

**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
BOARD OF DIRECTORS MEETING
November 19, 2009 – 7 p.m.
Foster City Community Building, Foster City CA**

MINUTES

1. Call to Order/Pledge of Allegiance/Roll Call – 7:00 pm

BAWSCA Chair, John Fannon, called the meeting to order and led the salute of the flag. Art Jensen, called the roll. Nineteen (19) members of the board were present, constituting a quorum. A list of directors present (19) and absent (7) is attached.

2. Comments by the Chair: On behalf of the BAWSCA Board of Directors, Director Fannon presented Chief Executive Officer and General Manager, Arthur Jensen, with a memento acknowledging his leadership, commitment and dedication in successfully negotiating a new Water Supply Agreement with San Francisco for the next 25 years.

Chair Fannon noted that BAWSCA's challenges in 2010 include:

- The ongoing monitoring of the WSIP to ensure it remains within budget, scope and schedule;
- Developing the Long-Term Reliable Water Supply Strategy and analysis of water allocations for drought;
- Coordinating efforts with the SFPUC to avoid another unilateral decision by San Francisco on water policy that will affect the BAWSCA member agencies and their future water supply.

Director Fannon emphasized that carefully monitoring expenses will be an important part of BAWSCA's progress in what is going to be a very tough year.

3. Board Policy Committee Report: Committee Chair, Kelly Fergusson, reported that Nicole Sandkulla represented the BAWSCA staff on behalf of Mr. Jensen. Mr. Jensen was in Sacramento attending the hearings on the Delta water legislation and other legislative matters.

The committee was pleased with the progress report presented on the development of the indoor/outdoor model ordinances. The model ordinances will be distributed to member agencies when they are finalized. An update will be provided to the board tonight.

Director Fergusson reported that committee members praised the clarity of Mr. Jensen's testimony delivered to the Federal Energy Regulatory Commission (FERC) on Tuolumne River fish flows and water supply reliability. She noted that copies of the testimony have been provided to board members.

4. Chief Executive Officer's Reports:

- A. Committee and Board Policy Calendar: Mr. Jensen presented the policy calendar for the fiscal year as a tool for the board to anticipate policy items and for tracking progress.
- B. Legislation: Mr. Jensen presented the status of State Delta/Water legislation. He reminded the members of the board that while some of the water pumped out from the Delta goes to Los Angeles, it serves as a major water supply for a significant portion of the Bay Area, including BAWSCA agencies in the East and South Bay.

If the environment in the Delta is at risk and uncertain, so will the water supplies taken from the Delta. The ability to pump water from the Delta has become more and more tightly regulated over the last several decades as environmental conditions worsen in the Delta and law suits are filed. This is why BAWSCA has a stake in the Delta is well managed and capable of providing reliable water supplies.

Five bills were recently passed by the legislature and signed by the Governor

Major provisions of the bills include: 1) creating a structure that would manage the Delta and have the authority to implement various plans put forth for the Delta, 2) providing \$12B bond measure to finance, contingent on voter approval, some of the activities and projects referenced in the legislation, and 3) requiring a statewide reduction of 20% in gross per capita urban water use by the year 2020.

The reliability of the region's water supplies from the Delta will depend on the passage of the \$12B State bond measure. If voters don't approve the bond measure, the legislation will continue, but only some of the activities and projects would be implemented. The bond measure includes money for projects that would protect the environment in the Delta.

BAWSCA and the SFPUC were concerned that efforts to increase the reliability of the State's water supplies might come at the expense of San Francisco's water rights. BAWSCA worked with the SFPUC and local legislators in October to propose an amendment to one of the bills to address this issue. That change revision was accepted. Mr. Harrington will report on San Francisco's actions.

BAWSCA is examining the provisions of the 20% reduction by 2020 and how it will impact the agencies collectively. It can potentially affect the formula for allocating water during a drought as well as conservation programs. It is critical that BAWSCA and individual member agencies examine the bill's requirements.

Members of the board asked what the impacts would be if the bond measure does not pass, whether the projects to be financed include both construction and conservation, and whether the measure must be passed by a simple majority or a super majority of voters.

Mr. Jensen stated that Director Weed suggested BAWSCA invite Tim Quinn, Executive Director of the Association of California Water Agencies (ACWA), to speak to the board in January or March of 2010. He can talk about the bond measure and share his understanding of the bill.

There were no further questions and comments from the board.

- C. Water System Improvement Program – Update: The SFPUC submitted its annual progress report and adopted changes to the WSIP to the California Department of Public Health (CDPH) and California Seismic Safety Commission, as required by AB 1823. The CDPH’s draft report of its review is positive. The CSSC’s review is ongoing.

Later on tonight’s agenda, Julie Labonte, SFPUC Program Manager for the WSIP, will provide further information on the WSIP.

- D. Water Conservation Implementation Plan - Status:

Indoor/Outdoor Ordinances – Update: Mr. Jensen reported that the workgroup met on November 12th to review the draft indoor and outdoor ordinances and some of its supporting materials. The model ordinances will be finalized in December, and distributed to the staff, City Managers and Board Members of each BAWSCA member agency.

Mr. Jensen explained that adoption of the ordinances is not an action by the BAWSCA board. The ordinances are acted upon by local land use entities and water districts. BAWSCA intends to keep board members informed so that they will be prepared when the ordinances appear on the agendas of their local jurisdictions.

BAWSCA’s model indoor and outdoor ordinances were developed with the cooperation of BAWSCA member agency staff and planning departments, and other agency representatives from the county and Santa Clara Valley Water District. If local agencies do not take action, the model ordinance developed by the State will be deemed effective beginning January 2010.

BAWSCA has been invited to speak at different functions, and Ms. Sandkulla and Ms. Dutton have spoken before various groups and associations.

High Efficiency Toilets: BAWSCA is working to ensure successful promotion of the HET program. Efforts include the continuous replenishment of in-store materials, pursuit of public-service announcements in local cable and radio stations, and highlighting the program in school education program, including Tuolumne River Trust’s (TRT) school education program.

BAWSCA is also in partnership with the City of Hayward and the Green Plumbers in providing a training workshop on the benefits and proper installation of high efficiency toilets.

BAWSCA is making efficient use of its resources by hiring Alexis Shields as an intern, and assigning Lourdes Enriquez, Assistant to the General Manager, to help with promoting the HET program.

5. Special Report: USGS Report on Bay Area Earthquake Faults:

Dr. David Schwartz of the U.S. Geological Survey addressed the board with an update of the USGS’ present knowledge of past and future earthquakes in the Bay Area, and what organizations like BAWSCA member agencies should consider relative to the Bay Area’s water systems and the water supply infrastructure. Dr. Schwartz stated that a critical question is whether there is enough time to do what needs to be done to harden the system

and for the communities to be socially, culturally and economically prepared for the next big earthquake.

The Bay Area is located on the boundary of the North American Plate and the Pacific Plate. The plates slide past each other at about 40 millimeters, or approximately 1.6 inches, per year. The plates move on the small cracks in the earth called faults, which are cracks in the earth's crust that extends from the surface to about 7 or 8 miles down.

The Bay Area has the highest density of active faults than any other urban center in the United States. The Bay Area's active faults help the plates move. Over time the little movements of the plates build up, and in the long term, the faults produce seismic energy.

The USGS examines different types of information to determine where, when and how large the next earthquake will be. The 1906 earthquake released the stress that built up in the region. Since then, the Bay Area's seismic activity remained quiet until the 1989 Loma Prieta earthquake. Dr. Schwartz noted that the Loma Prieta was a blind fault, a fault that was unknown until the movement occurred.

Dr. Schwartz stated that it is important to know that since 1906 there has not been an earthquake of significance on any of the Bay Area's major faults. The 40 millimeter per year movement of the plates have accumulated to 4 meters, or approximately 12 feet. The plates will continue to move, and the movement can come out differently at different times. Dr. Schwartz stated that by the year 2036, 5.2 meters will have been accumulated. He noted that an earthquake of a magnitude 7 will average about a 5-6 feet of ground movement.

The Bay Area's infrastructure elements for transportation, electrical transmission, and water supply cross major earthquake faults. Potential issues would be surface faulting, and strong ground shaking that can lead to liquefaction, lateral spreading and landslides.

Dr. Schwartz stated that with proper characterization of a fault's amount and rate of slip, the effects can be mitigated with appropriate engineering. He presented the example of the Trans Alaska Pipeline which was constructed to accommodate ground movement of 20 feet based on the characterization of the Denali Fault. The Denali Fault was identified in 1973 as part of the pipeline investigation. The fault ruptured beneath the pipeline during an earthquake in 2002. The ground moved by 18 feet during the earthquake.

Dr. Schwartz noted that the Coast Range Tunnel, the regional system's first major port of entry to the Bay Area, crosses the Greenville Fault. Previous characterization of the fault in 2003 estimated very low probabilities for future earthquake to occur in 30 years. The probability of a 6.9 to 7.0 magnitude earthquake would occur every 600-700 years. Dr. Schwartz reported that more recent characterization of the fault using new technology estimates that the fault is moving three times faster than previously thought. The faster movement of the fault increases the probability of an earthquake to occur sooner. Dr. Schwartz reported that the Greenville Fault has a probability to move by 9-10 feet with a 9.0 magnitude earthquake.

Dr. Schwartz pointed out that stronger ground movement can be felt in farther locations than in areas closer to the earthquake's epicenter. Infrastructures far from major faults can be significantly affected. He presented a simulation of the ground movement in the Bay Area resulting from an earthquake from the Hayward Fault. Dr. Schwartz stated that higher

probabilities of earthquakes have pushed the infrastructure towards the path of being prepared. He noted, that much remains to be done.

6. SFPUC Report:

SFPUC General Manager, Ed Harrington, introduced Steve Ritchie as the SFPUC's new Assistant General Manager for Water Enterprise, to replace Michael Carlin who was promoted as Deputy General Manager of the SFPUC.

He reported that a progress report on the WSIP will be presented by Julie Labonte, SFPUC Program Manager for the WSIP.

Mr. Harrington reported that the cooperating and close working relationship between BAWSCA and the SFPUC proved effective during the development of the Delta legislation. The SFPUC and BAWSCA collaborated to ensure that five critical issues were successfully addressed to protect the water customers of the region.. Issues included:

1. The protection of San Francisco's water rights and that Northern California's water supply were not adversely affected directly or indirectly;
2. Clarification of the process determining the needs of the Delta, and that the process include public participation;
3. Reiteration the language that protected Northern California and San Francisco's water rights to address the concern that other uses of water could have a higher priority than domestic use;
4. Clarification that the Delta Water Master's authority is limited more directly to impacts on the legal Delta and is further limited to enforcement of State Water Board Actions;
5. The elimination of interim relief provisions that expanded the State Water Board's enforcement authority.

Mr. Harrington noted that the SFPUC and BAWSCA support the discussions to fix the Delta and address the water supply needs of Southern California and the Central Valley. But the SFPUC emphasized that the San Francisco regional water system takes less than 1% of the water that would otherwise flow to the Delta to supply water to 7% of the state's population. In addition, the region uses less water than almost any place in California. Mr. Harrington reported that the authors of the legislation understood the SFPUC's message, and were happy to include the language that protected San Francisco's water rights.

In response to Director O'Mahony's question, Mr. Harrington reported that the Delta Water Master will be appointed by the Delta Council, whose members are appointed by the Governor.

Julie Labonte addressed the BAWSCA board with an update on the WSIP. As previously reported, the commissioners of the SFPUC approved the revised WSIP on July 28th. The revised program included changes to 4 projects, addition of 2 new projects, revision of the program completion date to December 2015, and a new budget of \$4.59 B. BAWSCA offered four recommendations which were incorporated in the resolution approved when

the new program was adopted by the commission. Ms. Labonte provided a report on how the SFPUC is following up on BAWSCA's recommendations.

Ms. Labonte was pleased to report a positive program status for the calendar year of 2009. She reported that construction activities are at a good momentum, the bidding environment remains favorable, and there is great cooperation in the field.

There are several good news on program costs. Ms. Labonte reported that while eleven projects have positive cost variances by \$24 million, there are six projects with negative cost variances by \$3.3 million, and two projects with awarded contracts that are \$43 million below the engineers' estimates. She noted additional cost savings from recent bids for two projects that came in at a total of \$57 million below the engineer's estimates. The recent bond sales conducted in August and September provides lower interests costs which will result to a savings of \$1.9 million per year over the 30 year financing period.

Construction will start to pick up momentum as larger projects move into the construction phase. Draft EIR's for major projects including the Sunol Valley Water Treatment Plant, Calaveras Dam, Crystal Springs, and San Andreas Transmission System were published and are in progress for certification. Ms. Labonte was pleased to report that the draft EIR for the Calaveras Dam project is going well. There is a lot of focus on the collection of air and water quality baseline data for the naturally occurring asbestos on the site. The SFPUC is working closely with the Department of Safety of Dams for the final draft design report, which is expected by the end of the year, pending completion of the environmental review process.

EIR's for five major projects were certified, and twelve construction contracts were awarded. The SFPUC received 4-10 bids per project, and the awarded contracts total \$233 million, compared to the engineers' estimates of \$294 million. Ms. Labonte noted that the savings of \$99.4 million will make up for the Calaveras and Harry Tracy projects.

As of September, over 1,300 craft workers were added on the clock, completing more than 325,000 hours of work on WSIP projects.

Ms. Labonte reported progress and activities of key projects that are currently in and will soon be in construction. The Tesla Treatment Facility project, the first project using design-build method, is progressing successfully and is seven months ahead of schedule. The Alameda Siphon #4 on the Sunol Valley, which will provide supply reliability in the event of an earthquake on the Calaveras Fault, began in August and is expected to be completed in September 2011.

Ms. Labonte showed a photo of the model of the articulated box that will cross the Hayward Fault for the seismic upgrades of the Bay Division Pipeline #3 and #4. The articulated box is currently being tested at Cornell University under the direction of Dr. Tom O'Rooke. The box behaved as expected on all five tests performed.

Construction progress reports were provided for the New Crystal Springs Bypass Tunnel, Harry Tracy Water Treatment Plant (HTWTP) Short-Term Improvements, San Andreas Pipeline #3, and University Mound Reservoir,

Before the end of 2009, three draft EIR's will be published, including the draft EIR for HTWTP Long-Term Improvement project, construction contracts will be advertised, construction contracts for two major projects will be awarded.

The SFPUC put together a panel of experts who will conduct an independent review of the WSIP in December to assess the overall performance of the program and the SFPUC's capability and readiness to manage the amount of construction work between now and 2015. A Risk Management Program is also being developed to standardize risk assessment and mitigation processes in house.

In regards with the status of the California Seismic Safety Commission's (CSSC) report on its review of the revised WSIP, Ms. Labonte reported that the SFPUC and its Seismic Safety Task Force is working with CSSC in providing the information they are requesting.

In regards with the Greenville Fault, Ms. Labonte reported that the Coast Range Tunnel is not a part of the WSIP because at the time the program was scoped, the risk probabilities from the Greenville Fault were very low in comparison to the Hayward, San Andreas and Calaveras Faults. Additionally, the last inspection of the Coast Range Tunnel showed no degeneration of the tunnel lining in the area of the fault. The SFPUC can look at any new data available on the Greenville Fault to determine what seismic efforts are needed for the Coast Range Tunnel.

Director Abrica stated that he would like to further discuss with the SFPUC his concern for areas affected by the program construction, including East Palo Alto, and the need for better coordination when it comes to emergency response and public safety issues. Ms. Labonte noted Director Abrica's comments and will look into the issue.

7. **Public Comments:** Public comments were received from Wynn Grich, resident of the City of Hayward.

8. **Special Report: Water Supply**

- a. Actions before the Federal Energy Regulatory Commission (FERC) over Tuolumne River fish flows required downstream of New Don Pedro Reservoir: Mr. Jensen informed the board that FERC oversees and licenses Modesto and Turlock Irrigation Districts' operation of hydropower facilities at New Don Pedro Dam. Federal and State regulatory agencies have expressed concerns about how flows in the Lower Tuolumne River and might affect the health of the fisheries.

FERC took two actions to address these fishery concerns. It issued an order of expedited hearings, proceedings and settlement discussions in October to develop factual records that evaluate possible solutions that would benefit the fisheries. The report is due on November 20th. FERC also initiated a formal mediation process to address the issues raised by the parties.

Mr. Jensen noted that the FERC activities are important to BAWSCA and its member agencies. The FERC licenses can require the release of water for fish downstream of the facilities. One of the proposed fish flows could reduce San Francisco's deliveries to the Bay Area by 50% during drought. BAWSCA looked at the member agencies' Urban Water Management Plans and a 50% reduction would only supply enough water for basic human needs; the supply would not be enough to support commercial and industrial water needs, disrupting jobs and economic activity of the region.

BAWSCA has met with the mediator and submitted written testimony. Copies of the testimony were included in the agenda packet, as well as testimony from the SFPUC and other interested parties.

BAWSCA will stay engaged with the activities, and keep member agencies and the board informed of significant developments. No action is required from the board.

- b. Drought Water Allocation – Status of developing an agreement among agencies for allocating water purchased from San Francisco: Mr. Jensen reported that a meeting was held with agency-appointed water management representatives to discuss the approach, methodologies and various issues to be considered in developing a Drought Water Allocation Plan. The agencies are in unanimous agreement with the approach. The next meeting will be held in mid-December.

Mr. Jensen noted that the planned completion for the plan is spring 2010. He noted that member agencies must reach unanimously agreement. If a plan is needed before agencies can reach unanimous agreement, the new Water Supply Agreement gives the BAWSCA board the authority to adopt a methodology.

- c. Long-Term Reliable Water Supply Strategy – Status of Scope Development: BAWSCA is also discussing the scope development for the Long-Term Reliable Water Supply Strategy with the appointed water management representatives from each agency. The criteria for assessing water supply alternatives will be discussed and examined with the group in the next half of the fiscal year. A progress report will be provided to the Board in January.
- d. Public Comments on Water Supply: Peter Drekmeier, Executive Director of Tuolumne River Trust (TRT) reported that the year's current salmon count on the lower Tuolumne River is 136 compared to 130,000 before the dam. He noted that the quantity of water plays a huge role in the success of the fish, and that he is concerned the salmon population will disappear. TRT feels that the irrigation districts have an obligation to release more water for the fish. TRT would like to look at opportunities to work with BAWSCA and the SFPUC to address the fishery issues.

Mr. Drekmeier reported that the TRT's school education program has reached over 2,000 students. TRT distributed BAWSCA's literature on rebate programs and they have been well-received.

9. Action Calendar:

- A. Authorization to Negotiate and Execute a New Contract with PG&E for the Joint Water Utility and Energy Utility Residential Washing Machine Rebate Program:

M/S/C (Quirk/Anderson/Unanimous) That the board authorize the CEO/General Manager to negotiate and execute a contract with PG&E, subject to legal counsel's final review, for rebate processing services through fiscal year 2010-11 associated with implementation of the Washing Machine Rebate Program from January 1 through December 31, 2010, and offer participation in the program to BAWSCA member agencies for FY 2010-2011.

10. Consent Calendar:

Director Abrica made a correction to the board minutes of the September 17th meeting to reflect comments that the monitoring and reporting system (MRS) for water conservation programs should be a fair comparison of the progress across the jurisdictions.

Mr. Jensen stated that the transcripts will be reviewed to accurately include his comments in the September 17th minutes. The addition to the minutes can be reviewed by Director Abrica and brought back to the board. Director Abrica stated that his review of the changes would not be necessary.

M/S/C (Craig/Vella/Unanimous) that the minutes of the September 17, 2009 board meeting be approved with the addition of Director Abrica's comments, the Budget Status Report, Quarterly Investment Report, and Director's Reimbursement Report for periods ending September 30, 2009, and the FY 2008-09 Audit Reports for BAWSCA and BAWUA be received and filed.

11. Directors' Discussion: There were no further discussion.

12. Adjournment: The meeting was adjourned at 9:45pm.

13. Date, Time and Location of Next Meeting: The next meeting is scheduled for January 21, 2010, in the Wind Room, Foster City Community Center.

Respectfully submitted,

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

ARJ/le

Attachments: 1) Attendance Roster

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
Board of Directors Meeting
November 19, 2009

Attendance Roster

Present:

Ruben Abrica	City of East Palo Alto
Robert Anderson	Purissima Hills Water District
Cyril Bologoff	City of Brisbane
Randy Breault	Guadalupe Valley Water District
Ken Coverdell	Coastside County Water District
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
Irene O'Connell	City of San Bruno
Rosalie O'Mahony	City of Burlingame
Matthew Pear	City of Mountain View
Tom Piccolotti	North Coast County Water District
Dan Quigg	City of Millbrae
Bill Quirk	City of Hayward
Louis Vella	Mid-Peninsula Water District
John Weed	Alameda County Water District

Absent:

Armando Gomez	City of Milpitas
Larry Klein	City of Palo Alto
Patricia Mahan	City of Santa Clara
Barbara Pierce	City of Redwood City
Chuck Reed	City of San Jose
Ron Swegles	City of Sunnyvale
Rick Wykoff	City of Foster City