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MEMORANDUM

TO Legislative Committee

FROM Brent R. Heberlee

DATE July 17, 2019

RE Interlake Tunnel – Potential Federal Funding Opportunity

Ballard Spahr and Nossaman have been in contact with officials from the U.S. Bureau of Reclamation to explore a potential federal funding opportunity for the Interlake Tunnel Project.

Section 4007 of the Water Infrastructure Improvements for the Nation Act (WIIN Act), enacted in December 2016, authorized a new structure for Reclamation to support water storage infrastructure projects. The act authorized \$335 million in discretionary appropriations for new and improved federal and nonfederal water storage projects. Any appropriated funds are to be made available for qualifying water storage projects approved for construction prior to January 1, 2021.

Section 4007 funding is available for two primary project types, “Federally-owned” and “State-led” storage projects. A State-led project is defined to be a groundwater or surface water storage facility constructed, operated and maintained by any State, subdivision of a State, or public agency organized pursuant to State law that is found to have a benefit meeting any obligation under Federal law. The federal cost share for a State-led project is limited to no more than 25%, and the Secretary of the Interior must find that the project is feasible and provides federal benefits proportionate to the federal government’s cost share. In California, State-led projects must be requested by the governor, and the California Water Commission must determine that the project is consistent with Proposition 1 (water bond).

The Interlake Tunnel project may qualify as a State-led storage project under Section 4007. Reclamation officials have provided me with their evaluation criteria for 4007 projects and standard procedures for determining project feasibility, both of which I have shared with WRA. They have also advised that WRA may submit project documents for review at any time as they will be reviewing them on a rolling basis, although the documents

should be received with enough time for Reclamation and the Department of the Interior to review and process them before the WIIN Act deadline of January 1, 2021 for the Secretary's determination of feasibility. Reclamation has emphasized that project documents should clearly state the rationale for federal participation in the project and what the federal benefits would be as defined by Section 4007.