

**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
BOARD POLICY COMMITTEE**

**October 28, 2009 – 1:30 p.m.
155 Bovet Road, 1st Floor Conference Room**

MINUTES

1. Call to Order: 1:30 p.m.

Committee Chair Kelly Fergusson called the meeting to order at 1:35. Eight (8) members of the committee were present, constituting a quorum. A list of directors present (9), absent and members of the community attending is attached.

2. Public Comments: There were no public comments.

3. Reports:

- A. Comments by Chair and Committee Members: Chair Fergusson noted several important items on the agenda have the potential to significantly impact BAWSCA member agencies' water supplies. They include actions before the Federal Energy Regulatory Commission (FERC) over Tuolumne River fish flows, activity on the pending Delta Water Legislation, scope development for the Long-Term Reliable Water Supply Strategy, and development of a new drought allocation agreement among the BAWSCA agencies that may need to be implemented as early as this Winter.

Each item will be presented and discussed with the board at its meeting in November, and many will become a part of BAWSCA's workplan through this fiscal year and beyond. Chair Fergusson looks forward to hearing the committee's discussions and recommendations of these issues to enable success for BAWSCA and its member agencies.

In regards to the outreach effort for the High Efficiency Toilet rebate program, Director O'Connell suggested calling Value Pak advertising to look into how it can be utilized for BAWSCA's promotion of the HET.

- B. Reports by the Chief Executive and General Manager: Nicole Sandkulla reported on behalf of CEO/General Manager Art Jensen, who was in Sacramento attending a joint committee hearing on the Delta Water Legislation.

1. Committee and Board Policy Calendar: Ms. Sandkulla presented a committee and board policy calendar that listed items for the committee and board's information and consideration for action during FY 2009-10. A report on the mid-year budget assessment and preliminary results to be achieved in FY 2010-11 will be provided to the committee in December, and the board in January 2010. Specifically, the committee and the board will be regularly informed of developments of the Drought Allocation Plan and the Regional Water Supply Strategy, and the potential board actions that may be required. The budget process will begin in January through March for the board's final adoption in May.

Ms. Sandkulla explained that the landscaping ordinance was not in the policy calendar because the policy action will be taken by the local water supply agencies and land use entities. BAWSCA has no jurisdiction over the ordinance, however, BAWSCA will provide the information needed so that BAWSCA board members are knowledgeable of the issues when the action comes before their individual governing bodies.

Ms. Sandkulla noted that BAWSCA is currently developing a model indoor and outdoor ordinance under the Water Conservation Implementation Plan. The final model ordinance and explanatory materials will be distributed to the cities, water districts and land use entities of the service area.

2. Pending Legislation – Update: Ms. Sandkulla reported that a Joint Legislation Committee is conducting a hearing on the Delta water legislation, and possible action may occur by the end of October.

BAWSCA's involvement on the legislation focuses on ensuring that the Delta, as well as the region's water supply, remains reliable, that water rights are protected, and that the wholesale customers pay their fair share. Ms. Sandkulla reported that BAWSCA is working closely with its legislative allies in Sacramento, and legal counsel, Allison Schutte, noted that BAWSCA has proposed amendments to the bill. No further actions by BAWSCA and its member agencies are required. Mr. Jensen is at the Joint Committee hearing with the support of strategic counsel, Bud Wendell.

Ms. Sandkulla reported that SB 407 (Padilla) was signed by the Governor. The bill has key date requirements for retrofits of plumbing fixtures. As of January 1, 2014, all building alterations or improvements to single-family residential property, and specified alterations or improvements to multi-family and commercial property, are required to replace noncompliant plumbing fixture with water-conserving fixtures.

All non-compliant plumbing fixtures in any single-family residential property must be replaced with water conserving plumbing fixtures by the property owner on or before January 1, 2017. All non-compliant plumbing fixtures in commercial/non-residential and multi-Family accounts must be replaced by January 2019.

As of January 1, 2017, seller and transferor of single-family, multi-family, and commercial properties are required to disclose the specified requirements for replacing plumbing fixtures, and whether the property includes non-compliant plumbing.

Ms. Sandkulla noted that BAWSCA will refer to SB 407 to make the indoor model ordinance consistent with existing laws. SB 407 lists plumbing elements but is not explicit with the triggering mechanisms for retrofit, nor does it provide consequences for non-compliance.

BAWSCA is currently working with a workgroup comprised of agency staff, county representatives, and building officials in developing both an indoor and outdoor model ordinances that are comprehensive and will have an enforcement mechanism that member agencies have identified as most appropriate.

Ms. Sandkulla reported that both the indoor and outdoor model ordinances will be released by the end of November. Some agencies have an adoption schedule of

BAWSCA's model ordinances in December to fulfill the requirements of AB 1881, which requires cities to adopt a local ordinance that is equal to or better than the State model ordinance by January 1, 2010. The State model ordinance will be deemed effective, until cities adopt its own local ordinance.

Chair Fergusson suggested that BAWSCA send agencies a notice of the model ordinances' anticipated release, so that agencies can prepare for the action by their governing bodies. Director Swegles suggested the inclusion of City Mayors on the notification.

3. Administration of New Water Supply Agreement: Ms. Sandkulla reported that the new Water Supply Agreement (WSA) formalizes a water quality committee that BAWSCA has instituted for the past several years, by creating the Joint Water Quality Committee between BAWSCA and SFPUC.

The committee will address water quality issues such as Water Quality Notification and Communication Plan updates, regulatory issues, and water quality planning studies. Specifically, the committee will deal with communication of water quality changes that may result from the Water System Improvement Program's (WSIP) construction activities.

The positions of Chair and Vice-Chair will be alternated between an SFPUC and BAWSCA representative. The committee will meet at least quarterly to collaboratively address water quality issues related to satisfying regulatory requirements and maintaining high quality water.

In agreement with Ed Harrington, BAWSCA will provide the Chair of the joint committee, and the SFPUC will name the Vice-Chair for FY 09-10. Luisa Sangines, Environmental Engineer with Alameda County Water District (ACWD) and Chair of BAWSCA's Water Quality Committee, was appointed to be the first chair of the joint committee. Andrew DeGraca, SFPUC Director of Water Quality, was appointed by Ed Harrington to be Vice-Chair.

Mr. Jensen has been meeting with Ms. Sangines and Mr. DeGraca in establishing the results to be achieved by the joint committee this fiscal year.

4. Water Conservation Implementation Plan – Status: Ms. Sandkulla reported that an intern has been hired for a limited term to support BAWSCA staff with its efforts with the High Efficiency Toilet Rebate Program. Alexis Shields has worked with a BAWSCA member agency as a Water Conservation Intern and is currently a student at De Anza College. She will report to BAWSCA once a week for 4 hours.

As previously noted, the indoor and outdoor model ordinances will be released by the end of November for adoption by local agency governing bodies. The schedule for action is consistent with the State's mandated timeline. The BAWSCA board will be kept informed and will receive copies of the ordinances and explanatory materials. BAWSCA's collaboration with the workgroup has been positive.

5. Mid-Year Budget Review: Despite the unexpected expenses resulting from several unanticipated activities in the past few months, an early start of the mid-year budget review indicates that expenses for this fiscal year remains within the approved budget.

The development of the drought allocation plan has required the unbudgeted technical support from Hilton Farnkopf Hobson (HFH). HFH helped developed the original contract with San Francisco, and has worked with BAWSCA and its predecessor organization, Bay Area Water Users Association (BAWUA).

The unexpected activities with FERC and the Delta Water Legislation has required the legal assistance of Hanson Bridgett. The expertise needed for the development of water efficiency ordinances, originally budgeted as other unspecified technical expertise, will be allocated to Hanson Bridgett as they have been able to effectively provide BAWSCA the needed expertise in green building and Leadership in Energy Environmental Design (LEED) certification.

BAWSCA will closely monitor expenses and will keep the committee and board informed.

6. Report on Discretionary Expenses: A contract with Adduci Studios was negotiated and executed at the CEO's discretionary spending authority to update the BAWSCA website. The current content management system will be converted to a more versatile system that will support a website design that will have up to date information.

A contract with Maddaus Water Management (MWM) is being negotiated and is expected to be finalized prior to the November board meeting. The contract is to provide as needed technical expertise with the use of the water demand conservation models. The technical support was anticipated and is included in the adopted budget for FY 09-10.

7. Water System Improvement Program: At Chair Fergusson's request, Ms. Sandkulla provided a report on the WSIP. The SFPUC submitted its annual progress report and notice of change on the WSIP to the California Department of Health Services (CDPH) and California Seismic Safety Commission (CSSC). BAWSCA submitted its recommendations to the state agencies, as it was provided to the SFPUC. BAWSCA will review comments and input received from CDPH and CSSC.

Ms. Sandkulla reported that the draft Environmental Impact Report (EIR) for the Calaveras Dam was released and comments are being accepted. The San Francisco City Planning Department is responsible for receiving and responding to comments, finalization and certification of the EIR. Appeals on the EIR are received by the San Francisco Board of Supervisors.

BAWSCA supports the Calaveras Dam Replacement project which builds a new dam to replace the old dam and restore the water supply reliability benefits to the BAWSCA member agencies and San Francisco.

4. Special Report – Water Supply:

Actions before the Federal Energy Regulatory Commission (FERC) over Tuolumne River fish flows required downstream of New Don Pedro Reservoir: FERC has jurisdictional oversight over Modesto and Turlock Irrigation Districts on the operation of New Don Pedro Dam. There have been ongoing concerns over the Tuolumne River fish flows and FERC has ordered expedited hearings, proceedings, and settlement discussions to develop a factual record that would evaluate possible solutions that would benefit the fisheries in the Tuolumne River. Hearings were held in October before an Administrative Law Judge, and a report is due to FERC by November 13th.

Concurrently, FERC also initiated a formal mediation process to address the issues raised by the parties.

Ms. Sandkulla reported that both the activities are important to BAWSCA member agencies. According to the SFPUC modeling, the potential impact of the proposed flows to the membership could require system-wide use reductions of greater than 50% during droughts. For some agencies, the reduction would amount to minimal supplies needed for public health and safety. BAWSCA will continue to be involved in both the proceedings and the mediation process to put forth the impacts on the member agencies.

Ms. Sandkulla noted that involvement in the proceedings are limited, and that BAWSCA is involved under BAWUA, as BAWUA was an intervener in the last FERC licensing process. Other agencies involved are the Tuolumne River Trust, Friends of the Tuolumne, National Oceanic and Atmospheric Association (NOAA), TID and MID, California Department of Fish and Game, and US Fish and Wildlife Services.

No policy action is required of the committee and the board. BAWSCA will keep the committee and the board informed of critical developments. The committee members supported Mr. Jensen's testimony to the Federal Energy Regulatory Commission and stated that it was clear and concise.

Drought Water Allocations – Status of developing an agreement among agencies for allocating water purchased from San Francisco: The Interim Water Shortage Allocation Plan (IWSAP) adopted by the member agencies in 2001 expired in July 2009. The development of a new plan for all agencies to unanimously agree on and adopt is included in the water supply management activities scheduled for this fiscal year. The new WSA enables the BAWSCA board to make a decision on the new plan if agencies do not reach an agreement, and there is an immediate need for a plan to be implemented due to a dry year. An alternative to the BAWSCA board making the decision would be the SFPUC.

The approach to developing a new plan is for it to be based on principles and to modify the existing formula after it has been closely examined, and a determination made that adjustments are necessary.

Upon Mr. Jensen's request, each agency appointed a representative who will work with BAWSCA in the discussions of water supply management activities. BAWSCA has met with all agencies in small groups to clarify the underlying objectives and approach to the activity, and to obtain agency input and issues to be considered. A meeting with all the agency representatives is scheduled on October 29th.

Development of a new plan is expected to be completed by Spring 2010. The committee and the board will be informed of what policy action is necessary. BAWSCA will report developments to the board in case actions are required.

When questioned about the potential for another dry year, Ms. Sandkulla reported that to date, there is very little information available to determine the certainty of supplies for the current water year.

Long-Term Reliable Water Supply Strategy – Status of Scope Development: Phase I of the Long-Term Reliable Water Supply Strategy (RWSS) is the development of the scope, schedule and cost. Ms. Sandkulla reported this activity has been initiated, and was a part of the discussions with the small group meetings with agency representatives.

The meeting of agency representatives on October 29th will include discussion of the foundational elements and guiding principles of the RWSS. Phase I is expected to be completed by Spring of 2010.

The project scope will have a clear statement of the purpose and the need for the plan that can be referred to throughout the study and implementation of the strategy. It will also have a screening and evaluation criteria for use in Phase II, a defined range of water supply alternatives to be evaluated, and the schedule and cost of Phase II of the study.

Director Wykoff commented that in identifying risks and uncertainties, the RWSS should consider the risk of loss of local or SFPUC supply as well as the uncertainty inherent in demand projections that must rely on information from other agencies as well as State requirements.

5. Action Calendar:

A. Authorization to Contract with PG&E for Washing Machine Rebate Program through FY 2010-11: The joint Water Utility and Energy Utility Residential Washing Machine Rebate Program runs through the current calendar year and will end on December 31, 2009. BAWSCA's contract with PG&E for the implementation of the rebate program will expire on June 30, 2010. The contract anticipates a 6-month close out period for the current program.

To continue offering the rebate program through the calendar year of 2010, a new contract with PG&E needs to be executed.

In response to Director Craig's question about changes to PG&E's processing costs, Ms. Sandkulla reported that the cost changes are currently being negotiated. Ms. Sandkulla noted that the contract with PG&E is contingent upon agency participation, and that regional agencies can look at another processor if an agreement on PG&E's cost changes is not reached. Changes in the contracting of a processor will be brought back to the committee for recommendation to the board if necessary.

The committee voted unanimously to recommend that the board authorize the CEO/General Manager to 1) contract with PG&E, subject to legal counsel's final review, to offer rebate processing services through fiscal year 2010-11 for the implementation of the Washing Machine Rebate Program from January 1, through December 31, 2010, and 2) offer participation in the program to BAWSCA member agencies for FY 2010-2011.

5. Consent Calendar:

M/S/C (Quirk/Swegles/Unanimous) that the minutes of the August 12, 2009 meeting be approved.

- 6. Comments by Committee Members:** Director Swegles reported that the Santa Clara Valley Water Commission complemented BAWSCA's successful outcome and negotiation process of the new Water Supply Agreement between the City and County of San Francisco and the wholesale customers..
- 7. Adjournment:** The committee adjourned at 3pm. The next meeting of the committee is December 9, 2009 at 1:30pm in the 1st floor conference room of the BAWSCA office building.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Arthur R. Jensen", written in a cursive style.

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

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Attachments: 1) Attendance Roster

**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
Board Policy Committee
October 28, 2009**

Attendance Roster

Committee Members Present:

Kelly Fergusson, Chair	City of Menlo Park
Bill Quirk, Vice-Chair	City of Hayward
Robert Craig, Vice Chair	Westborough Water District
John Fannon	Town of Hillsborough
Rob Guzzetta	California Water Service Company
Irene O'Connell	City of San Bruno
Matt Pear	City of Mountain View
Rick Wykoff	Estero Municipal Improvement District

Committee Members Absent

Barbara Pierce	City of Redwood City
Ron Swegles	City of Sunnyvale

BAWSCA Staff Members Present:

Arthur Jensen	Chief Executive Officer/General Manager
Anona Dutton	Water Resources Planner
John Ummel	Sr. Administrative Analyst
Lourdes Enriquez	Assistant to the CEO/General Manager
Allison Schutte	Hanson Bridget, LLP.

Guests:

Bob Anderson	Purissima Hills Water District
Anthony Docto	City of East Palo Alto
Robin Driscoll	SHARP
Jim Inglis	Stanford
Marilyn Mosher	City of Hayward
Mike Pacelli	Unspecified
Nico Procos	City of Palo Alto
Sharyn Saslafsky	San Francisco Public Utilities Commission

