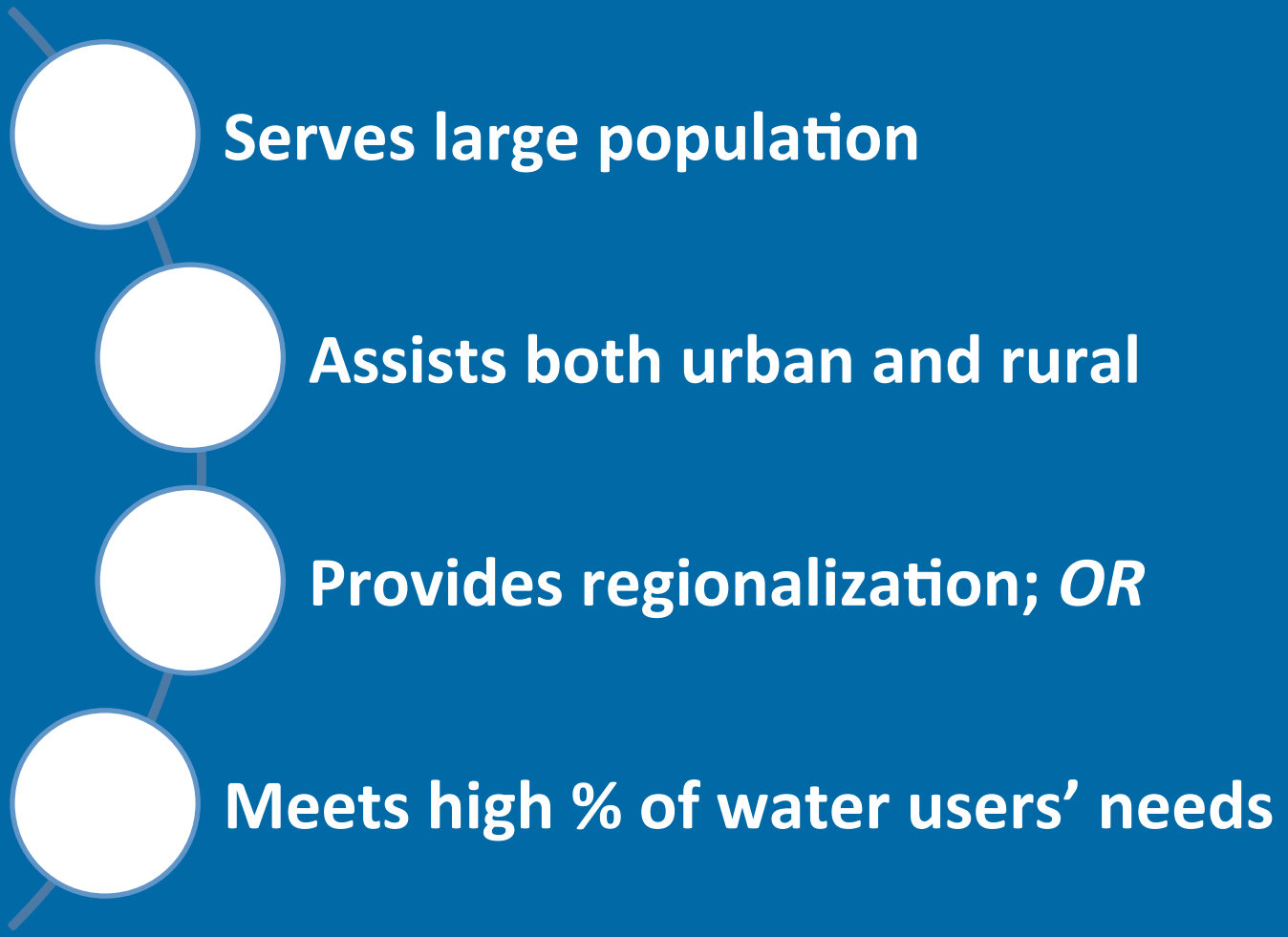
PRIORITIZATION
Two-Tiers: Regional and Statewide

- Regions must prioritize projects within each respective region using a uniform template developed by stakeholders committee
  - 5 minimal criteria
- TWDB must develop a point system for the prioritization of projects at the time of its request for financial assistance, including:
  - 10 minimal criteria

REGIONAL PRIORITIZATION

MINIMUM CRITERIA TO BE USED BY STAKEHOLDERS

STATE PRIORITIZATION



HIGHEST CONSIDERATION TO BE CONSIDERED BY TWDB

PRIORITIZATION OF THE PROJECTS

OTHER CRITERIA TO BE CONSIDERED BY TWDB

- Local financial contribution
- Financial capacity of applicant to repay
- Ability to leverage with local and federal funding
- Emergency need
- Readiness to proceed
- Projected effect on water conservation
- Priority given by region

How will it all work together?

16 regional water planning groups

9 million acre-feet of water supplied by 2012 SWP recommended strategies

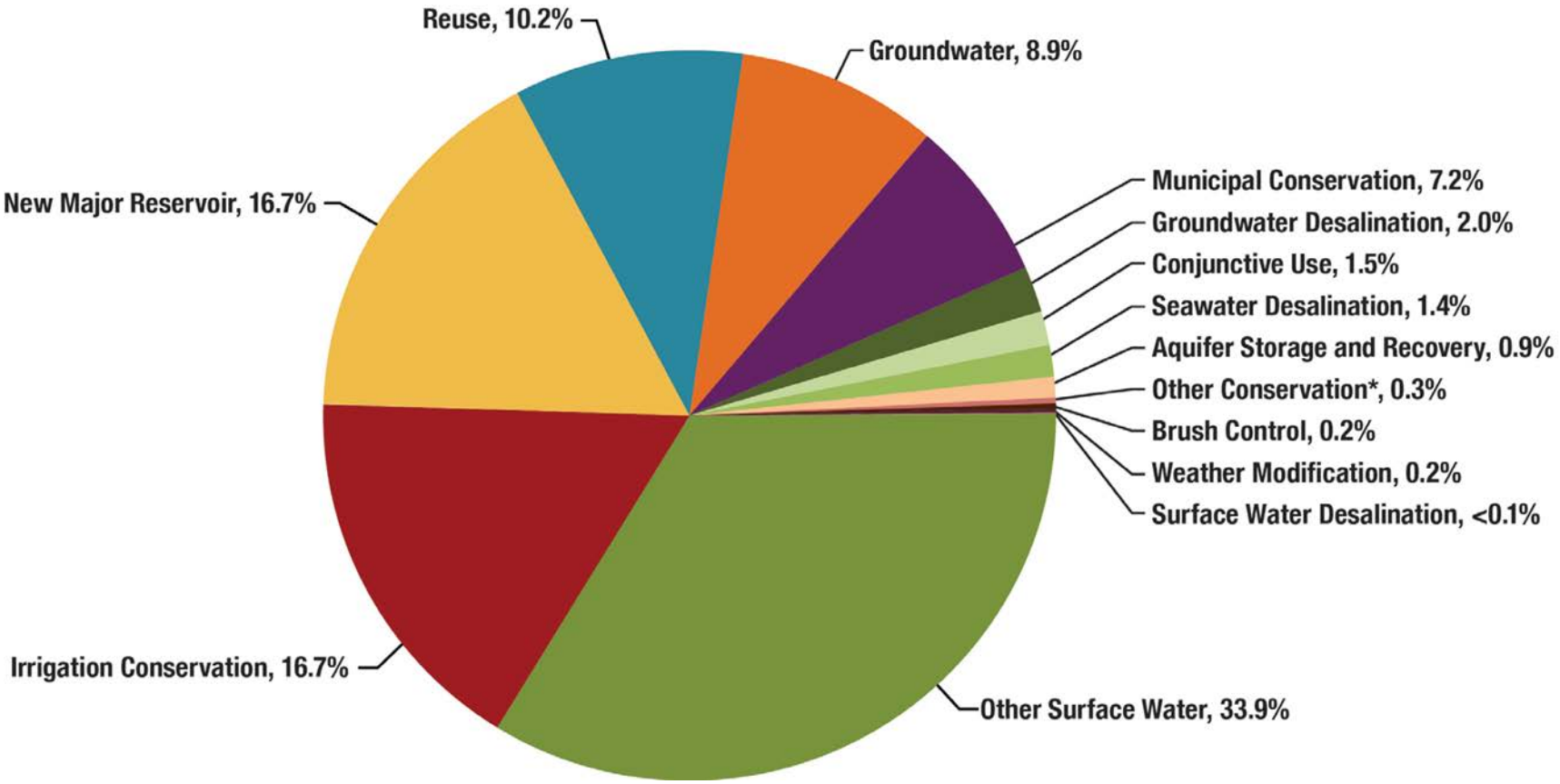
8.3 million acre-feet of water short in repeat drought of record by 2060

562 recommended strategies produced by regional planning groups

46 million people in Texas by 2060

$53.1 billion in capital costs are needed to implement the plan

CONSERVATION BY THE NUMBERS



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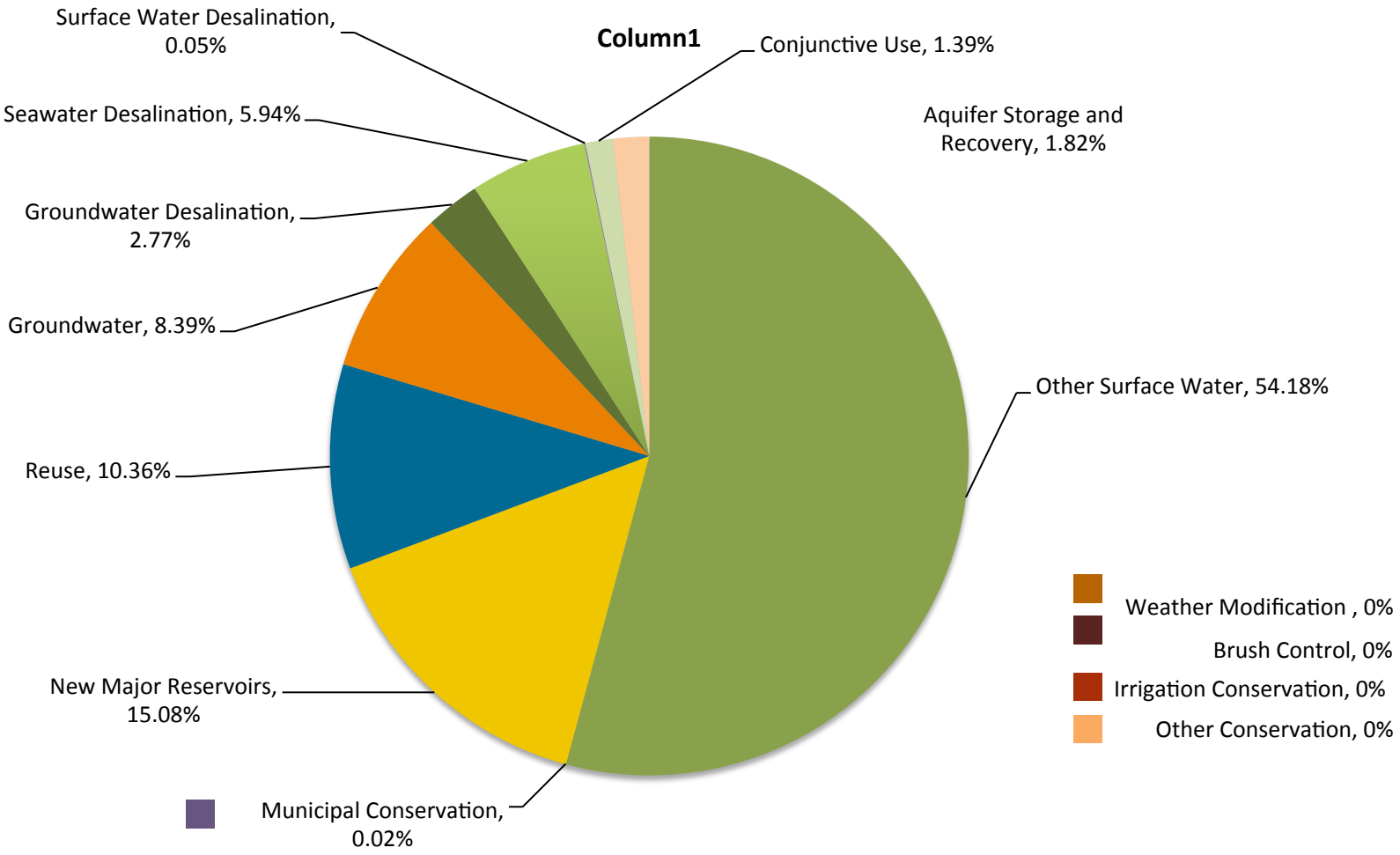
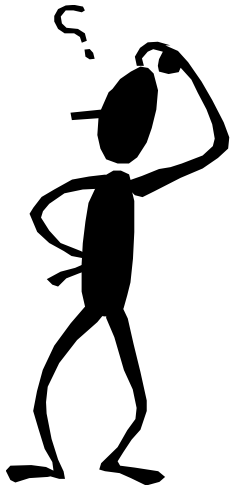


2012 SWP CAPITAL COSTS - %

IRRIGATION AND MUNICIPAL CONSERVATION

- Out of the total capital cost of the plan, $53B:
  - Irrigation $902M or 1.7%
  - Municipal $24M or 0.05%



CONSERVATION SOLUTIONS

- Reducing Water Loss Systems
- Educational Programs
- Customer-side Municipal Water Conservation Programs
  - Such As Retrofitting Toilets and Other Water-Using Devices With Low Flow
- "PACE-like" Programs

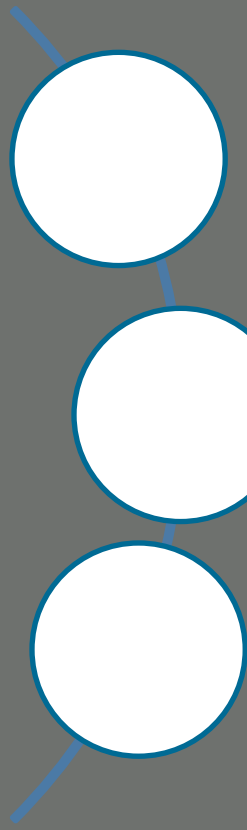
PROCEED WITH CAUTION

- Article III, Sec. 52(a) is known as "the gift clause."
  - "shall have no power"…"to lend its credit or to grant public money or thing of value in aid of, or to any individual, association, or corporation…"
  - Prohibits the use of public funds for private benefit

DEFINE PUBLIC PURPOSE

- Texas caselaw supports 4-part test in defining "public purpose:"
  1. Does the expenditure serve a public purpose?
  2. Are there sufficient controls on the expenditure to ensure that the public purpose will be carried out;
  3. Is the public protected in the use of the public funds to accomplish the intended result; and
  4. Has adequate consideration passed to the political subdivision making the expenditure?

What is the past, present, and future for SWIFT?



Agency

Rulemaking

Other Timelines

PAST: TWDB AND THE SWIFT

- Governance changes: 3 full-time TWDB Members
- Agency restructure into 6 planning divisions
- Ag and Rural Ombudsman has been appointed, Doug Shaw
- Public rulemaking process is underway

PRESENT: SWIFT PROCESS

- **Regional stakeholders adopt uniform standards** *(Dec 2013)*
- **TWDB public work sessions**
  - Conroe
  - Lubbock
  - Harlingen
- **Draft regional prioritization** *(June 2014)*
- **Draft SWIFT rule** *(approx. June 2014)*
- **Final regional prioritization** *(September 2014)*
- **Final SWIFT rule** *(approx. December 2014 ,but no later than March 2015)*

FUTURE: SWIFT AND SWP

- Regional plans due December 2015

  *Along with new prioritization

- State Water Plan published January 2017

QUESTIONS?

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