

# SAN FRANCISCO PUBLIC UTILITIES COMMISSION

OFFICE OF THE ASSISTANT GENERAL MANAGER, WATER  
1155 Market Street, 11th Floor, San Francisco, CA 94103 • Tel. (415) 934-5736



November 4, 2010

TO: Commissioner Francesca Vietor, President  
Commissioner Anson B. Moran, Vice President  
Commissioner Ann Moller Caen  
Commissioner F. X. Crowley

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F.X. CROWLEY  
COMMISSIONER

ED HARRINGTON  
GENERAL MANAGER

THROUGH: Ed Harrington, General Manager *EH*

FROM: Steven R. Ritchie, Assistant General Manager, Water Enterprise *SR*

SUBJECT: Establishment of Interim Supply Allocations

In adopting the Water System Improvement Program (WSIP) in October 2008, the San Francisco Public Utilities Commission included full implementation of all proposed WSIP capital improvement projects to achieve level of service goals relating to public health, public safety, and delivery reliability, but decided to adopt a water supply element that included an Interim Supply Limitation of 265 million gallons per day (mgd) through 2018. The Commission found that, "Deferring the 2030 water supply element of the WSIP until 2018 would allow the SFPUC and its wholesale customers to focus first on implementing additional local recycled water, groundwater and demand management actions while minimizing additional diversions from the Tuolumne River." Under the Interim Supply Limitation, San Francisco's retail allocation is 81 mgd, and the Wholesale Customers' collective allocation is 184 mgd and includes the demand of the cities of San Jose and Santa Clara. Pursuant to Section 4.02 of the 2009 Water Supply Agreement (WSA), the Commission must establish each Wholesale Customer's Interim Supply Allocation (ISA) by December 31, 2010.

The purpose of the ISAs is to establish the basis by which the Environmental Enhancement Surcharge (EES) would be assessed. The EES would be assessed by San Francisco on individual agencies who exceed their ISA when the aggregate demand exceeds 265 mgd. Under the WSA, the EES is required to be established as part of the rate-setting process for FY 2011-12. The EES is to be volumetric-based and is intended to be something that helps to ensure that aggregate demand remains below 265 mgd. It is not intended to be a reliable source of funds for environmental enhancement projects

Developing the Interim Supply Allocation has its challenges:

- First is that the Interim Supply Limitation (which includes San Jose and Santa Clara) is the same as the Individual Supply Guarantee (which does not). Thus, if San Jose and Santa Clara receive an ISA, one or more customers must receive an ISA less than their Guarantee.

- Second is that some customers are projected to use more than their Individual Supply Guarantee by 2018 while others are projected to use less. Section 3.02 (d) of the Water Supply Agreement states, "it shall be the responsibility of each Wholesale Customer to limit its purchases of water from San Francisco so as to remain within its Individual Supply Guarantee." At the same time, the WSA does not explicitly relate the development of ISAs to Individual Supply Guarantees.

Since the beginning of August, we have met with the Wholesale Customers three times to receive feedback on our development of a recommendation for the Commission's consideration in a transparent way. We have been doing this in accordance with the attached schedule (Attachment 1).

We have worked through two iterations of the ISA in an effort to address the issues that adoption of an ISA present. The first version (Attachment 2) was based primarily on Projected Wholesale Customer purchases as provided by BAWSCA to the SFPUC as detailed in BAWSCA's Long-Term Reliable Water Supply Strategy Phase I Report, May 25, 2010. In effect this version would have given each of the customers an ISA to accommodate their projected demands between now and 2018. The shortcoming of this version was that it did not incorporate the Individual Supply Guarantees, and in fact it provided an allocation in excess of some ISGs.

The second version (Attachment 3) incorporated ISGs, relying in part on Section 3.02 (d). All agencies were assigned either their ISG or their 2018 purchase projection plus 10%, whichever was less. Hayward was assigned their projected purchase request. San Jose and Santa Clara each received half of the difference between the sum of the other agencies' ISAs and 184 mgd. There were some concerns with this version. One is that San Jose and Santa Clara may have received a disproportionate reduction in their respective ISAs to the reduction of other agencies with respect to their ISGs. Another is that some agencies such as East Palo Alto are restricted to their Individual Supply Guarantee despite being apparently efficient water users based on their per capita consumption. What this reveals is that the Individual Supply Guarantees don't account for a variety of factors such as the degree of efficient water use, land use planning and zoning decisions by individual Wholesale Customers.

A specific method for dealing with the differences between demand projections and ISGs was the provision in the Water Supply Agreement for transfers of ISAs. The conditions for transfers of ISAs described in the Water Supply Agreement are:

- Wholesale Customers can be transferees (San Francisco cannot)
- Transfers must be prospective
- Transfers must be at least for the remainder of the year
- San Francisco must reasonably determine its ability to deliver transfer to recipient
- Transfers stay in effect until December 31, 2018 or until notice is given by the participants

This transfer market allows for the shift of ISAs between customers to reduce the risk of any particular customer having to pay the Environmental Enhancement Surcharge.

Once the Commission establishes the ISAs, the wholesale customers that project demands above their ISGs would have to assess the risk of the aggregate exceeding 265 mgd and whether their individual demand would actually exceed their ISA. As a result of that internal analysis, they would decide the terms on which they felt they may enter an ISA transfer market. The Summary of the Second Draft ISAs (Attachment 4) shows the rank order of the customers by the differences between their ISAs and their 2017-18 projected purchases. This is intended to show how the different customers may initially view an ISA transfer market if the Commission adopted the Second Draft ISAs.

Attached to this memo are comment letters from Wholesale Customers on the ISA methodologies. Based on those comments and further staff analysis, we are examining further alternatives to provide the best recommendation to the Commission on the ISAs.

We look forward to discussing this matter at the November 9 meeting in anticipation of providing a recommendation for consideration at the December 14 meeting.

Please contact me if you have any questions.

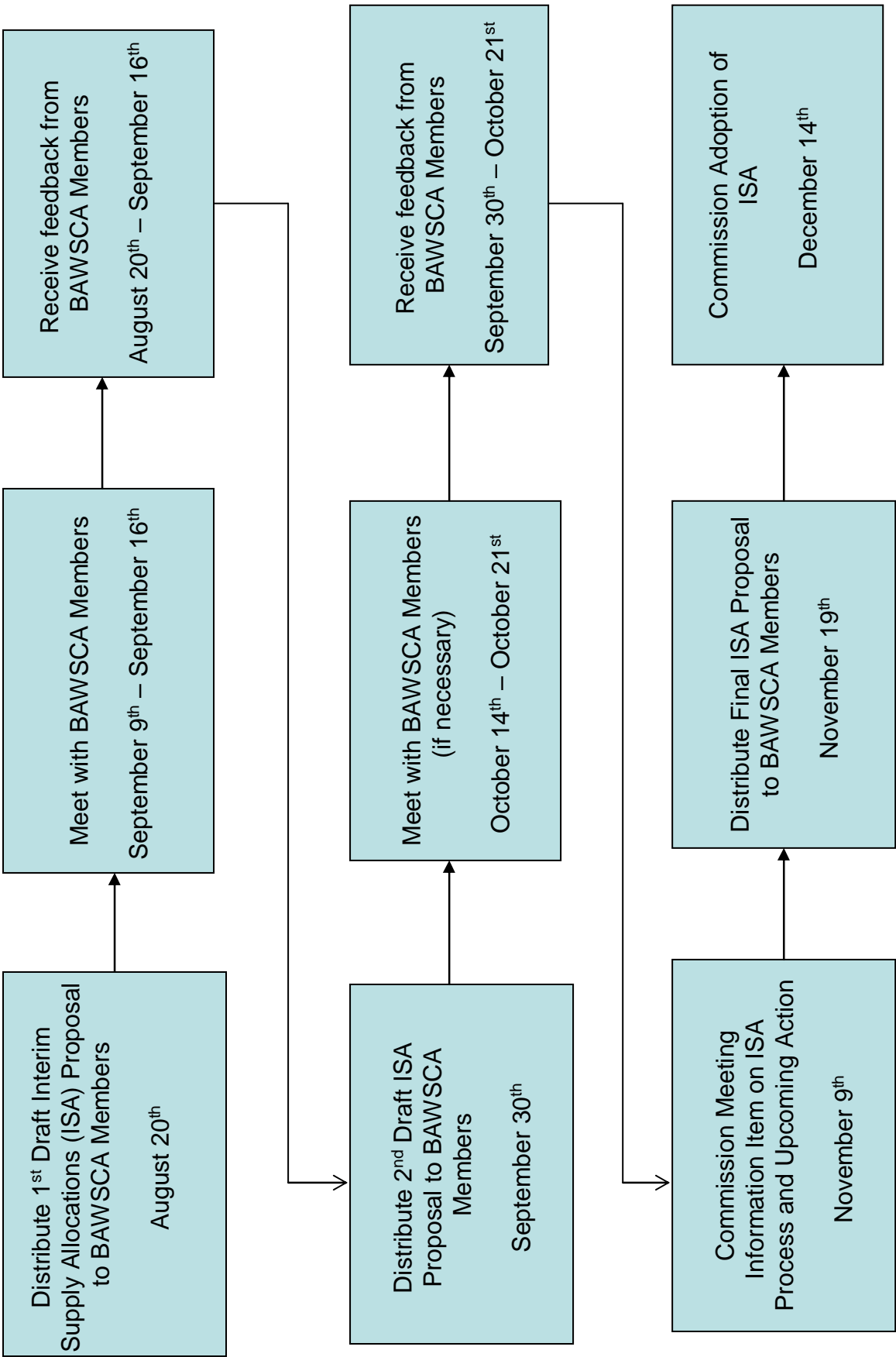
Attachments:

- ISA Development Schedule
- First Draft ISAs
- Second Draft ISAs
- Summary of Second Draft ISAs
- Wholesale Customer comment letters

cc: Michael Carlin, Deputy General Manager, SFPUC  
Todd Rydstrom, Asst. General Manager, Business Services, SFPUC  
Wholesale Customers  
Art Jensen, General Manager, BAWSCA



# Interim Supply Allocation Schedule Leading to Adoption



## SFPUC DRAFT INTERIM SUPPLY ALLOCATIONS

### **Basis for Draft Interim Supply Allocations (ISAs):**

San Francisco's ISA is 81 mgd.

Under the Interim Supply Limitation, the Wholesale Customers' collective allocation is 184 mgd and includes the demands of San Jose and Santa Clara.

Wholesale Customer ISAs are based on projected Wholesale Customer purchases for FY2017-18.

Projected Wholesale Customer purchases were provided by BAWSCA to the SFPUC as detailed in BAWSCA's Long-Term Reliable Water Supply Strategy Phase I Report, May 25, 2010 (Appendix A, Table A-3).

The following factors were considered in the purchase projections as described in the Long-Term Reliable Water Supply Strategy Phase 1 Report:

- \* other sources of supply
- \* passive conservation
- \* planned conservation as detailed in BAWSCA's 2009 Water Conservation Implementation Report

FY 2017-2018 purchase projections for Cordilleras Mutual Water Association are based on the supply assurance and historical water use.

The difference between the 184 mgd Interim Supply Limitation and FY 2017-2018 projected purchases (1.16 mgd) was split evenly among the wholesale customers (excluding Cordilleras Mutual Water Association, San Jose and Santa Clara).

Interim Supply Limitation	184.00 mgd
Projected FY 2017/18 Purchases	182.84 mgd
Difference	1.16 mgd

Agency	Individual Supply Guarantee (ISG)	Projected FY 2017-18 Purchases <sup>2</sup>	Portion of unallocated Interim Supply Limitation <sup>3</sup>	Draft Interim Supply Allocation <sup>4</sup>
	(MGD)	(MGD)	(MGD)	(MGD)
	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>
Alameda CWD	13.76	13.76	0.05	13.81
Brisbane/Guadalupe	0.98	0.95	0.10	1.05
Burlingame	5.234	4.82	0.05	4.87
California Water Service Company	35.68	36.06	0.05	36.11
Coastside	2.175	2.18	0.05	2.23
Cordilleras Mutual Water Association	0.01	0.01	0.00	0.01
Daly City	4.292	4.66	0.05	4.71
East Palo Alto	1.963	3.40	0.05	3.45
Estero	5.9	5.82	0.05	5.87
Hayward	22.08 <sup>1</sup>	22.92	0.05	22.97
Hillsborough	4.09	3.51	0.05	3.56
Menlo Park	4.456	3.90	0.05	3.95
Mid-Peninsula	3.891	3.61	0.05	3.66
Millbrae	3.152	3.13	0.05	3.18
Milpitas	9.232	8.80	0.05	8.85
Mountain View	13.46	10.26	0.05	10.31
North Coast	3.838	3.58	0.05	3.63
Palo Alto	17.075	13.33	0.05	13.38
Purissima Hills	1.625	2.77	0.05	2.82
Redwood City	10.93	10.85	0.05	10.90
San Bruno	3.246	2.30	0.05	2.35
San Jose	0	4.50	0.00	4.50
Santa Clara	0	4.50	0.00	4.50
Stanford	3.03	2.84	0.05	2.89
Sunnyvale	12.58	9.44	0.05	9.49
Westborough	1.32	0.94	0.05	0.99
<b>Total</b>	<b>184.00</b>	<b>182.84</b>	<b>1.16</b>	<b>184.00</b>

<sup>1</sup> Hayward ISG value calculated as 184 mgd less the total of permanent customer ISG's (161.92 mgd).

<sup>2</sup> Long-Term Reliable Water Supply Strategy Phase I Report, May 25, 2010 (Appendix A, Table A-3).

<sup>3</sup> Represents the difference between the 184 mgd Interim Supply Limitation and FY 2017-2018 purchase projections.

<sup>4</sup> Equals FY 2017-2018 purchase projection plus portion of unallocated Interim Supply Limitation.

## SFPUC 2nd DRAFT INTERIM SUPPLY ALLOCATIONS

### **Basis for Draft Interim Supply Allocations (ISAs):**

San Francisco's ISA is 81 mgd.

Under the Interim Supply Limitation, the Wholesale Customers' collective allocation is 184 mgd and includes the demands of San Jose and Santa Clara.

Wholesale Customer ISAs are based on projected Wholesale Customer purchases for FY2017-18 and Individual Supply Guarantees. Individual Supply Guarantees (ISGs) refer to each Wholesale Customer's share of the 184 mgd supply assurance as defined in Attachment C of the Water Sales Agreement.

Projected Wholesale Customer purchases were provided by BAWSCA to the SFPUC as detailed in BAWSCA's Long-Term Reliable Water Supply Strategy Phase I Report, May 25, 2010 (Appendix A, Table A-3).

In the 2nd draft ISAs, all agencies are assigned their ISG except those agencies whose ISG is higher than their FY2018 Projected purchases. For agencies whose ISG is higher than their FY2018 purchase projections, they received either their ISG or their FY2018 projected purchases plus 10 percent, whichever was less. Hayward received their FY2018 projected purchase and SJ and SC received the difference between the sum of all other agencies and 184 mgd.

Agency	Individual Supply Guarantee (ISG)	Projected FY 2017-18 Purchases <sup>2</sup>	2nd Draft Interim Supply Allocation <sup>4</sup>
	(MGD)	(MGD)	(MGD)
	A	B	D
Alameda CWD	13.76	13.76	13.76
Brisbane/Guadalupe	0.98	0.95	0.98
Burlingame	5.23	4.82	5.23
California Water Service Company	35.68	36.06	35.68
Coastside	2.18	2.18	2.18
Cordilleras Mutual Water Association	0.01	0.01	0.01
Daly City	4.29	4.66 <sup>3</sup>	4.29
East Palo Alto	1.96	3.40	1.96
Estero	5.90	5.82	5.90
Hayward	22.08 <sup>1</sup>	22.92	22.92
Hillsborough	4.09	3.51	3.86
Menlo Park	4.46	3.90	4.29
Mid-Peninsula	3.89	3.61	3.89
Millbrae	3.15	3.13	3.15
Milpitas	9.23	8.80	9.23
Mountain View	13.46	10.26	11.29
North Coast	3.84	3.58	3.84
Palo Alto	17.08	13.33	14.66
Purissima Hills	1.63	2.77	1.63
Redwood City	10.93	10.85	10.93
San Bruno	3.25	2.30	2.53
San Jose	0.00	4.50	3.67
Santa Clara	0.00	4.50	3.67
Stanford	3.03	2.84	3.03
Sunnyvale	12.58	9.44	10.38
Westborough	1.32	0.94	1.03
Total	184.00	182.84	184.00

<sup>1</sup> Hayward ISG value calculated as 184 mgd less the total of permanent customer ISG's (161.92 mgd).

<sup>2</sup> Long-Term Reliable Water Supply Strategy Phase I Report, May 25, 2010 (Appendix A, Table A-3).

<sup>3</sup> FY 2017-2018 purchase projections for Cordilleras Mutual Water Association are based on the supply assurance and historical water use.

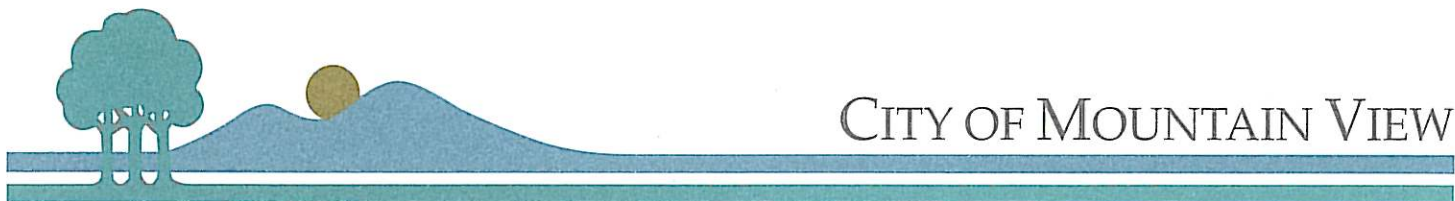
<sup>4</sup> All agencies are assigned their ISG except those agencies whose ISG is higher than their FY2018 Projected purchases. For these agencies, they either received their ISG or received their FY2018 projected purchases plus 10 percent, whichever was less. Hayward received their FY2018 projected purchase, and San Jose and Santa Clara each received half of the difference between the sum of all other agencies' ISAs and 184 mgd.

Wholesale Customers in Rank Order by the Difference Between Their 2<sup>nd</sup> Draft ISA and  
Their Projected 2017-18 Projected Purchases

<b>Agency</b>	<b>Projected FY 2017-18 Purchases</b>	<b>2nd Draft Interim Supply Allocation</b>	<b>ISA minus Projected Purchases</b>
	(MGD)	(MGD)	(MGD)
Palo Alto	13.33	14.66	1.33
Mountain View	10.26	11.29	1.03
Sunnyvale	9.44	10.38	0.94
Milpitas	8.80	9.23	0.43
Burlingame	4.82	5.23	0.41
Menlo Park	3.90	4.29	0.39
Hillsborough	3.51	3.86	0.35
Mid-Peninsula	3.61	3.89	0.28
North Coast	3.58	3.84	0.26
San Bruno	2.30	2.53	0.23
Stanford	2.84	3.03	0.19
Westborough	0.94	1.03	0.09
Redwood City	10.85	10.93	0.08
Estero	5.82	5.90	0.08
Brisbane/Guadalupe	0.95	0.98	0.03
Millbrae	3.13	3.15	0.02
Hayward	22.92	22.92	0.00
Alameda CWD	13.76	13.76	0.00
Coastside	2.18	2.18	-0.01
Daly City	4.66	4.29	-0.37
California Water Service Co.	36.06	35.68	-0.38
Santa Clara	4.50	3.67	-0.83
San Jose	4.50	3.67	-0.83
Purissima Hills	2.77	1.63	-1.15
East Palo Alto	3.40	1.96	-1.44



**Wholesale Customer Comment Letters Received  
Following Distribution of 1<sup>st</sup> Draft ISA**



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650-903-6311 • FAX 650-962-8503

September 13, 2010

MR STEVEN RITCHIE—ASST GENERAL MANAGER—WATER ENTERPRISES  
SAN FRANCISCO PUBLIC UTILITIES COMMISSION  
1155 MARKET STREET 11TH FLOOR  
SAN FRANCISCO CA 94103

#### COMMENTS ON THE DRAFT INTERIM SUPPLY ALLOCATIONS FOR DISCUSSION

Dear Mr. Ritchie:

The City of Mountain View (Mountain View) has reviewed your letter entitled *Draft Initial Supply Allocations for Discussion*, dated August 20, 2010. This letter provides Mountain View's feedback on the draft Interim Supply Allocations (ISA). We appreciate the opportunity to discuss the proposed ISAs and hope we are able to agree on an allocation methodology that is equitable and fair.

Mountain View's primary concern with the draft ISAs is that we believe using the Bay Area Water Supply and Conservation Agency's (BAWSCA) Long-Term Reliable Water Supply Strategy Phase I Scoping Report (Long-Term Supply Report) as the basis for the ISAs would penalize wholesale customers of San Francisco (Wholesale Customers) that have made significant investments in water recycling and conservation while providing windfall benefits for other Wholesale Customers. Specifically, the draft ISAs:

1. Conflict with the Water Supply Agreement (WSA), which holds each Wholesale Customer responsible for remaining within its Individual Supply Guarantee (ISG);
2. Ignore investments made by Wholesale Customers into recycled water and conservation; and
3. Circumvent the transfer mechanisms incorporated into the WSA.

In addition, several assumptions incorporated into the Long-Term Supply Report have not adequately been reviewed by Mountain View or adopted by Mountain View's

governing body, and thus we believe it is premature to use this report as the basis for our ISA.

**1. Customer Responsibility to Remain within Individual Supply Guarantee**

The WSA Section 3.02(d) states that "it shall be the responsibility of each Wholesale Customer to limit its purchases of water from San Francisco so as to remain within its Individual Supply Guarantee." The draft ISA methodology conflicts with this principle because it rewards Wholesale Customers whose purchases from San Francisco are projected to exceed their ISGs in Fiscal Year 2017-18.

**2. Recycled Water and Water Conservation Investments**

Mountain View recently completed a joint project with the City of Palo Alto to construct a \$20 million recycled water system to reduce demand on San Francisco's regional system. Subtracting recycled water use from Mountain View's proposed ISA while creating ISAs for other Wholesale Customers that are well above their respective ISGs creates several inequities:

- Rewards rather than penalizes agencies for exceeding their ISGs;
- Denies Mountain View the ability to recuperate costs by transferring excess ISA to another Wholesale Customer; and
- Penalizes Mountain View if purchases from San Francisco exceed the Long-Term Supply Report projections, despite: (1) remaining below our ISG; and (2) having increased the reliability of the regional system by investing in recycled water.

As stated in your letter, the proposed ISA incorporates water conservation savings from BAWSCA's Water Conservation Implementation Plan (WCIP). Mountain View believes that the WCIP-estimated savings are not an appropriate basis for the ISAs because they:

- Are not equitably distributed between the BAWSCA member agencies;
- Do not reflect past investments in conservation; and
- Do not take into account the State-mandated conservation requirements for 20 percent conservation by 2020 (pursuant to Senate Bill 7x-7).

The purpose of the WCIP was to identify additional water conservation measures that the Wholesale Customers could potentially implement to achieve the water savings necessary to keep collective purchases from San Francisco below 184 million gallons per day until 2018. Mountain View, in particular, has achieved approximately 14 percent conservation as a result of our conservation efforts, nearly 75 percent of the State-mandated goal of 20 percent conservation by 2020. Given the inequitable distribution of conservation savings in the WCIP, Mountain View believes that the draft ISAs penalize Wholesale Customers for past conservation efforts and are a disincentive to implementing additional conservation measures.

### **3. Water Supply Agreement Transfer Mechanisms**

Pursuant to Section 4.03 of the WSA, any Wholesale Customer may transfer any portion of its ISA to another Wholesale Customer. As explained in your letter, the WSA "provides a reasonable mechanism for dealing with uncertainty." The proposed ISAs, however, could result in serious inequities if such transfers are necessary.

Based on the draft ISAs, it is foreseeable that a Wholesale Customer whose ISA is below its ISG would need to purchase additional water through 2018, despite remaining below its ISG and having received no compensation for relinquishing excess ISA in 2010. Likewise, a Wholesale Customer whose ISA exceeds its ISG may have surplus ISA through 2018 and would be able to sell this surplus despite exceeding its ISG and having made no initial investment to acquire the excess ISA. Mountain View believes that the proposed ISA methodology circumvents the WSA transfer mechanisms by reallocating water without compensation, thus creating significant inequities if ISA transfers are necessary or if environmental surcharges are assessed.

### **WCIP and Long-Term Supply Report Methodology**

In addition to the reasons presented above, Mountain View is also concerned with using the Long-Term Supply Report's purchase projections and the WCIP conservation estimates for the basis of our ISA because:

- The purchase projections precede the adoption of Mountain View's General Plan Update (expected to be completed in 2011) and do not incorporate water demands associated with potential new projects;
- The purchase projections assume that 100 percent of Mountain View's conservation and plumbing code savings will go toward reducing water purchases from

San Francisco, though some conservation measures will reduce the City's use of Santa Clara Valley Water District supply; and

- The aggressive conservation and plumbing code savings allocated to Mountain View have yet to be substantiated by data from Mountain View's service area.

Mountain View will be reviewing and updating the assumptions of the WCIP and the Long-Term Supply Report as part of our 2010 Urban Water Management Plan Update, and believes it is premature to use these projections as the basis for Mountain View's ISA prior to review and adoption by Mountain View's governing body.

We appreciate the opportunity to provide feedback on the draft ISAs and look forward to working collaboratively with San Francisco, BAWSCA and the other Wholesale Customers to refine the allocation methodology. It is our recommendation that the Santa Clara Valley Water District also be invited to participate as they are the resource agency for Santa Clara County and will be impacted by the outcome of these discussions.

If you have any questions regarding Mountain View's comments on the draft ISAs, please contact Gregg Hosfeldt, Assistant Public Works Director, at (650) 903-6205 or via e-mail at [gregg.hosfeldt@mountainview.gov](mailto:gregg.hosfeldt@mountainview.gov).

Sincerely,



Michael A. Fuller  
Public Works Director

MAF/EF/8/PSD  
703-09-08-10L-E^

cc: Mr. Art Jensen  
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City Attorney's Office

CM, APWD—Hosfeldt, ACA—Chopra, SCE—Turner, WCC, File



September 23, 2010

Mr. Steve Ritchie  
Assistant General Manager  
San Francisco Public Utilities Commission  
1155 Market Street, 11<sup>th</sup> Floor  
San Francisco, CA

Subject: City of Palo Alto Comments on Draft Interim Supply Allocation Methodology

Dear Mr. Ritchie:

The City of Palo Alto has reviewed the Draft Interim Supply Allocations (ISA) included with your August 20, 2010 letter.

We have several concerns with the proposed draft ISA, which is based on future forecasts from the Bay Area Water Supply and Conservation Agency's (BAWSCA) Long Term Reliable Water Supply Strategy Phase I Report (Phase I Report). As an alternative, Palo Alto supports an approach based on the existing, perpetual contractual entitlements of all of San Francisco's wholesale customers (Wholesale Customers); an approach based on each customer's Individual Supply Guarantee (ISG). Although Palo Alto does not concede the legality of San Francisco's unilateral imposition of any water supply limitations, the City is pleased to submit these comments, and we appreciate the opportunity to express our concerns.

*1. The Individual Supply Guarantee is a Perpetual Contractual Right and Defines the City's Water Supply Relationship with San Francisco*

Each Wholesale Customer's ISG is an established, perpetual contractual right that is guaranteed by and survives the expiration of both the 1984 Settlement Agreement and Master Water Sales Contract, and the 2009 Water Supply Agreement (2009 Agreement) between San Francisco and the Wholesale Customers. It is expected that each Wholesale Customer will endeavor to restrict its use of water from the regional water system to its ISG. San Francisco's draft ISA, which has no relationship at all to the ISG, renders the ISG meaningless.

However, the ISG's meaning to the City of Palo Alto, a co-grantee under the Raker Act, cannot be overstated. San Francisco cannot impose a limit on the ISG, nor can Palo Alto accept such a limit. The 2009 Agreement specifies that both San Francisco and its Wholesale Customers "share a commitment to the Regional Water System providing a reliable supply of high quality water at a fair price, and achieving these goals in an environmentally sustainable manner"<sup>1</sup> but the draft ISA only serves to erode San Francisco's commitment to reliability.

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<sup>1</sup> 2009 Agreement, Introductory Statement.

2. *Using the Individual Supply Guarantee to Establish Interim Supply Allocations Promotes Good Water Planning*

Since the creation of the ISG in 1984, the presence of the perpetual right to its ISG has influenced many of Palo Alto's decisions, including evaluating the need for additional supplies, increased water efficiency commitments, recycled water investments and economic development. Clarity of supply is an essential prerequisite for good water resource planning. Thus, Palo Alto has long relied on its perpetual right to its ISG in all of its water use planning.

Palo Alto strongly supports the mechanism in the 2009 Agreement which allows the transfer of ISGs between BAWSCA agencies, and believes that such transfers will result in additional investment in the most cost-effective conservation or alternative supply resources for the region. However, if the ISA has no relationship to the ISG, these transfers will not occur and investments in water efficiency and new sustainable water supplies will be discouraged or delayed. Therefore, the proposed ISA methodology fails to achieve the stated purpose of the ISA, which is to enforce the interim water supply limitation of 265 million gallons per day (MGD).

3. *Basing the ISA on Long-term Water Use Forecasts is Not Appropriate*

Palo Alto does not support using future demand projections to establish the ISA. Demand projections are mere estimates, require the use of many assumptions and are highly uncertain. The following concerns highlight the problems with using the forecasts that were developed for the Phase I Report and BAWSCA's Water Conservation Implementation Plan (WCIP):

- *Agencies are not on a level playing field:* Different agencies chose varying degrees of conservation commitments in the forecasts used as the basis for the Phase I Report. Rather than encourage conservation, San Francisco's proposed ISA allocation method perversely rewards those agencies that made a lesser commitment with an increased ISA.
- *The forecast was not formally approved and is based on incomplete data:* The WCIP report and the projections in the Phase I Report were not approved by the Palo Alto City Council or the BAWSCA Board of Directors. Palo Alto is in the process of evaluating future demand projections and Senate Bill 7x water use reduction requirements, and Palo Alto's water use projections will likely change during preparation of the City's 2010 Urban Water Management Plan.
- *The forecast fails to account for prior conservation investments:* The aggressive goals in the WCIP report do not account for substantial water reductions achieved as a result of previous efficiency efforts. Thus, using the WCIP as a basis for San Francisco's proposed ISA is especially punitive for those agencies that have aggressively pursued, and achieved, conservation for many years.
- *Using forecasts to establish potential penalties will impact future forecast methodologies:* Forecasts are a valuable tool to inform future decisions regarding water supply, conservation and growth. But, if San Francisco adopts an ISA mechanism based on future forecasts, Palo Alto will be forced to re-assess future forecast methodologies to ensure that Palo Alto is not unfairly exposed to risks for use within its contractual ISG entitlement.

4. *The Draft Allocation Methodology Does Not Account for Historical Water Reduction Efforts*

Palo Alto is unique among BAWSCA agencies in providing gas, electric, water and wastewater services to residents and businesses. Over the past 30 years, Palo Alto has leveraged this unique position to optimize efficiency gains across all services. In the mid-seventies, Palo Alto's water use exceeded its ISG of 17.07 MGD, but conservation, incentive pricing, increased recycled water use and customer awareness have resulted in dramatic water use reductions. These reductions have been so successful that they permit Palo Alto to use significantly less water than its ISG.

Starting with the 1976 drought, the City invested in substantial capital improvements for more water efficient technology for all customer groups. During this time, Palo Alto implemented an institutional commitment to efficiency for all customers at a time when few utilities were doing the same<sup>2</sup>. This consistent outreach and interaction with customers has resulted in long-lasting water use behavioral changes throughout Palo Alto and accounts for much of the permanent water reductions Palo Alto has achieved.

In 1991, Palo Alto signed the *Memorandum of Understanding Regarding Urban Water Conservation* developed by the California Urban Water Conservation Council (CUWCC), and committed to meeting targets for conservation best management practices. Since becoming a signatory with CUWCC, Palo Alto has saved over 16,000 acre-feet of water through conservation programs and the use of recycled water, and remains committed to aggressively pursuing all cost effective conservation measures and recycled water options.

Palo Alto's historical investments in recycled water and conservation have resulted in an approximate 3 MGD water use reduction from Palo Alto's peak usage. As a result, Palo Alto's historical savings have benefitted the entire region by reducing overall water demands. Absent this commitment, and similar commitments pursued by some of the other Wholesale Customers, it is likely that the Wholesale Customers in aggregate would exceed their collective supply limitation of 184 MGD. San Francisco's draft ISA fails to recognize Palo Alto's historic contribution to conservation, since the methodology is based purely on forward-looking projections.

5. *The Proposed ISA Could Cause Financial Harm to Responsible Agencies that Limit Their Water Use to Below Their Individual Supply Guarantees*

The perpetual right to its ISG provides certainty for Palo Alto and other Wholesale Customers. Palo Alto expects that usage within an individual agency's ISG will be charged a fair and reasonable price that is consistently and uniformly applied to all Wholesale Customers. Yet the proposed ISA methodology provides a contradictory and inequitable framework. For example, under San Francisco's proposed ISA, Palo Alto could pay one price for water up to 13.38 MGD, and a higher price for water beyond that, despite the fact Palo Alto's ISG is 17.07 MGD. At the same time, several Wholesale Customers would pay the same price for water up to and beyond their contractual ISG entitlement. In theory, Palo Alto could offset any financial risk by

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<sup>2</sup> City of Palo Alto *Urban Water Management Plan Update and Amendment*, 1990.



acquiring credits from another Wholesale Customer that is below its ISA. But this situation, in which Palo Alto would be forced to acquire credits from a Wholesale Customer that is above its ISG, is simply unacceptable, particularly because Palo Alto has done so much to remain below its ISG.

Palo Alto strongly advocates that the ISG should be the basis for any interim limitation imposed by San Francisco, to ensure the proper recognition of the ISG as an integral component of the contractual relationship between all parties involved. We look forward to the opportunity to continue to collaborate with San Francisco on this issue.

Please feel free to contact Valerie Fong, the City's Director of Utilities, at (650) 329-2277 or via email at [Valerie.Fong@cityofpaloalto.org](mailto:Valerie.Fong@cityofpaloalto.org) to discuss this matter further.

Sincerely,



Patrick Burt  
Mayor of Palo Alto

CC: City of Palo Alto City Council  
City of Palo Alto Utilities Advisory Commission  
James Keene, City Manager  
Valerie Fong, Director of Utilities  
Gary M. Baum, City Attorney  
Art Jensen, General Manager of the Bay Area Water Supply and Conservation Agency

**Wholesale Customer Comment Letters Received  
Following Distribution of 2<sup>nd</sup> Draft ISA**



October 4, 2010

Mr. Steven Ritchie  
Assistant General Manager/Water Enterprises  
San Francisco Public Utilities Commission  
1155 Market Street, 11<sup>th</sup> Floor  
San Francisco, CA 94103

Subject: Comments on Draft Interim Supply Allocations

Dear Mr. Ritchie:

The Water Supply Agreement between the San Francisco Public Utilities Commission (SFPUC) and wholesale customers recognizes the SFPUC's independent establishment of a limit of 184 million gallons per day (mgd) on sales of water to wholesale customers until 2018. The Agreement further provides SFPUC with the sole discretion for allocating the 184 mgd among wholesale customers. Although Hayward, like other wholesale customers, did not concur with the decision to limit supplies, it is a reality that is being implemented, and as such, it is important that available water resources be distributed in a fair and equitable manner and in a way that minimizes the potential for exceeding interim supply allocations (ISAs) if agencies make a good faith effort to achieve their own projected water conservation savings.

We would like to first acknowledge the effort that you and your staff are putting into achieving this outcome, and the open and forthright manner in which you are communicating with wholesale agencies. Hayward staff reviewed the information provided on August 20 regarding draft ISAs and, given that the formula used seemed to at least treat all wholesale agencies equitably, provided verbal acceptance of the first draft proposal in the subsequent meeting on September 15. We subsequently received SFPUC's second draft ISAs, dated September 30, 2010 and noted significant modifications to the methodology. We are offering the following comments on the two draft allocation methods.

Our willingness to accept the first draft allocations came from our belief that an allocation methodology which enables *all* agencies to meet their water needs through 2018, based on their *own* demand projections, including the water needed for planned development and improvement, without undue financial hardship, would best serve the region as a whole. The allocations presented in your August 20 transmittal, which are based in all cases on, and are in fact slightly larger than, the Fiscal Year 2017-18 purchase projections, meet this criteria. The FY 2017-18 projections were developed through an established and agreed-upon methodology, incorporated the most current development information from all agencies, and included a relatively consistent level of water conservation effort and investment. All agencies had an opportunity to include General Plan growth, housing and non-residential development, and economic development strategies in the projections. In our opinion,

**Office of the City Manager**

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ISAs based on the agencies' own projections represent the best opportunity for all to live within their water supply allocations and to meet the overall goal of limiting sales from the SFPUC watersheds. Concerns were expressed about the draft allocations at the September 15 meeting by representatives of a few agencies, which appeared to represent purchases totaling less than 20% of all wholesale purchases. The two major issues that were raised are consideration of individual supply guarantees (ISGs) and potential disincentives to conserve water under the proposed methodology. At the same meeting, agencies representing over 50% of consumption supported, or said that they would not object to, the methodology, including California Water Services, Hayward, Milpitas, Daly City, and Hillsborough. Given the sensitivity of publicly agreeing with any imposed limitation, it is very reasonable to assume that a great majority of the remaining wholesale agencies who did not comment could live with the first ISA allocation methodology, but did not voice support at the meeting.

Subsequent to the September 15 meeting, SFPUC prepared a second draft allocation that utilizes ISGs as a basis. While we acknowledge and respect the legal standing of ISGs, it is a fact that the second draft ISAs will cause financial hardship for some agencies while providing to some others an allocation in excess of their projected needs by as much as 10 %. We fully recognize that in the long term, agencies exceeding their ISGs must deal with their supply shortfalls in a sustainable way, and the Long Term Water Supply Strategy, which is currently under development, will hopefully provide a plan to address this critical issue. However, given that the pool of available water is limited to 184 mgd through 2018, factoring the ISGs into the interim supply allocations would merely reallocate the water between agencies, reducing the allocation of agencies with low ISGs and increasing the allocations of agencies that happen to have high ISGs. In other words, it is a financial rearrangement without the benefit of addressing any real hardship. In fact, introducing the ISGs creates hardships that would not otherwise exist.

As for the impact on water conservation, as you know, an agency's ability to stay within its ISG is not necessarily a reflection of its commitment to conservation or willingness to develop additional supplies. Agencies that are below their relatively high ISGs have not necessarily invested more resources in conservation or new water supply. Likewise, exceeding ISGs does not necessarily reflect a lesser commitment to conservation. Development patterns, business closures and relocations, and other factors may have played a role. It may not be accurate to characterize agencies that exceed their ISG as inherently wasteful and those that have stayed under their ISG as efficient. Looking to the future, it could be argued that having an ISA that is greater than an agency's own projected use through the end of 2018 could also result in a disincentive for conservation.

The most current FY 2017-18 demand projections incorporate relatively equal commitments by agencies to conserve water. In fact, the projections were updated last year for the express purpose of determining how the interim supply limitation could be met through increased aggressive conservation. It is true that there was some variation in the level of conservation in the projections developed in 2004, but all agencies committed to specific conservation targets and over time, as regional and local programs are implemented, the differences become less significant. In addition, since the projections were developed in mid-2009, new legislation, Senate Bill 7 (SB 7), has been signed into law and requires most agencies to develop water conservation targets to reduce per capita



Mr. Steven Ritchie  
San Francisco Public Utilities Commission  
October 4, 2010

usage by up to 20% by 2020. Depending on their current usage, some wholesale agencies may need to implement even more conservation than assumed in their projections in order to comply with SB 7. This will be especially true for agencies with high historical per-capita use.

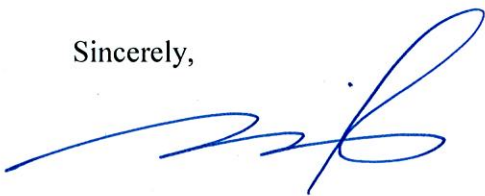
The preceding paragraphs address the ISA methodology conceptually and our concerns about the overall impact of introducing the ISG into the allocation methodology. More specific to Hayward is the fact that a great distinguishing and unique feature of Hayward's contract is that it has no ISG *limitation*. Hayward's "ISG" grows with its growth and water supply needs. In the second draft allocations, SFPUC has allocated to Hayward its FY 2017-18 projected demand, whereas agencies with ISGs that exceed their projected demand have allocations of up to 10% higher than their projected usage.

ISGs are inherently and by definition legal *limitations* placed on most contracts. Hayward's contract has no such limitation. Therefore, using ISGs in a way that puts Hayward at a disadvantage compared to agencies with ISG limitations is understandably unacceptable to Hayward. This disparity limits Hayward to a supply allocation that it expects to fully utilize by 2018, while other agencies benefit from an allocation that will meet their needs beyond that year. Hayward's position is, and always has been, that while we do not wish to disproportionately benefit from our unlimited allocation; neither can we accept an assumed ISG by which we are adversely impacted. Therefore, if SFPUC proceeds with recommending the second draft methodology to the Commission, Hayward would expect to be assigned an ISG that results in the same 10% increase between our projected usage and our ISA.

To summarize, the first draft allocations presented by SFPUC offer the best opportunity to meet the stated goal of limiting diversions from the Tuolumne River through 2018, while providing slightly more than the amount of water each agency had projected to need by FY 2017-18, and thus reducing the possibility of economic hardship for wholesale agencies. We do not support the second draft allocations, which incorporate the ISG, for the reasons that we have outlined. If, however, this alternative, or any variation on a methodology that utilizes ISGs, is selected, further consideration of Hayward's assigned ISG will be needed.

Please contact Alex Ameri at (510) 583-4720, or by email at [alex.ameri@hayward-ca.gov](mailto:alex.ameri@hayward-ca.gov), if you would like clarification or further information regarding our position. Thank you again for the opportunity to provide these comments, and we look forward to working with you in achieving a fair and equitable resolution of this matter.

Sincerely,



Fran David  
City Manager

*Mr. Steven Ritchie*  
*San Francisco Public Utilities Commission*  
*October 4, 2010*

cc: Michael Carlin, Deputy General Manager and Chief Operating Officer, SFPUC  
Ellen Levin, Director of Water Resources, SFPUC  
Arthur Jensen, CEO and General Manager, BAWSCA  
William Quirk, Councilmember  
Fran David, City Manager  
Robert Bauman, Director of Public Works  
Alex Ameri, Deputy Director of Public Works

**City of Palo Alto**  
*Office of the Mayor and City Council*

October 14, 2010

Mr. Steve Ritchie  
Assistant General Manager  
San Francisco Public Utilities Commission  
1155 Market Street, 11<sup>th</sup> Floor  
San Francisco, CA

Subject: City of Palo Alto's Comments on Interim Supply Allocations Process

Dear Mr. Ritchie:

The City of Palo Alto has received the 2<sup>nd</sup> Draft Interim Supply Allocation (ISA) proposal included with your October 1, 2010 letter. As always, the City remains committed to exploring all of its legal options in response to unilateral action taken by any party to the 2009 Water Supply Agreement. But the City is pleased to note that the 2<sup>nd</sup> Draft ISA methodology at least partially incorporates the Individual Supply Guarantee (ISG). The City of Palo Alto believes this is a step in the right direction and supports the San Francisco Public Utilities Commission's (SFPUC) movement to a methodology based on the ISG.

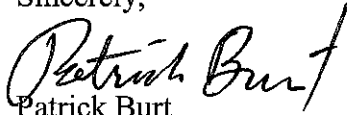
As stated in the City's comment letter on the 1<sup>st</sup> Draft ISA, Palo Alto cannot emphasize enough the critical role the ISG plays in the contractual relationship between the BAWSCA agencies and the SFPUC. This beneficial relationship provides certainty not only for Palo Alto, *but also for San Francisco*. If San Francisco acts to weaken or ignore the ISG in any future allocation formula, the contractual relationship between our two entities is weakened as well. As co-grantees under the Raker Act, Palo Alto and San Francisco must work together to preserve our existing contractual relationship and ensure that no action will result in the diminution of our mutual entitlements.

As you know, in December 2010, the SFPUC will consider your ISA recommendation. At that time, the SFPUC has an obligation to clearly reaffirm its perpetual commitment to the ISG as the single most important contractual delivery standard in the 2009 Water Supply Agreement, and acknowledge that the ISA is indeed interim in nature and will cease to exist after 2018. In the meantime, we look forward to the opportunity to continue to collaborate with San Francisco on this issue.

P.O. Box 10250  
Palo Alto, CA 94303  
650.329.2477  
650.328.3631 fax

Please feel free to contact Valerie Fong, the City's Director of Utilities, at (650) 329-2277 or via email at [Valerie.Fong@CityofPaloAlto.org](mailto:Valerie.Fong@CityofPaloAlto.org) to discuss this matter further.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick Burt". The signature is fluid and cursive, with a long horizontal stroke at the end.

Patrick Burt  
Mayor of Palo Alto

CC: City of Palo Alto City Council  
City of Palo Alto Utilities Advisory Commission  
James Keene, City Manager  
Valerie O. Fong, Director of Utilities  
Gary M. Baum, City Attorney  
Art Jensen, General Manager of the Bay Area Water Supply and Conservation Agency



---

**From:** Eric.Cartwright@acwd.com  
**To:** Ritchie, Steve  
**Cc:** Walt.Wadlow@acwd.com ; Robert.Shaver@acwd.com ; Thomas.Niesar@acwd.com  
**Sent:** Fri Oct 22 15:39:42 2010  
**Subject:** ACWD comments on SFPUC's second draft ISA proposal

Steve,

Thank you for the opportunity to provide comments on the second draft of the SFPUC's Interim Supply Allocation proposal.

The SFPUC water system is an invaluable resource to ACWD and the Individual Supply Guarantee (ISG) has been a critical element of our decision making processes in our Integrated Resources Plan, Urban Water Management Plan, and Capital Improvement Program. The SFPUC water system provides ACWD with more than just a water supply; it provides water quality enhancement to our local groundwater through blending, it provides production reliability, and is our highest reliability dry-year resource.

It is also, by far, our costliest water supply - including our brackish groundwater desalination facility.

For decades, ACWD has planned for the continued use of our SFPUC contract up to, but not exceeding, our ISG. ACWD has invested millions of dollars into water conservation, desalination, off-site groundwater banking, our groundwater blending facility, and the continued funding of numerous SFPUC take-offs, all on the assumption that our purchases stay within our ISG, and that our ISG is perpetual and will be honored.

ACWD does not concede the legality of San Francisco's stated desire to impose limitations or penalties (e.g. "environmental surcharge") on water supply while an agency remains within its ISG. We understand that a few agencies do not have an ISG and that this introduces complexities. Nevertheless, we believe that an ISA should be based solely on the ISG of an agency if one is available. We are encouraged that the SFPUC's second draft of an ISA methodology has shifted focus and acknowledged the significance of the ISG. The final version should not diminish the importance of the ISG.

Please contact Eric Cartwright or Thomas Niesar at ACWD with any questions regarding these comments.

Thanks,  
Eric

-----  
Eric Cartwright  
Alameda County Water District  
43885 South Grimmer Blvd.  
Fremont, CA 94538

ph. 510-668-4206  
fax. 510-770-1793



# CITY OF DALY CITY

333-90TH STREET

DALY CITY, CA 94015-1895

PHONE: (650) 991-8000

October 22, 2010

Mr. Steven Ritchie  
Assistant General Manager for Water  
San Francisco Public Utilities Commission  
1155 Market Street, 11<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Mr. Ritchie:

The City of Daly City appreciates the opportunity to comment on the establishment of an Interim Supply Allocation limiting water sales to an average of 265 million gallons a day until 2018. While Daly City is pleased to provide its comments, the City retains its reservation to contest any final determination, once made.

The establishment of an Interim Supply Allocation until 2018 remains a unilateral decision of the San Francisco Public Utilities Commission (SFPUC). Its purported aim, to limit purchases to 265 million gallons a day calculated on an annual fiscal year basis, is to protect fish habitat by minimizing annual diversions from the Tuolumne River. At issue is determining a methodology acceptable to all parties that is deemed equitable and fair. Daly City acknowledges the level of outreach effort by you and the SFPUC in meeting with wholesale customers in an attempt to resolve a number of challenging issues to achieve consensus.

Daly City did not object to a methodology based upon the anticipated demands provided by each agency to the year 2018 because it demonstrated projected needs within the Bay Area Water Supply and Conservation Agency (BAWSCA) service area. These projections were incorporated into a draft Interim Supply Allocation dated August 20, 2010 and discussed at a briefing held on September 15, 2010. Under that initial draft, the total Wholesale Demand Collective Allocation was calculated at 182.84 million gallons a day with a remaining unallocated 1.16 million gallons a day divided evenly among all wholesale customers. Daly City concurs with that methodology as an equitable approach as it is based upon 2018 demand projections as supplied by each wholesale agency. This methodology does not cause or create any unreasonable burden upon an agency to achieve actual annual purchase demands within the 265 million gallon a day limitation.

San Francisco's second draft Interim Supply Allocation dated September 30, 2010 and discussed at a briefing held on October 19, 2010 comes as a disappointment to Daly City as it negates an earlier equitable and shared allocation based upon projected need. Rather, the amended allocation relies upon the Individual Supply Guarantee as a methodology for calculating the Interim Supply Allocation. As part of the October 19, 2010 discussion, agencies were asked whether this second draft Interim Supply Allocation was fair and equitable. This question is the focus of Daly City's comments. As a matter of equity, this amended approach seems to unfairly

Mr. Steven Ritchie  
October 22, 2010  
Page Two

insulate agencies with a high unused Individual Supply Guarantees when compared to their 2018 demand projections by instead shifting the burden upon agencies already at or near their Individual Supply Guarantee. Daly City is such an agency.

When examining equity, Daly City is among the lowest gross per capita water users within the BAWSCA service area. Daly City's 67.9 gross gallons per capita water consumption is 49% lower than the BAWSCA service area average of 138 gross gallons per capita per day. Daly City also has the fourth lowest 2010 Mean Household Income among 21 communities in San Mateo County as noted by survey results compiled by the Association of Bay Area Governments sub-regional study area. In comparison with certain agencies possessing higher Individual Supply Guarantees than their 2018 demand projections, Daly City questions the equity associated with use of Individual Supply Guarantees as an improved method for calculating Interim Supply Allocations when those agencies have gross per capita water demands upward of 32% to 70% over the BAWSCA service area average. Moreover, in comparison to the 2010 Mean Household Income survey figures from the Association of Bay Area Governments, these same agencies are 48% to 78% higher than Daly City.

For these reasons, Daly City does not concur with a methodology which emphasizes Individual Supply Guarantees as an equitable basis for imposing Interim Supply Allocations until 2018. Rather, actual demands projected until 2018 by BAWSCA agencies, as noted by San Francisco's initial Interim Supply Allocation methodology, provides an equitable and shared manner for all agencies to address limitations to meet the 265 million gallon a day limitation until 2018.

Should you have any questions or require additional information in this regard, please do not hesitate to contact Patrick Sweetland, Director of Water and Wastewater Resources, at (650) 991-8200.

Sincerely,



Patricia E. Martel  
City Manager

cc: City Council  
City Attorney  
Director of Water and Wastewater Resources  
Bay Area Water Supply and Conservation Agency



# CITY OF MILPITAS

455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5411

GENERAL INFORMATION: 408.586.3000 [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov)

October 22, 2010

San Francisco Public Utilities Commission  
1155 Market Street, 11<sup>th</sup> Floor  
San Francisco, CA 94103-1522

Attn: Steven Ritchie  
Assistant General Manager, Water Enterprise

Subject: Second Draft Interim Supply Allocations

Dear Mr. Ritchie:

Thank you for providing the staff representatives of the BAWSCA member agencies an opportunity to discuss and comment on your development of the Interim Water Supply Allocations. Based on my review of the second draft methodology and consideration of the staff representative comments at the October 19 meeting, I find this second draft allocation method acceptable for the City of Milpitas.

This method allocates the 184 million gallons per day (mgd) of available water each year through 2018 by a method that takes the lesser of an agency's Individual Contract Supply Guarantee or the agency's 2018 projected purchase plus 10 percent. By this method, you will assign Milpitas a supply allocation of 9.23 mgd, which is equal to our contract supply guarantee.

I appreciate the hard work of SFPUC staff on this issue. If you have questions, please call me at (408) 586-3345.

Sincerely,

Kathleen E. Phalen, P.E.  
Utility Engineer

cc: Armando Gomez, Director, BAWSCA Board  
Tom Williams, City Manager  
Greg Armendariz, Public Works Director / City Engineer  
Art Jensen, BAWSCA CEO

SANTA CLARA COUNTY



**Mayor**

Patricia M. Mahan

**Council Members**

Dominic J. Caserta  
Will Kennedy  
Joe Kornder  
Jamie L. Matthews  
Jamie McLeod  
Kevin Moore

October 22, 2010

Mr. Steven R. Ritchie  
Assistant General Manager, Water  
San Francisco Public Utilities Commission  
1155 Market Street, 11<sup>th</sup> Floor  
San Francisco, CA 94103

Re: City of Santa Clara Comments on Draft Interim Supply Allocations

Dear Mr. Ritchie:

The City of Santa Clara has reviewed the 2<sup>nd</sup> Draft Interim Supply Allocations (ISAs) as detailed in your September 23, 2010 letter and presented in the October 19, 2010 meeting with the wholesale customers. While the City of Santa Clara does not concede to the legality of San Francisco's unilateral imposition of the water supply limitations, we are pleased to offer additional comments and information on our concerns.

The City has been a steady wholesale customer from the San Francisco Regional Water Supply (RWS) since 1974 and is committed to the efficient use of all our regional water supplies. The City has demonstrated this commitment through long standing water conservation practices, the extensive use of recycled water and the recent construction of two groundwater production wells and well-head treatment facilities within the service area north of US 101. The City of Santa Clara has managed to provide for the increased water demands for over two decades in the North of Bayshore area by the aggressive expansion of our recycled water delivery system serving irrigation, industrial cooling and dual-plumbed buildings. As a result of these investments, recycled water now accounts for over 25% of the total water supply in the area of the City served by San Francisco's RWS.

The City of Santa Clara does not support the proposed reduction of Santa Clara's SFPUC supply as currently presented in the 2<sup>nd</sup> Draft ISAs. Section 4.05 of the Water Supply Agreement provides that prior to the imposition of ISAs on Santa Clara, San Francisco must first follow an exhaustive list of procedures for any such reduction, including the preparation of the annual water supply report, the issuance of a conditional notice of interruption, the preparation of a new water supply analysis, environmental review for this analysis, and a two-year waiting period prior to implementing the proposed reduction.

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Santa Clara, CA 95050  
(408) 615-2250  
FAX (408) 241-6771  
[www.santaclaraca.gov](http://www.santaclaraca.gov)

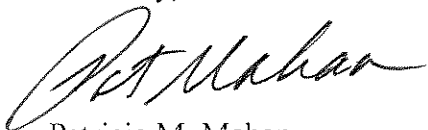
Steven R. Ritchie, Assistant General Manager  
October 22, 2010  
Page 2

The presentation on the 2<sup>nd</sup> Draft ISA on October 19, 2010 contends that the proposed ISAs would not constitute a "reduction," based on an exception contained in Section 4.05 of the Agreement. Under that exception, the ISAs assigned to San Jose and Santa Clara will not constitute a reduction if the ISAs "do not effect a reduction greater than the aggregate average reduction in Individual Supply Guarantees for Wholesale Customers that have such guarantees." Our interpretation is that this exception is not applicable because rather than take the aggregate average reduction in ISGs for Wholesale Customers that have such guarantees, San Francisco has taken the average of *a select group* of ISG holders. The use of a subset of the ISG holders results in a skewed average which is detrimental to Santa Clara. Under the plain language of the agreement, San Francisco cannot apply this exception unless it takes the average reduction of *all* ISG holders, and then applies ISAs to Santa Clara and San Jose that do not exceed this average.

Based on our reading of Section 4.05, San Francisco must either apply the average reduction of all ISG holders, or follow the reduction procedure set forth in that Section. It is important to note that the current Wholesale Customers' projected use does not exceed 184 MGD trigger set forth in Section 4.05 of the Agreement.

If you have any questions regarding the additional comments and information, please contact Alan Kurotori, Director of Water & Sewer Utilities at (408) 615-2010, or by email at [akurotori@santaclaraca.gov](mailto:akurotori@santaclaraca.gov). We would like to recognize your efforts in communicating with Bay Area Water Supply and Conservation Agency and our City staff on this important issue. We looking forward to working with San Francisco on a resolution to this matter.

Sincerely,



Patricia M. Mahan  
Mayor



Jennifer Sparacino  
City Manager

cc: Arthur Jensen, General Manager BAWSCA  
Elizabeth Silver, City Attorney  
Alan Kurotori, Director of Water & Sewer Utilities



October 22, 2010

Mr. Steven Ritchie  
Assistant General Manager/Water Enterprises  
San Francisco Public Utilities Commission  
1155 Market Street, 11<sup>th</sup> Floor  
San Francisco, CA 94103

*Sent by electronic mail  
on October 22, 2010*

Re: City of Sunnyvale Comments on Draft Interim Supply Allocation Discussions,  
Agency Allocations to 2018, Second Draft

Dear Mr. Ritchie:

The City of Sunnyvale has been involved in the correspondence and meetings concerning the assignment of Interim Supply Allocations (ISA) to the retail customers of the San Francisco Public Utilities Commission (SFPUC) by the SFPUC. Sunnyvale appreciates that the SFPUC has included the retail customers and the Bay Area Water Supply and Conservation Agency (BAWSCA) in considering methodologies for the assignment of ISAs to remain in effect until 2018. The assignment of ISAs by SFPUC is provided for in the 2009 Water Supply Agreement (WSA). The WSA was approved by all retail agencies, but the agencies did not agree to the Interim Supply Limitation, the assignment of ISAs by San Francisco, nor the imposition of an Environmental Enhancement Surcharge. While the City of Sunnyvale offers these comments for consideration by the SFPUC staff and Commission, it reserves its contractual right to contest the Interim Supply Limitation, the Interim Supply Allocation assigned to the City of Sunnyvale, and/or the Environmental Enhancement Surcharge.

The City of Sunnyvale prefers the second of the two proposals, dated September 30, 2010. Sunnyvale is one of the agencies which will be held to a commitment lower than its Individual Supply Guarantee (ISG) under both of the scenarios presented to date. The second proposal (10.38 mgd for Sunnyvale) is less restrictive than the first, and closer to our current water usage.

We note that in order to provide an ISA for the cities of San Jose and Santa Clara, the agencies that are being most limited, below the level of their ISG, are Palo Alto, Mountain View and Sunnyvale (6.78 of 7.34 mgd). In the first iteration it was even more obvious (10.09 of 9.00 mgd). We want to point out that Sunnyvale, Palo Alto and Mountain View (combined with Palo Alto) are the agencies that made the early commitment in the 1990s (along with the South Bay combination of San Jose, Santa Clara and Milpitas) towards recycled water. It is the efforts and commitments of these agencies that has demonstrated the largest potable water savings of the agencies being included in this analysis. There are obviously many other areas of savings throughout the service area, including significant involvement in water conservation programs, other

**ADDRESS ALL MAIL TO: P.O. BOX 3707 SUNNYVALE, CALIFORNIA 94088-3707  
TDD (408) 730-7501**

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agencies that have constructed water recycling facilities, and the savings that are more the result of the economy than any specific agency actions. However, the recycled water efforts of the specific south bay agencies have clearly allowed for savings for the region in the use of potable water provided by SFPUC. All of those recycled water efforts were the proactive result of the agencies mentioned, with no participation by the SFPUC.

Sunnyvale is proud of our advances in the area of recycled water production and distribution. Our concern is that we do not want to be "punished for good behavior." The savings that have been attained by the costly development of and improvements to the recycled water system are important, and are obviously beneficial regionally, as witnessed by the savings in potable water purchases.

The unwillingness of the SFPUC to commit to a longer term plan, and therefore keep the water supply issues after 2018 unknown, puts pressure on all agencies. Sunnyvale is uncertain as to what level of supply will be available from the SFPUC beyond our perpetual Individual Supply Guarantee level, after 2018. Some longer range information should be made available to allow for appropriate planning on the part of the individual agencies.

We will continue to attend and participate in discussions of water supply allocation, and look forward to some equitable resolution to the short and long range regional water supply issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Marvin A. Rose". The signature is fluid and cursive, with the first name "Marvin" being more prominent.

Marvin A. Rose, Director  
Department of Public Works

cc: Mr. F.X. Crowley, President, San Francisco Public Utilities Commission  
Ed Harrington, General Manager, San Francisco Public Utilities Commission  
Gary Luebbbers, City Manager  
Ron Swegles, Council Member  
David Kahn, City Attorney  
Art Jensen, CEO/General Manager BAWSCA





# CITY OF EAST PALO ALTO

Incorporated in 1983

Office of the Mayor and City Council

2415 University Avenue, East Palo Alto, CA 94303

October 25, 2010

Mr. Steve Ritchie  
Assistant General Manager  
San Francisco Public Utilities Commission  
1155 Market Street, 11<sup>th</sup> Floor  
San Francisco, CA 94103

Subject: City of East Palo Alto comments on Draft Interim Supply Allocations (ISAs)

Dear Mr. Ritchie:

The City of East Palo Alto supports the First draft ISA methodology, and ISA allocation included in your letter dated August 20, 2010, for the reasons outlined below.

The purpose of the Interim Supply Allocations was to deal with the SFPUC's establishment of an Interim Supply Limitation of 265 million gallons per day (mgd) through 2018. This limitation leaves an allocation limit of 184 mgd on sales of water to wholesale customers until 2018, and 81 mgd for San Francisco. The methodology of the first draft of ISAs, provided on August 20, treated wholesale agencies equitably, meeting all agencies water needs through 2018, based on their own demand projections.

The demand projections included future regional growth as estimated by agencies' General Plans, including Regional Housing Needs Allocations, commercial and industrial development to provide the necessary affordable housing and jobs our Bay Area region needs to continue supporting and improving the quality of life we collectively as a community enjoy.

We received SFPUC's second draft ISAs dated September 30, 2010. The second draft was based on a combination of the Wholesale Customer's Individual Supply Guarantees (ISGs), and the FY 2017-18 purchase projections provided by BAWSCA.

The second draft creates an unrealistic, unsustainable and unfair burden on East Palo Alto. We already have the lowest per capita water usage in the entire Bay Area, and as such we exemplify environmental conservation and it's simply not possible for us to conserve our way into the second draft ISA, and our residents, some of the poorest in the Bay Area cannot afford, and should not pay an environmental conservation fee for exceeding the ISA as it might be the case as proposed in the second draft.

To provide the Commission context, East Palo Alto's very low ISG was assigned after the City's incorporation in 1983; thus, positioning this minority and low income community at great

disadvantage to resolve and mend the environmental injustices that this community suffered for many years, as a result of housing many of the undesirable uses of the region, including the County dump, the regional hazardous waste recycling plant, auto dismantling facilities, and other obnoxious industrial uses producing pesticides and herbicides.

East Palo Alto, after incorporation, has taken its destiny in a more environmentally sensitive direction, which earned the City's selection as a Brownfield Showcase Community. Gone is the hazardous waste recycling facility, many of the contaminated sites have been tested, remediated and cleaned up, and we are now in the process of turning the former County dump into a regional open space park connected to the Bay Trail.

Our City has experienced tremendous progress since its humble beginnings and very sad environmental injustice past. Nevertheless, we are still far behind our surrounding communities in a number of measures, including educational, income, employment and health indicators. According to the latest US Census American Community Survey (2006-2008), 35% of East Palo Alto Residents over the age of 25 do not have a high school diploma or equivalent; 23% have less than a 9<sup>th</sup> grade education. The current estimated high school dropout rate for East Palo Alto students is between 65% and 70%. Median household income is \$45,006, slightly more than half of the County's \$84,879. Asthma hospitalization rates in East Palo Alto are 25.8 per 10,000, the highest in San Mateo County, while Palo Alto's rate is 12.6 per 10,000, half the East Palo Alto rate. The unemployment rate for East Palo Alto in March 2010 was 22.2%, as compared to 9.8% for San Mateo County.

The point of the preceding three paragraphs is to briefly illustrate the past environmental injustice and burden placed on, and painfully carried by our community prior to incorporation and the unfair nature of East Palo Alto current ISG.

Providing East Palo Alto an ISA based on the methodology used in the second draft, would be inconsistent with SFPUC's laudable goals of protecting the environment, and SFPUC's consistent efforts to address this issue openly, and in a manner that is fair and just for all wholesale agencies. A second draft ISA would crush our community's efforts to remedy the abuses of the past, and our efforts to contribute to our region's health, and quality of life.

It is our expectation and hope that both SFPUC and our regional partners will recognize the harsh and unjust reality that East Palo Alto was dealt, with no fault of our own, our past struggles, our successful economic development efforts, our evident progress and incremental contributions of our City to the region, and will support a formula either consistent with the first draft, or a variation of the second draft, that provides East Palo Alto an ISA that meets our projected 2018 water needs of 3.4 mgd.

In sum, East Palo Alto supports the first draft allocation because it is fair. It meets the environmental goal of limiting water diversions through 2018, while still providing all agencies with its projected needs. We do not support the second draft because it creates an impossible situation and unsustainable financial burden to East Palo Alto, while providing some agencies with allocations in excess of their projected needs, a disincentive for conservation.



East Palo Alto recognizes that the ISA is interim in nature, and is committed to continue working with all interested parties on the development of a Long Term Water Supply Strategy, which is indeed, already underway, to deal with our supply shortfall in a sustainable and realistic manner that will serve our entire region's common interest.

Sincerely,



Hon. David Woods, East Palo Alto Mayor



Hon. Ruben Abrica, East Palo Alto BAWSCA Director

Cc: F.X. Crowley, SFPUC Board President  
Francesca Vietor, SFPUC Vice President  
Ann Moller Caen, SFPUC Commissioner  
Juliet Ellis, SFPUC Commissioner  
Anson B. Moran, SFPUC Commissioner  
Ed Harrington, SFPUC General Manager  
Arthur Jensen, BAWSCA CEO and General Manager  
Hon. Congress Woman Anna G. Eshoo, 14<sup>th</sup> District  
Hon. State Senator Joe Simitian, 11<sup>th</sup> District  
Hon. State Assemblyman Ira Ruskin, 21<sup>st</sup> District  
Hon. San Mateo County Supervisor Rose Jacobs Gibson, 4<sup>th</sup> District  
ML Gordon, East Palo Alto Interim City Manager  
Vincent Ewing, East Palo Alto City Attorney  
Anthony Docto, East Palo Alto Public Works Director

---

***Purissima Hills  
Water District***



October 25, 2010

Mr. Steve Ritchie  
Assistant General Manager  
San Francisco Public Utilities Commission  
1155 Market Street, 11<sup>th</sup> Floor  
San Francisco, California 94103

Subject: Comments on Draft Interim Supply Allocation Methodology

Dear Steve:

The San Francisco Public Utilities Commission (SFPUC) has used two different methodologies to develop two versions of the Interim Supply Allocations (ISAs). The first version, dated August 20, was primarily based on the 2018 projections. The second version, dated September 30, was primarily based on the Individual Supply Guarantees (ISG). The Purissima Hills Water District (PHWD) believes that the first version that focused on the 2018 projections achieved a more equitable approach for all agencies. The Bay Area Water Supply and Conservation Agency's (BAWSCA) projections for its 2018 usage was an extensive process and, at the time, was intended to be relied upon by the SFPUC for its planning purposes.

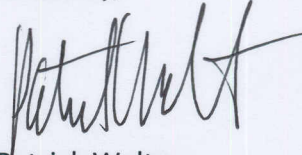
It is my understanding, however, that the first version of the ISAs was not universally accepted. Therefore, we request that, if the SFPUC considers using the second alternative, the ISAs be adjusted for the agencies without an ISG, or for those with water usage above their ISG, to provide at least as much water as they received in a normal year or approximately 2.25 MGD for PHWD.

PHWD believes this to be a balanced approach for developing ISAs. Water conservation was used as an argument against the 2018 projections. In our view, the drought allocations provide incentive for continued conservation. PHWD is scheduled to receive a 46% cut for a declared 20% drought. In addition to our ongoing conservation programs, a few other factors are affecting our demand. The land use planning agency covering our service area, the Town of Los Altos Hills, has implemented AB 1881 with a more restrictive ordinance than the state model ordinance. Also, with the wholesale rate projected to almost double over the next five years, we expect continued demand reductions in response to future PHWD rate increases.

Mr. Steve Ritchie  
San Francisco Public Utilities Commission  
October 25, 2010

We appreciate that the SFPUC is considering input from the BAWSCA agencies on this important matter, and we thank you in advance for considering the input from PHWD as well. If you have any questions or comments, please do not hesitate to call me at (650) 948-1217.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick Walter", with a stylized, sweeping flourish extending to the right.

Patrick Walter  
General Manager





November 1, 2010

Mr. Steven Ritchie  
Assistant General Manager/Water Enterprises  
San Francisco Public Utilities Commission  
1155 Market Street, 11<sup>th</sup> Floor  
San Francisco, CA 94103

Subject: Comments on the Second Draft Interim Supply Allocations

Mr. Ritchie:

The City of Hayward has reviewed the first and second draft methodologies for Interim Supply Allocations through 2018. We appreciate the thoughtful work that you and staff have put into this effort, and the open and transparent way you have communicated with us. Although Hayward does not concede the legality of SFPUC's unilateral decision to limit water supplies through 2018, we would like to offer these comments for your consideration. At the October 19 meeting, you asked for responses to three specific questions and any other concerns, and we have structured our comments in this way.

1. *In what ways are the draft ISA proposals fair and equitable? In what ways are they not fair and equitable?*

As we have consistently stated in previous correspondence and in meetings, Hayward staff supports the first draft allocation methodology. It is fair and equitable in that it provides sufficient water to meet agencies own projected needs, plus a small amount of unallocated water, during the relatively short eight-year period when water is not available to meet individual supply guarantees. The second draft ISAs, on the other hand, can create immediate and potentially significant hardship for some agencies. This methodology, which considers ISGs and arbitrarily allocates to some agencies 10% more water than their projected demand, results in an indefensible imbalance. It is difficult to deem fair and equitable a methodology that would reduce one agency's allocation during the interim period to 26 gallons per capita per day while increasing the allocation of neighboring agencies to several times this quantity.

2. *Do the draft ISA proposals contribute to good planning and decision making?*

Under the first draft, allocations were based on projections that each agency made presumably based on their own location, demography, anticipated residential and business development, and feasibility of various water conservation measures within their service areas. The projections were developed using a consistent model, but there was opportunity

**Office of the City Manager**

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for agency input based on the individual characteristics of their communities. In our opinion, this represents good planning and decision making in that the projections will encourage all agencies to seriously pursue and implement water conservation and alternative sources, whereas the second draft allocations could have the unintended consequence of at least relaxing of the motivation for and commitment to that conservation.

3. *Given that all projected water use and purchase projections contain uncertainty, how might the draft ISA methodology, or alternatives, affect different agencies?*

It is true that all projections, by definition, include uncertainty. For example, no projection assumed an 8% system-wide reduction in water usage in FY 2009-10. However, many of the agencies advocating use of ISGs are high water users with high per-capita usage. Since high per capita usage is typically associated with landscape irrigation, there is much more discretion in dealing with projections that might miss the target. On the other hand, agencies with less-than-average per capita use would have a greater challenge in addressing shortfalls.

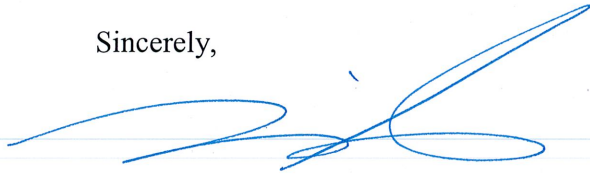
4. *Others?*

As we have indicated previously, our biggest concern specific to Hayward is that using ISGs creates the potential for Hayward's contractual rights to be adversely affected because our unique contract does not include a predefined cap on its water usage. Adjusting ISAs for agencies with relatively high ISGs, but not doing the same thing for Hayward, can send the unintended and incorrect message that the former agencies' respective contracts are superior to Hayward's. As I'm certain we can all agree, that's a false message which could set a precedent which would be unacceptable to Hayward. Therefore, we reiterate our expectation that, if ISGs are introduced into the formula and if this introduction results in an increase in any agency's ISA above their projected demand, the same percentage increase enjoyed by the agency with the largest increase be applied to Hayward's ISA. This is a simple but practical solution which could allow SFPUC to proceed with either the first methodology, or with an amended second methodology, if SFPUC decides to include ISGs in the formula in some manner.

We once again appreciate this opportunity to provide comments on this important matter. Please contact Alex Ameri at (510) 583-4720, or by email at [alex.ameri@hayward-ca.gov](mailto:alex.ameri@hayward-ca.gov), if you would like further clarification of our position. We look forward to continuing to work with your organization in an open and collaborative manner to achieve our mutual water supply goals.

*Mr. Steven Ritchie*  
*San Francisco Public Utilities Commission*  
*November 1, 2010*

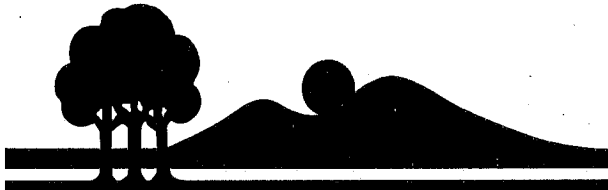
Sincerely,



Fran David  
City Manager

cc: Michael Carlin, Deputy General Manager and Chief Operating Officer, SFPUC  
Ellen Levin, Director of Water Resources, SFPUC  
Arthur Jensen, Chief Executive Officer and General Manager, BAWSCA  
Bill Quirk, Councilmember and Hayward's Representative on BAWSCA Board  
Robert Bauman, Director of Public Works  
Alex Ameri, Deputy Director of Public Works





# CITY OF MOUNTAIN VIEW

Office of the City Manager • 500 Castro Street • Post Office Box 7540 • Mountain View, California 94039-7540  
650-903-6301 • FAX 650-962-0384

November 1, 2010

MR STEVEN RITCHIE—ASST GEN MGR—WATER ENTERPRISES  
SAN FRANCISCO PUBLIC UTILITIES COMMISSION  
1155 MARKET STREET 11TH FLOOR  
SAN FRANCISCO CA 94103

## COMMENTS ON THE SECOND DRAFT INTERIM SUPPLY ALLOCATIONS

Dear Mr. Ritchie:

On September 13, 2010, the City of Mountain View provided feedback (Enclosure 1) on the San Francisco Public Utilities Commission's (SFPUC) First Draft Interim Supply Allocations (ISAs). Mountain View's main concerns with the proposed First Draft ISAs related to:

1. Each agency's responsibility for limiting its purchases to within its Individual Supply Guarantee (ISG);
2. Insufficient consideration of recycled water and conservation efforts; and
3. Circumventing the transfer mechanisms incorporated into the recently renewed Water Supply Agreement (WSA).

Mountain View appreciates the SFPUC's consideration of these concerns and continues to believe that the ISGs should be the primary factor for setting ISAs (i.e., rather than the water demand projections developed as part of the Long-Term Reliable Water Supply Strategy Phase I Scoping Report). The ISGs represent long-term agreements between the wholesale customers and the SFPUC, which were recently renewed in the WSA. Pursuant to Section 3.02(d) of the WSA, each agency acknowledged responsibility to remain within their respective ISG.

We want to note one additional concern about using the water demand projections as a basis for the ISAs prior to the November 9 SFPUC meeting. While Mountain View recognizes that projecting future water demand is necessary and important for planning purposes, we also understand that it is extremely difficult to project with accuracy given the dependence on factors such as hydrology and economic trends.

A comparison of the current wholesale water purchases from San Francisco to projections previously made for the wholesale customers highlights the difficulty of projecting water demand, and why projections should not heavily influence the ISAs. On average, the wholesale customers' Fiscal Year 2008-09 purchases were nearly 20 percent less than what was projected for Fiscal Year 2010-11 back in 2005.<sup>1</sup> Although this average overprojection is due largely to the unforeseen economic downturn and State-wide multi-year drought, the range in actual versus projected water demand varied for individual agencies with overprojections of more than 45 percent in some cases and underprojections of more than 10 percent in other cases. Mountain View believes that demand projections should be considered as only one of several factors for developing ISAs, and that the ISGs should be weighted the most heavily. Agencies with potential underprojections for Fiscal Year 2017-18 should not be penalized as long as they remain within their ISG.

Although Mountain View anticipates our ISA may be lower than the ISG, we remain very concerned with the proposed disproportionate reduction in the City's interim supply and the corresponding potential to incur financial penalties through 2018 even though the City complies with the terms of the WSA. Mountain View continues to support using the WSA transfer mechanisms (WSA Section 4.03) as the basis for water supply adjustments, and retains the right to contest the final allocation. Finally, it is Mountain View's expectation that any temporary adjustment will not impact our ISG, and the SFPUC will formally acknowledge at the conclusion of ISA development process that the City's full contract supply will be restored in 2018.

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<sup>1</sup> Projected Fiscal Year 2010-11 purchase projections are shown in the BAWSCA Annual Survey Fiscal Year 2005-06, Table III C. Actual Fiscal Year 2008-09 purchases are shown in the BAWSCA Annual Survey Fiscal Year 2008-09, Table 2A.

Mr. Steven Ritchie  
November 1, 2010  
Page 3

If you have any questions regarding Mountain View's comments on the Second Draft ISAs, please contact Gregg Hosfeldt, Assistant Public Works Director, at (650) 903-6205 or via e-mail at [gregg.hosfeldt@mountainview.gov](mailto:gregg.hosfeldt@mountainview.gov).

Sincerely,



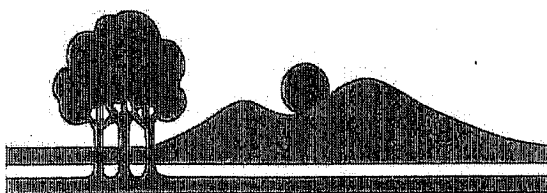
Kevin C. Duggan  
City Manager

KCD/GH/6/PSD  
761-10-26-10L-E^

Enclosure: September 13, 2010 Comments on Draft Interim Supply Allocations

cc: Mr. Art Jensen  
Bay Area Water Supply and Conservation Agency  
155 Bovet Road, Suite 302  
San Mateo, CA 94402

PWD, APWD, ACA—Chopra, SCE—Turner, WCC, F/c



## CITY OF MOUNTAIN VIEW

Public Works Department • 500 Castro Street • Post Office Box 7540 • Mountain View, California 94039-7540  
650-903-6311 • FAX 650-962-8503

September 13, 2010

MR STEVEN RITCHIE—ASST GENERAL MANAGER—WATER ENTERPRISES  
SAN FRANCISCO PUBLIC UTILITIES COMMISSION  
1155 MARKET STREET 11TH FLOOR  
SAN FRANCISCO CA 94103

### COMMENTS ON THE DRAFT INTERIM SUPPLY ALLOCATIONS FOR DISCUSSION

Dear Mr. Ritchie:

The City of Mountain View (Mountain View) has reviewed your letter entitled *Draft Initial Supply Allocations for Discussion*, dated August 20, 2010. This letter provides Mountain View's feedback on the draft Interim Supply Allocations (ISA). We appreciate the opportunity to discuss the proposed ISAs and hope we are able to agree on an allocation methodology that is equitable and fair.

Mountain View's primary concern with the draft ISAs is that we believe using the Bay Area Water Supply and Conservation Agency's (BAWSCA) Long-Term Reliable Water Supply Strategy Phase I Scoping Report (Long-Term Supply Report) as the basis for the ISAs would penalize wholesale customers of San Francisco (Wholesale Customers) that have made significant investments in water recycling and conservation while providing windfall benefits for other Wholesale Customers. Specifically, the draft ISAs:

1. Conflict with the Water Supply Agreement (WSA), which holds each Wholesale Customer responsible for remaining within its Individual Supply Guarantee (ISG);
2. Ignore investments made by Wholesale Customers into recycled water and conservation; and
3. Circumvent the transfer mechanisms incorporated into the WSA.

In addition, several assumptions incorporated into the Long-Term Supply Report have not adequately been reviewed by Mountain View or adopted by Mountain View's

governing body, and thus we believe it is premature to use this report as the basis for our ISA.

**1. Customer Responsibility to Remain within Individual Supply Guarantee**

The WSA Section 3.02(d) states that "it shall be the responsibility of each Wholesale Customer to limit its purchases of water from San Francisco so as to remain within its Individual Supply Guarantee." The draft ISA methodology conflicts with this principle because it rewards Wholesale Customers whose purchases from San Francisco are projected to exceed their ISGs in Fiscal Year 2017-18.

**2. Recycled Water and Water Conservation Investments**

Mountain View recently completed a joint project with the City of Palo Alto to construct a \$20 million recycled water system to reduce demand on San Francisco's regional system. Subtracting recycled water use from Mountain View's proposed ISA while creating ISAs for other Wholesale Customers that are well above their respective ISGs creates several inequities:

- Rewards rather than penalizes agencies for exceeding their ISGs;
- Denies Mountain View the ability to recuperate costs by transferring excess ISA to another Wholesale Customer; and
- Penalizes Mountain View if purchases from San Francisco exceed the Long-Term Supply Report projections, despite: (1) remaining below our ISG; and (2) having increased the reliability of the regional system by investing in recycled water.

As stated in your letter, the proposed ISA incorporates water conservation savings from BAWSCA's Water Conservation Implementation Plan (WCIP). Mountain View believes that the WCIP-estimated savings are not an appropriate basis for the ISAs because they:

- Are not equitably distributed between the BAWSCA member agencies;
- Do not reflect past investments in conservation; and
- Do not take into account the State-mandated conservation requirements for 20 percent conservation by 2020 (pursuant to Senate Bill 7x-7).

The purpose of the WCIP was to identify additional water conservation measures that the Wholesale Customers could potentially implement to achieve the water savings necessary to keep collective purchases from San Francisco below 184 million gallons per day until 2018. Mountain View, in particular, has achieved approximately 14 percent conservation as a result of our conservation efforts, nearly 75 percent of the State-mandated goal of 20 percent conservation by 2020. Given the inequitable distribution of conservation savings in the WCIP, Mountain View believes that the draft ISAs penalize Wholesale Customers for past conservation efforts and are a disincentive to implementing additional conservation measures.

### 3. Water Supply Agreement Transfer Mechanisms

Pursuant to Section 4.03 of the WSA, any Wholesale Customer may transfer any portion of its ISA to another Wholesale Customer. As explained in your letter, the WSA "provides a reasonable mechanism for dealing with uncertainty." The proposed ISAs, however, could result in serious inequities if such transfers are necessary.

Based on the draft ISAs, it is foreseeable that a Wholesale Customer whose ISA is below its ISG would need to purchase additional water through 2018, despite remaining below its ISG and having received no compensation for relinquishing excess ISA in 2010. Likewise, a Wholesale Customer whose ISA exceeds its ISG may have surplus ISA through 2018 and would be able to sell this surplus despite exceeding its ISG and having made no initial investment to acquire the excess ISA. Mountain View believes that the proposed ISA methodology circumvents the WSA transfer mechanisms by reallocating water without compensation, thus creating significant inequities if ISA transfers are necessary or if environmental surcharges are assessed.

### WCIP and Long-Term Supply Report Methodology

In addition to the reasons presented above, Mountain View is also concerned with using the Long-Term Supply Report's purchase projections and the WCIP conservation estimates for the basis of our ISA because:

- The purchase projections precede the adoption of Mountain View's General Plan Update (expected to be completed in 2011) and do not incorporate water demands associated with potential new projects;
- The purchase projections assume that 100 percent of Mountain View's conservation and plumbing code savings will go toward reducing water purchases from

Mr. Steven Ritchie  
September 13, 2010  
Page 4

San Francisco, though some conservation measures will reduce the City's use of Santa Clara Valley Water District supply; and

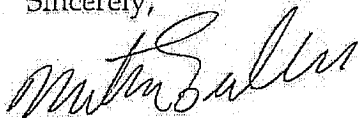
- The aggressive conservation and plumbing code savings allocated to Mountain View have yet to be substantiated by data from Mountain View's service area.

Mountain View will be reviewing and updating the assumptions of the WCIP and the Long-Term Supply Report as part of our 2010 Urban Water Management Plan Update, and believes it is premature to use these projections as the basis for Mountain View's ISA prior to review and adoption by Mountain View's governing body.

We appreciate the opportunity to provide feedback on the draft ISAs and look forward to working collaboratively with San Francisco, BAWSCA and the other Wholesale Customers to refine the allocation methodology. It is our recommendation that the Santa Clara Valley Water District also be invited to participate as they are the resource agency for Santa Clara County and will be impacted by the outcome of these discussions.

If you have any questions regarding Mountain View's comments on the draft ISAs, please contact Gregg Hosfeldt, Assistant Public Works Director, at (650) 903-6205 or via e-mail at [gregg.hosfeldt@mountainview.gov](mailto:gregg.hosfeldt@mountainview.gov).

Sincerely,



Michael A. Fuller  
Public Works Director

MAF/EF/8/PSD  
703-09-08-10L-E^

cc: Mr. Art Jensen  
Bay Area Water Supply and Conservation Agency  
155 Bovet Road, Suite 302  
San Mateo, CA 94402

City Attorney's Office

CM, APWD—Hosfeldt, ACA—Chopra, SCE—Turner, WCC, File



Klara A. Fabry  
Public Services Director

CITY OF SAN BRUNO  
PUBLIC SERVICES DIRECTOR  
ADMINISTRATION AND ENGINEERING

November 3, 2010

Mr. Steve Ritchie  
Assistant General Manager  
San Francisco Public Utilities Commission  
1155 Market Street, 11<sup>th</sup> Floor  
San Francisco, California

Subject: Comments to the 2<sup>nd</sup> Draft Interim Water Supply Allocation  
City of San Bruno, California

Dear Mr. Ritchie:

The City of San Bruno ("San Bruno") is submitting these comments to express its concern regarding the draft Interim Supply Allocations ("ISAs") identified in San Francisco Public Utilities Commission's ("SFPUC") letter, dated September 30, 2010. As discussed in further detail below, the proposed ISAs do not recognize existing contractual rights and were developed on the basis of long-term water demand forecasts that incorporate many assumptions that may not be realized. San Bruno retains its reservation to contest any final determination relevant to the ISAs.

### **Individual Supply Guarantees**

The Individual Supply Guarantee ("ISG") is a perpetual, contractual right and is guaranteed under both the Settlement Agreement and reaffirmed under the Water Supply Agreement ("WSA"), dated July 2009. The implementation of ISAs introduces an unnecessary modification to the ISGs and penalizes agencies for work they have performed to date developing and using local water supplies, implementing conservation measures, and developing alternative non-potable supplies. Further, implementation of the ISA essentially removes an agency's asset, to the extent their demand is less than their ISG, and negates the provision in the WSA allowing for inter-agency water transfers.

The intent of the ISG is to provide a guaranteed amount of water against which an individual city or agency can plan, among other things, its growth and water conservation efforts. Impacts of imposing an ISA that is not equal to an agency's ISG include the following:

- An agency such as San Bruno that has developed and historically used local groundwater supplies to maintain its total water purchases below its individual ISG is penalized by the creation of an ISA, because the ISA presumes that such local groundwater supplies will continue to be available. However, the long-term availability of these groundwater supplies is still under evaluation and being assessed as part of the Groundwater Management Plan that is being prepared for the Westside Basin.



Imposition of an ISA lower than San Bruno's ISG will restrict the water supply portfolio and potentially create situations under which San Bruno would incur fines to purchase water in excess of its ISA if groundwater availability is found to be limited.

- Any agency that has invested in recycled water or other programs in an effort to maintain its total water purchases below its individual ISG is penalized by the creation of an ISA when compared to other agencies who have not made commensurate investments, but are being granted additional water supplies based solely on demand projections.

### **Water Supply Transfers**

Section 3.04 - Permanent Transfers of Individual Supply Guarantees and Section 4.03 - Transfers of Interim Supply Allocations of the 2009 WSA allow for inter-agency transfers of water. Section 4.03 allows for temporary transfers of ISAs. As a result, establishing an ISA at any value less than an agency's ISG is not necessary, because the ability to trade water among the different agencies already exists. Such trading would be based upon the mutual benefits to each agency rather than the current method of developing ISAs.

### **Groundwater Management and Conjunctive Use of the Westside Basin**

San Bruno's ISG does not meet our daily water demand and therefore, in the absence of other water supplies, some degree of ongoing groundwater production will be necessary. Multiple agencies are currently in the process of developing a Groundwater Management Plan and evaluating a conjunctive use program for the Westside Groundwater Basin. At this time, given the preliminary nature of both the groundwater management plan and conjunctive use program, it is premature to impose ISAs that are less than these agencies ISGs as it impacts each agency's options regarding its participation in these programs.

### **Water Use Forecasting for Supply Allocation Purposes**

San Bruno understands that the Demand Side System Model is a useful tool to help assist agencies in planning and in the evaluation of potentially cost effective water conservation efforts. However, end use water demand forecasts inherently rely on a large number of assumptions, which are difficult if not impossible to calibrate and should not form the basis of establishing water supply allocations. Use of long-term water demand forecasts that were developed for planning purposes are not suitable for establishing ISAs. Therefore, limiting and/or penalizing an agency or city for not meeting these water demand forecasts is not reasonable.

Additionally, calculations regarding potential conservation savings by San Bruno are particularly a concern in this model, given that water demands in San Bruno are currently less than 100 gallons per capita per day ("gpcd"). These per capita water demands are already very low relative to other water users in California and indicate that demand hardening may occur. Under recently adopted Senate Bill 7 ("SB-7"), which calls for a 20% reduction in overall water use by 2020, water retail agencies with per capita use rates of less 100 gpcd are effectively exempt from further water use reduction requirements and are considered compliant with their 2020 targets.

## Conclusion

San Bruno believes that any limitation on an agency's water purchases other than the ISG (1) does not honor the intent of the contractual language that defines the ISG, (2) ignores provisions within the WSA that would allow for inter-agency transfers of interim supplies based upon benefits as determined by the individual agencies, and (3) is counterproductive to the goals of proactive development and use of local and non-potable supplies. Therefore, San Bruno believes that the use of the ISG should be the basis to establish any interim supply limits.

Please feel free to contact me at (650) 616-7067 or via email at [kfabry@sanbruno.ca.gov](mailto:kfabry@sanbruno.ca.gov) to discuss this matter further.

Very truly yours,

CITY OF SAN BRUNO



Klara A. Fabry  
Director of Public Services  
City of San Bruno

cc: Connie Jackson, City Manager

November 3, 2010

Mr. Steven R. Ritchie  
Assistant General Manager, Water  
San Francisco Public Utilities Commission  
1155 Market Street, 11<sup>th</sup> floor  
San Francisco, CA 94103

Re: City of San José Comments on Draft Interim Supply Allocations

Dear Mr. Ritchie:

The City of San José is pleased to offer comments on the 2<sup>nd</sup> Draft Interim Supply Allocations (ISA's) as presented in the October 19, 2010 meeting with the wholesale customers. We appreciate the coordination and the hard work of SFPUC staff on this issue.

San José concurs with the objections of the City of Santa Clara to the ISA proposed for San José and Santa Clara. In addition, we note that the proposed allocation of 3.67 mgd to San José will subject its residents and businesses to inequitable water charges. Agencies that have not made the same investment as San José in water conservation and water recycling will in effect be rewarded at the expense of San José residents and businesses.

Over the last fifteen years, San José along with its wastewater tributary agencies, have invested more than \$220 million in a regional recycled water system, and San José continues to implement aggressive conservation measures to reduce its potable water use. These efforts have resulted in maintaining consistent annual purchases from SFPUC over the last 10 years as shown below.

<u>FY Year</u>	<u>Daily use</u>
00-01	4.83 mgd
01-02	4.48 mgd
02-03	4.55 mgd
03-04	4.86 mgd
04-05	4.35 mgd

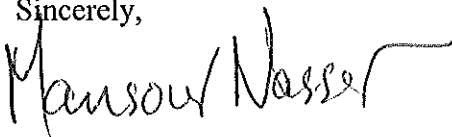
05-06	4.40 mgd
06-07	4.88 mgd
07-08	4.78 mgd
08-09	4.48 mgd
<u>09-10</u>	<u>4.10 mgd</u>
<b>Ave</b>	<b>4.57 mgd</b>

It is our understanding that the purpose of the ISA's is to provide an incentive to limit the Regional System delivery to 265 mgd thru December 2018. By allocating ISA's equivalent to FY 2018 purchase projections plus an additional 10% seems counter-intuitive to the aforementioned goal, while at the same time exposing residents and businesses in agencies like San José to financial hardship. While we would support implementation of a ramping methodology to address the concerns that some agencies might have related to underestimating their 2018 water purchase projections, we would request that the methodology specified in our Agreement be followed for San José and Santa Clara.

San José is continues to be committed to working with SFPUC, BAWSCA and all wholesale agencies to ensure sustainable water supply to our region.

Thank you for taking the time to review our comments.

Sincerely,



Mansour Nasser P.E.  
Deputy Director  
Environmental Services Department  
Water Resources Division  
City of San Jose

c: Mayor Chuck Reed, BAWSCA Boardmember  
Debra Figone, City Manager  
Mollie Dent, City Attorney  
John Stufflebean, Environmental Services Department Director  
Arthur Jensen, CEO and General Manager, BAWSCA