

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

**San Mateo Main Library –55 W. 3rd Ave., San Mateo
Oak Room**
(Directions on Page 2)

**Thursday, September 20, 2018
6:30 P.M.**

AGENDA

<u>Agenda Item</u>	<u>Presenter</u>	<u>Page</u>
1. Call to Order/Roll Call/Salute to Flag	(Mendall)	
2. Comments by the Chair	(Mendall)	
3. 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>	(Mendall)	
4. Consent Calendar (Attachments)	(Mendall)	
A. Approve Minutes of the July 19, 2018 Meeting		<i>Pg 3</i>
B. Receive and File Pre-Audit Budget Status Report – As of 6/30/18		<i>Pg 7</i>
C. Receive and File Investment Report – As of 6/30/18		<i>Pg 9</i>
D. Receive and File Directors' Reimbursement Report – As of 6/30/18		<i>Pg 11</i>
E. Receive and File Bond Surcharge Collection, Account Balance and Payment Report For Fiscal Year Ending June 30, 2018		<i>Pg 13</i>
5. Action Calendar	(Sandkulla)	
A. Resolution Approving Temporary Reappointment of Arthur Jensen as Special Counsel to the CEO/GM (<i>Attachment</i>)		<i>Pg 17</i>
6. SFPUC Report	(Kelly)	
A. Tuolumne River Management Plan		
7. Reports	(Sandkulla/Francis)	
A. Water Use Update		
B. Bay Delta Water Quality Control Plan Phase I Update		
C. CERBT Fund Update (<i>Attachment</i>)		<i>Pg 21</i>
D. CEO/General Manager's Letter (<i>Attachment</i>)		<i>Pg 23</i>
E. Board of Directors Policy Calendar (<i>Attachment</i>)		<i>Pg 29</i>
F. Correspondence Packet (<u>Under Separate Cover</u>)		
8. Closed Session		
A. Conference with Legal Counsel – Existing Litigation pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9: <i>Restore Hetch Hetchy v. City and County of San Francisco, et al.</i> Case Number: F074107	(Schutte)	

- B. Conference with Legal Counsel – Existing Litigation pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9 **(Schutte)**
Federal Energy Regulatory Commission Final License Application Proceedings for Don Pedro Hydroelectric Project, P-2299-082, and La Grange Hydroelectric Project, P-14581-002
- C. Conference with Legal Counsel – Anticipated Litigation **(Schutte)**
Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code 54956.9 (1 potential case)
- D. Public Employee Performance Evaluation **(Mendall)**
Title: CEO/General Manager
Closed Session Pursuant to Government Code Section 54957
(Under Separate Cover)
- E. Conference with Labor Negotiator **(Mendall)**
Agency designated representative: Al Mendall
Unrepresented Employee: CEO/General Manager
- 9. Report from Closed Session (Mendall)**
- 10. Break for Negotiation with Agency Labor Negotiator (Mendall)**
- 11. Reconvene Following Labor Negotiations (Mendall)**
- 12. Action Item Following Closed Session (Mendall)**
 - A. Consider Compensation Adjustment for CEO/General Manager for FY 2018-19 *(Under Separate Cover)*
- 13. Directors’ Discussion: Comments, Questions and Agenda Requests (Mendall)**
- 14. Date, Time and Location of Future Meetings (Mendall) Pg 31**
(See attached schedule of meetings)
- 15. Adjourn to next meeting scheduled for November 15, 2018 at 6:30pm (Mendall)**

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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 San Mateo Main Library San Mateo – 55 W. 3rd Avenue

From San Jose via Hwy. 280 Northbound, Exit Hwy-92 East towards San Mateo/Hayward. Exit 12B onto Ca-82 N/S El Camino Real. Turn Left on 3rd Ave. The Library is on your left. Street parking and underground parking are available. The Oak Room is on the main floor to the left of the main Library entrance.

From San Francisco via Hwy 280 Southbound, Exit Hwy-92 East towards San Mateo/Hayward. Exit 12B onto CA-82 N/S El Camino Real. Merge onto CA-82, turn Left on W. 3rd Ave. The Library is on your left. Street parking and underground parking are available. The Oak Room is on the main floor to the left of the main Library entrance.

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

**July 19, 2018 – 6:30 p.m.
San Mateo Main Library – Oak Room**

MINUTES

1. Call to Order/Pledge of Allegiance/Roll Call – 6:30 pm

BAWSCA Chair, Al Mendall, called the meeting to order and led the salute to the flag. CEO/General Manager, Nicole Sandkulla called the roll. Sixteen (16) members of the Board were present at roll call, constituting a quorum. Two Board Members arrived after roll-call. A list of Directors present (18) and absent (8) is attached.

2. Comments by the Chair: Chair Mendall welcomed members of the Board and noted that the meeting will be filmed to gather visual footage that will be used for the short informational film being developed to commemorate BAWSCA's 15-years of delivering results to its member agencies and its water customers.

3. Board Policy Committee (BPC) Report: Director Larsson reported the discussions and actions taken by the Board Policy Committee at its meeting on June 13, 2018. They are reflected in the BPC summary report included in the packet.

4. Public Comments: Public comments were provided by:

- | | |
|--|---|
| 1. Senator Jerry Hill | 2. Bill Martin, Sierra Club SF Chapter |
| 3. Peter Drekmeier, Tuolumne River Trust | 4. Tonia Sole |
| 5. Erik Young, Trout Unlimited | 6. Dave Warner, SEFT |
| 7. Katie Bramlett | 8. Martin Gothberg |
| 9. Eddie Corwin | 10. Keith Bennett, Save Palo Alto's Groundwater |
| 11. Denise Louie | 12. Michael Frost, Restore the Delta |
| 13. Rita Varel | 14. Gayle Zerdonovic |
| 15. Cedric de LaBeaujardiere | |

5. Consent Calendar:

Director Richardson made a motion, seconded by Director Keith, to approve the minutes of the May 17, 2018 Board meeting, receive and file the Budget Status Report, Investment Report, and Directors' Reimbursement Report as of May 31, 2018, and to adopt:

- **Resolution 2018-02 to amend the General Reserve Policy establishing within the General Reserve a Long-Term Planning Fund, and**
- **Resolution 2018-03 to establish the list of potential projects that may be funded by the Long-Term Planning Fund and to adopt the maximum balance for the Long-Term Planning Fund.**

The motion passed unanimously.

6. **SFPUC Report:** SFPUC Assistant General Manager for Water Enterprise, Steve Ritchie, reported on the passage of San Francisco's Prop. A, SFPUC's progress on dam safety for Moccasin, and Current Water Supply Conditions.

7. **Action Calendar:**
 - A. **Process and Schedule for CEO Annual Evaluation:** The agenda packet included the CEO's annual performance evaluation form, process, and schedule for the Board's review and discussion. There were no comments or questions from Board members on these materials or the evaluation process.

Director Keith made a motion, seconded by Director Manalo, that the Board use the evaluation form, process, and schedule for the CEO/General Manager performance evaluation during Closed Session at the September 20th Board meeting.

The motion passed unanimously.

8. **Closed Session was moved up to precede Reports on the Agenda. The Board adjourned to Closed Session at 7:19pm**

9. **The Board re-convened to Open Session at 8:26pm**
Legal Counsel, Allison Schutte, reported that the Board took action and provided direction to legal counsel.

10. **Reports:** The items under Reports were tabled to the September 20th meeting in the interest of time.

11. **Directors' Discussion: Comments, Questions and Agenda Requests:** Director Mendall, on behalf of the Board, directed staff to reach out to Senator Hill regarding his interest for the opportunity to have dialogue about the information surrounding the SWRCB's Bay Delta Plan.

12. **Date, Time and Location of Next Meeting:** The next meeting is scheduled on September 20, 2018 at 6:30pm, in the Oak Room, of the San Mateo Main Library.

13. **Adjournment:** The meeting adjourned at 8:27pm.

Respectfully submitted,

Nicole M. Sandkulla
Chief Executive Officer/General Manager

NMS/le

Attachments: 1) Attendance Roster

**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
Board of Directors Meeting
July 19, 2018**

Attendance Roster

Present:

Robert Anderson	Purissima Hills Water District
Tom Chambers	Westborough Water District
Kirsten Keith	City of Menlo Park
Pat Kolstad	City of Santa Clara
Rob Kuta	California Water Service Company
Gustav Larsson	City of Sunnyvale
Juslyn Manalo	City of Daly City
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:

Jay Benton	Town of Hillsborough
Randy Breault	Guadalupe Valley Water District
Charlie Bronitsky	City of Foster City
Mike Kasperzak	City of Mountain View
Sam Liccardo	City of San Jose
Larry Moody	City of East Palo Alto
Tom Piccolotti	North Coast County Water District
Rich Tran	City of Milpitas

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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: August 23, 2018
SUBJECT: Pre-Audit Budget Status Report as of June 30, 2018

This memorandum shows fiscal year budget status for FY 2017-18. 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 budget includes necessary resources for the RFA and BAWUA.

Operating Budget Summary:

For the twelve-month period ending June 30, 2018, total expenditures were \$3,318,543 or 90 percent of the total budget of \$3,704,572.

Table 1. Operating Budget Summary as of June 30, 2018

Cost Category	Year-To-Date		
	Budget	Expenses	Percent
Consultants /Direct Expenditures			
Reliability	1,082,400	1,045,815	97%
Fair Pricing	439,750	211,181	48%
Administration	95,000	142,785	150%
Subtotal	1,617,150	1,399,781	87%
Administration and General			
Salary & Benefits	1,644,372	1,573,830	96%
Other Expenses			
BAWSCA	373,250	342,173	92%
BAWUA	1,050	0	0%
Subtotal	3,635,822	3,315,783	91%
Capital Expenses	10,000	0	0%
Budgeted Contingency	57,500	0	0%
Regional Financing Authority	1,250	2,760	221%
Grand Total	3,704,572	3,318,543	90%

Overview:

Overall expenditures for FY 2017-18 tracked within budget.

Consultants

The \$125,000 budget for technical review and tracking of the SFPUC's Water System Improvement Program was 63 percent expended. The Operating Budget allocation of \$150,000 for strategic counsel was 100 percent expended. The Operating Budget allocation of \$669,000 budget for legal counsel was 90 percent expended. The \$276,400 budget for water management and conservation-related activities was 94 percent expended.

Administration and Other Expenses

Budgets for salaries and other expenses were 96 and 92 percent expended respectively.

Use of CEO's Discretionary Spending Authority:

No use of CEO discretionary spending authority occurred during this period.

Use of Reserve and Reserve Fund Balance:

Unspent funds at the end of FY 2016-17 were \$519,167. The BAWSCA reserve balance as of June 30, 2018, shown below, reflects this deposit. In accordance with the adoption of the FY 2017-18 annual budget in May 2017, the Board approved transferring \$160,615 from the General Reserve to fund the FY 2017-18 budget. The BAWSCA General Reserve balance shown below reflects this transfer.

Table 2. General Reserve Fund Balance

Fund	Account Balance (As of 05/31/18)	Account Balance (As of 06/30/18)
General Reserve	\$1,561,144	\$1,561,144

Unspent funds at the end of FY 2017-18 will be determined when the financial audit is completed. The funds will be transferred to the General Reserve after the Board of Directors accepts the FY 2017-18 audited financial report.

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: Deborah Grimes, Office Manager

DATE: August 20, 2018

SUBJECT: Investment Report – As of June 30, 2018

In February 2004, the Board originally adopted an investment policy consistent with the Government Code that requires a report on the Agency's investments be provided to the Board. This report presents fund management in compliance with the current investment policy. The Board most recently reviewed and re-affirmed the investment policy at the November 16, 2017 board meeting. No changes were recommended or adopted as part of that review.

Funds in excess of \$250,000 are deposited in the BAWSCA Local Agency Investment Fund (LAIF) account throughout the year to ensure compliance with BAWSCA's investment policy.

BAWSCA's prior and current period LAIF account balances are shown below:

<u>05/31/18</u>	<u>06/30/18</u>
\$2,569,603	\$2,569,603

Of the total in the BAWSCA LAIF account as of June 30, 2018, \$1,561,144 represents BAWSCA's General Reserve Fund, equivalent to approximately 42 percent of FY 2017-18 Operating Budget. The remaining amount consists of Subscription Conservation Program funds and unrestricted funds.

Recent historical quarterly interest rates for LAIF deposits are shown below:

<u>03/31/18</u>	<u>06/30/18</u>
1.51%	1.90%

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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

MEMORANDUM

TO: Nicole Sandkulla, CEO/General Manager

FROM: Deborah Grimes, Office Manager

DATE: August 20, 2018

SUBJECT: Directors' Reimbursement Quarterly Report for the Period Ending June 30, 2018

In March 2006, the board adopted a directors' expense reimbursement policy consistent with the Government Code that requires a quarterly report on the Agency's reimbursement of directors' expenses. This report shall show the amount of expenses reimbursed to each director during the preceding three months.

There were no director expenses reimbursed for the quarter ending June 30, 2018.

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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

MEMORANDUM

TO: Nicole Sandkulla, CEO/General Manager

FROM: Christina Tang, Finance Manager

DATE: August 24, 2018

SUBJECT: Bond Surcharge Collection, Account Balance and Payment Report for Fiscal Year Ending June 30, 2018

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 today, BAWSCA has received surcharge payments of \$24,686,592, which represent the total surcharge billed in FY 2017-18. Partial payments of surcharges billed for May 2018 and all payments of surcharges billed for June 2018 were remitted to Trustee after the fiscal year ended. Table 1 below presents a payment collection summary for FY 2017-18.

Table 1: Summary of Surcharges Remitted to Trustee for Fiscal Year Ending 6/30/2018

<u>Month</u>	<u>Amount Billed</u>	<u>Amount Remitted to Trustee</u>	<u>Difference</u>
July 2017	\$2,057,216	\$2,057,216	\$0
August 2017	\$2,057,216	\$2,057,216	\$0
September 2017	\$2,057,216	\$2,057,216	\$0
October 2017	\$2,057,216	\$2,057,216	\$0
November 2017	\$2,057,216	\$2,057,216	\$0
December 2017	\$2,057,216	\$2,057,216	\$0
January 2018	\$2,057,216	\$2,057,216	\$0
February 2018	\$2,057,216	\$2,057,216	\$0
March 2018	\$2,057,216	\$2,057,216	\$0
April 2018	\$2,057,216	\$2,057,216	\$0
May 2018	\$2,057,216	\$2,057,216	\$0

June 2018	<u>\$2,057,216</u>	<u>\$2,057,216</u>	<u>\$0</u>
Total	\$24,686,592	\$24,686,592	\$0

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 2017-18 are shown in Table 2 below.

Table 2: Bank of New York Bond Trustee Account Activity for Fiscal Year Ending 6/30/2018

	27,974,322	Account Market Value as of 6/30/2017
<i>plus:</i>	24,750,350	<i>Surcharge Collected in July 2017 through June 2018</i>
<i>plus:</i>	306,822	<i>Money Market Fund Interest, Security Coupons/Accrued Interest Received</i>
<i>plus:</i>	(3,877,170)	<i>Change in Market Value of Held Treasury Bonds</i>
<i>plus:</i>	7,470,000	<i>Change in Market Value of Matured Treasury Bonds</i>
<i>minus:</i>	24,486,902	<i>Debt service payment to bondholders</i>
<i>minus:</i>	9,406,038	<i>Principal for Treasury bonds purchased</i>
<i>minus:</i>	4,649	<i>Accrued interest for Treasury bonds purchased</i>
<i>plus:</i>	5,693,299	<i>Market Value of Purchased Bonds</i>
<i>minus:</i>	<u>11,044</u>	<u><i>Reimbursement for Expenses Incurred in FY 2014-15</i></u>
	28,408,990	Account Market Value as of 6/30/2018

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. Second, BAWSCA has the ability to invest the collected surcharge payments by purchasing U.S. 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 October 2015. With the Investment Advisor’s assistance, BAWSCA recently re-evaluated the investment strategy and determined that a modest extension of portfolio maturity was appropriate to pursue higher yields while still satisfying the primary objectives of safety and liquidity. Following the March 2018 debt service payment, BAWSCA began the transition to a 0-5 year laddered portfolio strategy. As of July 31st, the market yield on BAWSCA’s revised portfolio strategy was 2.60% compared to 1.79% for the money market fund.

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 2017-18, BAWSCA made debt service payments twice, using the bond surcharges collected from the agencies, consistent with the initial bond structure. The first payment of \$18,214,367 was made on October 1, 2017. The second payment of \$6,272,535 was made on April 1, 2018. The next debt service payment of \$18,402,535 will be made on October 1, 2018. 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 2018-19.

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 2018-04 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. Negotiations continue on remaining matters that were anticipated to be resolved during FY 2017-18. In order to complete these outstanding and critical negotiations, it is anticipated that in FY 2018-19, 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 2018-04 for the temporary reappointment of Arthur Jensen as Special Counsel to the CEO/GM.

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**RESOLUTION NO. 2018 – 04
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 ____ day of _____, 2018, by the following vote:

AYES:

NOES:

ABSENT:

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

ATTEST:

Assistant to the CEO/GM

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD OF DIRECTORS MEETING

Agenda Title: BAWSCA's California Employers' Retiree Benefit Trust Fund Update

Summary:

BAWSCA participates in the California Employers' Retiree Benefit Trust (CERBT) program, administered by CalPERS, to prefund Other Post-Employment Benefits (OPEB) obligations. Since entering the CERBT program from April 26, 2014 through June 30, 2018, BAWSCA has had total contributions of \$488,356 and investment earnings of \$76,215. The actual average annualized internal rate of return was 6.07% for FY2017-18, which is slightly higher than the 5.75% discount rate used in the recent OPEB actuarial valuation as of July 1, 2017. Since FY 2013-14, BAWSCA has been fully funding the annual OPEB expense, as determined by the annual actuarial valuation, to prefund its OPEB obligations in each year.

Fiscal Impact:

BAWSCA's FY 2018-19 Operating Budget includes a CERBT contribution of \$82,375 to fully fund the annual OPEB expense for the fiscal year. This amount was deposited into BAWSCA's CERBT account in September 2018.

Recommendation:

This item is for informational purposes only. No Board action is requested.

Discussion:

Like all other public agencies, BAWSCA prefunds its OPEB obligations in order to generate investment income from employer controlled contributions to pay for future retiree benefits, reduce future employer cash flow requirements, and reduce OPEB liabilities reported on the agency's annual financial statements. To achieve these goals, BAWSCA established a CalPERS CERBT program to prefund OPEB obligations in April 2014.

BAWSCA's actual investment performance in the CERBT account is always considered during the annual OPEB actuarial valuation. BAWSCA participates in CERBT's Strategy 2 asset allocation program. The CERBT's current expectation on the long-term rate of return on assets in that program is 6.73%, which is the discount rate BAWSCA used in the last OPEB actuarial valuation as of July 1, 2016. Recently, CalPERS has lowered their expectations of investment performance for the pension fund from 7.5% to 7.0%. BAWSCA anticipates the CERBT to make a similar announcement soon. Based on the CERBT's current actual rate of returns and a recommendation by BAWSCA's actuary, BAWSCA determined a 5.75% discount rate to be more reasonable for the recent OPEB actuarial valuation as of July 1, 2017. A lower discount rate results in a higher annual OPEB expense but will effectively minimize BAWSCA's unfunded liability risk from overly optimistic assumptions in the future.

Since FY 2013-14, BAWSCA has been fully funding the OPEB expense determined by the annual actuarial valuation as part of its operating budget. The table on the next page provides a summary of BAWSCA's CERBT account as of June 30, 2018.

CERBT Account Summary as of June 30, 2018	
Total Contributions (Initial contribution made on 4/26/2014)	\$488,356
Total Disbursements	-
Total CERBT Expenses	(\$1,254)
Total Investment Earnings	\$76,215
Total Assets	\$563,317
Current Asset Allocation Strategy Selection	CERBT Strategy 2
CERBT Long-Term Expected Rate of Return	6.73%
BAWSCA Estimated Long-Term Expected Rate of Return	5.75%
BAWSCA Actual Average Annualized Internal Rate of Return* for FY2017-18	6.07%
BAWSCA Actual Average Annualized Internal Rate of Return* from Inception (4/26/2014) through 6/30/2018	5.37%

*Net of fees

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 14, 2018
SUBJECT: Chief Executive Officer/General Manager's Letter

Pilot Water Transfer Plan

Implementation of a one-time pilot water transfer is a key recommended action identified in BAWSCA's Long-Term Reliable Water Supply Strategy Report (February 2015). Prior negotiations to implement a pilot water transfer stalled during the height of the most recent drought. BAWSCA recently expressed an interest in initiating negotiations with Amador Water Agency (AWA) for the purchase of water to be used for a onetime pilot water transfer. Such a transfer could meet the interests of AWA as well. At its August 9, 2018 meeting, the AWA Board authorized their staff to begin water transfer negotiations with BAWSCA.

BAWSCA wants to secure up to 1,000 acre-feet of water from AWA. The pilot would take place in the winter of 2019-2020. BAWSCA's goal for conducting a pilot water transfer is to demonstrate the feasibility of delivering additional water supplies to BAWSCA member agencies in times of future supply interruptions or water shortages. If terms to a transfer can be reached, AWA would make the transfer water available to BAWSCA at East Bay Municipal Utility District's (EBMUD) Pardee Reservoir on the Mokelumne River. At that point, BAWSCA would take delivery of the transfer supplies, which would be conveyed under a wheeling agreement currently under negotiation with EBMUD. BAWSCA intends for EBMUD to use their facilities to wheel and treat the water, delivering it to BAWSCA via the Hayward Intertie for ultimate use primarily within the City of Hayward, a BAWSCA member agency. The Hayward Intertie is jointly owned by EBMUD and the San Francisco Public Utilities Commission (SFPUC) and operated by the City of Hayward. Contract terms between BAWSCA and AWA are expected to cover financial details as well as operational requirements associated with the transfer of water. Separate agreements between BAWSCA and SFPUC as well as the City of Hayward also must be entered into. It is expected that this pilot would take place to coincide with a planned shutdown of SFPUC's Hetch Hetchy water conveyance system.

BAWSCA and AWA will conduct the water transfer in accordance with all requirements, terms and conditions as stipulated for such a one-time transfer per the guidelines set forth by regulatory agencies and in compliance with CEQA. BAWSCA anticipates a streamlined CEQA review for this one-year transfer.

BAWSCA will continue to update the BAWSCA Board as discussions with AWA and associated entities (EBMUD, SFPUC, the City of Hayward, regulatory agencies, etc.) continue.

Groundwater

On May 18, 2018, the California Department of Water Resources (DWR) Sustainable Groundwater Management Program released a draft reprioritization of groundwater basins as required by the Sustainable Groundwater Management Act (SGMA). Select BAWSCA Member Agencies overlies portions of basins that were reprioritized from “very low priority” to “medium priority” or “high priority.” Medium- and high-priority basins are subject to regulation under California’s Statewide Groundwater Management Act (SGMA). Regulatory requirements include the mandate to establish a Groundwater Sustainability Agency (GSA) and a Groundwater Sustainability Plan (GSP).

On August 20, 2018, BAWSCA submitted comments to DWR on the draft reprioritization of groundwater basins, specifically providing feedback on the methodology used in the reprioritization. The DWR has been challenged with developing a methodology that is consistent and fair across the hundreds of basins statewide. However, BAWSCA believes that parts of the draft methodology are inconsistent with the focus and scope of SGMA and BAWSCA has recommended the DWR revise the process.

DWR plans to finalize the groundwater basin reprioritization in mid-November and BAWSCA anticipates a response to its comments at that time.

Los Vaqueros Expansion

In 2016, Contra Costa Water District (CCWD) reached out to other local water agencies, including SFPUC and BAWSCA, to determine if they had an interest in a portion of the storage that would be created as part of Phase 2 Expansion of the existing Los Vaqueros Reservoir. Interested agencies were asked to enter into agreements formalizing their respective participation in studies and environmental documentation, and provide a financial contribution toward the cost of the associated work effort.

In February of 2017, BAWSCA entered into an MOU with CCWD formalizing BAWSCA’s potential interest in a share of future Los Vaqueros storage and willingness to participate in the work effort. Similarly, SFPUC entered into an MOU, and provided a financial contribution of \$100,000 on behalf of both BAWSCA and SFPUC. The term of that MOU is now nearing completion.

In August of 2017, CCWD submitted an application requesting \$454M in funding for the \$914M project to the California Water Commission (CWC). Funding was awarded by the CWC in mid-2018 and now CCWD and the CWC are negotiating a funding agreement.

Also during 2018, CCWD requested that partner agencies revisit their stipulated interest in taking part in the project, and more specifically to identify the total volume (or share) in the project that they are currently interested in. CCWD also began studying various governance options for LVE, such as a Joint Powers Authority, given that many groups would potentially have an interest or share in the expanded project, and hence multiple parties have a stake in the project’s governance.

BAWSCA will soon be presented with a new MOU to cover our agency’s share in the costs of moving the project through its next stage (continued environmental review, hydrologic modeling, governance development, and other associated work efforts). That MOU will cover costs of work anticipated to be performed beginning in the fall of 2018 thru to the end of calendar year 2019. Other partner agencies will be asked to enter into the same MOU with CCWD. BAWSCA understands that this latest request from CCWD will include a

partnership funding share in the neighborhood of \$250,000 +/- . BAWSCA staff, including BAWSCA's attorneys, have reviewed and commented on CCWD's draft MOU.

Additional details on the project will be shared with the Board once BAWSCA receives the proposed final MOU, including any potential recommended action for BAWSCA participation in the next phase of the project.

Making Conservation as a California Way of Life

In August 2018, the California Department of Water Resources (DWR) released a Primer 2018 Legislation on Water Conservation and Drought Planning. The Primer summarizes DWR's interpretation of the authorities, requirements, and schedules included in the new legislation, as well as roles and responsibilities for State agencies and water suppliers. In September, DWR conducted a series of workshops to obtain feedback on the Primer and also accepted written feedback. BAWSCA has reviewed the document and intends to submit written comments in conjunction with several other water agencies.

BAWSCA has begun work on Phase 2 of its "Making Conservation a Way of Life" Strategic Plan, which includes specific studies to prepare agencies for implementation of the legislation. Phase 2 includes (1) an indoor-outdoor water use study to evaluate current levels of indoor and outdoor water use within BAWSCA member agency service areas and identify remaining opportunities for improved efficiency and (2) a commercial/industrial water audit pilot program to evaluate cost-effectiveness for ongoing implementation of such a program.

For the indoor-outdoor water use study, in-depth analysis is being undertaken for five BAWSCA agencies. The agencies that volunteered for this analysis provide a representative cross-section of the overall BAWSCA service area in terms of land use, climate and water use and have the necessary data for analysis.

For the CII pilot program, a survey of BAWSCA member agencies was conducted in August to determine preferred approach and interest in participating in various pilot program options. BAWSCA agencies identified a CII Online Self-Audit tool as the preferred approach, and at least six BAWSCA agencies have expressed a willingness to participate in the pilot. The consultant team has initiated work on developing the audit tool.

Status of FY 2015-16 & FY 2016-17 Wholesale Revenue Requirement Reviews

On March 8, 2018, BAWSCA reached an agreement with the SFPUC related to its costs allocated to Wholesale Customers in FY 2015-16, except for three issues. Two issues are included in a tolling agreement with a deadline of September 8, 2018 for the parties to reach an agreement or for the wholesale customers to file a demand for arbitration on any unsolved issues for FY 2015-16. The parties extended the deadline to December 31, 2018 through a tolling agreement amendment, effective September 7, 2018. The third issue may take longer than the timeframe anticipated to resolve the other two issues outlined in the tolling agreement. The parties plan to discuss the solutions for the third issue during the annual Wholesale Revenue Requirement (WRR) review for FY 2016-17.

BAWSCA conducted its review of SFPUC's calculation of the annual WRR and the changes in the balancing account for FY 2016-17. As a result of the WRR review, BAWSCA sent some questions and concerns to the SFPUC on May 30, 2018. BAWSCA is still waiting for the SFPUC's response, which typically takes several months. The deadline for both parties to enter into a settlement agreement or for the wholesale customers to file a demand for

arbitration on any unsolved issues for FY 2016-17 is March 29, 2019. Typically, BAWSCA and the SFPUC can resolve any concerns through a detailed settlement agreement before the deadline.

SFPUC State of the Regional Water System

On July 20, 2018, SFPUC provided BAWSCA staff with a draft of their 2018 update of the State of the Hetch Hetchy Regional Water System (RWS) report. The draft report conveyed the state of the assets comprising the RWS. The report is updated every two years, and is a contractual requirement of the July 2009 Water Sales Agreement (Section 3.10B).

In the report, the term “asset” is used to describe facilities, linear assets (e.g. pipeline, tunnels), dams, watershed and right-of-way (ROW) assets (e.g. road) and communication system assets. A “facility” is defined as a system of assets that operate together to perform a function, such as a pump station, powerhouse or entire pipeline. The report provides asset inventories, condition, recent performance, project status, and notable milestones.

Once the report is finalized, the SFPUC will make it available to customers and stakeholders and is frequently used internally for reference purposes and budget preparation.

The 2018 report details assets located throughout the RWS and provides a discussion of the SFPUC’s asset management processes. The 2018 report also details an emerging statewide issue, specifically the State’s increased focus on dam safety regulatory compliance and how that increased focus impacts SFPUC’s capital improvement plan(s).

BAWSCA staff found the draft report to be well written, informative and had added new data and information as compared to the 2016 report. The 2018 draft report built positively on the 2016 report as it continued to integrate the SFPUC’s Water Enterprise (WSTD) and Hetch Hetchy Water and Power (HHWP) policies, programs and asset management data together by category.

While generally BAWSCA had positive comments on the draft report, staff did prepare a list of over 50 comments, questions, suggestions, etc. for the SFPUC to consider as they work to finalize the document. SFPUC is considering BAWSCA’s comments and will be in contact with BAWSCA staff to schedule a follow-up meeting to detail how BAWSCA’s comments were incorporated that will take place in the latter half of September. The SFPUC has indicated it would like to have the report finalized by September 30, 2018.

Water System Improvement Program Annual Report

On August 31, 2018, in compliance with the Wholesale Regional Water System Security and Reliability Act (AB 1823-Papan), the SFPUC submitted the Fiscal Year (FY) 2017-18 Annual Report for the Water System Improvement Program (WSIP) to the State Joint Legislative Audit Committee, the California Seismic Safety Commission, and the State Water Resources Control Board-Division of Drinking Water.

Section 1 of the report describes the overall progress made on the WSIP’s Regional Program during FY 2017-18 (July 1, 2017 through June 30, 2018). Section 2 focuses on the major programmatic initiatives undertaken by the SFPUC during that time period. Section 3 summarizes the Level of Service (LOS) goals and objectives, and addresses progress towards meeting those goals and objectives. Sections 4 and 5 include summaries of procedures used to track and control WSIP project schedules and budgets, and present current schedule and budget forecasts, respectively. Section 6 includes a summary of the

achievements and challenges encountered while implementing the program during FY 2017-18. The WSIP Risk Management program and status of risk exposure for active construction projects is summarized in Section 7, and the program delivery strategy for the closeout phase is discussed in Section 8. Finally, Section 9 of the report highlights the status of the specific projects mentioned in California Assembly Bill (AB) 1823.

SFPUC notes in several locations of the report that significant progress was made on the implementation of the WSIP during FY 2017-18. Between July 1, 2017 and June 30, 2018, the overall completion of the Regional Program increased from 94.1% to 95.8%. The focus of the program continues to be construction of several ongoing large projects such as Calaveras Reservoir and administrative closeout of several projects that recently completed construction.

BAWSCA is reviewing the report and will be meeting with SFPUC in early October to discuss BAWSCA's comments and findings. BAWSCA will share its findings with the Board and member agencies shortly thereafter.

BAWSCA Conflict of Interest Code

Pursuant to California Government Code Section 87306.5, BAWSCA must review the Conflict of Interest Code (Code) every even-numbered year or as needed when applicable organizational changes necessitate amendments. Review by BAWSCA staff and legal counsel, in concert with the Fair Political Practices Commission (FPPC), last occurred in 2014, resulting in FPPC action to approve an amended Code that includes new positions created since the last review, and combines the previously-separate BAWSCA and RFA Codes into one. The Board accepted the FPPC approved Code at its meeting on May 21, 2015.

In reviewing the Code for 2018, the position title of Sr. Administrative Analyst needed to be changed to Finance Manager. This revision was approved by the FPPC on September 7, 2018 to be effective as of October 7, 2018. No further action by the BAWSCA Board is required by the FPPC.

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Board Of Directors

Policy Calendar Through January 2019

Meeting Date	Purpose	Issue or Topic
September 2018	D&A D&A	CEO/General Manager Evaluation Resolution Approving Temporary Appointment of A. Jensen as Special Counsel to the CEO/General Manager
November 2018	D&A D&A R R	Review of Agency Personnel Handbook Annual Review and Consideration of Statement of Investment Policy Update on BAWSCA's Regional Water Supply Modeling Tool Update on Long-Term Reliable Water Supply Strategy Implementation
January 2019	D&A R&D R	FY 2018-19 Mid-Year Review & Management of General Reserve FY 2019-20 Work Plan and Budget Preparation Planning Session Review of Water Supply Forecast
March 2019	D&A R R	Consideration of BAWSCA Bond Surcharges for FY 2019-20 Presentation of Preliminary FY 2019-20 Work Plan and Budget Review of Water Supply Forecast
May 2019	D&A D&A R	Consideration of Proposed FY 2019-20 Work Plan and Budget Consideration of Annual Consultant Contracts Review of Water Supply Forecast

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

Meeting Schedule through July 2019

Schedule for BAWSCA Board Meetings (Meetings are held from approx. 6:30 – 8:45 p.m.)	
<u>Date</u>	<u>Location</u>
Thursday – September 20, 2018	Oak Room, San Mateo Main Library
Thursday – November 15, 2018	Oak Room, San Mateo Main Library
Thursday – March 21, 2019	Oak Room, San Mateo Main Library
Thursday – May 16, 2019	Oak Room, San Mateo Main Library
Thursday – July 18, 2019	Oak Room, San Mateo Main Library

Schedule for RFA Board Meetings (Meeting time will be announced)	
<u>Date</u>	<u>Location</u>
Thursday – January 17, 2019	Oak Room, San Mateo Main Library

Schedule for BAWSCA Board Policy Committee Meetings (Meetings held from 1:30-4:00 p.m.)	
<u>Date</u>	<u>Location</u>
Wednesday – October 10, 2018	155 Bovet Rd., San Mateo – 1 st Floor Conf. Rm.
Wednesday – December 12, 2018	155 Bovet Rd., San Mateo – 1 st Floor Conf. Rm.
Wednesday – February 13, 2019	155 Bovet Rd., San Mateo – 1 st Floor Conf. Rm.
Wednesday – April 10, 2019	155 Bovet Rd., San Mateo – 1 st Floor Conf. Rm.
Wednesday – June 12, 2019	155 Bovet Rd., San Mateo – 1 st Floor Conf. Rm.