



BOARD OF DIRECTORS MEETING

Thursday, November 18, 2021

6:30 P.M.

DUE TO COVID-19, THIS MEETING WILL BE CONDUCTED AS A TELECONFERENCE PURSUANT TO THE PROVISIONS OF GOVERNMENT CODE SECTION 54953(e). MEMBERS OF THE PUBLIC MAY NOT ATTEND THIS MEETING IN PERSON.

The following members of the BAWSCA Board are listed to permit them to appear telephonically at the Board Meeting on November 18, 2021: George Barber, Jay Benton, Randy Breault, Tom Chambers, Drew Combs, Alison Cormack, Tom Hamilton, Karen Hardy, Sam Hindi, Steve Jordan, Gustav Larsson, Sam Liccardo, Antonio López, Juslyn Manalo, Lisa Matichak, Al Mendall, Chris Mickelsen, Carmen Montano, Larry Moody, Tom Piccolotti, Barbara Pierce, Dan Quigg, Lou Vella, John Weed, Sepi Wood, and Tom Zigterman.

Members of the public wanting to participate in the meeting may do so by:

Participating via Video Conference:

Click on the link to Join the meeting, <https://us02web.zoom.us/j/87525127824>

- Meeting ID: 875 2512 7824
- Password: 771083
- The web browser client will download automatically when you start or join your first Zoom meeting. It is also available for [manual download here](#).

OR,

Participating via Telephone:

- **Dial (888) 788-0099** US Toll-free, and entering **Meeting ID 875 2512 7824** and **Password 771083** when prompted.
- To Mute or UnMute, Press *6.
- To Raise Hand, Press *9.
- The Presentation will be available prior to the meeting at www.bawasca.org.

All audio and video will be OFF upon entry. Remaining on mute will reduce background noise.

Videos of Non-Board meeting participants will be kept OFF at all times during the meeting. Audio for Non-Board meeting participants will be enabled during allocated public speaking times and will be disabled when public comment time has expired.

In the event of technical malfunction on Zoom, the meeting will be conducted via the Call-In #.

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BOARD OF DIRECTORS MEETING

Thursday, November 18, 2021

6:30 P.M.

AGENDA

<u>Agenda Item</u>	<u>Presenter</u>	<u>Page</u>
1. Call to Order/Roll Call/Salute to Flag	(Larsson)	
2. Special Order of Business	(Schutte)	
A. Adoption of Resolution 2021-05, declaring that BAWSCA Board meetings will continue to be held via teleconference (<i>Attachment</i>)		Pg 5
3. Comments by the Chair	(Larsson)	
4. Board Policy Committee Report	(Zigterman)	Pg 9
5. Public Comments	(Larsson)	
<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>		
6. SFPUC Report	(Herrera/Ritchie)	
A. SFPUC General Manager		
B. Water Supply Conditions and Curtailment Order Update		
7. Water Management Representatives Report	(Rudock)	
8. Consent Calendar	(Larsson)	
A. Approve Minutes of the September 16, 2021 Meeting (<i>Attachment</i>)		Pg 21
B. Receive and File Budget Status Report – As of Sept. 30, 2021 (<i>Attachment</i>)		Pg 27
C. Receive and File Annual Audit Report for BAWSCA and Compilation Report for BAWUA for FY 2019-20 (<i>Under Separate Cover</i>)		Pg 29
D. Receive and File Directors' Reimbursement Report – As of Sept. 30, 2021 (<i>Attachment</i>)		Pg 31
E. Receive and File Bond Surcharge Collection, Account Balance and Payment Report – As of Sept. 30, 2021 (<i>Attachment</i>)		Pg 33
F. Receive and File Investment Report – As of Sept. 30, 2021 (<i>Attachment</i>)		Pg 37
G. Annual Review of BAWSCA's Statement of Investment Policy (<i>Attachment</i>)		Pg 39
H. Administrative Revision to BAWSCA's CalPers Health Benefit Resolution (<i>Attachment</i>)		Pg 47
<i>The Committee voted unanimously to recommend Board approval of Consent Calendar Items #8G and #8H.</i>		

- 9. Action Calendar** (Sandkulla) Pg 55
- A. Adoption of Resolution 2021-03 Adopting a 2021 Amended and Restated Tier 2 Drought Response Implementation Plan (Attachment)
The Committee voted unanimously to recommend approval of the proposed Board action.
- 10. CEO Reports** (Sandkulla)
- A. Water Supply Update
- B. FERC/Bay Delta Plan Update
- C. Bond Refunding Update (Attachment) Pg 83
- D. MTC/ABAG Final EIR for Plan Bay Area 2050 (Attachment) Pg 87
- E. CEO/General Manager's Letter (Attachment) Pg 113
- F. Board of Directors Policy Calendar (Attachment) Pg 115
- G. Correspondence Packet ([Under Separate Cover](#))
- 11. Closed Session** (Schutte)
- A. **Conference with Legal Counsel – Existing Litigation pursuant to** Paragraph (1) of subdivision (d) of Government Code Section 54956.9 Federal Energy Regulatory Commission Final License Application Proceedings for Don Pedro Hydroelectric Project, P-2299-082, and La Grange Hydroelectric Project, P-14581-002.
- B. **Conference with Legal Counsel – Existing Litigation pursuant to** Paragraph (1) of subdivision (d) of Government Code Section 54956.9 State Water Board Cases (Sacramento County Superior Court Case No. 5013).
- 12. Report from Closed Session** (Schutte)
- 13. Directors' Discussion: Comments, Questions and Agenda Requests** (Larsson)
- 14. Date, Time and Location of Future Meetings** (Larsson) Pg 117
(See attached schedule of meetings)
- 15. Adjourn to next meeting scheduled for January 20, 2022 at 6:30pm** (Larsson)

Accessibility for Individuals with Disabilities

Upon request, BAWSCA will provide for written agenda materials in appropriate alternative formats, or disability-related modification or accommodation, including auxiliary aids or services, to enable individuals with disabilities to participate in and provide comments at/related to public meetings. Please submit a request, including your name, phone number and/or email address, and a description of the modification, accommodation, auxiliary aid, service or alternative format requested at least two days before the meeting. Requests should be emailed to bawsca@bawsca.org or submitted by phone at 650-349-3000. Requests will be granted whenever possible and resolved in favor of accessibility.

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD OF DIRECTORS MEETING

Agenda Title: **Declaring that Board Meetings Will Continue to be Held via Teleconference**

Summary:

The BAWSCA Board has followed relaxed teleconference requirements under Executive Orders issued by the Governor in response to the COVID-19 pandemic. Those Executive Orders have since expired. Assembly Bill (AB) 361 now allows the Board to continue meeting under the same procedures. The attached resolution declares the Board's intent to continue meeting via teleconference under AB 361.

Fiscal Impact:

This item has no impact on BAWSCA's annual operating budget.

Recommendation:

That the Board adopt Resolution #2021-05 declaring that it will continue to meet via teleconference, in accordance with AB 361 and the provisions of Government Code Section 54953(e).

Discussion:

On March 4, 2020, Governor Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for a broader spread of COVID-19. On March 17, 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Order N-29-20, which suspended certain provisions of the Ralph M. Brown Act in order to allow local legislative bodies to conduct meetings electronically without a physical meeting place.

On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which among other things, rescinded his prior Executive Order N-29-20, effective October 1, 2021. At that point, agencies would have transitioned back to public meetings held in full compliance with the preexisting Brown Act teleconference rules. Since the Governor issued Executive Order N-08-21, the Delta variant has emerged, causing a spike in cases throughout the state. As a result, the Governor's proclaimed State of Emergency remains in effect, and state and local officials, including the San Mateo County Health Officer, the California Department of Public Health and the Department of Industrial Relations, have imposed or recommended measures to promote social distancing.

On September 16, 2021, the Governor signed Assembly Bill (AB) 361 into law, effective October 1, 2021, to allow agencies to use teleconferencing for public meetings during proclaimed state of emergencies without requiring the teleconference locations to be accessible to the public or a quorum of the members of the legislative body of the agency to participate from locations within the boundaries of the agency's jurisdiction. AB 361 will sunset on January 31, 2024.

Under AB 361, a local agency is allowed to meet remotely without complying with prior Brown Act teleconference requirements when:

- The local agency holds a meeting during a state of emergency declared by the Governor, and either
 - State or local health officials have imposed or recommended measures to promote social distancing, or
 - The legislative body finds that meeting in person would present imminent risks to the health or safety of attendees.

As discussed above, state and local officials continue to recommend social distancing. Therefore, the Board can continue to conduct meetings via teleconference, as long as it adheres to the following emergency requirements under Government Code Section 54953(e)(2), added by AB 361:

1. The legislative body gives notice and posts agendas as otherwise required by the Brown Act, including directions for how the public can access the meeting.
2. The legislative body does not take formal action on any item whenever there is a disruption in the meeting broadcast.
3. The public is allowed to provide comment in real time.
4. The legislative body allows time during a public comment period for members of the public to register with any internet website required to submit public comment.

For upcoming teleconference meetings, the Board can continue to follow the AB 361 requirements by declaring at each meeting, that it has reconsidered the circumstances of the state of emergency and either (1) the state of emergency continues to directly impact the ability of the members to meet safely in person, or (2) state or local officials continue to impose or recommend measures to promote social distancing. The Board and the Board Policy Committee are separate legislative bodies, so both bodies will need to adopt resolutions to this effect. These findings can be made through the consent calendar.

**RESOLUTION NO. 2021 – 05
BY THE BOARD OF DIRECTORS OF THE
BAY AREA WATER SUPPLY AND CONSERVATION AGENCY**

**DECLARING THAT BOARD MEETINGS WILL CONTINUE TO BE HELD VIA
TELECONFERENCE**

WHEREAS, on March 4, 2020, Governor Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for a broader spread of COVID-19; and

WHEREAS, on March 17, 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Order N-29-20, which suspended certain provisions of the Ralph M. Brown Act in order to allow legislative bodies to conduct meetings electronically without a physical meeting place; and

WHEREAS, on June 11, 2021, Governor Newsom issued Executive Order N-08-21, which specified that Executive Order N-29-20 would remain in effect through September 30, 2021, at which point it would expire; and

WHEREAS, on September 16, 2021, the Governor signed Assembly Bill 361 into law as urgency legislation that went into effect on October 1, 2021, amending Government Code Section 54953 of the Brown Act to allow legislative bodies to continue to meet remotely during a proclaimed state of emergency where state or local officials have recommended measures to promote social distancing; and

WHEREAS, the Governor's proclaimed State of Emergency remains in effect, and State and local officials, including the California Department of Public Health and the Department of Industrial Relations, have imposed or recommended measures to promote social distancing.

NOW, THEREFORE, BE IT RESOLVED that, in order to ensure the health and safety of the public, meetings of the Board of Directors of the Bay Area Water Supply and Conservation

Authority will continue to be held via teleconference in accordance with Assembly Bill 361 and the provisions of Government Code Section 54953(e).

Regularly passed and adopted this 18th day of November, 2021 by the following vote:

AYES:

NOES:

ABSENT:

CHAIR, BOARD OF DIRECTORS

ATTEST:

Board Secretary



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MEMORANDUM

TO: BAWSCA Board Members

FROM: Nicole Sandkulla, Chief Executive Officer/General Manager

DATE: November 12, 2021

SUBJECT: Summary of Board Policy Committee meeting held October 13, 2021

1. **Call to Order:** Committee Chair, Tom Zigterman, called the meeting to order at 1:34 pm following reminders of the protocols to conduct the virtual meeting successfully. A list of Committee members who were present (8), absent (2) and other attendees is attached.

The Committee took the following action and discussed the following topics:

2. **Special Order of Business:** Legal Counsel, Allison Schutte, reported that the Governor signed into law AB361 to codify emergency teleconference rules under the Brown Act. Modified procedures for teleconferencing are available whenever (1) the Governor has declared a state of emergency, and either (2) State or local officials have recommended social distancing, or (3) the agency's legislative body finds that in person attendance would "present imminent risks to the health and safety of attendees."

Based on the current Governor declared state of emergency and social distancing regulations in effect under the Department of Industrial Regulations (DIR) and the San Mateo County in accordance with CDPH and CDC, BAWSCA presents the said facts as findings to continue conducting the committee meetings virtually.

As a legislative body, the Committee is required to adopt a resolution declaring its findings for the need to teleconference, and must reconsider the findings every 30 days. Moving forward, the Committee will need to adopt a resolution at every meeting. This action can be done via the consent calendar, but legal counsel will work closely with staff to monitor and review the Governor's declarations and social distancing requirements on an ongoing basis. This procedure will similarly apply to the BAWSCA Board.

The staff recommendation is that the Committee adopt Resolution #2021-02, declaring that the Committee will continue to meet via teleconference, in accordance with AB 361 and the provisions of Government Code Section 54953(e). Ms. Schutte noted that the Resolution is the Committee's resolution, and that the BAWSCA Board will have its own resolution.

Director Cormack expressed her support for the findings in accordance with AB 361.

There were no further comments or questions from Committee members or members of the public.

Director Larsson made a motion, seconded by Director Mendall, that the Committee adopt Resolution #2021-02, declaring that it will continue to meet via teleconference, in accordance with AB 361 and the provisions of Government Code Section 54953(e).

The motion carried unanimously by roll call vote.

3. **Comments by Committee Chair:** Director Zigterman noted that the agenda includes 3 action items related to the important and necessary business of BAWSCA. The Committee will also be receiving an important and timely report from SFPUC Assistant General Manager Steve Ritchie on water supply conditions, including an update on SFPUC's actions to address the State's order to curtail water diversions in response to the drought.
4. **Public Comments:** Public comments were provided by Peter Drekmeier, Dave Warner and John Weed.
5. **Special Report:** SFPUC Assistant General Manager for Water Enterprise, Steve Ritchie, provided a report on current water supply conditions and the curtailment orders issued by the State Water Board. The curtailment order issued on the Tuolumne River diversions that went in effect on August 20th eliminates SFPUC's access to 360,000 acre-feet of storage in Water Bank in Don Pedro Reservoir. The SFPUC is meeting its curtailment obligations by releasing water from Cherry Lake and Lake Eleanor so that it can divert water into Hetch Hetchy Reservoir.

Mr. Ritchie reported that the SFPUC will focus on negotiating a resolution to regain access to Water Bank and/or achieve a Health and Safety exemption, to ensure availability of water supply.

The Health and Safety exemption request for diversions would allow the SFPUC to divert enough water to supply 55 gpcd to the entire service area. There are conditions to the request, however, including the requirement for the SFPUC to declare a water supply emergency under the California Water Code.

The Commission will consider the SFPUC's emergency declaration on November 9th. The details of the proposed emergency declaration were developed in coordination with BAWSCA and will include:

- FY 2019-20 demand of 197.4 mgd as the baseline;
- Overall reduction target of 177.7 mgd starting with a 10% voluntary water use reduction;
- Mandatory reduction will be called if voluntary reduction does not achieve the target;
- Water supply split between the Wholesale Customers (64%) and Retail Customers (36%) in accordance with the Water Shortage Allocation Plan under the Water Supply Agreement (WSA)
- Wholesale share is 113.7 mgd;
- Retail share is 62.3 mgd, 5% of FY 2019-20 demand.

Potential rate actions will include the SFPUC's consideration of a pre-authorized temporary drought surcharge to the retail customers at some point during the drought. Wholesale rates for FY 2022-23 may potentially be higher than previously projected to account for the anticipated lower wholesale purchases from the Regional Water System (RWS).

Mr. Ritchie noted that the collective region was able to reduce their collective water use significantly, close to 177 mgd, back in 2015 which was the last year of the most recent drought.

For operational purposes, the SFPUC analyzed the potential drought impacts on water supply through 2024 based on the following scenario: extreme drought conditions similar to 1976-77; followed by recovery, as it occurred in 1978; and with the anticipation that curtailments are extended through August 2023.

The scenario factored in the target goal of 177.7 mgd (the 10% water use reduction from FY 2019-20 demands), and the Health and Safety exception being granted by the State allowing diversions of 55 gpcd for the entire service area.

Mr. Ritchie noted that total system capacity is 1,460,000 acre-feet. The system is currently at 940,000 acre-feet. There is a system capacity level that Mr. Ritchie referred to as “two-years remaining deliverable storage” that is at 515,000 acre-feet, a level that is dangerously low.

The results of the analysis show that:

- With the 10% water use reduction, and the loss of 360,000 acre-feet due to the curtailment on the Tuolumne River diversion, total deliverable storage will fall into the dangerously low level by mid-2022, and supplies will deplete by 2023.
- With the 10% water use reduction and the Health and Safety exception granted by the State, total deliverable storage will gain 270,000 acre-feet and will maintain a less precarious placement in the dangerously low level of storage, allowing the system to continue serving water until the anticipated recovery period begins.

The SFPUC is in communication with the State Water Board to emphasize that the system has physical limits that prevent the direct access to water stored in the Water Bank. Those communications are aimed to inform and influence the State Water Board such that some adjustment or accommodation can be made to the curtailment orders that would enable the SFPUC to gain access to the Water Bank. The SFPUC will also demonstrate that the system is using all of its available alternative water supplies while maintaining a proper level of water use reduction as part of the conditions for the Health and Safety exception request.

Mr. Ritchie stated that he presented the same information to the Commissioners at its October 12th meeting, in which the Commissioners requested additional information on levels that might be achieved by greater water use reduction. That analysis will be done, but Mr. Ritchie noted that the results may not be better than that of a 10% water use reduction, and that going beyond the water use reduction achieved in 2015 will introduce a serious level of conservation and associated impact on water users.

He noted that, if needed, the water shortage allocation plan jointly developed with the wholesale customers several years ago will be implemented for the first time. If so, it will be an important exercise as every agency has its own characteristics and will receive its own individual allocation from the RWS.

In response to Director Mendall, Mr. Ritchie explained that San Francisco’s request for a Health and Safety exception can mean that the State provides San Francisco, as a municipal supplier, a lower level of curtailment, so that it can provide the minimum water supply needed for health and safety standards. He emphasized that the analysis shows how the RWS will be at a dangerously low storage levels with the curtailment on the Tuolumne River, and the two possible solutions the SFPUC has for the State’s consideration are the Health and Safety exception request and negotiating a way to regain access to Water Bank.

Ms. Sandkulla agreed with Mr. Ritchie in the significance of what will be learned from the implementation of the drought allocation plan, if it is implemented.

In response to Director Larsson, Mr. Ritchie stated that the 55 gpcd, should the Health and Safety exception request is granted by the State, applies to all water customers, both retail and wholesale combined. Mr. Ritchie stated that if and when the SFPUC works with the State Board on the provisions, there will be some varying interpretations that will need to be agreed upon.

The SFPUC will be working diligently on the health and safety exception request including the documentation of alternative water supplies and water use reduction data for the State Water Board's assessment process in early 2022. A decision by the State Water Board by April 2022 is ideal in time for when the snowmelt begins so that the SFPUC can act on what water can be diverted.

As for the service area's response to water use reduction, Mr. Ritchie reported that as of July 1st, the region has collectively achieved an 8% reduction in comparison to July 2020. He stated that FY 2019-20 proves to be a solid baseline, and if the region continues to do more conservation to achieve the 10%, San Francisco can demonstrate that the region is doing its part to reduce water use.

There were no further questions or comments from Committee members and members of the public.

6. Consent Calendar: Approval of Minutes from the Special meeting held September 7, 2021.

There were no questions or comments from Committee members and members of the public.

Director Cormack made a motion, seconded by Director Wood, that the minutes of the Special September 7, 2021 Board Policy Committee meeting be approved.

The motion carried unanimously by roll call.

7. Action Calendar:

- A. Adoption of Resolution #2021-03, Approving Tier 2 Drought Allocation: Mr. Francis reminded the Committee that there is a drought allocation plan that governs system-wide shortages on the RWS. The Tier 1 Plan allocates water between the SFPUC retail customers and the wholesale customers. The Tier 2 Plan allocates water among the 26 wholesale customers. Both plans apply during a system-wide shortage of up to 20%. The Water Supply Agreement (WSA) Section 3.11(c)(3) provides that the SFPUC will honor Tier 2 allocations among the wholesale customers provided by BAWSCA or unanimously agreed upon by all wholesale customers. It also enables the Board to adopt the existing plan with a revised end date.

The Tier 2 Plan was adopted by each wholesale customer in winter/spring of 2011 with an expiration date of December 31, 2018, consistent with the SFPUC 2018 decisions on making San Jose and Santa Clara permanent customers under the 2009 Water Supply Agreement (WSA). The SFPUC's decision regarding San Jose and Santa Clara has since been extended under the Amended and Restated WSA to December 31, 2028. In May 2018, the Board acted to extend the Tier 2 Plan from January 1, 2019 through December 31, 2019.

In 2019, BAWSCA held a series of workshops with the Water Management Representatives (WMR) to discuss the potential of updating the Tier 2 Plan based on a review of its policy principles, past and future drought scenarios, and associated allocations. Feedback received

from the WMR, as reported to the BPC and the Board, confirmed that the policy principles continue to be appropriate, and that the existing Tier 2 plan continues to meet those principles. The workshops also established an annual review of the Tier 2 Plan.

With the State's ongoing development of new water-use efficiency requirements, and until the impacts in each of the member agencies' service area are better understood, the WMR supported action in 2019 by the Board to extend the Tier 2 Plan through December 31, 2020, and most recently in 2020 to extend it through December 31, 2021.

An annual review of the Tier 2 Plan was held on October 7, 2021 with the WMR, at which time it was discussed that the existing Tier 2 Plan would likely be implemented in calendar year 2021 if and when the SFPUC declares a water shortage emergency. The WMRs were provided tentative draft allocations under various drought actions the SFPUC may take in the coming months.

Under a 10% system-wide cutback, the Tier 2 calculations provide a cutback range of 7% to 26%. Most wholesale customers will have a cutback of 10% - 15%.

Mr. Francis noted that when the Tier 2 plan was originally developed, East Palo Alto (EPA) had a water allocation that was dangerously low, well below health and safety minimums, and member agencies collectively agreed to incorporate in the formula a factor that appropriated modest quantities of water from a subset of member agencies and assigned said quantities to EPA's total.

Purissima Hills Water District is an agency that receives a 26% cutback, and according to the rules of Tier 2, the highest cutback also applies to interruptible customers which are the cities of San Jose and Santa Clara.

Mr. Francis emphasized that the calculations are preliminary because an anomaly was discovered during the process. BAWSCA is working with the WMRs and legal counsel in developing a procedural modification to the formula that will be brought to the Board in November along with the proposed resolution that the BPC is being asked to recommend to the Board.

In response to Director Cormack, Mr. Francis explained the anomaly originates from EPA's water supply need. The original Tier 2 formula included a "hardship bank" which required identification of water quantity that, under the formula, could be taken from other member agencies to supplement the supplies that the formula would provide EPA. However, EPA's water situation has improved as a result of the water transfers from Mountain View in 2017 and Palo Alto in 2018. While EPA still has a need, it does not require the full volume available in the hardship bank. Based on the calculations for a 10% system-wide cutback, it would be approximately 2.5mgd in the hardship bank that could be unused. BAWSCA is working on a way to fairly redistribute that remaining supply.

Director Cormack appreciated the explanation, and asked if there is a mechanism for an audit of the allocations since this would be the first time Tier 2 would be implemented? She highly recommends having an audit as a best management practice. Additionally, she asked if the tentative allocations for each of the member agency are available for the Board's reference.

Mr. Francis stated that under the CEO/General Manager's discretion, a technically qualified consultant can be hired to audit the Tier 2 Plan calculation. The allocation results from the Tier 2 calculation were provided to the WMRs and will be provided to the Board as part of the resolution that will be considered for action at the November Board meeting.

Director Cormack noted that this is the 4th extension of the Tier 2 Plan since she has been on the Board and asked what staff's estimation is on when the State will actually complete the work. Moreover, would the State complete the work by the Summer of 2022 as they have previously stated, and whether BAWSCA should move forward independent of the State's decision.

Mr. Francis reported that updating the Tier 2 Plan is part of the FY 2021-22 workplan and consultant selection for this effort is scheduled to come before the Committee for potential action as early as December 2021. But the development of a new Tier 2 Plan will take some considerable amount of time given the amount of new information on water supply that should be considered, including water efficiency targets and a closer look at the reliability of member agencies' alternative water supplies outside of the San Francisco Regional Water System. Additionally, actions that the Governor could take due to the current drought provides may come with its own set of cutbacks required.

Ms. Sandkulla agreed that what the Governor may or may not do adds complexity in the situation because of the likely need to reconcile various local data against the State's data. At the end of the day, the goal is to reduce water use, and it is a critical effort for the water suppliers in the region to, while recognizing the differences in their numbers, focus on what water customers can do to achieve the water use reduction results.

Director Cormack stated that given what the State and the Governor have had to deal with and will continue to deal with, BAWSCA may need to operate on a parallel track, and make adjustments when adjustments are needed. The continued delays are concerning.

Director Larsson commented on the need for ongoing discussions as the Tier 2 Plan is re-evaluated. More importantly, he noted the importance to understand the difference between the role of the Board and the WMR. Clearly, each agency will be impacted differently by the current and perhaps the new Tier 2 Plan formula. But it is the agency appointed WMR's responsibility to advocate for the interests of their individual agency, while the Board's fiduciary duty is to the BAWSCA agency and the entire region it represents.

In response to Director Wood, Mr. Francis stated that BAWSCA's recently completed 2020 Demand Study includes each member agencies' population growth and housing projections to estimate water use. BAWSCA's 2021-22 workplan includes an update to the demand study in which data from the agencies' recently adopted Urban Water Management Plans (UWMP) will be applied. Mr. Francis expects that the agencies' adopted UWMP's account for how much water is needed to meet the agency's residential needs, and can be a reliable reference for the work on the renegotiation of a new Tier 2 Plan.

Ms. Sandkulla added that the existing Tier 2 Plan, if implemented, applies to actual demands based on FY 2019-20 use, and not applied on projected demands. When the Tier 2 Plan is re-evaluated, BAWSCA will work with the WMRs to look at future scenarios and analyze formulas against them. But in all cases, with existing formula or new formula, the application

of the Tier 2 Plan will be against actual use. The goal is to determine how to meet the needs of existing customers in a water shortage emergency.

Director Pierce asked what kind of timeline staff is expecting for a new Tier 2 Plan recommendation based on the State's completion of the new water use efficiency requirements in June 2022.

Mr. Francis reported that preliminary data has been made available by the State and BAWSCA will move forward accordingly as further information becomes available. He anticipates development of a new Tier 2 Plan in FY 2021-22 and through 2022-23. He agreed with Director Pierce that another extension of the existing Tier 2 Plan should be expected.

In response to Director Jordan, Mr. Francis reported that the State's water-use efficiency standards will look at both indoor and outdoor use.

Director Mendall expressed appreciation of staff's optimism to formulate a new Tier 2 Plan during a drought and with the pressure that member agencies are under to provide the water that customers need. He anticipates difficulty in developing a new plan while implementing the existing one, and at a time when supplies are tight. It might be realistic to expect further extensions in the future. As such, he would encourage the Board to, at the end of this current drought, push for getting a new Tier 2 Plan in place at a moment of calm before the next drought. He does not want to put pressure on staff to do the impossible.

Director Zigterman noted that he has witnessed the work involved and believes that there is a balance between being motivated by an existing drought and the tendency to quickly forget.

There were no further questions or comments from members of the committee or public.

Director Mendall made a motion, seconded by Director Wood, that the Committee recommend the Board adopt Resolution 2021-03 adopting the Tier 2 Plan drought allocation methodology for the upcoming year from January 1, 2022 through December 31, 2022.

The motion carried unanimously by roll call vote.

- B. Annual Review and Consideration of BAWSCA's Statement of Investment Policy: Ms. Tang reported that BAWSCA's Investment Policy requires the annual review and consideration of the Statement of Investment Policy. The primary objectives of the Policy are safety, liquidity, and yield. The previous review of the Policy by the Board occurred on November 19, 2020, in which the Board amended the Policy to include U.S. Agency Securities as permitted investment vehicles for the bond funds.

In addition to the U.S. Agency Securities, the permitted investment vehicles include Federal Securities, Money Market Mutual Fund, and Certificate of Deposit. Both agency funds and bond funds are invested in accordance with the Investment Policy.

Ms. Tang noted that most agencies' investment policies govern its operating funds, not bond funds. Therefore, the staff report presents the discussion on the rules for the agency funds separately from the discussions on the bond funds.

Based on BAWSCA's review, the permitted investment instruments are consistent with the agency's circumstances and primary investment objectives, and that the current language is consistent with State law. No changes are recommended to the Investment Policy or the permitted investments for the bond proceeds.

While the investment strategy for the stabilization fund is not part of the Investment Policy, it has been evaluated during the Investment Policy review. Ms. Tang reported that over the past year, with COVID vaccines and progress towards normalization, the yield curve has steepened as interest rates across the curve has increased. BAWSCA's longer-term portfolio strategy has performed well, with previously purchased securities now providing fixed yields that are well above currently available interest rates.

As of October 1, 2021, total bond funds held by the bond trustee, Bank of New York, is \$17,777,663. It is comprised of \$4.2M bond surcharges in money market fund, and \$13.6M stabilization fund in US Treasury Securities. Based on BAWSCA's evaluation with its investment advisor, the current 0–5-year laddered portfolio investment strategy remains appropriate.

Ms. Tang reported that as of October 1, 2021, the Stabilization Fund investment portfolio has \$1.2M in money market funds resulting from a recent maturity, and \$12.4M invested in Treasury Security maturing in 6-month intervals until 2026. In light of current market developments, BAWSCA and its investment advisor believe the current strategy remains appropriate because such longer maturity strategy has historically provided greater investment returns over time and protects the agency against reinvestment rate risks.

The recommendation is for the Committee to recommend Board re-affirmation of the current Statement of Investment Policy.

There were no questions or comments from Committee members or members of the public.

Director Mendall made a motion, seconded by Director Pierce, that the Committee recommend Board re-affirmation of the current Statement of Investment Policy.

The motion carried unanimously by roll call vote.

- C. Administrative Revision to BAWSCA's CalPERS Health Benefit Resolution: Ms. Sandkulla reported that BAWSCA's health benefits have been provided by the CalPERS medical plan since the agency's formation. BAWSCA was informed in September that CalPERS is making an administrative change to rename its "PERS Choice Plan" to "PERS Platinum Plan" effective January 1, 2022. This change has no fiscal impact to BAWSCA.

CalPERS has very strict rules on actions that need to be taken, and in order to adhere to CalPERS Health Program, BAWSCA must take the following action to rescind Resolution 2003-A and 2003-B which the Board adopted in 2003, and adopt a new Resolution; Resolution #2021-04. There are two resolutions to rescind because CalPERS previously had retired annuitants separate from retirees. The new Resolution 2021-04 would replace the rescinded resolutions and reflect the name change.

In response to Director Wood, Ms. Sandkulla suspects that the name change is CalPERS' efforts to capture all of its health group offerings throughout the State under one name.

Director Cormack asked if other agencies like the SFPUC and Valley Water have the same offerings for its employees and retired employees.

Ms. Sandkulla was not aware of Valley Water's offerings, but based on her personal knowledge, she believes the SFPUC has similar benefits for their retired employees. As a former employee of East Bay Municipal Utility District (EBMUD), she stated that they offer the same benefits.

Director Zigterman asked for staff to obtain information from the SFPUC and Valley Water to be included in the staff report for the Board in November.

There were no further questions or comments from members of the Committee and member of the public.

Director Wood made a motion, seconded by Director Chambers, that Committee recommend the Board:

- A. Rescind Resolution No. 2003-03A and 2003-03B, which specify PERS Choice Plan; and**
- B. Adopt replacement Resolution No. 2021-04 (provided by CalPERS), which specifies PERS Platinum Plan.**

The motion carried unanimously by roll call vote.

8. CEO Reports:

- a. Water Supply Conditions: BAWSCA continues to track the member agencies' total demands based on data that agencies submit to the State Board as part of their monthly requirements. A graph was presented with data that includes all supplies in addition to the Regional Water System purchases and compares total water use between 2013, 2015, 2020, and 2021.

In summary, BAWSCA's total potable water use continues to be approximately 15% less than the last drought of 2013. The average residential daily use in July 2021 was 83gpcd compared to 116 gpcd in July 2013 (20% less), 73 gpcd in July 2015, and 91 gpcd in July 2020 (5.1% less). The data speaks to the region's ability to achieve an additional reduction target, however, significant impacts resulting from further reduction can be anticipated. Staff will continue to closely monitor the data trend.

BAWSCA's efforts on conservation includes 3 new conservation programs available for member agencies to offer to their customers including an irrigation hardware rebate program and a residential self-audit tool.

- b. Bay Delta Plan/FERC Update: Further developments on the Bay Delta Plan voluntary agreements have been slow as the State address the developing drought situation. BAWSCA maintains its support for the Bay Delta Plan objectives, its commitment to working with other stakeholders to protect water quality in the Bay Delta for humans, fish and wildlife, and support for the voluntary agreements. BAWSCA is continuing its efforts to urge the State Board to evaluate the TRVA as an alternative to the Bay Delta Plan.

In response to Director Zigterman, Ms. Sandkulla clarified that the data used in her report on total potable water use was based on residential water use divided by population served. The data represents the month of July, and not the average for the year. July is the high-use month which is the greatest opportunity for savings. The goal is to minimize irrigation use all the way up to winter. Ms. Sandkulla added that the focus on residential use is because it speaks on the impact to public health and safety which is a critical factor looking at how we can further reduce water use during the current drought. Secondly, residential use data best represent comparison between agencies versus gross per capita because every agency is different in their non-residential characteristics.

Director Mendall would like to see more on the residential per capita usage over time and gross non-residential usage over time in the region as a whole, not by jurisdictions.

- c. **CEO Letter:** In response to Director Cormack, Mr. Francis reported on Sustainable Silicon Valley's (SSV) WaterPalooza held on September 30, 2021. BAWSCA was a sponsor of the event, and Tom participated as a panelist. There is increased interest and effort nationwide on new technologies being developed for water conservation. For the BAWSCA region, Mr. Francis took particular interest in a showerhead that provides pressure but reduces water use by 50%. SSV is working with the vendor on releasing the device. Another effort of interest to BAWSCA was a presentation by Google stating its interest in investing in watersheds. BAWSCA plans to follow up with SSV on this interest to see how BAWSCA and its member agencies can be of assistance on this effort. The event was well attended and the BAWSCA service area was well represented by the participants and attendees.

In response to Director Wood, Ms. Sandkulla reported that CalWater recently launched an outdoor irrigation check-up program for residents. CalWater hired a 3rd party entity who performs an irrigation audit and speaks to homeowners about ways to conserve as well as conservation incentives. BAWSCA will monitor its progress for potential implementation within the service area.

Director Jordan inquired about how ABAG's lack of response to BAWSCA's and others' comments can generate further interests in our cities and our representatives as the need to reduce water use becomes even more critical.

Ms. Sandkulla stated that the individual agencies most directly impacted may move forward with ABAG.

Mr. Francis noted that while BAWSCA's comments did not change the strategy or approach of the Final EIR, it required thorough work from MTC/ABAG to develop the response that it provided BAWSCA. It was important for BAWSCA and other agencies to document its concerns regarding the agencies' ability to meet the water demands of the growth that Plan Bay Area lays out.

Director Wood added that ABAG's response to comments is typical. She appreciated BAWSCA's efforts in providing comments on behalf of the member agencies.

9. Closed Session: The Committee adjourned to Closed Session at 3:37.

There were no comments from members of the public prior to adjournment to Closed Session.

- 10. Reconvene to Open Session:** The Committee reconvened from Closed Session at 3:42 pm. Ms. Schutte reported that no action was taken during Closed Session.
- 11. Comments by Committee Members:** Director Cormack suggested that BAWSCA look into efforts on requiring appliances that provide water reuse on site. It might be an opportunity for BAWSCA to take leadership in looking at expanding water reuse, not just in a municipal level, but also at a residential level.
- Ms. Sandkulla acknowledged the comment and stated that it can be fitting into BAWSCA's next steps on the Long-Term Water Reliable Strategy.
- Director Zigterman expressed his appreciation for the Committee members' engagement, questions and prompts on the issues the agency continues to face.
- 12. Adjournment:** The meeting was adjourned at 3:46 pm. The next meeting is December 8, 2021 with the location and format to be announced.

Bay Area Water Supply and Conservation Agency

Board Policy Committee Meeting Attendance Roster

Agency	Director	Oct. 13, 2021	Sept. 7, 2021	Aug. 11, 2021	Jun. 9, 2021	Apr. 14, 2021	Feb. 10, 2021	Dec. 9, 2020	Oct. 14, 2020
Stanford	Zigterman, Tom	✓	✓	Meeting Cancelled	✓	✓	✓	✓	✓
Daly City	Manalo, Juslyn					✓	✓	n/a	n/a
Westborough	Chambers, Tom	✓	✓		✓	✓	✓	✓	✓
Palo Alto	Cormack, Alison	✓	✓		✓	✓	✓		✓
Santa Clara	Hardy, Karen		✓		n/a	n/a	n/a	n/a	n/a
Purissima	Jordan, Steve	✓	✓		✓	✓	✓	✓	✓
Sunnyvale	Larsson, Gustav	✓	✓		✓	✓	✓	✓	✓
Hayward	Mendall, Al	✓	✓		✓	✓	✓	✓	✓
Redwood City	Pierce, Barbara	✓	✓		✓	✓	✓	✓	✓
Brisbane	Wood, Sepi	✓	✓		✓	✓	✓	✓	✓

✓: present

☎: Teleconference

October 13, 2021 Special Meeting Attendance (Via Zoom in compliance with Gov. Order #29-20 due to COVID-19)

BAWSCA Staff:

Nicole Sandkulla	CEO/General Manager	Allison Schutte	Legal Counsel, Hanson Bridgett, LLP
Tom Francis	Water Resources Manager	Nathan Metcalf	Legal Counsel, Hanson Bridgett, LLP
Danielle McPherson	Sr. Water Resources Specialist	Bud Wendell	Strategic Communications
Negin Ashoori	Sr. Water Resources Engineer		
Kyle Ramey	Water Resources Specialist		
Christina Tang	Finance Manager		
Lourdes Enriquez	Assistant to the CEO/General Manager		
Debora Grimes	Office Manager		

Public Attendees:

Leonard Ash	ACWD	Dave Warner	Self
John Weed	ACWD	Anand R.	Self
Cheryl Munoz	Hayward	Peter Drekmeier	Tuolumne River Trust
Lisa Bilir	Palo Alto		
Alison Kastama	SFPUC		
Steve Ritchie	SFPUC		

**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
BOARD OF DIRECTORS MEETING****September 16, 2021 – 6:30 p.m.**

DUE TO COVID-19, THIS MEETING WAS CONDUCTED AS A TELECONFERENCE PURSUANT TO THE PROVISIONS OF GOVERNMENT CODE SECTION 54953(e). MEMBERS OF THE PUBLIC COULD NOT ATTEND THIS MEETING IN PERSON.

MINUTES

1. Call to Order/Pledge of Allegiance/Roll Call – 6:33 pm following introductory instructions for conducting the meeting virtually through Zoom.

BAWSCA Chair, Gustav Larsson, called the meeting to order. Nicole Sandkulla called the roll. Twenty (20) members of the Board were present at roll call. Two (2) members logged in after roll call. A list of Directors present (22), absent (4) is attached.

2. Comments by the Chair:

Chair Larsson noted that the agenda includes discussion and action items that address BAWSCA's goal of ensuring a reliable supply of high-quality water at a fair price. The Board will be updated on the Regional Water System's current water supply conditions, and will consider refunding a portion of the existing revenue bonds originally issued by BAWSCA in 2013. Approval of the bond refunding presents a significant savings to the water customers that BAWSCA represents, and the chair expressed his support for the staff recommended action.

3. Board Policy Committee Report:

Committee Chair Zigterman reported that the Committee held a special meeting on September 7th in which it voted unanimously to support 1) authorizing the increase in the contract amount with Maddaus Water Management and to extend the completion date for the 2021 Demand Study Update, and 2) the authorization of BAWSCA's issuance of refunding a portion of its 2013A bonds.

The BPC summary report included in the Board agenda packet presents an accurate summary of the discussions the Committee had on the items.

Director Cormack noted an omission of Palo Alto in the BPC summary report, page 5, first sentence of the last paragraph.

4. Public Comments on Items Not on the Agenda:

Public comments were made by Peter Drekmeier, Policy Director of Tuolumne River Trust.

5. SFPUC Report:

SFPUC Assistant General Manager Steve Ritchie reported on current water supply conditions, the Regional Water System's storage levels to date, and SFPUC's efforts to address the curtailment orders issued by the State.

Public comments were made by Mr. Drekmeier.

6. Consent Calendar:

Director Barber noted that the attendance record of the July 15th BAWSCA Board meeting minutes need to be corrected to reflect his attendance instead of former Director Rob Kuta.

Director Wood made a motion, seconded by Director Vella, to approve the Minutes of the July 15, 2021 meeting with the noted correction; receive and file the Pre-Audit Budget Status Report, the Investment Report, and the Directors' Reimbursement Report as of June 30, 2021; receive and file the Bond Surcharge Collection, Account Balance and Payment Report for Fiscal Year ending June 30, 2021; Establish a Debt Management Policy; and Authorize the Increase in the Contract Amount with Maddaus Water Management and Extend the Completion Date for the 2021 Demand Study Update.

The motion carried unanimously by roll call vote.

7. Action Calendar:

- A. Authorization of BAWSCA's Issuance of Refunding Revenue Bonds in an Aggregate Principal Amount Not-To-Exceed \$180 Million, Including Authorizing the Forms of and Directing the Execution of the Related Documents.

There were no comments from members of the public.

Director Quigg made a motion, seconded by Director Hardy, that the Board approve the following actions needed to continue proceeding with BAWSCA's potential bond refunding:

- 1. Adopt Resolution No. 2021-01 authorizing the issuance of the Refunding Revenue Bonds in an amount not to exceed \$180 million and authorizing the forms of the following financing documents provided as attachments to this staff report:**
 - a. Second Supplemental Revenue Bond Indenture;**
 - b. Contract of Purchase;**
 - c. Continuing Disclosure Certificate;**
 - d. Escrow Agreement**
 - e. Preliminary Official Statement; and**
- 2. Authorize the CEO/General Manager to execute these financing documents in substantially the form approved, subject to the satisfaction of specified criteria:**
 - a. NPV savings of not less than \$20 million over the term of the bonds;**
 - b. Principal amount of refunding bonds does not exceed \$180 million; and**
 - c. Underwriter's discount does not exceed 0.25% of the principal amount.**

The motion carried unanimously by roll call vote.

8. Reports and Discussions

BAWSCA Legal Counsel reported that existing modifications to Brown Act teleconference requirements will expire on October 1, 2021. AB 361 was passed and signed by the Governor, which allow agencies to conduct teleconference meetings under certain requirements. BAWSCA will continue to meet remotely and take the necessary steps during meetings to comply with AB 361

Legal Counsel will continue to monitor this situation and update the Chair and CEO.

There were no comments from members of the public.

9. Closed Session #1:

The meeting adjourned to Closed Session #1 at 7:48pm. There were no comments from members of the public prior to the Board going into Closed Session.

10. Report After Closed Session:

Closed Session ended at 8:20pm. Legal Counsel, Allison Schutte, convened Open Session and reported that no action was taken during Closed Session.

11. CEO Reports:

Ms. Sandkulla reported on current water supply conditions and the FERC and Bay Delta Plan.

12. Closed Session #2:

The meeting adjourned to Closed Session #2 at 8:30pm. There were no comments from members of the public prior to the Board going into Closed Session.

13. Report After Closed Session #2:

Legal Counsel, Allison Schutte, reported that the Board's evaluation of the CEO/General Manager's performance was outstanding in FY2020-21.

There was no need for Agenda Items #14 and #15. The meeting will proceed to Agenda Item #16A Action Item Following Closed Session.

Given the time duration of the meeting, the Board voted to extend the meeting until 10pm.

Director Wood made a motion, seconded by Director Pierce, to extend the meeting time until 10m.

The motion passed unanimously by roll call vote.

16. Action Item Following Closed Session #2:

A. Consider Compensation Adjustment for CEO/General Manager for FY 2021-22

Director Pierce made a motion, seconded by Director Quigg, that the Board approve the contract amendment to the CEO/General Manager's Employment Agreement.

The motion passed unanimously by roll call vote.

There were no comments from members of the public.

17. Directors' Discussion: Comments, Questions and Agenda Requests:

There were no further comments from members of the Board or the public.

Ms. Sandkulla expressed her gratitude for the late and former Board member, Rosalie O'Mahony.

In memory of former Director O'Mahony, the board observed a moment of silence.

18. Date, Time and Location of Next Meeting: The next meeting is scheduled on November 18, 2021 at 6:30pm.

19. Adjournment: The meeting adjourned at 9:30pm.

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 Attendance Roster

Director	Agency	Sept. 16, 2021	July 15, 2021	May 20, 2021	Mar. 18, 2021	Jan. 21, 2021	Nov. 19, 2020	Sept. 17, 2020
Barber, George	Cal Water	✓	✓	✓*	✓*	✓*	✓*	✓*
Benton, Jay	Hillsborough	✓	✓	✓	✓	✓	✓	✓
Breault, Randy	Guadalupe		✓		✓		✓	✓
Chambers, Tom	Westborough	✓	✓	✓	✓	✓	✓	✓
Combs, Drew	Menlo Park	✓	✓	✓*	✓*	✓*	*	✓*
Cormack, Alison	Palo Alto	✓	✓	✓	✓	✓	✓	✓
Hamilton, Tom	San Bruno	✓	✓	✓	✓	vacant	✓*	
Hardy, Karen	Santa Clara	✓		✓	✓	vacant	✓*	✓*
Hindi, Sam	Foster City	✓	✓	✓	✓	✓		✓
Jordan, Steve	Purissima	✓	✓	✓	✓	✓	✓	✓
Larsson, Gustav	Sunnyvale	✓	✓	✓	✓	✓	✓	✓
Liccardo, Sam	San Jose							
Lopez, Antonio	East Palo Alto			*	✓*	✓*	✓*	✓*
Manalo, Juslyn	Daly City	✓	✓	✓	✓	✓	✓	✓
Matichak, Lisa	Mountain View	✓	✓	✓	✓	✓	✓	✓
Mendall, Al	Hayward	✓	✓	✓	✓	✓	✓	✓
Mickelsen, Chris	Coastside	✓	✓	✓	✓	✓	✓	✓
Montano, Carmen	Milpitas	✓	✓	✓	✓	✓	✓	
O'Brien, Ann	Burlingame		✓	✓	✓	✓*	✓*	✓*
Piccolotti, Tom	North Coast	✓	✓					
Pierce, Barbara	Redwood City	✓	✓	✓	✓	✓	✓	✓
Quigg, Dan	Millbrae	✓	✓	✓	✓	✓	✓	✓
Vella, Lou	Mid-Peninsula	✓	✓	✓	✓	✓	✓	✓
Weed, John	ACWD	✓	✓	✓	✓	✓	✓	✓
Wood, Sepi	Brisbane	✓	✓	✓	✓	✓	✓	✓
Zigterman, Tom	Stanford	✓	✓	✓	✓	✓	✓	✓

✓ : Present

* : Predecessor

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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: November 4, 2021

SUBJECT: Budget Status Report as of September 30, 2021

This memorandum shows fiscal year budget status for FY 2021-22. 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 three-month period ending September 30, 2021, 25 percent into the fiscal year, total expenditures were \$1,018,458 or 21 percent of the total budget of \$4,783,794.

Table 1. Operating Budget Summary as of September 30, 2021

Cost Category	Year-To-Date		
	Budget	Expenses	Percent
Consultants /Direct Expenditures			
Reliability	1,506,600	243,472	16%
Fair Pricing	565,700	37,880	7%
Administration	140,000	43,212	31%
Subtotal	2,212,300	324,564	15%
Administration and General			
Salary & Benefits	2,122,019	610,456	29%
Other Expenses			
BAWSCA	385,900	83,438	22%
BAWUA	1,050	0	0%
Subtotal	4,721,269	1,018,458	22%
Capital Expenses	3,000	0	0%
Budgeted Contingency	57,500	0	0%
Regional Financing Authority	2,025	0	0%
Grand Total	4,783,794	1,018,458	21%

Overview:

Overall expenditures for FY 2021-22 are tracking within budget.

Consultants

The \$115,000 budget for technical review and tracking of the SFPUC's Water System Improvement Program was 7 percent expended. The Operating Budget allocation of \$150,000 for strategic counsel was 32 percent expended. The Operating Budget allocation of \$723,500 budget for legal counsel was 30 percent expended. The \$236,600 budget for water management and conservation-related activities was 9 percent expended. Over the next two months, the CEO will be closely reviewing consultant expenses, including legal counsel, as part of the mid-year budget review and will present her findings and potential Work Plan and Operating Budget modifications to the Board at its January 2022 meeting.

Administration and Other Expenses

Budgets for salaries and other expenses were 29 percent and 22 percent expended respectively.

Use of CEO's Discretionary Spending Authority:

In October, the CEO entered into the following agreements under her discretionary spending authority:

- A contract in the amount of \$5,058 for Woodard & Curran for services related to Tier 2 Drought Allocations/Calculations.
- A contract with East Side College Preparatory School to provide qualified candidates for BAWSCA's summer intern program. There is no cost to the agency.

Use of Reserve and Reserve Fund Balance:

During the fiscal year ended June 30, 2021, BAWSCA's operating expenses of \$3,860,044 were \$499,085 under its final approved budget of \$4,359,129. While BAWSCA was well under budget in FY 2020-21, the amount available to transfer to the General Reserve is based on the "actual" revenue of \$3,903,771, including interest income of \$22,191, in excess of the "actual" expenses totaling \$3,860,044. The net difference of \$43,727 is considered excess revenues available to be transferred to the General Reserve.

The General Reserve balance as of September 30, 2021, shown below, does not yet reflect the deposit of \$43,727 unspent funds from FY 2020-21. Once the audited financial report has been accepted by the Board, the unspent balance from FY 2020-21 will be transferred to the General Reserve.

In accordance with the adoption of the FY 2021-22 annual budget in May 2021, the Board approved transferring \$281,676 from the General Reserve to fund the FY 2021-22 budget. This transfer will occur once the audited financial report has been accepted by the Board of Directors. After the two transfers have been executed, the BAWSCA General Reserve balance will be \$758,794, 16% of the adopted FY 2021-22 Operating Budget.

Table 2. General Reserve Fund Balance

Fund	Account Balance (As of 06/30/21)	Account Balance (As of 09/30/21)
General Reserve	\$996,743	\$996,743

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD OF DIRECTORS MEETING

Agenda Title: **Receive and File Annual Audit Report for BAWSCA and
Compilation Report for BAWUA for FY 2021-20**

Summary:

An independent auditor report for BAWSCA and a compilation report for Bay Area Water Users Association (BAWUA) have been completed for the year ending June 30, 2021. An audit of BAWSCA accounts is required by Division 31, Section 81426 of the Water Code. The compilation of BAWUA accounts is prepared in accordance with its bylaws, Article 8, Section 8.2. The reports are enclosed, under separate cover, for your review. A financial audit of the Regional Finance Authority is not required at this time.

Fiscal Impact:

None

Board Policy Committee Action:

None. The reports became available on November 4th for staff review, allowing their inclusion in the BAWSCA board meeting agenda.

Recommendation:

That the Board receive and file the independent auditor's report for BAWSCA and the compilation report for BAWUA for the year ending June 30, 2021.

Discussion:

BAWSCA's and BAWUA's financial statements have been audited and compiled by the independent auditing firm of Chavan & Associates, LLP. The goal of an independent audit is to provide reasonable assurance that the financial statements are free from material misstatement.

Based on their review of the financial statements, the auditors have concluded that the financial statements are in conformance with generally accepted accounting principles, and fairly present, in all material respects, the financial position of both BAWSCA and BAWUA and the changes in financial position and cash flow for FY 2020-21.

As demonstrated by the statements, schedules and notes included in the auditor's reports, BAWSCA and BAWUA are meeting the requirements for sound financial management.

Enclosed Under Separate Cover:

1. BAWSCA FY 2020-21 Audit Report
2. BAWUA FY 2020-21 Compilation Report

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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: October 29, 2021

SUBJECT: Directors' Reimbursement Quarterly Report for the Period Ending
September 30, 2021

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 September 30, 2021.

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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: November 9, 2021

**SUBJECT: Bond Surcharge Collection, Account Balance and Payment Report
 as of September 30, 2021**

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 were 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.

The surcharges billed for the months of July and August in 2021 have all been collected and remitted to BAWSCA's trustee account. Payments of surcharges billed for September 2021 are still being received and expected to be remitted to the trustee account later this month. Table 1 below presents a summary of financial transactions related to BAWSCA's Bond Series 2013A and 2013B for the three months.

Table 1: Summary of Surcharges Remitted to Trustee for Quarter Ending 9/30/2021

<u>Month</u>	<u>Amount Billed</u>	<u>Amount Remitted to Trustee</u>	<u>Difference</u>
July 2021	\$2,057,716	\$2,057,716	\$0
August 2021	\$2,057,716	\$2,057,716	\$0
September 2021	\$2,057,716	\$1,171,079	\$886,637
Total	\$6,173,148	\$5,286,511	\$886,637

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 the past quarter are shown in Table 2 below.

Table 2: Bank of New York Bond Trustee Account Activity for Fiscal Year Ending 9/30/2021

	30,353,744	<i>Account Market Value as of 6/30/2021</i>
<i>plus:</i>	6,717,887	<i>Surcharge Collected in July 2021 through September 2021</i>
<i>plus:</i>	101,206	<i>Security Coupons/Accrued Interest Received</i>
<i>plus:</i>	463	<i>Money Market Fund Interest Received</i>
<i>minus:</i>	770,950	<i>Market Value (6/30/21) of Matured Bonds</i>
<i>plus:</i>	767,000	<i>Par Amount of Matured Bonds</i>
<i>plus:</i>	(43,601)	<i>Change in Market Value of Held Treasury Bonds</i>
<i>plus:</i>	(300,000)	<i>Withdrawal from Excess Stabilization Fund for Refunding Costs</i>
<i>plus:</i>	<u>(11,058)</u>	<u><i>Reimbursement to BAWSCA for bond administration expenses</i></u>
<i>Equals</i>	36,814,691	<i>Account Market Value as of 9/30/2021</i>

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 ladder 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 re-evaluated the investment strategy in April 2018 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 April 2018 debt service payment, BAWSCA began the transition to a 0-5 year ladder portfolio strategy and recently completed the process with the trades executed in April 2021. In October 2021, BAWSCA reviewed the strategy again, in light of recent market developments and changes to interest rate policy made by the Federal Reserve. BAWSCA and its investment advisor believe that the current 0-5 year ladder portfolio strategy remains appropriate as such longer-maturity strategies have historically provided greater investment returns and income while protecting against the reinvestment rate risk associated with potential declines in short term interest rates and earnings.

Just prior to maturities on September 30, 2021, the book yield and market yield on BAWSCA's revised portfolio strategy was 1.53% and 0.56% respectively, as compared to the yield of 0.01% 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

The recent debt service payment of \$19,037,028 was made on October 1, 2021. It was paid using the bond surcharges collected from the agencies, consistent with the bond indenture. The next debt service payment of \$5,349,356 will be made on April 1, 2022. 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 & 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: October 29, 2021

SUBJECT: Investment Report – As of September 30, 2021

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 required annual review of the investment policy by the Board is scheduled for the November 18, 2021 board meeting.

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>06/30/21</u>	<u>09/30/21</u>
\$2,539,584	\$2,541,657

Of the total in the BAWSCA LAIF account as of September 30, 2021, \$996,743 represents BAWSCA's General Reserve Fund, equivalent to approximately 21 percent of FY 2021-22 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>06/30/21</u>	<u>09/30/21</u>
.33%	.24%

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BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD OF DIRECTORS MEETING

Agenda Title: **Annual Review and Consideration of BAWSCA's Statement of Investment Policy**

Summary:

The Board's Investment Policy states that the CEO/General Manager shall annually submit a Statement of Investment Policy to the Board, which the Board will consider at a public meeting. The previous review occurred on November 19, 2020, and resulted in a modification to the policy to include U.S. Agency Securities as permitted investments for the bond funds, in addition to the three specific investment vehicles that were allowed by the Investment Policy at that time. Quarterly investment reports are provided to the Board as required by the policy. The last investment report was provided to the Board on September 16, 2021.

BAWSCA's Investment Policy delegates the management and oversight of BAWSCA's investments for the bond funds to the CEO/General Manager. Based on a recent review of the agency's circumstances and the primary investment objectives, BAWSCA believes the current permitted investment instruments are consistent with the agency's risk tolerances and primary investment objectives. In consideration of the long-term nature of the stabilization fund, BAWSCA has determined that the current 0-5 year ladder maturity investment strategy is appropriate and continues to provide the agency opportunities to pursue higher yields and benefit from longer maturity and higher yielding investments over time.

Legal counsel has confirmed that the Investment Policy reflects language consistent with current State law. A copy of the current policy is attached. No changes to the policy, including the investment strategy for the bond proceeds, are recommended at this time.

Fiscal Impact:

No impact on BAWSCA's annual operating budget.

Board Policy Committee Action:

The Committee voted unanimously to recommend approval of the proposed Board action.

Recommendation:

That the Board re-affirm the current Statement of Investment Policy.

Discussion

The primary objectives of BAWSCA's Investment Policy are safety, liquidity and return on investment. All BAWSCA funds are invested in accordance with the Investment Policy and the California Government Code. Legal counsel has reviewed the applicable State law and believes that BAWSCA's current Investment Policy reflects language consistent with current State law.

Investment of Agency Funds

The current Investment Policy requires the agency funds that are not invested in the Local Agency Investment Fund (LAIF) to be deposited only in state or national banks and state or federal savings associations with offices in California that meet the requirements and conditions of the Government Code. The current policy also limits the maturity of any Certificate of Deposit to 12 months or less.

Although the current California Debt and Investment Advisory Commission (CDIAC) investment guidelines allow for community bank participation in holding local agency funds and for Certificates of Deposits with a maturity of up to 5 years, it is determined that a change to allow longer maturity of Certificate of Deposits is not needed at this time, given the agency's high liquidity needs. BAWSCA will continue investigating these additional investment options as the Investment Policy may be amended from time to time.

Permitted Investment Vehicles for Bond Proceeds

BAWSCA's bond proceeds are invested in accordance with the Bond Indenture and the agency's Investment Policy. The Bond Indenture specifies investments in which BAWSCA is permitted to invest bond proceeds. In November 2012, as part of the establishment of the bond structure, the BAWSCA Board amended the Investment Policy to further restrict allowable investments for bond proceeds to three specific instruments: Federal Securities, Money Market Mutual Funds, and Certificates of Deposit. In October 2020, BAWSCA Board approved a modification to the policy by including U.S. Agency Securities as permitted investments.

Over the last year, no purchases of U.S. Agency Securities were made as such securities currently trade at yields equal to or below government guaranteed Treasury Securities. Although the authorized U.S. Agency Securities are government-sponsored enterprises, they are not backed by the full faith and credit of the United States government. As a result, BAWSCA's investment portfolio continued to favor U.S. Treasury Securities over the period as they have been providing a better combination of safety and yield.

Based on a recent review of the agency's circumstances and the primary investment objectives, BAWSCA believes the current permitted investment instruments are consistent with the agency's risk tolerances and primary investment objectives. No changes to the permitted investments for the bond proceeds are recommended at this time.

Stabilization Fund Investment Strategy

In addition, BAWSCA performed a review of the investment strategy for the stabilization fund, in consultation with the investment advisor, given current market conditions. In an effort to mitigate the economic damage caused by the COVID-19 pandemic, the Federal Reserve reduced the Fed Funds rate by 150 basis points (1.50%) at its two emergency meetings in March 2020 to a current range of between 0% and 0.25%. In response, interest rates across the yield curve declined dramatically reflecting both the Federal Reserve's actions as well as expectations for slowing global growth and recession. As economic prospects have improved over the past year with the advent of COVID vaccines and progress towards normalization, the yield curve has steepened as interest rates across the curve have increased.

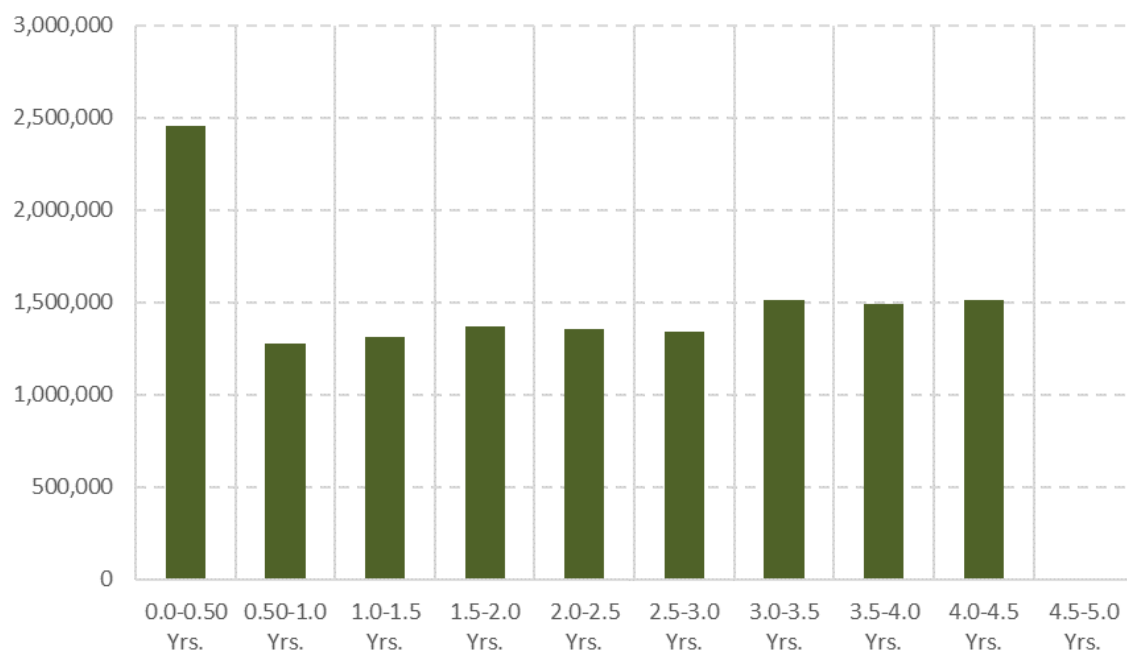
Against this backdrop, BAWSCA's longer-term 0-5 year ladder investment strategy has performed well as previously purchased securities have provided fixed yields that were well

above available interest rates. And with a laddered maturity distribution, the fund has taken advantage of being able to reinvest into higher rates as they have become available. The current 0-5 year laddered investment strategy continues to provide important yield curve diversification and generate attractive returns throughout market cycles. For this reason, BAWSCA and its investment advisor believe that the current 0-5 year laddered portfolio strategy remains appropriate as such longer-maturity strategies have historically provided greater investment returns and income over time.

As of October 1, 2021, the total balance held by the bond trustee, Bank of New York, was \$17,777,663, which includes: (1) the bond surcharges of \$4,170,095 collected from the member agencies to pay the next semi-annual debt service payment, and (2) the stabilization fund of \$13,607,568 that is a reserve to cover the debt service payments in the event of potential shortfalls in the surcharge revenue received from the BAWSCA agencies.

A summary of the current investment portfolio maturity distribution for BAWSCA's stabilization fund is shown in Figure 1. The CEO/General Manager anticipates another evaluation of the agency's circumstances and the investment strategy during next year's Investment Policy review. The result of the evaluation will be reported to the Committee and the Board.

Figure 1: Stabilization Fund Investment Portfolio Maturity Distribution as of 10/1/2021



Background:

Results of Prior Evaluations of Investment Strategy with Investment Advisor's Assistance

In July 2013, BAWSCA implemented an investment strategy that assumed 70% of the necessary bond surcharge revenues are collected on time and available for scheduled debt service payments. Therefore, 30% of the necessary debt service payment must be accessible to the bond trustee through the stabilization fund to supplement bond surcharge

revenues. The stabilization fund was invested by purchasing US Treasury Securities (a subset of Federal Securities as defined in the Investment Policy) with 6 month or one-year maturities coinciding with the debt service payment dates.

In September 2015, the annual on-time surcharges collection assumption was changed from 70% to 80% based on BAWSCA's experience in collecting bond surcharge revenues. BAWSCA also implemented an investment strategy that involved both a 6-month rolling and a 0-3 year ladder security structure designed to provide the agency an appropriate balance of safety, liquidity, and yield.

In October 2017, BAWSCA reviewed the investment strategy again to determine whether a change in the agency's circumstances, surcharge revenue experience, or market conditions may justify a change in the investment strategy to better align the agency's objectives and risk tolerance. Due to a limited history of bond surcharge payment collection from the member agencies and a then recent delay in surcharge deposits to the Trustee due to the SFPUC's wire transfer error and agreement misinterpretation, no changes were made to the investment strategy at that time.

In April 2018, BAWSCA 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 April debt service payment, BAWSCA began to transition to a 0-5 year ladder portfolio strategy without an on-time surcharge collection assumption. It was anticipated to take about 3 years to smooth out the ladder.

In November 2019, BAWSCA reviewed the investment strategy in light of recent market developments and changes to interest rate policy made by the Federal Reserve. In 2019, the Federal Reserve reduced the Fed Funds rate three times by 25 basis points at each of its July, September, and October FOMC meetings. Historically, the flattening/inverting of the yield curve has preceded periods of economic slowdown and often times declining future interest rates. Accordingly, the 0-5 year ladder portfolio strategy continued to be determined appropriate.

In October 2020, BAWSCA re-evaluated the credit quality, market price risk, and liquidity characteristics of all investment instruments permitted by the Bond Indenture. As a result of this review, BAWSCA determined that the U.S. Agency Securities would be appropriate for consideration to increase the portfolio's potential yield consistent with the prioritized objectives of safety and liquidity. Accordingly, BAWSCA Board approved a modification to the policy by including U.S. Agency Securities as permitted investments for the bond funds, in addition to the three specific investment vehicles (Federal Securities, Money Market Mutual Funds, and Certificates of Deposit) that were allowed by the policy at that time.

Attachment:

1. Statement of Investment Policy

BAY AREA WATER SUPPLY & CONSERVATION AGENCY

STATEMENT OF INVESTMENT POLICY

Adopted February 19, 2004

Amended by the Board, July 15, 2010

Amended by the Board, July 21, 2011

Amended by the Board, November 15, 2012

Amended by the Board, November 19, 2020

BAY AREA WATER SUPPLY & CONSERVATION AGENCY

STATEMENT OF INVESTMENT POLICY

1. Introduction

The investment policies and practices of the Bay Area Water Supply & Conservation Agency (BAWSCA) are based on state law and prudent money management. All funds will be invested in accordance with the Agency's Investment Policy and the California Government Code.

2. Scope

This policy applies to all funds and investment activities under the direction of the Agency, including funds held in the name of the Bay Area Water Users Association (BAWUA), a California nonprofit corporation of which the Agency is the sole member.

3. Prudence

The standard of prudence to be used by investment officials shall be the "prudent investor" standard and shall be applied in the context of managing an overall portfolio. All persons investing, reinvesting, purchasing, acquiring, exchanging, selling and managing public funds shall act with care, skill, prudence and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and anticipated needs of the Agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the Agency.

Investments shall be made with the judgment and care which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived, and in accordance with the provisions of Government Code Section 53600 et seq.

4. Objectives

The primary objectives, in priority order, of the Agency's investment activities shall be:

A. Safety. Safety of principal is the foremost objective of the investment program. The Agency's funds shall be invested in a manner that seeks to ensure preservation of capital.

B. Liquidity. The Agency's investments will remain sufficiently liquid to enable the Agency to meet its cash flow requirements.

C. Return on Investment. The Agency's investments shall be designed with the objective of attaining a market rate of return consistent with the constraints imposed by its safety and liquidity objectives.

5. Delegation of Authority

The management and oversight responsibility for investments is hereby delegated to the CEO/General Manager who shall monitor and review all investments for consistency with this Investment Policy.

6. Investment of Funds

A. Permitted Investments and Depositories

(i) Agency funds may be deposited only in state or national banks and state or federal savings associations with offices in California that meet the requirements and conditions of the Government Code, as it may be amended from time to time.

(ii) Funds not deposited in banks or savings associations shall be invested in the Local Agency Investment Fund administered by the Treasurer of the State of California, in accordance with Government Code Section 16429.1.

B. Other Limitations

(i) The maximum amount of funds deposited with any bank or savings association shall be \$250,000; provided that if funds are each separately insured by the Federal Deposit Insurance Corporation ("FDIC"), the General Manager may maintain separate accounts for the Agency and for BAWUA (to a maximum of \$250,000 for each entity) at one bank or savings association. The temporary increase from \$100,000 to \$250,000 in the standard maximum deposit insurance amount has been permanently extended by the Dodd-Frank Wall Street Reform and Consumer Protection Act.

(ii) Investment maturities shall be based on a review of cash flow forecasts and shall be scheduled so as to allow the Agency to meet all projected obligations. The maturity of any certificate of deposit shall not exceed 12 months.

7. Investment of Bond Proceeds

Permitted Investments and Depositories. Pursuant to Government Code section 53601(m), a local agency may invest bond proceeds "in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance of those bonds." Typically, a local agency will specify in its investment policy that the investment of bond proceeds is out of the scope of the investment policy because permitted investments are specified in the bond indenture.

Instead, BAWSCA has determined that it would like to at least temporarily use its Investment Policy to restrict the vehicles permitted for the investment of bond proceeds to more conservative investments than are permitted by the Revenue Bond Indenture, dated January 1, 2013, by and between BAWSCA and the Trustee (the "Indenture"). This gives

BAWSCA the flexibility to, through amendments to future Investment Policies, gradually expand permitted investments for bond proceeds to include some or all of the investment vehicles permitted in the Indenture. As such, notwithstanding language allowing a broader range of investment vehicles in the Indenture, bond proceeds may be invested only in the following instruments:

(i) “Federal Securities” meaning direct and general obligations of the United States of America, or those which are fully and unconditionally guaranteed as to timely payment of principal and interest by the same;

(ii) “Money Market Mutual Funds” meaning funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by Standard & Poor’s of “AAAm-G” or “AAAm” and, if rated by Moody’s, having a rating by Moody’s of “Aaa,” including money market funds from which the Trustee or its affiliates derive a fee for investment advisory or other services to the fund or for which the Trustee or any of its affiliates serve as investment administrator, shareholder servicing agent, and/or custodian or subcustodian, notwithstanding that (i) the Trustee or an affiliate of the Trustee receives fees from funds for services rendered, (ii) the Trustee collects fees for services rendered pursuant to this Indenture, which fees are separate from the fees received from such funds, and (iii) services performed for such funds and pursuant to this Indenture may at times duplicate those provided to such funds by the Trustee or an affiliate of the Trustee;

(iii) “Certificates of Deposit” (including those placed by third parties pursuant to an agreement between the Agency and the Trustee), trust funds, trust accounts, overnight bank deposits, interest bearing money market accounts, time deposits, savings accounts, deposit accounts, bankers’ acceptances or money market deposits which are fully insured by the Federal Deposit Insurance Corporation, including those of the Trustee or its affiliates; and

(iv) “U.S. Agency Securities” meaning bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following non-full faith and credit U.S. government agencies: (1) senior debt obligations of the Federal Home Loan Bank System; (2) senior debt obligations of the Federal Home Loan Mortgage Corporation (FHLMC); (3) senior debt obligations of the Federal National Mortgage Association (FNMA); and (4) consolidated systemwide bonds and notes of the Farm Credit System. The investment in U.S. Agency Securities has a sector allocation limit not to exceed 40% of total stabilization fund market value at the time of purchase.

8. Reporting Requirements

The CEO/General Manager shall provide the Board a quarterly investment report, which shall include the information specified in Government Code Section 53646.

9. Annual Review of Investment Policy

The CEO/General Manager shall annually submit a Statement of Investment Policy to the Board, which the Board will consider at a public meeting.

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD OF DIRECTORS MEETING

Agenda Title: **Administrative Revision to BAWSCA's CalPERS Health Benefit Resolution**

Summary:

BAWSCA's health benefit provider, CalPERS Medical Plan, is making an administrative change to rename its "PERS Choice Plan" to "PERS Platinum Plan". The Board is asked to rescind Resolutions No. 2003-03A & 2003-03B and to adopt Resolution No. 2021-04. Resolution No. 2021-04 reflects CalPERS' administrative name change that replaces "PERS Choice Plan" with "PERS Platinum Plan."

Fiscal Impact:

None.

Board Policy Committee Action:

The Committee voted unanimously to recommend approval of the proposed Board action.

Recommendation:

That the Board:

- a. Rescind Resolutions No. 2003-03A & 2003-03B, which specify PERS Choice Plan; and
- b. Adopt replacement Resolution No. 2021-04 (provided by CalPERS), which specifies PERS Platinum Plan.

Discussion:

Effective January 1, 2022, CalPERS Medical Plan is making an administrative name change in which the existing "PERS Choice Plan" is being renamed as the "PERS Platinum Plan." There is no fiscal impact of this change.

In order to adhere to the CalPERS Health Program, which is governed by the Public Employees Medical and Hospital Care Act (PEMHCA), and the California Code of Regulations (CCR), of the California Public Employees Retirement Law (PERL), BAWSCA must rescind Resolutions 2003-03A & 2003-03B and replace them with Resolution 2021-04. Only one new resolution, Resolution 2021-04, is necessary to replace the prior two resolutions as CalPERS now considers retirees as the same as annuitants for these purposes.

PEMHCA contains all the rules and regulations that a contracting agency must adhere to. PEMHCA is defined as the actual *health contract*, and the *resolution* as the method by which an agency elects to become subject to PEMHCA.

Like BAWSCA, both the SFPUC and Santa Clara Valley Water District offer medical benefits to retirees with varying levels of coverage depending upon length of service and hire date.

Attachment:

1. Resolutions 2003-03A & 2003-03B.
2. Resolution 2021-04

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Resolution # 2003 – 03A

**RESOLUTION ELECTING TO BE SUBJECT TO
PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT
AND
FIXING THE EMPLOYER'S CONTRIBUTION FOR EMPLOYEES AND THE
EMPLOYER'S CONTRIBUTION FOR RETIREES AT DIFFERENT AMOUNTS**

- WHEREAS, (1) Government Code Section 22850 extends the benefits of the Public Employees' Medical and Hospital Care Act to employees of contracting agencies on proper application by an agency; and
- WHEREAS, (2) Government Code Section 22857 provides that a contracting agency may fix the amount of the employer's contribution for employees and the employer's contribution for retired employees and survivors at different amounts provided that the monthly contribution for retired employees and survivors shall be annually increased by an amount not less than 5 percent of the monthly contribution for employees, until such time as the amounts are equal; and
- WHEREAS, (3) Government Code Section 22754 (g) defines any Special District as a contracting agency, and
- WHEREAS, (4) A Special District is hereby defined as a non-profit, self-governed public agency within the State of California, and comprised solely of public employees performing a governmental rather than proprietary function, and
- WHEREAS, (5) BAY AREA WATER SUPPLY AND CONSERVATION AGENCY, hereinafter referred to as Special District is an entity meeting the above definition; and
- WHEREAS, (6) The Special District desires to obtain for its employees, retired employees, and survivors the benefit of the Act and to accept the liabilities and obligations of an employer under the Act and Regulations; now, therefore, be it
- RESOLVED, (a) That the Special District elect, and it does hereby elect, to be subject to the provisions of the Act; and be it further
- RESOLVED, (b) That the employer's contribution for each employee shall be the amount necessary to pay the full cost of his enrollment, including the enrollment of his family members in a health benefits plan up to a maximum of the PERSChoice Plan or the highest cost California HMO in the CalPERS Health Program, whichever is higher; and be it further

RESOLVED, (c) That the employer's contribution for each retired employee or survivor shall be the amount necessary to pay the cost of his enrollment, including the enrollment of his family members, in a health benefits plan up to a maximum of \$180.87 per month for single party, \$345.74 per month for two party, and \$449.66 per month for three party; and be it further

RESOLVED, (d) That the employer's contribution for each retired employee or survivor shall be increased annually by 10 percent of the monthly contribution for employees, until such time as the contributions are equal;

And that the contributions for employees, retired employees and survivors shall be in addition to those amounts contributed by the Special District for administrative fees and to the Contingency Reserve Fund; and be it further

RESOLVED, (e) That the executive body appoint and direct, and it does hereby appoint and direct, the General Manager to file with the Board of Administration of the Public Employees' Retirement System a verified copy of this Resolution, and to perform on behalf of said Special District all functions required of it under the Act and Regulations of the Board of Administration; and be it further

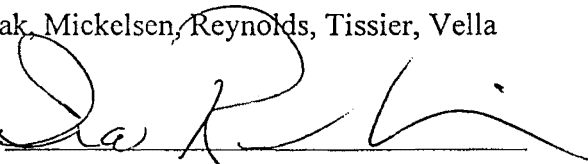
RESOLVED, (f) That coverage under the Act be effective on February 1, 2004

Adopted at a regular meeting of the Bay Area Water Supply & Conservation Agency, at Foster City, Ca., this 20th day of November, 2003

AYES: (22) Auer, Beecham, Breault, Cooper, Craig, Goff, Hershman, Kinney, Livengood, Nelson, O'Connell, O'Mahony, Panza, Parle, Piccolotti, Reed, Risch, Ruskin, Seidel, Weed, Woods, Wykoff

NOES: (0)

ABSENT: (6) Gage, Kasperzak, Mickelsen, Reynolds, Tissier, Vella

Signed: 

Ira Ruskin, Chairman

Attest: 

Arthur R. Jensen, Secretary

**RESOLUTION ELECTING TO BE SUBJECT TO
PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT
AND
FIXING THE EMPLOYER'S CONTRIBUTION FOR EMPLOYEES AND THE
EMPLOYER'S CONTRIBUTION FOR ANNUITANTS AT DIFFERENT AMOUNTS**

- WHEREAS, (1) Government Code Section 22850 provides the benefits of the Public Employees' Medical and Hospital Care Act to employees and annuitants of local agencies contracting with the Public Employees' Retirement System on proper application by a local agency; and
- WHEREAS, (2) Government Code Section 22857 provides that a contracting agency may fix the amount of the employer's contribution for employees and the employer's contribution for annuitants at different amounts provided that the monthly contribution for annuitants shall be annually increased by an amount not less than 5 percent of the monthly contribution for employees, until such time as the amounts are equal; and
- WHEREAS, (3) BAY AREA WATER SUPPLY AND CONSERVATION AGENCY, hereinafter referred to as Public Agency is a local agency contracting with the Public Employees' Retirement System; and
- WHEREAS, (4) The Public Agency desires to obtain for its employees and annuitants the benefit of the Act and to accept the liabilities and obligations of an employer under the Act and Regulations; now, therefore, be it
- RESOLVED, (a) That the Public Agency elect, and it does hereby elect, to be subject to the provisions of the Act; and be it further
- RESOLVED, (b) That the employer's contribution for each employee shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of family members, in a health benefits plan or plan up to a maximum of the PERSChoice Plan or the highest cost California HMO in the CalPERS Health Program, whichever is higher; and be it further
- RESOLVED, (c) That the employer's contribution for each annuitant shall be the amount necessary to pay the cost of his enrollment, including the enrollment of his family members, in a health benefits plan up to a maximum of \$180.87 per month for single party, \$345.74 per month for two party, and \$449.66 per month for three party per month; and be it further

RESOLVED, (d) That the employer's contribution for each annuitant shall be increased annually by 10 percent of the monthly contribution for employees, until such time as the contributions are equal;

And that the contributions for employees and annuitants shall be in addition to those amounts contributed by the Public Agency for administrative fees and to the Contingency Reserve Fund; and be it further

RESOLVED, (e) That the executive body appoint and direct, and does hereby appoint and direct, the General Manager to file with the Board of Administration of the Public Employees' Retirement System a verified copy of this Resolution, and to perform on behalf of said Public Agency all functions required of it under the Act and Regulations of the Board of Administration; and be it further

RESOLVED, (f) That coverage under the Act be effective on February 1, 2004.

Adopted at a regular meeting of the Bay Area Water Supply & Conservation Agency, at Foster City, Ca, this 20th day of November 2003.

AYES: (22) Auer, Beecham, Breault, Cooper, Craig, Goff, Hershman, Kinney, Livengood, Nelson, O'Connell, O'Mahony, Panza, Parle, Piccolotti, Reed, Risch, Ruskin, Seidel, Weed, Woods, Wykoff

NOES: (0)

ABSENT: (6) Gage, Kasperzak, Mickelsen, Reynolds, Tissier, Vella .

Signed: _____



Ira Ruskin, Chairman

Attest: _____



Arthur R. Jensen, Secretary

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

**RESOLUTION NO. 2021-04
FIXING THE EMPLOYER CONTRIBUTION
UNDER THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT
AT AN EQUAL AMOUNT FOR EMPLOYEES AND ANNUITANTS**

- WHEREAS, (1) Bay Area Water Supply and Conservation Agency is a contracting agency under Government Code Section 22920 and subject to the Public Employees' Medical and Hospital Care Act (the "Act"); and
- WHEREAS, (2) Government Code Section 22892(a) provides that a contracting agency subject to Act shall fix the amount of the employer contribution by resolution; and
- WHEREAS, (3) Government Code Section 22892(b) provides that the employer contribution shall be an equal amount for both employees and annuitants, but may not be less than the amount prescribed by Section 22892(b) of the Act; now, therefore be it
- RESOLVED, (a) That the employer contribution for each employee or annuitant shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of family members, in a health benefits plan up to a maximum of the PERS Platinum Region 1 Basic/Medicare/Supplemental or the highest cost HMO Region 1 Basic/Medicare/Supplemental, whichever is higher per month, plus administrative fees and Contingency Reserve Fund assessments; and be it further
- RESOLVED, (b) Bay Area Water Supply and Conservation Agency has fully complied with any and all applicable provisions of Government Code Section 7507 in electing the benefits set forth above; and be it further
- RESOLVED, (c) That the participation of the employees and annuitants of Bay Area Water Supply and Conservation Agency shall be subject to determination of its status as an "agency or instrumentality of the state or political subdivision of a State" that is eligible to participate in a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code, upon publication of final Regulations pursuant to such Section. If it is determined that Bay Area Water Supply and Conservation Agency would not qualify as an agency or instrumentality of the state or political subdivision of a State under such final Regulations, CalPERS may be obligated, and reserves the right to terminate the health coverage of all participants of the employer; and be it further
- RESOLVED, (d) That the executive body appoint and direct, and it does hereby appoint and direct, the Chief Executive Officer and General Manager to file with the Board a verified copy of this resolution, and to perform on behalf of Bay Area Water Supply and Conservation Agency all functions required of it under the Act; and be it further



RESOLVED, (e) That coverage under the Act be effective on January 1, 2022.

Adopted at a regular meeting of the Board of Directors of the Bay Area Water Supply and Conservation Agency held via teleconference in accordance with California Government Code Section 54953(e) , this 18th day of November, 2021.

Signed: _____
Gustav Larsson, Chair

Attest: _____
Nicole Sandkulla, Secretary

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD OF DIRECTORS MEETING

Agenda Title: **Adoption of Resolution 2021-03 Adopting a 2021 Amended and Restated Tier 2 Drought Response Implementation Plan**

Summary:

The Tier 1 Plan allocates available water supply between SF Retail and Wholesale Customers collectively during shortages caused by drought. The Tier 2 Drought Response Implementation Plan ('Tier 2 Plan' or 'Plan') allocates the collective Wholesale Customer share of the water supply from the Regional Water System (RWS) made available by the San Francisco Public Utilities Commission (SFPUC) among individual Wholesale Customers.

The 2011 Tier 2 Plan was adopted by each Wholesale Customer in the winter/spring of 2011 per the July 2009 Water Supply Agreement (WSA). Since adoption of the Tier 2 Plan, conditions have changed such that a narrow application of the Tier 2 Plan calculations result in an incomplete allocation of Regional Water System (RWS) water made available to the Wholesale Customers by SFPUC as provided in the Tier 1 Plan. To avoid this unintended outcome and ensure the Wholesale Customers get the full benefit of the collective Wholesale Customer allocation they are entitled to under the WSA, BAWSCA proposes a minor amendment to the Tier 2 Plan. This amendment, described in detail in the discussion section below, aligns with the Wholesale Customers' initial intent of the Tier 2 Plan when originally developed. Additionally, because the current Tier 2 Plan will expire on December 31, 2021, the amendment includes an extension of the term through December 31, 2022, while BAWSCA works with the Wholesale Customers to develop a new Tier 2 Plan. Attachment 1 provides the Resolution 2021-03 and includes a clean version of the 2021 Amended and Restated Tier 2 Plan as Exhibit A.

SFPUC is expected to declare a water shortage emergency on November 23, 2021, after which BAWSCA must calculate and submit to SFPUC each Wholesale Customer's individual percentage share of the collective Wholesale Customer allocation. Board adoption of the amended and restated Tier 2 Plan and making it effective immediately is critical to ensuring that the Wholesale Customers get the full benefit of the water they are entitled to. If no action is taken, (1) a portion of RWS water available to the Wholesale Customers will be left unallocated for this drought, and (2) the existing Plan will expire on December 31, 2021, with no alternative available to replace it.

BAWSCA presented the proposed amendment to the Water Management Representatives (WMR) on November 4, 2021. The WMR acknowledged the need for the proposed amendment and offered no objections. Attachment 2 provides the section of the Tier 2 Plan showing BAWSCA's proposed amendment. Attachment 3 presents the Final Allocation Factors resulting from the 2021 Tier 2 Plan and the comparison to the base year FY 2019-20.

BAWSCA hired a technical consulting firm to conduct an independent review of the Tier 2 Plan allocation calculations. The firm found no errors in the calculations but made one recommendation. A summary of the firm's findings and recommendation are provided in the discussion section below and the complete technical memorandum is provided in Attachment 4.

Board Policy Committee Action:

The Committee voted unanimously to recommend the Board adopt Resolution 2021-03 adopting the Tier 2 Plan drought allocation methodology for the upcoming year from January 1, 2022, through December 31, 2022.

At the Board Policy Committee (BPC) meeting, the Tier 2 Plan calculation issue was raised, and the BPC was informed that BAWSCA was working with the WMR and legal counsel to find an appropriate fix. However, the specific amendment, which has now been developed, was not presented to the BPC.

Recommendation:

That the Board adopt Resolution 2021-03 approving an amendment to the Amended and Restated Tier 2 Drought Response Implementation Plan and extending the term through December 31, 2022.

Discussion:

Description of the Issue and Unintended Consequence

The Tier 2 Plan prescriptively describes the calculations which must be used to develop each individual agency's percent share of the collective Wholesale Customer water allocation during shortages caused by drought. In anticipation of SFPUC declaring a water shortage emergency, BAWSCA ran the Tier 2 calculations and, in doing so, BAWSCA surfaced an issue that was not expected or planned for when the Tier 2 Plan was developed. This issue results in an incomplete allocation of the collective Wholesale Customer allocation. A more detailed description of the calculations is provided later in this section. However, to first explain the issue at hand, an initial introduction to the allocation formula can be described as follows:

- a) 33.3 percent weight applied to individual agency's Individual Supply Guarantee (ISG) (with slight variations for Hayward, San José, and Santa Clara);
- b) 66.6 percent weight applied to a Base/Seasonal calculation using three-year average monthly production values for all potable supply sources;
- c) 10 percent minimum cutback and maximum cutback equal to no more than the average cutback plus 20 percent; and
- d) Guaranteed sufficient supply of water to East Palo Alto (EPA) to meet health and safety needs for its community.

When the Tier 2 Plan was adopted, an EPA hardship bank was created to provide EPA with a sufficient supply of water for its customers given the then current and planned water supply situation (see bullet d) above). Individual Wholesale Customers subject to the minimum 10 percent cutback (as provided in bullet c) above) contribute to the EPA hardship bank. Since the Tier 2 Plan was adopted, EPA has purchased additional ISG to ensure a more reliable water supply. Because ISG is weighted 33.3 percent in the calculations (see bullet a) above), EPA's higher ISG results in an increased allocation under the Tier 2 Plan. As a result, EPA achieves a sufficient supply by using only a portion of the EPA hardship bank.

The Tier 2 Plan does not contemplate that water will remain in the EPA hardship bank. Upon close review of the Tier 2 Plan, BAWSCA has determined that (1) the hardship bank may only be

allocated to EPA, and (2) BAWSCA may only perform the calculations following the methodology described in the Tier 2 Plan. As described in Step Seven below, narrowly applying the final calculation in the Tier 2 Plan results in an incomplete allocation of the Regional Water System water that is available to the Wholesale Customers.

BAWSCA proposes a minor amendment to the language in the last step of the Tier 2 calculation that (1) allocates all of the collective Wholesale Customer allocation, (2) maintains the initial intent of the Plan when originally developed, and (3) results in a net benefit to all Wholesale Customers. A brief description of each step in the Tier 2 calculation is provided below, including a closer description of the issue and proposed amendment. The full Tier 2 Plan with redline edits is provided in Attachment 2.

Tier 2 Plan Calculations Including Proposed Amendment

Step One: Determination of Base/Seasonal Purchase Cutback for Each Wholesale

Customer: Step One uses seven sub-steps in order to calculate a different cutback for base use – generally understood to be indoor or non-discretionary water use – and seasonal use – generally understood to be outdoor or discretionary water use. Total monthly potable water production for the three fiscal years immediately preceding the drought is used for the Base/Seasonal Purchase Cutback calculation. Base use is calculated by averaging total potable water use in the months of December, January, February, and March (typically when outdoor water use is zero or minimal), multiplied by 12. Seasonal use is calculated by subtracting base use from total potable water production. The Base Purchase Cutback of 10 percent is applied to the base use. The Seasonal Purchase Cutback is adjusted as necessary to result in the overall average cutback that the Wholesale Customers need to achieve collectively.

The Tier 2 methodology includes an adjustment to the base use calculation for Stanford University to account for the two-week time period that the University is completely closed during the winter break.

The result of Step One is a percent cutback calculated by multiplying the Base/Seasonal Purchase Cutback by the lesser of the agency's: (a) SFPUC purchase for the previous year, or (b) ISG.

Step Two: First Adjustment for San José and Santa Clara: Because San José and Santa Clara are not permanent customers, Step Two adjusts their cutbacks to be at least as great as the permanent customer with the highest cutback. If San José and/or Santa Clara's percent cutback after Step One is greater than any permanent customer, no adjustment is made. Alternatively, if San José and/or Santa Clara's cutback after Step One is less than any permanent customer, their cutback is increased to be equal to that of the highest permanent customer's, with the amount of shortage allocation taken away being redistributed to the Wholesale Customers in proportion to each agency's allocation after the Base/Seasonal Purchase Cutback.

Step Three: Determination of Weighted Purchase Cutback for Each Wholesale Customer:

As stated previously in this memorandum, a 1/3 weight is placed on each agency's ISG (with an alternate fixed component used for Hayward, San José, and Santa Clara), and a 2/3 weight on its allocation after Step Two.

Step Four: Second Adjustment for San José and Santa Clara: Step Two is repeated in Step Four with the percent cutbacks after Step Three being the basis for the adjusted cutback.

Step Five: Adjustment for Minimum and Maximum Cutbacks: As stated previously, the Tier 2 Plan requires a 10 percent Minimum Cutback and a Maximum Cutback equal to 20 percent plus the average Wholesale Customer percent cutback. The allocation removed from agencies subject to the 10 percent Minimum Cutback is added to the EPA hardship bank (discussed in Step Six). The allocation required to lower the cutback for agencies subject to the Maximum Cutback is removed from agencies not subject to the Minimum Cutback and in proportion to their SFPUC purchases for the prior year.

Step Six: Adjustment to Provide Sufficient Supply for East Palo Alto: The Tier 2 Plan states the “maximum Final Purchase Cutback applied at any given time to EPA will be equal to 50% of the Overall Average Wholesale Customer Reduction.” The water required to accommodate this adjustment first comes from the EPA hardship bank created in Step Five. If additional water is required, it will be removed from agencies (1) with greater than 55 residential per capita water use and (2) not subject to the Minimum/Maximum Cutback in proportion to their SFPUC purchases.

Prior to EPA purchasing additional ISG, the full EPA hardship bank was used to accommodate this adjustment. As described above, the Plan does not consider how water remaining in the hardship bank will be used if not exhausted by EPA. As such, the water remaining in the EPA hardship bank is unallocated.

The result of Step Six is an allocation for each agency expressed in million gallons per day (mgd).

Step Seven: Determination of Final Allocation Factor: Step Seven calculates each agency’s Allocation Factor expressed as a percent. This is the value BAWSCA provides to SFPUC after its Commission declares a water shortage emergency. Per the Tier 2 Plan, the Wholesale Customer Allocation Factors will only be calculated at the onset of a drought and will remain the same until such time as the SFPUC declares the shortage condition over.

To calculate the Allocation Factor, the Plan specifically states that the numerator must be the allocation (in mgd) after the EPA adjustment (Step Six), and that the denominator must be the collective Wholesale Customer allocation as determined by the Tier 1 Plan. However, because water remains in the hardship bank, the sum of the Wholesale Customers’ allocations (in mgd) after Step Six is not equal to the collective Wholesale Customer allocation. Therefore, the result is an incomplete allocation of the drought water supplies that the Wholesale Customers are entitled to from the RWS.

BAWSCA proposes to amend the denominator in Step Seven such that the sum of the Wholesale Customers’ Allocation Factors equal 100 percent. Without this amendment, a portion of water the Wholesale Customers are entitled to remains unallocated. Conversely, this minor adjustment results in a net benefit to all Wholesale Customers.

To illustrate this, two tables are provided below. Both tables represent results of calculations for a system-side shortage of 10 percent, which results in 113.7 mgd available from the RWS for the Wholesale Customers. Both tables also show the result of Step Six and the Allocation Factor calculation. Table 1 shows the calculation with no amendment to the Tier 2 Plan. Table 2 provides the calculation with the proposed amendment.

Figure 2: Allocation Factor Calculation Without Proposed Amendment

Share	Allocations		Final
Wholesale	With EPA	Final Allocation	Allocation
Customers	Adjustments	Factor Calculation	Factor
ACWD	7.08	$7.08 / 113.72 =$	6.23%
Brisbane/GVMID	0.56	$0.56 / 113.72 =$	0.50%
Burlingame	3.05	$3.05 / 113.72 =$	2.68%
Coastside	0.92	$0.91 / 113.72 =$	0.81%
CWS Total	23.07	$23.0 / 113.72 =$	20.28%
Daly City	3.09	$3.08 / 113.72 =$	2.72%
East Palo Alto	1.46	$1.45 / 113.72 =$	1.28%
Estero	3.62	$3.61 / 113.72 =$	3.18%
Hayward	12.53	$12.5 / 113.72 =$	11.02%
Hillsborough	2.27	$2.26 / 113.72 =$	1.99%
Menlo Park	2.56	$2.56 / 113.72 =$	2.25%
Mid Pen WD	2.29	$2.29 / 113.72 =$	2.02%
Millbrae	1.71	$1.71 / 113.72 =$	1.51%
Milpitas	5.29	$5.29 / 113.72 =$	4.66%
Mountain View	6.90	$6.89 / 113.72 =$	6.07%
North Coast	2.14	$2.13 / 113.72 =$	1.88%
Palo Alto	8.77	$8.77 / 113.72 =$	7.72%
Purissima Hills	1.16	$1.16 / 113.72 =$	1.02%
Redwood City	7.08	$7.08 / 113.72 =$	6.23%
San Bruno	0.86	$0.85 / 113.72 =$	0.75%
Stanford	1.29	$1.28 / 113.72 =$	1.13%
Sunnyvale	7.76	$7.75 / 113.72 =$	6.82%
Westborough	0.74	$0.73 / 113.72 =$	0.65%
Subtotal	106.21		
San José	2.82	$2.81 / 113.72 =$	2.48%
Santa Clara	2.17	$2.16 / 113.72 =$	1.90%
Total	111.19		97.78%

Figure 2: Allocation Factor Calculation with Proposed Amendment

Share	Allocations		Final
Wholesale	With EPA	Final Allocation	Allocation
Customers	Adjustments	Factor Calculation	Factor
ACWD	7.08	$7.08 / 111.19 =$	6.37%
Brisbane/GVMID	0.56	$0.56 / 111.19 =$	0.51%
Burlingame	3.05	$3.05 / 111.19 =$	2.74%
Coastside	0.92	$0.91 / 111.19 =$	0.82%
CWS Total	23.07	$23.0 / 111.19 =$	20.75%
Daly City	3.09	$3.08 / 111.19 =$	2.78%
East Palo Alto	1.46	$1.45 / 111.19 =$	1.31%
Estero	3.62	$3.61 / 111.19 =$	3.25%
Hayward	12.53	$12.5 / 111.19 =$	11.27%
Hillsborough	2.27	$2.26 / 111.19 =$	2.04%
Menlo Park	2.56	$2.56 / 111.19 =$	2.30%
Mid Pen WD	2.29	$2.29 / 111.19 =$	2.06%
Millbrae	1.71	$1.71 / 111.19 =$	1.54%
Milpitas	5.29	$5.29 / 111.19 =$	4.76%
Mountain View	6.90	$6.89 / 111.19 =$	6.21%
North Coast	2.14	$2.13 / 111.19 =$	1.92%
Palo Alto	8.77	$8.77 / 111.19 =$	7.89%
Purissima Hills	1.16	$1.16 / 111.19 =$	1.04%
Redwood City	7.08	$7.08 / 111.19 =$	6.37%
San Bruno	0.86	$0.85 / 111.19 =$	0.77%
Stanford	1.29	$1.28 / 111.19 =$	1.16%
Sunnyvale	7.76	$7.75 / 111.19 =$	6.98%
Westborough	0.74	$0.73 / 111.19 =$	0.66%
Subtotal	106.21		
San José	2.82	$2.81 / 111.19 =$	2.54%
Santa Clara	2.17	$2.16 / 111.19 =$	1.95%
Total	111.19		100.00%

Proposed Amendment to the Tier 2 Plan

To avoid this unintended outcome and to ensure that the Wholesale Customers get the full benefit of the water that they are entitled to under the WSA, BAWSCA proposes the following minor amendment to the Tier 2 Plan (added language in **red, bold, and underline**):

Section 2.2.7 Step Seven: Determination of Final Allocation Factor. Each Wholesale Customer's Final Allocation Factor is the fraction expressed as a percentage, the numerator of which is the particular Wholesale Customer's "Final Allocation with EPA Adjustment" (in mgd) as calculated in Steps One through Six and the denominator of which is **based on** the Overall Wholesale Customer Allocation (in mgd), a number provided by the SFPUC during the drought period as determined by the SFPUC in the Tier 1 Plan.

Proposed Amendment Aligns with the Initial Intent of the Tier 2 Plan

As documented in the Tier 2 Plan and each member agency's resolution adopting the Tier 2 Plan, the Wholesale Customers' intent was to allocate all of the water made available by SFPUC among the Wholesale Customers. As stated in the Tier 2 Plan and each member agency's resolution adopting the Tier 2 Plan:

- "This Tier 2 Drought Implementation (Plan) describes the method for allocating the water made available by the San Francisco Public Utilities Commission (SFPUC) among the Wholesale Customers during shortages caused by drought." (Tier 2 Plan, Introductory Paragraph)
- "The Tier 2 Plan allocates the collective Wholesale Customer share among each of the 26 wholesale customers . . ." (Resolution Approving Tier 2 Drought Implementation Plan)

Third-Party Independent Review of Calculations

BAWSCA contracted with the consulting firm Woodard & Curran (W+C) to conduct a robust independent review of BAWSCA's application of the Tier 2 Plan and calculations. Andree Johnson, a former BAWSCA staff member who is now with W+C, has specific expertise in the Tier 2 Plan calculations given her experience at BAWSCA running the Tier 2 model as well as work with individual member agencies and their use of the Tier 2 model for Urban Water Management Plan preparation.

Overall, W+C determined that BAWSCA applied the calculations correctly and in accordance with the Tier 2 Plan. W+C did recommend that BAWSCA use the most recent fiscal year of water use (FY 2020-21) for the Wholesale Customers when it is available and has been validated. While BAWSCA will take this recommendation under consideration, the water use data for FY 2020-21 as reported by the member agencies to BAWSCA has not been completely submitted to BAWSCA or reviewed and verified. Typically, this is done in the process of developing the Annual Survey. BAWSCA must provide SFPUC with each individual agency's share of the water made available to the Wholesale customers within one week of SFPUC declaring a water shortage emergency. It is unclear at this time if BAWSCA could change the Final Allocations for use by the SFPUC at a later date, in particular prior to SFPUC implementing any possible future mandatory drought restrictions.

Background:

The WSA with San Francisco includes a Tier 1 Plan, which divides the available water supply between San Francisco Retail Customers and the collective Wholesale Customers during a drought. The WSA also provides that the SFPUC will honor allocations of water among the Wholesale Customers provided by BAWSCA, or unanimously agreed to by the Wholesale Customers. In 2011, the Wholesale Customers adopted the 2011 Tier 2 Plan, which takes that collective Wholesale Customer allocation and further divides it among each Wholesale Customers. The Tier 2 Plan details the methodology used to divide the collective Wholesale Customer allocation. That methodology used in the 2011 Tier 2 Plan has not been modified to date.

The Tier 2 Plan applies when the SFPUC determines that a system-wide water shortage of 20 percent or less exists, as set forth in a declaration of water shortage emergency adopted by the SFPUC pursuant to California Water Code Sections 350 *et seq.* The Tier 2 Plan applies only to

water acquired and distributed by the SFPUC to the Wholesale Customers and has no effect on water obtained by a Wholesale Customer from any source other than the SFPUC.

The 2011 Tier 2 Plan initially established December 31, 2018 as the Plan's expiration date to allow for the consideration of matters such as the inclusion of the cities of San José and Santa Clara as permanent customers, and to allow for the development of a new Tier 2 Plan. In May 2018, the 2011 Tier 2 Plan was extended by the Board's adoption of Resolution 2018-01 to provide formal drought allocations to the SFPUC through December 31, 2019. In November 2019 and November 2020 respectively, the Tier 2 Plan was extended by the Board for one additional year. The current Tier 2 Plan expires December 31, 2021.

During the most recent drought, the SFPUC did not declare a water shortage emergency and the Tier 1 and Tier 2 Plans were not implemented. Rather, the State Water Resources Control Board (SWRCB) imposed water use reductions based on separate criteria unrelated to the drought allocation plans for the RWS.

BAWSCA's Role in the Tier 2 Plan

The Tier 1 Plan identifies BAWSCA as the party to perform the Tier 2 Plan calculations. The Tier 1 Plan requires SFPUC to allocate water to each Wholesale Customer in accordance with BAWSCA's calculations. By adopting the WSA and the Tier 2 Plan, each Wholesale Customer thereby authorized BAWSCA to perform the allocation calculations. BAWSCA interacts with both the SFPUC and the Wholesale Customers to obtain needed input data.

BAWSCA's role in developing the existing Tier 2 Plan was as follows:

- Assist agencies in agreeing on a formula that could be accepted unanimously;
- Providing the structure for the discussion and analyses to support decision making;
- Encouraging decisions regarding the adoption of a proposed method based on fact, analyses, and practicality; and
- Supporting agencies in the adoption process.

When a new Tier 2 Plan is proposed, if the allocation method incorporated into the Plan is not unanimously adopted by the BAWSCA member agencies, the WSA provides that the BAWSCA Board has the authority to set an allocation method. If the BAWSCA Board does not set an allocation method, the SFPUC retains final authority to allocate water to the Wholesale Customers during a drought.

Attachments:

1. Draft Resolution 2021-03 Adopting a 2021 Amended and Restated Tier 2 Plan
2. Section of the Tier 2 Drought Response Implementation Plan with Proposed Amendment (redline version)
3. November 2021 Tier 2 Plan Final Allocation Factors for a 10 Percent System-Wide Shortage
4. Independent Review of Tier 2 Plan Calculations: Woodard & Curran Technical Memorandum

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**RESOLUTION NO. 2021-03
BY THE BOARD OF DIRECTORS OF THE
BAY AREA WATER SUPPLY AND CONSERVATION AGENCY**

**ADOPTING A 2021 AMENDED AND RESTATED TIER 2 DROUGHT RESPONSE
IMPLEMENTATION PLAN**

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, the November 2018 Amended and Restated Water Supply Agreement between the City and County of San Francisco and the Wholesale Customers in Alameda County, San Mateo County and Santa Clara County (WSA) sets forth the terms for ensuring the Wholesale Customers receive a reliable supply of high quality water at a fair price; and

WHEREAS, section 3.11(C)(1) of the WSA established the Water Shortage Allocation Plan (Tier 1 Shortage Plan) to allocate water from the Regional Water System between Retail and Wholesale Customers during system-wide shortages of 20% or less; and

WHEREAS, pursuant to section 3.11(C)(2) of the WSA and section 5.5 of the Tier 1 Shortage Plan, the Tier 1 Shortage Plan will remain in effect for the term of the WSA; and

WHEREAS, subsequent to the Tier 1 Shortage Plan, the Wholesale Customers adopted the Tier 2 Drought Response Implementation Plan (Tier 2 Plan), to document the method of allocating, among the Wholesale Customers, the collective Wholesale Customer share of the water made available by the San Francisco Public Utilities Commission (SFPUC); and

WHEREAS, the Tier 2 Plan was adopted in the Winter and Spring of 2011 by the governing bodies of each Wholesale Customer; and

WHEREAS, the 2011 Tier 2 Plan established December 31, 2018 as an interim expiration deadline in order to allow for the consideration of matters such as the inclusion of the cities of San Jose and Santa Clara as permanent customers and to allow for the development of a new Tier 2 Plan; and

WHEREAS, in 2015, the State Water Resources Control Board implemented water conservation targets for each BAWSCA member agency that effectively negated the implementation of the Tier 2 Plan during the most recent drought; and

WHEREAS, in May 2018, the BAWSCA Board of Directors adopted Resolution 2018-01 extending the Tier 2 Plan for one year until December 31, 2019; and

WHEREAS, in 2018, the California Legislature adopted Senate Bill 606 and Assembly Bill 1668 which established a process for developing and implementing long-term water use efficiency targets for urban water suppliers; and

WHEREAS, in November 2019, the BAWSCA Board of Directors adopted Resolution 2019-02 extending the Tier 2 Plan for one year until December 31, 2020; and

WHEREAS, in November 2020, the BAWSCA Board of Directors adopted Resolution 2020-03 extending the Tier 2 Plan for one year until December 31, 2021; and

WHEREAS, since adoption of the Tier 2 Plan, conditions have changed such that a narrow application of the calculations result in an incomplete allocation of Regional Water System water that is available to the Wholesale Customers; and

WHEREAS, BAWSCA proposes a minor amendment to the last step of the Tier 2 Plan calculations such that the Wholesale Customers get the full benefit of the water they are entitled to according to the WSA; and

WHEREAS, BAWSCA proposes an extension of the term of the Amended and Restated Tier 2 Plan through December 31, 2022 in order to avoid expiration of the current Tier 2 Plan; and

WHEREAS, due to current drought conditions, SFPUC may declare a water shortage emergency and implement voluntary or mandatory water use reductions within the next year; and

WHEREAS, following a declaration of a water shortage emergency, and in accordance with the WSA, BAWSCA must calculate and transmit to SFPUC each Wholesale Customer's individual percentage share of the amount of water allocated to the Wholesale Customers collectively; and

WHEREAS, adopting the 2021 Amended and Restated Tier 2 Plan, as provided in Exhibit A, will allow BAWSCA to provide SFPUC with each Wholesale Customer's individual share that collectively equal the full amount of water allocated to the Wholesale Customers; and

WHEREAS, the BAWSCA member agencies have determined that the narrow amendment to the allocation method in the current Tier 2 Plan is appropriate at this time so that BAWSCA and the Wholesale Customers have adequate time to consider the new state water use efficiency requirements in developing a new Tier 2 Plan and to complete consideration of the inclusion of additional permanent customers; and

WHEREAS, section 3.11(C)(3) of the WSA provides that the SFPUC will honor allocations of water among the Wholesale Customers provided by BAWSCA or if unanimously agreed to by all Wholesale Customers; and

WHEREAS, pursuant to section 3.11(C)(3) of the WSA, BAWSCA is authorized to provide the SFPUC with the allocations set forth in the Tier 2 Plan; and

WHEREAS, the BAWSCA Board of Directors desires to rely on the allocation methodology set forth in the 2021 Amended and Restated Tier 2 Plan for one year, thereby effectively extending the Tier 2 Plan for one year until December 31, 2022.

BE IT RESOLVED, that the Board of Directors of the Bay Area Water Supply and Conservation Agency will rely on the methodology provided in the 2021 Amended and Restated Tier 2 Drought Response Implementation Plan through December 31, 2022, and requests the CEO/General Manager to transmit the methodology to the San Francisco Public Utilities Commission for drought planning purposes.

PASSED AND ADOPTED this ____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

Chair, Board of Directors

ATTEST:

Secretary

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EXHIBIT A

TIER 2 DROUGHT IMPLEMENTATION PLAN AMONG WHOLESALE CUSTOMERS

This Tier 2 Drought Implementation (Plan) describes the method for allocating the water made available by the San Francisco Public Utilities Commission (SFPUC) among the Wholesale Customers during shortages caused by drought. This Plan is adopted pursuant to Section 3.11.C of the July 2009 Water Supply Agreement between the City and County of San Francisco and the Wholesale Customers (Agreement).

SECTION 1. APPLICABILITY AND INTEGRATION

Section 1.1 Applicability. This Plan applies when, and only when, the SFPUC determines that a system-wide water shortage of 20 percent or less exists, as set forth in a declaration of water shortage emergency adopted by the SFPUC pursuant to California Water Code Sections 350 *et seq.* This Plan applies only to water acquired and distributed by the SFPUC to the Wholesale Customers and has no effect on water obtained by a Wholesale Customer from any source other than the SFPUC.

Section 1.2 Integration with Tier 1 Water Shortage Allocation Plan. The Agreement contains, in Attachment H, a Water Shortage Allocation Plan which, among other things, (a) provides for the allocation by the SFPUC of water between Direct City Water Users (e.g., retail water customers within the City and County of San Francisco) and the Wholesale Customers collectively during system-wide water shortages of 20 percent or less, (b) contemplates the adoption by the Wholesale Customers of this Plan for allocation of the water made available to Wholesale Customers collectively among the 26 individual Wholesale Customers, (c) commits the SFPUC to implement this Plan, and (d) provides for the transfer of both banked water and shortage allocations between and among the Wholesale Customers and commits the SFPUC to implement such transfers. That plan is referred to as the Tier 1 Plan.

The Tier 1 Plan also provides the methodology for determining the Overall Average Wholesale Customer Reduction, expressed as a percentage cutback from prior year's normal SFPUC purchases, and Overall Wholesale Customer Allocation, in million gallons per day, both of which are used in determining the Final Allocation Factor for each Wholesale Customer. The Overall Average Wholesale Customer Reduction is determined by dividing the volume of water available to the Wholesale Customers (the Overall Wholesale Customer Allocation), shown as a share of available water in Section 2 of the Tier 1 Plan, by the prior year's normal total Wholesale Customers SFPUC purchases and subtracting that value from one.

This Plan is referred to in the Agreement as the Tier 2 Plan. It is intended to be integrated with the Tier 1 Plan described in the preceding paragraph. Terms used in this Plan are intended to have the same meaning as such terms have in the Tier 1 Plan.

SECTION 2. ALLOCATION OF WATER AMONG WHOLESALE CUSTOMERS

Section 2.1 Annual Allocations Among the Wholesale Customers. The annual water supply allocated by the SFPUC to the Wholesale Customers collectively during system-wide shortages of 20 percent or less shall be apportioned among them based on the methodology described in this Section.

Section 2.2 Methodology for Allocating Water Among Wholesale Customers. The water made available to the Wholesale Customers collectively will be allocated among them in proportion to each Wholesale Customer's Allocation Factor, adjusted as described in the following subsections below. The Wholesale Customer Allocation Factors will only be calculated at the onset of a drought and will remain the same until such time as the SFPUC declares the shortage condition over. The Wholesale Customer Allocation Factors will be recalculated during subsequent shortage periods for use during those specific periods.

Section 2.2.1 Step One: Determination of Base/Seasonal Purchase Cutback For Each Wholesale Customer. The first step requires calculating the Wholesale Customer's Base/Seasonal Purchase Cutback. This calculation has seven parts. An example of Steps 1b-1f is presented in Table 2. Step 1g is shown in columns 3-6 in Table 3. For steps 1b-1g, the calculation uses average monthly production values for the three years preceding the drought for all potable supply sources, expressed as a monthly value in hundred cubic feet:

- Step 1a: Each agency's total annual purchases from the SFPUC will be compared to its Individual Supply Guarantee (ISG), with any annual purchases above its ISG subtracted from that agency's total annual SFPUC purchases by subtracting the amount on a monthly basis in proportion to the agency's monthly SFPUC purchase pattern,
- Step 1b: Calculate Average Monthly and Total Production for the three fiscal years immediately preceding the drought, excluding years during which shortage allocations were in effect, based on monthly production data from the SFPUC and Wholesale Customers,
- Step 1c: Calculate Base Component which is equal to the Average Monthly Production during the base months of December, January, February, and March, multiplied by 12,
- Step 1d: Calculate Seasonal Component as the difference between Total Production and Base Component,
- Step 1e: Calculate an agency's Base/Seasonal Allocation, expressed in hundred cubic feet, by multiplying the Base Component by one minus the Base Reduction Percentage, or 90%, and the Seasonal Component by the percentage needed (Seasonal Reduction Percentage) to achieve the required Overall Average Wholesale Customer Reduction, which is expressed as a percentage,

- Step 1f: Calculate the Base/Seasonal Allocation Cutback Percentage for each agency by dividing its Base/Seasonal Allocation by the agency's Total Production, and
- Step 1g: Calculate the Base/Seasonal Purchase Cutback Percentage by multiplying the Base/Seasonal Allocation Cutback percentage times the lesser of: (a) the immediately preceding SFPUC purchases or (b) ISG, adjusting the Seasonal percentage above until the total reduction equals the Overall Average Wholesale Customer Reduction.

Additionally, adjustments to the Base Component for Stanford University will be made to remove that two-week time period that the University is completely closed during the winter break per policy set by the University President as long as that policy remains in place. This adjustment will be removed at such time as the seasonal closure policy is terminated by Stanford University.

Section 2.2.2 Step Two: First Adjustment for San Jose and Santa Clara. The resulting Base/Seasonal Purchase Cutback Percentage in Section 2.2.1 for San Jose and Santa Clara will be compared to the highest Base/Seasonal Purchase Cutback percentage of the other Wholesale Customers. If both San Jose's and Santa Clara's percentage reductions are larger than the highest percentage reduction among any other Wholesale Customers, the Base/Seasonal Purchase Cutback percentage established under Section 2.2.1 will remain unchanged. If either San Jose's percentage cutback or Santa Clara's percentage cutback, or both, is smaller than the highest Base/Seasonal Purchase Cutback percentage of other Wholesale Customers, the Base/Seasonal Allocation (in mgd) of San Jose or Santa Clara, or both, will be reduced so that the percentage cutback of each is no smaller than that of the Wholesale Customers' otherwise highest percentage cutback. The amount of shortage allocation (in mgd) removed from San Jose and/or Santa Clara will be reallocated among the remaining Wholesale Customers in proportion to the Base/Seasonal Allocation of each.

Section 2.2.3 Step Three: Determination of Weighted Purchase Cutback For Each Wholesale Customer. Each agency's weighted allocation is calculated by multiplying its Adjusted Base/Seasonal Allocation in Section 2.2.2 by 66.66% and its Fixed Component by 33.33%. The Fixed Component is (i) the Wholesale Customer's ISG provided for in the Agreement, or (ii) in the case of Hayward, 25.11 mgd, or (iii) in the case of San Jose and Santa Clara, consistent with the limit on purchases from SFPUC set forth in Section 4.05 of the Agreement, e. g., 4.5 mgd each. The amount of the Fixed Component for each Wholesale Customer is shown on Table 1.

Section 2.2.4 Step Four: Second Adjustment for San Jose and Santa Clara. The resulting Weighted Allocations for San Jose and Santa Clara will be compared to the highest Weighted Purchase Cutback, shown as a percentage, of the other Wholesale Customers. If both San Jose's and Santa Clara's percentage cutback is larger than the highest percentage cutback among other Wholesale Customers, the Weighted Purchase Cutbacks established under Section 2.2.3 will remain unchanged. If either San Jose's

percentage cutback or Santa Clara's percentage cutback, or both, is smaller than the highest percentage cutback of any other Wholesale Customers, the Weighted Shortage Allocation (in mgd) of San Jose or Santa Clara, or both, will be reduced so that the percentage reduction of each is no smaller than that of the Wholesale Customers' otherwise highest Weighted Percentage Cutback. The amount of allocation (in mgd) removed from San Jose and/or Santa Clara will be reallocated among the remaining Wholesale Customers in proportion to the Weighted Shortage Allocation of each.

Section 2.2.5 Step Five: Adjustment for Minimum and Maximum Cutbacks. Using the Adjusted Weighted Purchase Cutbacks, either a 10% minimum cutback or maximum cutback, as defined below, is applied to any agency whose Adjusted Weighted Purchase Cutback falls outside this range:

- A minimum 10% cutback is applied to the individual agency Adjusted Weighted Allocation, with the reapportioned water being placed in the hardship bank for allocation to East Palo Alto.
- A maximum cutback of the average cutback plus 20% (e.g., 15% average cutback results in a maximum cutback of $15\% + 20\% = 35\%$) is applied to the individual agency Adjusted Weighted Allocation, with the water necessary to meet that level being subtracted in proportion to each Wholesale Customer's Adjusted Weighted Allocation from all remaining agencies, except those at agencies subject to the minimum cutback above.

The result is the Adjusted Minimum/Maximum Purchase Cutback, expressed as a percentage.

Section 2.2.6 Step Six: Adjustment to Provide Sufficient Supply for East Palo Alto.

In order to provide for sufficient water supply for water customers served by the City of East Palo Alto (EPA), the maximum Final Purchase Cutback applied at any given time to EPA will be equal to 50% of the Overall Average Wholesale Customer Reduction. The water needed to accommodate the guaranteed maximum cutback to EPA will be provided in two ways:

- First, water from the hardship bank provided by the 10% minimum cutback will be first added to the EPA Adjusted Weighted Purchase Allocation, and
- Second, the balance of water needed for EPA will be deducted on a prorated basis from those agencies with a pre-drought residential per capita water use greater than 55 gallons per capita per day (as documented in the most recent BAWSCA Annual Survey) in proportion to each agency's Min./Max. Adjusted Allocation and who are not subject to the minimum and maximum reductions already applied per Section 2.2.5

The result is the Allocation with EPA Adjustment, expressed as an mgd.

Section 2.2.7 Step Seven: Determination of Final Allocation Factor. Each Wholesale Customer's Final Allocation Factor is the fraction expressed as a percentage, the numerator of which is the particular Wholesale Customer's "Final Allocation with EPA Adjustment" (in mgd) as calculated in Steps One through Six and the denominator of which is based on the Overall Wholesale Customer Allocation (in mgd), a number provided by the SFPUC during the drought period as determined by the SFPUC in the Tier 1 Plan.

Section 2.2.8 Example Calculation. Table 2 presents a sample of the calculations involved in Steps 1b-1f. Table 3 presents a sample of the calculations involved in Step 1g and Steps Two through Seven, using the values from Tables 1 and 2 and recent water use data for the other values. Tables 2 and 3 are presented for illustrative purposes only and do not supersede the foregoing provisions of this Section 2.2. In the event of any inconsistency between this Section 2.2 and Tables 2 and 3, the text of this section will govern.

Section 2.3 Calculation of Individual Wholesale Customer Allocation Factors; Directions to SFPUC. The Tier 1 Plan contemplates that in any year in which the methodology described above must be applied, the Bay Area Water Supply and Conversation Agency (BAWSCA) will calculate each Wholesale Customer's individual percentage share of the amount of water made available to the Wholesale Customers collectively, following the methodology described above and defined above as Wholesale Customer Allocation Factors. The Tier 1 Plan requires SFPUC to allocate water to each Wholesale Customer in accordance with calculations delivered to it by BAWSCA.

Each Wholesale Customer authorizes BAWSCA to perform the calculations required, using water sales data furnished to it by the SFPUC, and to deliver to SFPUC a list of individual Wholesale Customer Allocation Factors so calculated as contemplated by the Tier 1 Plan. Neither BAWSCA nor any officer or employee of BAWSCA shall be liable to any Wholesale Customer for any such calculations made in good faith, even if incorrect.

SECTION 3. GENERAL PROVISIONS

Section 3.1 No Third-Party Beneficiaries. This Plan is for the sole benefit of the Wholesale Customers and shall not be construed as granting rights to any person other than another Wholesale Customer.

Section 3.2 Governing Law. This Plan is made under and shall be governed by the laws of the State of California.

Section 3.3 Effect on Water Supply Agreement. This Plan describes the method for allocating water from the SFPUC among the Wholesale Customers during system-wide water shortages of 20 percent or less declared by the SFPUC. The provisions of this Plan, and the Tier 1 Plan contained in Attachment H to the Agreement with which it is

integrated, are intended to implement Section 3.11 of the Agreement. The Plans do not affect, change, or modify any other section, term, or condition of the Agreement or of the individual Water Sales Contracts between each Wholesale Customer and San Francisco.

Section 3.4 Amendment. This Plan may be amended only by the written agreement of all Wholesale Customers.

Section 3.5 Termination. This Plan shall expire on December 31, 2018. It may be terminated prior to that date only by the written agreement of all Wholesale Customers.

Section 1.1.1 Step Seven: Determination of Final Allocation Factor. Each Wholesale Customer's Final Allocation Factor is the fraction expressed as a percentage, the numerator of which is the particular Wholesale Customer's "Final Allocation with EPA Adjustment" (in mgd) as calculated in Steps One through Six and the denominator of which is **based on** the Overall Wholesale Customer Allocation (in mgd), a number provided by the SFPUC during the drought period as determined by the SFPUC in the Tier 1 Plan.

Section 1.1.2 Example Calculation. Table 2 presents a sample of the calculations involved in Steps 1b-1f. Table 3 presents a sample of the calculations involved in Step 1g and Steps Two through Seven, using the values from Tables 1 and 2 and recent water use data for the other values. Tables 2 and 3 are presented for illustrative purposes only and do not supersede the foregoing provisions of this Section 2.2. In the event of any inconsistency between this Section 2.2 and Tables 2 and 3, the text of this section will govern.

Section 1.2 Calculation of Individual Wholesale Customer Allocation Factors; Directions to SFPUC. The Tier 1 Plan contemplates that in any year in which the methodology described above must be applied, the Bay Area Water Supply and Conversation Agency (BAWSCA) will calculate each Wholesale Customer's individual percentage share of the amount of water made available to the Wholesale Customers collectively, following the methodology described above and defined above as Wholesale Customer Allocation Factors. The Tier 1 Plan requires SFPUC to allocate water to each Wholesale Customer in accordance with calculations delivered to it by BAWSCA.

Each Wholesale Customer authorizes BAWSCA to perform the calculations required, using water sales data furnished to it by the SFPUC, and to deliver to SFPUC a list of individual Wholesale Customer Allocation Factors so calculated as contemplated by the Tier 1 Plan. Neither BAWSCA nor any officer or employee of BAWSCA shall be liable to any Wholesale Customer for any such calculations made in good faith, even if incorrect.

SECTION 2. GENERAL PROVISIONS

Section 2.1 No Third-Party Beneficiaries. This Plan is for the sole benefit of the Wholesale Customers and shall not be construed as granting rights to any person other than another Wholesale Customer.

Section 2.2 Governing Law. This Plan is made under and shall be governed by the laws of the State of California.

Section 2.3 Effect on Water Supply Agreement. This Plan describes the method for allocating water from the SFPUC among the Wholesale Customers during system-wide water shortages of 20 percent or less declared by the SFPUC. The provisions of this Plan, and the Tier 1 Plan contained in Attachment H to the Agreement with which it is

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November 2021 Tier 2 Plan Final Allocation Factors - 10% System-Wide Shortage

Agency	Allocation Factor	FY 19-20 SFPUC Purchases (mgd)	FY 19-20 Drought Allocation (mgd)	FY 19-20 Drought Cutback
ACWD	6.37%	7.87	7.24	-7.96%
Brisbane/GVMID	0.51%	0.64	0.58	-9.12%
Burlingame	2.74%	3.48	3.12	-10.25%
Coastside	0.82%	1.02	0.94	-7.96%
CWS Total	20.75%	29.00	23.59	-18.65%
Daly City	2.78%	3.98	3.16	-20.51%
East Palo Alto	1.31%	1.57	1.49	-4.89%
Estero	3.25%	4.34	3.70	-14.71%
Hayward	11.27%	13.92	12.82	-7.96%
Hillsborough	2.04%	2.62	2.32	-11.65%
Menlo Park	2.30%	2.96	2.62	-11.41%
Mid Pen WD	2.06%	2.66	2.35	-11.63%
Millbrae	1.54%	1.90	1.75	-7.96%
Milpitas	4.76%	5.92	5.41	-8.48%
Mountain View	6.21%	7.67	7.06	-7.96%
North Coast	1.92%	2.37	2.18	-7.96%
Palo Alto	7.89%	9.75	8.97	-7.96%
Purissima Hills	1.04%	1.75	1.19	-31.99%
Redwood City	6.37%	8.76	7.24	-17.38%
San Bruno	0.77%	0.95	0.88	-7.96%
Stanford	1.16%	1.43	1.32	-7.96%
Sunnyvale	6.98%	9.33	7.94	-14.94%
Westborough	0.66%	0.82	0.76	-7.96%
Subtotal		124.70	108.62	-14.83%
San José	2.54%	4.26	2.88	-32.31%
Santa Clara	1.95%	3.27	2.22	-32.31%
Total	100.00%	132.23	113.72	-14.00%

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DRAFT TECHNICAL MEMORANDUM

TO: Tom Francis, Bay Area Water Supply and Conservation Agency

PREPARED BY: Andree Johnson and Jen Kidson, Woodard & Curran

DATE: November 9, 2021

RE: Independent Review of Tier 2 Plan Calculations

The purpose of this technical memorandum (TM) is to document the results of the independent review of the Tier 2 Drought Implementation Plan (Tier 2 Plan) allocation calculations that were prepared by Bay Area Water Supply and Conservation Agency (BAWSCA) staff.

1. BACKGROUND

The BAWSCA Tier 2 Plan provides the method for allocating the water made available by the San Francisco Public Utilities Commission (SFPUC) among the Wholesale Customers during shortages caused by drought.

BAWSCA anticipates that SFPUC may declare a water shortage emergency in November 2021, requiring implementation of the Tier 2 Plan for the first time since its adoption. BAWSCA staff has prepared allocation calculations for three potential regional shortage scenarios (10%, 15%, and 20% regional shortages) for implementation if SFPUC declares a water shortage emergency.

In developing the calculations, BAWSCA surfaced an issue that was not accounted for during development of the Tier 2 Plan. Specifically, the East Palo Alto hardship bank is not fully allocated as East Palo Alto has purchased additional Individual Supply Guarantee (ISG), thus increasing its allocation. Thus, BAWSCA has proposed a minor clarifying change to the existing methodology to ensure that available water is fully allocated, while still abiding by the original Tier 2 Plan methodology.

BAWSCA retained Woodard & Curran to perform an independent third-party review of the Tier 2 Plan scenarios. The review included the following components:

- Step-by-step review of the calculations to confirm whether the Tier 2 Plan methodology was appropriately applied.
- Review of proposed Tier 2 Plan minor clarifying change, as part of Step 7 of the Tier 2 Plan methodology, to confirm whether the change is consistent with the adopted Tier 2 Plan methodology.

Two scenarios were reviewed: Scenario 2 includes the proposed change, and Scenario 3 has no change.¹ This exercise did not include review of the data inputs to confirm accuracy of the data sources used for the Tier 2 calculations, but did include a cursory look at the data for each agency to identify any inconsistencies with prior years. This TM describes the review process and provides conclusions as to whether the Tier 2 Plan methodology was appropriately applied to Scenarios 2 and 3.

¹ Scenario 1 was previously proposed and rejected due to inconsistency with the letter of the Tier 2 Plan and is not discussed here.

2. CONCLUSIONS

Based on a review of the data and calculations, the Scenario 2 and 3 results appear consistent with the Tier 2 Plan methodology. We recommend that BAWSCA consider the following adjustment:

- **Base Period:** If Fiscal Year (FY) 2020-21 monthly production data is made available and validated prior to the implementation of the mandatory reductions, we recommend that the Base Period be adjusted to include this year, to be consistent with the Tier 2 Plan direction to use the average monthly production values for the three years preceding the drought for all potable supply sources as the Base Period (see Section 3.1.1.1).

The review process and recommendation are described in detail in Section 3, below.

3. SCENARIO REVIEW DETAILS

This section describes the review conducted for each stage of the Tier 2 Plan methodology, which includes seven steps and is fully documented in Section 2.2 of the Tier 2 Plan. These steps are used to calculate each Wholesale Customer's Allocation Factor, which determines the proportion of available water that each Wholesale Customer will receive during system-wide shortages of 20% or less.

3.1 Step One: Determination of a Base/Seasonal Purchase Cutback for Each Wholesale Customer

Step One calculates each Wholesale Customer's Base/Seasonal Purchase Cutback. This calculation includes a series of steps, summarized below:

- Step 1a: Each agency's total annual purchases from SFPUC are compared to its ISG. Any annual purchases above the ISG are subtracted from the agency's total annual SFPUC purchases.
- Step 1b: The Average Monthly and Total Production are calculated for the three FYs immediately preceding the drought based on monthly production data from SFPUC and Wholesale Customers.
- Step 1c: The Base Component is calculated using Average Monthly Production from winter months to determine baseline use without outdoor irrigation. Additionally, adjustments to the Base Component for Stanford University are made to account for winter break closures of the campus, which would otherwise result in an artificially low Base Component. Adjustments are made to remove that two-week time period as long as that policy remains in place. This adjustment will be removed at such time as the seasonal closure policy is terminated by Stanford University.
- Step 1d: The Seasonal Component is calculated as the difference between Total Production and Base Component. The Seasonal Component estimates outdoor irrigation use.
- Step 1e: Each agency's Base/Seasonal Allocation is calculated by adding 90% of the Base Component (i.e., a 10% reduction) and the Seasonal Component reduced by the percentage needed to achieve the required Overall Average Wholesale Customer Reduction.
- Step 1f: For each agency, the Base/Seasonal Allocation Cutback Percentage is calculated by dividing the Base/Seasonal Allocation by the agency's Total Production.
- Step 1g: The Base/Seasonal Purchase Cutback Percentage is calculated by multiplying the Base/Seasonal Allocation Cutback percentage times the lesser of: (a) the immediately preceding SFPUC purchases or (b)

ISG, adjusting the Seasonal percentage above until the total reduction equals the Overall Average Wholesale Customer Reduction.

3.1.1 Step One Review

Woodard & Curran reviewed the Step One data and calculations. Step One does not differ between Scenario 2 and Scenario 3, so the scenarios are not discussed individually for this step. Overall, Step One was performed consistent with the Tier 2 methodology. However, Woodard & Curran noted two considerations, described below.

3.1.1.1 Base Period

For Step One, Tier 2 methodology specifies that the calculation use average monthly production values for *the three years preceding the drought for all potable supply sources* (Tier 2 Plan, p. 2). We noted that the calculations used data from FY 2019-20, FY 2018-19, and FY 2017-18. In discussions with BAWSCA staff, it was noted that this base period was used because monthly production data for FY 2020-21 had not yet been provided by the BAWSCA and verified through the Annual Survey development process.

Potential Impact: Adjustment to the Base Period may result in potential substantial changes to allocations for specific member agencies, in particular those agencies that had significant fluctuations in SFPUC purchases from FY 2019-20 to FY 2020-21.

Recommended Adjustment: If FY 2020-21 monthly production data is made available and validated prior to the implementation of the mandatory reductions, we recommend that the Base Period be adjusted to include this year, to be consistent with the Tier 2 Plan methodology.

3.1.1.2 Data Sources

It is useful to note that slight discrepancies may appear when comparing production values between Tier 1 calculations (performed by SFPUC) and Tier 2 calculations (performed by BAWSCA). For example, Wholesale Agencies reviewing the calculations noted slight differences between Tier 1 results and Tier 2 results for total water use by wholesale customers and wholesale allocations. These differences were minor and did not impact allocations for Wholesale Agencies. Such discrepancies are attributable to different data sources (i.e., SFPUC data versus BAWSCA data provided by Wholesale Customers). There are multiple potential reasons for the discrepancy between these two sources. The Wholesale Customers may read their SFPUC meter(s) on different dates than SFPUC. In addition, converting from ccf to million gallons per day (mgd) may yield slightly different results depending on how many decimals were used and rounding.

Potential Impact: Negligible. Differences between SFPUC and BAWSCA data are generally minor, and the use of the SFPUC data for Wholesale Customer SFPUC purchases is unlikely to significantly shift member agency allocation factors.

Recommended Adjustment: None. While the Tier 2 Plan does not specify which data source should be used for the Base/Seasonal Purchase cutback, SFPUC data only includes Wholesale Customer SFPUC purchases; therefore, the BAWSCA Annual Survey data is the only available source for Wholesale Customer monthly water use from all supply sources. Annual Survey data is independently reported to BAWSCA by each Wholesale Customer and subsequently reviewed and confirmed by BAWSCA and each Wholesale Customer through the Annual Survey development process. This data collection and review process also identifies adjustments not reflected in SFPUC data, such as transfers of SFPUC supplies between member agencies. Therefore, the Annual Survey data used in the Tier 2 Plan calculations represents the best available information.

3.2 Step Two: First Adjustment for San José and Santa Clara

Because Santa Clara and San José are not permanent customers, Step Two adjusts their cutbacks to be at least as great as the highest cutback by the permanent customers. If both San José's and Santa Clara's percentage reductions are larger than the highest percentage reduction among any other Wholesale Customers, the Base/Seasonal Purchase Cutback percentage established under Step One does not change. If San José's and/or Santa Clara's percentage cutbacks are smaller than the highest percentage reduction of other Wholesale Customers, the Base/Seasonal Allocations for San José and/or Santa Clara are reduced so that the percentage cutback of each is at least as great as the other Wholesale Customers' highest percentage cutback. The amount of shortage allocation removed from San José and/or Santa Clara is then reallocated among the remaining Wholesale Customers in proportion to the Base/Seasonal Allocation of each.

3.2.1 Step Two Review

Review of the calculations showed that adjustments for San José and Santa Clara were applied consistent with the Tier 2 Plan methodology.

3.3 Step Three: Determination of Weighted Purchase Cutback for Each Wholesale Customer

Each agency's weighted allocation is determined by weighting the Adjusted Base/Seasonal Allocation (from Step Two) at 66.66% and its Fixed Component at 33.33%. The Fixed Component typically corresponds to the Wholesale Customer's ISG (with exceptions for Santa Clara, San José, and Hayward, further detailed in the Tier 2 Plan).

3.3.1 Step Three Review

Review of the calculations showed that the Weighted Purchase Cutback for each Wholesale Customer was calculated consistent with the Tier 2 Plan methodology.

3.4 Step Four: Second Adjustment for San José and Santa Clara

Similar to Step Two, a second adjustment is made for San José and Santa Clara. The Weighted Allocations for San José and Santa Clara must be greater than the highest Weighted Percentage Cutback among other permanent customers. If necessary, the Weighted Storage Allocation of San José and/or Santa Clara will be reduced so that the percentage cutback is greater than the highest percentage cutback among permanent customers. The allocation removed from San José and/or Santa Clara is then reallocated among Wholesale Customers proportionally according to their Weighted Shortage Allocations.

3.4.1 Step Four Review

Review of the calculations showed that the second set of adjustments for San José and Santa Clara were applied consistent with the Tier 2 Plan methodology.

3.5 Step Five: Adjustment for Minimum and Maximum Cutbacks

Step Five implements a minimum cutback or maximum cutback. The minimum cutback is 10%; any reapportioned water from this cutback is placed in the hardship bank for allocation to East Palo Alto. The maximum cutback is the average cutback plus 20%. Water needed to meet the maximum cutback is subtracted from remaining agencies in proportion to Wholesale Customer's Adjusted Weighted Allocation (except for agencies subject to the minimum cutback). This step results in the Adjusted Minimum/Maximum Purchase Cutback.

3.5.1 Step Five Review

Minimum and Maximum cutbacks for each Wholesale Customer were applied consistent with the Tier 2 Plan methodology.

3.6 Step Six: East Palo Alto Adjustment

Step Six is intended to ensure sufficient water supply for customers served by the City of East Palo Alto. As described in the Tier 2 Plan, the Final Purchase Cutback to be applied to East Palo Alto will not exceed 50% of the Overall Average Wholesale Customer Reduction. First, water from the hardship bank described in Step Five is added to the East Palo Alto Adjusted Weighted Purchase Allocation. Second, the remaining water needed for East Palo Alto is deducted on a prorated basis from agencies whose pre-drought residential per capita water use is greater than 55 gallons per capita per day (GPCD) in proportion to each agency's Minimum/Maximum Adjusted Allocation and who are not subject to the minimum and maximum reductions already applied in Step Five.

3.6.1 Step Six Review

The East Palo Alto adjustment was applied consistent with the Tier 2 Plan methodology. The water in the East Palo Alto hardship bank was not fully allocated, as the full hardship bank was not needed to bring East Palo Alto's cutback to half of the Overall Average Wholesale Customer Reduction.

3.7 Step Seven: Determination of Final Allocation Factor

Step Seven calculates the Final Allocation Factor for each Wholesale Customer. As written in the Tier 2 Plan, the Final Allocation Factor is a fraction expressed as a percentage, the numerator of which is the particular Wholesale Customer's Final Allocation with East Palo Alto Adjustment (in mgd) and the denominator of which is the Overall Wholesale Customer Allocation (in mgd). The Overall Wholesale Customer Allocation is provided by SFPUC during a drought period.

3.7.1 Step Seven Review

For Scenario 3, review of the calculations showed that determination of Final Allocation Factor was conducted consistent with the Tier 2 Plan methodology. However, this step resulted in an unanticipated outcome, in which the sum of the Final Allocation Factor for each Wholesale Customer did not add to 100%. In other words, available water supply was not fully allocated to the Wholesale Customers through this step, as a result of unallocated water remaining in the East Palo Alto hardship bank.

The proposed change in Scenario 2 suggests that the denominator be based on the Overall Wholesale Customer Allocation. In practice, this means each agency's Final Allocation Factor is calculated to fully allocate available supply, effectively redistributing the unallocated water in the hardship bank proportionally among the agencies. The Tier 2 Plan does not specifically identify a method for reallocation of excess hardship bank water. Our review indicates that this proposed change appears consistent with the intent of the Tier 2 Plan. The impacts of this reallocation provide a small increase in each Wholesale Customer's allocation – for example, in the 20% regional shortage scenario, each Wholesale Customer's Final Allocation increases by 0.5% with the reallocation.

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BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD OF DIRECTORS MEETING

Agenda Title: **Results of BAWSCA's Refunding Bond Sale**

Summary:

On September 16, 2021, BAWSCA Board approved the issuance of the Revenue Bonds Series 2023A to refund the callable portion of 2013A bonds, subject to the satisfaction of specified criteria shown below:

- a. NPV savings of not less than \$20 million over the term of the bonds;
- b. Principal amount of refunding bonds does not exceed \$180 million; and
- c. Underwriter's discount does not exceed 0.25% of the principal amount.

On October 21, 2021, BAWSCA completed the pricing and sale of the 2023A bonds based on a tax-exempt forward delivery. This refunding transaction will generate approximately \$25.1 million in net present value savings over the term of the bonds, or an average of approximately \$2.4 million of savings per year to the member agencies, from 2023 to 2034 when the bonds will be paid off.

The total principal amount of bonds to be issued is \$134.310 million at an all-in true interest rate of 2.06%. The settlement will occur on January 5, 2023.

The underwriter's discount is 0.237% of the principal amount of the refunding bonds.

Fiscal Impact:

There is no financial impact on BAWSCA's FY 2021-22 Operating Budget from the recent sale of 2023A bonds. The costs of issuance for the refunding are expected to be approximately \$1.025 million, including both contingent and non-contingent costs and consistent with the initial estimate and approved budget allocation. The estimated cost of issuance includes the compensation to the underwriters and the fees charged by the bond counsel and municipal advisor for their contingent portion of services associated with the bond refunding.

Recommendation:

This item is for informational purposes only.

Discussion:

The objective of the refunding is to generate debt service savings and save the water customers money. Based on market conditions at the time, a forward refunding was estimated to result in greater savings than a taxable advance refunding. While waiting until late 2022 or early 2023 for a tax-exempt regular delivery refunding could potentially result in greater savings than a forward delivery refunding, depending on market conditions, the forward delivery locks in the savings much sooner, thereby eliminating the risk of a significant adverse market change between the time when a forward refunding can be priced and the callable date when a tax-exempt regular delivery refunding is allowed.

The pricing and sale of the 2023A bonds was completed on October 21, 2021 as a tax-exempt forward delivery refunding, based on the Board authorization. A summary of the final sources and uses of funds is shown in Exhibit A attached.

Anticipated Savings

This refunding transaction will generate approximately \$25.1 million in net present value savings over the term of the bonds, or an average of approximately \$2.4 million of savings per year, starting in fiscal year 2022-23, which, along with the savings from the original 2013 bond issuance, will result in a total average savings of \$5.9 million per year to the water customers that BAWSCA represents from 2023 to 2034 when the bonds will be paid off. The final maturity of the refunding bonds will be October 1, 2034, the same final maturity as the 2013A bonds.

Principal Amount of Refunding Bonds

The authorization included a not-to-exceed principal amount for the refunding bonds. The principal amount of the refunding bonds and other available sources must be sufficient to fund: (i) the principal amount of the bonds being refunded, (ii) interest due after bond delivery through the call date, (iii) the new Stabilization Fund requirement, and (iv) the underwriting and issuance costs. Other available sources include: (i) purchase price premium, if any, (ii) available amounts in the Stabilization Fund, and (iii) budgeted funds for non-contingent costs.

The total principal amount of bonds to be issued is \$134.310 million at an all-in true interest rate of 2.06%. The settlement will occur on January 5, 2023.

Portion of Stabilization Fund Used to Pay Down the Principal Amount

BAWSCA's bonds Stabilization Fund held at the Trustee, Bank of New York, serves as a reserve to cover the debt service payments in case of shortfalls in the surcharge collection.

The refunding bonds are subject to the same Stabilization Fund Requirement that is at least equal to 50% of maximum annual aggregate debt service. Because the Stabilization Fund requirement is formulaic, the dollar requirement will be lower due to lower refunding debt service. It is determined that the Stabilization Fund requirement will be reduced by \$1.351 million from the current requirement of \$12.337 million. The reduction in the Stabilization Fund has been used to pay down the principal amount of the refunding bonds.

In addition, a total amount of \$1.386 million from the excess stabilization and revenue fund balances, which have been built up due to both the investment earnings and an increase in the market value of the existing investments in the stabilization fund since the time they were purchased, is being used to pay down the principal amount of the refunding bonds. The amount applied to the refunding leaves a modest excess in the Stabilization Fund to account for future market value fluctuation. Other funds being applied to the refunding include \$5.364 million in FY 2022-23 surcharge collections which will not be needed for debt service and are required to be applied to the refunding per tax law.

EXHIBIT A

BAWSCA 2023A REFUNDING - FINAL REFUNDING BOND PRINCIPAL (SOURCES AND USES OF FUNDS)

Sources

Principal Amount of Refunding Bonds	\$134,310,000
Premium ⁽¹⁾	<u>26,044,861</u>
Gross Refunding Proceeds	\$160,354,861
BAWSCA Funds for Non-Contingent Costs	300,000
FY22-23 Surcharges to Be Applied to Escrow	5,364,042
Existing Stabilization Fund Requirement (13AB)	12,337,535
Excess Trustee Funds	<u>1,385,813</u>
<i>Total Sources</i>	\$179,742,250

Uses

13A Principal Refunded	\$163,790,000
13A Interest due on 4/1/23 Call Date	<u>3,940,500</u>
Subtotal: Deposit to Refunding Escrow	\$167,730,500
New Stabilization Fund Requirement ⁽²⁾	10,986,572
Costs of Issuance and Underwriter Discount ⁽³⁾	<u>1,025,178</u>
<i>Total Uses</i>	\$179,742,250

Other Information

Net Present Value Savings	\$25,126,049
Percent of Refunded Bonds	15.3%
Average Annual Savings (FYs 2023-2034)	\$2,402,931
All-in True Interest Cost	2.06%
Term of Bonds	Through 2034
Reduction in Stabilization Fund Requirement	\$1,350,963

(1) Premium is paid by investors when the interest rate is higher than the yield.

(2) 50% of the maximum aggregate annual debt service of 13B and the refunding bonds.

(3) Underwriter Discount is 0.237% of the principal amount of the refunding bonds.

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BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD OF DIRECTORS MEETING

Agenda Title: **MTC/ABAG Final Environmental Impact Report for Plan Bay Area 2050**

Summary:

The Final Programmatic Environmental Impact Report (Final EIR) for Plan Bay Area 2050 (Plan), a long-range plan for the San Francisco Bay Area, was jointly certified and the Plan was adopted by the Metropolitan Transportation Commission / Association of Bay Area Governments (MTC/ABAG) on October 21, 2021. BAWSCA, along with a number of Bay Area water agencies, including several BAWSCA member agencies, provided comments to the Plan's Draft EIR during the public comment period. BAWSCA's comments were submitted to MTC/ABAG on July 10, 2021, and were shared with the Board shortly thereafter. BAWSCA's comment letter, along with the MTC/ABAG response, are provided as an Attachment 1 to this document.

BAWSCA has reviewed MTC/ABAG's response to BAWSCA's comments, as well as its response to comments generated by other water agencies. MTC/ABAG's response to BAWSCA's comments, while thorough, claim that the water supply concerns raised by BAWSCA related to the Plan's projected increased population and housing needs are speculative in nature. BAWSCA's findings from that review are provided below.

Given the detailed response to comments, the position taken by MTC/ABAG, and consideration of BAWSCA's unique role on behalf of the member agencies, it is not in BAWSCA's best interests to pursue litigation. BAWSCA will continue to impress upon MTC/ABAG the difficulties our member agencies will have in implementing Plan Bay Area 2050 into their planning efforts, particularly in light of the water supply challenges that each agency faces in the coming years.

Fiscal Impact:

The Final EIR as prepared by MTC/ABAG for Plan Bay Area 2050 has no direct financial impact to BAWSCA.

Recommendation:

This is an informational item only. No action by the Board is requested.

Discussion:

The Final EIR for Plan Bay Area 2050, a long-range plan for the San Francisco Bay Area, was jointly certified and the Plan was adopted by MTC/ABAG on October 21, 2021. Plan Bay Area 2050 is designed to serve as the Regional Transportation Plan (RTP) and Sustainable Communities Strategy (SCS) for the nine-county region.

BAWSCA provided comments to the Plan's Draft EIR on July 10, 2021. BAWSCA's review indicates that the MTC/ABAG response to BAWSCA's comments, while thorough, claims that the concerns raised by BAWSCA are speculative in nature. More specifically, that the possible water supply impacts of the Bay-Delta Plan on BAWSCA member agencies' ability to meet the growth proposed in Plan Bay Area 2050 do not merit further consideration in the Final EIR.

MTC/ABAG held two public meetings in October in preparation for the certification of the Final EIR

and adoption of the Plan. No direct mention of the BAWSCA comment letter, nor other specific comment letters was provided at that time. MTC/ABAG did note that among other comments, concerns about water supply reliability were raised in response to the Draft EIR issued and that they were adequately addressed in the Final EIR. The Committee approved a recommendation that the MTC/ABAG Executive Board certify the Final EIR and adopt Plan Bay Area 2050.

On October 21, 2021, the MTC/ABAG Executive Board received the recommendation from the respective MTC/ABAG committees and certified the Final EIR and adopted Plan Bay Area 2050. Under CEQA, parties have 30 days after a notice of determination is filed to file a suit challenging the Final EIR. BAWSCA does not anticipate filing litigation.

Findings Related to the MTC/ABAG Response to BAWSCA's Comments on the Draft EIR

BAWSCA raised the following primary points in its comment letter on the Draft EIR for Plan Bay Area 2050:

- The Draft EIR is inadequate because it fails to account for and analyze the State Water Resources Control Board's (SWRCB) San Francisco Bay/Sacramento-San Joaquin Delta Estuary Water Quality Control Plan (Bay-Delta Plan).
- The Draft EIR is inadequate because it fails to analyze the impact of the Federal Energy Regulatory Commission (FERC) licensing and certification process for New Don Pedro Reservoir.
- Impacts to public utilities (including water supply) is inadequately analyzed and proposed mitigation measures are insufficient.
- The Draft EIR relies on out-of-date 2020 Urban Water Management Plans (UWMP) for water supply reliability forecasting.

The MTC/ABAG response to BAWSCA's comments, while detailed, dismissed the comments as not valid to warrant significant changes to and/or recirculation of the Draft EIR. The MTC/ABAG response to comments regarding the Bay-Delta Plan and FERC licensing have three general themes as follows:

1. **BAWSCA's Comments are Speculative**

MTC/ABAG states in its response that there is not a need to consider impacts that are speculative. (CEQA Guidelines §15145.) They claim that implementation of the Bay-Delta Plan (and FERC Clean Water Act 401 Certification) is speculative because of the lawsuits currently active on those respective matters, and moreover that the Bay-Delta Plan and the FERC licensing of New Don Pedro are not self-implementing and other procedures need to occur before they are in place. MTC/ABAG references language found in SFPUC's 2020 UWMP to describe the uncertainty.

2. **CEQA Baseline**

MTC/ABAG points out in its response that under CEQA, the environmental baseline is generally the date of the Notice of Preparation (NOP) for its environmental review of Plan Bay Area 2050 (September 2020), which was prior to the date of preparation of BAWSCA member agencies' and SFPUC's respective 2020 UWMPs (which were not adopted until summer of 2021, after the NOP). Therefore MTC/ABAG contends that it is under no obligation to incorporate information from the 2020 UWMPs in their environmental analysis (CEQA Guidelines §15125(a).)

3. **Programmatic EIR**

In response to BAWSCA's comments, the MTC/ABAG contend that the proposed Plan does not entitle growth; rather as individual projects are proposed, said projects are required to be analyzed at the city or county level, as relevant, where the actual entitlement that results in water consumption would be decided. The reference for such a requirement is provided in CEQA Guidelines Section 15155, Water Supply Analysis.

Given the detailed response to comments, the position taken by MTC/ABAG, and consideration of BAWSCA's unique role on behalf of the member agencies, it is not in BAWSCA's best interests to pursue litigation. BAWSCA will continue to impress upon MTC/ABAG the difficulties our member agencies will have in implementing Plan Bay Area 2050 into their planning efforts, particularly in light of the water supply challenges that each agency faces in the coming years.

Attachment:

1. BAWSCA Comment Letter on ABAG PEIR and MTC/ABAG Response

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Letter 76

July 19, 2021

VIA EMAIL

Therese McMillan, Executive Director
MTC and ABAG
Attn: Draft EIR Comments
375 Beale Street, Suite 800
San Francisco, CA, 94105
Email: eircomments@bayareametro.gov

Subject: BAWSCA Comment Letter – Plan 2050 Draft Environmental Impact Report

Dear Ms. McMillan,

The Bay Area Water Supply and Conservation Agency ("BAWSCA") submits the following comments regarding the programmatic Draft Environmental Impact Report ("Draft EIR") for Plan Bay Area 2050 ("proposed Plan") issued by the Association of Bay Area Governments ("ABAG") and the Metropolitan Transportation Commission ("MTC") and made available on June 4, 2021. BAWSCA was formed in 2003 via legislative action (AB 2058) to represent the water interests of 26 member agencies in Alameda, Santa Clara, and San Mateo Counties that purchase water from the San Francisco Public Utilities Commission ("SFPUC"). The San Francisco Regional Water System ("RWS") supplies roughly two-thirds of the water required by the BAWSCA member agencies.

Based on the significant findings highlighted in this letter, BAWSCA requests that ABAG and the MTC make the required changes and recirculate the Draft EIR.

Eighty five percent of the RWS water supplies come from the Tuolumne River, including supplies from Hetch Hetchy Reservoir and a water bank at Don Pedro Reservoir. The Hetch Hetchy Reservoir water feeds into an aqueduct system delivering water 167 miles by gravity to Bay Area reservoirs and, ultimately, to Bay Area customers. Approximately two-thirds of SFPUC's total water deliveries are made to BAWSCA agencies - meaning BAWSCA agencies are the primary recipient of water from the RWS.

1. The Draft EIR Is Inadequate Because It Fails To Account For And Analyze The State Water Resources Control Board's (SWRCB) San Francisco Bay/Sacramento-San Joaquin Delta Estuary Water Quality Control Plan (Bay-Delta Plan)

Discussion and analysis of the impacts of the Bay-Delta Plan in the Draft EIR are insufficient. The Bay-Delta Plan was adopted by the SWRCB in December of 2018.¹ As written, the Bay-

¹ https://www.waterboards.ca.gov/plans_policies/docs/2018wgcp.pdf

BAWSCA Comment Letter – Plan 2050 Draft EIR
 July 19, 2021
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Delta Plan will significantly reduce water supply reliability to the RWS and for BAWSCA Member Agencies, particularly during times of drought. The Draft EIR fails to assess the water supply shortfalls and significant environmental impacts from the proposed Plan that would result if the SFPUC were compelled to drastically reduce water deliveries throughout the RWS service territory in response to the adopted Bay-Delta Plan. This critical omission constitutes an abuse of discretion because the Draft EIR fails to proffer any justification for why these impacts are not significant under CEQA, and, in fact fails to present any analysis whatsoever regarding such impacts. (Pub. Res. Code, §§ 21168.5, 21100(b)(1).) There is a total disconnect between the proposed Plan's anticipated growth in population, jobs, and housing and the RWS' ability to accommodate the planned growth given the significant water supply reductions resulting from the Bay-Delta Plan. A more comprehensive description is necessary as well as an analysis of the impacts from implementation of the Bay-Delta Plan.

76-2
 cont.

1.1. Section 3.10.2 And 3.14.2 Are Incomplete Because They Do Not Include The Bay-Delta Plan In The Regulatory Setting

Sections 3.10.2 and 3.14.2 of the Draft EIR provide the Regulatory Setting for the Hydrology and Water Quality (3.10) and Public Utilities and Facilities (3.14) impacts analysis. Neither section includes a description or an analysis of the impacts from implementation of the Bay-Delta Plan. BAWSCA requests that ABAG and the MTC revisit these sections to include a description of the Bay-Delta Plan in the respective Regulatory Setting sections. The description of the Bay-Delta Plan should include objectives, flow requirements, regulatory authority, and the timeline for implementation. BAWSCA offers the following language for consideration.

In December 2018, the State Water Resources Control Board ("SWRCB") adopted amendments to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Plan Amendment) to establish water quality objectives to maintain the health of the Bay-Delta ecosystem. The SWRCB is required by law to regularly review this plan. The adopted Bay-Delta Plan Amendment was developed with the stated goal of increasing salmonid populations in three San Joaquin River tributaries (the Stanislaus, Merced, and Tuolumne Rivers) and the Bay-Delta. The Bay-Delta Plan Amendment requires the release of 30-50% of the "unimpaired flow" on the three tributaries from February through June in every year type.

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The Bay-Delta Plan states the February through June flow objectives will be fully implemented by the year 2022. (Bay-Delta Plan at p. 24.)

1.2. The Water Supply Analysis In Section 3.14 Is Inadequate Because It Fails To Consider The Impacts Ff The Bay-Delta Plan

Section 3.14: Public Utilities and Facilities fails to consider how implementation of the Bay-Delta Plan will impact water supplies. As stated above, the Bay-Delta Plan has been adopted and requires unimpaired flows between 30% and 50% (starting at 40%) on the Tuolumne River, the primary water supply source for the SFPUC and BAWSCA member agencies, and commits the SWRCB to fully implement the flow objectives by 2022. Therefore, ABAG and the MTC must

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BAWSCA Comment Letter – Plan 2050 Draft EIR

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analyze the impacts of the Bay-Delta Plan on water supply reliability and the ability of water agencies to meet future water demands from increased population, housing, and jobs.

As described in Section 2 of the proposed Plan, "Project Description," the regional growth forecast for the Bay Area projects that by 2050, the region will support an additional 2.7 million residents and 1.4 million jobs, resulting in 1.4 million new households. The Draft EIR identifies areas where: 1) there is an existing forecasted shortage in long-term supplies that would need to be met by imported water or additional water conservation, reuse, and recycling; or 2) where the proposed Plan projects population or jobs beyond what is assumed in current Urban Water Management Plans (UWMPs) and could result in a potential shortage. (Draft EIR at p. 3.14-36.)² However, this does not include the impacts and water shortages from the Bay-Delta Plan. The Draft EIR fails entirely to account for how the water shortages anticipated from the Bay-Delta Plan will accommodate the proposed Plan's anticipated increased population and housing, or the resulting impacts from insufficient water supplies. As part of the CEQA Guidelines' provisions governing the environmental setting, the Guidelines require an EIR to discuss any inconsistencies between the proposed project and applicable general plans, specific plans, and regional plans, including applicable water quality control plans like the Bay-Delta Plan. (CEQA Guidelines, §15125(d).)

In *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, the Supreme Court identified specific requirements for an adequate analysis of water supply issues in an EIR. The Court explained that future water supplies identified and analyzed in an EIR must be reasonably likely to prove available. Speculative sources and unrealistic allocations do not provide an adequate basis for decision making. When a full analysis of future water supplies for a project leaves some uncertainty regarding the availability of future supplies, the EIR must discuss possible replacement or alternative supply sources, and the environmental effects of resorting to those alternative supply sources. Informational purposes are not satisfied by an EIR that simply ignores or assumes a solution to the problem of supplying water. The future water supplies identified and analyzed must bear a likelihood of actually proving to be available; speculative sources and unrealistic allocations are insufficient bases for decision making under CEQA. Finally, where, despite a full discussion, it is impossible to confidently determine that anticipated future water sources will be available, CEQA requires some discussion of possible replacement sources or alternatives to use of the anticipated water, and of the environmental consequences of those contingencies. (*Id.* at 432.)

76-4
cont.

Further, an EIR must identify and describe the project's significant environmental effects, including direct, indirect, and long-term effects. (Pub. Res. Code, §21100(b)(1); CEQA Guidelines, §15126.2(a).) An EIR may include some degree of forecasting in evaluating a project's environmental impacts. (CEQA Guidelines, §15144; *San Francisco Ecology Ctr. v. City & County of San Francisco* (1975) 48 Cal. App.3d 584, 595.) Lead agencies must use their best efforts to find out and disclose all that they reasonably can, although they are not required to foresee the unforeseeable. (CEQA Guidelines, §15144.) The Draft EIR should be revised to account for the impacts from implementation of the Bay-Delta Plan.

With the Bay-Delta Plan implementation, it is projected that the SFPUC will be able to meet the projected water demands in normal years, but would experience supply shortages and require rationing in single dry years or multiple dry years. During single dry years, there would be an

² As discussed below, the Draft EIR does not use the most recent and updated UWMPs.

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anticipated 30 to 40% shortage of RWS supplies. When allocated among retail and BAWSCA agencies and compared to RWS demand, this would result in a 14% to 25% shortfall for SFPUC retail customers, and a 36% to 46% shortfall to BAWSCA member agencies. In a multiple dry year event, there would be anticipated shortages in RWS supplies for all projected years, ranging from 30% to 49% shortages. When allocated among retail and BAWSCA agencies and compared to RWS demand, this would result in an anticipated shortfall up to 35% for SFPUC retail customers, and up to 54% for BAWSCA member agencies. These impacts are characterized and quantified in Section 8 of the SFPUC's 2020 UWMP.³

76-4
 cont.

BAWSCA requests that ABAG and the MTC revisit Section 3.14 and include a complete analysis of the Bay-Delta Plan impacts on water supply reliability.

1.3. Impacts From Reasonably Foreseeable Methods Of Complying With The Bay-Delta Plan And Addressing The Resulting Water Supply Shortages Are Not Identified Or Analyzed

Consideration of the impacts from implementation of the Bay-Delta Plan should include an analysis of reasonably foreseeable methods water agencies will use to comply with the Bay-Delta Plan, address the resulting water shortages, and the associated environmental impacts. As shown in the SFPUC and BAWSCA member agencies' 2020 UWMPs, implementation of the Bay-Delta Plan will result in RWS system-wide cutbacks between 30% and 49% in single and multiple dry years. This results in RWS cutbacks to BAWSCA member agencies between 36% and 54%. As previously stated, BAWSCA member agencies purchase roughly two-thirds of their water from the RWS. Several BAWSCA member agencies rely solely on the RWS for their water supply source.

Cutbacks to this degree will require BAWSCA member agencies to take extraordinary actions to provide water to their existing and future customers to meet basic health and safety needs. An EIR must address the impacts of "reasonably foreseeable" future activities related to the proposed Plan. (*Laurel Heights Improvement Ass'n v Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 398-399; see also CEQA Guidelines, §15126 [EIR's impact analysis must consider all phases of project.]) The Draft EIR must identify and analyze these methods for complying with the Bay-Delta Plan, addressing water shortages, and the resulting environmental impacts from these actions, which include, but are not limited to:

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- Increased reliance on groundwater and other surface water supplies;
- Inability to conserve additional water as a result of past conservation efforts and demand hardening;
- Decreased water available for urban landscaping resulting in the death of mature trees, reduced carbon conversion and increased heat in urban areas; and
- Severe rationing and moratoria on new development, resulting in displaced growth and urban sprawl.

³ SFPUC 2020 UWMP: https://www.sfpuc.org/sites/default/files/programs/local-water/SFPUC_2020_UWMP2020%20FINAL.pdf

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Considering that a central tenet of Plan Bay Area 2050 is to encourage growth along transportation lines in an equitable and sustainable manner, it would seem prudent to analyze these reasonably foreseeable impacts resulting from the adopted Bay-Delta Plan. The Draft EIR fails to analyze the environmental impacts that would result from increased reliance on local groundwater and surface water supplies. Adverse effects from increased groundwater pumping may include, but are not limited to, declining water quality, overdraft, subsidence, and sea water intrusion. Agencies that rely solely on the RWS would seek to acquire new water supplies, which would have resulting environmental impacts, increase water rates, and possibly price out low-income residents.

If available water supplies are insufficient to meet demand, BAWSCA member agencies would consider implementing a development moratorium (e.g., "no new hook up") which would cause economic impacts and additional impacts from displaced growth and urban sprawl. An EIR must discuss growth-inducing impacts from a project. (Pub. Res. Code, § 21065.3; CEQA Guidelines, §15126(d).) The imposition of a moratorium on development in the BAWSCA service area would exacerbate the existing housing issues and further push housing growth out of the high-density areas of the Bay Area to the eastern and southern most portions of the Bay Area and to the western San Joaquin Valley. This would directly conflict with the purposes of the proposed Plan. Most of the region's farmlands and natural areas that are threatened by sprawl are in communities at the edges of the region, such as southern Santa Clara County, eastern Contra Costa County, and Solano County. Urban Sprawl has two primary impacts: 1) it increases per capita land consumption, and 2) it disperses development, which increases the distances between common destinations, increasing the costs of providing public infrastructure and services, and the transportation costs required to access services and activities.

76-5
cont.

The Draft EIR does not identify or analyze these reasonably foreseeable methods of compliance and actions by water agencies, or the potentially significant impacts resulting from these actions. Areas in which anticipated impacts are likely to result include:

- Reduction in the water supplies and the resulting significant impact on the Bay Area's economy, environment and impacts on public health;⁴ and
- Inadequate water supplies and resultant moratoria on housing development resulting in displaced growth and urban sprawl that sharply conflict with predicted Bay Area population growth and accompanying need for greater housing and transportation.

The ultimate question under CEQA is not whether an EIR establishes a likely source of water, but whether it adequately addresses the reasonably foreseeable impacts of supplying water to the project. (*Vineyard Area Citizens for Responsible Growth, Inc.*, 40 Cal.4th at p. 434.) Given the failure of the Draft EIR to evaluate the water supply impacts from the Bay-Delta Plan, the

⁴ The California Legislature has made clear that public health and safety are of "great importance" in CEQA's statutory scheme. (Pub. Resources Code, §§ 21000(b), (c), (d), (g); 21001(b), (d); *California Bldg. Industry Assn. v. Bay Area Air Quality Management Dist.* (2015) 62 Cal.4th 369, 386.) For example, Public Resources Code section 21083(b)(3) requires a finding of a "significant effect on the environment" whenever "[t]he environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly." California policy dictates that all humans have a right to water adequate for human consumption, cooking, and sanitary purposes. (Wat. Code, § 106.3.)

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water supply analysis is inadequate and fails entirely to consider the extent of water supply shortages, and how those shortages would be exacerbated by the proposed Plan's anticipated population and housing increases. BAWSCA requests that ABAG and the MTC revisit Sections 3.10: Hydrology and Water Quality and 3.14: Public Utilities and Facilities to properly analyze the impacts from reasonably foreseeable methods water agencies will use to comply with the Bay-Delta Plan.

76-5
 cont.

2. The Draft EIR Is Inadequate Because It Fails To Analyze The Impact Of The Federal Energy Regulatory Commission Licensing And Certification Process For New Don Pedro Reservoir

As previously stated, the Bay-Delta Plan is not self-implementing. Flow requirements must be allocated through regulatory and/or adjudicatory proceedings, such as a comprehensive water rights adjudication or, in the case of the Tuolumne River, may be implemented through the water quality certification process set forth in section 401 of the Clean Water Act as part of the Federal Energy Regulatory Commission's (FERC) licensing proceedings for the Don Pedro and La Grange hydroelectric projects. The Final Environmental Impact Statement for the Don Pedro project was released by FERC on July 7, 2020 (FERC/EIS-0293F, July 2020).⁵ A "water bank" in Don Pedro Reservoir provides additional storage that is integrated into the RWS operations. The re-licensing of the Don Pedro reservoir by FERC may require additional water released from the Don Pedro Reservoir for the preservation of aquatic species in the lower Tuolumne River, potentially affecting the yield of the RWS.

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On January 15, 2021, the SWRCB released the Clean Water Act section 401 Water Quality Certification for the Turlock Irrigation District and Modesto Irrigation District Don Pedro Hydroelectric Project and La Grange Hydroelectric Project, FERC Project Nos. 2299 and 14581 (WQC).⁶ The WQC's requirements differ significantly from the recommended flows and conditions that FERC has analyzed in the Staff Alternative of its Final Environmental Impact Statement for the licenses. The WQC includes the 40% unimpaired flow objective from the Bay-Delta Plan, as well as additional conditions that, if incorporated into FERC licenses for the Don Pedro Project, would more severely impact SFPUC's water supplies. Data presented in the City and County of San Francisco's petition for reconsideration of the WQC before the SWRCB dated February 16, 2021, indicates that if the WQC were to be enacted, required rationing during single-year and extended periods of drought would range between 75 and 90 percent under present and future demand levels. To date, FERC has not taken action to incorporate the WQC into the licenses or to finalize the licenses for issuance. However, the draft EIR must consider the impacts on water supply from these foreseeable actions. (*Laurel Heights Improvement Ass'n*, 47 Cal.3d at 398-399.)

2.1. Section 3.14.2 Is Incomplete Because It Does Not Include The FERC Licensing And Water Quality Certification For Don Pedro Dam In The Regulatory Setting Section

76-7

⁵ <https://elibrary.ferc.gov/elibrary/ldmws/common/OpenNat.asp?fileID=15576184>

⁶ https://www.waterboards.ca.gov/docs/dplq_fwqc_complete_20210105.pdf

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Section 3.14.2 provides the Regulatory Setting for the Public Utilities and Facilities of the Draft EIR. It does not include the FERC licensing and WQC process, which, as stated above, may have significant impacts to water supply reliability for the SFPUC and BAWSCA member agencies. BAWSCA requests that ABAG and the MTC revisit Section 3.14 to include a description of the FERC licensing process in the Regulatory Setting section, including the released WQC.

76-7
 cont.

3. Impact PUF-1 Is Inadequately Analyzed And Mitigation Measure PUF-1(A) Is Insufficient

Impact PUF-1 considers how implementation of Plan Bay Area 2050 may “*require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities the construction or relocation of which could cause significant environmental effects.*” However, because impacts of the Bay-Delta Plan, FERC licensing and the WQC, and the resulting significant water supply gap in single and multiple dry years are not considered, the analysis of Impact PUF-1 is insufficient.

The SFPUC and BAWSCA member agencies have stepped up efforts to identify and secure alternative water supplies to reduce water supply shortfalls and rationing during droughts. However, these water supply projects are large, expensive, and take several years to design and develop. In early 2020, the SFPUC began implementation of the Alternative Water Supply Planning Program (“AWSP”) to investigate and plan for new water supplies to address future long-term water supply reliability challenges and vulnerabilities on the RWS. As stated in the SFPUC’s 2020 UWMP, projects identified through the AWSP will take 10 to 30 years to implement.⁷ With implementation of the Bay-Delta Plan scheduled for 2022, there simply is not enough time to construct new or expanded water facilities to meet increased demand from population growth in single and multiple dry years.

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An EIR must identify and describe any feasible measures that can be implemented to reduce or avoid each potentially significant environmental effect of the project. (CEQA Guidelines, §15126.4(a)(1).) Mitigation Measure PUF-1(a) (and PUF-2 discussed below) is insufficient to address increased water demand from the Project, especially with implementation of the Bay-Delta Plan, and merely defers identifying, analyzing, and mitigating potentially significant effects of new developments until those projects go through CEQA review. Mitigation measures should describe the specific actions that will be taken to reduce or avoid an impact. It is ordinarily inappropriate to defer formulation of a mitigation measure to the future. (CEQA Guidelines, §15126.4(a)(1)(B).)

The likelihood of new water supply projects being implemented in a timely manner and providing enough water to make up the shortfalls due to the Bay-Delta Plan, FERC licensing, and the WQC should be analyzed, and additional mitigation should be proposed, if necessary, to address associated impacts. Further, any water supply project will have environmental impacts that must be considered. If a mitigation measure identified in an EIR would itself cause

⁷ See Section 7.4, page 7-6 of the SFPUC’s adopted 2020 UWMP (link provided above).

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BAWSCA Comment Letter – Plan 2050 Draft EIR
 July 19, 2021
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significant environmental impacts distinct from the significant effects caused by the project, those impacts must be discussed in the EIR, but in less detail than the project's significant impacts. (CEQA Guidelines, §15126.4(a)(1)(D).)

76-8
 cont.

4. Impact PUF-2 Is Inadequately Analyzed And Mitigation Measure PUF-2(A) Is Insufficient

Impact PUF-2 considers whether there may be *“insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years.”* Because impacts of the Bay-Delta Plan, FERC licensing, and the WQC were not considered, Impact PUF-2 was not sufficiently analyzed. Specifically, because the significant level of rationing that may be required in single and multiple dry years was not characterized or quantified, the proposed mitigation measures cannot be analyzed to determine whether they are adequate to mitigate potentially significant impacts. Further, BAWSCA and its member agencies have implemented conservation measures and expanded recycled water use as suggested in Mitigation Measure PUF-2(a) for many years, if not decades. BAWSCA member agencies intend to continue these projects, and water saving benefits have been quantified and included in their respective 2020 UWMPs. Those UWMPs demonstrate that Mitigation Measure PUF-2(a) is insufficient for closing the gap on water supply rationing that may result from implementation of the Bay-Delta Plan, FERC licensing, and the WQC.

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Section 3.14.3, page 3.14-43 states, *“Future development projects would be required to comply with Water Code Section 10910 and Section 10912, as described above in the Regulatory Setting, under ‘Water Supply Assessment and Water Supply Verification.’ The enforcement of these regulations by local jurisdictions would ensure that a water supply assessment is prepared to demonstrate that sufficient water would be available to serve development projects before their approval.”*

This statement is conclusory. For many BAWSCA member agencies, these water supply assessments may demonstrate that there is insufficient water to serve new development projects (including new housing projects anticipated in the proposed Plan) from implementation of the Bay-Delta Plan, FERC licensing and the WQC. The sufficiency of an available supply of water to meet the anticipated population, job and housing growth in the proposed Plan should be fully analyzed in this Draft EIR, not when municipalities and water agencies are required to conduct a water supply assessment under Water Code Sections 10910 and 10912 for development projects aimed at accommodating that growth.

5. The Draft EIR Relies On Out-Of-Date Water Supply Reliability Forecasting 2020 Urban Water Management Plans

Under the Urban Water Management Planning Act, the SFPUC and the majority of BAWSCA agencies must prepare an UWMP for submittal to the Department of Water Resources (DWR) every five years. The UWMPs provide the long-term resource planning of each agency and ensure that adequate water supplies are available to meet existing and future needs.

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BAWSCA Comment Letter – Plan 2050 Draft EIR

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The Draft EIR relies on outdated water supply information provided in urban water suppliers' 2015 UWMPs. Significant changes have occurred since the 2015 UWMPs were adopted, including major legislation on conservation, efficiency, and the Bay-Delta Plan. Therefore, those plans are no longer current and do not accurately represent the water supply and demand forecasts for the SFPUC and BAWSCA member agencies. For example, Chapter 3.14.3, page 3.14-43 of the Draft EIR states, "As shown in Table 3.14-2, the major water suppliers in the region are projected to be able to supply adequate water for their projected service populations through 2040 during normal years, apart from Solano County Water Agency..." This is no longer an accurate characterization of projected water supply availability. As shown in Table 8-3 of the SFPUC's 2020 UWMP, water supply shortages are anticipated in single and multiple dry years through 2045.

76-10
cont.

All water suppliers in the BAWSCA service area (i.e., the SFPUC, Alameda County Water District ("ACWD"),⁸ and the Santa Clara Valley Water District ("Valley Water")⁹ have adopted their 2020 UWMPs or have made drafts publicly available. BAWSCA requests that ABAG and the MTC utilize data from the 2020 UWMPs to characterize water supply reliability in Section 3.14 of the Draft EIR.

6. Errors And Inaccuracies

BAWSCA has identified the following errors and inaccurate information and requests that ABAG and the MTC make the following suggested corrections.

- Section 3.14.1, page 3.14-2: Suggest editing the following sentence, "BAWSCA's goals are to ensure a reliable water supply, high-quality water, and a fair price for its customers" to read, "BAWSCA's goals are to ensure a reliable supply of high-quality water at a fair price for its service area."
- Section 3.14.1, page 3.14-5: San Francisco Public Utilities Commission section, first paragraph, second sentence should be corrected to read, "water treatment plants" not, "water treatment plans."
- Section 3.14.1, page 3.14-5: San Francisco Public Utilities Commission section, third paragraph, last sentence references gross and nonresidential demand in 2015. 2015 was a drought year and not necessarily representative. Suggest using data from the SFPUC's 2020 UWMP.
- Section 3.14.1, page 3.14-8: Imported Water section, note that the SWP also delivers water to the Central Coast and southern California. BAWSCA suggests listing those regions as well.
- Section 3.14.1, page 3.14.10: Desalination section, second paragraph, last two sentences should be corrected to read, "treatment plants" not "treatment plans" and "may result in additional future supplies..." not, "may result in addition of future supplies..."

76-11

⁸ ACWD 2020 UWMP: <https://www.acwd.org/DocumentCenter/View/3816/Final-2020-2025-UWMP>

⁹ Valley Water 2020 UWMP: <https://fta.valleywater.org/dl/kvoCB45HuH/?>

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- Section 3.14.1, *Table 3.14-2: Projected Normal Year Supply and Demand (Acre Feed/Year)* and *Table 3.14-3: Year of Projected Water Shortages (Single Dry Year)*. Update with 2020 UWMP data.
 - Note that there is double counting between the SFPUC's and ACWD's supply/demand, and between the SFPUC and Valley Water with regards to the eight shared customers. BAWSCA suggest including a footnote identifying the overlap so there's no confusion for the reader.
- Section 3.14.1, page 3.14-14: Wastewater Treatment section, second paragraph should be corrected to read "pump stations" not "pipe stations..." This sentence is also missing a comma after "interceptor stations..."
- Section 3.14.1, *Table 3.14-4: Wastewater Treatment Facilities in the Region*: Note that CMSA's service area is much larger than listed and includes the areas listed for RVSD. Also note that RVSD is not a treatment agency. RVSD provides wastewater collection services only and conveys that wastewater to CMSA. Other wastewater collection agencies that convey wastewater to CMSA (i.e., the City of San Rafael and the Town of Corte Madera) are not listed as treatment agencies.
- Section 3.14.2, page 3.14-34: MWELO section, last sentence should be corrected to state that agencies "must" adopt ordinances that are as stringent, if not more, than MWELO.
- Section 3.14-3, *Table 3.14-8: Projected Service Area Population of Major Bay Area Water Agencies*, footnote 2 incorrectly states that the SFPUC is a wholesale water provider to BAWSCA. This should be corrected to state that the SFPUC is a wholesale water provider to BAWSCA member agencies.

76-11
 cont.

Thank you for the opportunity to comment on the Draft EIR. Based on the significant findings highlighted in this letter, BAWSCA requests that ABAG and the MTC make the required changes and recirculate the Draft EIR. BAWSCA is available to meet with ABAG and MTC staff to discuss these comments and the water supply impacts from the proposed Plan further.

Please contact Tom Francis, BAWSCA Water Resources Manager, at TFrancis@BAWSCA.org, if you have any question or for follow up discussions.

Regards,



Nicole Sandkulla
 Chief Executive Officer and General Manager

cc: BAWSCA Board of Directors
 BAWSCA Water Management Representatives
 Allison Schutte, Hanson Bridgett, LLP

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Letter 76
Bay Area Water Supply & Conservation Agency
Nicole Sandkulla

Thank you for your comments. Your interest is appreciated, and your comments are now a part of the official record on the proposed Plan.

76-1

Most of this comment contains information about BAWSCA and does not raise environmental issues. This part of the comment is noted for consideration during project review. The commenter also requests that, based on other comments in the letter, MTC recirculate the Draft EIR. Revisions to the Draft EIR have been made in response to comments 76-3 and 76-11, which raise specific recirculation claims. CEQA does not require recirculation of the Draft EIR because those responses do not add significant new information to the EIR (the criteria for recirculation), as defined in Section 15088.5 of the State CEQA Guidelines. Please refer to responses to comments 76-3 and 76-11 for a more specific discussion of why recirculation is not required in response to each of those comments. Revisions were not made in response to any other comments in this letter.

76-2

Regarding the comment that “the Draft EIR fails to proffer any justification for why these impacts [from the Bay-Delta Plan] are not significant under CEQA,” note that the Draft EIR concludes that water supply impacts, as assessed under Impact PUF-2 are significant and unavoidable.

MTC respectfully disagrees with the claim that the EIR must separately evaluate potential water supply shortfalls resulting from implementation of the 2018 Bay-Delta Plan Amendment for several reasons. Such an evaluation would be speculative, the EIR incorporates information available at the time of the release of the NOP, the EIR has an adequate degree of specificity, and the EIR relies on UWMPs for regional information regarding water supply.

Regarding impacts that are speculative in nature, CEQA Guidelines section 15145 states that “If after thorough investigation, a Lead Agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact.” The *Urban Water Management Plan Guidebook 2020* provides guidance on water supply characterization. It states that (DWR 2021:6-47):

Emerging regulatory conditions and planned future projects may also affect characterization of future water supply availability and analysis. For example, an emerging regulatory issue that may prove valuable in assessing current and future water supplies could include new or different regulatory requirements in the Regional Water Quality Control Plan, such as incorporation of elements in the Bay-Delta Water Quality Control Plan to reduce reliance on the Delta.

In consideration of the 2018 Bay-Delta Plan Amendment’s possible effects on water supply, SFPUC addresses the 2018 Bay-Delta Plan Amendment in its 2020 UWMP (released after the NOP was published), and states (SFPUC 2021:7-3):

If the Bay-Delta Plan Amendment is implemented, the SFPUC will be able to meet the projected water demands presented in this UWMP in normal years but would experience supply shortages in single dry years or multiple dry years. Implementation of the Bay-Delta Plan Amendment will require rationing in all single dry years and multiple dry years.

The SWRCB has stated that it intends to implement the Bay-Delta Plan Amendment on the Tuolumne River by the year 2022, assuming all required approvals are obtained by that time. But implementation of the Plan Amendment is uncertain for multiple reasons.

The 2020 UWMP explains why implementation of the Plan Amendment is uncertain. The reasons for that conclusion include (SFPUC 2021:7-3 to 7-4):

- ▲ Since adoption of the Bay-Delta Plan Amendment, over a dozen lawsuits have been filed in both state and federal courts, challenging the SWRCB's adoption of the Bay-Delta Plan Amendment, including a legal challenge filed by the federal government, at the request of the U.S. Department of Interior, Bureau of Reclamation. This litigation is in the early stages and there have been no dispositive court rulings as of this date.
- ▲ The Bay-Delta Plan Amendment is not self-implementing and does not automatically allocate responsibility for meeting its new flow requirements to the SFPUC or any other water rights holders. Rather, the Bay-Delta Plan Amendment merely provides a regulatory framework for flow allocation, which must be accomplished by other regulatory and/or adjudicatory proceedings, such as a comprehensive water rights adjudication or, in the case of the Tuolumne River, may be implemented through the water quality certification process set forth in section 401 of the Clean Water Act as part of the Federal Energy Regulatory Commission's (FERC) licensing proceedings for the Don Pedro and La Grange hydroelectric projects.
- ▲ On January 15, 2021, the SWRCB released the Clean Water Act section 401 Water Quality Certification for the Turlock Irrigation District and Modesto Irrigation District Don Pedro Hydroelectric Project and La Grange Hydroelectric Project, FERC Project Nos. 2299 and 14581 (WQC). The WQC includes the 40% unimpaired flow objective from the Bay Delta Plan Amendment, as well as additional conditions that, if incorporated into FERC licenses for the Don Pedro and La Grange Projects, would severely impact SFPUC's water supply; the WQC's requirements differ significantly from the recommended flows and conditions that FERC has analyzed in the Staff Alternative of its Final Environmental Impact Statement for the licenses. To date, FERC has not taken action to incorporate the WQC into the licenses or to finalize the licenses for issuance. At this time, it is highly uncertain whether the WQC will be implemented by either the state or federal government for several reasons[.]

As a result of the uncertainty, SFPUC evaluates two scenarios in its 2020 UWMP: one with implementation of the Bay-Delta Plan Amendment, and one without implementation of the Bay-Delta Plan Amendment. Additionally, negotiations about a voluntary agreement as an alternative for a future amendment are ongoing (SFPUC 2021:7-4 to 7-5).

Other UWMPs address the Bay-Delta Plan in a similar manner. For example, Alameda County Water District describes the Bay-Delta Plan Amendment's unimpaired flow requirement and states, that "[t]he establishment of this [unimpaired flow] requirement has directly impacted the future reliability of SFPUC [Regional Water System] and is reflected in this UWMP" (ACWD 2021:3-6). However, the UWMP also states, "[a]t this time, the potential impacts of this [unimpaired flow] requirement on the SWP are unknown and are therefore not reflected in this UWMP" (ACWD 2021:3-6). East Bay Municipal Utility District notes in its UWMP that the SWRCB is in the process of updating the Bay-Delta Plan (EBMUD 2021:20). The Santa Clara Valley Water District (SCVWD) addresses the Bay-Delta Plan Amendment in its 2020 UWMP and notes that they "filed a lawsuit in January 2019 challenging the amendments to the Bay-Delta Plan" and that numerous other lawsuits were filed, all of which are in

“preliminary procedural stages” (SCVWD 2021:38). SCVWD is also working on voluntary agreements (SCVWD 2021:38).

Based on the information in the SFPUC UWMP and the information in several other UWMPs that indicate substantial uncertainty as to the potential implementation of the Bay-Delta Plan and potential impacts should it be implemented, MTC finds discussion of impacts from implementation of the Bay-Delta Plan to be speculative under CEQA, such that it need not be considered when evaluating the proposed Plan’s impacts on water supply sufficiency.

CEQA Guidelines Section 15125(a) provides that the environmental setting, and the baseline upon which impact are considered, are normally those conditions that exist at the time the NOP is published. The NOP was released in September 2020 (and the Draft EIR was released in June 2021). SFPUC released its 2020 UWMP in June 2021, and so the Draft EIR therefore relied on SFPUC’s 2015 UWMP, as well as other relevant UWMPs. This is consistent with the CEQA Guidelines. UWMPs are updated regularly, and it is not unusual that one may be updated following release of the NOP. See “Master Response 3: Water Supply” for a further discussion of the baseline for environmental analysis of the proposed Plan as it relates to 2020 UWMPs. Further, Plan Bay Area is updated every 4 years and updated UWMPs will be reflected in future EIRs as the Plan is updated. Therefore, continually updating the baseline as additional planning documents are released during the CEQA process is not required.

Additionally, CEQA Guidelines section 15146 states that “The degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR.” Subsection 15146(a) explains that “An EIR on a construction project will necessarily be more detailed in the specific effects of the project than will be an EIR on the adoption of a local general plan or comprehensive zoning ordinance because the effects of the construction can be predicted with greater accuracy.” Conclusions in the EIR must also be supported by substantial evidence. The Draft EIR explains on page 3.1-4 the level of detail in the Draft EIR:

As a program-level EIR that addresses the entire nine-county, 101-city region, this document does not address the impacts of individual land use and transportation projects in detail; the focus of this analysis is on addressing the impacts of implementation of the Plan’s 35 strategies as a whole.

The proposed plan does not entitle land uses; these entitlements are provided by local land use agencies (the nine counties and 101 cities cited above.) Water supply is assessed under Impact PUF-2 and relies on UWMPs prepared by these same local jurisdictions who will decide on land use entitlements (subject to CEQA), including the San Francisco Public Utilities Commission. The Draft EIR assesses the sufficiency of water supply on a regional level. The analysis notes the various projections of supply adequacy in the Plan area among Bay Area water agencies through consideration of their UWMPs. For example, for San Francisco, the Draft EIR notes on page 3.14-36 that:

In some areas, such as the City and County of San Francisco and the Santa Clara Valley, adequate supply through 2040 depends on substantial water conservation efforts. In San Francisco, the ability for supply projects to move forward depends on multiple factors such as environmental review, permitting requirements, public acceptance, and the availability of funding.

See also Table 3.14-8, which considers projected 2050 households in the service area of the SFPUC. Therefore, the Draft EIR discloses impacts related to water supply sufficiency at an appropriate level of detail for the Plan vis a vis consideration of UWMPs in the Plan Area. UWMPs incorporate special conditions that may affect each water supplier’s water supplied. The *Urban Water Management Plan Guidebook 2020* describes special conditions, including climate change effects, regulatory conditions and project development, and other locally applicable criteria. The Guidebook states that numerous special conditions may affect each supplier’s water supplies and, as each water supply is considered

and described, suppliers can incorporate reasonable assertions about climatological, regulatory, and other local conditions that may affect water supply availability, especially when considering the supply's availability for the service reliability and drought risk assessments during single dry years and drought periods lasting five consecutive years (DWR 2021).

As explained in response to comment 76-10, SFPUC's 2020 UWMP indicates that there would be shortages only in multiple dry years without implementation of the Bay-Delta Plan Amendment, which is consistent with the Draft EIR's analysis. In its scenario that incorporates implementation of the Bay-Delta Plan Amendment, SFPUC's 2020 UWMP anticipates water supply shortages in single and multiple dry years. The Draft EIR, in considering UWMPs prepared for an array of providers in the Plan area, also considers a range of water supply projections and considerations so that the significance conclusion regarding water supply (Impact PUF-2) is based on consideration of a combination of all scenarios in the Plan area (see Draft EIR pages 3.14-43 through 3.14-44). The Draft EIR also considers other factors, such as climate change-related periods of drought (see Draft EIR page 3.14-44, paragraph 1). The Draft EIR also notes the uncertainty of water supply availability emanating from the proposed Plan's horizon being 10 – 15 years further than 2015 UWMPs (see Draft EIR page 3.14-45). Therefore, the Draft EIR's discussion accounts for a variety of inherent uncertainties around water supply and water supply planning, which accounts for situations such as the consideration of the Bay-Delta Plan. Additionally, the conclusion that water supply impacts would be significant and unavoidable are supported by substantial evidence because the EIR considers the UWMPs in the Plan area that account for water supply in the region. Therefore, the evaluation of the Plan's impacts on water supply is adequate under CEQA for this tier of decision-making.

76-3

The commenter indicates that Draft EIR Section 3.10, "Hydrology and Water Quality," and Section 3.14, "Public Utilities and Facilities," of the Draft EIR do not describe or analyze impacts from implementation of the Bay-Delta Plan Amendment. The EIR is required to disclose impacts of the proposed Plan, while the State Water Resources Control Board "evaluated the potential environmental effects of reasonably foreseeable methods of compliance with the [Bay-Delta] Plan Amendments" (SWRCB 2018:4); please refer to response to comment 76-2 for a discussion of the EIR's consideration of the Bay-Delta Plan Amendment.

The comment requests that a description of the Bay-Delta Plan be added to Section 3.10, "Hydrology and Water Quality," and Section 3.14, "Public Utilities and Facilities." This change is presented in Chapter 3, "Revisions to the Draft EIR." Comment 76-1 states that recirculation of the EIR is required for the reasons described in the remainder of the letter. Recirculation is required, in summary, when "significant new information" is added to the EIR in a way that would deprive the public of a meaningful opportunity to comment on a substantial adverse impact or a mitigation measure or alternative that mitigates or avoids a substantial adverse impact that the proponent has declined to implement. Examples of such instances include identification of a new significant environmental impact, identification of a substantial increase in the severity of an environmental impact that cannot be mitigated, and consideration of a considerably different feasible alternative or mitigation measure than was considered in the EIR for an unmitigated effect, but that is not adopted. Recirculation is not required when information added to an EIR clarifies, amplifies, or makes insignificant modifications. The revisions described in this response merely add information regarding the Bay-Delta Plan Amendment and do not change the project impact analysis or conclusions. Furthermore, as explained in Response to Comment 76-2, the EIR accounts for the Bay-Delta Plan Amendments indirectly through consideration of uncertainties around water supply impacts. Therefore, recirculation is not required.

Page 3.14-31 has been revised as follows to incorporate a description of the Bay-Delta Plan under the header for the State Water Resources Control Board and Regional Water Quality Control Board:

This category of discharges, known as “Non-15” discharges, are the most diverse and include sewage sludge and biosolids, industrial wastewater from power plants, wastes from water supply treatment plants, treated wastewater for aquifer storage and recovery, treated groundwater from cleanup sites, and many others.

The State Water Resources Control Board adopted amendments to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary in 2018. The amendments established water quality objectives to maintain Bay-Delta ecosystem health. The SWRCB intends to implement the Bay-Delta Plan Amendment on the Tuolumne River by 2022; however, its implementation is uncertain for several reasons, including ongoing litigation and because the Bay-Delta Plan Amendment provides a regulatory framework for flow allocation, which must be achieved through other proceedings (SFPUC 2020).

Pages 3.10-16 and 3.10-17 have been revised as follows to incorporate a description of the Bay-Delta Plan under the header for the Porter-Cologne Water Quality Control Act:

The Porter-Cologne Water Quality Control Act (Porter-Cologne Act) established SWRCB and divided the State into nine regions, each overseen by an RWQCB. The nine regional boards have the primary responsibility for the coordination and control of water quality within their respective jurisdictional boundaries. Under the Porter-Cologne Act, water quality objectives are limits or levels of water quality constituents or characteristics established for the purpose of protecting beneficial uses. Each RWQCB must develop, adopt, and implement a Water Quality Control Plan (Basin Plan) for its region. The act requires the RWQCBs must to establish water quality objectives while acknowledging that water quality may be changed to some degree without unreasonably affecting beneficial uses. Designated beneficial uses, together with the corresponding water quality objectives, also constitute water quality standards under the federal CWA. Therefore, the water quality objectives form the regulatory references for meeting State and federal requirements for water quality control.

SWRCB also has adopted several statewide Water Quality Control Plans, including the Bay-Delta Plan. SWRCB adopted amendments to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary in 2018. The amendments established water quality objectives to maintain Bay-Delta ecosystem health. SWRCB intends to implement the Bay-Delta Plan Amendment on the Tuolumne River by 2022; however, its implementation is uncertain for several reasons, including ongoing litigation and because the Bay-Delta Plan Amendment provides a regulatory framework for flow allocation, which must be achieved through other proceedings (SFPUC 2021).

Pages 7-15 and 7-20 have been revised to add the reference cited for this text:

San Francisco Public Utilities Commission. 2021 (June). 2020 Urban Water Management Plan for the City and County of San Francisco. Available https://sfpuc.org/sites/default/files/programs/local-water/SFPUC_2020_UWMP2020_%20FINAL.pdf. Accessed August 4, 2021.

These text revisions clarify the text in the Draft EIR and do not result in substantive changes that would rise to the level of “significant new information” requiring recirculation because they add information to the EIR setting descriptions but do not change any impact analyses or significance conclusions.

76-4

Please refer to Response to Comment 76-2 regarding consideration of the Bay-Delta Plan amendments in the EIR as well as the level of detail provided in the Draft EIR's water supply analysis. Please see also "Master Response 3: Water Supply" for further relevant discussion.

The commenter also summarizes CEQA requirements for water supply impact analysis including *Vineyard Areas Citizens for Responsible Growth v. City of Rancho Cordova* (2007); MTC and ABAG believe the analysis of water supply impacts in the Draft EIR is sufficient under CEQA. As explained in Response to Comment 76-2, the Draft EIR is a program-level EIR that addresses the potential environmental impacts associated with implementation of the proposed Plan as a whole across the entire nine-county region; it appropriately does not address the impacts of individual projects in detail. While the Draft EIR does discuss numerous sources of water - including local surface water and groundwater, imported water, recycled water, desalination, water transfers and water conservation (Draft EIR, pp. 3.14-8 to 3.14-11) - it is not possible to predict with certainty which supplies would be available in the future. For example, as stated in the Draft EIR, climate change is causing water supplies to become less predictable and reliable as drought cycles worsen. (Draft EIR, pp. 3.14-1, 3.14-14, 3.14-45.) Water quality of currently-available supplies may also become impaired by pollution or saltwater intrusion as a result of sea level rise.

Given the uncertainties that often arise in analyzing impacts at a program-level, CEQA does not require first-tier program EIRs to identify specific sources of water for individual, second-tier projects that will undergo further analysis. (*In re Bay-Delta etc.* (2008) 43 Cal.4th 1143, 1169.) Similarly, as stated by the Supreme Court in *Vineyard*, "CEQA should not be understood to require assurances of certainty regarding long-term future water supplies at an early phase of planning for large land development projects." (*Vineyard, supra*, 40 Cal.4th at p. 432.) *Vineyard* further explained that other statutes that address the coordination of land use and water planning demand that water supplies be identified with more specificity at each step, as land use planning and water supply planning move forward from the general, first-tier stages to later more specific stages. (*Id.* at pages 432-434, citing Government Code Section 66473.7 and Water Code Sections 10910-10912). Nor can the impacts associated with identifying future unknown sources of water supply be analyzed because details related to the location, size, design, or setting of specific projects and their individual water needs are not known and cannot be known such that a meaningful evaluation could occur at this time.

As noted above, the proposed Plan does not entitle growth; rather as individual projects are proposed, the requirements embodied in *Vineyard* would need to be fulfilled at the city or county level, as relevant, where the actual entitlement that results in water consumption would be decided. This is reflected in Section 15155 of the State CEQA Guidelines, "Water Supply Analysis; City or County Consultation with Water Agencies." This section of CEQA describes the process by which cities or counties are required to consider water supply for larger projects, as defined therein. It does not apply to entities that are not cities or counties, in this case MTC. Further, the mitigation measures in the Draft EIR require the lead agencies and service providers to ensure available services and utilities, consistent with state law. MTC and ABAG are not the lead agencies with respect to consideration of or approval of development. Each lead agency must determine whether or not services and infrastructure will be available to serve a proposed land use project prior to approval. Whether there is or is not available water or services is analyzed for each jurisdiction overall in their general plan, and for each specific project at the time of approval. To expect MTC or ABAG to fulfill that role is inconsistent with the authority of those two agencies and premature. The member agencies (cities and counties) will fulfill this responsibility within their general plans and with each land use application.

CEQA Guidelines section 15125(d) requires that an EIR "discuss any *inconsistencies* between the proposed project and applicable general plans, specific plans, and regional plans" (emphasis added).

Although implementation of the Bay-Delta Plan Amendment is uncertain, as described in Response to Comment 76-2, this response to comment addresses consistency based on the requirements listed in the Bay Delta Plan Amendment. The comment does not specify how the proposed Plan would conflict with the Bay-Delta Plan Amendments. MTC is not aware of any ways in which the proposed Plan would conflict with the Bay-Delta Plan and does not anticipate any such conflicts. For example, SFPUC began an Alternative Water Supply Planning Program to acquire other water supplies and consider projects that would increase resiliency of the water supply, driven in part by the potential water supply limitations that could result from adoption of the Bay-Delta Plan Amendment (SFPUC 2021:766). Therefore, it does not necessarily follow that increased demand for water would conflict with the unimpaired flow objective.

76-5

Regarding the commenter's concerns about how jurisdictions may respond to implementation of the Bay-Delta Plan Amendment, their comments pertain to potential impacts of the Bay-Delta Plan Amendment, not the proposed Plan. The EIR evaluates impacts of the proposed Plan, as required under CEQA. Additionally, in the context of a consistency analysis under CEQA Guidelines section 15125(d), please refer to Response to Comment 76-4 regarding how SFPUC is responding to the potential implementation of the Bay-Delta Plan Amendment. SFPUC is seeking additional water supplies and projects that would increase water supply resiliency. The comments regarding urban sprawl, reduction in water supplies, and development moratoria, without support, are speculative. Implementation of Mitigation Measure PUF-2 would mitigate the potentially significant water supply impact from future land use projects by requiring coordination with water suppliers, incorporation of on-site water conservation strategies, water budgeting, and incorporation of recycled water for non-potable use. Regarding, impacts related to implementation of the Bay-Delta Plan, please refer to Response to Comment 76-2.

76-6

Please refer to Response to Comment 76-2 regarding consideration of the Bay-Delta Plan Amendment in the EIR. Note that, in determining that implementation of the Bay-Delta Plan Amendment is speculative in its UWMP, SFPUC also considered the Clean Water Act section 401 WQC for the Turlock Irrigation District and Modesto Irrigation District Don Pedro Hydroelectric Project and La Grange Hydroelectric Project, FERC Project Nos. 2299 and 14581 and found it is "highly uncertain whether the WQC [would] be implemented" and "speculative whether the current WQC [would] be placed in the FERC licenses and when those licenses would be issued" (SFPUC 2021:7-3 to 7-4). Thus, impacts related to the FERC incorporation of the WQC into licenses or finalizing the licenses are likewise speculative. Pursuant to CEQA Guidelines Section 15145, "If, after thorough investigation, a Lead Agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusions and terminate discussion of the impact."

76-7

Please refer to Response to Comment 76-6, which explains that impacts related to the FERC incorporation of the WQC into licenses or finalizing the licenses are speculative, and the CEQA requirements to terminate the discussion of the impact in these instances. Further, the CEQA Guidelines do not have specific guidance about the content of the regulatory setting; however, CEQA Guidelines Section 15125(a) states that, "[t]he description of the environmental setting shall be no longer than is necessary to provide an understanding of the significant effects of the proposed project and its alternatives." Because this impact would be speculative, a modification to the environmental setting would not further inform the analysis and is not necessary.

76-8

Please refer to Response to Comment 76-2 regarding consideration of the Bay-Delta Plan Amendment in the EIR.

Water supply related impacts are adequately addressed and mitigated by the Draft EIR. Mitigation Measure PUF-1(a) requires consideration of the capacity of existing public service or utility infrastructure and assigns the relevant service provider or utility with the responsibility for undertaking project-level review, as necessary, to provide CEQA clearance for new facilities. Mitigation Measure PUF-1(f) ensures that construction impacts of any potential additional water supply facilities will be mitigated as required by CEQA. Mitigation Measures PUF-2(a)-(c) provide all feasible mitigation to reduce impacts related to water demand potentially exceeding supply. And Mitigation Measure PUF-1(c) requires implementation of stormwater control, retention, and infiltration features into transportation projects, naming several methods such as vegetated median strips and permeable paving.

As explained in “Master Response 3: Water Supply” and Response to Comment 76-4, the level of analysis provided in the Draft EIR is appropriate for a programmatic analysis. CEQA does not require first-tier program EIRs to identify specific sources of water for second-tier individual projects that will undergo project specific analysis. (*In re Bay-Delta* (2008) 43 Cal.4th 1143, 1169.) The above measures, which will reduce demand, ensure facilities have adequate capacity to accommodate demand, and ensure that impacts related to construction of new facilities will be mitigated, adequately address the impacts identified and the programmatic analysis provides the level of detail that is possible at this first-tier stage of review.

76-9

Regarding consideration of the Bay-Delta Plan Amendment under Impact PUF-2, please refer to response to comment 76-2. The water supply assessment in Impact PUF-2 relies on UWMPs prepared by local jurisdictions, including the San Francisco Public Utilities Commission.

Regarding the statement on Draft EIR page 3.14-43 about water supply assessments, the Draft EIR explains on page 3.14-27, under “Water Supply Assessment and Water Supply Verification,” that, “If supplies are found to be insufficient to serve the project, the WSA must include plans for acquiring sufficient supplies.” As explained in response to comment 76-2, MTC finds discussion of impacts from implementation of the Bay-Delta Plan to be speculative under CEQA, such that it need not be considered when evaluating the proposed Plan’s impacts on water supply sufficiency. Therefore, the evaluation of water supply in the Draft EIR is adequate for the proposed Plan. CEQA Guidelines section 15126.4(a)(1) notes that mitigation measures must be described for significant impacts. Because the impact is speculative, there is no related significant impact to mitigate. Instead, Mitigation Measure PUF-2(a), in addition to Mitigation Measures PUF-2(b) and PUF-2(c), address the impacts described for Impact PUF-2 in accordance with CEQA requirements.

76-10

As explained in Response to Comment 76-2, due to uncertainty about implementation of the Bay-Delta Plan Amendment, SFPUC provides two scenarios in its 2021 UWMP: one with implementation of the Bay-Delta Plan Amendment and one without implementation of the Bay-Delta Plan Amendment. The commenter references Table 8-3 in SFPUC’s UWMP. To clarify, water supply shortages are anticipated in single and multiple dry years only in the scenario that incorporates implementation of the Bay-Delta Plan Amendment in Table 8-3. The scenario without implementation of the Bay-Delta Plan Amendment indicates there would be a shortage only in the fourth and fifth year of a multiple-dry-years scenario. The EIR concluded that, at a regional level, changes in land use projected development from the proposed Plan may result in insufficient water

supplies requiring the acquisition of additional water sources and the imposition of conservation requirements. The Draft EIR continues by stating:

Further, as discussed in the “Drought” subsection in Section 3.14-1, “Environmental Setting,” California, including the Plan area, may face future water supply challenges associated with climate change-related periods of drought. The uncertainty of water supply availability is furthered by the Plan’s 2050 horizon being 10–15 years further than water agency 2015 UWMPs which have a planning horizon of 2035 or 2040. The increase in population-, household-, and jobs-related demand on water supply coupled with potentially reoccurring drought conditions may result in insufficient water supply to serve the Plan area.

Regarding consideration of 2020 UWMPs, the Draft EIR’s evaluation of regional water supply is adequate under CEQA. The Draft EIR is necessarily written at a programmatic level, as explained in response to comments 76-2 and 76-4, given the nature of the proposed Plan. Impact PUF-2, which considers sufficiency of water supply, discusses the variety of factors affecting water supply, including the need for water conservation efforts, water supply expansion, and new water contracts. And, the Draft EIR concludes that the impact would be significant and unavoidable. The UWMPs raised by the commenter, though they have been updated, do not change this analysis or the conclusions:

- ▲ **SFPUC 2020 UWMP:** This UWMP was released in June 2021, the same month as the Draft EIR and nine months after the September 2020 release of the NOP. As explained earlier in this response to comment, SFPUC’s 2020 UWMP indicates that there would be shortages only in multiple dry years without implementation of the Bay-Delta Plan Amendment, which is consistent with the Draft EIR’s analysis. Response to comment 76-2 explains why the Draft EIR does not need to consider implementation of the Bay-Delta Plan Amendment and also covers a range of water supply scenarios and uncertainties. Therefore, the discussion in the Draft EIR is representative of regional water supply conditions.
- ▲ **ACWD 2020–2025 UWMP:** This UWMP was adopted in May 2021, one month prior to the release of the Draft EIR and eight months after the release of the NOP. The Draft EIR relies on ACWD’s 2015–2020 UWMP, noting on page 3.14-37 that ACWD “expect[s] demand to exceed supply during a single dry year before 2040,” and that ACWD “expect[s] demand to exceed supply during multiple dry years before 2040.” This conclusion regarding single dry years is still accurate considering the ACWD 2020–2025 UWMP. The ACWD 2020–2025 UWMP also projects shortages prior to 2040, though it also considers a longer planning horizon and also projects shortages in 2045 (ACWD 2021:9-10). The conclusion during multiple dry years is likewise still accurate under the ACWD 2020–2025 UWMP in that it projects shortages prior to 2040, though it also considers a longer planning horizon and projects shortages in some years between 2041 and 2045 in a multiple-dry-year period (ACWD 2021:9-11 to 9-15). Therefore, the discussion in the Draft EIR is representative of regional water supply conditions.
- ▲ **Santa Clara Valley Water District 2020 UWMP:** This UWMP was released in June 2021, the same month as the Draft EIR and nine months after release of the NOP. The Draft EIR relies on SCVWD’s 2015 UWMP. The Draft EIR states on page 3.14-37 that SCVWD “expect[s] demand to exceed supply during multiple dry years before 2040.” SCVWD’s 2020 UWMP now projects no shortages in supply by 2040 in a multiple dry year scenario and also does not project a shortage in 2045 (SCVWD 2021:48). The Draft EIR states on page 3.14-37 that SCVWD “expect[s] demand to exceed supply during a single dry year before 2040.” SCVWD’s 2020 UWMP now projects no shortages in supply by 2040 in the single dry year scenario and also does not project a shortage in 2045 (SCVWD 2021:47). The Draft EIR considers a more conservative scenario than is presented in the 2020 UWMP for both scenarios because the

UWMP does not project shortages, and the Draft EIR evaluates a scenario where SCVWD has less water available. Therefore, the Draft EIR does not need to be revised.

In addition, please see Response to Comment 76-2 and “Master Response 3: Water Supply” for discussion of the baseline for environmental analysis of the proposed Plan as it relates to water supply and the 2020 UWMPs.

76-11

This comment identifies several possible corrections to the EIR, which are addressed individually in this response. All changes described in this response are presented in Chapter 3, “Revisions to the Draft EIR.” Because the changes made generally correct typographical errors and add minor clarifications, none of the revisions affect the analysis or conclusions in the Draft EIR. Therefore, none of the revisions require recirculation of the Draft EIR.

The comment requests an editorial revision regarding the goals of BAWSCA. Page 3.14-2, paragraph 3, is revised as follows (new text is underlined and deleted text is shown in ~~strikeout~~):

The Bay Area Water Supply & Conservation Agency (BAWSCA) was created on May 7, 2003, and represents 26 water suppliers that purchase water from the San Francisco Regional Water System on a wholesale basis and deliver water to people, businesses, and community organizations in San Mateo, Santa Clara, and Alameda Counties. BAWSCA's goals are to ensure a reliable water supply; of high-quality water, and at a fair price for its service area customers. BAWSCA has the authority to coordinate water conservation, supply, and recycling activities for its agencies; acquire water and make it available to other agencies on a wholesale basis; finance projects, including improvements to the regional water system; and build facilities jointly with other local public agencies or on its own to carry out the agency's purposes. It should be noted that the other water agencies discussed herein contain members of BAWSCA.

The comment requests correction of a typographical error. Page 3.14-5, paragraph 5, is revised as follows:

The San Francisco Public Utilities Commission (SFPUC) operates the Regional Water System, which provides water to nearly 2.6 million people within San Francisco, San Mateo, Santa Clara, Alameda, and Tuolumne Counties. The Regional Water System consists of more than 280 miles of pipeline and 60 miles of tunnels, 11 reservoirs, five pump stations, and two water treatment plants. The SFPUC provides water to both retail and wholesale customers (approximately 35 and 65 percent, respectively) (SFPUC 2016).

The comment requests a revision related to use of data from SFPUC about gross and nonresidential demand in 2015 and requests an update of that data with information from SFPUC's 2020 UWMP. Please refer to response to comment 76-10 regarding the Draft EIR's consideration of the SFPUC's 2020 UWMP.

The commenter requests a revision to note that the State Water Project delivers water to the Central Coast and Southern California regions. MTC respectfully declines to make this revision, as the discussion in the Draft EIR appropriately focuses on water imported to the Bay Area.

The commenter requests correction of a typographical error and makes an editorial suggestion. Page 3.14-10, paragraph 2, is revised as follows:

In 2003, ACWD opened the Newark Desalination Facility, the first brackish water desalination facility in northern California, with a capacity of 5 mgd, and it doubled the production to 10 mgd for a total blended production of 12.5 mgd to the distribution system. Eight water agencies in the Bay Area (ACWD, BAWSCA, CCWD, EBMUD, MMWD, SFPUC, SCVWD, and

Zone 7 Water Agency) are working together to investigate opportunities for collaboration. The purpose of this planning effort, known as Bay Area Regional Reliability (BARR), is to identify projects and processes to enhance water supply reliability across the region, leverage existing infrastructure investments, facilitate water transfers during critical shortages, and improve climate change resiliency. Projects to be considered will include interagency interties and pipelines, treatment plant improvements and expansion, groundwater management and recharge, potable reuse, desalination, and water transfers. While no specific capacity or supply has been identified, this program may result in additional of future supplies that would benefit Bay Area Customers (Brown and Caldwell 2017).

The commenter suggests addition of footnotes to Tables 3.14-2 and 3.14-3 that specify the accounting for supply and demand among shared customers. While there may be overlap in Table 3.14-2, there is no “double counting” because the tables do provide a “total” that aggregates the supply and demand figures. Regarding Table 3.14-3, there is no quantification provided, and so there is no “double counting.” Therefore, the requested revision has not been made.

The commenter requests correction of typographical errors. Page 3.14-14, paragraph 7, has been revised as follows:

Urbanized and unincorporated areas of cities and counties throughout the Bay Area provide wastewater treatment facilities. These facilities include systems made up of pipelines, ~~pipe~~pump stations, interceptor stations, and discharge stations. Treatment plants send wastewater through up to three treatment processes (primary, secondary, tertiary) depending on treatment requirements established by the pertinent RWQCB for the particular plant. The level of treatment is often dictated by where treated effluent is discharged (land, water body) and if there is an end use that requires higher treatment levels (recycling). Many of the Bay Area's wastewater treatment plants include primary and secondary treatment for wastewater, as well as recycled water programs that require tertiary treatment. In many cases, secondary effluent is discharged into the San Francisco Bay, and wastewater from Solano County is pumped into the Delta. Wastewater is also recycled for other uses, such as agriculture, irrigation, or landscaping. Treatment requirements are promulgated by the RWQCB and are typically reviewed, along with treatment capacity, every 5 years. As a result of this process, planning and upgrading of treatment plants is an ongoing process for each plant.

The commenter notes that CMSA has a larger service area than is listed in the Draft EIR and notes that RVSD is not a treatment agency. The commenter also notes that there are other wastewater collection agencies that convey wastewater to CMSA that are not listed as treatment agencies. The following revision has been made to Table 3.14-4 to reflect the members of the CMSA:

Central Marin Sanitation Agency	<u>City of San Rafael and Towns of Corte Madera and Fairfax</u> <u>No. 2, San Rafael Sanitation District, Ross Valley Sanitary District</u>
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The commenter requests correction of an inaccuracy. Page 3.14-34, paragraph 3, has been revised as follows:

The California Model Water Efficient Landscape Ordinance (MWELo) sets restrictions on outdoor landscaping. The Bay Area contains several local agencies under the MWELo that require project applicants to prepare plans consistent with the requirements of the MWELo for review and approval. The MWELo was most recently updated by DWR and approved by the California Water Commission on July 15, 2015. All provisions became effective on February 1, 2016. The revisions, which apply to new construction with a landscape area greater than 500 square feet, reduced the allowable coverage of high-water-use plants to 25 percent of the

landscaped area. The MWELo also requires use of a dedicated landscape meter on landscape areas for residential landscape areas greater than 5,000 square feet or nonresidential landscape areas greater than 1,000 square feet, it and requires weather-based irrigation controllers or soil moisture-based controllers or other self-adjusting irrigation controllers for irrigation scheduling in all irrigation systems. Local agencies must either adopt the MWELo or may adopt a more stringent local ordinance if they are at least as effective in conserving water as MWELo.

The commenter requests clarification of a footnote of Table 3.14-8. Table 3.14-8 has been revised as follows:

- ² San Francisco Public Utilities Commission is a wholesale water provider to BAWSCA member agencies; however, the agencies' service populations are listed separately.

This comment also reiterates the claim that the Draft EIR must be recirculated. Revisions have been made in response to this comment for comments 76-3 and 76-11, which address recirculation claims. Revisions were not made in response to any other comments in this letter. CEQA does not require recirculation of the Draft EIR because those responses do not add significant new information to the EIR (the criteria for recirculation), as defined in Section 15088.5 of the State CEQA Guidelines. Please refer to Responses to Comments 76-3 and 76-11 for a discussion of why recirculation is not required in response to those comments.

The MTC Commission and ABAG Executive Board will consider these comments as part of their overall consideration of the proposed Plan.

BAWSCA

Bay Area Water Supply & Conservation Agency

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MEMORANDUM

TO: BAWSCA Board of Directors
FROM: Nicole Sandkulla, CEO/General Manager
DATE: November 12, 2021
SUBJECT: Chief Executive Officer/General Manager's Letter

SFPUC Long-Term Vulnerability Assessment:

Climate change and other changing conditions may jeopardize the Hetch Hetchy Regional Water System's (RWS) ability to meet the San Francisco Public Utilities Commission's (SFPUC) desired Level of Service Goal. Beginning in May of 2017, in partnership with the Water Research Foundation (WRF), a comprehensive vulnerability assessment of climate and other drivers was performed (Long-Term Vulnerability Assessment or LTVA). The project was designed to assess the risks associated with identified system vulnerabilities and to develop an adaptation plan that would be flexible and robust for a wide range of futures. The adaptation plan would serve to provide guidance for water supply decisions over the next 50 years. The team assembled to perform the vulnerability assessment was led by researchers from the University of Massachusetts. That work is nearing its completion, with the projected release of a final report in mid-November of 2021.

On October 29, 2021, the SFPUC hosted a Special Meeting (Workshop) to review the results of the LTVA. Information regarding prior SFPUC efforts related to climate change were also provided at the Workshop. The Workshop was recorded and can be viewed at this link: https://sanfrancisco.granicus.com/ViewPublisher.php?view_id=22

BAWSCA has asked the SFPUC to present a summary of the contents and findings of the LTVA to the Board Policy Committee (BPC). This has been tentatively set for the upcoming December 8th BPC meeting.

BAWSCA Internship Program:

In October 2021, BAWSCA signed a contract with Eastside College Preparatory School (ECPS) to support the implementation of the BAWSCA Internship Program. The Internship Program aims to provide interns with opportunities to learn from professionals and gain critical skills for their future career.

ECPS is a private 6-year combined middle and high school in East Palo Alto. Beyond high school, ECPS provides support for its graduates for the transition to college and through the launch of their careers. The ECPS Alumni Services offers college success and career development programs. To the latter, ECPS has a Career Pathways Program (CPP) that includes career coaching services and an internship program that is focused predominantly on college students.

BAWSCA will be working with ECPS in the coming months to identify potential candidates for BAWSCA's internship program which will begin in Summer 2022. BAWSCA's approach to the program aims to provide the intern with valuable work experience and skills necessary for them to be successful in the water resources field.

Los Vaqueros Expansion Project:

As noted in prior correspondence with the Board, the Los Vaqueros Reservoir Expansion Project (Project) has formed a Joint Powers Authority (JPA) such that moving forward, the JPA will serve as the authority to manage the implementation of the Project. Each Local Area Partner has a seat on the JPA. SFPUC's seat is filled by their new General Manager, Dennis Herrera.

The first meeting of the JPA was held on November 10, 2021 at 9:30 AM). BAWSCA staff attended a member of the public. The meeting agenda primarily consisted of organizational matters, such as the election of a JPA Board Chair and Vice Chair. Further, the agenda included a resolution that would allow Contra Costa to continue to serve as the interim Project Administrator to allow the JPA time to determine how best to organize the work, such as the hiring of JPA staff and procurement of consultant support.

BAWSCA continues to be engaged on efforts associated with the Project's development, and attends meetings associated with its continued design and implementation. BAWSCA will continue to update the Board in order to keep the Board updated.

2021 Demand Study Update:

On September 16, 2021, the Board authorized the CEO/General Manager to execute a contract with Maddaus Water Management (MWM) to prepare an update to BAWSCA's Regional Water Demand and Conservation Projections Project completed in June of 2020 (2020 Demand Study).

Since September, BAWSCA has begun the 2021 Demand Study Update (2021 Demand Study) as Phase 4 of BAWSCA's Making Water Conservation a Way of Life Strategic Plan. The 2021 Demand Study will incorporate new information and sensitivity analyses to assess how a range of influences, such as various scenarios for population and employment projections, could impact future demand. The update will be an extensive effort, as estimating what the impacts are to each member agency will take significant study and require agency-specific feedback and involvement, including an update of all 27 water demand models developed for use by member agencies as part of this work effort.

The consultant, MWM, has been working with BAWSCA to develop the demand workbook, which has been distributed to the BAWSCA agencies. Each agency will now complete the initial data collection file on water production, consumption, conservation, and current and projected population and employment rates. The data collection portion of the study is in progress and is anticipated to be complete at the end of November 2021. The results of the data collection will be summarized into Technical Memorandum #1.

Board of Directors

Policy Calendar Through May 2022

Meeting Date	Purpose	Issue or Topic
Nov 2021	D&A D&A	Annual Review and Consideration of BAWSCA's Statement of Investment Policy Consideration of Action to Extend Current Tier 2 Drought Plan
January 2022	D&A R&D R&D R&D S	Mid-Year 2021-22 Work Plan, Budget and General Reserve Review BAWSCA's OPEB Liability Funded Status Update, incl. the SFPUC's Status BAWSCA's Pension Liability Funded Status Update, incl. the SFPUC's Status Review of Water Supply Forecast FY 2022-23 Work Plan and Budget Study Session
March 2022	D&A R&D R&D R	Consideration of Proposed Bond Surcharges for FY 2022-23 Presentation of Preliminary FY 2022-23 Work Plan and Budget Review of Water Supply Forecast Annual WSA Balancing Account Update
May 2022	R&A R&D	Consideration of Proposed FY 2022-23 Work Plan and Budget Review of Water Supply Forecast

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

Meeting Schedule through December 2022

DUE TO COVID-19, MEETINGS WILL BE CONDUCTED AS A TELECONFERENCE PURSUANT TO THE PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDERS N-25-20 AND N-29-20, WHICH SUSPEND CERTAIN REQUIREMENTS OF THE RALPH M. BROWN ACT. MEMBERS OF THE PUBLIC MAY NOT ATTEND THIS MEETING IN PERSON.

Schedule for BAWSCA Board Meetings (Meetings are held from approx. 6:30 – 8:45 p.m.)	
<u>Date</u>	<u>Location</u>
Thursday – November 18, 2021	Oak Room, San Mateo Main Library
Thursday – January 20, 2022	Oak Room, San Mateo Main Library
Thursday – March 17, 2022	Oak Room, San Mateo Main Library
Thursday – May 19, 2022	Oak Room, San Mateo Main Library
Thursday – July 21, 2022	Oak Room, San Mateo Main Library
Thursday – September 15, 2022	Oak Room, San Mateo Main Library
Thursday – November 17, 2022	Oak Room, San Mateo Main Library

Schedule for RFA Board Meetings (Meeting time will be announced)	
<u>Date</u>	<u>Location</u>
Thursday – January 20, 2022	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 – December 8, 2021	155 Bovet Rd., San Mateo – 1 st Floor Conf. Rm.
Wednesday – February 9, 2022	155 Bovet Rd., San Mateo – 1 st Floor Conf. Rm.
Wednesday, April 13, 2022	155 Bovet Rd., San Mateo – 1 st Floor Conf. Rm.
Wednesday, June 8, 2022	155 Bovet Rd., San Mateo – 1 st Floor Conf. Rm.
Wednesday, August 10, 2022	155 Bovet Rd., San Mateo – 1 st Floor Conf. Rm.
Wednesday, October 12, 2022	155 Bovet Rd., San Mateo – 1 st Floor Conf. Rm.
Wednesday, December 14, 2022	155 Bovet Rd., San Mateo – 1 st Floor Conf. Rm.