

**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
BOARD OF DIRECTORS MEETING**

**Foster City Community Building – 1000 E. Hillsdale Blvd., Foster City
Wind Room
(Directions on Page 3)**

**Thursday, September 15, 2016
7:00 P.M.**

AGENDA

<u>Agenda Item</u>	<u>Presenter</u>	<u>Page</u>
1. Call to Order/Roll Call/Salute to Flag	(Breault)	
2. Comments by the Chair	(Breault)	
3. Board Policy Committee Report	(Quigg)	
4. Public Comments <i>Members of the public may address the Board on any issues not listed on the agenda that are within the purview of the Agency. Comments on matters that are listed on the agenda may be made at the time the Board is considering each item. Each speaker is allowed a maximum of three (3) minutes.</i>	(Breault)	
5. Consent Calendar (Attachments)	(Breault)	
A. Approve Minutes of the July 21, 2016 Meeting		<i>Pg 3</i>
B. Receive and File Pre-Audit Budget Status Report – As of 6/30/16		<i>Pg 7</i>
C. Receive and File Quarterly Bond Surcharge Collection, Account Balance and Payment Report – As of 6/30/16		<i>Pg 9</i>
6. Action Calendar	(Sandkulla)	
A. Resolution Approving Temporary Reappointment of Arthur Jensen as Special Counsel to the CEO/GM (<i>Attachment</i>)		<i>Pg 13</i>
7. SFPUC Report	(Kelly)	
A. WSIP Report	(Wade)	
8. Reports	(Sandkulla/Hurley)	
A. SFPUC Water Management Action Plan (MAP)		
B. CEO/General Manager's Letter (<i>Attachment</i>)		<i>Pg 17</i>
C. Board of Directors Policy Calendar (<i>Attachment</i>)		<i>Pg 21</i>
D. Correspondence Packet (<i><u>Under Separate Cover</u></i>)		
9. Closed Session		
A. Public Employee Performance Evaluation Title: CEO/General Manager Closed Session Pursuant to Government Code Section 54957 (<i>Under Separate Cover</i>)	(Breault)	
B. Conference with Labor Negotiator Agency designated representative: Randy Breault Unrepresented Employee: CEO/General Manager	(Breault)	

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|---|------------------|--------------|
| 10. Report from Closed Session | (Breault) | |
| 11. Break for Negotiation with Agency Labor Negotiator | (Breault) | |
| 12. Reconvene Following Labor Negotiations | (Breault) | |
| 13. Action Item Following Closed Session | (Breault) | |
| A. Consider Compensation Adjustment for CEO/General Manager
for FY 2016-17 (<i>Under Separate Cover</i>) | | |
| 14. Directors' Discussion: Comments, Questions and Agenda Requests | (Breault) | |
| 15. Date, Time and Location of Future Meetings
(See attached schedule of meetings) | (Breault) | <i>Pg 23</i> |
| 16. Adjourn to next meeting scheduled for November 17, 2016 at 7pm | (Breault) | |

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*All public records that relate to an open session item of a meeting of the BAWSCA Board that are distributed to a majority of the Committee less than 72 hours before the meeting, excluding records that are exempt from disclosure pursuant to the California Public Records Act, will be available for inspection at **BAWSCA, 155 Bovet Road, Suite 650, San Mateo, CA 94402** at the same time that those records are distributed or made available to a majority of the Committee.*

Directions to Foster City Community Bldg. – 1000 E. Hillsdale Blvd., Foster City

From Hwy. 101, take the Hillsdale Ave. exit East. Turn Right into the parking lot just after the intersection with Shell Blvd. The Community Bldg. entrance is separate from the Library entrance and is marked by signage. The Wind Room will be at the top of the stairs on the right, across from the reception station (there is also an elevator).

From the East Bay, take Hwy. 92 West, exiting at Foster City Blvd., and going South on Foster City Blvd. to Hillsdale. Turn Right (West) onto Hillsdale and proceed to Shell Blvd., making a U-turn to be able to pull into parking lot on SE corner of Hillsdale and Shell. See underlined sentence of first paragraph above for remainder of directions.

**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
BOARD OF DIRECTORS MEETING**

July 21, 2016 – 7 p.m.
Foster City Community Building, Foster City CA

MINUTES

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

BAWSCA Chair, Randy Breault, called the meeting to order and led the salute to the flag. Acting CEO, Michael Hurley, called the roll. Eighteen (18) members of the Board were present at roll call, constituting a quorum. One arrived shortly after roll-call. A list of Directors present (19) and absent (7) is attached.

- 2. Comments by Chair:** Chair Breault noted a correction on the agenda which removes an unnecessary item. Director Quigg made a motion, seconded by Director Kasperzak, to make this correction. The motion passed unanimously.

Chair Breault announced that the agenda includes a staff report on the SFPUC WaterMAP, and a break to convene the RFA meeting.

He reported that the annual evaluation procedure for CEO/General Manager will continue as it has been implemented in the past 3 years. The procedure is based on participation by the full Board and written performance objectives. Board members will receive an email on July 22nd with the evaluation form and materials for reference. Responses and comments are due August 10th. Chair Breault will present a summary report of the responses and comments at the September Board meeting during Closed Session.

- 3. Board Policy Committee (BPC) Report:** Committee Chair, Dan Quigg, reported the Committee's discussions and actions at its meeting on June 8, 2016. The Committee voted unanimously to recommend Board authorization to enable CEO/General Manager to negotiate and execute an agreement with ReNUWI to complete the Demand Reduction Study and perform initial development of an Independent Regional Water System and Supply Modeling Tool for the Drought Response Analysis. A summary report of the meeting reflects the committee's discussions.

- 4. Public Comments:** There were none.

- 5. Consent Calendar:** There were no discussions on items in the Consent Calendar.

Director Kasperzak made a motion, seconded by Director Richardson, to approve the Minutes of the May 19, 2016 meeting, receive and file the Budget Status Report as of May 31, 2016, Investment Report, and Directors' Reimbursement Report as of June 30, 2016, and authorize the CEO/General

Manager to negotiate and execute an agreement with ReNUWIIt, subject to Legal Counsel's review, to:

- 1. Complete a Demand Reduction Study as part of BAWSCA's Drought Response Analysis; and**
- 2. Initiate the development of an Independent Regional Water System and Supply Modeling Tool for the Drought Response Analysis.**

The motion passed unanimously.

- 6. Break for San Francisco Bay Area Regional Water System Financing Authority Board of Directors Meeting.**
- 7. Reconvene following San Francisco Bay Area Regional Water System Financing Authority Board of Directors Meeting.**
- 8. SFPUC Report:** On behalf of SFPUC General Manager, Harlan Kelly, Steve Ritchie, SFPUC Assistant General Manager of Water Enterprise, provided a report on current water supply conditions. SFPUC staff attendees also included David Briggs and Michelle Novotny.
- 9. Reports:** Mr. Hurley provided an update on the member agencies' achieved water savings, current drought conditions, SFPUC's progress of the Water System Improvement Program (WSIP) and Mountain Tunnel, and a report on the SFPUC WaterMAP.
- 10. Directors' Discussion: Comments, Questions and Agenda Requests:** There were no further discussions.
- 11. Date, Time and Location of Next Meeting:** The next meeting is scheduled on September 15, 2016 in the Wind Room, Foster City Community Center.
- 12. Adjournment:** The meeting adjourned at 7:52 pm.

Respectfully submitted,

Michael Hurley
Acting Chief Executive Officer/General Manager

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Attachments: 1) Attendance Roster

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
Board of Directors Meeting
July 21, 2016

Attendance Roster

Present:

Robert Anderson	Purissima Hills Water District
Jay Benton	Town of Hillsborough
Randy Breault	Guadalupe Valley Water District
Tom Chambers	Westborough Water District
Jose Esteves	City of Milpitas
Rob Guzzetta	California Water Service Company
Mike Kasperzak	City of Mountain View
Kirsten Keith	City of Menlo Park
Gustav Larsson	City of Sunnyvale
Al Mendall	City of Hayward
Chris Mickelsen	Coastside County Water District
Irene O'Connell	City of San Bruno
Rosalie O'Mahony	City of Burlingame
Barbara Pierce	City of Redwood City
Dan Quigg	City of Millbrae
Sepi Richardson	City of Brisbane
Gregg Schmid	City of Palo Alto
Louis Vella	Mid-Peninsula Water District
John Weed	Alameda County Water District
Tom Zigterman	Stanford

Absent:

Charlie Bronitsky	City of Foster City
Michael Guingona	City of Daly City
Sam Liccardo	City of San Jose
Jerry Marsalli	City of Santa Clara
Larry Moody	City of East Palo Alto
Tom Piccolotti	North Coast County Water District

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BAWSCA

Bay Area Water Supply & Conservation Agency

155 Bovet Road, Suite 650
 San Mateo, California 94402
 (650) 349-3000 tel. (650) 349-8395 fax

TO: Nicole Sandkulla, CEO/General Manager

FROM: Deborah Grimes, Office Manager

DATE: September 6, 2016

SUBJECT: Pre-Audit Budget Status Report as of June 30, 2016

This memorandum shows fiscal year budget status for FY 2015-16. It includes major areas of spending, provides an assessment of the overall budget, and summarizes reserve fund balances. This report covers the budget and expenses for BAWSCA. The BAWSCA operating budget includes necessary resources for the RFA and BAWUA.

Operating Budget Summary:

For the twelve-month period ending June 30, 2016, total expenditures were \$2,828,503 or 88 percent of the total budget of \$3,201,679.

Table 1. Operating Budget Summary as of June 30, 2016

Cost Category	Year-To-Date		
	Budget	Expenses	Percent
Consultants /Direct Expenditures			
Reliability	807,450	639,041	79%
Fair Pricing	415,000	318,096	77%
Administration	85,000	114,220	135%
Subtotal	1,307,450	1,071,357	82%
Administration and General			
Salary & Benefits	1,518,529	1,506,323	99%
Other Expenses			
BAWSCA	313,200	250,823	80%
BAWUA	1,100	0	0%
Subtotal	3,140,279	2,828,503	90%
Capital Expenses	2,500	0	0%
Budgeted Contingency	57,500	0	0%
Regional Financing Authority	1,400	0	0%
Grand Total	3,201,679	2,828,503	88%

Overview:

Overall expenditures for FY 2015-16 tracked within budget.

Consultants

The \$125,000 budget for technical review and tracking of the SFPUC's Water System Improvement Program was 73 percent expended. The Operating Budget allocation of \$150,000 for strategic counsel was 100 percent expended. The Operating Budget allocation of \$586,500 for legal counsel was 95 percent expended. The \$257,450 budget for water management and conservation-related activities was 73 percent expended.

Administration and Other Expenses

Budgets for salaries and other expenses were 99 percent and 80 percent expended respectively.

Use of CEO's Discretionary Spending Authority:

In June, the CEO entered into the following agreement under her discretionary spending authority:

- A contract amendment for Immersiv Media, in the amount of \$3,675 for services related to the new website.

Expenses related to this June action are reflected in this report. The total Operating Budget for FY 15-16 remained the same.

Use of Reserve and Reserve Fund Balance:

Unspent funds at the end of FY 2014-15 were \$198,781. The BAWSCA General Reserve balance as of June 30, 2016, shown on Table 2, reflects a November 30, 2015 deposit. This deposit is discussed in the paragraph below.

Table 2. General Reserve Fund Balance

Fund	Account Balance (As of 05/31/16)	Account Balance (As of 06/30/16)
General Reserve	\$776,620	\$776,620

Long-Term Reliable Water Supply Strategy and Use of Water Management Charge:

At the May 21, 2015 meeting, the board authorized the reimbursement to BAWSCA's General Reserve the unspent Water Management Charge funds associated with the development of the Strategy. This reimbursement of \$352,378 occurred November 30, 2015. The BAWSCA General Reserve balance as of June 30, 2016, shown above, reflects this deposit.

BAWSCA

Bay Area Water Supply & Conservation Agency

155 Bovet Road, Suite 650
San Mateo, California 94402
(650) 349-3000 tel. (650) 349-8395 fax

MEMORANDUM

TO: Nicole Sandkulla, CEO/General Manager

FROM: Christina Tang, Senior Administrative Analyst

DATE: September 6, 2016

SUBJECT: Quarterly Bond Surcharge Collection, Account Balance and Payment Report as of June 30, 2016

BAWSCA's Revenue Bond Series 2013A and Series 2013B (Taxable) were issued to prepay the remaining capital cost recovery payments that the BAWSCA agencies owed San Francisco as of June 30, 2013 when the payments were paid off. The bond transaction and the prepayment program was anticipated to generate approximately \$62.3 million in net present value savings over the term of the bonds, or about 17% of the \$356.1 million in principal prepaid from bond proceeds to San Francisco at the end of February 2013.

Bond Surcharge Collections

BAWSCA collects the bond surcharge from member agencies through the SFPUC as a separate item on SFPUC's monthly water bills to agencies. The bond surcharge payments are used to make debt service payments on BAWSCA's revenue bonds.

As of August 31, 2016, BAWSCA received the surcharge payments of \$24,671,089, which is \$13,019 less than the total surcharge payments billed in FY 2015-16. The shortfall in surcharge collection is due to City of East Palo Alto's unpaid June 2016 bond surcharge amount deducted from BAWSCA's surcharge remittance in July 2016 by the SFPUC. The delay in the City of East Palo Alto's June bill payment was a result of migrating to a new financial system, which has been resolved. A check was mailed to the SFPUC on August 22. BAWSCA expects the shortfall amount to be remitted to BAWSCA's Trustee account in September 2016. Table 1 presents a summary of surcharges remitted to the Trustee related to BAWSCA's Bond Series 2013A and 2013B for FY 2015-16.

Table 1: Summary of Surcharges Remitted to Trustee for Fiscal Year Ending 6/30/2016

<u>Month</u>	<u>Amount Billed</u>	<u>Amount Remitted to Trustee</u>	<u>Difference</u>
July 2015	\$2,057,009	\$2,057,009	\$0
August 2015	\$2,057,009	\$2,057,009	\$0
September 2015	\$2,057,009	\$2,057,009	\$0
October 2015	\$2,057,009	\$2,057,009	\$0
November 2015	\$2,057,009	\$2,057,009	\$0
December 2015	\$2,057,009	\$2,057,009	\$0
January 2016	\$2,057,009	\$2,057,009	\$0
February 2016	\$2,057,009	\$2,057,009	\$0
March 2016	\$2,057,009	\$2,057,009	\$0
April 2016	\$2,057,009	\$2,057,009	\$0
May 2016	\$2,057,009	\$2,057,009	\$0
June 2016	<u>\$2,057,009</u>	<u>\$2,043,990</u>	<u>\$13,019</u>
Total	\$24,684,108	\$24,671,089	\$13,019

Bond Surcharge Account Balances

All surcharge payments are deposited with the Bank of New York, the Trustee which manages BAWSCA’s accounts and administers debt service payments. BAWSCA’s account balances at the Trustee and the account activities in FY 2015-16 are shown in Table 2 below.

Table 2: Bank of New York Bond Trustee Account Activity for Fiscal Year Ending 6/30/2016

	27,472,839	Account Market Value as of 06/30/2015
<i>plus:</i>	24,794,929	<i>Surcharge Collected in July 2015 through June 2016</i>
<i>plus:</i>	125,908	<i>Money Market Fund Interest, Security Coupons/Accrued Interest Received</i>
<i>plus:</i>	1,753,848	<i>Change in Market Value of Held Treasury Bonds</i>
<i>plus:</i>	1,617,308	<i>Change in Market Value of Matured Treasury Bonds</i>
<i>minus:</i>	24,584,748	<i>Debt service payment to bondholders</i>
<i>minus:</i>	15,806,294	<i>Principal for Treasury bonds purchased</i>
<i>minus:</i>	12,525	<i>Accrued interest for Treasury bonds purchased</i>
<i>plus:</i>	<u>12,423,569</u>	<u>Market Value of Purchased Bonds</u>
	27,784,835	Account Market Value as of 06/30/2016

There are two ways interest is earned by BAWSCA on the collected surcharge payments and balances held in the stabilization funds. First, interest is automatically earned on the account balance in the Bank of New York Bond Trustee money market account at a current rate of approximately 0.26%. In FY 2015-16, interest earnings received were \$12,819. Second, BAWSCA has the ability to invest the collected surcharge payments by purchasing US Treasury securities, possibly earning a higher rate of return than the money market account.

Based upon an evaluation of the available yields, it was determined that BAWSCA would realize a moderate earnings benefit by purchasing U.S. Treasury securities instead of staying invested in the money market account. Following further evaluation, BAWSCA determined that a strategy that involved both a rolling and a laddered security structure provided the Agency with the most appropriate balance of safety, liquidity, and yield. Consequently, this investment strategy was implemented in the portfolio on October 9, 2015. Further rebalancing transactions were also executed to maintain the strategy on May 6, 2016. As of June 30, 2016, the currently held U.S. Treasury securities represent an increase of 46 basis points (0.46%) over what BAWSCA would have earned had the balances remained invested in the money market funds. The \$125,908 mentioned in the summary table above includes interest earnings of \$12,819 received from the money market fund, and coupons and accrued interest of \$113,089 received from the securities.

All investment interest earnings are deposited directly in the Trustee account, and will be used to pay for future expenses and debt service of the bonds. Ultimately, all interest earnings are returned to the member agencies through annual savings and through distribution of the Stabilization Fund, including interest, once the bonds are fully paid.

Revenue Bond Series 2013A and Series 2013B Debt Service Payment Status

During FY 2015-16, BAWSCA made debt service payments twice, using the bond surcharges collected from the agencies, consistent with the initial bond structure. The first payment of \$17,991,251 was made on October 1, 2015. The second payment of \$6,593,497 was made on April 1, 2016. The next debt service payment of \$18,078,497 will be made on October 1, 2016. There are sufficient funds in the Trustee account to make the payment. Debt service payments are made on April 1st and October 1st of each year until 2034.

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BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD OF DIRECTORS MEETING

Agenda Title: **Resolution Approving Temporary Reappointment of Arthur Jensen as Special Counsel to the CEO/GM**

Summary:

As required by the California Public Employees' Retirement System (PERS), Board findings are required before Arthur Jensen, retired from BAWSCA, can be reappointed to the temporary position of Special Counsel to the Chief Executive Officer and General Manager (CEO/GM) in order to provide BAWSCA with essential services.

Fiscal Impact:

Funds to reappoint Arthur Jensen as Special Counsel to the CEO/GM are included in the adopted budget for salaries and benefits for FY 2016-17.

Board Policy Committee Action:

The Committee did not meet in August. This item is being presented to the Board without a recommendation from the BPC.

Recommendation:

That the Board adopt Resolution 2016-01 approving the reappointment of Arthur Jensen to the temporary position of Special Counsel to the CEO/GM, and making associated findings in support of such an appointment.

Discussion:

Although Arthur Jensen retired from BAWSCA in September 2013, his services continue to be essential to ensure that BAWSCA can complete critical negotiations with the City and County of San Francisco pertaining to the classification of assets under the Water Supply Agreement between San Francisco and its wholesale water customers, and other matters as needed. These negotiations began in FY 2013-14. The negotiations have resulted in the resolution of a number of issues, and the parties are currently negotiating Water Supply Agreement amendment language. It is anticipated that the remaining issues will be resolved during FY 2016-17. In order to complete these critical negotiations, it is anticipated that in FY 2016-17, Mr. Jensen's level of activity will be less than 7 hours a week.

The California Government Code allows the temporary employment of a PERS-covered retiree only under specified conditions, and only if the person works no more than 960 hours per fiscal year. The attached resolution includes findings that the Board must adopt in order for the CEO/GM to appoint Arthur Jensen to a temporary position for no longer than one year in compliance with all legal requirements.

Attachments:

1. Resolution 2016-01 for the temporary reappointment of Arthur Jensen as Special Counsel to the CEO/GM.

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**RESOLUTION NO. 2016-01
BY THE BOARD OF DIRECTORS OF THE
BAY AREA WATER SUPPLY AND CONSERVATION AGENCY**

**APPROVING TEMPORARY APPOINTMENT OF ARTHUR JENSEN
AS SPECIAL COUNSEL TO THE CEO/GM**

WHEREAS, the Bay Area Water Supply and Conservation Agency ("BAWSCA") is organized and established pursuant to the Bay Area Water Supply and Conservation Agency Act, Water Code section 81300, et seq. (the "Act"); and

WHEREAS, section 81408 of the Act authorizes the Board of Directors of BAWSCA (the "Board") to (i) employ employees that it determines are necessary or convenient to operate BAWSCA, and (ii) delegate that authority to the Chief Executive Officer and General Manager of BAWSCA (the "CEO/GM") with respect to the employment of additional employees; and

WHEREAS, the CEO/GM recommends the temporary appointment of Arthur Jensen (the "Appointee") to the position of Special Counsel to the CEO/GM; and

WHEREAS, the Appointee is a retired annuitant entitled to receive retirement benefit payments under the California Public Employees' Retirement System ("PERS"), which benefits he accrued based on service with multiple PERS-covered agencies; and

WHEREAS, BAWSCA contracts with PERS to provide retirement benefits to its eligible employees; and

WHEREAS, the Appointee will be performing similar duties to those performed by individuals who have held or are currently holding the position of CEO/GM; and

WHEREAS, the California Government Code ("Code") generally requires that a retired PERS annuitant be reinstated to active PERS membership upon employment by a PERS-covered agency, unless he is temporarily appointed by the agency's appointing authority under sections 7522.56 and 21224 of the Code, which exempt a retired PERS annuitant from the reinstatement requirement if (i) he is temporarily appointed because he ". . . has specialized skills needed in performing work of limited duration," (ii) he works no more than 960 hours per fiscal year for all PERS-covered employers, (iii) his hourly rate of pay is neither less than nor more than the monthly base salary paid by the agency to any of its other employees who perform comparable duties, divided by 173.333, (iv) he will not receive any other benefit, incentive, compensation in lieu of benefits, or other form of compensation in excess of such hourly rate, (v) he is not reemployed within 180 days of his retirement, and (vi) he has not received unemployment compensation arising out of any prior employment subject to these requirements with the same employer during the 12-month period preceding his appointment; and

WHEREAS, the Board has determined that the Appointee has the skills needed in performing work as Special Counsel to the CEO/GM for a limited term of no more than one year and intends that his appointment to that position for such term meet this and all other applicable requirements of sections 7522.56 and 21224 of the Code.

NOW THEREFORE BE IT RESOLVED, that subject to BAWSCA's customary employment practices and the specific terms and conditions of any offer of employment by BAWSCA to the Appointee in connection therewith, the Board hereby approves the appointment of the

Appointee to the position of Special Counsel to the CEO/GM for up to a one-year term, effective upon appropriate action by the CEO/GM; and

RESOLVED FURTHER, that in accordance with sections 7522.56 and 21224 of the Code:

1. the Board finds and declares that the Appointee possesses extensive, highly specialized skills and experience needed to complete critical negotiations with the City and County of San Francisco pertaining to the classification of assets under the Water Supply Agreement between San Francisco and its wholesale water customers and other matters as needed;
2. the Appointee's appointment to the position of Special Counsel to the CEO/GM will not exceed 960 hours in any fiscal year for all PERS-covered agencies;
3. the Appointee's rate of pay as Special Counsel to the CEO/GM will be neither less than nor more than the monthly base salary paid by the agency to any of its other employees who perform comparable duties, divided by 173.333, and he will not receive any other benefit, incentive, compensation in lieu of benefits, or other form of compensation in excess of such hourly rate;
4. the Appointee is being reappointed more than 180 days after his retirement;
5. the Appointee has not received any unemployment compensation arising out of his prior employment with BAWSCA during the 12-month period preceding his appointment; and
6. subject to BAWSCA's customary employment practices, including "at-will" employment, the appointment of Appointee as Special Counsel to the CEO/GM will continue only until the earlier of: (i) the end of the appointment's one-year term, or (ii) termination of the Appointee's employment by either BAWSCA or the Appointee for any other reason; and

RESOLVED FURTHER, that the CEO/GM is hereby authorized and directed to execute all documents and take all other actions necessary or advisable to effect the purposes of this resolution.

PASSED AND ADOPTED this 15th day of September, 2016, by the following vote:

AYES:

NOES:

ABSENT:

Chair, Board of Directors
Bay Area Water Supply and
Conservation Agency

ATTEST:

Assistant to the CEO/GM

BAWSCA

Bay Area Water Supply & Conservation Agency

155 Bovet Road, Suite 650
San Mateo, California 94402
(650) 349-3000 tel. (650) 349-8395 fax

MEMORANDUM

TO: BAWSCA Board of Directors
FROM: Nicole Sandkulla, CEO/General Manager
DATE: September 9, 2016
SUBJECT: Chief Executive Officer/General Manager's Letter

Governor's Executive Order – Long-Term Water Conservation

Governor Brown's Executive Order B-37-16 - Making Water Conservation a California Way of Life (Executive Order) called for the Department of Water Resources (DWR) and State Water Resources Control Board (SWRCB) to jointly develop long-term water use targets for urban water suppliers that go beyond existing requirements to achieve a 20% reduction in urban water usage by 2020. The proposed draft Long-Term Water Use Efficiency Framework is to be publicly released by January 10, 2017.

On August 15th, DWR, SWRCB, and CA Public Utilities Commission staff hosted the kickoff meeting of the Urban Advisory Group (UAG) to discuss the process for implementing the requirements of the Executive Order. The UAG is comprised of invited representatives from water agencies, non-governmental organizations, and other interested parties. The purpose of the UAG is to suggest ways to accelerate water waste reduction, discuss how local agency water loss needs can be prioritized, and assist in identifying key water loss metrics and reporting requirements. In addition to the UAG, two technical working groups have been created to advise the State's project team on draft recommendations for updating urban water suppliers' Water Shortage Contingency Plans (WSCPs) and developing County WSCPs.

BAWSCA is actively tracking the UAG efforts and is participating in the WSCP working group. BAWSCA is also participating in the Association of California Water Agencies (ACWA) efforts to support the UAG, which include the development of policy objectives for long-term conservation framework, to ensure that the unique Bay Area water user characteristics are considered within the ACWA objectives and, ultimately, as part of the State's long-term water use efficiency framework.

Water System Improvement Program

BAWSCA is currently reviewing the SFPUC's FY 2015-2016 Annual Report for the Water System Improvement Program (WSIP). This report is produced pursuant to the reporting requirements of the Wholesale Regional Water System Security and Reliability Act. The FY 2015-16 Annual Report has been expanded in response to comments from BAWSCA in prior years and includes: a new section on level of service and related schedule issues; summaries of procedures used to track and control WSIP project schedules and budgets;

current schedule and budget forecasts; and a new section regarding SFPUC's program delivery strategy for the Closeout Phase of the program to ensure that the WSIP will be completed on schedule and on budget.

Additionally, BAWSCA is working with the California Department of Public Health (formerly State Department of Health Services) and the California Seismic Safety Commission as they finalize their review of the latest WSIP Change Notice adopted by the SFPUC Commission on April 26, 2016 and transmitted to those state entities on June 30, 2016. The Change Notice is required if the city (1) adopts a change in the WSIP that deletes one or more projects from the program, or (2) postpones the scheduled completion dates. The notice describes any changes and the reasons for that change. The State shall review the adopted changes and submit written comments with regard to the significance of those changes with respect to public health and safety to the city and the Joint Legislative Audit Committee within 120 days after the date on which those state entities received notice of that change.

CESAR Litigation – Update

In August 2014, the Center for Environmental Science Accuracy and Reliability (CESAR) filed suit against the National Park Service (NPS) alleging violations of the federal Endangered Species Act (ESA) and that the operation of the Hetch Hetchy Project resulted in a "take" of endangered fish in violation of Section 9 of the ESA. San Francisco intervened in February 2015.

On August 29, 2016, the Court ruled in favor of the NPS and San Francisco based on summary judgment motions and without oral argument. Summary judgment was primarily granted for procedural deficiencies and was appropriate because the pleadings and the record demonstrates that there is no genuine dispute as to any material fact that CESAR is entitled to judgment as a matter of law.

The Court found that CESAR lacked standing, NPS did not have certain consultation obligations under the ESA regarding operating requirements for the Hetch Hetchy Project, and CESAR failed to provide evidence of a "take" of endangered fish.

Mountain Tunnel

BAWSCA continues to meet regularly with the SFPUC regarding the preparation for and implementation of necessary improvements to the structural defects in the Mountain Tunnel lining. The SFPUC's efforts continue to focus on the following three efforts: 1) the Mountain Tunnel Improvement Project, a series of capital projects to improve access to the facility and ultimately, the inspection, repair, and permanent fix or replacement of the tunnel, 2) an Emergency Restoration Plan to return the tunnel to service within 3 months of a tunnel failure, and 3) an Emergency Response Plan to provide for alternative water supplies and demand reductions and shifting under both planned and unplanned outage scenarios.

Progress continues on the capital projects identified under the Mountain Tunnel Improvement Project in preparation for the first of two shutdowns in January 2017 when initial tunnel repairs will be made and a thorough inspection of the tunnel lining will be undertaken. The initial projects to improve tunnel adits (i.e., entrances) and access roads

will increase accessibility to those portions of the tunnel where defects have been identified.

Additionally, SFPUC staff held meetings with staff from the City of Hayward and East Bay Municipal Utility District to discuss an expansion of the intertie agreement for the Hayward Intertie as part of the preparation of the upcoming shutdowns. The intent is to develop an agreement similar to a recent agreement signed by the Chief Executive Officers of Santa Clara Valley Water District and the SFPUC for the Milpitas Intertie, which expands the minimum level of mutual preparedness and support for the intertie in preparation for both planned and unplanned outages.

Groundwater Reliability Partnership

In early August, BAWSCA sent out a Request for Qualifications to five firms for the consultant support for the Groundwater Reliability Partnership for the San Mateo Plain Sub-basin (Partnership) that was approved in the FY16-17 BAWSCA Work Plan and Budget. BAWSCA is reviewing the five responses received and will soon choose the consultant with the best qualifications and experience. One of the first tasks for the consultant will be to assist BAWSCA with planning another meeting for the Partnership.

San Mateo County has continued work on its Groundwater Basin Assessment for the San Mateo Plain Sub-basin, including hosting a second stakeholder workshop on Wednesday, September 7th. At the workshop, San Mateo County presented technical information about the groundwater basin after gathering data from agencies and stakeholders in the basin. Information presented included a hydrogeologic conceptual model for the basin, a basin water balance, and basin water quality data. There are gaps in the data for the basin, but there is enough information to form a fairly good understanding about the function and condition of the basin. In summary, the County's data showed that the basin is full and in balance, as the inputs, or recharge, to the basin are much larger than the amount of pumping from the basin, with the balance of the water flowing to the San Francisco Bay. In addition, the County presented a summary of stakeholder feedback from the first meeting in May. All of the meeting materials can be found at the following website: <http://green.smcgov.org/san-mateo-plain>.

Bay Area Regional Reliability Partnership

In July 2015, the Board authorized the CEO/General Manager to execute a Memorandum of Agreement to participate in and help fund the development of the Bay Area Regional Reliability (BARR) Plan. The BARR Plan is envisioned as a multi-part effort under the direction of the BARR Partnership, which is a regional, multi-agency effort focused on improving supply reliability and drought preparedness in the region.

The initial effort is the development of the Drought Contingency Plan (DCP), which is supported by a grant from the U.S. Bureau of Reclamation (USBR). The DCP will identify (1) response actions to drought and other water emergencies and (2) more permanent drought mitigation actions, including new projects. Technical Memorandum 1 (TM1) of the DCP has been distributed for review by the BARR Task Force, which is a stakeholder group tasked with providing input on strategies and work products. TM1 provides a regional look at facilities, projected supplies and demands, existing drought preparedness and potential supply vulnerabilities.

The next phase of the DCP will identify permanent mitigation actions including potential projects such as interconnections, new supplies, and water transfers. In August, the Partnership's General Managers, including CEO/General Manager Sandkulla, participated in a workshop to begin vetting potential projects. All projects must have multiple beneficiaries to be considered as part of this process. This process will continue through Spring of 2017. The final DCP will be transmitted to USBR in late Summer 2017 following review by the BARR Partnership and the BARR Task Force.

Senate Bill 814: Excessive Water Use

On August 29th, The Governor signed into law Senate Bill 814 (Hill). SB 814 is intended to prevent unreasonable or excessive water use during periods of drought. It requires water suppliers to identify and discourage excessive water use by either establishing a rate structure that includes water budgets or rate surcharges for excessive use, or by establishing an excessive use ordinance. SB 814 is applicable only during a period where the Governor has issued a drought emergency or where an urban water supplier has moved to a stage of action in response to a local water supply shortage that requires mandatory water use reductions.

BAWSCA legal counsel is currently reviewing SB 814 to determine its impacts on BAWSCA member agencies, in particular, to determine whether the bill is applicable under the current water supply conditions. BAWSCA is also working with member agency staff to develop a common definition of "excessive use" to support local agency implementation of the requirements.

Board of Directors Policy Calendar through January 2017

Board Meeting	Purpose	Issue or Topic
Sept. 2016	D&A	Resolution Approving Temporary Appointment of A. Jensen as Special Counsel to the CEO/GM
	D&A	CEO/GM Evaluation
November 2016	D&A	Annual Review and Consideration of Statement of Investment Policy
	D&A	Consideration of a New Regional Washing Machine Rebate Program
	D&A	Consulting Contract
	D&A	Consideration of a Consultant Services Contract to Support Update of Water Conservation Database
	R	Review of Agency Conflict of Interest
January 2017	D&A	FY 2016-17 Mid-Year Work Plan and Budget Review
	R	Review of Water Supply Forecast
	S	FY 2017-18 Work Plan and Budget Preparation Planning Session
March 2016	D&A	Consideration of BAWSCA Bond Surcharges for FY 2017-18
	R&D	Presentation of Preliminary FY 2017-18 Work Plan and Budget
May 2016	D&A	Presentation of Proposed FY 2017-18 Work Plan and Budget
	D&A	Consideration of Annual Consultant Contracts

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**Bay Area Water Supply and Conservation Agency
and Regional Financing Authority**

Meeting Schedule through July 2017

Schedule for BAWSCA Board Meetings (Meetings are held from approx. 7:00 – 9:00 p.m.)	
<u>Date</u>	<u>Location</u>
Thursday – September 15, 2016	Wind Room, Foster City Community Center
Thursday – November 17, 2016	Wind Room, Foster City Community Center
Thursday – January 19, 2017	Wind Room, Foster City Community Center
Thursday – March 16, 2017	Wind Room, Foster City Community Center
Thursday – May 18, 2017	Wind Room, Foster City Community Center

Schedule for RFA Board Meetings (Meeting time will be announced)	
<u>Date</u>	<u>Location</u>
Thursday – January 19, 2017	Wind Room, Foster City Community Center
Thursday – July 20, 2017	Wind Room, Foster City Community Center

Schedule for BAWSCA Board Policy Committee Meetings (Meetings held from 1:30-4:00 p.m.)	
<u>Date</u>	<u>Location</u>
Wednesday – October 12, 2016	155 Bovet Rd., San Mateo – 1 st Floor Conf. Rm.
Wednesday – December 14, 2016	155 Bovet Rd., San Mateo – 1 st Floor Conf. Rm.
Wednesday – February 8, 2017	155 Bovet Rd., San Mateo – 1 st Floor Conf. Rm.
Wednesday – April 12, 2017	155 Bovet Rd., San Mateo – 1 st Floor Conf. Rm.
Wednesday – June 14, 2017	155 Bovet Rd., San Mateo – 1 st Floor Conf. Rm.

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