

January 25, 2021

***VIA E-MAIL***

Office of Chief Counsel  
Division of Corporation Finance  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549

Re: *California Water Service Group*  
*Stockholder Proposal of Utility Workers Union of America*  
*Securities Exchange Act of 1934—Rule 14a-8*

Ladies and Gentlemen:

This letter is to inform you that our client, California Water Service Group (the “Company”), intends to omit from its proxy statement and form of proxy for its 2021 Annual Meeting of Stockholders (collectively, the “2021 Proxy Materials”) a stockholder proposal (the “Proposal”) and statements in support thereof (the “Supporting Statement”) received from Utility Workers Union of America (the “Proponent”).

Pursuant to Rule 14a-8(j), we have:

- filed this letter with the Securities and Exchange Commission (the “Commission”) no later than eighty (80) calendar days before the Company intends to file its definitive 2021 Proxy Materials with the Commission; and
- concurrently sent a copy of this correspondence to the Proponent.

Rule 14a-8(k) and Staff Legal Bulletin No. 14D (Nov. 7, 2008) (“SLB 14D”) provide that stockholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or the staff of the Division of Corporation Finance (the “Staff”). Accordingly, we are taking this opportunity to inform the Proponent that if it elects to submit additional correspondence to the Commission or the Staff with respect to this Proposal, a copy of that correspondence should be furnished concurrently to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

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## THE PROPOSAL

The Proposal states:

**RESOLVED:** The shareholders of California Water Service Group (the “Company”) urge the Board of Directors and its Organization and Compensation Committee to adopt a policy that, effective as of the annual meeting to be held in 2022, all performance-based equity compensation plans maintained by the Company shall be submitted for approval by the shareholders at least once every five years. This policy would apply to the Company’s Amended and Restated Equity Incentive Plan (the “Equity Incentive Plan” or “EIP”) and any other plan that offers performance-based equity compensation to senior executive officers.

For purposes of this proposal, “performance-based equity compensation” refers to restricted stock awards, restricted stock unit awards, incentive stock options, stock appreciation rights, restricted stock purchase awards, and similar forms of equity compensation based on performance. “Senior executive officers” refers to the Company’s Chief Executive Officer, Chief Financial Officer, and the three other highest-paid executives of the Company. This policy should be implemented so as not to violate any existing contractual obligations or the terms of any compensation or benefit plan currently in effect.

A copy of the Proposal, as well as related correspondence with the Proponent, is attached to this letter as Exhibit A.

## BASIS FOR EXCLUSION

We hereby respectfully request that the Staff concur in our view that the Proposal properly may be excluded from the 2021 Proxy Materials pursuant to Rule 14a-8(i)(10) because the Company’s existing practices—(1) holding advisory stockholder votes to approve the compensation of the Company’s named executive officers (the “Say-on-Pay Vote”) on an annual basis, as endorsed by the Company’s stockholders at the Company’s 2011 Annual Meeting of Stockholders (the “2011 Annual Meeting”) and 2017 Annual Meeting of Stockholders (the “2017 Annual Meeting”), (2) engaging with stockholders following the Say-on-Pay Vote to better understand their views on performance-based equity compensation and other matters, and (3) complying with applicable New York Stock Exchange (the “NYSE”) rules requiring stockholder approval of equity compensation plans and material modifications thereto—taken together substantially implement the Proposal.

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## ANALYSIS

### **The Proposal May Be Excluded Under Rule 14a-8(i)(10) As Substantially Implemented.**

#### *A. Background.*

Rule 14a-8(i)(10) permits the exclusion of a stockholder proposal “[i]f the company has already substantially implemented the proposal.” The Commission stated in 1976 that the predecessor to Rule 14a-8(i)(10) was “designed to avoid the possibility of shareholders having to consider matters which already have been favorably acted upon by the management.” *See* Exchange Act Release No. 12598 (July 7, 1976). Originally, the Staff narrowly interpreted this predecessor rule and granted no-action relief only when stockholder proposals were “‘fully’ effected” by the company. *See* Exchange Act Release No. 19135 (Oct. 14, 1982). By 1983, the Commission recognized that the “previous formalistic application of [the Rule] defeated its purpose” because proponents were successfully convincing the Staff to deny no-action relief by submitting stockholder proposals that differed from existing company policy by only a few words. Exchange Act Release No. 20091, § II.E.6. (Aug. 16, 1983) (the “1983 Release”). Therefore, in 1983, the Commission adopted a revised interpretation to the rule to permit the omission of stockholder proposals that had been “substantially implemented.” 1983 Release.

Under this standard, when a company can demonstrate that it already has taken actions to address the underlying concerns and essential objectives of a stockholder proposal, the Staff has concurred that the stockholder proposal has been “substantially implemented” and may be excluded as moot. The Staff has noted that “a determination that the company has substantially implemented the proposal depends upon whether [the company’s] particular policies, practices and procedures compare favorably with the guidelines of the proposal.” *Texaco, Inc. (Recon.)* (avail. Mar. 28, 1991).

In applying this standard, a company need not implement a stockholder proposal in the manner that a stockholder may prefer. *See* Exchange Act Release No. 40018 (May 21, 1998) at n.30 and accompanying text. Differences between a company’s actions and a stockholder proposal are permitted as long as the company’s actions satisfactorily address the stockholder proposal’s essential objectives. For example, the Staff has concurred that companies, when substantially implementing a stockholder proposal that touches upon executive compensation matters, can address aspects of implementation that may differ from the manner in which the stockholder proponent would implement the proposal. For example, in *Rite Aid Corp.* (avail. Apr. 14, 2020), the Staff concurred that the company had substantially implemented a stockholder proposal requesting amendments to the company’s clawback policy, even though the company had not addressed one aspect of the proposal

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(relating to the location and timing of public disclosure regarding application of the policy) in the manner specifically requested in the proposal. Similarly, in *Visa Inc.* (avail. Oct. 11, 2019), the Staff concurred that the company had substantially implemented a proposal recommending that the compensation committee reform the company's executive compensation philosophy to include social factors to enhance the company's social responsibility, even though the factors considered by the company did not include the one specifically recommended in the proposal. Likewise, in *Nike, Inc. (Recon.)* (avail. July 16, 2019), the Staff ultimately concurred that the company had substantially implemented a proposal seeking a director skills matrix that discloses "[e]ach nominee's skills, ideological perspectives, and experience presented in a chart or matrix form" where the company committed to providing such a matrix in its proxy materials, even though the company stated it would not be disclosing the "ideological perspectives" of the nominees. See also *Wal-Mart Stores, Inc.* (avail. Mar. 25, 2015) (concurring with the exclusion of a proposal that requested the company include at least one metric related to the company's employee engagement in determining senior executives' incentive compensation, where the company already included a diversity and inclusion metric in its compensation determinations). Therefore, if a company has satisfactorily addressed a proposal's "essential objective," the proposal will be deemed "substantially implemented" and may be excluded as moot. See, e.g., *Exelon Corp.* (avail. Feb. 26, 2010); *Anheuser-Busch Companies, Inc.* (avail. Jan. 17, 2007); *ConAgra Foods, Inc.* (avail. July 3, 2006); *Johnson & Johnson* (avail. Feb. 17, 2006); *The Talbots Inc.* (avail. Apr. 5, 2002); *Masco Corp.* (avail. Mar. 29, 1999); and *The Gap, Inc.* (avail. Mar. 8, 1996).

*B. The Company's Existing Practices Substantially Implement The Proposal.*

The Proposal requests a stockholder vote every five years on Company plans that provide for "performance-based equity compensation," which the Proposal defines as "restricted stock awards, restricted stock unit awards, incentive stock options, stock appreciation rights, restricted stock purchase awards, and similar forms of equity compensation based on performance." As the Supporting Statement explains, "[b]y submitting any such plans that provide awards to senior executives to a vote of the [stock]holders, the Board of Directors and its Compensation Committee could gauge the extent to which [stock]holders approve of these plans." However, as discussed below, the Company already (1) has a policy of providing for annual Say-on-Pay Votes, which cover the Company's practices with respect to performance-based equity compensation, (2) engages with stockholders following the Say-on-Pay Vote to better understand their views on performance-based equity compensation and other matters, and (3) is subject to NYSE requirements to submit equity compensation plans (and material amendments of such plans) to a stockholder vote.

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The Board has adopted a policy of holding annual Say-on-Pay Votes. At the 2011 Annual Meeting and again at the 2017 Annual Meeting, the Board asked the Company's stockholders to cast a vote on how often the Company should seek an advisory vote to approve the compensation of its named executive officers.<sup>1</sup> In each case, the Board recommended, and the Company's stockholders endorsed, that the Say-on-Pay Vote be held on an annual basis, and the Board adopted a policy of holding annual Say-on-Pay Votes.<sup>2</sup> Since its 2011 Annual Meeting of Stockholders, when it was first required to hold a Say-on-Pay Vote, the Company has held a Say-on-Pay Vote every year.

The Say-on-Pay Vote covers the Company's practices with respect to performance-based equity compensation. The Company discusses its executive compensation program, philosophy, and decisions, including with respect to performance-based equity compensation, in detail in each of its annual proxy statements. For example, starting on page 57 of its 2020 Proxy Statement, under the heading "2019 Long-term Performance and Time-based Equity Compensation," the Company discusses:

- the purpose of its long-term equity incentive compensation,
- considerations for granting such compensation,
- grant levels for all of the Company's officers,
- types of equity awards used,
- specific performance goals and targets established for performance-based awards,
- the rationale for selecting such goals,
- the methodology for calculating such goals,
- an analysis of the level of achievement with respect to previously granted performance awards, and
- changes in its performance-based equity compensation program for the following year.

In addition, on page 64 of its 2020 Proxy Statement, the Company provides additional details regarding the specific awards granted to its named executive officers (which, based on the Proposal's definition of "senior executive," is the group of officers that the Proposal is

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<sup>1</sup> See The Company's 2011 Proxy Statement at 33, *available at* <https://www.sec.gov/Archives/edgar/data/1035201/000095012311036038/f58214dedef14a.htm#F5821411Q>; The Company's 2017 Proxy Statement at 53, *available at* [https://www.sec.gov/Archives/edgar/data/1035201/000104746917002555/a2231520zdef14a.htm#dm42201\\_proposal\\_no.3\\_#150;\\_advisory\\_pro04277](https://www.sec.gov/Archives/edgar/data/1035201/000104746917002555/a2231520zdef14a.htm#dm42201_proposal_no.3_#150;_advisory_pro04277).

<sup>2</sup> See, e.g., The Company's 2020 Proxy Statement at 70, *available at* <https://www.sec.gov/Archives/edgar/data/1035201/000104746920002330/a2241225zdef14a.htm>.

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focused on). Each of these points related to “performance-based equity compensation” were subject to stockholder approval and considered by the Company’s stockholders in connection with the Say-on-Pay Vote at the Company’s 2020 Annual Meeting of Stockholders (the “2020 Annual Meeting”). Specifically, the Board asked the Company’s stockholders to vote on the following resolution (which stockholders approved with over 90% of votes cast in favor):

RESOLVED, that the stockholders of California Water Service Group approve, on an advisory basis, the compensation paid to California Water Service Group’s named executive officers, *as disclosed in this Proxy Statement pursuant to the [Commission]’s compensation disclosure rules, including the Compensation Discussion and Analysis, the compensation tables and related narrative discussion.* (Emphasis added).

Although Say-on-Pay Votes are advisory and non-binding, as described in the 2020 Proxy Statement, the Board and its Organization and Compensation Committee, which is responsible for designing and administering the Company’s executive compensation programs, value stockholder opinions and “will consider the outcome of the vote when making future compensation decisions for named executive officers.”<sup>3</sup> The Company regularly engages with its stockholders following the Say-on-Pay Vote to better understand their views on performance-based equity compensation and other matters and to inform changes to its practices as appropriate. In recent years, stockholders have been particularly focused on the Company’s performance-based equity compensation. For example, page 46 of the 2020 Proxy Statement, under the heading “2019 Say-on-Pay Vote and Stockholder Outreach,” describes the Company’s outreach to stockholders in recent years, specific feedback it received on performance-based equity compensation, and changes to performance-based equity compensation practices that the Company made in response. Similarly, as disclosed in the 2019 Proxy Statement, under the heading “2018 Say-on-Pay Vote and Stockholder Outreach,” the Company’s investor outreach yielded feedback that stockholders “would generally prefer to see less overlap in the performance metrics used in [the Company’s] short-term and long-term incentive compensation programs.”<sup>4</sup> After taking this feedback into account, as well as conducting an extensive review of the compensation plans within the Company’s proxy peer group, the Company made a number of changes to the performance criteria used for its 2019 incentive compensation programs. As demonstrated by the Company’s recent historical practice, the Company’s Say-on-Pay Votes

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<sup>3</sup> See *id.* at 70.

<sup>4</sup> See The Company’s 2019 Proxy Statement at 27, available at <https://www.sec.gov/Archives/edgar/data/1035201/000104746919002326/a2238388zdef14a.htm>.

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and investor outreach program already provide a mechanism for gauging the extent to which stockholders approve of its performance-based equity compensation practices. In addition, there is nothing in the Proposal or Supporting Statement to suggest that the vote requested by the Proposal must be binding so long as the vote provides an avenue for stockholder feedback.

Separately, because the Company's common stock is listed on the NYSE, the Company is required to provide its stockholders the opportunity to vote on all equity-compensation plans and material revisions thereto. Section 303A.08 of the NYSE Listed Company Manual<sup>5</sup> provides that "all equity-compensation plans, and any material revisions to the terms of such plans, be subject to shareholder approval . . . ." As a result, the Company's adoption of any new equity compensation plans in which performance-based equity awards could be granted, or significant amendments to the Company's existing plan (the Amended and Restated Equity Incentive Plan), including, but not limited to, an amendment to extend the term of the plan, increase the number of shares authorized for issuance under the plan, or expand the types of awards available under the plan, would require stockholder approval.<sup>6</sup> For example, in compliance with such requirements, in 2014 the Company submitted for stockholder vote an amendment to extend the term of the Amended and Restated Equity Incentive Plan beyond 2015.<sup>7</sup>

Although the Supporting Statement makes reference to a U.S. Tax Code provision and related regulations that, before the enactment of the Tax Cuts and Jobs Act in 2017, previously required a stockholder vote every five years on performance-based compensation goals for deductibility purposes (the "162(m) Vote"), the Company believes that its existing practices provide a superior mechanism for gauging stockholder approval of its performance-based equity compensation practices. The 162(m) Vote historically was a routine, administrative vote that, as demonstrated by its consistently high approval levels, generally was viewed by investors as a ministerial vote to enable a company to maintain tax-efficient compensation practices rather than a genuine avenue for expressing concern or providing feedback.<sup>8</sup> For example, according to Glass Lewis, in 2017 162(m) Votes

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<sup>5</sup> Available at <https://nyse.wolterskluwer.cloud/listed-company-manual>.

<sup>6</sup> See Frequently asked questions on Equity Compensation Plans, available at <https://www.nyse.com/publicdocs/nyse/regulation/nyse/equitycompfaqs.pdf>.

<sup>7</sup> See The Company's 2014 Proxy Statement at 50, available at <https://www.sec.gov/Archives/edgar/data/1035201/000104746914003551/a2219308zdef14a.htm>.

<sup>8</sup> See, e.g., <https://www.glasslewis.com/amending-162m-tax-reform-implications-u-s-executive-compensation/> ("[t]he increased profile of say-on-pay and growing prevalence of engagement programs has

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averaged support of over 97%.<sup>9</sup> In contrast, Say-on-Pay Votes regularly receive significant levels of dissent or fail to receive majority support. For example, the Company's 2018 Say-on-Pay Vote received support from approximately 75% of the votes cast, resulting in the Company reaching out to its largest stockholders (representing over 42% of the Company's outstanding shares) to understand their views and incorporate their feedback into the Company's compensation practices (including practices regarding performance-based equity compensation).<sup>10</sup>

As explained by the Supporting Statement, the essential objective of the Proposal is for the Company to "submit[] performance-based equity compensation plans to the [stock]holders periodically for their approval," such that the Company may "gauge the extent to which [stock]holders approve of these plans." The Company's current practices of holding annual Say-on-Pay Votes, which encompass the Company's "performance-based equity compensation" practices, engaging with stockholders following such votes to better understand their views and incorporate feedback as appropriate, and complying with NYSE stockholder approval requirements for equity compensation plans, already provide the Company with a mechanism to gauge stockholder approval of and sentiment towards its performance-based equity compensation plans and practices and, therefore, satisfy the essential objective of the Proposal. When a company has already acted favorably on an issue addressed in a stockholder proposal, Rule 14a-8(i)(10) does not require the company and its stockholders to consider the issue. In this regard, it is well established that if a company has satisfactorily addressed a proposal's "essential objective," the proposal will be deemed "substantially implemented" and, therefore, may be excluded as moot. *See, e.g., Exelon Corp.* (avail. Feb. 26, 2010); *Anheuser-Busch Companies, Inc.* (avail. Jan. 17, 2007); *ConAgra Foods, Inc.* (avail. July 3, 2006); *Johnson & Johnson* (avail. Feb. 17, 2006); *The Talbots Inc.* (avail. Apr. 5, 2002); *Masco Corp.* (avail. Mar. 29, 1999); and *The Gap, Inc.* (avail. Mar. 8, 1996).

We are aware of *Winn-Dixie Stores, Inc.* (avail. Sept. 16, 2010), in which the proposal requested holding Say-on-Pay Votes annually. The company argued it had substantially implemented the proposal by holding Say-on-Pay Votes biennially. The Staff denied no-action relief noting that the company "provide[d] only for biennial, and not annual, advisory votes on executive compensation." There, the proposal was specifically

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yielded additional dialogue between companies and their owners, which should continue even without the quinquennial 162(m) votes").

<sup>9</sup> *See id.*

<sup>10</sup> *See* The Company's 2019 Proxy Statement at 27.

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focused on increasing the frequency of the company's Say-on-Pay Vote. Here, however, the Proposal is instead focused on providing an avenue for stockholders to provide feedback on the Company's performance-based equity compensation. Even if the Proposal is viewed as focusing on a timeframe for the votes, the Company already holds a Say-on-Pay Vote annually, which is more frequent than the five-year time period specified in the Proposal, and holds votes on its equity compensation plans in accordance with NYSE rules. We are also aware of *Navistar International Corp. (Recon.)* (avail. Jan. 4, 2011), in which the proposal requested a policy to require stockholder approval of certain future severance agreements. The company argued that it had substantially implemented the proposal through its Say-on-Pay Vote. The Staff denied no-action relief following the proponent's argument that the subject matter of the stockholder vote requested by the proposal related to future compensation arrangements and not existing arrangements, and the company's Say-on-Pay Votes only covered the latter. Here, however, the subject matter of the stockholder vote requested by the Proposal ("performance-based equity compensation") is covered by and subsumed within the Company's annual Say-on-Pay Vote (in addition to equity plan votes held in accordance with NYSE rules). As discussed above, the Company's Say-on-Pay Vote has historically been used by stockholders as a vehicle to express feedback, and encourage dialogue with the Company, on, among other things, performance-based equity compensation.

As a result, the Proposal has been substantially implemented because, as described above, the Company's current practices of holding annual Say-on-Pay Votes, which cover the Company's "performance-based equity compensation" practices, engaging with stockholders following such votes to better understand their views and incorporate feedback as appropriate, and complying with NYSE stockholder approval requirements for equity compensation plans, already provide the Company with a mechanism to gauge stockholder approval of and sentiment towards its performance-based equity compensation plans and practices and therefore satisfies the essential objective of the Proposal. Accordingly, and not inconsistent with Staff precedent, the Proposal may properly be excluded under Rule 14a-8(i)(10).

\* \* \*

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**CONCLUSION**

Based upon the foregoing analysis, the Company intends to exclude the Proposal from its 2021 Proxy Materials, and we respectfully request that the Staff concur that the Proposal may be excluded under Rule 14a-8(i)(10).

We would be happy to provide you with any additional information and answer any questions that you may have regarding this subject. Correspondence regarding this letter should be sent to [shareholderproposals@gibsondunn.com](mailto:shareholderproposals@gibsondunn.com). If we can be of any further assistance in this matter, please do not hesitate to call me at (415) 393-8297, or Michelle R. Mortensen, Vice President, Corporate Secretary, at (408) 367-8263.

Sincerely,



Aaron K. Briggs

Enclosures

cc: Michelle R. Mortensen, California Water Service Group  
Mark Brooks, Utility Workers Union of America

**EXHIBIT A**

**From:** Mark Brooks <markbrooks@uwua.net>  
**Date:** December 15, 2020 at 2:21:08 PM PST  
**To:** "Mortensen, Michelle" <mmortensen@calwater.com>  
**Cc:** James Slevin <james.slevin@uwua.net>  
**Subject:** shareholder proposal

This is an EXTERNAL EMAIL. Stop and think before clicking a link or opening attachments.  
December 15, 2020

Michelle R. Mortensen  
Corporate Secretary  
California Water Service Group  
1720 North First Street  
San Jose, CA 95112-4508

Re: Shareholder Proposal

Dear Ms. Mortensen:

I am writing on behalf of Utility Workers Union of America (the "UWUA") to submit the enclosed shareholder proposal for inclusion in California Water Service Group's proxy statement for the 2021 annual meeting of shareholders. We submit this proposal pursuant to SEC Rule 14a-8.

The UWUA owns more than \$2,000 in market value of the Company's securities entitled to vote at the annual meeting, and has held these shares continuously for more than one year prior to this date of submission. The UWUA intends to hold these shares at least through the date of the Company's next annual meeting. Either the undersigned or a designated representative will present the proposal for consideration at the annual meeting of shareholders.

We will promptly submit a written statement from the record owner establishing the UWUA's ownership of these shares.

Although the recent amendments to Rule 14a-8 will apply only to shareholder proposals submitted for annual or special meetings held on or after January 1, 2022, please note that the UWUA is available to meet with the Company via teleconference at any mutually-agreeable time to discuss our proposal. We would also be pleased to withdraw this proposal should the Board of Directors adopt our resolution as corporate policy.

Thank you for your attention to this matter, and please let me know if you require additional information.

Sincerely,

Mark Brooks  
Special Counsel to the President

Utility Workers Union of America

521 Central Avenue  
Nashville, TN 37211

615.259.1186 (tel)  
615.523.2350 (fax)

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**Michelle Mortensen**

Corporate Secretary

**CALIFORNIA WATER SERVICE**

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UTILITY WORKERS UNION OF AMERICA

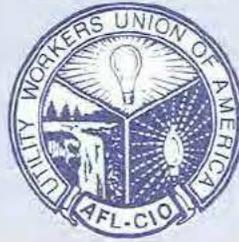
JAMES SLEVIN  
PRESIDENT

PATRICK M. DILLON  
EXECUTIVE VICE PRESIDENT

MICHAEL COLEMAN  
SECRETARY-TREASURER

JOHN DUFFY  
VICE PRESIDENT

Affiliated with A.F.L.-C.I.O



MARK BROOKS  
SPECIAL COUNSEL  
TO THE PRESIDENT  
521 CENTRAL AVENUE  
NASHVILLE, TN 37211  
615-259-1186  
markbrooks@uwua.net



Via Electronic Mail at [mmortensen@calwater.com](mailto:mmortensen@calwater.com)

December 15, 2020

Michelle R. Mortensen  
Corporate Secretary  
California Water Service Group  
1720 North First Street  
San Jose, CA 95112-4508

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We will promptly submit a written statement from the record owner establishing the UWUA's ownership of these shares.

Although the recent amendments to Rule 14a-8 will apply only to shareholder proposals submitted for annual or special meetings held on or after January 1, 2022, please note that the UWUA is available to meet with the Company via teleconference at any mutually-agreeable time to discuss our proposal. We would also be pleased to withdraw this proposal should the Board of Directors adopt our resolution as corporate policy.

Thank you for your attention to this matter, and please let me know if you require additional information.

Sincerely,

Mark Brooks

cc: James Slevin, UWUA National President

**RESOLVED:** The shareholders of California Water Service Group (the “Company”) urge the Board of Directors and its Organization and Compensation Committee to adopt a policy that, effective as of the annual meeting to be held in 2022, all performance-based equity compensation plans maintained by the Company shall be submitted for approval by the shareholders at least once every five years. This policy would apply to the Company’s Amended and Restated Equity Incentive Plan (the “Equity Incentive Plan” or “EIP”) and any other plan that offers performance-based equity compensation to senior executive officers.

For purposes of this proposal, “performance-based equity compensation” refers to restricted stock awards, restricted stock unit awards, incentive stock options, stock appreciation rights, restricted stock purchase awards, and similar forms of equity compensation based on performance. “Senior executive officers” refers to the Company’s Chief Executive Officer, Chief Financial Officer, and the three other highest-paid executives of the Company. This policy should be implemented so as not to violate any existing contractual obligations or the terms of any compensation or benefit plan currently in effect.

**SUPPORTING STATEMENT:** Until adoption of the Tax Cuts and Jobs Act of 2017, Internal Revenue Code Section 162(m) generally provided that publicly-traded corporations could deduct performance-based compensation for top executives that exceeded the Code’s \$1 million deductibility limit for executive pay, but only if the corporation submitted the material terms of its performance-based pay plans for shareholder approval at least every five years. Under former Section 162(m), corporations such as California Water periodically submitted their performance-based plans for shareholder approval in order to preserve this deductibility.

The 2017 tax act, however, repealed the exception for performance-based compensation from the deductibility limit for tax years commencing after December 31, 2017. As a result, in most cases there is no longer any tax benefit for corporations to submit their performance-based compensation plans for shareholder approval.

Indeed, California Water has already taken advantage of this change in the tax law by not submitting its Equity Incentive Plan for shareholder approval following adoption of the 2017 act. The last year the Company submitted the EIP for approval by shareholders was more than six years ago in 2014.

We believe, however, that the Company and shareholders would benefit from resuming the practice of submitting performance-based equity compensation plans to the shareholders periodically for their approval. By submitting any such plans that provide awards to senior executives to a vote of the shareholders, the Board of Directors and its Compensation Committee could gauge the extent to which shareholders approve of these plans.

Under our proposal, if the Company’s owners – its shareholders – support the Company’s performance-based equity compensation plans, they will vote to approve them. If not, they will vote against. What could be more fair?

We therefore urge shareholders to vote FOR our proposal.

**From:** Mark Brooks <[markbrooks@uwua.net](mailto:markbrooks@uwua.net)>  
**Date:** December 16, 2020 at 2:46:33 PM PST  
**To:** "Mortensen, Michelle" <[mmortensen@calwater.com](mailto:mmortensen@calwater.com)>  
**Subject:** UWUA shareholder proposal

This is an EXTERNAL EMAIL. Stop and think before clicking a link or opening attachments.

Michelle R. Mortensen  
Corporate Secretary  
California Water Service Group  
1720 North First Street  
San Jose, CA 95112-4508

Re: Shareholder Proposal

Dear Ms. Mortensen:

I am attaching for your attention a written statement from the record holder verifying that UWUA has continuously owned 260 shares of California Water Service Group stock for at least one year prior to this date of submission. The UWUA intends to continue to hold these shares at least through the date of the Company's next annual meeting.

I am also enclosing again for your convenience a copy of our shareholder proposal. We submit this proposal pursuant to SEC Rule 14a-8. Either the undersigned or a designated representative will present the proposal for consideration at the annual meeting of shareholders.

We would be pleased to discuss our proposal at your convenience, and of course we would also be pleased to withdraw the proposal should the Board of Directors adopt our resolution as corporate policy.

Please let me know if you require additional information.

Sincerely,

Mark Brooks  
Special Counsel to the President  
Utility Workers Union of America

521 Central Avenue  
Nashville, TN 37211

615.259.1186 (tel)  
615.523.2350 (fax)

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**Michelle Mortensen**

Corporate Secretary

**CALIFORNIA WATER SERVICE**

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30 North LaSalle Street  
Chicago, Illinois 60602  
312/822-3000



December 16, 2020

Michelle R. Mortensen  
Corporate Secretary  
California Water Service Group  
1720 North First Street  
San Jose, CA 95112-4508

Re: UWUA Shareholder Proposal

Dear Ms. Mortensen:

This is to verify that as of the date referenced above, 260 shares of stock of California Water Service Group are registered in street name to Amalgamated Bank of Chicago and held for the account of Utility Workers Union of America ("UWUA"). The UWUA has been the beneficial owner of these shares of California Water stock and has continuously owned these shares for at least one year prior to this date of submission.

Please let me know if you would like additional information.

Sincerely,

A handwritten signature in blue ink that reads "Anissa Rodriguez".

Anissa Rodriguez  
Trust Administrator

**RESOLVED:** The shareholders of California Water Service Group (the “Company”) urge the Board of Directors and its Organization and Compensation Committee to adopt a policy that, effective as of the annual meeting to be held in 2022, all performance-based equity compensation plans maintained by the Company shall be submitted for approval by the shareholders at least once every five years. This policy would apply to the Company’s Amended and Restated Equity Incentive Plan (the “Equity Incentive Plan” or “EIP”) and any other plan that offers performance-based equity compensation to senior executive officers.

For purposes of this proposal, “performance-based equity compensation” refers to restricted stock awards, restricted stock unit awards, incentive stock options, stock appreciation rights, restricted stock purchase awards, and similar forms of equity compensation based on performance. “Senior executive officers” refers to the Company’s Chief Executive Officer, Chief Financial Officer, and the three other highest-paid executives of the Company. This policy should be implemented so as not to violate any existing contractual obligations or the terms of any compensation or benefit plan currently in effect.

**SUPPORTING STATEMENT:** Until adoption of the Tax Cuts and Jobs Act of 2017, Internal Revenue Code Section 162(m) generally provided that publicly-traded corporations could deduct performance-based compensation for top executives that exceeded the Code’s \$1 million deductibility limit for executive pay, but only if the corporation submitted the material terms of its performance-based pay plans for shareholder approval at least every five years. Under former Section 162(m), corporations such as California Water periodically submitted their performance-based plans for shareholder approval in order to preserve this deductibility.

The 2017 tax act, however, repealed the exception for performance-based compensation from the deductibility limit for tax years commencing after December 31, 2017. As a result, in most cases there is no longer any tax benefit for corporations to submit their performance-based compensation plans for shareholder approval.

Indeed, California Water has already taken advantage of this change in the tax law by not submitting its Equity Incentive Plan for shareholder approval following adoption of the 2017 act. The last year the Company submitted the EIP for approval by shareholders was more than six years ago in 2014.

We believe, however, that the Company and shareholders would benefit from resuming the practice of submitting performance-based equity compensation plans to the shareholders periodically for their approval. By submitting any such plans that provide awards to senior executives to a vote of the shareholders, the Board of Directors and its Compensation Committee could gauge the extent to which shareholders approve of these plans.

Under our proposal, if the Company’s owners – its shareholders – support the Company’s performance-based equity compensation plans, they will vote to approve them. If not, they will vote against. What could be more fair?

We therefore urge shareholders to vote FOR our proposal.

**From:** Twu, Victor <[VTwu@gibsondunn.com](mailto:VTwu@gibsondunn.com)>  
**Sent:** Monday, December 28, 2020 5:59 PM  
**To:** Mark Brooks <[markbrooks@uwua.net](mailto:markbrooks@uwua.net)>  
**Cc:** Briggs, Aaron K. <[ABriggs@gibsondunn.com](mailto:ABriggs@gibsondunn.com)>  
**Subject:** California Water Service Group (UWUA) Deficiency Notice

Mr. Brooks –

On behalf of our client, California Water Service Group, attached please find the deficiency notice regarding the proposal you submitted to the Company. A paper copy of this notice is also being delivered to you via UPS.

Best,  
Victor

**Victor Twu**

**GIBSON DUNN**

Gibson, Dunn & Crutcher LLP  
3161 Michelson Drive, Irvine, CA 92612-4412  
Tel +1 949.451.3870 • Fax +1 949.475.4787  
[VTwu@gibsondunn.com](mailto:VTwu@gibsondunn.com) • [www.gibsondunn.com](http://www.gibsondunn.com)

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Please see our website at <https://www.gibsondunn.com/> for information regarding the firm and/or our privacy policy.

---

December 28, 2020

**VIA OVERNIGHT MAIL AND EMAIL**

Mark Brooks  
Utility Workers Union of America  
521 Central Avenue  
Nashville, TN 37211  
markbrooks@uwua.net

Dear Mr. Brooks:

I am writing on behalf of California Water Service Group (the “Company”), which received on December 15, 2020, the stockholder proposal you submitted on behalf of the Utility Workers Union of America (the “Proponent”) regarding stockholder approval of equity plans pursuant to Securities and Exchange Commission (“SEC”) Rule 14a-8 for inclusion in the proxy statement for the Company’s 2021 Annual Meeting of Stockholders (the “Proposal”).

The Proposal contains certain procedural deficiencies, which SEC regulations require us to bring to your attention. Rule 14a-8(b) under the Securities Exchange Act of 1934, as amended, provides that stockholder proponents must submit sufficient proof of their continuous ownership of at least \$2,000 in market value, or 1%, of a company’s shares entitled to vote on the proposal for at least one year as of the date the stockholder proposal was submitted. The Company’s stock records do not indicate that the Proponent is the record owner of sufficient shares to satisfy this requirement. In addition, to date we have not received adequate proof that the Proponent has satisfied Rule 14a-8’s ownership requirements as of the date that the Proposal was submitted to the Company. The December 16, 2020 letter from Amalgamated Bank of Chicago that you provided is insufficient because it verifies ownership between December 16, 2019 and December 16, 2020 rather than for the one-year period preceding and including December 15, 2020, the date the Proposal was submitted to the Company.

To remedy this defect, the Proponent must obtain a new proof of ownership letter verifying the Proponent’s continuous ownership of the required number or amount of Company shares for the one-year period preceding and including December 15, 2020, the date the Proposal was submitted to the Company. As explained in Rule 14a-8(b) and in SEC staff guidance, sufficient proof must be in the form of:

Mark Brooks  
December 28, 2020  
Page 2

- (1) a written statement from the “record” holder of the Proponent’s shares (usually a broker or a bank) verifying that the Proponent continuously held the required number or amount of Company shares for the one-year period preceding and including December 15, 2020; or
- (2) if the Proponent has filed with the SEC a Schedule 13D, Schedule 13G, Form 3, Form 4, or Form 5, or amendments to those documents or updated forms, reflecting the Proponent’s ownership of the required number or amount of Company shares as of or before the date on which the one-year eligibility period begins, a copy of the schedule and/or form, and any subsequent amendments reporting a change in the ownership level and a written statement that the Proponent continuously held the required number or amount of Company shares for the one-year period.

If the Proponent intends to demonstrate ownership by submitting a written statement from the “record” holder of the Proponent’s shares as set forth in (1) above, please note that most large U.S. brokers and banks deposit their customers’ securities with, and hold those securities through, the Depository Trust Company (“DTC”), a registered clearing agency that acts as a securities depository (DTC is also known through the account name of Cede & Co.). Under SEC Staff Legal Bulletin No. 14F, only DTC participants are viewed as record holders of securities that are deposited at DTC. You can confirm whether the Proponent’s broker or bank is a DTC participant by asking the Proponent’s broker or bank or by checking DTC’s participant list, which is available at <http://www.dtcc.com/~media/Files/Downloads/client-center/DTC/alpha.ashx>. In these situations, stockholders need to obtain proof of ownership from the DTC participant through which the securities are held, as follows:

- (1) If the Proponent’s broker or bank is a DTC participant, then the Proponent needs to submit a written statement from the Proponent’s broker or bank verifying that the Proponent continuously held the required number or amount of Company shares for the one-year period preceding and including December 15, 2020.
- (2) If the Proponent’s broker or bank is not a DTC participant, then the Proponent needs to submit proof of ownership from the DTC participant through which the shares are held verifying that the Proponent continuously held the required number or amount of Company shares for the one-year period preceding and including December 15, 2020. You should be able to find out the identity of the DTC participant by asking the Proponent’s broker or bank. If the Proponent’s broker is an introducing broker, you may also be able to learn the identity and telephone number of the DTC participant through the Proponent’s account statements, because the clearing broker identified on the account statements will

Mark Brooks  
December 28, 2020  
Page 3

generally be a DTC participant. If the DTC participant that holds the Proponent's shares is not able to confirm the Proponent's individual holdings but is able to confirm the holdings of the Proponent's broker or bank, then the Proponent needs to satisfy the proof of ownership requirements by obtaining and submitting two proof of ownership statements verifying that, for the one-year period preceding and including December 15, 2020, the required number or amount of Company shares were continuously held: (i) one from the Proponent's broker or bank confirming the Proponent's ownership, and (ii) the other from the DTC participant confirming the broker or bank's ownership.

The SEC's rules require that any response to this letter be postmarked or transmitted electronically no later than 14 calendar days from the date you receive this letter. Please address any response to me at Gibson, Dunn & Crutcher LLP, 555 Mission Street, San Francisco CA 94105-0921. Alternatively, you may transmit any response by email to me at [ABriggs@gibsondunn.com](mailto:ABriggs@gibsondunn.com).

If you have any questions with respect to the foregoing, please contact me at (415) 393-8297. For your reference, I enclose a copy of Rule 14a-8 and Staff Legal Bulletin No. 14F.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Briggs', with a stylized flourish at the end.

Aaron K. Briggs

Enclosures

**From:** Mark Brooks <[markbrooks@uwua.net](mailto:markbrooks@uwua.net)>  
**Sent:** Tuesday, December 29, 2020 10:09 AM  
**To:** Briggs, Aaron K. <[ABriggs@gibsondunn.com](mailto:ABriggs@gibsondunn.com)>  
**Subject:** RE: California Water Service Group (UWUA) Deficiency Notice

[External Email]

Dear Mr. Riggs.

With all due respect, your letter of December 28, 2020 overlooks the fact that the operative date of submission of our shareholder proposal is December 16, 2020, which you can confirm from the attached. The UWUA submitted the proposal to the Company by email on that date, along with a letter from the record owner confirming that UWUA has continuously owned these shares for at least one year as of that date of submission. Your email acknowledging receipt of the 12/16/2020 letter from Amalgamated Bank in effect also confirms that California Water received our shareholder proposal via email on December 16.

By design, that email included all of the necessary elements of submission of a shareholder proposal. The fact that we *also* overnight mailed the proposal the previous day (as a courtesy) is irrelevant.

Please note also that the record owner – Amalgamated Bank of Chicago – is a DTC participant (account # 2567), which you can confirm through the link you kindly included in your letter.

As it happens, UWUA has been the beneficial owner of these shares continuously since 1996; however the information we have already submitted meets the requirements of Rule 14a-8 to establish our continuous ownership of the requisite number of shares for at least one year as of the date of submission on December 16, 2020.

Please let me know if you require any additional information.

Sincerely,

Mark Brooks  
Special Counsel to National President  
Utility Workers Union of America

521 Central Avenue  
Nashville, TN 37211

615.259.1186 (office)

\*\*\*

615.523.2350 (fax)

**From:** Briggs, Aaron K.  
**Sent:** Tuesday, December 29, 2020 5:18 PM  
**To:** Mark Brooks <markbrooks@uwua.net>  
**Cc:** Twu, Victor <VTwu@gibsondunn.com>  
**Subject:** FW: shareholder proposal

Mr. Brooks,

In response to your email from earlier today (attached for reference), please note that California Water Service Group received UWUA's proposal via email on December 15, 2020, as evidenced by your email below, not December 16. This is consistent with your attached cover letter, which confirms that it was sent via email and is also dated December 15, 2020. Thus, we believe the proposal was in fact submitted on December 15, and as a result, UWUA will need to provide an updated proof of ownership per the deficiency notice we sent you and in accordance with Rule 14a-8.

Thank you.

**Aaron Briggs**

**GIBSON DUNN**

Gibson, Dunn & Crutcher LLP  
555 Mission Street, San Francisco, CA 94105-0921  
Tel +1 415.393.8297 • Mobile +1 213.393.9314  
[ABriggs@gibsondunn.com](mailto:ABriggs@gibsondunn.com) • [bio](#) • [www.gibsondunn.com](http://www.gibsondunn.com)

**From:** Mark Brooks <markbrooks@uwua.net>  
**Sent:** Tuesday, December 29, 2020 5:44 PM  
**To:** Briggs, Aaron K. <ABriggs@gibsondunn.com>  
**Cc:** Twu, Victor <VTwu@gibsondunn.com>  
**Subject:** RE: shareholder proposal  
**Importance:** High

[External Email]  
Mr. Briggs:

You are mistaken and confusing two sets of different emails and letters – one from 12/15 and the operative one from 12/16. Please review this attached email to Ms. Mortensen again (attached here once again) and you will see that it is clearly dated 12/16/2020; it includes our shareholder proposal (again), plus the 12/16 letter from Amalgamated Bank of Chicago. There was no separate cover letter sent with the 12/16 email, since the email itself sufficed to show that we commit to continuing to hold the shares through the date of the annual meeting and that we will present the proposal at the meeting.

Once you have carefully reviewed the 12/16 email, please confirm the foregoing, which is frankly indisputable.

Best regards,

Mark Brooks  
Special Counsel to the President  
Utility Workers Union of America

521 Central Avenue  
Nashville, TN 37211

615.259.1186 (tel)  
615.523.2350 (fax)

**From:** Briggs, Aaron K.  
**Sent:** Wednesday, December 30, 2020 9:39 PM  
**To:** 'Mark Brooks' <[markbrooks@uwua.net](mailto:markbrooks@uwua.net)>  
**Cc:** Twu, Victor <[VTwu@gibsondunn.com](mailto:VTwu@gibsondunn.com)>  
**Subject:** RE: shareholder proposal

Mr. Brooks,

We have already carefully reviewed the materials. Please refer to my earlier letter and email.

Thank you.

**Aaron Briggs**

**GIBSON DUNN**

Gibson, Dunn & Crutcher LLP  
555 Mission Street, San Francisco, CA 94105-0921  
Tel +1 415.393.8297 • Mobile +1 213.393.9314  
[ABriggs@gibsondunn.com](mailto:ABriggs@gibsondunn.com) • [bio](#) • [www.gibsondunn.com](http://www.gibsondunn.com)

**From:** Mark Brooks <[markbrooks@uwua.net](mailto:markbrooks@uwua.net)>  
**Sent:** Wednesday, January 6, 2021 2:21 PM  
**To:** Briggs, Aaron K. <[ABriggs@gibsondunn.com](mailto:ABriggs@gibsondunn.com)>  
**Cc:** Twu, Victor <[VTwu@gibsondunn.com](mailto:VTwu@gibsondunn.com)>  
**Subject:** California Water Service Group

[External Email]

Mr. Briggs:

Please see attached.

Mark Brooks  
Special Counsel to the President  
Utility Workers Union of America

521 Central Avenue  
Nashville, TN 37211

615.259.1186 (tel)  
615.523.2350 (fax)

JAMES SLEVIN  
PRESIDENT

PATRICK M. DILLON  
EXECUTIVE VICE PRESIDENT

MICHAEL COLEMAN  
SECRETARY-TREASURER

JOHN DUFFY  
VICE PRESIDENT

Affiliated with A.F.L.-C.I.O



MARK BROOKS  
SPECIAL COUNSEL  
TO THE PRESIDENT  
521 CENTRAL AVENUE  
NASHVILLE, TN 37211  
615-259-1186  
markbrooks@uwua.net



January 6, 2021

**Via U.S. Overnight Mail & Email**

Aaron K. Briggs  
Gibson, Dunn & Crutcher LLP  
555 Mission Street  
San Francisco, CA 94105-0921

Re: California Water Service Group

Dear Mr. Briggs:

Please find enclosed letters from Morgan Stanley Smith Barney LLC and Amalgamated Bank of Chicago – the registered owners of UWUA’s shares in California Water Service Group (CWT) – verifying UWUA’s continuous ownership of more than \$2,000 in market value of securities of CWT from May 29, 2009 through January 6, 2021.

The UWUA intends to hold these shares at least through the date of the Company’s next annual meeting. Either the undersigned or a designated representative will present the UWUA’s shareholder proposal for consideration at the 2021 annual meeting of shareholders.

Please advise me immediately if you or your client require any additional information.

Sincerely,

Mark Brooks

# Morgan Stanley

Wealth Management  
855 Franklin Ave  
Garden City, NY 11530  
tel 516.248.8600  
toll free 800.645.8000

01/05/2021

Michelle R. Mortensen  
Corporate Secretary  
California Water Service Group  
1720 North First Street  
San Jose, CA 95112-4508

Re: Utility Workers Union of America (UWUA)

To Whom It May Concern:

Please be advised that Utility Workers Union of America (UWUA) maintained the following brokerage account \*\*\* (formerly \*\*\* ) at Morgan Stanley Smith Barney LLC ("Morgan Stanley") which contained a long position in California Water Service Group (CWT) of 130 shares from the close of business on 5/29/2009 until 260 shares (Due to prior 2:1 Stock split) of CWT were transferred out on 12/19/2019 via DTC to Amalgamated Bank of Chicago.

<u>A/C Number</u>	<u>A/C Title</u>
***	Utility Workers Union of America (UWUA)

Please be advised that the above-referenced brokerage account at Morgan Stanley Smith Barney LLC currently contains no assets and was closed on 1/14/2020.

We are presenting the information contained herein pursuant to our Client's request. It is valid as of the date of issuance. Morgan Stanley does not warrant or guarantee that such identified securities, assets or monies will remain in the Client's account. The Client have the power to withdraw assets from this account at any time and no security interest or collateral rights are being granted to any party other than Morgan Stanley.

Thank you for your time and consideration in this matter.

Sincerely,



Daniel E. Farrell, Assistant Vice President  
Complex Risk Officer

01/06/2021

Michelle R. Mortensen  
Corporate Secretary  
California Water Service Group  
1720 North First Street  
San Jose, CA 95112-4508

Re: UWUA Shareholder Proposal

Dear Ms. Mortensen:

This is to verify that as of the date referenced above, 260 shares of stock of California Water Service Group are registered in street name to Amalgamated Bank of Chicago (DTC #2567) and held for the account of Utility Workers Union of America (“UWUA”).

Amalgamated Bank of Chicago has been the registered owner of these shares since they were transferred from Morgan Stanley Smith Barney LLC (DTC #0015) for the account of UWUA to Amalgamated Bank of Chicago on December 19, 2019. The UWUA has been the beneficial owner and has continuously held these shares of California Water stock since the date of transfer until the current date noted above.

Please let me know if you would like additional information.

Sincerely,



Anissa Rodriguez  
Trust Administrator  
[arodriguez@aboc.com](mailto:arodriguez@aboc.com)  
312-822-3110