



BOARD OF DIRECTORS MEETING

Thursday, November 17, 2022

Burlingame Community Center – Sequoia Room
[850 Burlingame Ave., Burlingame](#)

(One Member of the Board will participate in this meeting by Teleconference. Locale shall be: Purissima Hills Water District, 26375 W. Fremont Rd. Los Altos Hills, CA 94022. When any member of the board participates by teleconference, all votes taken at this meeting will be by roll call vote.)

6:30 P.M.

AGENDA

<u>Agenda Item</u>	<u>Presenter</u>	<u>Page</u>
1. Call to Order/Roll Call/Salute to Flag	(Larsson)	
2. Comments by the Chair	(Larsson)	
3. Board Policy Committee Report <i>(Attachment)</i>	(Hardy)	Pg 3
4. Public Comments <i>Members of the public may address the Board on any issues not listed on the agenda that are within the purview of the Agency. Comments on matters that are listed on the agenda may be made at the time the Board is considering each item. Each speaker is allowed a maximum of three (3) minutes.</i>	(Larsson)	
5. SFPUC Report	(Ritchie)	
6. Consent Calendar	(Larsson)	
A. Approve Minutes of the September 15, 2022 Meeting <i>(Attachment)</i>		Pg 19
B. Receive and File Budget Status Report – As of Sept. 30, 2022 <i>(Attachment)</i>		Pg 25
C. Receive and File Annual Audit Report for BAWSCA and Compilation Report for BAWUA for FY 2021-22 <i>(Under Separate Cover)</i>		Pg 27
D. Receive and File Directors' Reimbursement Report – As of Sept. 30, 2022 <i>(Attachment)</i>		Pg 29
E. Receive and File Bond Surcharge Collection, Account Balance and Payment Report – As of Sept. 30, 2022 <i>(Attachment)</i>		Pg 31
F. Receive and File Investment Report – As of October 31, 2022 <i>(Attachment)</i>		Pg 33
G. Annual Review of BAWSCA's Statement of Investment Policy <i>(Attachment)</i>		Pg 35
<i>The Committee voted unanimously to recommend Board approval of Consent Calendar Items #6G.</i>		
7. Action Calendar	(McPherson)	
A. Adoption of Resolution 2022-11 Approving the Extension of the 2021 Amended and Restated Tier 2 Drought Response Implementation Plan <i>(Attachment)</i>		Pg 43
<i>The Committee voted unanimously to recommend approval of the proposed Board action.</i>		

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| 8. Special Report | (Ashoori) | |
| A. Water Demand Projections Update | | |
| 9. CEO Reports | (Sandkulla) | |
| A. Water Supply Update | | |
| B. FERC/Bay Delta Plan Update | | |
| C. CEO/General Manager's Letter (<i>Attachment</i>) | | <i>Pg 51</i> |
| D. Board of Directors Policy Calendar (<i>Attachment</i>) | | <i>Pg 53</i> |
| E. Correspondence Packet (<u>Under Separate Cover</u>) | | |
| 10. 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). | | |
| 11. Report from Closed Session | (Schutte) | |
| 12. Directors' Discussion: Comments, Questions and Agenda Requests | (Larsson) | |
| 13. Date, Time and Location of Future Meetings
(See attached schedule of meetings) | (Larsson) | <i>Pg 55</i> |
| 14. Adjourn to next meeting scheduled for January 19, 2023 at 6:30pm | (Larsson) | |

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BAWSCA

Bay Area Water Supply & Conservation Agency

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MEMORANDUM

TO: BAWSCA Board Members

FROM: Nicole Sandkulla, Chief Executive Officer/General Manager

DATE: November 11, 2022

SUBJECT: Summary of Board Policy Committee meeting held October 12, 2022

1. **Call to Order:** Committee Vice-Chair, Karen Hardy, called the meeting to order at 1:33 pm. CEO/General Manager, Nicole Sandkulla called the roll. Eight (8) members were present at roll call with one member participating via teleconference. A list of Committee members who were present (8), absent (1), and other attendees is attached.

The Committee took the following actions and discussed the following topics.

2. **Comments by Committee Chair:** Vice-Chair Hardy announced that Chair Breault is unable to attend the meeting due to a medical schedule conflict. She welcomed the Committee members and meeting participants to the Committee's first in-person meeting since the call for emergency shelter-in-place in March 2020. She noted the value of being able to visit with each other before and after the meetings and appreciates the ability to do that again.

3. **Consent Calendar:** Vice-Chair Hardy called for a motion to approve the consent calendar.

Director Wood made a motion, seconded by Director Chambers, that the Committee approve the Minutes of the June 8, 2022 Board Policy Committee meeting.

The motion passed by roll call vote.

4. **Public Comments:** There were no public comments.

5. **Action Calendar:**

- A. **Annual Review and Consideration of BAWSCA's Statement of Investment Policy:** Finance Manager, Christina Tang, reported that BAWSCA's investment policy requires an annual review of the Statement of Investment Policy (Policy), which applies to all investment activities under the direction of the agency. The primary objectives of the Policy are safety, liquidity, and yield, in priority order. The last review took place in November 2021 and resulted in no changes.

Both agency funds and bond funds are invested in accordance with BAWSCA's Policy. Ms. Tang noted that because most agencies' investment policy governs operating funds and not bond funds, the staff report provides discussions for BAWSCA's investment of agency funds separate from the bond funds

Based on the recent review of the agency's current circumstances, BAWSCA's permitted investments are consistent with the agency's risk tolerance and primary investment objectives. Legal Counsel has also confirmed that the Policy reflect language that is consistent with current State Law; therefore, no changes are recommended at this time.

Ms. Tang provided an overview of the investment strategy for BAWSCA's Bond Stabilization Fund, which is funded by the bond proceeds and held by Bank of New York as the bond trustee. Despite the Federal Reserve's continued increases in interest rates since the beginning of 2022, BAWSCA's longer-term portfolio strategy is performing well. It continues to provide important yield curve diversification against both market price and reinvestment rate risks.

Total bond funds held by the bond trustee as of October 5, 2022 were \$16,722,247. It includes \$3,795,109 in bond surcharges deposited in the Money Market Fund that have been collected from the member agencies to pay the next semi-annual debt service payment, and \$12,977,138 invested in US Treasury Securities, which functions as a reserve to cover debt service payments in the event of potential shortfalls in the surcharge revenue received from BAWSCA agencies. Based on the recent evaluation, the current 0-5 year ladder maturity investment strategy is determined appropriate.

Ms. Tang presented a chart to illustrate the current portfolio maturity distribution for the stabilization fund. The funds invested in US Treasury Securities will mature in 6-month intervals throughout the next 5 years.

Ms. Tang explained that BAWSCA has scheduled \$2.2 M in US Treasury Securities to mature on December 31, 2022 to coincide with the settlement of BAWSCA's refunding of Bonds 2013A on January 5, 2023. The funds will be used to pay down the principal amount of the refunding bonds as planned. In light of the recent market developments, BAWSCA and its investment advisor believe that the current strategy remains appropriate because such a longer-maturity strategy has historically provided greater investment returns over time while protecting the agency against the reinvestment rate risks.

In response to Vice-Chair Hardy, Ms. Tang confirmed that the ladder approach does mean a step to each maturity in 6-month increments. Each "step" is intended to have approximately the same amount of US Treasury Securities invested in 6-month intervals throughout a period of 5 years with the exception of the deviation between 3.5 – 4.5 years because of the \$2.2M to be used to pay down the principal of the refunding bonds on January 5, 2023.

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

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

The motion passed by roll call vote.

- B. Adoption of Resolution #2022-11 Approving the Extension of the 2021 Amended and Restated Tier 2 Drought Response Implementation Plan. Ms. McPherson, Sr. Water Resources Analyst, presented this item. She noted that drought shortages on the Regional Water System are governed by two plans. First is the Tier 1 Plan, which allocates water between SFPUC retail customers and the collective wholesale customers. Second is the Tier 2 Plan, which allocates water among the wholesale customers. Both plans apply during system-wide shortages of up to 20%.

The Tier 2 Plan was adopted by the governing body of each member agency in Winter/Spring of 2011.

The Water Supply Agreement (WSA) Section 3.11(c)(3) states that the “SFPUC will honor Tier 2 allocations among the Wholesale Customers provided by BAWSCA or unanimously agreed to by all the Wholesale Customers”.

The term of the Tier 2 Plan was set to expire on December 31, 2018, to coincide with SFPUC’s decision by 2018, in accordance with the WSA, whether to make the cities of San Jose and Santa Clara as permanent customers of the RWS. Since 2018, the Board has extended the Tier 2 Plan each year in anticipation of the member agencies’ negotiation and adoption of a new Tier 2 Plan.

BAWSCA, together with the Water Management Representatives (WMR), recognized the need to update the existing Tier 2 Plan, given that factors, such as the new water use legislation as being implemented by the State of California, should be woven into a new Tier 2 Plan. Efforts to develop a new Tier 2 Plan started in FY 2021-22 beginning with each member agency appointing a lead negotiator to represent their agency’s interests and perspectives. At the direction of the board and invitation from the member agencies, BAWSCA is facilitating these negotiations. To date, agencies have agreed to a set of policy principles to guide model development, monthly negotiations have been held through the WMR meetings, and in-person meetings started in September to supplement discussions at the monthly WMR meeting. While progress achieved so far has been encouraging, the work that remains to be done cannot be completed by the end of calendar year 2022.

In addition, SFPUC’s declaration of a water shortage emergency in November 2021 triggered the implementation of both Tier 1 and Tier 2 Plans for the first time. Ms. McPherson noted that during the 2015-17 drought, then Governor Jerry Brown’s call for water use reductions across the state superseded the Tier 1 and 2 Plans.

The Committee is asked to recommend Board adoption of Resolution 2022-11 to extend the current Tier 2 Plan through December 2023.

Discussions ensued following Ms. McPherson’s presentation.

In response to Director Jordan, Ms. Sandkulla explained that if the SFPUC declares a systemwide water shortage greater than 20%, the Tier 1 and Tier 2 Plans will not apply. There is language in the WSA that requires San Francisco to “Meet and Confer” with BAWSCA, on behalf of the member agencies, to come to an agreement on how supply allocations for the wholesale customers can occur. San Francisco will maintain the decision-making authority if agreement cannot be reached.

Director Cormack inquired about staff's perspective on the implementation of the Tier 2 Plan and what lessons have been learned, if any, to hopefully inform decisions for the new Tier 2 Plan.

Ms. Sandkulla stated that while it was painful to have to implement the existing plan, it has been a very valuable learning process. It became evident that the plan is very rigid in its formulas, with unintended consequences, that are now under discussions and analysis by the WMR. Whether the new Tier 2 Plan retains or changes this level of rigidity will be up to the WMR on how rigid they want to make the plan moving forward.

Director Pierce noted that the actual implementation of the Tier 2 Plan now places BAWSCA and the member agencies in a real world situation, as opposed to a theoretical situation. She asked about the group's consistency in opinion on the existing plan, and impacts to San Jose and Santa Clara.

Ms. Sandkulla stated that there remains multiple differences of opinions and sides to every issue among the group. She emphasized that there are 26 agencies; cities, water districts, with multiple sizes and multiple circumstances for growth, no growth, and everything in between. The WMR are having highly respectful conversations, as evident by the prior reports provided to the Board by Leonard Ash from ACWD and Julia Nussbaum from Stanford. But the differences are a real issue and the group has to come to a unified resolution.

The situation with San Jose and Santa Clara is among the issues that is yet to be resolved.

Director Larsson noted that there are some distinctions that he has found helpful to think about as he gained a better understanding of the Tier 2 Plan. There is a difference between implementing the plan's calculations for an occurring drought, versus negotiating a Tier 2 Plan for the future. While the Board has a role in both, they are separate activities and the board's authorities for each activity comes from different places.

With regards to the calculations, the WSA states that the BAWSCA CEO/General Manager and Board Chair will sign off and deliver those numbers to the SFPUC. The calculations, however, are in the hands of the agencies, via the WMR, to negotiate and agree upon. Once the Tier 2 plan is negotiated, it is not the Board, but the individual member agencies' governing bodies that must adopt the plan.

This is an important distinction to understand. The Board can help the agencies move through the negotiation process, but as a Board, it has no authority to force the member agencies to come to an agreement. Implementation of an adopted plan is the responsibility of the BAWSCA staff and the WMR to run the calculations.

In response to Director Larsson, Ms. McPherson explained that there is a 3-tier process to complete the new Tier 2 Plan negotiations. The WMR negotiate the calculations for a new Tier 2 Plan; once agreement is reached, the WMR's have to present it to their respective agency's executive management for support; and then, the new Tier 2 Plan will then be presented to individual governing bodies for adoption.

Director Larsson noted that the buy-in process through an agency's internal structure can take some time, which is another reason why the negotiations can take longer. He agreed

with Ms. McPherson that Board members' engagement and awareness of the process can be helpful as it is a highly complicated effort that if directors understand incremental levels throughout the development, they can share the benefit of their knowledge with their fellow governing bodies.

Director Zigterman noted that he was an indirect participant of the initial Tier 2 Plan and commented that it is a complex process. The agencies have different situations with their Individual Supply Guarantee (ISG), or their contract allotment, with San Francisco. The challenge is how can those differences and the agencies' practices with respect to conservation efforts to reduce demand and development of alternative supplies be considered. How would the formula balance the agencies' efforts across the board and recognize their ISGs too. It was a long negotiation process for those facets to be recognized at some level. He supports the extension of the plan to allow for this difficult negotiation process to continue.

Director Wood asked how will this complex process, particularly when each agency has their own biases, reach agreement and how long will it take?

Ms. Sandkulla stated that addressing differences is not unusual among the BAWSCA agencies. BAWSCA agencies have a history of coming together and setting aside individual interests to put focus on the collective interests. What is necessary now is for BAWSCA to support that effort and allow for the necessary conversations to take place. With the initial Tier 2 Plan and the 2009 WSA as evidence, BAWSCA agencies have a history of successfully negotiating among themselves. Ms. Sandkulla pointed out that despite the 26 member agencies, BAWSCA has achieved what it has over a 20-plus year period because the agencies work together, provide the opportunity for conversation and build discussions to reach a collective goal. It is never easy, but BAWSCA staff, its consultants, Woodard and Curran, and the appointed agency negotiators are working diligently.

Director Zigterman added that he believes that culturally, BAWSCA has come a long way in recognizing the equity for the region while also recognizing efforts made in achieving conservation and alternative supplies, as opposed to looking at our respective agency's interests.

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

Director Pierce made a motion, seconded by Director Zigterman, that the Board Policy Committee recommend the Board adoption of Resolution 2022-11 extending the term of the 2021 Amended and Restated Tier 2 Plan through December 31, 2023.

The motion passed by roll call vote.

6. CEO Reports:

- A. Long-Term Reliable Water Supply Strategy (Strategy) Scoping Status: Tom Francis, Water Resources Manager, noted that this item is being presented to the Committee to provide information in addition to what was provided in the CEO letter, as well as the opportunity for the Committee to make comments and ask questions. As an overview, he reported that BAWSCA initiated the development of the Strategy in 2009, starting with an RFP to scope the

work (Phase 1 of the multi-phased project was the development of the formal Scope of the Strategy).

Phase 1 was finalized in 2010, and it provided a roadmap for developing Phase IIA. Both the Board and the WMR's were heavily engaged throughout the development of Phase IIA, which was published in 2012. It provided a summary of recommended actions for the Board's consideration to finalize the Strategy. The Board adopted some of the recommended actions which laid the groundwork for the early implementation process that then formed the Final Strategy report that was published in 2015 (Phase IIB).

The Strategy development was a 5-year effort which focused on large regional water supply projects like the Los Vaqueros Expansion project, regional desalination partnerships, and potential water transfers. BAWSCA came close to implementing a pilot water transfer in 2020. As part of the pilot, BAWSCA analyzed and identified what the region could do via transfers to improve water supply reliability and prepared a Pilot Water Transfer Efforts report in 2022 that documented the multi-year effort toward implementing the pilot.

Since the completion of the Strategy in 2015, the region has experienced the drought of 2014-2017 in addition to the current drought that is taking place, as well as changes to the Board's directions to staff on what efforts BAWSCA should focus on independently to improve water supply reliability and meet the agency's overall goal. The adopted FY 2022-23 work plan and operating budget includes the development of an updated scope of work for the Strategy, including a review and evaluation of the scoping approach established in 2009-10 to determine whether or not those scoping tasks remain appropriate for an updated Strategy.

To get a pulse of what agencies are doing and what stakeholders in the region are collectively interested in as it relates to water supply actions and activities, BAWSCA is currently engaged in work that will inform the scoping efforts.

BAWSCA initiated the Regional Water Supply Reliability Roundtable workshops which engages the WMRs and other stakeholders from non-governmental organizations and the business community in the region. Two workshops have been held to date and future ones are scheduled in November and in the December/January timeframe.

BAWSCA is also meeting with each member agency to understand the water supply projects agencies have been engaged in, are considering, or in the midst of doing. BAWSCA is interested in learning about all types of projects including expansions of recycled water, potable reuse, groundwater projects, or storm water projects.

Mr. Francis reported that a Request for Proposal (RFP) will be issued in late 2022 for support the development of the scope for an updated Strategy. The ongoing drought continues to require additional time from staff, and Ms. Ashoori, BAWSCA Sr. Water Resources Engineer, will begin her maternity leave in early December. Hence, BAWSCA requires the use of outside consultant support to help develop the scoping documents and will benefit from their expertise to ensure all critical aspects, such as financing and approaches to regional projects, are considered when proposing a scope of work for updating the Strategy.

Director Cormack stated that while BAWSCA is proficient in the analysis of data from the member agencies, she acknowledged the need for expert support through a consultant given the complexity of the task. She asked how, in the scoping process, would BAWSCA identify

the “sweet spot” that is well suited for the various member agencies and the three counties in the region?

Mr. Francis stated that BAWSCA first needs to understand several factors including; what water supply projects each agency is planning and are interested in furthering; what the agencies desire of BAWSCA to support those efforts, and what they desire of BAWSCA for broader regional effort participation. A goal for the scoping effort is to determine what role *should* BAWSCA have. Should it assist with pursuing collective grants to support regional project(s); should it have an information role in unique projects that other agencies can learn from. There are various options that need to be analyzed. The list of possibilities is extensive and can include legislative, technical and funding support. Mr. Francis added that the initial Strategy included efforts for a BAWSCA-specific supply, and that will be evaluated to determine whether it continues to make sense.

Director Cormack noted that while the effort may seem amorphous, it is important to figure out, in addition to BAWSCA’s dependency on SFPUC, what other steps can the member agencies take collectively to ensure supply reliability.

Director Jordan asked why not wait to start the Strategy until the new Tier 2 Plan is complete and until the Bay Delta Plan is resolved. It would be good to have information on both the Tier 2 Plan and the Bay Delta Plan to get a better picture of what water supply projects are needed or are appropriate.

Ms. Sandkulla explained that the Tier 2 Plan is a specific negotiation on a singular supply – the water supplied by SFPUC via the Regional Water System. She reminded the Committee that the pace of those negotiations is not controlled by the Board. Alternatively, the Strategy is designed to answer the question; “How does BAWSCA achieve its goal of reliable supply of high-quality water at a fair price?” What should our work plan include to achieve that goal. The initial Strategy identified the pursuit of regional projects and support for individual agency projects in which significant progress has been made. BAWSCA and its member agencies are a lot farther along in achieving the goal than they were in 2015. However, conditions are different today from when the analyses were done to develop the Strategy. There are environmental pressures on that singular supply, and there is the ongoing drought which increases the need for alternative supplies. The scoping effort to update the Strategy will inform the Board of what it will take to update the Strategy.

Updating the Strategy has been part of the workplan since FY2020-21 but has been delayed because of the drought. It is worth taking the step to start the scoping efforts and gain a sense of what it entails in addition to engaging the WMRs and the Board in the discussion of whether this is an effort worth our time.

The Bay Delta Plan has a long window until it is resolved. No matter what the answer is, the resolution of that is in San Francisco’s control. San Francisco has an obligation for 184 mgd to the wholesale customers and the question with the Strategy is what more needs to be done. While there may be some gray areas in which agencies simply do not know the answers to, waiting until those issues are resolved would put BAWSCA and its member agencies in a situation where it is operating with no information in which to engage everyone with.

Director Jordan noted that as BAWSCA enters into water supply projects, it should commit to looking at the insurability of the project before reaching a full-scale design. He cited the lesson learned from the pilot water transfer.

Ms. Sandkulla noted that the lesson was learned, and explained that the update to the Strategy is about further considerations of water supply projects that have developed since 2012, including opportunities that were not closely examined at the time. It is taking the next potential steps.

Ms. Sandkulla emphasized that when the Board was presented with recommendations from the initial strategy, the Board discussed what levels of engagement and investment BAWSCA wanted to commit to, and in what projects. The Board's support of the Strategy recommendations provided BAWSCA staff the working direction for several years.

Those kinds of conversations and level of involvement are what the Board will be engaged in as the Strategy update continues. But that remains a long way from where we are today. First, we have to scope the efforts needed to update the Strategy.

Director Zigterman stated that formulating a strategy for the next 30-40 years and making a recommendation to the Board is exactly a topic he believes the BPC needs to address and suggested that perhaps a future workshop on the topic was in order as the scope is developed.

He further indicated that simultaneously working on Tier 2 and the Strategy separately so it can inform each other is appropriate. He suggested gathering information on what the agencies are doing about water supplies and look at it in buckets. For example:

- SFPUC has a contractual obligation to meet its level of service goal to 2034. How do we ensure that SFPUC can meet that obligation given the Bay Delta Plan and other environmental realities?
- What will the region do when the water supply is outgrown or challenged and becomes limited?

This is a key opportunity to work on the immediate needs of drought allocation while we look long-term on how to formulate a strategy for, possibly, a system in which we've gotten all we can get.

Director Pierce supported the scoping effort and highlighted the benefits of having more information than less. The Board will not intend to repeat what Director Jordan alluded to regarding the pilot water transfer, but noted that BAWSCA's attempt to implement a pilot water transfer was the only way to gain the knowledge BAWSCA and the member agencies have now. Until then, water transfers were viewed as the most efficient, cost-effective, and simplest way to access alternative water supplies. She is pleased with the initiation of the efforts and that it will begin with the agencies. While efforts cannot always be perfect, it will provide the Board information on how to move forward collectively within the region.

Director Chambers supports the effort as supplies are going to get tighter and projects need long lead times. He noted that Westborough Water District does not treat its wastewater and instead sends it to North San Mateo County Sanitation District. He emphasized that it is important to have these players in the discussion room as they can bring a lot to the table, and BAWSCA has the ability and experience to bring various groups together.

Mr. Francis confirmed that sanitation and wastewater districts have been invited to the roundtable workshops.

Director Cormack pointed out that wastewater treatment plants in the region are currently undergoing massive upgrades and are working on their new designs. Now is the time to reach out to them before they finalize their plans. It might also be that their time is consumed with their own upgrades and may benefit from a nudge by the member agencies.

Mr. Francis agreed and reported that BAWSCA and the member agencies are engaged in important conversations on the concept of OneWater with the wastewater agencies. Those conversations will continue.

- B. Water Supply Conditions: Ms. Sandkulla reported on water supply conditions and drought conditions. Total system storage is 66% of maximum storage. The region is in much better situation than most of the State and the hope is that we get some rain in the season. She reminded the Committee that the region is dependent upon the System and does not have access to large alternative imported water supplies, so BAWSCA is actively engaging in the drought management plan.

Using data from BAWSCA's Annual Survey, Ms. Sandkulla shared a series of graphs she recently presented to the SFPUC as well as the WMRs.

The first graph provides overall total water use and population in the BAWSCA region from 1978-76, which is the oldest reliable data, to FY 2020-21, which is the last published annual survey. It shows that the region today uses 24% less water compared to the region's peak use in 1986-87, despite a 32% population increase.

This is not unusual as most water agencies in the Bay Area have a similar trend. The overall increase in efficiency is the result of many things including federal and state regulations, plumbing code regulations, efficiency requirements, and the member agencies' local investments in water conservation, as well as the agencies' water customers' individual efforts. It also is the result of extended drought periods where water use goes down and does not quite fully recover, as well as the impacts of the pandemic.

Another way to look at the trend over the last 10 years is to see it as a single drought period versus how we have been looking at it as a sequence of droughts with short intervening wet periods. Looking at it from the two perspectives impacts how we as water managers, as well as customers, think about the water use trends, how to respond to the current drought conditions, and how to view what is normal or not normal.

Ms. Sandkulla presented a graph that shows what the regional water efficiency numbers mean on a per person basis. With the same data set, average residential use in the region decreased by 37% since 1986-87. She emphasized that the drought in FY 2015-16 decreased gross per capita use to 56 gallons per capita per day (gpcd), which, at the time, was unprecedented and very close to what was considered a public health and safety number. Since then, water use has rebounded a bit but remains lower than prior periods.

As a regional agency, BAWSCA need to closely examine the data and try to understand why the region is not achieving the savings it achieved in the drought of 2015-16.

Ms. Sandkulla noted that this information initiated BAWSCA's interest to look at updating the demand projections and do a sensitivity analysis. She was pleased to report that the project is moving along well and a status will be reported to the Board in November.

Director Wood asked if decreased population in California as a result of people moving to other states have recordable impact on the per capita data?

Ms. Sandkulla noted that the data is calculated based on population numbers published every year. She noted that one of the discussions in the Tier 2 effort is focused on how population is calculated.

Director Pierce asked if BAWSCA has looked into what the reasonable gallon per capita per day use is?

Ms. Sandkulla stated that based on California's climate moving towards hotter and drier conditions, pressure to reduce water use as low as possible can be anticipated. There is no going back to the water use levels from 10 years ago. The question is how far does water use reduction have to go?

BAWSCA is monitoring the water use efficiency requirements at the state level. The question is how do we keep water use low, how much of a rebound is experienced, and what does it mean for planning efforts moving forward. Water use characteristics in California in general will change dramatically, and the BAWSCA region is no exception to that.

Ms. Sandkulla presented additional graphs that were designed to show the differences between the member agencies; for example, how small Purissima Hills Water District is, and how big ACWD's service area in comparison to the amount of water they both respectively purchase from San Francisco.

Using data from FY 2012-13, the year before the series of severe droughts, and FY 2020-21, a year of dry conditions and the year of the pandemic, Ms. Sandkulla noted the following:

- In FY 2012-13:
 - No agencies used less than 48 gpcd
 - 9 agencies used 48 – 65 gpcd
 - 12 agencies used > 75 gpcd
 - San Francisco retail customers' average use was 49 gpcd
 - The average residential water use in the BAWSCA region was 71 gpcd.
- In FY 2020-21:
 - 9 agencies used < 48 gpcd
 - 8 agencies used 48-65 gpcd
 - 4 agencies used > 75 gpcd
 - San Francisco retail customers' average use was 42 gpcd

- The average residential water use in the BAWSCA region was 66 gpcd

The committee was presented additional graphs to show residential per capita consumption compared to the cumulative percent of population served at that level. Ms. Sandkulla explained that the purpose of the graphs were to identify how much of the population is using a lot of water, or using a little water?

The same FY 2012-13 and FY 2020-21 data were used.

- In FY 2012-13:
 - 31% of the service area population used ≤ 70 gpcd
 - 95% of the service area population used ≤ 99 gpcd
- In FY 2020-21:
 - 90% of the service area population used ≤ 70 gpcd

Overall, the region's total potable water use in August 2022 was 27% less than in August 2013. Ms. Sandkulla noted that the service area has always responded to the need for water use efficiency, specifically in 2015 when water use immediately reduced and summer peaks were flattened and maintained.

But why is the region not achieving today's target; what do we have to do; have we achieved the maximum; are the customers overwhelmed with 10 years of drought? We seem to be in a very different characteristics, and how do we address that? The analysis of the data is to provide the questions to the facts presented in the graphs.

BAWSCA and the member agencies are committed to responding to the governor's and the SFPUC's call for water use reductions. Ms. Sandkulla reported that the agencies are engaged with the efforts and the customers are clearly responding because there *are* savings being achieved compared to 2021 even though the cumulative savings are not achieving the regional water system target.

BAWSCA is collecting information from the agencies on what they are individually doing to explore what more can be done to achieve the necessary savings. BAWSCA will continue conversations with the SFPUC because if conditions remain dry, San Francisco and the Governor can call for something much more, and the region will have to comply. The more prepared the service area is the better.

- C. Bay Delta Plan/FERC Update: Ms. Sandkulla reported that no changes have occurred since the September Board meeting. The State continues its efforts on the Memorandum of Understanding to develop an agreement to protect beneficial uses in the Sacramento -San Joaquin Delta.

Comments and questions from committee members followed the conclusion of the CEO reports.

Director Cormack asked if outdoor use is the problem, and commented that perhaps a fundamental change the region can collectively do is to remove lawns, much like new constructions are deterred from installing natural gas.

In response, Ms. Sandkulla reported that there were no savings achieved in the winter and the region's summer use continues to be flat. The region's water use is already low in normal years and the reduction achieved in dry years is not enough to achieve the target. A fundamental change may be needed, but the question is, what?

Director Cormack added that; *What changes do we need to make?* is a legitimate question. Discussing cut-backs by certain percentages and implementation of conservation programs by individuals does not seem to be enough. Looking at the last 10 years as a single drought period really means; *It is not about when you water your lawn, but about not having a lawn.*

Ms. Sandkulla stated that these are the types of conversations BAWSCA had in developing the initial Strategy in which building codes, including landscape and irrigation "reach" codes were looked at. BAWSCA continues to work with the SFPUC in identifying concrete actions that the region has yet to do to achieve the goal.

Legal Counsel, Allison Schutte, reminded the Committee that San Francisco and non-city member agencies do not have land-use authority. This will make it challenging to do the activities discussed, and would require such efforts to be built-in the overall solution.

Director Larsson commented on the 10-year drought and noted that it could even be looked at as a 20-year drought that is only in the beginning.

In response to Director Wood regarding the pandemic's impact on people's behaviors; moving back home or planting a garden, Ms., Sandkulla stated that the sensitivity analysis will look into the factors within the last 2 years, including the region's rebound from the drought and the pandemic.

Director Zigterman brought up water quality and nitrification which gets impacted when water use goes down and agencies that are required to flush their systems have to deal with the optics from water customers. It's another reality that agencies need to look at for improvement.

Director Jordan appreciates staff's efforts with the San Francisco Peninsula Pure Water (SPRP) Project and concerns with PFAS. He asked about the insurability of the efforts given ACWA/JPIA has reduced the maximum coverage to \$10M.

Ms. Sandkulla will include the issue of insurance as part of the project's implementation question. The project is about a year away from that point, but staff will share its experience with the pilot water transfer and raise the issue with the group.

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

There were no comments from members of the public.

7. Closed Session: The Committee adjourned to Closed Session at 3:18 pm.

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

8. Report from Closed Session: The Committee reconvened to Open Session at 3:41 pm. Ms. Schutte reported that no reportable action was taken during Closed Session.

9. Committee Discussion:

- A. New Meeting Location and Resumption of In-Person Meetings: BAWSCA Chair Larsson stated that holding the BPC's first in-person meeting in the new location provides an opportunity to assess and gather Committee members' feedback on the venue and their opinion on the resumption of in-person meeting formats for future Committee and Board meetings.

Committee Vice-Chair Hardy went around the room for comments.

Overall, the Committee was pleased with the venue and supportive of the resumption of meeting in person.

Key notes on the venue included:

- Free of charge
- Close proximity to CalTrain
- Closing time is not as rigid as previous location

Notes of caution for meeting in person included:

- Stay vigilant with developments of COVID in the winter
- Logistical details:
 - Bare glass windows during Closed Session
 - Loose wires pose safety issues
 - Large room impact to auditory range

In response to Committee members' inquiry about remote participation options in a large space and streaming capabilities, Ms. Sandkulla explained that for the Board meetings, the audio visual vendor that has been used in previous years before the pandemic will supply mics for board members, staff, and members of the public for public comments. There will be a podium in which staff presentations and public comments will be made from.

Ms. Schutte emphasized that the traditional Brown Act requirements will apply to BAWSCA's in-person meeting formats. This means that remote participation by any Board member(s):

- Will require the agenda to disclose the locale from where the Board member is teleconferencing from;
- The agenda must be posted at the teleconferencing location;
- The location must be accessible to the public and have the technical capability to allow members of the public to listen to and speak to the Board; and
- Board members must be within the service area jurisdiction to be included in the quorum.

Ms. Schutte added that there are changes coming in the law that would allow Board members' home agencies, with excellent wifi connectivity, the ability to accommodate last minute notice for members of their governing body to dial-into a meeting. This capability will not be applicable to BAWSCA. BAWSCA does not have its own meeting room and room's that BAWSCA relies upon for its meetings do not have the technology in place to meet the standards required, which is the ability for the remote public to listen to, observe and speak. The room does not have cameras that can pan and capture the entire Board of 26 members in which a virtual participant can observe.

Chair Larsson encouraged Board and Committee members to notify Ms. Sandkulla as soon as possible if teleconferencing is needed in order to comply with the traditional Brown Act requirements. At the latest, agendas are published the Friday prior to the meeting.

Director Larsson was pleased to see both committee members and staff. In person conversations are more engaging and allows for an effective back-and-forth.

Director Wood admitted her reluctance for an in-person format mostly because of the convenience virtual formats offer, but quickly appreciated seeing her fellow Board members as soon as she arrived. The same resistance may be felt by others but she noted that it is a good time to resume the in-person meeting format.

Director Cormack noted that Palo Alto council members wear masks at their discretion and suggested BAWSCA offer the same option. She commented that steps in between can be taken to continue the ability to meet in person while keeping everyone safe and comfortable.

Director Hardy noted that Cal Train's northbound schedule can accommodate Board members who choose to use public transportation. Directors can walk together back to the station after meetings.

Additional comments included letting Board members know that the venue is in a residential area and entry to the building is through the main entrance.

10. Comments by Committee Members:

Director Larsson announced that the November 17th Board meeting will be in person in the Sequoia Room at the Burlingame Community Center.

Directors Wood and Zigterman thanked staff for their continuing efforts.

- 11. Adjournment:** The meeting was adjourned at 4:07 pm. The next meeting is December 14, 2022 in Sequoia Room of Burlingame Community Center.

Bay Area Water Supply and Conservation Agency

Board Policy Committee Meeting Attendance Roster

Agency	Director	Oct. 12, 2022	Aug. 10, 2022	Jun. 8, 2022	Apr. 13, 2022	Feb. 9, 2022	Dec. 8, 2021	Oct. 13, 2021
GVMID	Breault, Randy		Meeting Cancelled	✓	✓	✓	n/a	n/a
Santa Clara	Hardy, Karen	✓		✓		✓	✓	
Westborough	Chambers, Tom	✓		✓	✓	✓	✓	✓
Palo Alto	Cormack, Alison	✓		✓	✓	✓	✓	✓
Purissima	Jordan, Steve	☎		✓	✓	✓	✓	✓
Sunnyvale	Larsson, Gustav	✓		✓	✓	✓	✓	✓
Redwood City	Pierce, Barbara	✓		✓	✓	✓	✓	✓
Brisbane	Wood, Sepi	✓		✓	✓	✓	✓	✓
Stanford	Zigterman, Tom	✓		✓	✓	✓	✓	✓

✓: present

☎: Teleconference

October 12, 2022 Meeting Attendance (In-Person)

BAWSCA Staff:

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

Public Attendees:

Alison Kastam	SFPUC
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**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
BOARD OF DIRECTORS MEETING****September 15, 2022 – 6:30 p.m.**

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

MINUTES

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

BAWSCA Chair, Gustav Larsson, called the meeting to order. Nicole Sandkulla called the roll. Seventeen (17) members of the Board were present at roll call. Four (4) members of the Board logged in after roll call. A list of Directors present (21), absent (5) is attached.

2. Comments by the Chair:

Chair Larsson noted the action item before the Board relates to BAWSCA's goal of ensuring reliable supply of high-quality water at a fair price for water customers served by BAWSCA's member agencies. This action will determine BAWSCA's ongoing participation in planning for a potential new potable reuse water supply, an effort that directly relates to BAWSCA's goal and legislative responsibilities.

Chair Larsson welcomed members of the SFPUC staff and looked forward to their reports. He noted San Francisco's perpetual obligation to provide BAWSCA agencies up to 184 million gallons of from the Regional Water System. As the owner and operator of the Regional Water System, San Francisco has a responsibility for environmental stewardship of the Tuolumne River and watersheds that the System relies upon while protecting the water supply from the Tuolumne River.

3. Consent Calendar:

Director Cormack registered a "No" vote for Consent Calendar Item #3A.

Director Cormack made a motion, seconded by Director Hamilton, that the Board adopt Resolution #2022-10, declaring that Board meetings will continue to be held via teleconference; approve the Minutes of the July 21, 2022 meeting; receive and file the Pre-Audit Budget Status Report, Investment Report, Directors' Reimbursement Report, and Bond Surcharge Collection, Account Balance and Payment Report as of June 30, 2022.

The motion passed by roll call vote; 15:1 for item #3A, 16 ayes for items #3B-3F, 1 inaudible response. See roll call tally attached.

4. Public Comments on Items Not on the Agenda:

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

5. SFPUC Report:

Mr. Ronald Flynn, SFPUC's new Deputy General Manager and Chief Operating Officer, addressed the Board emphasizing SFPUC's continuing efforts to meet its obligations of 184 MGD to its wholesale customers, and being good stewards for the environment. He reiterated the SFPUC's commitment and engagement in the discussions with the State for consideration of a voluntary agreement for the Tuolumne River to ensure water supply and maintain the Tuolumne River's well-being.

Mr. Steve Ritchie, SFPUC's Assistant General Manager for Water Enterprise, provided a report on the Regional Water System's water supply conditions.

Manisha Kothari, SFPUC's Program Manager, provided an update on SFPUC's Alternative Water Supply (AWS) Program

Comments and questions were taken from members of the Board. Public comments were provided by Peter Drekmeier, Policy Director of Tuolumne River Trust.

6. Water Management Representatives (WMR) Report:

Ms. Julia Nussbaum from Stanford University provided the Board an update on the WMR key areas of focus.

Comments were taken from members of the Board. There were no comments from members of the public.

7. Action Calendar:

- A. Authorization of the CEO/General Manager to Execute a Memorandum of Agreement for the SF-Peninsula Regional PureWater Project, and of BAWSCA's cost share contribution.

Comments and questions were taken from members of the Board following Mr. Francis' presentation.

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

Director Hardy made a motion, seconded by Director Hamilton, that the Board authorize the CEO/General Manager, subject to legal counsel review, to execute the Memorandum of Agreement to participate in the development of the SF-Regional PureWater Project, including authorization of BAWSCA's cost share contribution of \$51,500.

The motion passed by roll call, 20:1. See roll call tally attached.

- B. Review and Consideration of the Proposed Amendments to the Rules of the Board Regarding Change to the Location of Regular Board Meetings.

Comments and questions were taken from members of the Board following Ms. Sandkulla's presentation.

There were no comments from members of the public.

Director Pierce made a motion, seconded by Director Manalo, that That the Board modify Rule II.D to read as follows:

- D. Location of Regular Meetings. All regular meetings of the Board shall be held at the Burlingame Community Center, 850 Burlingame Ave, Burlingame. When that location is unavailable, or when it is otherwise in the public's interest, a meeting may be held at another location determined by the Chairperson. Notice of the change shall be given as provided in Rule II.B above.**

The motion passed by roll call, 20:1. See roll call tally attached.

8. Closed Session #1:

There were no public comments prior to adjourning to Closed Session #1.

The meeting adjourned to Closed Session #1 at 8:17pm.

9. Report After Closed Session:

Legal Counsel, Allison Schutte, convened Open Session and reported that Closed Session #1 ended at 8:38 pm and no reportable action was taken.

10. CEO Reports:

Ms. Tang, BAWSCA's Finance Manager, presented BAWSCA's OPEB Liability Funded Status Update, including SFPUC's status and BAWSCA's Pension Liability Funded Status Update, including SFPUC's status.

Ms. Sandkulla presented an update on Water Supply and Use, and developments on the Bay Delta Plan.

Questions and comments were received from members of the Board.

Public comments were provided by Peter Drekmeier.

Chair Larsson opened the floor for a motion to extend the meeting.

Director Hamilton made a motion, seconded by Director Vella, to extend the meeting to 10pm.

The motion passed unanimously by roll call vote. See roll call tally attached.

11. Closed Session #2:

There were no public comments prior to adjourning to Closed Session #2.

The meeting adjourned to Closed Session #2 at 9:06pm

12. Report from Closed Session #2:

Legal Counsel Allison Schutte convened Open Session at reported that Closed Session #2 ended at 10:03 pm, and that the Board evaluated the CEO and determined that her overall performance is outstanding.

Chair Larsson opened the floor for a motion to extend the meeting.

Director Hamilton made a motion, seconded by Director Vella, to extend the meeting to 10:30pm.

The motion passed unanimously by roll call vote. See roll call tally attached.

Chair Larsson noted that Agenda Item #13 and #14 were unnecessary.

15. Action Item Following Closed Session #2:

A. Consider Compensation Adjustment for CEO/General Manager for FY 2022-23

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

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

The motion passed by roll call, 19:1. 1 inaudible response. See roll call tally attached.

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

Director Larsson noted that he is actively considering an in-person format for the October 12th BPC meeting to be held at the new Burlingame meeting location. He and the CEO/General Manager are monitoring the COVID number and safety guidelines closely.

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

17. Date, Time and Location of Next Meeting: The next meeting scheduled on November 17, 2022 at 6:30pm. The format will be determined.

18. Adjournment: The meeting adjourned at 10:09 pm

Respectfully submitted,

Nicole M. Sandkulla
Chief Executive Officer/General Manager

NMS/le

Attachments: 1) Roll Call & Voting Log
2) Attendance Roster

Roll Call & Voting Log - BAWSCA

Meeting Date: September 15, 2022

Agency	Director	Simple Voting ⁽¹⁾							Weighted Voting ⁽²⁾	
		Present/ Absent	Item #3 Consent	Item #7A MOA SF-PREP	Item #7B Rules of the Board	Mtg Extension to 10pm	Mtg Extension to 10:30pm	Item#15 CEO Eval	Weighted "Yes" Votes	Weighted "No" Votes
Hayward	Andrews, Angela	y	0	y	y	y	y	y		
Hillsborough	Benton, Jay	0	0	0	0	0	0	0		
Guadalupe	Breault, Randy	0	0	0	0	0	0	0		
Westborough	Chambers, Tom	y	y	y	y	y	y	y		
Menlo Park	Combs, Drew	y	y	y	y	y	y	n		
Palo Alto	Cormack, Alison	y	y, n on #3A	y	y	y	y	y		
San Bruno	Hamilton, Tom	y	y	y	y	y	y	y		
Santa Clara	Hardy, Karen	y	y	y	y	y	y	y		
Foster City	Hindi, Sam	y	y	y	y	y	y	y		
Purissima	Jordan, Steve	y	y	y	y	y	y	y		
Sunnyvale	Larsson, Gustav	y	y	y	y	y	y	y		
San Jose	Liccardo, Sam	0	0	0	0	0	0	0		
East Palo Alto	Lopez, Antonio	y	y	y	y	y	y	y		
Daly City	Manalo, Juslyn	7:19	0	y	y	y	y	y		
Mountain View	Matchack, Lisa	y	y	y	y	y	y	y		
Coastside	Mickelsen, Chris	0	0	0	0	0	0	0		
Milpitas	Montano, Carmen	6:46	0	y	y	y	y	y		
Burlingame	O'Brien, Ann	6:40	0	y	y	y	y	y		
North Coast	Piccolotti, Tom	6:47	0	y	y	y	y	y		
Redwood City	Pierce, Barbara	y	y	y	y	y	y	y		
Millbrae	Quigg, Dan	0	0	0	0	0	0	0		
Cal Water	Smegal, Tom	y	y	y	y	y	y	y		
Mid-Peninsula	Vella, Louis	y	y	y	y	y	y	y		
ACWD	Weed, John	y	y	n	n	y	y	y		
Brisbane	Wood, Sepi	y	y	y	y	y	y	0		
Stanford	Zigterman, Tom	y	y	y	y	y	y	y		

Vote Tally

	Simple Vote Summary							Weighted Vote Summary	
								"Yes"	"No"
Yes (y)	21	16	20	20	21	21	19		
No (n)			1	1			1		
Absent (0)	5	10	5	5	5	5	6		
Abstain (a)									
Item Carries by Simple Vote?									
Item Carries by Weighted Vote?									

(1) Under simple voting, item carries if it receives an affirmative vote of a majority of the total membership (15 votes)

(2) Under weighted voting, item carries if it receives the affirmative vote of directors representing both

a) A majority of the members present and voting, and

b) a majority of the number of votes represented by directors present

Bay Area Water Supply and Conservation Agency

Board of Directors Meeting Attendance Roster

Director	Agency	Sept. 15, 2022	July 21, 2022	May 19, 2022	Mar. 17, 2022	Jan. 20, 2022	Nov. 18, 2021
Andrews, Angela	Hayward	✓	✓	✓	✓	✓*	✓*
Benton, Jay	Hillsborough		✓	✓	✓	✓	✓
Breault, Randy	Guadalupe		✓	✓	✓	✓	✓
Chambers, Tom	Westborough	✓	✓	✓	✓	✓	✓
Combs, Drew	Menlo Park	✓		✓	✓	✓	✓
Cormack, Alison	Palo Alto	✓		✓	✓	✓	✓
Hamilton, Tom	San Bruno	✓	✓	✓	✓	✓	✓
Hardy, Karen	Santa Clara	✓	✓	✓	✓	✓	✓
Hindi, Sam	Foster City	✓	✓	✓	✓	✓	✓
Jordan, Steve	Purissima	✓	✓	✓	✓	✓	✓
Larsson, Gustav	Sunnyvale	✓	✓	✓	✓	✓	✓
Liccardo, Sam	San Jose						
Lopez, Antonio	East Palo Alto	✓			✓	✓	
Manalo, Juslyn	Daly City	✓		✓	✓	✓	✓
Matichak, Lisa	Mountain View	✓	✓	✓	✓	✓	✓
Mickelsen, Chris	Coastside				✓	✓	✓
Montano, Carmen	Milpitas	✓		✓	✓	✓	✓
O'Brien, Ann	Burlingame	✓	✓	✓	✓	✓	✓
Piccolotti, Tom	North Coast	✓	✓	✓	✓	✓	✓
Pierce, Barbara	Redwood City	✓	✓	✓	✓	✓	✓
Quigg, Dan	Millbrae			✓		✓	✓
Smegal, Tom	Cal Water	✓	✓	✓*	✓*	✓*	✓*
Vella, Louis	Mid-Peninsula	✓	✓	✓	✓	✓	✓
Weed, John	ACWD	✓	✓	✓	✓	✓	✓
Wood, Sepi	Brisbane	✓	✓	✓	✓	✓	✓
Zigterman, Tom	Stanford	✓	✓	✓	✓	✓	✓

✓ : Present

* : Predecessor

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Bay Area Water Supply & Conservation Agency

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

TO: Nicole Sandkulla, CEO/General Manager

FROM: Deborah Grimes, Office Manager

DATE: November 8, 2022

SUBJECT: Budget Status Report as of September 30, 2022

This memorandum shows fiscal year budget status for FY 2022-23. It includes major areas of spending, provides an assessment of the overall budget, and summarizes reserve fund balances. This report covers the budget and expenses for BAWSCA. The BAWSCA budget includes necessary resources for the RFA and BAWUA.

Operating Budget Summary:

For the three-month period ending September 30, 2022, 25 percent into the fiscal year, total expenditures were \$1,130,469 or 24 percent of the total budget of \$4,720,885.

Table 1. Operating Budget Summary as of September 30, 2022

Cost Category	Year-To-Date		
	Budget	Expenses	Percent
Consultants /Direct Expenditures			
Reliability	1,593,820	392,204	25%
Fair Pricing	284,200	25,235	9%
Administration	116,000	85,201	73%
Subtotal	1,994,020	502,639	25%
Administration and General			
Salary & Benefits	2,198,190	552,802	25%
Other Expenses			
BAWSCA	465,100	75,028	16%
BAWUA	1,050	0	0%
Subtotal	4,658,360	1,130,469	24%
Capital Expenses	3,000	0	0%
Budgeted Contingency	57,500	0	0%
Regional Financing Authority	2,025	0	0%
Grand Total	4,720,885	1,130,469	24%

Overview:

Overall expenditures for FY 2022-23 are tracking within budget.

Consultants

The \$95,000 budget for technical review and tracking of the SFPUC's Water System Improvement Program was 18 percent expended. The Operating Budget allocation of \$150,000 for strategic counsel was 22 percent expended. The Operating Budget allocation of \$781,500 budget for legal counsel was 43 percent expended. The \$356,320 budget for water management and conservation-related activities was 4 percent expended. Over the next two months, the CEO will be closely reviewing consultant expenses, including legal counsel, as part of the mid-year budget review and will present her findings and potential Work Plan and Operating Budget modifications to the Board at its January 2023 meeting.

Administration and Other Expenses

Budgets for salaries and other expenses were 25 percent and 16 percent expended respectively.

Use of CEO's Discretionary Spending Authority:

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

- A contract amendment in the amount of \$10,000 for EKI additional support of BAWSCA's Water Supply Reliability Roundtable efforts.

The FY 2022-23 Operating Budget remains the same.

Use of Reserve and Reserve Fund Balance:

Unspent funds at the end of FY 2021-22 were \$124,744. The BAWSCA General Reserve balance as of September 30, 2022, shown below, does not reflect this deposit. Once the audited financial report has been accepted by the Board of Directors, the unspent balance from FY 2021-22 will be transferred to the General Reserve.

In accordance with the adoption of the FY 2022-23 annual budget in May 2022, the Board approved a transfer of \$193,012 to the General Reserve. The General Reserve balance as of September 30, 2022 reflects this transfer, and represents 20% of the adopted FY 2022-23 Operating Budget.

Table 2. General Reserve Fund Balance

Fund	Account Balance (As of 06/30/22)	Account Balance (As of 09/30/22)
General Reserve	\$758,794	\$951,806

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD OF DIRECTORS MEETING

Agenda Title: **Receive and File Annual Audit Report for BAWSCA and
Compilation Report for BAWUA for FY 2021-22**

Summary:

An independent auditor report for BAWSCA and a compilation report for Bay Area Water Users Association (BAWUA) have been completed for the year ending June 30, 2022. An audit of BAWSCA accounts is required by Division 31, Section 81426 of the Water Code. The compilation of BAWUA accounts is prepared in accordance with its bylaws, Article 8, Section 8.2. The reports are enclosed, under separate cover, for your review. A financial audit of the Regional Finance Authority is not required at this time.

Fiscal Impact:

None

Board Policy Committee Action:

None. The reports became available on October 27th for staff review, allowing their inclusion in the BAWSCA board meeting agenda.

Recommendation:

That the Board receive and file the independent auditor's report for BAWSCA and the compilation report for BAWUA for the year ending June 30, 2022.

Discussion:

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

Based on their review of the financial statements, the auditors have concluded that the financial statements are in conformance with generally accepted accounting principles, and fairly present, in all material respects, the financial position of both BAWSCA and BAWUA and the changes in financial position and cash flow for FY 2021-22.

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

Enclosed Under Separate Cover:

1. BAWSCA FY 2021-22 Audit Report
2. BAWUA FY 2021-22 Compilation Report

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Bay Area Water Supply & Conservation Agency

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

MEMORANDUM

TO: Nicole Sandkulla, CEO/General Manager

FROM: Deborah Grimes, Office Manager

DATE: November 3, 2022

SUBJECT: Directors' Reimbursement Quarterly Report for the Period Ending
September 30, 2022

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

There were no director expenses reimbursed for the quarter ending September 30, 2022.

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Bay Area Water Supply & Conservation Agency

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

MEMORANDUM

TO: Nicole Sandkulla, CEO/General Manager

FROM: Christina Tang, Finance Manager

DATE: November 4, 2022

**SUBJECT: Bond Surcharge Collection, Account Balance and Payment Report
as of September 30, 2022**

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

Bond Surcharge Collections

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

The surcharges billed for the months of July and August in 2022 have all been collected and remitted to BAWSCA's trustee account. Payments of surcharges billed for September 2022 are still being received and expected to be remitted to the trustee account by November 15. Table 1 below presents a summary of financial transactions related to BAWSCA's Bond Series 2013A and 2013B for the three months.

Table 1: Summary of Surcharges Remitted to Trustee for Quarter Ending 9/30/2022

<u>Month</u>	<u>Amount Billed</u>	<u>Amount Remitted to Trustee</u>	<u>Difference</u>
July 2022	\$2,057,856	\$2,057,856	\$0
August 2022	\$2,057,856	\$2,057,856	\$0
September 2022	<u>\$2,057,856</u>	<u>\$1,286,940</u>	<u>\$770,916</u>
Total	\$6,173,568	\$5,402,652	\$770,916

Bond Surcharge Account Balances

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

Table 2: Bank of New York Bond Trustee Account Activity for Quarter Ending 9/30/2022

	30,218,076	Account Market Value as of 6/30/2022
<i>plus:</i>	3,555,561	<i>Surcharge Collected in July 2022 through September 2022</i>
<i>plus:</i>	152,417	<i>Money Market Fund Interest, Security Coupons/Accrued Interest Received</i>
<i>plus:</i>	(196,545)	<i>Change in Market Value of Held and Matured Treasury Bonds</i>
<i>plus:</i>	(18,873)	<i>Reimbursement to BAWSCA for bond administration expenses</i>
	33,710,636	Account Market Value as of 9/30/2022

In October 2022, BAWSCA re-evaluated its investment strategy for the bond stabilization fund during the annual review of the Investment Policy. As the Federal Reserve has continued its campaign to raise interest rates in response to elevated inflation, rates in the 0-5 year range have risen significantly since the beginning of 2022. BAWSCA's longer-term 0-5 year ladder maturity investment strategy continues to provide a disciplined approach for extending portfolio duration at prevailing market rates. With a ladder maturity distribution, the fund has taken advantage of being able to reinvest into the higher rates available on longer-term bonds. The current 0-5 year ladder maturity investment strategy continues to provide important yield curve diversification against both market price and reinvestment rate risks consistent with BAWSCA's risk tolerances and primary investment objectives. For this reason, BAWSCA and its investment advisor believe that the current 0-5 year ladder maturity investment strategy remains appropriate as such longer-maturity strategies have historically provided greater investment returns and income over time.

Just prior to security maturities on September 30, 2022, the book yield and market yield on BAWSCA's revised portfolio strategy was 1.39% and 3.79% respectively, as compared to the yield of 2.74% for the money market fund.

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

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

The recent debt service payment of \$19,324,356 was made on October 1, 2022. It was paid using the bond surcharges collected from the agencies, consistent with the bond indenture. The next debt service payment of \$5,059,776 will be made on April 1, 2023. There are sufficient funds in the Trustee account to make the payment. Debt service payments are made on April 1st and October 1st of each year until 2034.



Bay Area Water Supply & Conservation Agency

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

MEMORANDUM

TO: Nicole Sandkulla, CEO/General Manager

FROM: Deborah Grimes, Office Manager

DATE: November 3, 2022

SUBJECT: Investment Report – As of October 31, 2022

In February 2004, the Board originally adopted an investment policy consistent with the Government Code that requires a report on the Agency's investments be provided to the Board. This report presents fund management in compliance with the current investment policy. The required annual review of the investment policy by the Board is scheduled for the November 17, 2022 board meeting.

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

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

<u>06/30/22</u>	<u>10/31/22</u>
\$2,746,674	\$2,760,813

Of the total in the BAWSCA LAIF account as of October 31, 2022, \$758,794 represents BAWSCA's General Reserve Fund, equivalent to approximately 16 percent of FY 2022-2023 Operating Budget. The remaining amount consists of Subscription Conservation Program funds and unrestricted funds.

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

<u>06/30/22</u>	<u>09/30/22</u>
.75%	1.35%

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BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD OF DIRECTORS MEETING

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

Summary:

The Board's Investment Policy states that the CEO/General Manager shall annually submit a Statement of Investment Policy to the Board, which the Board will consider at a public meeting. The previous review occurred on November 20, 2021 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 15, 2022.

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

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

Fiscal Impact:

No impact on BAWSCA's annual operating budget.

Board Policy Committee Action:

The Board Policy Committee voted unanimously to recommend the proposed Board action.

Recommendation:

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

Discussion

The primary objectives of BAWSCA's Investment Policy are safety, liquidity and return on investment. All BAWSCA funds are invested in accordance with the Investment Policy and the California Government Code.

Investment of Agency Funds

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

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

Permitted Investment Vehicles for Bond Proceeds

BAWSCA's bond proceeds are invested in accordance with the Bond Indenture and the agency's Investment Policy. The Bond Indenture specifies investments in which BAWSCA is permitted to invest bond proceeds. In November 2012, as part of the establishment of the structure for the bonds issued in 2013, the BAWSCA Board amended the Investment Policy to further restrict allowable investments for bond proceeds to three specific instruments: Federal Securities, Money Market Mutual Funds, and Certificates of Deposit. In November 2020, BAWSCA Board approved a modification to the policy by including U.S. Agency Securities as permitted investments to increase the portfolio's potential yield.

Over the past two years, no purchases of U.S. Agency Securities were made as such securities currently trade at yields with little spread to government guaranteed Treasury Securities. Although the authorized U.S. Agency Securities are government-sponsored enterprises, they are not backed by the full faith and credit of the United States government. To date, BAWSCA's investment portfolio has continued to favor U.S. Treasury Securities over the period as they have been providing a better combination of safety and yield.

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

Bond Stabilization Fund Investment Strategy

BAWSCA's bond stabilization fund held at the Trustee, Bank of New York, serves as a reserve to cover the debt service payments in case of shortfalls in the surcharge collection. As part of this annual review, BAWSCA reviewed the investment strategy for the stabilization fund given current market conditions.

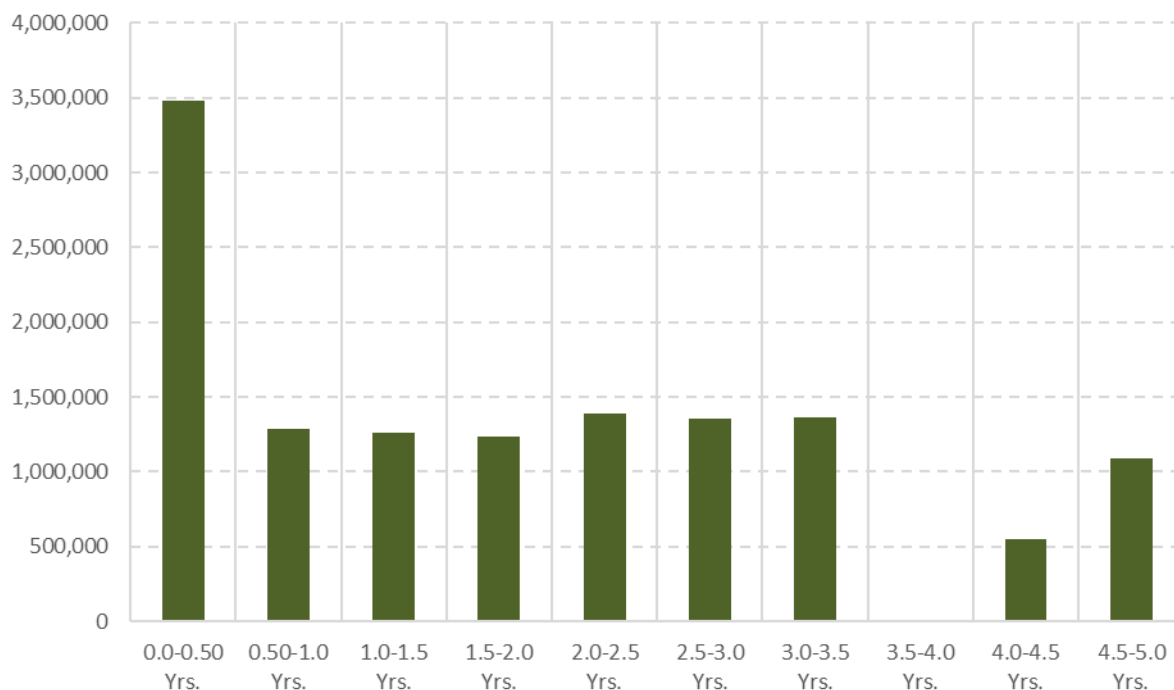
As the Federal Reserve has continued its campaign to raise interest rates in response to elevated inflation, rates in the 0-5 year range have risen significantly since the beginning of 2022. BAWSCA's longer-term 0-5 year ladder maturity investment strategy continues to provide a disciplined approach for extending portfolio duration at prevailing market rates. With a ladder maturity distribution, the fund has taken advantage of being able to reinvest into the higher rates available on longer-term bonds. The current 0-5 year ladder maturity investment strategy continues to provide important yield curve diversification against both market price and reinvestment rate risks consistent with BAWSCA's risk tolerances and primary investment objectives. For this reason, BAWSCA and its investment advisor believe that the current 0-5 year ladder maturity investment strategy remains appropriate as such longer-maturity strategies have historically provided greater investment returns and income over time.

As of October 5, 2022, the total balance held by the bond trustee, Bank of New York, was \$16,772,247, which includes: (1) the bond surcharges of \$3,795,109 collected from the member agencies to pay the next semi-annual debt service payment, and (2) the

stabilization fund of \$12,977,138 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 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 10/5/2022



Background:

Results of Prior Evaluations of Investment Strategy for Bond Proceeds

In July 2013, BAWSCA implemented an investment strategy that assumed 70% of the necessary bond surcharge revenues are collected on time and available for scheduled debt service payments. Therefore, 30% of the necessary debt service payment must be accessible to the bond trustee through the stabilization fund to supplement bond surcharge revenues. The stabilization fund was invested by purchasing US Treasury Securities (a subset of Federal Securities as defined in the Investment Policy) with 6 month or one-year maturities coinciding with the debt service payment dates.

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

In April 2018, BAWSCA 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 October 2020, BAWSCA re-evaluated the credit quality, market price risk, and liquidity characteristics of all investment instruments permitted by the Bond Indenture. As a result of this review, BAWSCA determined that the U.S. Agency Securities would be appropriate for consideration to increase the portfolio's potential yield consistent with the prioritized objectives of safety and liquidity. Accordingly, BAWSCA Board approved a modification to the policy by including U.S. Agency Securities as permitted investments for the bond funds, in addition to the three specific investment vehicles (Federal Securities, Money Market Mutual Funds, and Certificates of Deposit) that were allowed by the policy at that time.

In October 2021, BAWSCA completed the pricing and sale of the 2023A bonds to refund the callable portion of the 2013A bonds, based on a tax-exempt forward delivery. This refunding transaction will generate approximately \$25.1 million in net present value savings over the term of the bonds. The settlement is scheduled to occur on January 5, 2023. A total amount of \$2,212,770 from the stabilization fund will be used to pay down the principal amount of the refunding bonds at the settlement.

Attachment:

1. Statement of Investment Policy

BAY AREA WATER SUPPLY & CONSERVATION AGENCY

STATEMENT OF INVESTMENT POLICY

Adopted February 19, 2004

Amended by the Board, July 15, 2010

Amended by the Board, July 21, 2011

Amended by the Board, November 15, 2012

Amended by the Board, November 19, 2020

BAY AREA WATER SUPPLY & CONSERVATION AGENCY

STATEMENT OF INVESTMENT POLICY

1. Introduction

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

2. Scope

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

3. Prudence

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

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

4. Objectives

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

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

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

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

5. Delegation of Authority

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

6. Investment of Funds

A. Permitted Investments and Depositories

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

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

B. Other Limitations

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

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

7. Investment of Bond Proceeds

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

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

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

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

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

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

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

8. Reporting Requirements

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

9. Annual Review of Investment Policy

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

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD OF DIRECTORS MEETING

Agenda Title: **Adoption of Resolution 2022-11 Approving the Extension of the 2021 Amended and Restated Tier 2 Drought Response Implementation Plan**

Summary:

The Tier 2 Drought Response Implementation Plan (Tier 2 Plan or Plan) is the method for allocating the collective Wholesale Customer share of the Regional Water System (RWS) supply made available by the San Francisco Public Utilities Commission (SFPUC) during shortages of 20 percent or less caused by drought. The Tier 2 Plan calculates the proportion of total available RWS supply made available to each Wholesale Customer.

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 three times in 2018, 2019, and 2020. In 2021, the Tier 2 Plan was amended to address unintended consequences as a result of changed circumstances over time and extended in anticipation of starting a comprehensive update of the Plan. The current Tier 2 Plan expires December 31, 2022.

Given that the SFPUC's November 2021 drought emergency declaration remains in effect and the Tier 2 Plan is currently being implemented, it is recommended that the Board extend the 2021 Amended and Restated Tier 2 Plan for one calendar year; from January 1, 2023 through December 31, 2023.

Board Policy Committee Action:

The Board Policy Committee voted unanimously to recommend the proposed Board action

Recommendation:

That the Board adopt Resolution 2022-11 extending the term of the 2021 Amended and Restated Tier 2 Plan through December 31, 2023.

Discussion:

The Tier 2 Plan describes the method for allocating the RWS supply 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 each subsequent year through action by the BAWSCA Board.

On November 23, 2021, the SFPUC declared a water shortage emergency, initiating implementation of the Tier 2 Plan for the first time since adoption in 2011. In light of drought conditions and in anticipation of the SFPUC's action, the BAWSCA Board extended the Tier 2 Plan through the end of 2022 so that a methodology would be in place to calculate drought allocations. The Board also acted to amend the Plan to address an unintended consequence

that developed over time and would have resulted in a portion of the water made available to the Wholesale Customers remaining unallocated in the current drought.

Recommendation to Extend the Present Tier 2 Plan for One Year

The WSA provides that the SFPUC will honor allocations of water among the Wholesale Customers provided by BAWSCA, or 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 continue to use those for the current drought in accordance with Section 3.11.C.3 of the WSA.

Given that the WSA has a provision that gives the BAWSCA Board the authority to set an allocation method, BAWSCA staff recommends that the Board extend the term of the 2021 Amended and Restated Tier 2 Plan through December 31, 2023.

Identified Need to Update Tier 2 Plan Given Changed Conditions

In 2018, legislation was passed to develop new statewide water use efficiency requirements. In the years immediately following adoption of the efficiency legislation, little was known about how the requirements might impact the normal year and drought year water use within the BAWSCA member agencies' service areas. At that time, it was considered prudent for BAWSCA to closely follow development of the legislation but to hold off on updating the Tier 2 Plan until more was known. Earlier this year, the Department of Water Resources (DWR) released draft recommendations for the State Water Resources Control Board (SWRCB) to consider for final approval.

While the efficiency requirements may change during the SWRCB's rulemaking process, much more is understood about the potential impacts to BAWSCA member agencies. As such, BAWSCA initiated a comprehensive update to the Tier 2 Plan in January 2022. That process is ongoing with active engagement from the member agencies through the Water Management Representatives (WMR). However, neither completion of negotiations on an updated Tier 2 Plan, nor unanimous adoption by the agencies, is expected before the current Tier 2 Plan expires on December 31, 2022.

Status of Ongoing Tier 2 Plan Update Process

In January 2022, BAWSCA and the member agencies initiated an update to the Tier 2 Plan. BAWSCA is facilitating negotiations among the WMR, with technical support from the consulting firm Woodard & Curran. Early on, each agency appointed a lead negotiator to represent their agency's interests and perspectives. Notable progress to date includes agreement on a set of policy principles that are guiding development of an updated methodology and consideration of several model concepts developed by Woodard & Curran.

Between January and August 2022, negotiations were held during monthly WMR meetings in a remote setting. Beginning in September, the WMR began meeting in person to allow for more engaged discussions among the agencies and to speed up progress on the negotiations, including dedicated in-person workshops. Progress has improved with the transition to in-person meetings.

Earlier this year, the agencies agreed to policy principles to guide the development of an updated Tier 2 Plan. To date, the in-person meetings have focused on translating those policy objectives into technical steps that may be included in a Tier 2 calculation. The WMR will continue to

evaluate options for achieving the policy principles over the next few months, with the goal of developing one or two model concepts for more thorough evaluation and scenario analysis by early- to mid-2023.

While BAWSCA is encouraged by the productive discussions and progress made to date, it is not feasible to finalize an updated Tier 2 Plan and have all member agencies adopt it by the end of the calendar year. BAWSCA will continue to regularly update the Board on the progress of negotiations.

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 Customers. The Tier 2 Plan details the methodology used to divide the available supply during a drought.

The Tier 2 Plan applies when the SFPUC determines that a system-wide water shortage of 20 percent or less exists, as set forth in a declaration of water shortage emergency adopted by the SFPUC pursuant to California Water Code Sections 350 *et seq.* The Tier 2 Plan applies only to water acquired and distributed by the SFPUC to the Wholesale Customers and has no effect on water obtained by a Wholesale Customer from any source other than the SFPUC.

The 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 2018, 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. Resolutions with similar extensions were adopted by the Board in 2019, and 2020. In 2021, the Board acted to amend the Tier 2 Plan and extend the term for a year. The current Tier 2 Plan expires December 31, 2022.

During the 2015-2017 drought, the SFPUC did not declare a water shortage emergency and the Tier 1 and Tier 2 Plans were not implemented. Rather, the SWRCB imposed water use reductions based on separate criteria unrelated to the drought allocation plans for the RWS.

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 percent 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 developed, 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 among the Wholesale Customers during a drought.

Attachments:

1. Draft Resolution 2022-11 Approving the Extension of the 2021 Amended and Restated Tier 2 Drought Response Implementation Plan

**RESOLUTION NO. 2022-11
BY THE BOARD OF DIRECTORS OF THE
BAY AREA WATER SUPPLY AND CONSERVATION AGENCY**

**APPROVING THE EXTENSION OF
THE AMENDED AND RESTATED TIER 2 DROUGHT RESPONSE IMPLEMENTATION
PLAN**

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

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

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

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

WHEREAS, in 2015, the State Water Resources Control Board implemented water conservation targets for each BAWSCA member agency that effectively negated the implementation of the Tier 2 Plan during the 2015 to 2017 drought; and

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

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

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

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

WHEREAS, in November 2021, the BAWSCA Board of Directors adopted the 2021 Amended and Restated Tier 2 Plan, by Resolution 2021-03 to amend the Tier 2 Plan and extend the term through December 31, 2022; and

WHEREAS, on November 23, 2021, the SFPUC adopted a system-wide voluntary water use reduction of 10% consistent with Shortage Level 1 of its Water Shortage Contingency Plan (WSCP) and initiated implementation of the Tier 1 and Tier 2 Plans for the first time; and

WHEREAS, in January 2022, BAWSCA and the member agencies began to negotiate an update to the Tier 2 Plan, with negotiations expected to continue into 2023; and

WHEREAS, the BAWSCA member agencies have determined that an extension of the allocation method in the 2021 Amended and Restated Tier 2 Plan is appropriate at this time given the ongoing drought conditions and additional time needed for the Wholesale Customers to negotiate and unanimously adopt an updated Tier 2 Plan; 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 2021 Amended and Restated Tier 2 Plan for one year, thereby effectively extending the Tier 2 Plan for one year until December 31, 2023.

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, 2023, 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 _____, 2022, by the following vote:

AYES:

NOES:

ABSENT:

Chair, Board of Directors

ATTEST:

Secretary

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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: November 10, 2022
SUBJECT: Chief Executive Officer/General Manager's Letter

Bay Area Regional Reliability (BARR) Task Force:

The BARR effort is nearing the completion of its Bay Area Shared Water Access Program (SWAP), including the preparation of a Final Report that details the three water transfers that were performed by select partner agencies as part of the SWAP. As a key component of that work, a Task Force was organized consisting of Bay Area business and environmental organization representatives. The Task Force was used at key stages of the effort as a means of engagement with stakeholders.

Task Force Workshop #2 took place on October 31, 2022. At that workshop, the BARR team of agency staff and study consultants shared and discussed the recently prepared BARR SWAP Draft Strategy Report with Task Force members.

Discussion during the workshop allowed the BARR team to gain Task Force members' perspective and feedback on information and guidance provided in the BARR SWAP Draft Strategy Report. Several report improvements were suggested, and the Task Force provided comments on the lessons learned identified by the BARR Partners in the draft report as well as a sharing ideas for wider applicability and next steps.

BARR Partners and the study consultant are working to incorporate Task Force comments such that a final report can be submitted to the U.S. Bureau of Reclamation for its review and final approval. Bureau review is required as funding from the Bureau was utilized to cover a portion of the cost of work.

BAWSCA Regional Water Supply Reliability Roundtable:

BAWSCA held the third of four Regional Water Supply Reliability Roundtable (Roundtable) Workshops on November 8, 2022. Roundtable participants include representatives from BAWSCA member agencies along with representatives from wastewater agencies, County government agencies, as well as business and environmental organizations.

The discussion that took place at the third Workshop included a discussion of Project Information Forms (PIFs) that were prepared by agencies currently working on proposed projects that, if implemented, would serve to increase water supply reliability for the respective agencies, including partnership efforts that involved neighboring agencies. BAWSCA and its consultant, EKI, have been conducting significant outreach to agencies since last August in an effort to compile the PIFs. PIF development is nearly complete and

include a range of project types, including recycled water plans and projects, groundwater development, surface water supply enhancements, as well as proposals for policies that, if implemented, could reduce water demand.

In addition to a discussion of PIFs submitted, the workshop also included a summary of current and upcoming grant funding opportunities geared to support the development of water supply projects, particularly those that would prove beneficial during times of drought. In addition, SFPUC staff was present to share details of three potable reuse projects that are in the planning stage located within the BAWSCA service area, and included in its Alternative Water Supply Plan.

The fourth workshop will be held in early 2023 at a date and time yet to be finalized. Following the completion of Workshop 4, a report will be prepared that discusses the work effort and workshops held, and will include findings and recommendations from the experience. The report will include, as appendices, workshop notes and PIFs.

SFPUC Commissioner Update:

Recently, two new Commissioners were appointed to the SFPUC to replace the position left vacant by the departure of former Commissioner Harrington, and to replace Commissioner Moran, whose term was complete at the end of September:

- Tony Rivera, a life-long San Francisco resident, US Navy veteran, and 28-year veteran of San Francisco Fire Department, will serve as the At-Large member of the Commission.
- Kate Stacy, a former Deputy San Francisco City Attorney and General Counsel to the Planning Commission and Department, Historic Preservation Commission, and City Arts organizations, will serve as the member with experience in water systems, power systems, or public utility management.

I have introduced myself to the new Commissions during a regular meeting and look forward to the opportunity to work with them further.

The Commission is now complete with all five members. Complete biographies for all Commissioners can be found here: <https://sfpuc.org/about-us/boards-commissions-committees/sfpuc-commission>.

Board of Directors

Policy Calendar Through July 2023

Meeting Date	Purpose	Issue or Topic
January 2023	D&A R&D S	Mid-Year 2022-23 Work Plan, Budget and General Reserve Review Water Supply Update FY 2023-24 Work Plan and Budget Study Session
March 2023	D&A R&D R R&D	Consideration of BAWSCA Bond Surcharges for FY 2023-24 Presentation of Preliminary FY 2023-24 Work Plan and Budget Annual WSA Balancing Account Update Review of Water Supply Forecast
May 2023	R&A R&D D&A	Consideration of Proposed FY 2022-23 Work Plan and Budget Review of Water Supply Forecast Review of Agency Personnel Handbook
July	R&D R&D R&D	Long-Term Reliable Water Supply Strategy Update SFPUC Alternative Water Supply Program Update Review of Water Supply Forecast

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

Meeting Schedule through July 2023

Schedule for BAWSCA Board Meetings (Meetings are held from approx. 6:30 – 8:45 p.m.)	
<u>Date</u>	<u>Location</u>
Thursday – November 17, 2022	Burlingame Community Center – Sequoia Room
Thursday – January 19, 2023	Burlingame Community Center – Sequoia Room
Thursday – March 16, 2023	Burlingame Community Center – Sequoia Room
Thursday – May 18, 2023	Burlingame Community Center – Sequoia Room
Thursday – July 20, 2023	Burlingame Community Center – Sequoia Room

Schedule for RFA Board Meetings (Meeting time will be announced)	
<u>Date</u>	<u>Location</u>
Thursday – January 19, 2023	Burlingame Community Center – Sequoia Room

Schedule for BAWSCA Board Policy Committee Meetings (Meetings held from 1:30-4:00 p.m.)	
<u>Date</u>	<u>Location</u>
Wednesday, December 14, 2022	Burlingame Community Center – Sequoia Room
Wednesday, February 8, 2023	Burlingame Community Center – Sequoia Room
Wednesday, April 12, 2023	Burlingame Community Center – Sequoia Room
Wednesday, June 14, 2023	Burlingame Community Center – Sequoia Room