



BOARD POLICY COMMITTEE

October 14, 2020

1:30 p.m.

DUE TO COVID-19, THIS MEETING 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.

The following members of the BAWSCA Board Policy Committee are listed to permit them to appear telephonically at the BPC Meeting on October 14, 2020: Tom Chambers, Alison Cormack, Steve Jordan, Rob Kuta, Gustav Larsson, Al Mendall, Barbara Pierce, 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/83303365106>
- Meeting ID: 833 0336 5106
- Password: 507360
- 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 US Toll-free
 - Meeting ID: 833 0336 5106
 - Password: 507360
- To Mute or UnMute, Press *6.
- To Raise Hand, Press *9.
- The Presentation will be available prior to the meeting at www.bawsca.org.

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

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BAWSCA

Bay Area Water Supply & Conservation Agency

BOARD POLICY COMMITTEE

October 14, 2020

1:30 p.m.

AGENDA

| <u>Agenda Item</u> | <u>Presenter</u> | <u>Page#</u> |
|---|------------------|--------------|
| 1. <u>Call To Order, and Roll Call</u> | (Chambers) | |
| Roster of Committee Members (<i>Attachment</i>) | | Pg 5 |
| 2. <u>Comments by Chair</u> | (Chambers) | |
| 3. <u>Public Comment</u> | (Chambers) | |
| <i>Members of the public may address the committee on any issues not listed on the agenda that are within the purview of the committee. Comments on matters that are listed on the agenda may be made at the time the committee is considering each item. Each speaker is allowed a maximum of three (3) minutes.</i> | | |
| 4. <u>Consent Calendar</u> | (Chambers) | |
| A. Approval of Minutes from the August 12, 2020 meeting (<i>Attachment</i>) | | Pg 7 |
| 5. <u>Action Calendar</u> | | |
| A. Tier 2 Drought Implementation Plan Extension (<i>Attachment</i>) | (Sandkulla) | Pg 19 |
| <u>Issue:</u> What is BAWSCA's approach to addressing the December 2020 expiration of the Tier 2 Drought Allocation Plan? | | |
| <u>Information to Committee:</u> Memorandum and oral report. | | |
| <u>Committee Action Requested:</u> That the Committee recommend Board approval of the proposed action. | | |
| B. Annual Review of BAWSCA's Statement of Investment Policy and Consideration of Proposed Modification to Add New Permitted Investment Vehicles (<i>Attachment</i>) | (Tang) | Pg 25 |
| <u>Issue:</u> BAWSCA's Investment Policy requires the Board to act on it annually irrespective of any changes. No changes are recommended. | | |
| <u>Information to Committee:</u> Staff memo and oral report. | | |
| <u>Committee Action Requested:</u> That the Board Policy Committee recommend Board re-affirmation of the current Statement of Investment Policy. | | |

6. Reports

(Sandkulla)

- A. Water Supply Conditions
- B. Bay Delta Plan/FERC Update
- C. BAWSCA Internship Program Update
- D. CEO's Letter (*Attachment*)
- E. Board Policy Committee Calendar (*Attachment*)
- F. Correspondence Packet ([Under Separate Cover](#))

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7. 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).

8. Report from Closed Session

9. Comments by Committee Members

(Chambers)

10. Adjournment to the Next Meeting

(Chambers)

Unless otherwise noticed:

December 9, 2020 at 1:30pm in the 1st Floor Conference room of the BAWSCA office building, at 155 Bovet Rd., San Mateo

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 bawasca@bawasca.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 POLICY COMMITTEE

2020 Committee Roster:

Thomas Chambers, Westborough Water District (Chair)

Alison Cormack, City of Palo Alto (Vice Chair)

Steve Jordan, Purissima Hills Water District

Rob Kuta, California Water Service Co.

Gustav Larsson, City of Sunnyvale (BAWSCA Vice Chair)

Al Mendall, City of Hayward

Barbara Pierce, City of Redwood City (BAWSCA Chair)

Sepi Wood, City of Brisbane

Tom Zigterman, Stanford University

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BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD POLICY COMMITTEE

August 12, 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.

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|----------------|
| 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 general procedures for conducting the meeting virtually. He noted that all actions by the committee will be done by roll call vote.
3. **Public Comments:** Michelle Novotny introduced Alison Kastama who will be replacing her as the new BAWSCA Liaison. Ms. Novotny announced that she has accepted another position within the SFPUC.
4. **Consent Calendar:** Approval of Minutes from the April 8, 2020 meeting.

Director Wood made a motion, seconded by Director Cormack, that the minutes of the June 10, 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:** Ms. Tang stated that this item is in response to the Board's request to establish a policy that would guide any future action by the Board in justifying the allocation of the positive balance in the Balancing Account. A proposed resolution was presented to, and discussed by, the Committee at its June 10, 2020. As directed by the Committee, this item presents the revised proposed resolution that fixes a minor typo and includes language that refers to the use of the Water Management Charge for item (d) of the five considerations for the use of the Balancing Account.

Ms. Tang explained that in addition to the written findings the Board must make to reasonably demonstrate that applying all or a portion of the positive balance in the Balancing Account to the selected purpose(s) set forth in the Water Supply Agreement (WSA) is in the best interests of the Wholesale Customers, an analysis comparing the use of the Balancing Account funds to implementing a Water Management Charge per WSA Section 3.06.A must also be done.

Director Chambers called upon each Committee member to allow them to state their comments and ask their questions. The Committee was supportive of the revised proposed resolution.

Staff responded to questions asked as follows:

Ms. Sandkulla stated that the Water Management Charge can only be applied specifically to water conservation or water supply projects administered by or through BAWSCA.

Legal Counsel, Allison Schutte, consented to change the word “compels” in item (e) to “would benefit from”. Director Mendall stated that the word “compels” can be too restricting in the Board’s ability to utilize the funds for efforts that would benefit the member agencies.

In response to Director Wood, Ms. Tang explained that the SFPUC provides the wholesale customers a preliminary wholesale rate projection at its Annual Meeting with BAWSCA and the Wholesale Customers in February, as required by the WSA. At this meeting, the wholesale customers have the opportunity to discuss and express their concerns on the rate projections with the SFPUC. The final wholesale rates are released in May.

There being no further discussion, Chair Chambers asked for a motion.

Director Mendall made a motion, seconded by Director Larsson, that with the revision of the word “compels” to “would benefit from” for item 2-e of the revised proposed resolution, the Committee recommend Board approval of Resolution 2020-02 establishing a Balancing Account policy.

The motion carried unanimously by roll call vote.

- B. Proposed Use of Balancing Account to Prepay the Remaining Unpaid Existing Asset Balance (WSA Section 5.03C) as of September 30, 2020. Ms. Tang reported that this item is a follow up to the Committee’s direction to staff at the June 10, 2020 BPC meeting to begin the process for paying the remaining unpaid existing asset balance relating to WSA Section 5.03.C.

Ms. Tang reminded the Committee that the Balancing Account records the difference between the actual SFPUC costs attributable to the Wholesale Customers and the amount billed to the Wholesale Customers in each year. This actual cost attributable to the Wholesale Customers is known as the Wholesale Revenue Requirement (WRR).

The Balancing Account, has and continues to, serve a critical role of rate stabilization in the wholesale rate setting. The balance, positive or negative, shall be taken into consideration by SFPUC in establishing wholesale rates, and may be prorated over multiple years to avoid fluctuating increases and decreases in wholesale rates.

The WSA states that if a positive balance is maintained for three successive years and represents 10% or more of the (WRR) for the most recent fiscal year, BAWSCA

Board 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.

The projected balance in the Balancing account as of June 30, 2020 is \$77M. The SFPUC currently plans to use the entire positive balance over the next 4 years to moderate wholesale rate increases with a zero increase in the next 2 years, and a lower rate increase in the subsequent 2 years.

As previously presented to the Committee, the WSA specifies six purposes for which the Balancing Account may be used if the criteria are met. In accordance with Resolution 2020-02 which the Committee voted to recommend Board approval at the September 17, 2020 Board meeting, and based on the written findings reported in the committee staff report, the use of the Balancing Account for prepayment of the existing asset balance under Section 5.03 of the WSA, is determined appropriate and in the best interest of the Wholesale Customers and ultimately, the water customers.

Ms. Tang explained that as of September 30, 2020, the remaining unpaid principal balance of the projects paid from the SFPUC revenue-funded appropriations made prior to July 1, 2009, but completed after that date, will be \$4,030,664. This balance is scheduled to be paid off by June 30, 2024 with interest at 4%.

Ms. Tang presented a table showing the calculations for how the proposed prepayment of the remaining balance as of September 30, 2020 will result in a total estimated present value savings of approximately \$179,000 to the Wholesale Customers.

Director Chambers called upon each Committee member for their comments and questions. Members of the Committee were appreciative of the analysis and were supportive of the proposed staff recommendation.

In response to questions from members of the Committee, Ms. Tang stated that there are no other outstanding obligations that the Balancing Account can be used for before it is used for rate stabilization, and there are no prepayment penalties. Specifically, the sentence on page 33 of the staff report that states, "It does appear there are other outstanding issues for consideration at this time." refers to the next item for discussion, LVE project.

There being no further discussion or comments from the public, Chair Chambers asked for a motion.

Director Mendall made a motion, seconded by Director Larsson, that the Committee recommend Board approval of the proposed use of the Balancing Account to prepay the remaining unpaid existing asset balance under WSA Section 5.03.C as of September 30, 2020.

The motion passed unanimously by roll call vote.

- C. Los Vaqueros Reservoir Expansion Project – Multi-Party Agreement Amendment #2: Water Resources Manager, Tom Francis reported that this item is being presented to the Committee for discussion and consideration of whether BAWSCA should

continue participation in the next phase of the Los Vaqueros Expansion (LVE) project by entering into the Multi-Party Agreement (MPA) Amendment #2. This decision needs to be presented to the Board for its consideration at its September 17, 2020 meeting.

Mr. Francis reminded the Committee that the LVE Project is being evaluated by BAWSCA and six other agencies, with Contra Costa Water District (CCWD) as the lead agency. The project includes an expanded surface water reservoir storage and other facilities.

Participation in the LVE project was recommended in BAWSCA's Long Term Reliable Water Supply Strategy (LTRWSS) completed in 2015. BAWSCA has been involved in the LVE Project since 2017 through a Memorandum of Understanding (MOU) with other agencies. BAWSCA's primary interest in the project is to reduce drought rationing impacts during shortages in the San Francisco Regional Water System (SF RWS). BAWSCA is currently seeking to secure 10 thousand acre feet (TAF) of storage in LVE that would be accessed during drought years.

Mr. Francis presented the rationales behind the staff recommendation for Board consideration in September. The rationales are based on feedback received from Board members and appointed Water Management Representatives (WMR) to date, BAWSCA's evaluation of alternatives, and BAWSCA's and SFPUC's interests in LVE.

There is no new information on the costs or capacity and reliability of the South Bay Aqueduct (SBA) since the July Board meeting. Discussions with the Board and the WMRs indicate that while there are member agencies supportive of BAWSCA's continued participation in LVE, there are member agencies that are not. A vast majority of the member agencies, however, are undecided due to outstanding questions about the costs, and accessibility and reliability of LVE supplies compared to the drought water supply benefit provided.

BAWSCA's survey results of the WMR shows that the Board's and the WMR's sentiments are reflective of each other. Mr. Francis reported that BAWSCA's review of offering participation to individual member agencies as a subscription program is deemed not feasible because of the substantial difference between BAWSCA's current subscription programs, which are small in scope and focus on water conservation matters, and the magnitude of a possible LVE subscription program, which is envisioned to be time consuming and expensive to manage. In addition, it is unclear that there is a significant desire from member agencies to participate in a subscription program for LVE participation at this time. Significant staff and legal resources will be required for continued involvement in LVE as a Local Agency Partner (LAP), which can take away time from other efforts BAWSCA is engaged in. The amount of time coupled with the significant costs that would only be divided among a small number of participating agencies did not substantiate the option.

As an alternative, Mr. Francis reported that BAWSCA is looking at continuing its participation through the SFPUC. The current language in the MPA Amendment #2 states that BAWSCA may participate in whole or in part, in the development of LVE, as an LAP or through the SFPUC, assuming that SFPUC continues its involvement as an LAP and BAWSCA is no longer an LAP. BAWSCA is in conversation with the

SFPUC to finalize language in SFPUC's portion of the MPA Amendment #2 that would allow BAWSCA's engagement in LVE under the SFPUC's primary role as an LAP.

BAWSCA's engagement in LVE was driven by the member agencies' interest in developing water supplies independent of the SFPUC to offset drought cutbacks in the SF RWS, potentially lowering the 20% rationing requirement. As previously stated, BAWSCA's participation in LVE was a key recommendation in BAWSCA's Long Term Reliable Water Supply Strategy.

SFPUC's interest in LVE is to meet existing contractual and legal obligations to its Wholesale Customers, which are to increase current reliability to meet its Level of Service (LOS) goal and maintain a rationing requirement of no more than 20% system-wide during dry years. Additionally, the SFPUC is looking at LVE as an opportunity to identify additional water supply that could make San Jose and Santa Clara permanent customers of the SFRWS.

BAWSCA continues to be strongly supportive of LVE and recommends that the SFPUC continue to pursue the water supply and storage benefits from LVE for several reasons. There is significant State and Federal grant funding that have been secured to assist in the overall project cost reduction. Environmental impacts are typically significant roadblocks for projects, and LVE's Environmental Impact Study (EIS) has been completed with its environmental impacts being well-understood and minimal, in comparison to other water supply projects. The project has tremendous momentum with the broad support among the LAPs, local stakeholders, and environmental organizations. Once completed, LVE will increase overall regional reliability for emergency and other purposes with its expanded storage and water conveyance facilities within the Bay Area region.

Mr. Francis reported that based on the member agencies' experience from the recent drought, their need for additional supply reliability beyond the existing 20% rationing imposed by the SFPUC during dry years has decreased. Agencies feel that LVE may not be the right fit for the extra supply reliability they are looking for.

Given the Board and agency feedback, the numerous unknowns that are critical to the project, and the significant project cost commitment of \$800-\$900 K, Mr. Francis stated that continuing to participate in LVE as an LAP would not be something BAWSCA staff would recommend to the Board in September.

However, part of the staff recommendation would be for the Board to strongly urge the SFPUC to remain engaged in LVE because it is part of the SFPUC's Alternative Water Supply Planning Initiative. LVE provides the opportunity for the SFPUC to maintain a rationing requirement of less than 20% during dry years, and the opportunity for San Jose and Santa Clara to become permanent customers.

BAWSCA will continue to work with SFPUC and other LAPs to ensure that BAWSCA may participate, in whole or in part, in the development of LVE. Mr. Francis noted that the language in the MPA Amendment #2 is still in draft form and will be re-circulated to the LAPs with the new language that BAWSCA and SFPUC developed and agreed to. BAWSCA and SFPUC do not anticipate concerns from other LAPs on the new language. The final MPA Amendment #2 is expected in late September.

Mr. Francis presented the following 3-part staff recommendation for Committee discussion:

1. not enter into Amendment #2 to the Multi-Party Cost Share Agreement for LVE Planning,
2. strongly urge the SFPUC to remain engaged in LVE as a means to increase water supply reliability and implement its Alternative Water Supply Initiative, which is an update to its 2016 WaterMAP effort, and
3. support BAWSCA's continued participation in the development of LVE, to the extent possible, despite no longer being a LAP.

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

Director Cormack agreed with the reasons behind BAWSCA's continuing support for LVE and for why BAWSCA participated from the beginning. The reasons highlight why it is important for the region to ensure the project moves forward. She believes the project has a great deal of merit within the Regional Water System, and she is supportive of the staff recommendation.

Over the past year and half, she has watched the evolution of the various considerations presented and discussed by the Board, and there are strong opinions from both sides. She agrees with the rationales behind the staff recommendation, putting emphasis on the region's demonstrated ability, from the recent past, to conserve at the level needed for future dry years. Additionally, given the unusual economic situation, it is prudent not to make investments that involve critical unknowns, by which, are associated with the costs and issues with SBA, an essential component of the project.

She is pleased that BAWSCA has participated in LVE up until this point. She believes it is crucially important that the SFPUC continues to participate, and she hopes that BAWSCA will be able to continue its involvement through the SFPUC.

Director Jordan stated that Purissima Hills Water District (PHWD) is unable to conserve 58% in a 2nd or 3rd drought year, and will need drought supply. He recognizes the uncertainty of LVE being the best drought supply source with its high costs and unknowns, and the unfeasibility of a subscription program with only a few participating agencies. However, he hopes to find other sources of drought supply from the knowledge and experience gained and the mechanisms that have surface over the course of examining LVE. For example, water banking, Oakdale, and Del Valle. He is interested in BAWSCA's pursuit for other alternatives.

Director Jordan asked if there is a cost to BAWSCA's endorsement of SFPUC to remain as an LAP, and if so, has it been quantified? Additionally, he asked what is the life expectancy of this expansion before CCWD expands the reservoir for the 4th time.

Mr. Francis stated that the cost for participating in MPA Amendment #2 is approximately \$800-\$900 K. The LVE is being considered for the SFPUC's

Alternative Water Supply Initiative, which is included in SFPUC's budget for its Capital Improvement Program. The funding for SFPUC's CIP and efforts associated with its Alternative Water Supply Initiative is already factored into the wholesale water customers' rate.

Ms. Sandkulla confirmed that there would be no increased cost to what is already planned and built into the existing wholesale rates.

She added that the reasoning for urging the SFPUC to remain engaged with LVE is because the Commission will also be considering its participation in September. It is important for the Commission to know that their wholesale customers would like them to remain engaged. Ms. Sandkulla stated that she would normally make a statement to the Commission from the podium, but she believed it was appropriate for the BAWSCA Board, given its involvement and interests in LVE, to express that directly to the Commission.

Mr. Francis stated that based on what is known now, this expansion of LVE has a life expectancy of up to 100 years, and is expected to be fully functional by 2030. He noted that as part of the annual repayment of debt, CCWD would be collecting monies when and if they would have to rehabilitate the facilities. Similar to the Hetch Hetchy system, CCWD will always need to have funding budgeted for repairs and rehabilitation.

Mr. Francis added that this particular enlargement of LVE has been studied from an environmental impact level. Theoretically, there could be another enlargement to LV, but given its life expectancy and anticipated completion in 2030, another enlargement is far into the future unless climate change and significant demand for additional supply is requested by other LAPs to meet their future needs.

Director Kuta acknowledged the difficulty in making an informed decision given the absence of critical data and the large number of member agencies that are undecided. He appreciated Director Jordan's questions and comments and shares the same concerns that opportunities LVE offers are few and far between. He asked if there was a possibility to delay the Board's decision until more information become available.

Mr. Francis explained that CCWD needs the funding requested to continue the work in this phase. The payment structure under MPA Amendment #2 involves multiple draws that would begin in September because most funds from Federal and State grants will not be received until construction begins. Additionally, there are requirements associated with the Federal and State grant funds that places a tight schedule on the project and necessitates CCWD to enter into the Joint Powers Agreement (JPA) and service agreements with the LAPs by the end of 2021. The tight schedule unfortunately requires the LAPs' commitment before the outstanding critical pieces of information become available.

Director Larsson stated that the Board's consideration of LVE emphasizes the board members' responsibility to represent the BAWSCA region instead of their individual appointing agencies. While it is natural to be most familiar with our own agency's situation, board members need to consider what is best for BAWSCA, as a whole.

He is pleased with the variety of goals between BAWSCA's and SFPUC's interests, and the options to achieve those goals. He believes that the financial commitment is substantial for an agency the size of BAWSCA given the number of unknowns. He is comfortable with BAWSCA's due diligence by participating this far, and believes that BAWSCA's participation generated visibility on the project's importance to the region. LVE is a worthy project that provides opportunities that are few and far between. BAWSCA's engagement and analysis to date allows the Board to make an informed decision based on what is available. He supports the staff recommendation and is pleased that it includes an alternative for BAWSCA to continue its engagement in a way that is most appropriate.

Director Mendall wanted to understand the intent behind the staff's recommendation for the Board to strongly urge San Francisco's continued engagement with LVE, and asked about the structure of usage SFPUC is exploring in LVE. He also asked how much staff time would be involved associated with the proposed recommendation.

In comparison to BAWSCA's interest in 10 TAF, Mr. Francis explained that the SFPUC is looking at a higher storage level of 20 TAF to 40 TAF. It is also looking at 2 options for using LVE, either during drought years or an all year type of use. An all-year type of use could make water available to San Jose and Santa Clara, and potentially other member agencies that are coming up to or passing their Individual Supply Guarantees (ISG).

In a drought and with the added uncertainties that the Bay Delta Plan provides, the SFPUC could potentially have to cut back during droughts to a level that is higher than 20% regionwide. Having an alternative water supply project in place, such as the LVE, is necessary to ensure that BAWSCA would not have to ration at a greater degree.

Mr. Francis stated that BAWSCA's participating through the SFPUC would reduce BAWSCA's overall level of engagement, but that staff would continue to be engaged in the LVE work effort so long as SFPUC remains a partner in LVE, representing the interests of BAWSCA member agencies. Efforts, particularly in some technical and legal aspects, such as in the modeling work and involvement in the formation of a JPA, will decrease. But BAWSCA will continue to stay heavily engaged with the SFPUC to fully understand the project and provide substantial recommendations as to what is best for the BAWSCA region. Even while participating through the SFPUC, BAWSCA will continue to be interested in how reliable SBA will be, how much SFPUC will have to pay for the available capacity on SBA, and how water supply would be conveyed.

Ms. Sandkulla added that BAWSCA's adopted work plan and budget for FY 2020-21 includes LVE and staff level expectations. She noted that regardless of what role BAWSCA has moving forward, she would expect the Board to want BAWSCA in a place to make sure that the wholesale customers are comfortable with SFPUC's involvement in LVE. As we would with any large CIP projects, Calaveras for example, staff would make sure the project moves along and provide feedback based upon BAWSCA's and SFPUC's mutual interests. This is the kind role she expects BAWSCA will have for LVE. It is not as extensive as it would be from the legal side if BAWSCA was an LAP, but from a technical review, analysis and engagement, I would expect the Board to want staff to be engaged at this level.

In response to Director Mendall's question about the use of the words "strongly urge" instead of "support", Ms. Sandkulla stated that the Commission has not yet acted on its ongoing participation in LVE at this time. Her intent is to give an indication to Commission on what direction the BAWSCA Board wants the SFPUC to go with regard to ongoing participation in LVE.

Director Pierce appreciates the level of discussion and the opportunity to watch the project evolution. She has always felt the importance of developing new supplies and agrees with strongly urging the SFPUC to continue its participation because of its obligation to the wholesale customers on water supply reliability and alternative supplies. SFPUC has done a lot of exploration on alternative supplies but has not delivered while member agencies have decreased water use when needed. It is critical for BAWSCA to continue to look forward in making sure there are alternative supplies outside the SFRWS.

She noted that the wholesale customers pay 2/3rds of the cost to operate the system that provides water supply and she expects to pay 2/3rds of the costs of the alternative supply SFPUC finds. She anticipates staff working closely with the SFPUC to provide them information on behalf of the member agencies. This has proven valuable during the WSIP implementation and the development of the CIP. SFPUC and BAWSCA have built a strong relationship and it is important for BAWSCA to endorse the project.

She believes that Nicole, as BAWSCA's CEO/General Manager, speaking on behalf of the project has been valuable for the region. While LVE does not seem to be the right project for BAWSCA to be an LAP, it is important to have the seat through SFPUC to assist in the development of the project.

She asked about the potential for additional partner agencies joining at a later date, to address Director Kuta's question about BAWSCA's decision until critical information is known. Mr. Francis stated that it may depend on how the JPA is structured and whether it will have measures to allow for new or additional partners.

Legal Counsel Allison Schutte added that it is not assumed that other agencies can join, but it certainly is not prohibited.

Director Pierce stated her support for the staff recommendation.

Director Wood agrees with the comments made by her fellow committee members, particularly on Board members' responsibility to represent the region and not their appointing agency, the importance of LVE for the region, and staying engaged in the project. She is supportive of the staff recommendation which is fiscally responsible and aligns with the agency's goal.

Director Zigterman appreciated the committee discussions and comments. He stated his support for exploring additional water supply storage but the costs for continued participation in LVE at this time are too high and uncertain, it does not justify the continued expenditure for staying involved directly. He agrees with the use of "strongly urge" because it is important to pursue the additional storage as a region and the SFPUC as the BAWSCA region's supplier. He supports the staff recommendation.

Director Chambers expressed his support for the staff recommendation. He believes that it is important for BAWSCA to stay engaged under SFPUC's involvement and represent 2/3rd of SFPUC's customers because he sees LVE as an extension of its CIP. It is important for SFPUC to maintain its LOS goals and for BAWSCA to urge them to seriously look at alternative sources. Environmental issues are not going to get easier, and global warming is not going to help.

In response to Director Jordan, Ms. Sandkulla explained that SFPUC's budget for its Capital Improvement Program includes an Alternative Water Supply Development line item. It is approximately \$20 M over two years. The projected wholesale customer rates includes what they expect to spend on a combination of expenditures. At the end of the year, wholesale customers are charged actual costs based on actual expenditures. If SFPUC chooses to move forward with LVE, the wholesale customers will pay 2/3rds of that costs.

Ms. Sandkulla is not familiar with the contractual requirements BAWSCA member agencies, who are customers of Valley Water, would have under their agreements with Valley Water should Valley Water choose to participate in LVE. That would be separate from those agencies' agreements with SFPUC and as a BAWSCA agency.

There being no further comments from members of the Committee or members of the public, Committee Chair Chambers asked for a motion.

Director Pierce made a motion, seconded by Director Larsson, that the Committee recommend Board approve to:

- 1. not enter into Amendment #2 to the Multi-Party Cost Share Agreement for LVE Planning,**
- 2. strongly urge the SFPUC to remain engaged in LVE as a means to increase water supply reliability and implement its Alternative Water Supply Initiative, which is an update to its 2016 WaterMAP effort, and**
- 3. support BAWSCA's continued participation in the development of LVE, to the extent possible, despite no longer being a LAP.**

The motion passed unanimously by roll call vote.

6. Reports:

- A. Water Supply Conditions: Ms. Sandkulla reported that the BAWSCA region's potable water use for the month of June is 16% less than the pre-drought levels in June of 2013. While there is a slight increase in comparison to last year's 2019 use, water use remains below 2013.
- B. Bay Delta Plan - Update: Ms. Sandkulla reported that Governor Newsom continues to provide his critical leadership on the Bay Delta Plan and Voluntary Agreements with his recent release of his water resilience portfolio, which prominently features the voluntary agreements as a critical piece in the Governor's plan for resolving the Bay Delta issues.

The California Secretaries for Natural Resources and Environmental Protection Agency remain engaged on behalf of the Governor's office. BAWSCA continues to coordinate with the SFPUC in their direct engagement in the negotiations.

BAWSCA and the member agencies continue to support the Bay Delta Plan objectives and are committed to working with other stakeholders to protect the quality in the Bay Delta for all users, including fish and other wildlife. BAWSCA and the member agencies continue to see the voluntary agreement as the best solution to resolve the critical issues of the Bay Delta Plan.

- C. **FERC Update:** As previously reported to the Board at its July Board meeting, FERC released the Final Environmental Impact Statement on July 7th. BAWSCA is currently reviewing and analyzing the document in coordination with SFPUC. The review is particularly focusing on the responses from FERC on the economic and environmental impacts to the BAWSCA service area and responses to the BAWSCA, SFPUC and NGO comments. BAWSCA's submittal of anything further to FERC is yet to be determined.
 - D. **Board Policy Calendar:** Ms. Sandkulla alerted the Committee on a few re-shuffling of items in the Board Policy Committee Policy Calendar given the large agenda for the upcoming September board meeting.
- 7. **Closed Session:** The Committee adjourned to Closed Session at 2:59 pm.
 - 8. **Reconvene to Open Session:** The Committee reconvened from Closed Session at 3:15 pm. Ms. Schutte reported that no action was taken during Closed Session.
 - 9. **Comments by Committee Members:** There were no further comments from members of the Committee.
 - 10. **Adjournment:** The meeting was adjourned at 3:16 pm. The next meeting is October 14, 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 | Aug. 12, 2020 | Jun. 10, 2020 | Apr. 8, 2020 | Feb. 12, 2020 | Dec. 11, 2019 | Oct. 9, 2019 |
|--------------|---------------------------|------------------|------------------|-----------------|------------------|------------------|-----------------|
| Westborough | Chambers, Tom (Chair) | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| 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

August 12, 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 |
| Danielle McPherson | Sr., Water Resources Engineer |
| Kyle Ramey | Water Resources Specialist |
| Christina Tang | Finance Manager |
| Lourdes Enriquez | Assistant to the CEO/General Manager |
| Allison Schutte | Legal Counsel, Hanson Bridgett, LLP |
| Nathan Metcalf | Legal Counsel, Hanson Bridgett, LLP |
| Bud Wendell | Strategic Communications |

Public Attendees:

| | |
|------------------|----------------------|
| Leonard Ash | ACWD |
| Paul Sethy | ACWD |
| John Weed | ACWD |
| Karla Daily | Palo Alto |
| Alison Kastama | SFPUC |
| Michelle Novotny | SFPUC |
| Peter Drekeimer | Tuolumne River Trust |

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD POLICY COMMITTEE MEETING

Agenda Title: **Tier 2 Drought Implementation Plan Extension**

Summary:

The Tier 2 Drought Implementation Plan ('Tier 2 Plan' or 'Plan') allocates the collective Wholesale Customer share of the water made available by the San Francisco Public Utilities Commission (SFPUC) during shortages caused by drought among individual Wholesale Customers.

The Tier 2 Plan was first adopted by each Wholesale Customer in the winter/spring of 2011 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 (WSA). That Tier 2 Plan, which initially expired on December 31, 2018, was extended through December 31, 2019 by the Board's adoption of Resolution 2018-01 and was further extended through December 31, 2020 by the Board's adoption of Resolution 2019-02.

In light of continued uncertainties surrounding new statewide water use efficiency requirements, it is recommended that the Board extend the present Tier 2 Plan for one more calendar year to December 31, 2021.

Recommendation:

That the Committee recommend the Board adopt Resolution 2020-03 which keeps the present Tier 2 Plan drought allocation methodology in place for the upcoming year from January 1, 2021 through December 31, 2021.

Discussion:

The Tier 2 Plan describes the method for allocating the water made available by the SFPUC among the Wholesale Customers during shortages caused by drought.

The Tier 2 Plan was adopted by each Wholesale Customer pursuant to Section 3.11.C of the WSA in the winter/spring of 2011. The Tier 2 Plan, which initially expired on December 31, 2018, was extended through December 31, 2019 through action by the BAWSCA Board in 2018 and was further extended through December 31, 2020 by the BAWSCA Board in 2019.

In 2018, legislation was passed to implement the new statewide water use efficiency requirements, which may substantially impact the normal year and drought year water use within the BAWSCA Member Agencies' service areas. The State, through the Department of Water Resources (DWR), has indicated that it will release draft water use efficiency requirements in October of 2021 and receive comments thru the spring of 2022, such that final requirements would be released in June of 2022. Until the impacts of implementation of these requirements in each Member Agency's service area is clear, it is not recommended that BAWSCA or the Member Agencies develop a new Tier 2 methodology.

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.

Legal Counsel has determined that the Board may rely on the water allocations included in the present Tier 2 Plan and provide those to the SFPUC in accordance with Section 3.11.C.3 of the WSA.

Proposal to Extend the Present Tier 2 Plan for One Year

Given that the WSA has a provision that gives the BAWSCA Board the authority to set an allocation method, BAWSCA staff proposes that the Board authorize the SFPUC to follow the present Tier 2 Plan method for an additional year, thereby effectively extending the term of the Tier 2 Plan such that it expires on December 31, 2021.

This extension provides BAWSCA and the Wholesale Customers with the opportunity to review new state requirements when the draft is released in the fall of 2021, as additional information becomes available, and to interpret how best to apply those new requirements into an updated Tier 2 Plan.

Feedback from Water Management Representatives

Beginning in July 2019, BAWSCA's CEO held three workshops with Water Management Representatives (WMRs) appointed by their respective BAWSCA Member Agencies to discuss the potential development of an updated Tier 2 Plan. The workshops covered the following topics:

1. Review of the present Tier 2 Plan, including plan history and policy principles.
2. Analysis of projected allocations to each BAWSCA Member Agency for a variety of past and future drought scenarios using the present Plan.
3. Analysis of potential modifications to the present Plan and associated potential allocations to each BAWSCA Member Agency.

The WMRs provided the following feedback to the CEO:

1. Overall, the present Tier 2 Plan continues to meet the policy principles upon which the Plan is based, and these policy principles are still appropriate.
2. Future changes to the Tier 2 Plan may be appropriate, in particular as additional information becomes available on the long-term water use efficiency targets.
3. An annual review of the Tier 2 Plan to evaluate its continued effectiveness would be beneficial.
4. Additional information on the process for water transfers between BAWSCA Member Agencies would be helpful in preparing for potential Tier 2 Plan implementation.

In accordance with WMR feedback provided in 2019, BAWSCA provided an annual review of the Tier 2 Plan at the October 1, 2020 WMR meeting. The WMRs did not object to keeping the existing Tier 2 Plan in place until the State issues final water use efficiency requirements, anticipated in June of 2022. As a meeting follow-up, the WMR's requested additional information regarding the analysis that was performed and presented at the meeting. BAWSCA has since provided that information.

Given that the final water use efficiency targets will not be released until June 2022, BAWSCA intends to provide an update to the WMRs by Fall 2021, similar to the one given in October 2020, and will include a review the existing Tier 2 Plan and, if made available from DWR, draft water use efficiency requirements are discussed. Feedback provided to the CEO would then be

shared with the BAWSCA Board prior to consideration of any future extensions to the Tier 2 Plan.

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 allocation of water among the Wholesale Customers provided by BAWSCA, or unanimously agreed to by the Wholesale Customers. In 2011, the Wholesale Customers adopted the original Tier 2 Plan, which takes that collective Wholesale Customer allocation and further divides it among each Wholesale Customer. The Tier 2 Plan details the methodology used to divide the available supply during a drought. That methodology used in the original Tier 2 Plan has not been modified to date.

The Tier 2 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.* 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 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 Jose and Santa Clara as permanent customers and to allow for the development of a new Tier 2 Plan. In May 2019, the 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 2020, the Tier 2 Plan was extended by the Board's adoption of Resolution 2019-02 to continue to provide formal drought allocations to the SFPUC through December 31, 2020.

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 Regional Water System.

Existing Tier 2 Plan Methodology

The Tier 2 Plan's methodology consists of a stepwise process that is followed to determine each Wholesale Customer's allocation. More specifically, a seven-step allocation process is followed which takes into account factors such as: volume of water purchased by each agency in most recent non-drought year(s); seasonal demand fluctuations; Individual Supply Guarantee (ISG) allocations; minimum and maximum cutback levels; and the public health and safety needs of East Palo Alto.

The estimation process is iterative, in that if after one "round" of calculations, one or more agencies has a proposed cutback of less than 10% of their normal supply or if a proposed cutback for a particular agency is quite severe, adjustments are made to the calculation procedure and a revised estimate is developed.

The above discussion is brief in that it does not go into the complexity and nuances of the estimation process. The estimate takes time to perform and a firm understanding of Member Agency water use specifics.

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 its wholesale customers during a drought.

Complicating Factors

In 2016, Governor Brown issued Executive Order B-37-16 which included several directives related to "Making Water Conservation a California Way of Life". These directives included the implementation of new, long-term water use efficiency targets for urban water suppliers in California. This requirement, when implemented, could have long-term impacts on the BAWSCA Member Agencies' water use patterns and ability to further reduce water use during times of shortage. Legislation to adopt these new requirements is in development by DWR and is scheduled to be finalized in 2022. Given the potential impacts of these requirements, BAWSCA staff is recommending the revisions to the Tier 2 Plan be postponed until the requirements have been finalized so their impacts on water use can be fully understood.

Attachments:

1. Draft Resolution 2020-03 Approving the Extension of the Tier 2 Drought Implementation Plan

**RESOLUTION NO. 2020 – 03
BY THE BOARD OF DIRECTORS OF THE
BAY AREA WATER SUPPLY AND CONSERVATION AGENCY**

**APPROVING THE EXTENSION OF
THE TIER 2 DROUGHT 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 July 2009 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 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 current 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, the BAWSCA member agencies have determined that an extension of 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 continue to rely on the allocation methodology set forth in the Tier 2 Plan for one year, thereby effectively extending the Tier 2 Plan for one year until December 31, 2021.

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 Tier 2 Drought Implementation Plan for one additional year, through December 31, 2021, 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 _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

Chair, Board of Directors

ATTEST:

Secretary

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD POLICY COMMITTEE MEETING

Agenda Title: **Annual Review of BAWSCA's Statement of Investment Policy and Consideration of Proposed Modification to Add New Permitted Investment Vehicles**

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 January 16, 2020 and resulted in no changes to the policy. Quarterly investment reports are provided to the Board as required by the policy. The last investment report was provided to the Board on September 17, 2020.

BAWSCA's Investment Policy also specifies permitted investment instruments for the bond proceeds associated with the Revenue Bonds Series 2013A and 2013B, and delegates the management and oversight of BAWSCA's investments to the CEO/General Manager. Based on a recent review of the agency's primary investment objectives and all investment instruments permitted by the Bond Indenture, BAWSCA recommends modifying the policy to include U.S. Agency Securities as permitted investments for the bond funds, in addition to the three specific investment vehicles currently allowed by the Investment Policy.

In consideration of the long-term nature of the stabilization fund, BAWSCA has determined that the current 0-5 year laddered 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 confirmed that the Investment Policy reflects language consistent with current State law. Except for the recommended inclusion of U.S. Agency Securities as a permitted investment for the bond proceeds, no other changes to the Policy are recommended at this time.

Fiscal Impact:

No impact on BAWSCA's annual operating budget.

Recommendation:

That the Board Policy Committee recommend Board approval of the proposed modification to the current Statement of Investment Policy by including U.S. Agency Securities as a permitted investment for the bond proceeds.

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 and is more restrictive than permitted by 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.

Legal counsel has pointed out that 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. Since the agency's long-term banking relationship with Boston Private national bank is working well, the agency currently has no plans to change its bank in the next 12 months. Due to the Agency's high liquidity needs and based on the ongoing review of cash flow forecasts, it is determined that a change to allow longer maturity of Certificate of Deposits is not needed at this time. 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. Like the current Investment Policy says, "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."

BAWSCA recently 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 in addition to the three specific investment vehicles currently allowed by the Investment Policy, three other investment vehicles - LAIF, Commercial Paper (CP), and senior U.S. Government sponsored enterprise obligations, commonly referred to as "U.S. Agency Securities" - are consistent with the primary objectives of BAWSCA's investment policy and the agency's risk tolerances and therefore can be considered as additional investment options for BAWSCA.

Both LAIF and CP are short-term investment vehicles with a term to maturity of less than 270 days. BAWSCA's 0-5 year laddered portfolio strategy consists of U.S. Treasury Securities maturing in 6-month intervals out to a final maturity of 5 years. Per BAWSCA's investment advisor, longer-term portfolios have historically outperformed LAIF as evidenced by the average annual returns over the preceding 20 years. Any CP that may be appropriate for the shortest maturity in BAWSCA's portfolio strategy would have supply constraints due to the Securities and Exchange Commission's 4(2) exemption.

Based on the findings described above, only 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. Compared to the U.S. Treasury Securities that are fully and unconditionally guaranteed by the U.S. Federal Government and considered free of default risk, the U.S. Agency Securities are issued or guaranteed by non-full faith and credit federal agencies (e.g., Federal National Mortgage Association, Federal Home Loan

Mortgage Corporation, and Federal Home Loan Bank) with fairly low credit risk. Under the current market conditions, U.S. Agency Securities provide yield premiums of between 5 and 15 basis points (0.05% - 0.15%) versus comparable U.S. Treasury Securities while maintaining credit ratings of AA+ by Standard and Poor's and Aaa by Moody's. Accordingly, BAWSCA and its investment advisor recommend the inclusion of U.S. Agency Securities as a permitted investment in the investment policy.

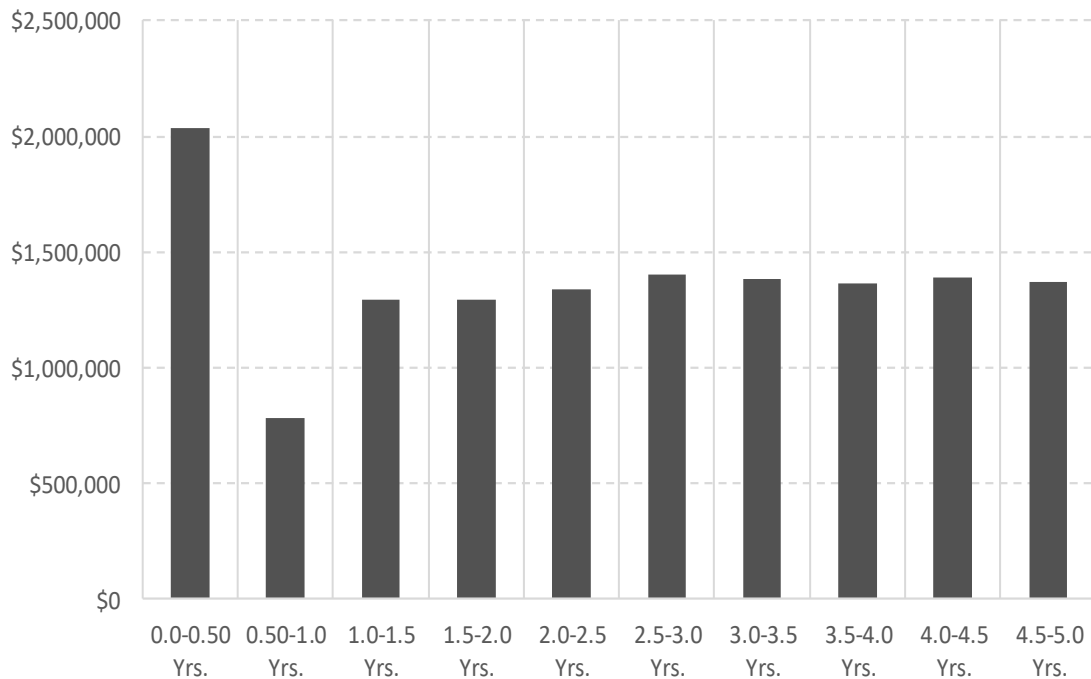
Stabilization Fund Investment Strategy

In addition, BAWSCA performed a review of the investment strategy for the stabilization fund, in consultation with the investment advisor, in light of recent market developments and changes to interest rate policy made by the Federal Reserve. 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.

Against this backdrop, BAWSCA's longer-term 0-5 year ladder investment strategy performed well as previously purchased securities now provide fixed yields that are well above currently available interest rates. Moreover, the current 0-5 year ladder 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 ladder portfolio strategy remains appropriate as such longer-maturity strategies have historically provided greater investment returns and income over time.

As of October 1, 2020, the total balance held by the bond trustee, Bank of New York, was \$17,664,848.62, which includes: (1) the bond surcharges of \$3,992,636.09 collected from the member agencies to pay the next semi-annual debt service payment, and (2) the stabilization fund of \$13,672,212.53 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 10/5/2020



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 laddered 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, BAWSCA and its investment advisor believed that the 0-5 year ladder portfolio strategy remained appropriate.

Attachments:

1. Recommended Statement of Investment Policy, showing revisions in redlined format
2. Recommended Statement of Investment Policy, incorporating revisions

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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; ~~and~~

(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.

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.

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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.

8. Reporting Requirements

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9. Annual Review of Investment Policy

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BAWSCA

Bay Area Water Supply & Conservation Agency

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

MEMORANDUM

TO: BAWSCA Board of Directors
FROM: Nicole Sandkulla, CEO/General Manager
DATE: October 9, 2020
SUBJECT: Chief Executive Officer/General Manager's Letter

Use of Balancing Account to Prepay the Remaining Unpaid Existing Asset Balance (WSA Section 5.03.C) as of September 30, 2020:

On September 17, 2020, the Board approved the proposed use of the Water Supply Agreement (WSA) Balancing Account fund to prepay the remaining unpaid existing asset balance under the WSA Section 5.03.C as of September 30, 2020 in the total amount of \$4,030,664. The net savings to the Wholesale Customers is estimated to be approximately \$179,000 on a present value basis. On the next day, a letter from BAWSCA was sent to Mr. Eric Sandler, CFO/AGM of the SFPUC, requesting the WSA 5.03.C prepayment based on the Board's direction. Mr. Sandler acknowledged receipt of BAWSCA's letter and confirmed that the prepayment will be reflected in the calculation of FY 2020-21 Wholesale Revenue Requirement and the compliance audit report of changes to the balancing account.

Phase III Potable Reuse Exploratory Plan (PREP) Project:

The Potable Reuse Exploratory Plan (PREP), referred to as the Crystal Springs Purified Water Project by the SFPUC, is one of several future projects included in the SFPUC's Alternative Water Supply Planning effort. If implemented, the purified water project could provide 6-12 mgd of new water supply through reservoir water augmentation at Crystal Springs Reservoir. Specifically, treated wastewater from Silicon Valley Clean Water (SVCW) and/or the City of San Mateo would go through an advanced water treatment plant constructed to produce purified water that meets state and federal drinking water quality standards. The purified water would then be transmitted 10-20 miles (depending on the treatment plant location and pipeline alignment) to SFPUC's existing Crystal Springs Reservoir, blended with regional surface water supplies, and treated again at Harry Tracy Water Treatment Plant.

Work on the project remains in the feasibility stage. Phase 3 of the feasibility studies is anticipated to start in late 2020. Prior phases analyzed the feasibility of treatment and distribution, and provided feasible scenarios for institutional structure and costs. The Phase 3 work will evaluate various operational scenarios, water quality considerations, and project costs.

BAWSCA, Cal Water, Redwood City, SVCW and San Mateo are PREP partner agencies. The partner agencies are currently finalizing a draft Memorandum of Agreement that needs to be executed by all parties in order to commence Phase 3. The cost associated with the Phase 3 work is \$282,161. BAWSCA's financial commitment toward the work is \$10,000.

Bay Area Regional Reliability (BARR) Partnership – Update:

As part of the BARR Partnership, a consortium of 8 Bay Area water utilities (including ACWD, BAWSCA, CCWD, EBMUD, Marin Municipal Water District (MMWD), SFPUC, Valley Water (formerly Santa Clara Valley Water District), and Zone 7 Water Agency are exploring opportunities to move water across the Bay Area region as efficiently as possible, particularly during times of drought and emergencies.

The BARR agencies are proposing two separate pilot projects in 2020 to test conveyance pathways and identify potential hurdles to better prepare for sharing water during a future drought or emergency. A strategy report identifying opportunities and considerations will accompany these pilot transfers and will be completed in 2021. This work is supported with grant funds from the U.S. Bureau of Reclamation and the participating water agencies.

BAWSCA is an active participant in one of the two pilot projects. Specifically, BAWSCA is participating in the proposed Pilot 1A, which will be a desktop simulation that assumes the existence of some facilities that are currently not in place. This simulation will test the conveyance of water from an expanded Los Vaqueros Reservoir through the South Bay Aqueduct (SBA). The agencies participating in this simulation are the SFPUC, ACWD, and BAWSCA.

Over the last several months, the BARR Partnership held two workshops with external stakeholders. Diverse interests were represented and the comments shared are being used to help the BARR Partners develop a more comprehensive strategy in developing drought supply planning opportunities.

For the BARR Pilot 1A, BAWSCA, ACWD, and SFPUC have worked together to finalize the scope and objectives for water quality analysis. BAWSCA's role on the pilot will be to evaluate, with input from SFPUC and ACWD, how costs associated with transferring water would be treated, as well as to review how agreements could be formulated to execute a water transfer of this nature.

BAWSCA Comments on WSIP Annual Report

The SFPUC recently provided BAWSCA with the Water System Improvement Program (WSIP) Annual Report for Fiscal Year 2019-20, dated August 30, 2020 (Annual Report). As required under AB 1823, SFPUC must prepare an Annual Report and to submit it to the to the State of California (the Seismic Safety Commission and the Division of Drinking Water). BAWSCA reviewed the Annual Report and issued a comment letter directed to the State agencies noted above. BAWSCA issued a separate comment letter to the SFPUC Commission that included findings and recommendations. A copy of each letter is in the Correspondence Packet.

There were key challenges faced by the SFPUC in FY 2019-20 that are referenced in the Annual Report. Chiefly, COVID-19 related work delays impacted the WSIP. Although at the time of the Annual Report the impacts of COVID-19 on WSIP project schedules and budgets were not able to be estimated, BAWSCA recommended that the SFPUC include, in the Annual Report for FY 2020-21, detailed information as to how COVID-19 impacted particular project costs and schedules.

While BAWSCA agreed with SFPUC's statement in the Annual Report that there continues to be great progress on the overall WSIP effort, BAWSCA pointed out that the remaining work is difficult and time consuming. Specifically, BAWSCA is concerned that work associated with both the Alameda Creek Recapture Project and the Regional Groundwater Storage and

Recovery Project risk schedule delays that will result in delaying the completion of the WSIP. There are cost risks present on those two projects as well. BAWSCA's comment letter presented these findings, and in its letter to the SFPUC, BAWSCA asked the Commission to direct staff to provide updated budget, scope and schedule estimates for said projects.

Letter to US Department of Energy Regarding Proposed Changes to Existing Water Efficiency Standards

The U.S. Department of Energy (DOE) has proposed changes to the definitions of showerheads and a new unregulated class of clothes washers that would loosen water efficiency standards. The new definition of a showerhead would allow for multiple showerheads in a single stall, each meeting the 2.5 gallon per minute (gpm) flow maximum, rather than the total flow being 2.5 gpm, which is currently established in law. The new unregulated class of clothes washers would not be subject to energy or water efficiency standards. Showerhead flow restrictions established in 1992 and EPA Energy Star labeled appliances have enabled Americans to save millions of dollars on water and energy bills and successfully improved water use efficiency.

The Alliance for Water Efficiency (AWE) has prepared two comment letters and invited water agencies from across the country to sign on to their opposition to the proposed rulemaking changes. BAWSCA intends to sign onto both AWE letters.

BAWSCA independently submitted a separate letter to DOE regarding the proposed new definitions of showerheads. BAWSCA's independent letter provides water savings estimates, including an estimated 33.1 billion gallons of water that customers in the BAWSCA service area have saved since 1992 due to the showerhead regulations alone. A copy of the letter is attached.

Launch of New Rain Garden Rebate Program:

BAWSCA will be launching the Rain Garden Rebate Program expansion to the already existing Lawn Be Gone! Turf replacement rebate program on October 12, 2020. The Rain Garden Rebate Program expansion is an optional program for water customers that are already participating in BAWSCA's Lawn Be Gone! turf replacement rebate program.

The Rain Garden Rebate Program is funded by Flows to Bay, the City/County Association of Governments (C/CAG) and the San Mateo Countywide Stormwater Pollution Prevention Program (SMCSPPP). The program provides residents a \$300 flat rebate for the installation of a rain garden in conjunction with their turf replacement project.

Information for this new program will be available at www.bawasca.org and bayareaconservation.org when the program is launched.

Attachments:

1. September 24, 2020 BAWSCA comment letter to DOE regarding proposed changes to existing water efficiency standards

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September 24, 2020

The Honorable Daniel R. Simmons
Assistant Secretary
Office of Energy Efficiency and Renewable Energy
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, DC 20585-0121

Appliance and Equipment Standards Program
U.S. Department of Energy
Building Technologies Office
950 L'Enfant Plaza, SW., Suite 600
Washington, DC, 20024

**Subject: Comments on Docket ID No. EERE-2020-BT-TP-0002
Energy Conservation Program: Test Procedure for Showerheads**

Dear Assistant Secretary Simmons:

The Bay Area Water Supply and Conservation Agency (BAWSCA) is writing to express firm opposition to the redefinition of a showerhead proposed by the US Department of Energy (DOE), which will allow multiple shower flows in a single stall. **The current federal definition of a maximum flow of 2.5 gallons per minute (gpm) from a single shower has enabled customers in the BAWSCA service area to save more than 33.1 billion gallons of water since its adoption in 1992.** These customers have also saved billions of dollars on their water and energy bills.

BAWSCA is a special district that provides regional water supply planning, water resource development, and conservation program services to enhance the water supply reliability of its 26 Member Agencies. Those 26 Member Agencies rely, either all or in part, on the water supply provided by the San Francisco Regional Water System to meet the water supply needs of over 1.8 million people and 40,000 commercial, industrial and institutional accounts in Alameda, Santa Clara and San Mateo Counties in Northern California.

DOE has not provided technical analysis to document the cumulative water and energy impact that this proposed change would have, and which BAWSCA believes would be financially harmful to the water customers that BAWSCA represents. BAWSCA has analyzed the impact within its service area that would have resulted if showerhead flow rates had not been lowered by the Federal Energy Policy Act of 1992. A Technical Memorandum with detailed description of the basis for this analysis and the associated is provided in Attachment A.

In June of 2020, BAWSCA and its 26 Member Agencies completed the Water Demand and Conservation Projections Study¹ ('Demand Study'), which uses each of the Member Agencies'

¹ Maddaus Water Management, BAWSCA, et. al. (2020). BAWSCA's Water Demand and Conservation Projections: http://bawasca.org/uploads/pdf/BAWSCA_Regional_Water_Demand_and_Conservation%20Projections%20Report_Final.pdf

customer billing data to estimate water use by customer class (i.e. single family, multi-family, commercial, industrial and institutional) and fixture type (e.g. showerheads, faucets, dishwashers, etc.). The Demand Study and estimates of showerhead water use from the Residential End Uses of Water Study,² which documented actual flow rates in the field, were used to extrapolate real world water savings from efficient showerheads in BAWSCA's service area.

The savings presented below are quantified for residential showerhead end use only. These calculations include residential new construction and naturally replacing existing fixtures during remodels or due to breakages. These estimates use a conservative basis of a historic level of 3.0 gpm showers to the Federal Energy Policy Act 2.5 gpm shower fixture flow rates.

Current Federal Law Related to Showerheads Has Resulted in Water Savings in BAWSCA Area

Since the 1992 Federal adoption of 2.5 gpm showerhead fixture flow rates, it is estimated that the BAWSCA service area has saved more than 33.1 billion gallons of water. Additionally,

- **27.4 billion gallons of water are estimated to be saved over the next decade,**
- **2.2 billion gallons are estimated to be saved in 2020** alone, and
- **the amount of water saved in one year would fill over 1.4 million backyard swimming pools,** based on a typical 24,300 gallon backyard pool (18 ft by 36 ft).

Every year the savings grow as the population grows. Over the next decade, the BAWSCA service area is estimated to increase the savings by over 1.1 million swimming pools of water each year. Additional benefits are also accumulating for the same 2.2 billion gallons in avoided wastewater treatment and hot water savings and costs.

BAWSCA's Specific Opposition to the Redefinition of a Showerhead

BAWSCA is specifically opposed to the redefinitions of "body spray" and "safety shower showerhead" that would remove both of these products from the legal definition of a showerhead. These proposed changes would be the most significant step backward on water and energy efficiency in 30 years.

BAWSCA believes this rulemaking is ill-advised for the following eight reasons:

1. **The current definition of showerhead does not need to be changed at this time.** DOE states that the current definition of showerhead is "ambiguous and does not mandate DOE's prior interpretation" as justification for the redefinition. The proposed rulemaking states that greater alignment with the ASME showerhead definition is needed. Yet there does not seem to be any ambiguity perceived by the industry or by the stakeholders on this question.

² DeOreo, W., P.Mayer, et. al. (2016). Residential End Uses of Water, Version 2. Water Research Foundation. Denver, CO.

2. **The proposed rulemaking would allow wasteful showers in a wide variety of configurations.** BAWSCA believes that the proposed change in definition is being proposed for the sole purpose of legalizing multiple showerhead flows and legitimizing the profligate use of water and energy, not to reduce any perceived ambiguity in the statute. The proposed rulemaking changes would clearly allow shower flows to increase from the current federally legal 2.5 gallons per minute (gpm) for the entire shower to 5.0 gpm or more, depending upon the number of shower heads. This could increase national water use by 161 billion gallons in just one year.³
3. **Specifically exempting body sprays from the definition of a showerhead is illegal backsliding.** The DOE also proposes to define the term “body spray” to clarify that these products are not subject to the current energy conservation standards and thus can flow at any flow rate. BAWSCA is concerned that the proposed rulemaking will result in wasteful and unnecessary “deluge” showers, which will also consume much more hot water, which will increase energy consumption. BAWSCA also believes that this proposed rulemaking would be illegal and subject to anti-backsliding provisions under the federal statute.⁴
4. **This illegal backsliding will only spur states to adopt their own showerhead standards and requirements, resulting in a patchwork of regulations nationwide.** The unnecessary redefinition will also create confusion and uncertainty in the market because at least eight states – which contain 40% of the nation’s population and housing -- already have laws in place that effectively restrict shower flows to lower than the 2.5 gpm federal standard. It was exactly this type of state-by-state patchwork regulation that led to the passage of the Energy Policy Act in 1992 (EPAct 1992).
5. **The process for this rulemaking has not followed past DOE protocols and does not qualify for a categorical exclusion under the National Environmental Policy Act of 1992 (NEPA).** DOE Notices of Proposed Rulemakings have always had at least 60 days for public review, even in cases where there was clear pre-release information. This proposed rulemaking is on a very fast track with far less than the usual 60 days notice and no pre-release communication. Given the magnitude of the potential impact, the proposed rulemaking should allow at least 90 days or more for public comment and review, and should also not qualify for a categorical exclusion under NEPA since there are clear water resource and energy impacts to the environment that have not yet been analyzed.
6. **The proposed rulemaking will increase consumption of drinking water that will have a severe impact on water supplies across the country.** 40 of the 50 states are already confronting serious water shortages, as documented in a US Government Accountability Office Report.⁵ Increasing the consumption of treated drinking water through this proposed rulemaking will increase water utility costs for providing new

³ Mitchell D. (June 2020) Showerhead Water & Energy Savings. M.Cubed. Oakland, CA. Available from AWE.

⁴ 42 U.S.C. 6295(o)(1) (commonly referred to as the “anti-backsliding provision”) prohibits DOE from prescribing a standard that increases the maximum allowable energy use of a covered product.

⁵ “Freshwater Supply Concerns Continue, and Uncertainties Complicate Planning.” US Government Accountability Office Report, May, 2014 - www.gao.gov/assets/670/663343.pdf

supplies -- and therefore increase customer bills, as those costs for procuring needed new supplies are then passed on to the consumers.

7. **Every 1 gpm of increased flow in a shower would cost Americans \$1.14 Billion.** Even a small change in average shower flow rates would have a huge impact on national water and energy demands, and the proposed redefinition will clearly result in increased water and energy bills across the US. For each 1 gpm increase in shower flow rate, national annual domestic water use would increase by 55 billion gallons and national annual energy use for that added hot water would increase by 25,000 billion Btu.⁶ This would, in turn, increase annual water and energy bills for American consumers by an estimated \$1.14 billion.⁷ While these are best estimates, this is the kind of technical analysis that DOE needs to undertake itself as part of this rulemaking proceeding.
8. **The water supply and energy savings from the current regulation are critical for the nation.** To provide some perspective on the importance of the water and energy savings, the Alliance for Water Efficiency (AWE) has analyzed the future impact that might result if showerhead flow rates were raised or lowered, using data describing the installed base of showerheads in 2011-2012 from the Residential End Uses of Water Study that documented actual flow rates in the field.⁸ Based on projections for new development and for existing home showerhead replacements, AWE estimates that 2.5 gpm showerheads provide 11 billion gallons per year in water savings and 5 trillion Btu per year in energy savings. Ultra-efficient showerheads (<1.6 gpm) provide 19 billion gallons per year in water savings and 9 trillion Btu per year in energy savings. These are significant savings; in ten years the savings for 2.5 gpm showerheads at the federal standard alone accumulate to the equivalent of supplying 1 million homes with water and 670,000 homes with energy.

The BAWSCA service area and the country need more water and energy efficiency -- not less -- which is why BAWSCA firmly recommends that these proposed rulemaking changes be rejected.

Sincerely,



Nicole Sandkulla
CEO/General Manager

Attachment A: Technical Memorandum

⁶ Mitchell, IBID

⁷ Mayer, Peter. Memo to AWE on the Costs of 1 gpm Increase in Shower Flow. Available from AWE

⁸ DeOreo, W., P.Mayer, et. al. 2016. Residential End Uses of Water, Version 2. Water Research Foundation. Denver, CO.



MADDAUS WATER MANAGEMENT INC.

Technical Memorandum

Date: September 22, 2020

To: Nicole Sandkulla, Bay Area Water Supply and Conservation Agency

From: Lisa Maddaus, Maddaus Water Management Inc.

Title: **Bay Area Water Supply and Conservation Agency Water Savings Estimates for High Efficiency Residential Showerheads**

1. INTRODUCTION

This memorandum was prepared in support of the Bay Area Water Supply and Conservation Agency (BAWSCA) Comment Letter on Docket ID No. EERE-2020-BT-TP-0002, Energy Conservation Program: Test Procedure for Showerheads.

To provide some perspective on the importance of domestic shower water use and hot water heating energy savings, BAWSCA has analyzed the impact that would have resulted if showerhead flow rates had not been lowered by the Federal Energy Policy Act of 1992. The analysis conducted as part of BAWSCA's Water Demand and Conservation Projections Study⁹ (Demand Study) using the BAWSCA Member Agencies' own customer billing data and estimates of showerhead water use from the Residential End Uses of Water Study that documented actual flow rates in the field¹⁰.

2. ANALYSIS RESULTS FOR RESIDENTIAL SHOWERHEADS

The basis of the estimates for showerhead fixtures presented is derived from the Least Cost Planning for Decision Support System Model (DSS Model) results prepared for BAWSCA and its Member Agencies as part of the BAWSCA Demand Study. A description of the DSS Model is presented in Appendix A of this TM.

The results presented are quantified for only residential showerhead end use level water savings. These calculations are for only residential new construction and naturally replacing existing fixtures from a conservative basis of historic level of 3.0 gpm showers to the Federal Energy Policy Act 2.5 gpm shower fixture flow rates.

Volume Estimated Showerhead Usage Savings

Since the 1992 federal adoption of 2.5 gpm showerhead fixture flow rates, it is estimated that the BAWSCA service area has saved more than:

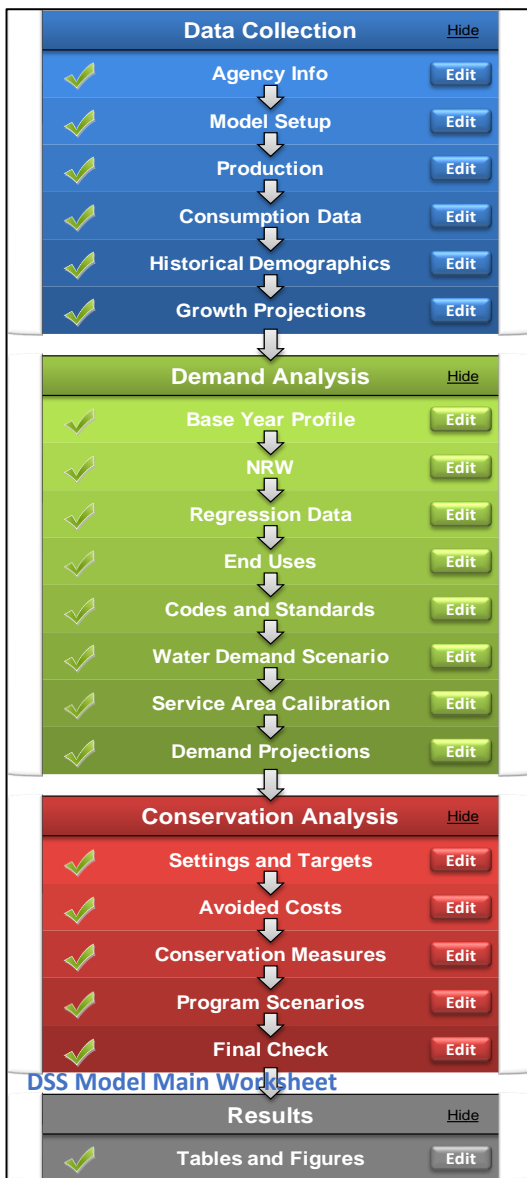
- 33.1 billion gallons of water is estimated to have been saved from 1992-2020.

⁹ Maddaus Water Management, BAWSCA, et. al. (2020). BAWSCA's Water Demand and Conservation Projections: http://bawasca.org/uploads/pdf/BAWSCA_Regional_Water_Demand_and_Conservation%20Projections%20Report_Final.pdf

¹⁰ DeOreo, W., P.Mayer, et. al. (2016). Residential End Uses of Water, Version 2. Water Research Foundation. Denver, CO.

- Another 27.4 billion gallons of water are estimated to be saved in the BAWSCA service area over the next decade from the savings due to more efficient showerheads alone.
- 2.2 billion gallons are estimated to be saved in 2020 alone. These savings come from the installation of efficient 2.5 gpm showerheads over the past 28 years and this year instead of the high flow 3.5 to 5 gpm showerheads. These showerheads are replaced during remodels, due to breakage and the installation of showerheads in new homes.
 - The amount of water saved in one year would fill over 1.4 million backyard swimming pools, based on a typical 24,300 gallon backyard pool (18 ft by 36 ft).
- Every year the savings grow as the population grows. Over the next decade the BAWSCA service area is estimated to increase the savings by over 1.1 million swimming pools of water each year.
- Additional benefits are also accumulating for the same 2.2 billion gallons in avoided wastewater treatment and hot water savings and costs.

APPENDIX A. DSS MODEL DESCRIPTION



DSS Model Overview: The Least Cost Planning Decision Support System Model (DSS Model) is used to prepare long-range, detailed demand projections. The purpose of the extra detail is to enable a more accurate assessment of the impact of water efficiency programs on demand and to provide a rigorous and defensible modeling approach necessary for projects subject to regulatory or environmental review.

Originally developed in 1999 and continuously updated, the DSS Model is an “end-use” model that breaks down total water production (water demand in the service area) to specific water end uses, such as plumbing fixtures and appliances. The model uses a bottom-up approach that allows for multiple criteria to be considered when estimating future demands, such as the effects of natural fixture replacement, plumbing codes, and conservation efforts. The DSS Model may also use a top-down approach with a utility-prepared water demand forecast.

Demand Forecast Development and Model Calibration: To forecast urban water demands using the DSS Model, customer demand data is obtained from the water agency being modeled. Demand data is reconciled with available demographic data to characterize water usage for each customer category in terms of number of users per account and per capita water use. Data is further analyzed to approximate the split of indoor and outdoor water usage in each customer category. The indoor/outdoor water usage is further divided into typical end uses for each customer category. Published data on average per capita indoor water use and average per capita end use is combined with the number of water users to calibrate the volume of water allocated to specific end uses in each customer category. In other words, the DSS Model checks that social norms from end studies on water use behavior (e.g., flushes per person per day) are not exceeded or drop below reasonable use limits.

Passive Water Savings Calculations: The DSS Model is used to forecast service area water fixture use. Specific end-use type, average water use, and lifetime are compiled for each fixture. Additionally, state and national plumbing codes and appliance standards are modeled by customer

category. These fixtures and plumbing codes can be added to, edited, or deleted by the user. This process yields two demand forecasts, one with plumbing codes and one without plumbing codes. Plumbing code measures are independent of any water-use efficiency program and are based on customers following applicable current local, state, and federal laws, building codes, and ordinances.

Active Conservation Measure Analysis Using Benefit-Cost Analysis: The DSS Model evaluates active conservation measures using benefit-cost analysis with the present value of the cost of water saved (\$/Million Gallons or \$/Acre-

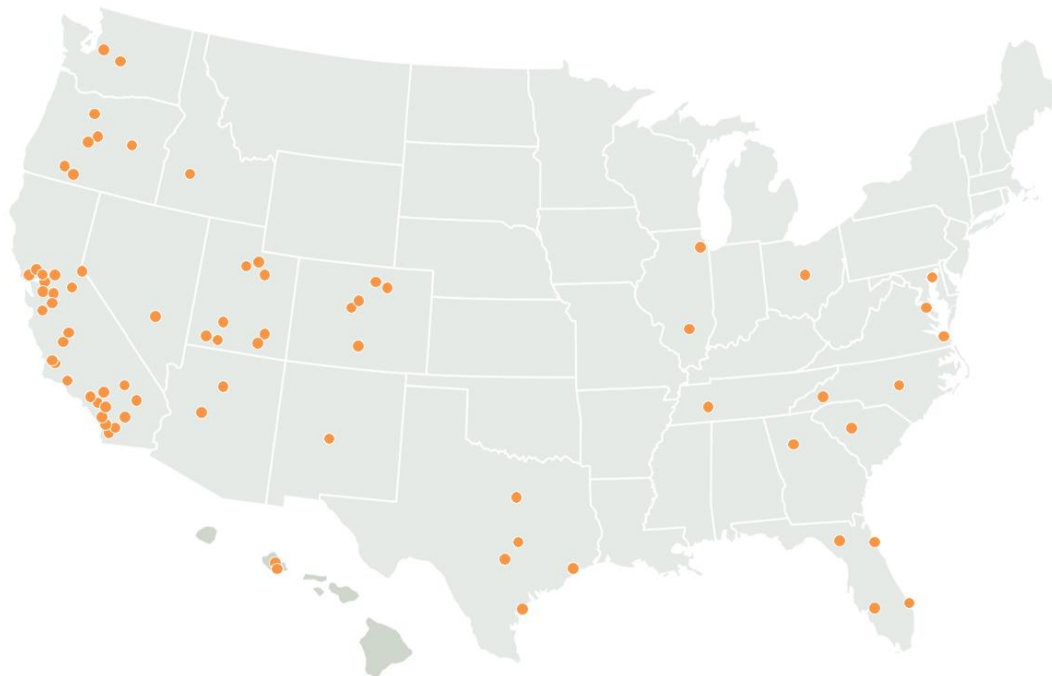
Feet). Benefits are based on savings in water and wastewater facility operations and maintenance (O&M) and any deferred capital expenditures. The figures on the previous page illustrate the processes for forecasting conservation water savings, including the impacts of fixture replacement due to existing plumbing codes and standards.

Benefit-Cost Analysis Summary Example

| Conservation Measures Benefit Cost Analysis | | | | | | | | | | |
|--|---|---|-------------------------------------|--------------------------------------|----------------------------------|-------------------------------------|---------------------------------|---|-----------------------------|---|
| <div> <div> </div> <div> Previo Conser AMI RES WC IRR CIIR NO MU LDS PRV LEA UHE UHE TOI HO RAI RAI SPR Lan SCH GEN DIP B/C Next </div> </div> | | | | | | | | | | |
| <div> <div> </div> <div>Review Data</div> </div> | | | | | | | | | | |
| Benefit Cost Analysis | | | | | | | | | | |
| <div> <div> </div> <div>Benefit Cost Analysis</div> </div> | | Util Cost Five Year Start Year | 2020 | Water Savings Year | | 2030 | Units | | AF | |
| Measure | | Present Value of Water Utility Benefits | Present Value of Community Benefits | Present Value of Water Utility Costs | Present Value of Community Costs | Water Utility Benefit to Cost Ratio | Community Benefit to Cost Ratio | Five Years of Water Utility Costs 2020-2025 | Water Savings in 2030 (afy) | Cost of Savings per Unit Volume (\$/af) |
| AMI | Full AMI Implementation | \$3,976,434 | \$16,635,194 | \$1,566,069 | \$5,893,340 | 2.54 | 2.82 | \$320,000 | 133.764878 | \$324 |
| RESH | Residential Rebates for HECW | \$139,312 | \$365,447 | \$95,879 | \$200,665 | 1.45 | 1.82 | \$50,325 | 5.124572 | \$824 |
| WC | Water Checkup | \$7,648,165 | \$30,288,419 | \$6,005,949 | \$7,665,564 | 1.27 | 3.95 | \$1,382,995 | 239.652915 | \$877 |
| IRRE | Irrigation Evaluations | \$1,589,488 | \$1,589,488 | \$1,918,184 | \$4,332,779 | 0.83 | 0.37 | \$443,824 | 98.051821 | \$646 |
| CIIR | Cil Water Survey Level 2 and Customized Rebate | \$910,720 | \$3,313,109 | \$915,904 | \$2,581,185 | 0.99 | 1.28 | \$193,725 | 18.753753 | \$1,055 |
| NOZZ | Free Sprinkler Nozzle Program | \$277,886 | \$277,886 | \$329,386 | \$455,933 | 0.84 | 0.61 | \$103,145 | 23.005687 | \$680 |
| MULC | Mulch Program | \$80,739 | \$80,739 | \$287,676 | \$287,676 | 0.28 | 0.28 | \$66,932 | 4.554625 | \$2,000 |
| LDS | Water Conserving Landscape and Irrigation Codes | \$1,055,819 | \$1,055,819 | \$350,316 | \$7,979,608 | 3.01 | 0.13 | \$78,568 | 46.098525 | \$161 |
| PRV | Pressure Reduction Valve Rebate | \$102,170 | \$193,972 | \$49,161 | \$132,223 | 2.08 | 1.47 | \$37,818 | 8.503521 | \$425 |
| LEAK | Leak Detection Device Rebate | \$174,130 | \$847,416 | \$306,843 | \$1,288,743 | 0.57 | 0.66 | \$80,053 | 6.065394 | \$1,895 |
| UHET | Ultra-High Efficiency Toilet Rebate | \$538,624 | \$538,624 | \$405,529 | \$761,556 | 1.33 | 0.71 | \$362,736 | 16.287780 | \$921 |

Model Use and Validation: The DSS Model has been used for over 20 years for practical applications of conservation planning in over 300 service areas representing 60 million people, including extensive efforts nationally and internationally in Australia, New Zealand, and Canada.

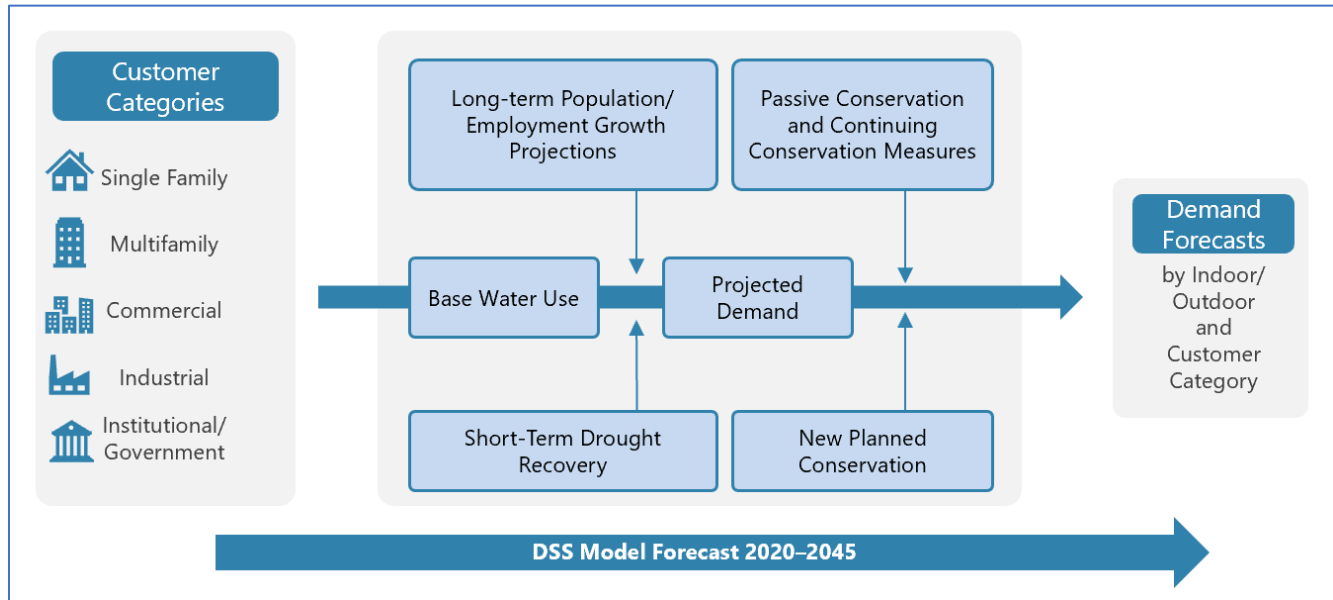
DSS Models Analysis Locations in the U.S.



The California Urban Water Conservation Council (now the California Water Efficiency Partnership), has peer reviewed and endorsed the model since 2006. It is offered to all CalWEP members for use to estimate water demand, plumbing code, and conservation program savings.

The DSS Model uses one of the following: 1) a statistical approach to forecast demands (e.g., an econometric model); 2) a forecasted increase in population and employment; 3) predicted future demands; or 4) a demand projection entered into the model from an outside source. Baseline demand is developed based on an increase in residential population.

DSS Model Analysis Flow



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Board Policy Committee

Policy Calendar Through April 2021

| Meeting Date | Purpose | Issue or Topic |
|---------------|------------------------|---|
| October 2020 | D&A D&A R | Consideration of Action to Extend Current Tier 2 Drought Plan Annual Review & Consideration of BAWSCA's Statement of Investment Policy BAWSCA Internship |
| December 2020 | D&A D&A D&A R | FY 2020-21 Mid-Year Work Plan, Budget, & General Reserve Balance Review Consideration of BAWSCA Bond Surcharges for FY 2021-22 Review of Agency Personnel Handbook Review of Regional Demand Study Results |
| February 2021 | R&D R | Presentation of Preliminary FY 2021-22 Work Plan and Budget Review of Water Supply Forecast |
| April 2021 | D&A | Consideration of Proposed FY 2021-22 Work Plan and Budget Review of Water Supply Forecast |