



**BOARD POLICY COMMITTEE – SPECIAL MEETING**

October 12, 2022  
1:30 p.m.

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

*(One Member of the Committee will participate in this meeting by Teleconference. **Locale shall be: Purissima Hills Water District, 26375 W. Fremont Road 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.)*

**AGENDA - AMENDED**

<b><u>Agenda Item</u></b>	<b><u>Presenter</u></b>	<b><u>Page#</u></b>
<b>1. <u>Call To Order, and Roll Call</u></b> Roster of Committee Members ( <i>Attachment</i> )	<b>(Hardy)</b>	<i>Pg 3</i>
<b>2. <u>Comments by Chair</u></b>	<b>(Hardy)</b>	
<b>3. <u>Consent Calendar</u></b> A. Approval of Minutes from the June 8, 2022 meeting ( <i>Attachment</i> )	<b>(Hardy)</b>	<i>Pg 5</i>
<b>4. <u>Public Comment</u></b> <i>Members of the public may address the committee on any issues not listed on the agenda that are within the purview of the committee. Comments on matters that are listed on the agenda may be made at the time the committee is considering each item. Each speaker is allowed a maximum of three (3) minutes.</i>	<b>(Hardy)</b>	
<b>5. <u>Action Calendar</u></b> A. Annual Review and Consideration of BAWSCA’s Statement of Investment Policy ( <i>Attachment</i> ) <i>Issue:</i> BAWSCA’s Investment Policy requires the Board to act on it annually irrespective of any changes. No changes are recommended. <i>Information to Committee:</i> Staff memo and oral report. <i>Committee Action Requested:</i> That the Board Policy Committee recommend Board re-affirmation of the current Statement of Investment Policy.	<b>(Tang)</b>	<i>Pg 15</i>
B. Adoption of Resolution #2022-11 Approving the Extension of the 2021 Amended and Restated Tier 2 Drought Response Implementation Plan ( <i>Attachment</i> ) <i>Issue:</i> What is the negotiation status and BAWSCA’s recommendation to address the December 2022 expiration of the Tier 2 Drought Response Implementation Plan? <i>Information to Committee:</i> Staff memo and oral report. <i>Committee Action Requested:</i> That the Board Policy Committee recommend Board adoption of Resolution #2022-11 extending the term of the 2021 Amended and Restated Tier 2 Plan through December 31, 2023.	<b>(McPherson)</b>	<i>Pg 23</i>

**6. CEO Reports**

**(Sandkulla)**

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

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**7. Closed Session**

**(Schutte)**

- A. **Conference with Legal Counsel – Existing Litigation pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9 Federal Energy Regulatory Commission Final License Application Proceedings for Don Pedro Hydroelectric Project, P-2299-082, and La Grange Hydroelectric Project, P-14581-002.**
- B. **Conference with Legal Counsel – Existing Litigation pursuant to Paragraph (1) of subdivision (d) of Government Code Section 54956.9 State Water Board Cases (Sacramento County Superior Court Case No. 5013).**

**8. Report from Closed Session**

**(Schutte)**

**9. Committee Discussion**

**(Larsson)**

- A. New Meeting Location and Resumption of In-Person Meetings  
Issue: What feedback does the Committee have on the new meeting location and resumption of in-person meetings?  
Information to Committee: Oral report.  
Committee Action Requested: Questions and comments.

**10. Comments by Committee Members**

**(Hardy)**

**11. Adjournment to the Next Meeting**

**(Hardy)**

**Unless otherwise noticed:**

December 14, 2022 at 1:30pm – Venue to be announced

**Accessibility for Individuals with Disabilities**

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**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY**

**BOARD POLICY COMMITTEE**

**2022 Committee Roster:**

Randy Breault, Guadalupe Valley Municipal Improvement District (Chair)

Karen Hardy, City of Santa Clara (Vice Chair)

Thomas Chambers, Westborough Water District (BAWSCA Vice Chair)

Alison Cormack, City of Palo Alto

Steve Jordan, Purissima Hills Water District

Gustav Larsson, City of Sunnyvale (BAWSCA Chair)

Barbara Pierce, City of Redwood City

Sepi Wood, City of Brisbane

Tom Zigterman, Stanford University

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**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY  
BOARD POLICY COMMITTEE**

**June 8, 2022 – 1:30 p.m.**

**Zoom Video Conference**

**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.**

<b>MINUTES</b>
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1. **Call to Order:** Committee Chair, Randy Breault, called the meeting to order at 1:33 pm following reminders of the protocols to conduct the virtual meeting successfully.

CEO/General Manager, Nicole Sandkulla called the roll. Eight (8) members were present at roll call. One (1) member logged in after roll call. A list of Committee members who were present (9) and other attendees is attached.

Ms. Sandkulla introduced BAWSCA's intern, Brene Pita, to the Committee. Ms. Pita is studying Environmental Science at CSU, San Bernardino and will be working with the Water Resources team on BAWSCA's conservation, greywater and drought efforts.

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

2. **Comments by Committee Chair:** Chair Breault welcomed the Committee members and meeting participants. He noted that the action items before the Committee are associated with two important projects included in BAWSCA's adopted FY 2022-23 work plan. Both projects provide direct benefits to BAWSCA member agencies in a manner that is more cost-effective than they could achieve individually, including supporting the member agencies' efforts to meet the new state requirements for water use efficiency.

3. **Consent Calendar:**

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

**Director Larsson made a motion, seconded by Director Pierce, that the Committee adopt Resolution #2022-08, declaring that the Committee will continue to meet via teleconference, in accordance with AB 361 and the provisions of Government Code Section 54953(e), and approve the Minutes of the April 13, 2022 Board Policy Committee meeting.**

**The motion passed by roll call vote.**

Director Wood noted that virtual meetings provide the ability for people to participate remotely.

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

4. **Public Comments:** Public comments were provided by Peter Drekmeier, Cedric Pitot de la Beaujardiere, and Carol Steinfeld.

Ms. Sandkulla noted that there was a member of the public who was experiencing issues with the passcode, and that an additional public comment period will be needed when he successfully logs in.

**5. Action Calendar:**

- A. Authorization of Professional Services Contract to Support the Redesign and Implementation of BAWSCA's Water Conservation Database (WCDB): Water Resources Manager, Tom Francis, reported that a Request for Proposal (RFP) was issued on May 13<sup>th</sup> for database development services to assist BAWSCA in the development and implementation of a redesigned and enhanced WCDB. The RFP was posted on the BAWSCA website and distributed to over a dozen firms.

Proposals are due on June 10<sup>th</sup> followed by interviews as necessary. The selection process is anticipated to be completed by June 30<sup>th</sup>. The Board will be presented with the selected consultant for its approval at its meeting on July 21<sup>st</sup>. Completion of the effort is anticipated on or before the 4<sup>th</sup> quarter of FY 2022-23.

BAWSCA's adopted FY 2022-23 budget includes an allocation of \$120K for this effort.

Mr. Francis noted the key objectives and tasks for improving the WCDB, and highlighted the need for it to be a reliable and user-friendly interface for input of water use and conservation data by the member agencies. The WCDB is the primary repository hub for data used by BAWSCA and the member agencies for several purposes including: member agencies' reports to the State in accordance with SB 606 and AB 1668; BAWSCA's Annual Survey and Annual Conservation Report, which serve as reference documents by member agencies and organizations region-wide; Tier 2 drought allocation plan efforts; and BAWSCA's regional demand studies. For these reasons, the WCDB needs to be a platform that provides a simple, updated process that can adapt to future database modifications. For example, if a new conservation program is developed, the WCDB needs to be able to accommodate a new module for data input.

The scope of work requires the selected consultant to perform a thorough review of the existing WCDB. While the bulk of the work will be in the development and programming of the WCDB, the selected consultant will engage with the Water Management Representatives and other appropriate member agency staff, collectively and individually, as needed, to scope the redesign and particularly, to understand and address the needs and wants of the member agencies from the WCDB. Upon completion, there will be user training for both BAWSCA and member agency staff.

BAWSCA will require that the selected consultant provide ongoing technical support after the deployment of the redesign, as well as offer a one-year warranty on the package developed to cover the costs of any technical repairs that may arise after deployment.

Mr. Francis presented the staff recommendation and welcomed questions from members of the Committee.

In response to Director Cormack's question, Mr. Francis stated that the levels of data input and output will include:

- agency level data as far as water use;
- sector level data according to customer class, which includes single-family and multi-family; and
- Commercial, Industrial, Institutional (CII) level data that is broken down by business types.

While the WCDB will be detailed, it will not include personal or exclusive information such as water service addresses.

Director Cormack commented that databases often are based on prior usage, and she trusts that part of the work will be to make sure that prior usage is lined up with current usage, time, and customer class. She was pleased to see specific requirement that will enable import of relevant data from Santa Clara Valley Water District (Valley Water), which is crucial.

In response to Director Jordan, Mr. Francis explained that the redesign of the WCDB will be scoped so that it can function effectively for member agencies who need to respond to state required reports.

Director Hardy noted her expectations for multiple responses to the RFP, and expressed her support for the effort.

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

There were no comments from members of the public.

**Director Wood made a motion, seconded by Director Hardy, that the Committee recommend the Board authorize the CEO/General Manager to negotiate and execute a contract with a selected consultant, subject to legal counsel's final review, for an amount not-to-exceed \$120,000 to support the redesign and implementation of BAWSCA's WCDB.**

**The motion passed by roll call vote.**

- B. Authorization of Professional Services Contract with Maddaus Water Management to Support Member Agencies with Water Use Efficiency Legislation. Mr. Francis reported that BAWSCA's work plan for FY 2022-23 includes supporting member agencies in meeting new State standards for water use efficiency in Commercial, Industrial, Institutional (CII) accounts. Member agencies expressed their desire for BAWSCA's support to thoroughly understand the provisions for meeting the new State requirements. The new standards stem from the State's "Making Conservation a Way of Life" legislation passed in 2018. BAWSCA closely followed the State's development of the efficiency standards and CII performance measures, and represented the member agencies in discussions with DWR and the State Board.

BAWSCA's work with the consultant will develop, identify, and implement requirements for CII performance measures. Roadmaps will be produced that illustrate how agencies should address water use classification, comply with conservation thresholds, and approach development and implementation of best

management practice programs to effectively document and report those performance measures to the State.

Mr. Francis reported that Valley Water expressed its interest to partner with BAWSCA on this effort on behalf of Valley Water's retail agencies. In response, BAWSCA prepared a Memorandum of Agreement (MOA) which is being reviewed by the legal teams of both agencies. The MOA includes Valley Water's cost share of 50%, up to a maximum of \$75K, which will help BAWSCA with the cost while achieving the work that needs to be done for the BAWSCA region.

The Request for Proposals (RFP) was issued on April 22<sup>nd</sup> and was sent to seventeen firms as well as posted on the BAWSCA website. One proposal was received from Maddaus Water Management which was reviewed and deemed highly appropriate by a review panel consisting of a BAWSCA staff member, a representative from a member agency, and staff from two outside agencies.

Given the lack of significant response to the RFP, BAWSCA reached out to the firms that did not respond. The firms' reasons included insufficient in-house expertise, and the perception of a lack of competitive advantage against other firms that were seen as likely RFP respondents.

The scope of work is currently being refined to ensure that the cost estimate remains the same. The approved operating budget for FY 2022-23 includes an \$86k budget allocation for this effort. Completion of the work is anticipated by or before the 4<sup>th</sup> quarter of FY 2022-23.

Mr. Francis explained the key tasks and work product of the effort. Task 2 will prepare a CII Classification System Roadmap. Because agencies often classify business accounts differently, the state has developed a proposed system to unify the classifications. This roadmap will describe reporting requirements and best practices for mapping, complying with, and maintaining the classification system developed by the State.

Task 3 will prepare a CII Dedicated Irrigation Meter (DIM) Conversion Threshold Roadmap. The State has developed requirements for CII accounts that are a certain threshold size from a water use and or a property size perspective. The roadmap will describe reporting requirements and provide best practices for 1) identifying CII landscapes that are subject to the requirements, and 2) determining which compliance pathway is most technically and financially feasible.

Task 4 will prepare a CII Best Management Practice (BMP) Roadmap that will help agencies identify the best practice for developing and implementing a BMP program that can meet the State's reporting requirements. Each BMP for different types of CII customers are likely unique and this roadmap will provide agencies guidance on an approach for compliance.

Mr. Francis noted that each roadmap will provide solutions to the challenges agencies will encounter when implementing the State's CII performance measure requirements and ensure agencies will achieve compliance.

The floor was then opened to Committee members for questions and comments.



Director Jordan noted that if the effort is looking beyond meeting the state requirements, he suggested looking into the criteria of local or onsite water recycling by certain industries, for example, commercial laundry industries, particularly in South San Francisco and San Jose. He noted that Valley Water currently has an established rebate program for recycling and this could fit into their conservation goals, particularly if they are interested in partnering with BAWSCA on this effort.

Mr. Francis stated that the specific effort is intended to address the need for agencies to meet the upcoming State requirements. But BAWSCA will continue to consider discussion opportunities for recycled water.

Director Cormack asked if the combination of data from the WCDB and the roadmaps can help agencies identify what commercial organizations are subject to the turf watering restrictions. She echoes the comment on agencies' various ways of categorizing CII customers and stated that agencies need to be able to differentiate the customer classifications.

Mr. Francis stated that details of the new legislation on turf watering restrictions remain to be seen.

Director Hardy asked why the recommendation has no mention of the Valley Water's potential partnership and cost share for the effort.

Mr. Francis explained that the MOA with Valley Water is not yet final, and the recommendation to the Committee is based on what is currently known. If the MOA with Valley Water does not move forward, the cost for the effort remains not-to-exceed \$86K, which is what the Committee would be recommending to the Board. The goal is to finalize the MOA prior to the Board's July 21<sup>st</sup> meeting.

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

**Director Hardy made a motion, seconded by Director Jordan, that the Committee recommend the Board authorize the CEO/General Manager to negotiate and execute a contract between BAWSCA and Maddaus Water Management, subject to legal counsel's final review, for an amount not-to-exceed \$86,000 to provide support services to develop compliance strategies for new California water use efficiency standards.**

**The motion passed by roll call vote.**

The Chair noted his intention to open the floor for general public comments following Item #5C. This is to provide the general public the opportunity to speak since, while it was resolved, there was an issue with the password to log into the zoom meeting.

- C. Acceptance of BAWSCA's Amended Conflict of Interest Code: Ms. Sandkulla reported that BAWSCA is required to review its Conflict of Interest Code (Code) on even-numbered years, or when applicable organizational changes necessitate amendments to the Code.

The last update to the Code was done in 2018 when it was amended to revise the title of a designated position to “Finance Manager”. The list of designated positions in the 2018 Code does not reflect the current organizational chart. Specifically, the position of Senior Water Resources Engineer needed to be added.

Ms. Sandkulla noted that the water resources staff level positions of Water Resources Specialist/Engineer and Senior Water Resources Specialist/Engineer are approved by the Board to be flexibly staffed depending upon the specific qualifications of the staff member hired in that position. Negin Ashoori, Senior Water Resources Engineer, was hired in 2019.

The 2021 review of the Code by staff and legal counsel, in concert with the FPPC, resulted in the FPPC approving an amended Code that includes the new designated position of Senior Water Resources Engineer. The process requires the BAWSCA Board to accept the approved amended Code. Staff titles listed under the designated positions in the Code are required to file FPPC Form 700 Conflict of Interest Code.

In response to Director Pierce, Legal Counsel Allison Schutte explained that in the event that an intern does have decision-making authority that would implicate the Code, Legal Counsel would advise the intern to file an FPPC Form 700 Conflict of Interest Code. The scope of work for the current intern does not include such decision-making authority and therefore would not trigger the need to file an FPPC Form 700.

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

**Director Chambers made a motion, seconded by Director Cormack, that the Committee recommend the Board accept the amended Conflict of Interest Code, as approved by the FPPC.**

**The motion passed by roll call vote.**

Chair Breault opened the floor for General Public Comments since there were difficulties to log in the meeting. Comments were made by Spreck Rosekrans and Mark Stechbart.

Chair Breault stated that while the period for general public comment is not for discussion, he asked Ms. Sandkulla if Mr. Stechbart’s communication with BAWSCA staff and North Coast County Water Agency was responded to. Ms. Sandkulla stated that she communicated with Mr. Stechbart and that the General Manager of North Coast County Water Agency has also responded.

## **6. CEO Reports:**

- A. Water Supply Conditions: Ms. Sandkulla reported on water supply conditions and drought conditions.

She was pleased to report that as of June 6<sup>th</sup>, Hetch Hetchy is full. The deficit and impact of the drought is in the water bank which is only at 42% of its normal percent

of maximum storage at this time of year. The system is at a fairly decent position given the ongoing drought the State is experiencing. Total system storage is at 73% versus 86% of normal at this time of year. A contributing factor for this is the low water use the region had leading into the drought as well as the conservation activities that is maintained in the service area.

Water available to San Francisco is currently at 201 TAF, which is the amount of water San Francisco has been able to divert to storage during the current water year. To fill the system, the estimate is to have 598 TAF. The difference is what the system needs for the water bank.

By comparison, however, the water available to San Francisco in 2021 was 57 TAF, and 22 in 2014. Ms. Sandkulla noted that as dry as this year has been, the region has had some significant amount of precipitation that supplied water to San Francisco and enabled the system to capture water for storage as drought conditions continue.

The region's goal for this water year is to remain below the 200 mgd average in deliveries, and to work to eliminate the typical summer water use peak. The greatest opportunity to achieve significant savings is to keep outdoor water use and irrigation down during the summer months, especially for a region that has a very low residential per capita use. This message was emphasized with the Water Management Representatives at its June meeting, and it is emphasized in the billboards of the regional drought campaign, as well as in the Governor's recent calls for water use reduction throughout the State. BAWSCA will continue to monitor the region's water use closely.

The BAWSCA agencies' total potable water use for the month of April 2022 was 13.7% less than in April 2021. Ms. Sandkulla noted that with increased calls for rationing by Valley Water and State Water Project, agencies like ACWD and those in Santa Clara County may be using more water from San Francisco but yet, their overall customer use appears to be reducing. BAWSCA will continue to follow the region's water use trend to be prepared to speak to the data in the event that an anomaly arises, and to continue assisting agencies during the drought.

On May 24<sup>th</sup> the State Water Board adopted regulations requiring urban water suppliers to implement by June 10<sup>th</sup> their locally adopted plans meant to address at least a water shortage level of 10 to 20 percent, also known as a Stage 2 Water Shortage Contingency Plan. This pertains to agencies that submit Urban Water Management Plans.

Ms. Sandkulla was pleased to report the member agencies' ability to respond to the regulations quickly. Fifteen (15) agencies have already declared Stage 2 water shortage, and 5 agencies plan to. Two agencies are reviewing how they can best implement actions for compliance. Four agencies are not required to submit Urban Water Management Plans to the State but are evaluating how to best comply with the regulations based on their local rules and their current actions in place.

Additionally, urban water suppliers were also required to submit preliminary Water Supply and Demand Assessments (WSDA) to the Department of Water Resources by June 1<sup>st</sup>. The final reports are due July 1<sup>st</sup>.

Lastly, a recent State Water Board order bans the use of potable water for irrigating non-functional turf in CII properties, as well as in properties owned by Homeowners Associations (HOA). Non-functional turf is defined as ground cover surface of mowed grass that is ornamental and not otherwise used for human recreation purposes. Non-functional turf does not include school fields, sports fields, and areas regularly used for civic and community events. The ban does not apply to irrigation with recycled or non-potable water, nor does it apply to watering trees.

- B. **Bay Delta Plan/FERC Update:** Ms. Sandkulla reported that BAWSCA continues its efforts to protect the water users' interests in the State's Bay Delta Plan efforts. She reminded the Committee that in 2019, BAWSCA intervened in the Bay Delta lawsuit to protect the unique interests of the Wholesale Customers. Specifically, Wholesale Customers will be subject to paying 2/3<sup>rd</sup> of the costs; in money and in water supply, of whatever San Francisco agrees to, or is subject to, as a result of the Bay Delta Plan lawsuit. By intervening, BAWSCA will be able to participate directly in settlement negotiations.

BAWSCA is continuing to press the SFPUC to clarify its plan to protect the water supply for its constituents in light of the impacts of the adopted Bay Delta Plan. It is the SFPUC's responsibility to resolve this issue given its obligations to the environment and the water users.

BAWSCA will continue its efforts on multiple fronts as it has been in the past several months, including pressing SFPUC for progress in its planning for alternative water supplies, looking at the design drought, and how to effectively plan for the next water supply project.

Director Jordan asked whether the new curtailment order from the State applies to all of the SFPUC's water supply including supply in the water bank.

Ms. Sandkulla stated that the State Water Board's recently issued curtailment notice applies to all water rights holders from 1900 forward in the San Joaquin tributaries basin, including the Tuolumne.

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

Public comments were provided by Peter Drekmeier.

7. **Closed Session:** The Committee adjourned to Closed Session at 2:40 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 2:58 pm. Ms. Schutte reported that no reportable action was taken during Closed Session.

9. **Comments by Committee Members:** Director Wood encouraged members of the Board who attended the recent Hetch Hetchy tour to share their experience and "take-aways" from the tour, perhaps in the next CEO letter.

Director Cormack noted that she is pleased to have Ms. Pita as BAWSCA's intern and is pleased with her assignment to work on greywater.

Director Hardy reported that she participated in the Hetch Hetchy tour and appreciated the better understanding she gained of the system, the water bank, and how the lower Tuolumne is governed.

Director Jordan requested 2 agenda items: a report from the SFPUC on their cost estimates for the Los Vaqueros Expansion (LVE) project, and a review of liabilities and indemnifications for contaminants that can enter the system as a result of recycling in the Crystal Springs program.

Director Zigterman reported that Stanford University recently adopted a greywater policy for single family residential units and offered a copy of the policy to Ms. Pita for her reference.

Director Larsson reported that he participated in the Hetch Hetchy tour and noted the new Alameda Creek Watershed Center being constructed. It will be an education resource for learning about where our water comes from and how watersheds function. The center is planned to open in 2023.

Director Wood thanked members of the Committee who shared what they learned and appreciated from the tour.

- 10. Adjournment:** The meeting was adjourned at 3:33 pm. The next meeting is June 8, 2022 with the location and format to be announced.

Respectfully submitted,

Nicole Sandkulla, CEO/General Manager

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Attachments: 1) Attendance Roster

# Bay Area Water Supply and Conservation Agency

## Board Policy Committee Meeting Attendance Roster

Agency	Director	Jun. 8, 2022	Apr. 13, 2022	Feb. 9, 2022	Dec. 8, 2021	Oct. 13, 2021	Sept. 7, 2021	Aug. 11, 2021
GVMID	Breault, Randy	✓	✓	✓	n/a	n/a	n/a	Meeting Cancelled
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

### June 8, 2022 Meeting Attendance (Via Zoom pursuant to provisions of Gov. Code Section 54953(e) )

#### BAWSCA Staff:

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

#### Public Attendees:

Jenny Gain	Brown & Caldwell	Cedric Pitot dela Beaujardiere	Self
Cheryl Munoz	Hayward	Mark Stechbart	Self
Lisa Bilir	Palo Alto	Alison Kastama	SFPUC
Spreck Rosekrans	Restore Hetch Hetchy	Julia Nussbaum	Stanford
Carol Steinfeld	Self	Peter Drekmeier	Tuolumne River Trust

**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY**

**BOARD POLICY COMMITTEE 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 laddered 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.

**Recommendation:**

**That the Board Policy Committee recommend Board re-affirmation of 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 October 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.

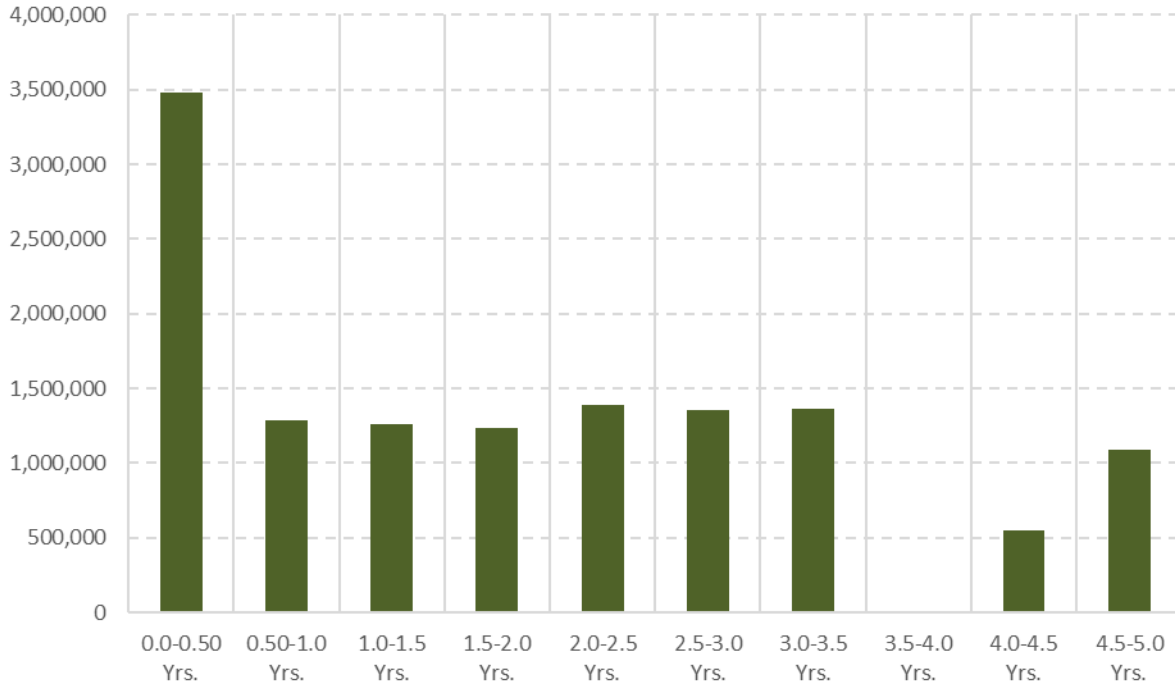
As the Federal Reserve has continued its campaign to raise interest rates in response to elevated inflation, rates in the 0-5 year range have risen significantly since the beginning of 2022. BAWSCA's longer-term 0-5 year laddered maturity investment strategy continues to provide a disciplined approach for extending portfolio duration at prevailing market rates. With a laddered 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 laddered 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 laddered 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 laddered 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 laddered 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 POLICY COMMITTEE 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.

**Recommendation:**

**That the Board Policy Committee recommend Board adoption of 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:

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Chair, Board of Directors

ATTEST:

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Secretary

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

**MEMORANDUM**

**TO:** BAWSCA Board of Directors  
**FROM:** Nicole Sandkulla, CEO/General Manager  
**DATE:** October 6, 2022  
**SUBJECT:** Chief Executive Officer/General Manager's Letter

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**Memorandum of Agreement on SF-Peninsula Regional PureWater**

In accordance with the authority granted to the CEO by the BAWSCA Board at its last meeting, Ms. Sandkulla has signed the Memorandum of Agreement (MOA) for BAWSCA's continued participation in the SF-Peninsula Regional PureWater (SPRP) Project. At this time, the MOA is fully executed with all parties having signed the MOA.

BAWSCA has relayed the water quality concerns related to the project voiced by the Board in September to the project team, including the concern related to per- and polyfluoroalkyl substances (PFAS) in the effluent from the production of potable water. BAWSCA has requested that this issue be further investigated. The final BODR is anticipated to be completed by end of June 2023.

**Los Vaqueros Expansion Project:**

At its September 14<sup>th</sup> meeting, the Los Vaqueros Reservoir Joint Powers Authority (JPA) Board of Directors authorized the contract for its first executive director, Taryn Razzini. Ms. Ravazzini is the principal in charge of Ravazzini Consulting, and has more than 18 years of experience managing water resources planning and policy implementation in California.

During September, the LVE team spent considerable time in Washington, D.C. in an effort to secure additional funding for construction, including meetings with representatives from the US Bureau of Reclamation and EPA. Federal funding recommendations for storage projects will be announced in the coming weeks.

Future federal funding requests will include an additional \$150 million in the upcoming fiscal year. Some portion of the federal funding share may be available in the recently enacted bipartisan infrastructure bill, the Infrastructure Investment and Jobs Act. In addition, a letter of interest was submitted to the EPA seeking a loan for up to \$675 million to fund the costs of the project not provided by the California Water Commission and Reclamation.

**Long-Term Reliable Water Supply Strategy (Strategy):**

As part of the FY 2022-23 Work Plan, BAWSCA has begun the effort to scope an update to its Long-Term Reliable Water Supply Strategy (Strategy). The Strategy was completed in 2015 and since that time it has been used to help guide BAWSCA efforts related to the planning of and participation in various water supply efforts that either BAWSCA was directly championing, such as

a pilot water transfer, or engaged in, such as the tracking and participation in various supply efforts led by the SFPUC.

As part of the Strategy scoping, BAWSCA staff have revisited the scoping performed leading to the preparation of the 2015 document. One of the initial steps performed at that time was to collect information from the member agencies regarding specific water supply opportunities that they were engaged in. Those opportunities included recycled water development, groundwater well installations, and a number of other water resource efforts. This fall, BAWSCA is again performing that outreach. Individual discussions with each of the 26 member agencies are taking place whereby details of upcoming projects, studies, and implementation efforts related to water supply are being collected. The work being performed by BAWSCA is being memorialized as part of BAWSCA's Water Supply Reliability Roundtable reporting. BAWSCA anticipates concluding those discussions by early November 2022.

Due to upcoming staff constraints, it is likely that some consulting support will be needed to prepare the scope for the proposed Strategy update. BAWSCA is in the midst of developing a request for proposal for such support, with the plan to bring a consultant on board in early 2023.

The Strategy update is anticipated to be a multi-fiscal year exercise, and moreover one that could require considerable funding to support. BAWSCA will work with the Board to visit funding options as the effort moves from the scoping phase into the development phase.



# Board Policy Committee Policy Calendar Through April 2023

Meeting Date	Purpose	Issue or Topic
October 2022	D&A D&A R&D	Annual Review and Consideration of BAWSCA’s Statement of Investment Policy Review and Consideration of BAWSCA’s General Reserve Policy Update on the Long-Term Reliable Water Supply Strategy Scoping Effort
December 2022	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
February 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
April 2023	R&A D&A R&D	Consideration of Proposed FY 2022-23 Work Plan and Budget Review of Agency Personnel Handbook Review of Water Supply Forecast