

**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY  
BOARD OF DIRECTORS MEETING  
May 15, 2008 – 7 p.m.  
Foster City Community Building, Foster City CA**

<b>MINUTES</b>
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**1. Call to Order/Pledge of Allegiance/Roll Call – 7:05 pm**

BAWSCA Chair, Rosalie O'Mahony, called the meeting to order and led the salute of the flag. Art Jensen, called the roll. Twenty-one (21) members of the board were present, constituting a quorum. A list of directors present (21) and absent (6) is attached.

- 2. Comments by the Chair:** Chair O'Mahony announced the critical issues included in the agenda; the certification of the final PEIR for the WSIP, future water supply from San Francisco, and the legislation to extend the State oversight of the WSIP. She emphasized the responsibilities BAWSCA must carry out within its legislated authority to plan and implement water supply and conservation projects with the member agencies and, if necessary, acquire or participate in the development of additional water supplies. BAWSCA can take the first step by authorizing the water conservation implementation plan recommended by the General Manager.

BAWSCA will continue its strategic oversight of the SFPUC, represent the collective interests of the member agencies, and negotiate a new agreement between San Francisco and the wholesale customers.

San Francisco Mayor Newsom and SFPUC General Manager Ed Harrington have expressed their respect for BAWSCA and understanding of the issues. They will exercise their strong leadership to ensure that San Francisco will do what is required to rebuild the regional water system and negotiate a fair contract.

Vice-Chair Pat Kolstad introduced the City of Santa Clara's newly appointed Director of Water & Sewer Utilities, Alan Kurotori.

- 3. Board Policy Committee Report:** Committee Chair John Fannon provided a summary report of the discussions and actions made by the committee at its meeting on April 9, 2008. A written summary report was included in the agenda packet provided to members of the board.

- 4. Chief Executive Officer and General Manager's Report:** Mr. Jensen introduced BAWSCA's new office assistant, Aaron Porter.

Water Education Foundation Tour of Hetch Hetchy System: BAWSCA is sponsoring the Water Education Foundation's tour of the Hetch Hetchy System on July 23, 24 and 25. Mr. Jensen encouraged members of the board who have not already participated on the tour to sign up.

Current Water Supply Conditions: State-wide water supply conditions continue to be dry. BAWSCA supports SFPUC's continuation of the voluntary 10 percent system-wide water use reduction program. BAWSCA is working with the SFPUC on a coordinated regional outreach program that will begin on June 15<sup>th</sup>. BAWSCA is also working with other Bay Area agencies on a broader regional campaign. The Santa Clara Valley Water District is also calling for a 10 percent voluntary water-use reduction, and the East Bay Municipal Utility District has placed a mandatory 15 percent water conservation.

Water System Improvement Program (WSIP) – Status Report: The SFPUC has sent its report of changes to the WSIP to the California Seismic Safety Commission, and the Department of Public Health. Both State agencies are to evaluate whether the changes made to the WSIP increase the risks to the public's health and safety. At the request of CSSC and CDPH, BAWSCA provided input to assist them in focusing their evaluations.

BAWSCA continues to meet with SFPUC staff to have project and program discussions. The quarterly report for the period ending March 31<sup>st</sup>, has not been released yet, but is expected shortly.

The release date of the Program Environmental Impact Report (PEIR) remains in June. BAWSCA continues to work with San Francisco's Major Environmental Analysis (MEA) department in providing as much needed information as it is able to. Mr. Jensen referred to his memorandum addressed to the BAWSCA board regarding an alternative the SFPUC requests MEA to consider including in the PEIR. A letter from Susan Leal to the MEA, dated March 21, 2008, and another from Ed Harrington, dated May 2, 2008 are attached to the memo.

The alternative limits San Francisco's sale of water to wholesale customers to 184 mgd until 2018.

Mr. Jensen stated that the reason SFPUC suggests this variant to be examined might have been out of consideration for the concerns voiced about the Tuolumne River. The SFPUC as well as the Tuolumne River Trust recognize the critical urgency to complete the seismic improvements to the system, and that the growth in water demand will be a gradual process. There is time to deal with the growth issue. The question is what limit on supplies can reasonably be accommodated and for how long?

MEA's job is to look at all environmental impacts and reasonable mitigation measures and make the PEIR legally defensible by meeting all the provisions required by law. After certification of the PEIR by the SF Planning Commission, the SFPUC takes a separate action on how to implement the WSIP. There is a range of possible alternatives from SFPUC can choose from when adopting a program. The alternatives include the Proposed WSIP, Modified WSIP, No Purchase Request Alternative to 2030, Aggressive Conservation Alternative, and Recycling and Groundwater Alternative. Mr. Jensen stated that the SFPUC need not pick any of the discrete alternatives, but can form a program of projects and mitigation measures that serve the purpose of the program and for which the final PEIR encompasses any associated environmental impacts.

Mr. Jensen restated a comment he made a year ago that he believes remains true today; the greatest source of uncertainty in the region's water supply is what the decision San Francisco might make.

Mr. Jensen stated that further studies would be needed to determine whether, and if so, how, the wholesale customers could make it to 2018 within a limit of 184mgd.

Drastic changes to water customers' consumption can make it possible. Limiting growth can also make it possible. The No Purchase Request alternative in the draft PEIR cites the potential consequence of interrupting service to the cities of San Jose and Santa Clara.

The wholesale customers' 194mgd demand projection for the year 2018 in the draft PEIR was based on known conservation measures with documented water savings. The measures had data that were examined as well as cost-effective analyses that provided the sound baseline. Mr. Jensen stated that additional water can be saved as new technologies evolve, but the measures that will achieve additional water savings are currently unknown.

Mr. Jensen stated that what would happen after 2018 is currently unknown to him as well as Ed Harrington because the costs and impacts have not been studied.

Mr. Jensen urged agencies to remain aware of the important developments and support the comments submitted on the draft PEIR which includes BAWSCA's increased commitment to conservation of an additional 10mgd. BAWSCA's comments also ask for the ability to trade entitlements between agencies, further consideration of investing in agricultural conservation investment, and that BAWSCA be recognized for its authority to plan and implement regional water conservation programs. In addition, the Board can approve the preparation of the water conservation/recycling implementation plan that is included in the proposed budget for FY 08-09.

Director Breault expressed his concern that the PEIR will be published in June, without the BAWSCA board having had the opportunity to examine the document as a draft, and having a closer look at this new variant. Mr. Jensen deferred Director Breault's comments for Mr. Harrington to address during his presentation to the board.

Secondly, Director Breault asked for clarification on the trading of entitlements under the current contract and the new agreement being negotiated. Mr. Jensen stated that under the current agreement, agencies can trade or transfer entitlements. The new agreement can make this possibility explicit and provide the overall framework within which such transfers could occur.

Director Breault asked if changes in how the 184mgd is allocated would require the concurrence of all BAWSCA agencies. Mr. Jensen will check on the information, and get back to the board with an answer.

Pending Legislation: AB 2437 passed the Assembly Committees on Local Government, Water, Parks and Wildlife, and Appropriations Committee. To date, support letters from San Francisco and nineteen BAWSCA agencies have been received.

Mr. Jensen reported on two new bills introduced that would be of interest to BAWSCA member agencies because of the potential benefits or adverse affects it has on water conservation. BAWSCA does not intend to take any actions on the bills at this time.

AB 2175 (Laird) requires a statewide target to achieve a 20% reduction in urban water use by December 31, 2020, and a 20 percent reduction in urban water suppliers' gross per capita consumption by December 31, 2020. A list of feasible urban water conservation measures is to be developed by the Department of Water Resources (DWR) by December 31, 2010. Agencies may comply regionally which is a flexibility the authors built in the legislation.

Director Goff commented that the cost effectiveness of the projects versus the benefit appears to be wide open, and is concerning.

Mr. Jensen noted that it is currently unclear how the Bay Area would be affected, since it has the lowest residential per capita use among any of the nine hydrologic areas in the State. If 20 percent is a statewide average, BAWSCA member agencies may already be below the consumption target. But if the bill requires a reduction of 20 percent by everyone in the State, BAWSCA agencies should look at the bill carefully to identify what it may mean to their customers. The Association of California Water Agencies (ACWA) and League of Cities are involved in this type of legislation, and would be the appropriate venues for agencies to express their concerns. Mr. Jensen reported that at the meeting of the Assembly Committee on Water, Parks, and Wildlife, the author and co-author of the bill are well aware that some areas have invested in and have done a good job of reducing per capita consumption. They are also aware that some areas are more residential and others more commercial or industrial, which limits the effectiveness of gross per capita consumption as a measure of water use efficiency. They expressed their flexibility to accommodate concerns with the bill, in order to make it successful and useful.

Director Seidel asked if the State proposed an enforcement mechanism, and Mr. Jensen stated that it would be in the nature of qualifications for state grant funds.

Director Fergusson asked what the baseline would be. Michael Carlin stated that some language seem to indicate 2009 as the baseline year, however that may be changed as well. Currently the bill is on suspense in the Appropriations Committee.

Director Breault stated that he would like the bill closely followed by BAWSCA and legal counsel because the bill proposes the use and institution of the term "public trust doctrine" to describe people's water supply. The water rights and local conservation planning role of BAWSCA agencies can potentially be lost to DWR if the bill passes without BAWSCA's consideration.

Mr. Jensen stated that BAWSCA will continue to follow the developments of the bill, and seek the answers to the questions presented by members of the board. BAWSCA will protect the organization's authorities under State law, and will continue to keep BAWSCA member agencies informed of the bill as it unfolds.

The second bill recently introduced is AB 2153 (Krekorian) which requires residential and commercial construction projects subject to CEQA to implement all feasible and cost-effective interior and exterior water efficiency measures. It would require that all measures be approved by the lead agency, and meet specific criteria for project mitigation.

The legislation is important to land use entities, specifically developers, and is beyond BAWSCA's role as a water supply and conservation agency. Many of the BAWSCA agencies have legislative analyst or are linked with ACWA and the League of Cities who are looking at the legislation closely. BAWSCA would need additional resources if it were to study the bills in greater detail.

#### **5. SFPUC Report:**

SFPUC General Manager, Ed Harrington thanked Chair O'Mahony for attending the contractors' breakfast in San Francisco on May 14<sup>th</sup>, as part of the outreach efforts to contractors about WSIP projects coming for bids. In the past, it has been difficult to contract with San Francisco, and that is being changed to ensure that competitive bids are received, and the wholesale customers' and San Francisco customer's money are spent effectively and efficiently.

San Francisco is asking its customers to continue the voluntary water use reduction of 10 percent. The SFPUC expects the Hetch Hetchy reservoir to be full in June. Crystal Springs Reservoir will be a few feet lower than usual during the summer due to some major maintenance work that needs to be done and will take a little longer than expected.

Mr. Harrington reported that a negative declaration has recently been issued for the \$45 M Alameda Siphon #4 Project. That project will soon begin. The first Environmental Impact Report (EIR) for a larger project, the New Crystal Springs Bypass Tunnel, will be presented to the planning commission on June 5<sup>th</sup>. It is a \$1 M project and is critical to the regional system for reliability and redundancy. The SFPUC is asking for the support of BAWSCA agencies to demonstrate to the planning commission that this project has a wider range of interest, and is not just a San Francisco project.

Mr. Harrington stated that the variant SFPUC is asking MEA to consider is an alternative to the "No Purchase Request to 2030" option. Mr. Harrington stated, "isn't it more important to make a promise through 2018 if that's one of the choices we can make and get the WSIP going without the possibility of ... appeals and lawsuits." Mr. Harrington explained that the SFPUC has not made the choice. It is asking the MEA's consideration to examine the variant to ensure that enough information is available on the variant to make it one of the possible choices.

The SFPUC wants to meet the needs of its customers, advocates of the rivers, and the San Francisco Board of Supervisors, as well as make the PEIR legally defensible. This, and the issues associated with steelhead fishes in Alameda Creek have caused a slight delay in the PEIR. The SFPUC has been, and will continue to meet with the San Francisco Planning Department to learn more about what is being asked of San Francisco in regards to the steelhead. The PEIR will be issued at a later date than in June, and the SFPUC will continue to work with the Planning Department to provide them a legally defensible PEIR. Developments will be reported back to BAWSCA through Art Jensen.

Chair O'Mahony expressed her concern with the PEIR's delay in light of what may happen with Measure E. Mr. Harrington stated that the concern would be more on the Board of Supervisors, and that current members who are aware of the issues remain seated. Four will be leaving office in January.

- 6. Public Comments:** Public comments were received from Wynn Greich and Michael Francois about water contamination and quality.

Peter Drekmeier, Program Director for Tuolumne River Trust (TRT), commented in support of the No Purchase Request to 2030 alternative, and stated that it should have been chosen as the Environmentally Superior Alternative. TRT feels that the demand projections are inflated and the potential water conservation underestimated. TRT sees the No Purchase Request to 2018 variant as a compromise that they can potentially support.

The variant gives SFPUC time to complete a baseline study of the upper Tuolumne River and get a better sense of how additional diversions would affect that stretch. It also provides time to learn more about climate change and its impacts on hydrology, population growth, and new technology for water conservation.

Mr. Drekmeier referred to BAWSCA's baseline of 171mgd in 2001, and its current allowance of 184mgd. 10 mgd can be saved from San Francisco's conservation, recycling and groundwater which can go to BAWSCA to satisfy the 194mgd.

Mr. Drekmeier thanked Art Jensen's and Ed Harrington's concise and forthcoming presentations on the PEIR. He thanked the SFPUC for increasing its water conservation budget, and expressed his support for the BAWSCA budget proposal for FY 2008-09.

- 7. Consent Calendar:**

**M/S/C (Quigg/Swegles/Unanimous) that the Minutes of the March 20, 2008 BAWSCA Board meeting be approved; that the Monthly Budget Status Report, Investment Report, and the Directors' Reimbursement Report for period ending March 31, 2008 be received and filed.**

- 8. Action Calendar:**

A. Annual Review and Re-affirmation of BAWSCA's Investment Policy: BAWSCA's Investment Policy was first adopted by the board on February 19, 2004. No changes in

laws, regulations or financial conditions have occurred that would require an amendment to the policy since it was last reviewed by the Board in July 2005.

**M/S/C (Craig/Pierce/Unanimous) that the board review and re-affirm BAWSCA's Investment Policy.**

- B. Adjustments to Staff Top Step Position Compensation: Under the CEO/General Manager's discretionary spending authority, a recent compensation survey was completed by Koff & Associates to determine whether the current top step compensation for each BAWSCA staff position align with the median of the Bay Area market.

The survey results show that two of the seven positions are at or within 1.5 percent below the median of the market. The variance for the positions of Senior Water Resources Engineer and Water Resources Planner are larger due to changes in the comparator positions used for the Senior Water Resources Engineer and the duties of the BAWSCA position.

It is recommended that the current top step position salaries be changed to align with the current medians in the market. The COLA adjustments would be applied to the new top step salaries to make position compensation consistent with the market during the next fiscal year.

Mr. Jensen emphasized that individual employee's salaries are a matter under the CEO/General Manager's discretion following employee reviews.

In response to questions, Mr. Jensen explained that Koff and Associates looked at comparator agencies BAWSCA has used historically, and recommended some changes to the previous comparator list to better reflect the composition of BAWSCA as a small agency. They also recommended changes in the position descriptions to appropriately reflect BAWSCA's positions. Koff & Associates did a thorough review which provides a solid basis for surveys in the future. Six to eight agencies were used as comparators.

Director Goff stated that he was surprised to see a 7 percent increase for the Senior Water Resources Engineer following a 5.7 percent increase from the year before. Mr. Jensen explained that the survey looked at positions that were currently comparable to BAWSCA's, providing an accurate representation of the market with which BAWSCA would be competing if the position were vacant.

**M/S/C (Swegles/Mickelsen/Goff abstained) that the board approve specified adjustments to top-step compensation for four positions: Assistant to the General Manager, Office Manager, Senior Water Resources Engineer, and Water Resource Planner.**

- C. FY 2008-09 Results to be Achieved and Proposed Budget: The proposed results to be achieved and budget for FY 08-09 was revised to incorporate the comments received

from the board at its March meeting. It has been presented to the board policy committee at its April 9<sup>th</sup> meeting where it was further reviewed and discussed.

The budget remains based on the results to be achieved. Changes to the budget include the deferral of the one-time study for uninterruptible water supplies and a reduction in the contingency budget by half, which together, reduced the proposed budget by \$165,000.

Other changes made to the proposed results to be achieved was the relocation of activities for Preparation for Long-Term Water Supply Shortages, which takes a minimal amount of staff time, to Efficient Use of Water to Extend System Capacity and Increase Reliability.

Mr. Jensen described the need for the proposed water conservation implementation plan. The projected growth in population and jobs will increase water demand in the BAWSCA member areas. BAWSCA member agencies committed to saving 23 mgd by the year 2030 through conservation and recycling, an estimated 25 mgd through gradual impact of the plumbing code changes, and a commitment to conserve an additional 10 mgd by 2030 in BAWSCA's comments on the draft PEIR.

Mr. Jensen stated that there are no plans in place for achieving the projected total of 58 mgd, and proposed that a coordinated approach is more cost-effective than having independent efforts from the 27 agencies.

The scope of the study will identify the actions and schedule needed for agencies to achieve the committed levels of conservation, as well as identify the areas, resources and schedule by which BAWSCA can assist member agencies. The study will also address how results can be monitored to determine whether goals are being met.

The board will be asked to authorize the release of a Request for Proposal in July. BAWSCA has begun working with member agencies through BAWSCA's Water Resources Committee to develop the scope of work for the study. Participation in the development of the scope of work is open to all member agency staff.

Director Seidel repeated his previous comment that BAWSCA should look into what other agencies may have already done in the past, and whether the existing information can give the study some leverage.

The proposed FY 2008-09 budget is \$2.658 M, or approximately \$150,000 higher than the current year's budget. The budget includes the one-time conservation/recycling implementation plan and increased operating expenses.

Funding the budget would require the use of some of BAWSCA reserves. BAWSCA's guideline is to maintain a reserve amount equal to 25 percent of the budget. Three options were examined. One option would be to increase assessments by 6 percent and

maintain a 20 percent reserve balance. A second option is to increase assessments by 9 percent and maintain a 22 percent reserve balance. A third option is to increase assessments by 12 percent and maintain a 25 percent reserve balance. Mr. Jensen presented a projection of possible future funding needs and the level of assessments needed to sustain that funding level.

In response to Director Pierce, Mr. Jensen explained that the purpose of maintaining a reserve balance is to fund activities that come up during the fiscal year, that were not included in the approved budget. When BAWSCA was formed the board examined the size of reserve that would be prudent. The amount of time required to address matters such as arbitration of current contract administration, major legislation and other matters was converted to a budgetary equivalent to generate a reasonable budgeting guideline of 25 percent.

The board was asked to approve the results to be achieved in FY 2008-09, the proposed budget of \$2.658M, a 4.185 percent COLA adjustment to position salaries other than the General Manager, and an increase in assessments of 9 percent.

The 4.185 percent COLA adjustment was based on the December Consumer Price Index for Urban Wage Earners and Clerical Workers in the San Francisco-Oakland-San Jose area.

**M/S/C (Pierce/Quigg/Wykoff opposed) that the board of directors approve the results to be achieved in FY 2008-09, proposed budget of \$2.658 M, COLA adjustment to position salary ranges of 4.185 percent , and increase assessments by 9 percent and maintain an amount in the BAWSCA reserve equal to 22 percent-25 percent of the total budget.**

- D. Approval of Professional Services Contracts for FY 2008-09: The board was presented nine consultant contracts that need to be in place by July 1, 2008. A staff memo is provided for each contract. Since the BPC's discussion of the contracts at its meeting in April, additional information was provided to clarify that the work done by BAWSCA technical consultants with regard to the WSIP is not a duplication of work done by the SFPUC and its consultants.

The date in the first bullet shown on the second page of Attachment 1 for Item #8-D9 was corrected to state June 30, 2009, instead of 2008.

Item #8D-4, Technical Services of Terry Roberts Consulting, Inc., was removed from the consent calendar to be voted on separately.

**M/S/C (Wykoff/Breault/Unanimous) that the board approve the Professional Services Contracts, items #8-D1 to 8-D3, and 8-D5 to 8-D9, to be in place by July 1, 2008.**

Director Wykoff commented that the hourly rate of \$175 for the technical services of Terry Roberts Consulting, Inc, appears to be too high, as he previously stated at the April 9<sup>th</sup> Board Policy Committee meeting.

**M/S/C (Livengood/Swegles/Wykoff opposed) that the board authorize the CEO/General Manager to negotiate and execute a contract between BAWSCA and Terry Roberts Consulting, Inc. for a not-to-exceed amount of \$80,000, subject to legal counsel's review.**

- E. Authorize Contract Amendment with GardenSoft to Develop Internet Based Version of Waterwise Gardening CD-Rom: The proposed contract amendment with GardenSoft will allow the development of an internet version of the WaterWise Gardening CD-Rom. The \$15,000 cost for the contract amendment covers software modifications and licensing fees. BAWSCA is working with legal counsel in reviewing the licensing agreement. \$10,000 will come from the current year's budget, and the remaining \$5,000 will come from the FY 08-09 budget.

**M/S/C (Pierce/Pear/Unanimous) that the board authorize the CEO/General Manater to execute a contract amendment with GardenSoft for the development of an internet-based version of the WaterWise Gardening CD-Rom for an amount not to exceed \$15,000.**

#### **9. Directors' Discussion:**

Director Seidel expressed his concern with Measure E, and how it can potentially disable the decision-making of the SFPUC if the Mayor's appointments are withheld by the San Francisco Board of Supervisors. Mr. Seidel also stated his opposition for the 2018 variant, and cited that it can re-open the environmental process in 2018, which will cause further delays in the program. The idea of the PEIR was to forecast the programs, projects, and environmental impacts up to 2030.

The date of the next meeting was clarified to be July 17, 2008, not 2007.

**10. Adjournment:** The meeting was adjourned at 8:35 pm.

**11. Date, Time and Location of Next Meeting:** The next meeting is scheduled for July 17, 2008, at 7:00 p.m. in the Wind Room, Foster City Community Center.

Respectfully submitted,

Arthur R. Jensen,  
Chief Executive Officer/General Manager and Secretary

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Attachments: 1) Attendance Roster

**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY**  
**Board of Directors Meeting**  
**May 15, 2008**

**Attendance Roster**

Present:

Randy Breault	Guadalupe Valley Water District
Cyril Bologoff	City of Brisbane
Robert Craig	Westborough Water District
John Fannon	Town of Hillsborough
Kelly Fergusson	City of Menlo Park
Mike Goff	Stanford University
Michael Guingona	City of Daly City
Rob Guzzetta	California Water Service Company
Patrick Kolstad	City of Santa Clara
Robert Livengood	City of Milpitas
Chris Mickelsen	Coastside County Water District
Rosalie O'Mahony	City of Burlingame
Matthew Pear	City of Mountain View
Barbara Pierce	City of Redwood City
Dan Quigg	City of Millbrae
Chris Reynolds	Skyline County Water District
Dan Seidel	Purissima Hills Water District
Ron Swegles	City of Sunnyvale
Louis Vella	Mid-Peninsula Water District
John Weed	Alameda County Water District
Rick Wykoff	City of Foster City

Absent:

Larry Klein	City of Palo Alto
Irene O'Connell	City of San Bruno
Tom Piccolotti	North Coast County Water District
Bill Quirk	City of Hayward
Chuck Reed	City of San Jose
David Woods	City of East Palo Alto