BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD POLICY COMMITTEE

June 10, 2020 – 1:30 p.m.

Zoom Video Conference

DUE TO COVID-19, THIS MEETING WAS 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.

MINUTES

1. **Call to Order:** Committee Chair, Tom Chambers, called the meeting to order at 1:30 pm. A list of Committee members who were present (9), absent (0) and other attendees is attached.

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

2. **Comments by Committee Chair:** Committee Chair Chambers welcomed members of the Committee and reviewed the ground rules to best conduct the meeting virtually. He noted that all actions by the committee will be done by roll call vote.

3. **Public Comments:** Peter Drekmeier, representing Tuolumne River Trust, identified himself on the phone. He noted that the US Environmental Protection Agency issued a new rule that would remove the State's authority to issue water quality certification for different projects. He urged BAWSCA to look for a compromise to oppose environmental rollbacks and ensure a reliable water supply as well as greater protection for the Tuolumne River and the Bay Delta. He referenced a letter he sent to the SFPUC offering suggestions. He will forward a copy to the Committee in hopes to have a dialogue.

   Paul Sethy, Board member of Alameda County Water District (ACWD), identified himself on the phone. He had no public comments, but requested information on the SFPUC Budget and 10-year CIP.

4. **Consent Calendar:** Approval of Minutes from the April 8, 2020 meeting.

   Director Wood made a motion, seconded by Director Pierce, that the minutes of the April 8, 2020 Board Policy Committee meeting be approved.

   The motion carried unanimously by roll call vote.

5. **Action Calendar:**

   A. Establishing a Policy Relating to Water Supply Agreement Balancing Account: BAWSCA Finance Manager, Christina Tang, explained that in accordance with the Amended and Restated Water Supply Agreement (WSA) between the City and County of San Francisco and the Wholesale Customers, at the end of each fiscal year, the SFPUC calculates the actual costs attributable to the Wholesale Customers based on the actual costs for operating the regional water system and the actual amount of water used by the Wholesale Customers. This actual cost attributable to the Wholesale Customers is known as the Wholesale Revenue Requirement (WRR). The difference between the WRR and the amount billed to the Wholesale Customers is posted to the Balancing Account as a credit to or as a charge to the Wholesale Customers.

The Balancing Account serves a critical rate stabilization role in the wholesale rate setting process. The WSA requires the SFPUC to take into consideration the Balancing Account in establishing the wholesale rate setting whether it is positive or negative. To avoid fluctuating increases and decreases in wholesale rates, the entire balance need not be applied to the subsequent fiscal year, and may be prorated over multiple years.

If a positive balance is maintained for three successive years and represents 10% or more of the WRR for the most recent fiscal year, the WSA provides that BAWSCA may direct the SFPUC to apply the positive balance to one or more of the purposes set forth in Section 6.05.B.2.a of the WSA.

Ms. Tang reported that the current level of the Balancing Account as of June 30, 2019 is $64M. SFPUC's current plan is to use the entire positive balance over the next 4 years to moderate wholesale rate increases.

Section 6.05.B.2.a of the WSA provides six specific purposes, a through f, for which the positive balance in the Balancing Account may be applied if the criteria is met. Ms. Tang spoke on the three purposes that are most relevant to the member agencies. She explained that item f, continued retention for future rate stabilization purposes, is a default application in which the SFPUC will continue to retain the balance for rate stabilization in the absence of direction from BAWSCA.

Item c, prepayment of the existing asset balance under Section 5.03, is currently being evaluated. Ms. Tang referenced that BAWSCA's 2013 bonds were issued to prepay the remaining capital debt for the regional assets placed in service before June 30, 2009. The prepaid debt did not include the construction-work-in-progress paid from the SFPUC's revenue funded appropriations made prior to June 30, 2009 but were completed after that date. As of June 30, 2020, the remaining unpaid principal balance is about $4.3M and is scheduled to be paid off in 4 years with interest at 4%.

Item d, BAWSCA administered water conservation of water supply projects, was used for the first time in 2019 when the BAWSCA Board authorized the use of a portion of the Balancing Account to fund the Regional Water Demand and Conservation Projections Study and the Los Vaqueros Expansion Project Study. At that time, the Board requested a policy on future use of the Balancing Account if there was consideration of the use of the Balancing Account at a future date. .

In response to that request, legal counsel prepared a resolution for the Board's consideration to establish a policy on the use of the Balancing Account. The proposed resolution guides the Board in any future decision related to the allocation of the positive balance in accordance to the WSA, and requires written findings to demonstrate that the use of the Balancing Account funds for the identified purpose is in the best interest of the Wholesale Customers and their water customers.

The recommendation is for the Committee to recommend Board adoption of Resolution 2020-02 to establish a Balancing Account Policy.

Members of the Committee were pleased with the flexibility and structure of the proposed resolution. Chair Chambers called upon each Committee member to capture their questions and comments.

Director Cormack inquired about the origin of BAWSCA's approach on the proposed resolution, and whether there are other agencies that have a similar process. Additionally, she asked what the written findings will look like.

Legal Counsel, Allison Schutte, explained that the proposed resolution is based on the WSA, which has directions for how the Balancing Account could be utilized. The default option for the use of the Balancing Account is for rate stabilization, however there are other uses clearly stated in the WSA. Those uses are stated in the proposed resolution as items a through d.

Financial components under the WSA were analyzed to determine what variables can be considered to be funded by the excess fund in the Balancing Account.

Ms. Schutte noted that the balance in the Balancing Account has been both negative and positive over the years. Since 2001, there has only been a few years where it met the critical test of having a positive balance for three successive years that is 10% or more of the most recent wholesale revenue requirement. In the last couple of years, the Balancing Account has met that criteria, and therefore the use of the Balancing Account has become a relevant topic for conversation.

The five considerations, items a through e, set forth in the proposed resolution are written in the WSA and are most relevant for the BAWSCA Board to consider if the Balancing Account is to be used for purposes other than for rate stabilization.

The reason why the considerations in the proposed resolution were made a procedural item, as opposed to a value (or pre-prioritized)-based item, was because over the decades, priorities for the Wholesale Customers can vary year to year. For best practices, the process is designed to be transparent on what the Board considers when it makes a recommendation.

Ms. Schutte elaborated on the five considerations, re-iterating that the wholesale customers have been very interested in utilizing the Balancing Account for rate stabilization. SFPUC's projections are to fully utilize the Balancing Account over the next 4 years, which is in line with the wholesale customers' interests expressed to date.

Item b, wholesale revenue coverage reserve, a funding mechanism for big capital projects, is a consideration that will require conversations with the SFPUC.

Item c, payment of unpaid asset balance(s) under Section 5.03 of the WSA, is a consideration for use of the Balancing Account funds at this time because paying the existing asset balance for construction work in progress was not included in the 2013 bond issuance for prepayment because the amount was not finalized at that time.

Item d, funding requirements and sources for water conservation or water supply projects is another vehicle for funding such purposes in addition to the Water Management Charge which is authorized in the WSA in section 3.06.

Item e provides the Board flexibility in considering the agency's priorities in the next couple of decades.

The written findings will include a statement of the Board's intent to use all or a portion of the Balancing Account for a specific purpose that falls under the five considerations stated in the proposed resolution. There would be detailed analysis that would present evaluation of rate projections for the next 5 years, considerations of the relevant factors, and information based on discussions with designated Water Management Representatives (WMRs) and the Board. It would also have an analysis on the use of the Balancing Account versus the Water Management Charge, and a justification of why one is being utilized over the other.

Director Jordan questioned how the use of the funds from the Balancing Account will be accounted for. If it were to be used for a subscription program, would it be reflected as a grant that would reduce the cost of the program to agencies participating?

Ms. Sandkulla stated that the funds would become part of BAWSCA's budget and financial portfolio which are reported on during the course of the fiscal year. As an example, Ms. Sandkulla referred to the use of the Balancing Account in May 2019. The Board made a determination, as part of the adoption of its work plan and operating budget for FY 2019-20, that it would use $805,000 of the Balancing Account to fund, specifically, the Water Demand and Conservation Projection Study and the LVE Project Study. As part of the BAWSCA's work plan and operating budget, the projects' progression against expenditures are reported to the Board. Ms. Sandkulla noted that while it is not required, at the end of the fiscal year, BAWSCA will be sending the SFPUC a report on the use of the $805,000 and what it was used for.

If the Board chooses to use a portion of the Balancing Account to fund a subscription conservation program, then the funds will be reported to reflect that. However, Ms. Sandkulla stated that she anticipates the use of the Balancing Account towards a BAWSCA wide purpose in which the Board would view the Balancing Account as the most appropriate way to fund a project.

Director Kuta expressed concerns with the current excess funds in the Balancing Account and asked a series of clarifying questions regarding the WSA as it relates to the proposed resolution.

He asked whether the SFPUC wholesale water rates and anticipated water deliveries to the agencies in any given water year are built into the WRR.

Ms. Tang responded yes, and explained that the SFPUC's rate projections provided to the wholesale customers in the annual wholesale rate notice each year are based on the SFPUC's own projections of water sales, and takes into consideration the demand projections provided by the member agencies in Spring for the remainder of the current fiscal year as well as the subsequent fiscal year.

Director Kuta referenced the criteria in the WSA that speaks to a balance of 10% or more of the wholesale revenue requirement that is maintained in three successive years. While he understands circumstances may contribute to the increase in the Balancing Account, the current balance is approaching 30%. It appears that the SFPUC has control over the process of maintaining the Balancing Account since it develops the plan for use of funds for rate stabilization purposes.

The proposed resolution speaks to how the Board can consider utilizing the excess funds. Director Kuta questions whether the Board should consider a cap to the Balancing Account in future efforts.

Additionally, if the Board considers item e in the proposed resolution, and the SFPUC already has designs for using the Balancing Account for rate stabilization, what is the impact of that combined activity?

Legal Counsel, Allison Schutte explained that the money in the Balancing Account belongs to the Wholesale Customers. It is not in San Francisco's balance sheet, nor does it help San Francisco with debt service coverage or with rating agencies.

The SFPUC's design to utilize the Balancing Account in their rate projections are for planning purposes only. The Wholesale Customers can choose to provide direction to SFPUC on what the Balancing Account should be used for, outside of rate stabilization, as long as the use is within the uses allowed in the WSA.

The SFPUC sets a rate for the year based on estimated costs and estimated sales. Except for those who have a minimum purchase requirement, agencies pay for the water they use. At the end of the fiscal year, Christina works with the SFPUC Finance department through the "true-up" process to ensure that all of the costs charged to the Wholesale Customers are appropriate.

Ms. Schutte added that the 2013-2015 drought is one of the contributing reasons for the increased balance in the Balancing Account as it caused the SFPUC to be very conservative with their sales estimates. It is unusual in the history of BAWSCA and SFPUC's relationship to have such a large Balancing Account.

Ms. Sandkulla added that the SFPUC consults BAWSCA about how to use the Balancing Account through her, as the CEO/General Manager for BAWSCA. However, it requires an action by the Board to approve what direction is given to SFPUC on how to utilize a portion or all of the Balancing Account. The default use, independent of the BAWSCA Board's direction, is for rate stabilization.

In a situation where BAWSCA contemplates use of the Balancing Account on items a through e in the proposed resolution, Director Kuta asked if the Board's choice to allocate the positive balance in the Balancing Account will come subsequent to SFPUC's wholesale rate setting process and plan for use of the Balancing Account?

What happens when BAWSCA decides to spend most of the Balancing Account on a project that is to the BAWSCA region's benefit, but SFPUC already has designs on applying these excess funds for rate stabilization?

Ms. Sandkulla explained that SFPUC's rate setting for the wholesale customers relative to the Balancing Account is separate and independent of SFPUC's retail rates. SFPUC's rate projections are based on the funds they need to operate the system. If the BAWSCA Board chooses to zero out the Balancing Account by applying funding to items a through e, the SFPUC will raise wholesale rates as needed, despite the zero balance. There is no direct connection between the use or application of the Balancing Account with the political decisions made in San Francisco. In the event that the BAWSCA Board decides to use the Balancing Account for purposes other than rate stabilization, the SFPUC will still establish rates necessary to operate the system, and at the end of the day, wholesale customers are obligated to pay SFPUC for the water they use.

Ms. Schutte added that under the old contract, 1984 Settlement Agreement, the procedure was to zero out the Balancing Account every year. That process was very destabilizing for the wholesale customers, and was negotiated out of the 2009 agreement. The 2009 WSA specifically states that the SFPUC will take into consideration the Balancing Account in establishing the rates, but it need not apply the entire amount to reduce wholesale rates in the immediately ensuing years, rather, it may pro-rate it over 3 years.

Ms. Schutte noted that the language is permissive, and that the SFPUC would be receptive if BAWSCA develops interest in changing the application and use of the Balancing Account.

She added that SFPUC cannot use the Balancing Account to do anything on the retail rate side, or the cost side. The wholesale rate setting is separate from the retail rate setting. However, based on the Wholesale Customers' agreement with San Francisco, the cost to the wholesale and retail customers per unit of water from the regional water system is calculated uniformly. Christina's work on the WRR review process ensures that.

The SFPUC's rate setting projects the revenue that the SFPUC intends to collect from the Wholesale Customers to operate the system for one fiscal year. The rate is either billed fully to the wholesale customers or are offset with application of funds from the Balancing Account. They calculate projected costs and projected revenue, set the wholesale rates, and true-up 2 years later.

Ms. Schutte explained that the WSA is unique among water contracts in the Western US with the inclusion of a Balancing Account. It is not typical to have this type of influence or control over the cost that wholesale customers are obligated to pay. The Wholesale Customers have a guaranteed perpetual supply assurance and the right to know everything that is charged to them to operate the Regional Water System. This is a unique situation that resulted from the successful litigation that BAWSCA's predecessors engaged in 35 years ago.

Director Kuta thanked staff for the thorough answers, and noted that the word "in" was missing on the 2nd page of the proposed resolution.

Director Larsson appreciated Ms. Schutte's explanation of the uniqueness of the Balancing Account in the existing WSA. He characterized the Balancing Account as a shock absorber, and the true up process as the method for confirming the Wholesale Customers' actual cost for SFPUC's production and delivery of water for the year, regardless of what the rates were set at for the pertaining fiscal year. The Wholesale Customers will receive credit applied on the Balancing Account if the projected rates proved to be lower than projected.

He stated his support for the proposed resolution. He is pleased that it is flexible and sets up a process that does not impose values or decisions on future boards. This is important because values and trade-offs change over time, and circumstances cannot be predicted. Having a defined list of what should be considered and how to be transparent is critical. The multi-year planning for wholesale rates is helpful for BAWSCA's budget setting and considerations for use of the funds.

Director Mendall, appreciated Director Kuta's questions and was pleased to clarify that the Balancing Account belongs to, and is controlled by, the Wholesale Customers. He asked about the 2nd Whereas in the proposed resolution that refers to a provision of maintaining a positive balance over three successive years and representing 10% or more of the WRR for the most recent fiscal year. Was that from the agreement with SFPUC or self-imposed by BAWSCA?

Ms. Sandkulla explained that the provision came from the negotiation of the 2009 WSA, which the Wholesale Customers adopted in each of their contracts with San Francisco. The 10% serves as a cushion in case the actual rates are above or below the projection, therefore stabilizing the rates, which is the primary purpose of the Balancing Account.

Director Mendall stated his disagreement with the 3 successive years. If BAWSCA has sufficient funds to pay for a critical one-time project, but has only maintained a positive balance for 2 years, it seems contradictory not to be able to use the Balancing Account to fund the project and prevent the shock of having to raise BAWSCA's rates, because of the restriction in the policy. He suggested the Board's consideration of changing the restriction when the next opportunity to amend the WSA comes along.

Lastly, Director Mendall asked staff to elaborate on the $4.3 M remaining principal balance, and suggested that it be paid off using the Balancing Account to avoid the 4% interest the Wholesale Customers are being charged.

Ms. Tang explained that the $4.3M is the regional assets that were funded by the SFPUC's revenue funded appropriations made prior June 30, 2009, when the 2009 WSA was established. The projects were not completed until 2009 and based on the agreement and negotiations made during the establishment of the 2009 WSA, the member agencies agreed to pay the balance for the regional asset annually. The interest rate of 4% was set as part of the negotiations of the 2009 WSA.

Ms. Sandkulla stated that it appeared logical for the Board to establish a policy prior to pursuing the pay-off of the $4.3 M balance using the Balancing Account. The pay-off could be the first action by the Board under the policy as opposed to combining the 2 actions together.

Director Mendall appreciates the systematic approach, and would support Board action to adopt the proposed policy and the recommendation to pay off the $4.3M balance in the same meeting, or immediately after, to avoid paying further interests.

He appreciated the proposed resolution's combined structure and flexibility that places the use of the Balancing Account at the Board's discretion, with justification. He was content with the proposed policy but disagrees with the restrictions of maintaining a positive balance over a period of 3 years and the 10% of WRR criteria.

Director Pierce asked for clarification on the desire for rate stabilization in the negotiations of the 2009 agreement, and the rationale behind the 3 years. She recalls the Wholesale Customers advocating for rate stabilization to have some predictability.

Ms. Schutte stated that prior to the 2009 WSA, she recalls massive swings in rates where money was given back to the Wholesale Customers, but was very destabilizing. Additionally, there were projections of 37% rate increases at the beginning of the Water System Improvement Program (WSIP). Due to these variabilities, it has been a priority for the Wholesale Customers to moderate the rates. Ms. Schutte elaborated that the rate litigation, preceding the 1984 Settlement Agreement, was initiated due to arbitrary and discriminatory rates levied on the suburban customers by San Francisco. Since then and until today, uniformity and predictability of rates has been a top priority of the member agencies.

Director Pierce appreciates the “build up” in the Balancing Account that “slows things down” in rate increases, as agencies experience swings in revenues given various economic challenges over the years. She likes the flexibility in the proposed policy, and the Board’s ability to consider paying off the $4.3 M, if it so chooses. She is in favor of the SFPUC’s ability to consider the Balancing Account for the purpose of rate stabilization, and appreciates the clarity in the contractual relationship stated in the WSA.

Director Wood thanked her colleagues for the quality and detail of their questions. She supports the proposed resolution and agrees with the comments made regarding future Board considerations.

She noted that the 3-year restriction for the use of the Balancing Account may be related to the budget cycle given that the 3rd year typically can provide the opportunity for a good comparison between the first year projection the 2nd year actual. Additionally, she believes there is an annual audit of the Balancing Account.

Ms. Tang agreed, and stated that the budget cycle could be one of the factors considered in the establishment of the 3-year restriction. And yes, the WSA requires completion of the Annual Compliance Audit by the SFPUC that includes the calculation of the Wholesale Revenue Requirement as well as the changes in the balance of the Balancing Account. The audit includes costs charged to the Wholesale Customers in accordance with the WSA. Ms. Tang stated that the WSA is very specific on the types of costs that can be included in the WRR. Additionally, per the WSA, SFPUC cannot charge the Wholesale Customers for costs that do not benefit the Wholesale Customers.

Director Zigterman’s question was on the flexibility and extent to which the Board can recommend how to bring the balance down. He asked if, instead of using all of the funds in the next 3-4 years, would the Board have the flexibility to take the balance down by 2/3rd, leaving a cushion over the next 3-4 years?

Ms. Sandkulla stated that the Board has the flexibility to provide that direction to SFPUC, and is, in fact, the approach that the SFPUC generally takes. They draw down the Balancing Account over a number of years, typically 3-4 years, depending upon what the anticipated change in expenditure is. If there is a significant Regional Water System expenditure that is anticipated 2 years out, those expenditures are taken into account. That flexibility is retained in the proposed policy.

Director Chambers supports the primary function of the Balancing Account as a rate stabilization tool, as well as the 10% requirement under the WSA. He also expressed his support for paying off the $4.3 M balance in regional assets with the use of the Balancing Account.

He stated that the Committee can choose to make a recommendation for the Board to adopt the proposed resolution as written at the July Board meeting, or further consider changes and bring it to the Board in September. Director Chambers asked if there are further comments from members of the Committee.

Director Cormack suggested consideration of a proactive approach that uses the 2nd Whereas in the proposed resolution as a trigger, so that every time the condition is met, staff can make a recommendation to the Board based on the 5 considerations for the use of the funds in the Balancing Account. It may be a recommendation for no action based on the current circumstance. The process is a way to recognize the

Balancing Account as an asset for expenditures that fall under the five specific considerations.

Secondly, she believes having a high bar of 3 successive years and the 10% of WRR criteria is appropriate since the primary intent for the Balancing Account is rate stabilization. If SFPUC develops a pattern of being unable to project rates accordingly despite the Balancing Account, then she would re-examine the need for changing the 3 year and the 10% criteria. She is not prepared to make a decision on making a change to the WSA at this point.

In support of Director Cormack's idea of a proactive approach, Director Mendall agrees with an annual review of the Balancing Account, but not an annual discussion. He envisions a memo that would provide information to the Board, preferably in January prior to the budget development. It would prompt consideration of the Balancing Account as a financing option should there be an expenditure that falls within the five considerations.

Ms. Sandkulla stated that BAWSCA staff committed to an annual report on the Balancing Account in 2019. The most recent report was provided to the Board in March 2020. Considerations, if any, for the use of the Balancing Account can be incorporated in this annual report.

Director Wood made a motion, seconded by Director Kuta, to revise the proposed resolution and present it at the August BPC meeting for the Committee to recommend Board approval at the September Board meeting.

In the interest of paying off the $4.3 M in regional asset balance with SFPUC, Director Mendall preferred making a recommendation for the Board to approve the proposed resolution at its meeting in July, given that staff makes the one-word revision in the proposed resolution that will be presented to the Board.

Director Larsson noted that an additional revision is the inclusion of language that refers to the use of the Water Management Charge for item d of the five considerations. Given the level of discussion the Committee had, he recommends that the revised resolution be brought back to the Committee for final review.

The Committee voted on the motion to:

1. revise the proposed resolution to fix the minor typo and include language that refers to the use of the Water Management Charge for item d of the five considerations, and;
2. begin the process for paying off the $4.3 M in regional asset balance with SFPUC.

Both items shall be brought back to the Committee in August as 2 separate discussion and action items to recommend to the Board as 2 separate items for approval at the September Board meeting.

The motion carried by roll call vote, 8:1.

5. Special Reports:

A. Los Vaqueros Expansion Project: Mr. Francis noted that the LVE project is being led by CCWD, and is being evaluated by seven partner agencies. BAWSCA is one of the seven partner agencies which also include ACWD, Valley Water, and SFPUC.

There are a total of eight agencies involved. The LVE project entails an expanded surface water reservoir along with other facilities including a proposed Transfer Bethany pipeline and some pumping stations.

Mr. Francis reported that the next decision that the Board will have to consider on the LVE project is anticipated in September 2020, and will include a financial commitment on behalf of the BAWSCA member agencies. Between now and September, BAWSCA will provide regular reports on current and developing project details to help the Board with its decision on the continued funding for the LVE effort. The reports will be provided to the Board in July and September, and to the BPC in August.

BAWSCA and SFPUC have separate objectives for participating in the LVE. BAWSCA's interest supports its Long-Term Reliable Water Supply Strategy (Strategy) that was adopted by the Board in 2010. Part of the Strategy is to ensure member agencies greater water supply reliability during dry years independent of the SFPUC. With the LVE project, BAWSCA can get water supply storage of 10 thousand acre feet (TAF) per year during drought years. The water would be stored at Los Vaqueros reservoir and transported to the BAWSCA region through South Bay Aqueduct (SBA). It would reduce the impact of San Francisco Regional Water System (SF RWS) shortages during dry years.

SFPUC's interest is to meet their current 184mgd supply assurance obligations to the Wholesale Customers during dry years. They are looking at a few different scenarios in their discussions with CCWD, which include between 20TAF and 40TAF of storage, as well as between 10TAF to 20 TAF of water delivery during dry years over a period of 1-2 years.

In FY 2019-20, BAWSCA contributed $350K as a partner agency in the LVE project study. Current efforts continue to include planning and increasing focus on engineering. A new round of partner funding is needed to continue the work efforts that are expected to continue well into 2022.

The proposed new funding request will be split evenly among the 8 partner agencies. In September, partner agencies, including BAWSCA, will be provided with Amendment #2 to the existing multi-party agreement. Amendment #2 will extend the existing multi-party agreement to December 2022 and include an additional funding request.

Mr. Francis was forthright about the lack of critical information that will be available and that the BAWSCA Board will need to make an informed decision in September. While BAWSCA is heavily engaged with CCWD and partner agencies to obtain complete understanding of the benefits and costs of the water, distribution to the BAWSCA region, and the feasibility, cost, and availability of SBA for conveyance and treatment, some of the information will remain outstanding until 2021 or later. BAWSCA staff will do its best to obtain as many details as possible.

CCWD's current funding estimate for Amendment #2 is $6.8 M. Divided among the eight partner agencies provides an $850K cost share. The cost will be billed in four payments in September, November, February, and July to cover project costs through 2021.

In response to BAWSCA's and other partner agencies' concerns, the agreement will have provisions that will allow agencies to withdraw at any time. Financial obligations will be waived after withdrawal from the agreement.

Mr. Francis noted that the four payments between September 2020 and July 2021 may not be equal. Should the board decide to continue participation in the LVE project, BAWSCA is requesting CCWD to evaluate a lower payment amount in the first half of 2020, and a higher amount in 2021. CCWD is currently considering this request and no decision has been made.

BAWSCA's operating budget for FY 2020-21 does not include the $850K cost share to continue participation in LVE. Should the board decide in September to continue participation in LVE, it will have to decide on a funding mechanism. The Board has three funding options which include a special assessment, the Water Management Charge, or use of the Balancing Account.

A key decision component for BAWSCA is the SBA, a facility owned by DWR. It is a necessary facility to convey water from LVE to the BAWSCA region and to the SF Regional Water System. It, however, has significant reliability and capacity issues that impact its ability to support additional use by BAWSCA and the SFPUC as part of LVE. Partner agencies that currently rely on the SBA, and have access to the SBA under an agreement with DWR, share BAWSCA's concerns and have agreed to conduct studies to identify key information needed on the feasibility of SBA to be a part of LVE. Those partner agencies are ACWD, Valley Water and Zone 7.

Mr. Francis spoke on a series of studies being done on the SBA. Results of two studies are anticipated in time for the Board's September 2020 decision. A Conveyance Capacity Evaluation led by Valley Water is scheduled to be completed by July 2020. Since BAWSCA is looking at LVE for storage, it is critical to know how much and when storage capacity would be available for use by BAWSCA. Results of a Geotechnical study on SBA's landslide areas are also expected in July 2020.

Additional studies and work efforts led by DWR include an asset management and vulnerability study that will identify substantial long-range information on what is needed to upgrade the system, as well as a feasibility study on long-term reliability improvements to determine what, how, and who pays for the system repairs. Results of the asset management and vulnerability study, however, will not be available until September 2021, and the feasibility study will not be completed until February 2022. Mr. Francis added that assuming all repairs can be done and afforded, structural and operational improvements can take up to 5 years to complete.

Mr. Francis emphasized that SBA's accessibility, capacity and reliability are critical information to BAWSCA's participation in the LVE. It is BAWSCA's goal to gain full understanding of those issues, however, some of the critical information will remain outstanding until, at least, September 2021.

BAWSCA is continuing to meet with the partner agencies, particularly with CCWD and DWR, to encourage ongoing evaluation and analysis of the LVE and SBA. All entities understand how critical it is to address the outstanding issues to make an informed decision.

BAWSCA will continue to provide the Board with as much information as possible. Information that will continue to develop will focus on the water supply benefits, costs for the LVE and associated facilities, updates on outstanding issues, and review of the schedule and decision-making process.

Paul Sethy, ACWD Board Member, provided comments as a member of the public. He clarified that he is not speaking on behalf of ACWD or its Board of Directors. First, he noted that there are some BAWSCA member agencies, such as ACWD, that are already investors in the preliminary studies and payments on the future engineering efforts for LVE. He cautioned against duplicate payments. Second, ACWD, DWR, Zone 7 and Valley Water have expressed interest in supporting the costs for repairing SBA, which can be estimated to be up to $1B. The agencies are willing to support costs through rate payers because it is the vital link to the Bay Area. Third, he noted that ACWD has an existing treatment facility where water from LVE can be processed. With technological updates, that facility along with ACWD's existing interties can treat and distribute water to the city of Hayward and BAWSCA member agencies in the South Bay. He offers the information for the BAWSCA Board's consideration. Lastly, he encouraged the BAWSCA Board and member agencies to evaluate whether BAWSCA member agencies are already included in the project since the SFPUC is already a partner and hence investments they would be making will benefit BAWSCA.

Chair Chambers called upon each Committee member to ask their questions and state their comments.

Director Cormack asked for a succinct explanation of the incremental value to BAWSCA if the SFPUC participates in the LVE, how the costs will be allocated, and whether the timelines between the completion of LVE are in parallel with the timeline for addressing the capacity and reliability concerns with SBA.

Mr. Francis explained that in a drought situation where there are limited supplies from the Tuolumne River, the SFPUC in the future, with projects such as LVE, could bring in alternate supplies from non-Tuolumne sources so that wholesale customers will not need to ration greater than 20%. SFPUC's studies have shown that alternative water supply sources are needed for SFPUC to reduce rationing levels during drought. LVE, along with other sources, can be used to address SFPUC's drought year water need.

Assuming that BAWSCA participates in the LVE as a regional project that benefits all 26 member agencies, a mathematical formula (the Tier 2 Formula), which allocates supplies among the member agencies during drought, would be used to apportion available supply by member agency. That additional supply would then be used to further augment an agency's water supply from the SF RWS during a drought and lessen the need to ration.

Mr. Francis noted that the LVE will be governed by a Joint Powers Authority (JPA), which BAWSCA and all partner agencies will pay into annually to cover the project's operational and maintenance costs as well as pay off the bonds used to finance the project's construction. BAWSCA would also need to pay the cost for water and transmission when it obtains supply from LVE. In both situations, the costs will be distributed among the member agencies.

Ms. Sandkulla further explained that in a dry year, when SFPUC declares a shortage, the WSA provides Wholesale Customers an allocation defined by the Tier 2 formula. Every member agency has a slightly different cutback based on the formula. Currently, SFPUC is short dry year supplies because of instream flow requirements. The water supply from LVE will help SFPUC meet their contractual obligations and drought supply commitment to the Wholesale Customers. If BAWSCA moves forward with LVE under a regional program, the water from LVE would be in addition to SFPUC supplies, and every agency under the Tier 2 formula will get a slightly greater allocation during a dry year. There will be slightly less reductions in the need for rationing for the agencies and yet every agency will end up paying their share for participating in the LVE and the water delivered.

Ms. Sandkulla elaborated that if not all member agencies want to move forward with LVE, participation in the project can be administered similar to BAWSCA's subscription conservation program. This, however, is a serious question. As previously mentioned, there are operational costs whether or not supply from LVE is used. Costs will be significantly higher in a subscription format. BAWSCA would have to determine what is viable for BAWSCA to manage this level of subscription program.

Regarding the timeline between LVE and SBA, it is anticipated that the schedules would be in parallel assuming all LVE studies are completed and structures built within a period of 10 years. Mr. Francis noted that the current focus is to determine accessibility to, and the costs of SBA, to assist the Board in making a decision. Further uncertainties associate with the potential to use the SBA are hoped to be answered when CCWD develops a more formal process and presents service agreements (which are akin to contracts) to the partner agencies in 2021.

Director Jordan noted that the BAWSCA seems to be asking for the lowest storage volume from LVE and asked if there are considerations for pro-rating Multi-Party Amendment #2 funding request among the eight partner agencies based on the amount of water used, and whether BAWSCA will be required to contribute to SBA's repair program.

Mr. Francis reported that pro-rating is not being considered for Amendment #2. Perhaps next year when the JPA financing is contemplated. He reminded the Committee that BAWSCA is asking for storage in the reservoir, which is not the same ask of other partner agencies. The cost will be based on the use of the facility and further what portions / components of the facilities are being used. BAWSCA may not be seen as the smallest partner once those factors are considered.

Ms. Sandkulla stated that contributing to the SBA repair program should be anticipated.

Director Kuta asked about the financial implications when a partner agency withdraws, and whether there has been analysis done on what agencies might withdraw or how many agency withdrawals would dissolve the project.

Ms. Sandkulla added that the provision for agency withdrawal is included in the existing Multi-Party Agreement, however the dollar amount was smaller and there were more agencies involved. CCWD will need to provide a definite plan at this level of costs.

Ms. Sandkulla is not aware if CCWD had performed an analysis to determine if there was a limit to how many agencies could withdraw before the project becomes infeasible to move forward with. She noted that BAWSCA has asked CCWD for an analysis of the implications of BAWSCA and SFPUC withdrawal from the project. No result has been provided yet.

Director Kuta further asked about conveyance and treatment of water from the SBA, and whether partner agencies of SBA have expressed interest in increasing its capacity to accommodate the BAWSCA region.

Mr. Francis explained that San Francisco has existing facilities that can be utilized to transfer and treat water from the SBA to the regional water system. They are looking to upgrade those facilities and BAWSCA is working with SFPUC on that effort. A second option is to bring water through Valley Water facilities, specifically through the Milpitas Intertie. Additional opportunities also exist with ACWD.

The costs for the conveyance, treatment and distribution of the water with these options will be factored in the cost estimate that will be presented to the Board in July. Additional cost information that will be provided in July will include CCWD's annual costs to store BAWSCA's water and the variable cost for CCWD to move BAWSCA's water into the SBA.

DWR and the partner agencies of SBA have expressed willingness to collaborate. The partner agencies of SBA are highly interested in seeing SBA repaired and having BAWSCA as partners on the effort has promoted the need for urgency with DWR.

Ms. Sandkulla added that the interests to address SBA stem from the regional issues, and BAWSCA brings a benefit to the LVE project moving forward. More parties on the table reduce costs and increase regional support for projects.

Director Larsson commented that as part of future presentations to the Board, he would be interested in seeing a cost range to better understand which parts of the estimates are fairly firm and which are soft estimates. Additionally, what are the risks and sensitivities of those costs, and what costs are susceptible to cost escalations. A critical consideration for the Board is whether participation is a regional or a subscription program. If it is a subscription program, he was concerned with how BAWSCA would manage the program at a larger level, what organizational risks would there be, and how Board decisions will be made if it only benefits a subset of the member agencies.

Director Mendall stated that while he supports investigating the project, he remains skeptical of BAWSCA's participation due to the high cost of it versus the likely benefits of the overall project. He is hesitant to support LVE as a regional program, and would consider it as a subscription program with a subset of agencies willing to fund it.

Director Pierce commented that it is too early to gauge BAWSCA's direction on Amendment #2 given the numerous unknowns and the substantial costs. She was concerned with the need for SFPUC to look at alternative sources to fill a drought gap that they were able to fill in the past to meet their contractual obligations. Hence, she appreciates BAWSCA's efforts to investigate alternative sources for additional drought year supplies for the member agencies. However, the current costs estimates are concerning.

While it might be premature, she encouraged staff to consider a plan should BAWSCA withdraw and SFPUC moves forward.

Director Wood agrees with the comments made by members of the Committee. She appreciated staff's efforts in providing as much information as possible.

Director Zigterman echoes the concerns expressed by his colleagues. He would be interested in BAWSCA having further discussions with SFPUC about their intent as the information develops and the projects progresses.

6. Reports:

A. Water Supply Conditions: As of the end of May, SFPUC's total system storage was at 90% of maximum, which is slightly higher than the normal percent of maximum. This reflects the fact that there is snow anticipated to come in as runoff. San Francisco is holding more water for storage. Indications are SFPUC will be able to fill all reservoirs except for the Water Bank. They believe total storage will be about 100 TAF short. But given the current hydrology this is a good result for this year.

Hetch Hetchy precipitation in late May added to the system's water supply and reduced fire risks. Ms. Sandkulla pointed out that it is a dry year, although not as dry as the record dry year of 1977.

Current snowpack conditions are already at a downward trend in June compared to some years when snowpack remain and runoff continue through July and August. This is why the SFPUC is keeping Hetch Hetchy reservoir higher than normal.

Water available to the city is currently at 170 TAF, compared to the 321 TAF required for the entire system to fill. The wet year of 2019 provided San Francisco 1676 TAF.

BAWSCA continues to closely monitor the regional water system total deliveries. There were interesting combination of events with the warm weather in February which spiked water use above the 2013 pre-drought years, followed by the shelter in place beginning mid-march. Current water use is above the drought-low of 2015, but remains below pre-drought of 2013. The 5-year average shows calendar 2020 to be slightly above it, and highlights the peak experienced during the month of February.

B. Bay Delta Plan: Ms. Sandkulla was pleased to report that Governor Newsom continues his leadership on the Bay Delta Plan, and expressed his support for the voluntary agreements in an article published by Cal Matters in February. He has continued to direct both the Secretaries of Natural Resources and California EPA to remain engaged in this matter.

Ms. Sandkulla's letter to the Governor, dated June 2, 2020, asks for his further leadership and spoke on the Tuolumne River Voluntary Agreement (TRVA) put forth by the SFPUC and the Irrigations Districts, and supported by BAWSCA. The TRVA is ready for the State Water Resources Control Board's (SWRCB) environmental review, and the SFPUC and irrigations districts are prepared with the funding needed to implement the plan as soon as it is possible.

C. <u>SFPUC Budget and 10-year CIP – Update</u>: The SFPUC adopted its 2-year budget and 10year CIP in January and forwarded it to the Mayor for adoption by the Board of Supervisors (BOS). BAWSCA was actively engaged in the review of the 10-Year CIP and supported the projects within the program in accordance with the WSA amendment.

Unfortunately, shelter-in-place occurred before the BOS acted. Given the anticipated reduced revenues throughout the City, Mayor Breed directed all city departments to 1) move forward with interim budgets beginning July through August based on the current fiscal year's adopted budget with no new programs, 2) bring back a FY 2020-21 budget, and 3) a FY 2021-22 budget in accordance with guidelines and based upon the different requirements within the various departments.

Ms. Sandkulla reported that SFPUC's interim budget for the water enterprise is a continuation of the FY 2019-20 budget with no new programs. There are no anticipated issues with the Regional Water System.

Ms. Sandkulla explained that SFPUC's capital budget in FY 2020-21 is based on drawing down prior appropriations that were still on the books. Additionally, with the wholesale rates adopted, the SFPUC can manage the impacts on the water enterprise with modest changes, none of which will have an effect on the CIP.

The FY 2020-21 Budget will be considered by the Commission on July 14th, with a final approval by the Mayor on October 1st. BAWSCA will review any changes proposed by the SFPUC, but discussions with Mr. Ritchie indicates no significant impacts on the water enterprise.

D. <u>CEO Evaluation Procedure</u>: Director Pierce reported that she has initiated the annual CEO evaluation process. She noted that last year's review brought up a few items for review including having a multi-year contract, continuation of and guidelines for a performance bonus, and additional factors for consideration in a compensation package. An Ad Hoc Committee comprised of Directors Zigterman, Cormack, Vella, and Larsson will evaluate these matters. The goal is to have evaluation materials to the Board in late July/early August for a Closed Session discussion at the September Board Meeting.

She thanked Directors Kuta and Mendall for their involvement in last year's evaluation process. Members of the Committee were asked to provide their insights on the process.

10. Closed Session: The Committee adjourned to Closed Session at 3:55pm.

11. Reconvene to Open Session: The Committee reconvened from Closed Session at 4:08pm. Ms. Schutte reported that no action was taken during Closed Session.

12. **Comments by Committee Members:** There were no further comments from members of the Committee.

13. **Adjournment**: The meeting was adjourned at 4:09 pm. The next meeting is August 12th 2020.

Respectfully submitted,

Nicole Sandkulla, CEO/General Manager

NS/le
Attachments: 1) Attendance Roster

Bay Area Water Supply and Conservation Agency

Board Policy Committee Meeting
Attendance Roster

Agency	Director	Jun. 10, 2020	Apr. 8, 2020	Feb. 12, 2020	Dec. 11, 2019	Oct. 9, 2019	Aug. 14, 2019
Westborough	Chambers, Tom (Chair)	✓	✓	✓	✓	✓	MTG CANCELLED
Palo Alto	Cormack, Alison (V Chair)	✓	✓	✓	✓	✓	
Purissima	Jordan, Steve	✓	✓	✓	n/a	n/a	
Cal Water	Kuta, Rob	✓	✓	✓	✓	✓	
Sunnyvale	Larsson, Gustav	✓	✓	✓	✓	✓	
Hayward	Mendall, Al	✓	✓	✓	✓	✓	
Redwood City	Pierce, Barbara	✓	✓	✓	✓	✓	
Brisbane	Wood, Sepi	✓	✓	✓	✓		
Stanford	Zigterman, Tom	✓	✓	✓	✓	✓	

✓: present

☎ : Teleconference

June 10, 2020 Meeting Attendance (*Via Zoom in compliance with Gov. Order #29-20 due to COVID-19* **)**

BAWSCA Staff:

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

Public Attendees:

Paul Sethy	ACWD
Lisa Bilir	Palo Alto
Peter Drekmeier	Tuolumne River Trust
Michelle Novotny	SFPUC
Jenny Gain	Brown and Caldwell