

BAWSCA

Bay Area Water Supply & Conservation Agency

October 11, 2023
1:30 p.m.

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

AGENDA

<u>Agenda Item</u>	<u>Presenter</u>	<u>Page#</u>
1. <u>Call To Order, and Roll Call</u> Roster of Committee Members (<i>Attachment</i>)	(Hardy)	Pg 3
2. <u>Comments by Chair</u>	(Hardy)	
3. <u>Consent Calendar</u> A. Approval of Minutes from the June 14, 2023 meeting (<i>Attachment</i>)	(Hardy)	Pg 5
4. <u>Public Comment</u> <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>	(Hardy)	
5. <u>Action Calendar</u> A. Adoption of Resolution #2023-04 Approving the Extension of the 2021 Amended and Restated Tier 2 Drought Response Implementation Plan (<i>Attachment</i>) <u>Issue:</u> What is the negotiation status and BAWSCA's recommendation to address the December 2022 expiration of the Tier 2 Drought Response Implementation Plan? <u>Information to Committee:</u> Staff memo and oral report. <u>Committee Action Requested:</u> That the Board Policy Committee recommend Board adoption of Resolution #2023-04 extending the term of the 2021 Amended and Restated Tier 2 Plan through December 31, 2024.	(McPherson)	Pg 25
6. <u>CEO Reports</u> A. BAWSCA's Long-Term Reliable Water Supply Strategy 2045 (<i>Attachment</i>) B. Bay Delta Plan/FERC Update C. CEO's Letter (<i>Attachment</i>) D. Board Policy Committee Calendar (<i>Attachment</i>) E. Correspondence Packet (Under Separate Cover)	(Sandkulla)	Pg 33 Pg 35 Pg 37

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. Comments by Committee Members

(Hardy)

10. Adjournment to the Next Meeting

(Hardy)

December 13, 2023 at 1:30pm

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BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD POLICY COMMITTEE

2023 Committee Roster:

Karen Hardy, City of Santa Clara (Chair)
Louis Vella, Mid-Peninsula Water District (Vice Chair)
Thomas Chambers, Westborough Water District (BAWSCA Vice Chair)
Maria Doerr, City of Menlo Park
Gustav Larsson, City of Sunnyvale (BAWSCA Chair)
Barbara Pierce, City of Redwood City
Ann Schneider, City of Millbrae
Tom Smegal, California Water Service Company
Tom Zigterman, Stanford University

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BAY AREA WATER SUPPLY AND CONSERVATION AGENCY**BOARD POLICY COMMITTEE****June 14, 2023 – 1:30 p.m.****MINUTES**

1. **Call to Order:** Committee Chair, Karen Hardy, called the meeting to order at 1:31pm. CEO/General Manager, Nicole Sandkulla called the roll. Nine (9) members were present. A list of Committee members who were present (9), absent (1), and other attendees is attached.

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

2. **Comments by Committee Chair:** Chair Hardy welcomed the Committee members and attendees. She noted that committee actions will not require a roll call vote because the meeting is in-person. Chair Hardy introduced BAWSCA's summer intern, Alondra Zamora Olivares, a Redwood City resident and graduate of East Side Prep who just finished her first year at UC Berkeley for an undergraduate degree in Natural Resources.

Lastly, Chair Hardy recognized Director Cormack who will be exiting from the BAWSCA Board as of June 30th. This is her last meeting as a member of the Board. She will be missed for her dedicated service.

3. **Consent Calendar:** Director Zigterman commented that he appreciates the details of the Board Policy Committee minutes, and suggested that in some cases where the record states, "In response to Director...." it would be helpful to include more detail on the question or comment being responded to.

CEO/General Manager Sandkulla acknowledged Director Zigterman's comments and will take into consideration the advice moving forward.

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

Director Smegal made a motion, seconded by Director Schneider, that the Committee approve the Minutes of the April 12, 2023 Board Policy Committee meeting.

The motion passed unanimously by a show of hands.

4. **Public Comments:** Public comments were provided by Peter Drekmeier, Policy Director for Tuolumne River Trust, Dave Warner, and Spreck Rosekrans, Executive Director for Restore Hetch Hetchy.

5. **SFPUC Report:**

- A. **SFPUC Alternative Water Supply Plan:** Program Manager for SFPUC's Alternative Water Supply Plan, Manisha Kothari, reported that a draft of the Alternative Water Supply Plan (Plan) will be released by the end of June. It will be presented to the Commission and made available to the public for comment. The draft document will not be finalized until Fall of 2023 to ensure all comments received are reflected in the final Plan. Her presentation to the Committee is to provide a preview of what

can be expected from the draft document, as well as a sense of the overall scope of the Plan.

The development of the Plan is an effort that the SFPUC committed to three years ago to inform its long-range planning for water supply. Ms. Kothari stated that on average, for the Regional Water System (RWS), 85% of the water supply comes from the Tuolumne River watershed and 15% comes from local Bay Area watersheds.

Two main drivers for developing the Plan include; 1) the water shortages the SFPUC anticipates facing in future dry years given the changing regulations and uncertainties associated with climate change, and 2) the SFPUC's decision by 2028 on whether to make San Jose and Santa Clara permanent wholesale customers, in accordance with the Water Supply Agreement. These two drivers inform SFPUC's evaluation of supply shortages and needs for water supplies.

Ms. Kothari explained the basis for calculating the water supply need. Simplified, the Plan looks at "Water Availability" in comparison to "Obligations and Demands", to identify the "Gap" between what's available and what is needed. *Water Availability – Obligations and Demands = Gap*

Water Availability is defined as the RWS' ability to address demands in dry years. The main components of Water Availability are supplies available through the existing infrastructure including implementation of the Water System Improvement Projects (WSIP), and rationing. She explained that rationing is a way the SFPUC can address demands without having to develop new supplies, and therefore is considered as a tool for meeting future demands.

With the year 2045 as the planning horizon, Water Availability is compared to Obligations and Demands, which are the two lenses in which the SFPUC looks to see how much water the RWS needs to supply in the future.

Ms. Kothari explained that the Obligations component includes:

- 184 mgd, since the SFPUC is legally and contractually required to provide permanent wholesale customers
- 81 mgd, to cover San Francisco's retail customer needs (both in-city and suburban)
- 9 mgd, to provide for the potential future obligation with San Jose and Santa Clara should they become permanent customers. The 9 mgd is based on their historic demands and supplies that the SFPUC has provided.

The Demands component includes projections for purchases from the RWS in 2045.

The equation of Water Availability compared to Obligations and Demands provides the Gap, which is what the SFPUC is trying to plan for.

There are influencing factors/drivers for each component of the equation:

- The 2018 Bay Delta Plan Amendment, climate uncertainties, and future regulations have impacts on Water Availability in dry years.
- SFPUC's legal and contractual supply assurance to wholesale customers and retail service area, as well as the potential future obligations to San Jose and Santa Clara are impacting factors for the Obligations component.

- Demand projections from each individual wholesale customer, and more importantly, how much of their supply demand relies upon the RWS, influence the Demands component of the Plan.

Ms. Kothari explained that even if the overall demands in the system do not increase, there could be a shift from one source of supply to another source of supply, which will have an impact on the Obligations and Demands component of the equation, and ultimately, the Gap.

SFPUC's modeling tool created 2 scenarios in a future dry year:

a. Meeting Obligations: 152mgd – 274mgd = -122mgd

Water availability – Existing Obligations + 9mgd for San Jose & Santa Clara

Scenario based on water supply available, with rationing and the 2018 Bay Delta Plan Amendment included.

b. Meeting Demands: 152mgd – 244mgd = -92mgd

*Water availability – 2045 total demands on RWS from wholesale and retail.
Wholesale # based on BAWSCA 21-22 Annual Survey*

Scenario based on water supply available, with wholesale customer demand projections taken from BAWSCA's 2021-22 Annual Survey, with rationing, and with the 2018 Bay Delta Plan Amendment included.

While the resulting number, or Gap, for meeting demands is lower than meeting obligations, Ms. Kothari stated that SFPUC's approach in filling the Gap has been to plan for obligations, as they are contractual, while considering demands in terms of investing and building capital infrastructure to avoid over-committing financial resources on projects that may be short-term.

Additionally, just as Water Availability is composed of supply and rationing, that is also true for the water supply Gap. Following that logic, the Plan is evaluating elements from water supply lens as well as elements that can be addressed with rationing. This is described in detail in the Plan.

The Plan focuses on six alternative water supply projects to fill the Gap:

- Daly City Recycled Water Expansion project which will provide water for non-potable use, therefore making groundwater available for future dry years as drinking water.
- Two reservoir expansion projects to expand the capacity of existing reservoirs and increase carry-over storage between wet years and dry years. These two projects include the Los Vaqueros Expansion (LVE) Project, which is a regional project with Contra Costa Water District (CCWD), and the Calaveras Project, which is an SFPUC project.
- Three purified water projects that take recycled water to drinking water standards. Some of the regulations already exists, with others being developed and expected to be adopted by the State next year. These projects include the South Bay Purified Water Project, which is in partnership with San Jose and Santa Clara, and specifically intended to help address the question of whether to make San Jose and Santa Clara permanent customers. San Jose and Santa Clara are contributing and participating significantly in terms of water supply as well as land.

The projects are all currently in the planning stages, with some in the early stages. Ms. Kothari noted that the Daly City Recycled Water Expansion and the LVE are the furthest along.

The projects, given their maximum potential as currently known, provide 48 mgd of new water supply. There still remains a significant gap, which the SFPUC expects to address with new projects combined with rationing, and with the continuing negotiations on the voluntary agreement, which can help reduce the gap.

Ms. Kothari noted that the efforts on finding alternative supplies is dynamic and all possibilities will continue to be revisited.

There are two main recommendations presented in the draft document which focus on how to proceed. The recommendations are based on managing the water supply gap by preventing it from getting bigger, and ultimately reducing it.

The first recommendation is supporting funding for completion of local and regional WSIP projects, which are part of the baseline assumed for water available that can help prevent the gap from increasing. Some of those projects are not yet complete and require additional funding.

The second recommendation is pursuing a concept with BAWSCA in developing a mechanism which encourages development of more local projects that can lower demands on the RWS between now and 2045. It is a concept that is in the very early stages, but is something that the SFPUC is very much interested in exploring further.

The bulk of the Plan focuses on filling the water supply gap and advancing the identified projects. The Daly City Recycled Water Expansion Project and LVE, projects that are the farthest along, provide 4.6 mgd. There are a couple of key milestones to achieve, but if they are achieved, they are the two projects recommended to move forward into the SFPUC's upcoming 10-Year CIP update.

The other projects require continued planning, including getting through the necessary environmental review process and achieving up to a 30% design level. In the meantime, there will be a new Urban Water Management Plans (UWMP) completed in 2025, the proposed voluntary agreement will have ongoing negotiations, and additional information will become available to inform decisions on whether to move forward with those projects and when.

There are three strategic areas that the SFPUC is looking at as it develops the Plan which will need 3 new positions for planning and implementation.

- Operational integration of alternative water supplies. Bringing in new sources of supply into the RWS will require significant planning, and should be addressed early.
- Purified Water will need understanding of new regulations and identification of how to proceed holistically on projects regionally and locally.
- Affordability will require looking at loan opportunities, grant opportunities, as well as private and public partnerships, and cost analyses in the long-term. The Plan documents will have costs estimates, but they will need to be refined as the project move forward from the early stages of development.

The funding need is approximately \$209 million estimated over the next 10 years.

Key takeaways of the Plan include:

- Alternative water supply projects can improve dry year reliability, but will not eliminate the projected gap in 2045;
- Implementing alternative water supply projects will need additional staff support in key strategic areas;
- Affordability is a key issue that needs to be addressed with investment in alternative water supplies;
- Parallel actions, such as the Voluntary Agreement negotiations, to manage and reduce the gap are critical;
- The question of how to make San Jose and Santa Clara permanent customers remains and is being evaluated through the South Bay Purified Water Project.

The draft document will be released on or before June 30 with a comment period through the end of August. Staff will go back to the Commission in the Fall with a final document that reflects comments received.

Director Schneider stated that Millbrae is looking at a water purification system project, which has completed engineering studies and is moving forward with grant writing. She anticipates it to be approximately eight years out. She asked how this project can get integrated into the RWS and whether this should be done at the policy or staff level.

Ms. Sandkulla stated that individual member agency projects being evaluated in the service area are most appropriate for the Strategy 2045 discussion. Additionally, she explained that the projects in SFPUC's AWS Plan are projects in which the SFPUC will have some level of direct benefit during dry years, regardless of how many partners that project involves. This is an important aspect of the projects the SFPUC is evaluating. She emphasized that BAWSCA will not support the SFPUC's evaluation of projects that do not bring any benefit to the regional group.

Director Pierce asked about how the SFPUC is looking at rationing, as some agencies in the BAWSCA service area are seeing certain limitations on what water customers can decrease as a result of permanent conservation and resulting demand hardening.

Ms. Kothari explained that the SFPUC's level of service goals includes a rationing goal of limiting system-wide rationing to no more than 20%. With the adoption of WSIP in 2008, there was a sequence in rationing over the design drought that starts at 0% and increases up to 20% over time, and averages over the 8 ½ years to about 12%. For the AWS Plan, SFPUC has kept the same assumption and is looking at a system-wide level of rationing at 12% on average.

Director Cormack asked how sensitive the 244 mgd is to the UWMPs. That number is significantly higher than today's demands, and there has certainly been a decrease over time. Is the 244 mgd highly dependent on an increase in demand based on factors such as population relocation and RHNA numbers?

Ms. Kothari explained that the 244 mgd represents approximately 170-171 mgd of projected purchases by the wholesale customers from the RWS based on BAWSCA's 2021-22 Annual survey, and approximately 73.5 mgd of San

Francisco's retail customers purchase projections based on San Francisco's UWMP, plus 0.2 mgd for the expansion of the non-potable ordinance in San Francisco.

Ms. Sandkulla added that the numbers are for the 2045 planning period. She referenced BAWSCA's review of the demand study which indicated that the region is in an odd period following 2 long droughts (2014 and 2021) over a period of 10 years, an economic downturn, and a pandemic. She noted that one of the key findings of the Demand Study is to continue the sensitivity analysis effort as part of future demand projections as well as the need to track how demand projections and projections for individual elements (residential population, non-residential growth) are comparing with actuals.

Ms. Sandkulla emphasized that the comparison between projections and actuals will be an important component of the sensitivity analysis over time, and will take some time to show what the water demand trend looks like and identify if it is anything different. It is important to recognize that there is no immediate plan to fill the remaining gap simply because there are not enough known projects capable of filling that gap. The search for the right projects will continue as there is a balance between *when* there is enough information known and *when* to make decisions.

In response to Director Cormack, Ms. Kothari stated that the Calaveras expansion project can provide a range of 2.7 to 28.6 mgd. It is a big range because there are 4 different heights that were evaluated as the capacity to which the reservoir can be raised. The smallest height provides approximately 2.7mgd over a design drought average delivery. The maximum height provides 28.6mgd. But there are significant costs associated with raising Calaveras, and that is probably the most expensive of the projects.

Director Cormack pointed out that while the Calaveras expansion project is the most expensive project, it is the project that the SFPUC has most control of in comparison to LVE.

Director Chambers asked if the 265 mgd existing obligations do not include rationing, and therefore, can be decreased by 12% with the 20% rationing for a dry year.

In response, Ms. Kothari explained that the rationing is reflected in the Water Availability component, and is already accounted for. It is included in the 152 mgd.

Secondly, Mr. Chambers noted that Daly City is a smaller sanitation plant than SFPUC's west side plant. If SFPUC is working on recycling water in its west side plant, is it going to supply just San Francisco or is it going to be supplied to the region?

Ms. Kothari explained that the West Side Recycled Water project is reflected in the Demands component. In the 244 mgd, retail demand is assumed to be 73.5 mgd, which already accounts for the water supply benefit of the West Side Recycled Water project

In response to Director Hardy's question about the State Board's deadline to finalize its regulation for purified water, Ms. Kothari explained that development of regulations she spoke of are specifically for direct potable reuse. Purified water regulations are still expected by the end of this year, but they will not be adopted until next year.

Director Smegal noted that in addition to the list of things that has produced demand, there has also been the \$5 billion investment from the SFPUC in the RWS which has raised rates substantially. There's an economic impact that is also driving demand down.

Ms. Sandkulla stated that the BAWSCA Board will be provided a copy of the draft document at the end of June, as well as a full presentation by Ms. Kothari at the July 20th Board meeting.

Public Comments were provided by:

- Peter Drekmeier
- Dave Warner
- John Weed, Alameda County Water District and BAWSCA Board member, speaking as a member of the public
- Spreck Rosekrans.

6. Action Calendar:

- A. Update of Authorized Banks for BAWSCA Deposit Accounts: Ms. Sandkulla reported that Resolution #2020-01 adopted by the BAWSCA Board of Directors in May 2020 clarifies BAWSCA's existing bank accounts and the signature authorizations. It also indicates Borel Bank and Trust as the authorized bank for the agency. Borel Bank and Trust was acquired by Silicon Valley Bank in July 2021. Given the recent experience with Silicon Valley Bank, BAWSCA has moved forward in establishing bank accounts with JP Morgan Chase, in accordance with the Investment Policy that the Board enacted on May 18, 2023.

Establishment of the new bank accounts is currently in progress. Once the new bank accounts have been fully established, they will, as reported and discussed with the Committee in April and the Board in May, provide collateralization with securities to deposits in excess of the FDIC limit in accordance with BAWSCA's Investment Policy & State law.

BAWSCA recommends updating the authorization to reflect the agency's current bank accounts which will include JP Morgan Chase. Silicon Valley Bank will remain as one of the banking institutions because the transition out of Silicon Valley Bank will take some time. There are no changes to the authorized persons who can sign checks. Ms. Sandkulla explained that in addition to the Chair and Vice-Chair, the board members identified as authorized signatories were based purely on their location proximity to the BAWSCA office.

Director Smegal asked if there is interest in changing from the eventual successor bank to another bank.

Ms. Sandkulla stated that BAWSCA will completely migrate over to JP Morgan Chase, which is a separate bank from Silicon Valley Bank. Currently, BAWSCA has accounts in both Silicon Valley Bank and JP Morgan Chase. Silicon Valley Bank is BAWSCA's current operating bank, but just until administrative processes for accounts payables are fully transitioned to JP Morgan Chase. BAWSCA's deposits at Silicon Valley Bank are now fully protected through a sweeper account that provides the necessary protection to any deposits over \$250K. But Ms. Sandkulla reiterated that BAWSCA will be migrating to JP Morgan Chase.

Director Cormack made a motion, seconded by Director Pierce, that the Board Policy Committee recommend Board approval of:

- A. Rescinding Resolution #2020-01 that indicates Borel Bank and Trust Company as the authorized bank where BAWSCA has established deposit accounts; and**
- B. Adopting a replacement Resolution #2023-03 that identifies both Silicon Valley Bank and JP Morgan Chase Bank as the authorized banks where BAWSCA has established deposit accounts.**

The motion passed unanimously by a show of hands.

There were no public comments.

7. Reports and Discussion Item:

- A. Update on Negotiations of a New Tier 2 Plan: Ms. Sandkulla noted that the Water Supply Agreement (WSA) between San Francisco and its wholesale water customers has 2 stepwise plans that allocate available RWS supply during droughts.

The Tier 1 Plan allocates available supply from the RWS between SFPUC Retail Customers and the Wholesale Customers collectively. This is the first step, and is performed by the SFPUC.

The Tier 2 Plan allocates the wholesale share of the supply from the RWS among the Wholesale Customers. This is the second step and is performed by BAWSCA.

Both Tier 1 and Tier 2 Plans apply during system-wide shortages of up to 20%.

The Tier 2 Plan must either be unanimously agreed to by all wholesale customers, or be adopted by the BAWSCA Board.

The existing Tier 2 Plan adopted by the member agencies in 2011 was set to expire December 31, 2018. The WSA enables the BAWSCA Board to extend the Tier 2 Plan, and the WMR has expressed support for the extension of the Plan each year since 2018. Likewise, the Board has voted to extend the Plan for one year, each year since 2018.

While both the Board and the WMR supported yearly extensions of the existing Tier 2 Plan, both expressed a desire for an update while acknowledging that an update would take time to negotiate and adopt given the level of importance and significant member agency engagement required.

In January 2022, BAWSCA initiated work with the WMR to update the Tier 2 Plan. Since then, several key milestones have been reached:

- ✓ Each member agency appointed a lead negotiator who has the authority to speak on behalf of its home agency. The group meets at least twice a month through the monthly WMR meetings and scheduled in-person Tier 2 workshops.
- ✓ Establishment of four policy principles to guide the negotiations of the Tier 2 Plan Update
 - Provide sufficient water for basic health and safety needs of customers.
 - Minimize economic and other adverse impacts of water shortages on customers and the BAWSCA region.

- Provide predictability of drought allocations through consistent and predetermined rules for calculation, while allowing flexibility to respond to unforeseen circumstances.
 - Recognize benefits of, and avoid disincentives for, water use efficiency and the development of alternative water supply projects.
- ✓ Creation of an Excel-based spreadsheet tool to evaluate possible plan components and support negotiations.

As a group, the appointed negotiators established the 4 policy principles, which will help keep the group's focus together, identify what they collectively want out of the Tier 2 Plan, and maintain intent instead of interest.

In comparison to the principles in the prior plan, the new principles benefit from the region's experiences from the drought and are therefore refined and elevated.

The excel based tool was created to evaluate all components of what goes into the allocations and to facilitate the negotiations. The tool is designed to be easily understood and used by everyone, as well as to serve as a means of documentation. At this point, the excel based tool is enabling the analysis of all identified possible elements of a Tier 2 Plan that the group is discussing.

The appointed negotiators developed the "straw person concept", basically a rough outline formulated to align with the policy principles and begin the negotiations based upon what the group has decided to date. The concept allocates available supply in a series of steps that:

- Provides a water allotment for the health and safety needs of the agency's customers from the RWS,
- Provides a water allotment for non-residential indoor use to avoid adverse economic impacts,
- Ensures a minimum amount of water to each agency based upon its past purchases, and
- Remaining water is allocated based upon
 - Each agency's Individual Supply Guarantee (ISG)
 - Each agency's seasonal outdoor demand

The excel based tool and the straw person concept helps in facilitating the discussion and evaluate outcomes of changing inputs and thresholds. The goal is to reach consensus on an approach and a Tier 2 formula.

Ms. Sandkulla noted that BAWSCA has an excellent team led by Danielle McPherson, BAWSCA's Senior Water Resource Analyst. The group is making good progress, but negotiations are anticipated to continue through at least the end of 2023. While consensus may be reached by the end of 2023, the adoption process will take time with each 26 member agencies going through its own internal procedure to adopt the plan.

Board members are encouraged to engage with their staff and appointed lead negotiators for information on the progress of the negotiations. Monthly updates from BAWSCA, including how consensus is building, will also be provided to the Board and BPC to allow important information flow from both sides.

Director Cormack appreciated the second half of the 3rd policy principle which states, "...while allowing flexibility to respond to unforeseen circumstances." But she commented that it is hard to understand in the straw person concept where the flexibility is.

For example, an unexpected impact of the pandemic is people moving out of San Francisco into the BAWSCA region, and suddenly all the water demands that was thought to be fixed, will change. Where does the flexibility fall in this situation?

Ms. Sandkulla explained that this kind of situation would be captured in the straw person concept under the 3rd bucket which considers allocation based on past purchases. She noted that there are some issues that have not yet been dealt with. For example, one of the member agencies had a local supply that went completely dry in the middle of the recent drought resulting in that agency needing to rely upon its SFPUC allotment to meet all of its water customers needs. The health and safety factor comes into play and that is where the flexibility in the straw person can be seen right now. Ms. Sandkulla noted that BAWSCA and the member agencies' drought experience over the past 10 years has provided valuable knowledge on how to deal with situations of this nature.

Secondly, Director Cormack commented that in the financial environment, sometimes when there are uncertainties, there is something set aside for; "what are the things we don't know". Presumably that is not being contemplated here, and for reasons that make sense, but it should at least be addressed as to why, in the water world, something is not set aside, and is deliberated when it comes up. She is not recommending to do this, just stating that let's be sure that we have thought about it and describe why we are or not doing it.

Ms. Sandkulla noted that setting aside an amount of discretionary water supply for special needs is a parking lot issue for the negotiations right now.

Thirdly, Director Cormack commented that, in reference to principle #4, it is important to acknowledge that in this environment of change, what was done in the past will not necessarily continue in the future. Speaking under her BAWSCA responsibility, she noted that while it is implicit, perhaps it should be explicit in communications on this effort because it is important.

Director Pierce asked staff to discuss Principle #4; recognizing the benefits of, and avoiding disincentives, for water use efficiency.

In response, Ms. McPherson explained that an example of how that is addressed is in the area of health and safety. In the straw person concept, agencies that have invested in water use efficiency and have brought down their per capita water use receive the benefit of having their health and safety allocation in a per capita calculation. As a result, this establishes a health and safety floor, so as agencies invest in efficiency, they get closer to that floor, or even below it.

Director Pierce noted that it is worth documenting that agencies are making changes to their water use efficiency plans based on what has been learned through past drought experiences.

There were no public comments.

- B. BAWSCA's Long-Term Reliable Water Supply Strategy 2045: Ms. Sandkulla began the discussion for developing Strategy 2045 with a background overview of the

development process and purpose of the prior iteration of the Strategy, titled 2015 Strategy.

The 2015 Strategy was initiated with a focused scoping effort because it was something BAWSCA and its member agencies had never done before and was in response to an immediate issue resulting from the SFPUC's unilateral decision to limit purchases from the RWS to no more than 265 mgd. BAWSCA hired a consultant for both the scoping of the work needed to develop the 2015 Strategy, and the work of developing the 2015 Strategy. The scoping effort, which was basically focused on defining the problem, actively engaged with the WMR for one year. There were 2 key tasks that comprised the scoping effort:

1. Defining the magnitude of the water supply issue. How big is the demand shortfall and how do BAWSCA and the member agencies seek to close the shortfall?
2. Developing a detailed scope of work for the 2015 Strategy.

In scoping the 2015 Strategy 2015, BAWSCA identified how BAWSCA's goal of ensuring a reliable supply of high quality water at a fair price connected with the development of the 2015 Strategy. It translated into a water management objective of *"Ensuring a reliable supply of high-quality water at a fair price where and when people within the BAWSCA member agency service area need it"*.

Ms. Sandkulla pointed out that the goal of the 2015 Strategy did not speak to BAWSCA's role of implementing it. It was "to ensure".

BAWSCA also identified the specific purpose of the 2015 Strategy. Through the one-year engagement, three specific objectives were established:

1. to quantify the water supply reliability needs of the BAWSCA member agencies through the planning horizon of 2030,
2. identify the water supply management projects, or groups of projects to be developed to meet those needs, and
3. develop an implementation plan for the 2015 Strategy.

The scoping and development of the 2015 Strategy was a 6-year multi-phase effort, in which each phase is documented and accessible on the BAWSCA website. The first report was a scoping report, followed by a series of reports, essentially because changes had to be made through the course of the 6-year period. There were changes in demands that redefined the problem, which required a pause for further investigations and re-clarification of the purpose. The changing factors included the 2007 drought, economic downturn, increased costs, agencies investing locally, and water conservation efforts that reduced water supply needs.

The 2015 Strategy made 5 key findings that informed the recommendations of BAWSCA's water supply work since that time:

1. There was no longer a regional normal year supply shortfall for the BAWSCA member agencies.

Ms. Sandkulla noted that when the 2015 Strategy effort started, there was a normal year supply shortfall of 30 mgd. By the time the effort to develop the 2015 Strategy concluded, the supply shortfall reduced significantly that it was no longer a critical number region-wide.

2. There was a drought year supply shortfall. The question of the SFPUC's water supply reliability during drought was emphasized.
3. Water transfers scored high in the ranking of future, independent water supply source options.
4. There was a recognition that while desalination provided a sizeable water supply benefit, its high cost and extensive permitting requirements made it a poor option.
5. Water supply sources that may only provide limited regional benefits in reducing dry year shortfalls proved to be worthy of investigation.

With these 5 key findings, the 2015 Strategy provided 5 recommended actions:

1. For BAWSCA to lead water transfer development and implementation, including identifying and evaluating water storage options.
This led to BAWSCA's pilot water transfer and engagement with LVE
2. Facilitate desalination partnerships and pursue outside funding for related studies.
As a result of this recommendation, BAWSCA moved forward aggressively in its engagement with CalWater on potential local brackish desal projects.
3. Support member agency-identified projects, including recycled water and groundwater, and local capture reuse.
4. Participate in regional planning studies in cooperation with others.
There is a role for BAWSCA to play in facilitating smaller projects for regional efforts to move forward.
5. Continue to monitor regional water supply investments and policies.

The recommendations have guided BAWSCA's workplan and results achieved over the past 7 years. BAWSCA's projects and regional planning efforts have related directly to the 2015 Strategy findings and recommendations:

Specific projects include BAWSCA's expanded Core and Subscription conservation programs, Pilot Water Transfer efforts, and engagement on Regional Water Supply projects which include the LVE, CalWater's Potential Brackish Groundwater Desalination Project, San Francisco-Peninsula Purewater project, ACWD Purified Water Project and South Bay Purified Water Project.

Regional planning efforts include engagement with Bay Area Regional Reliability (BARR) Partnership, development of planning tools including BAWSCA's Regional Groundwater Model as well as the Regional Water System and Supply Model, supporting member agencies' Urban Water Management Plan development, and update of the Demand Projections every five years.

Those specific projects and efforts are the result of the Board's authorization to move forward with implementing the 2015 Strategy recommendations.

Why is there a need for an updated Strategy with a planning horizon of 2045? Ms. Sandkulla stated that the region's water demands have changed and there are regulatory pressures, climate change and other system vulnerabilities.

Additionally, an increasing recognition of the One Water approach to water supply planning as well as other water supply projects present a potentially useful role for

BAWSCA, and it is important to pursue that opportunity given BAWSCA's regional nature. Rightfully, the Board would want to know how the various options compare with each other, and therefore, the process of evaluating those options to better understand them should start in concert with the SFPUC's AWS as well as Valley Water's plan. Additionally, Ms. Sandkulla noted that water affordability is another issue that has elevated more than ever.

The idea is to initiate a scoping process, just as done for the 2015 Strategy, to get consensus with the member agencies and the Board on the goals and objectives for Strategy 2045, the development approach, a detailed scope of work to prepare Strategy 2045, including costs and schedule estimates, and an approach for funding. Ms. Sandkulla emphasized that direct engagement with the Board, the BPC, and the WMR is critical for the effort's success.

With the consultant selection and agreement in place, BAWSCA will move forward with the first task of reviewing existing documents from BAWSCA and other entities that are pertinent to BAWSCA's water supply reliability needs. Water supply strategy plans by other water agencies outside of the BAWSCA service area will also be reviewed to identify other considerations and approaches.

Task 2 is engagement with the WMR and the Board to receive input and feedback throughout the process. This effort will entail feedback forms, one-on-one agency discussions, WMR meeting interactions, and Board updates and planning sessions.

Task 3 will be the development of Strategy 2045, including a funding plan.

The timeline is to complete the draft scope of work effort by June 2024.

Director Larsson noted the significant change in policy focus when the findings of the 2015 Strategy shifted from water supply need for normal years to water supply need for dry years only. He asked if, when the scoping effort for the 2015 Strategy began, it was known that the water supply need was going to go in that direction.

In response, Ms. Sandkulla stated that the shift to water supply need for dry years was not known at that time. She explained that when the scoping effort began in 2009, there was a known immediate significant need for both normal and dry year. Then, in 2011, after the member agencies re-evaluated their long-term plans and projections for the required Urban Water Management Plans (UWMP), it was realized that normal year needs were being addressed in various ways, including use and development of other supplies to meet those projected normal year shortfalls.

She noted that up to that point, there had been significant conversation and serious questions before the Board about the need to invest in a large regional water supply project to address normal year supply need. After the finding, the Board made a shift towards the direction of addressing dry year needs only.

Director Larsson noted that this is helpful context to know that the key elements of the 2015 Strategy were discovered along the way, and that today's discussion speaks to the value of going through the process to ensure that BAWSCA is focusing on the right direction. He re-read the strategy documents which shows how much has changed from 2015, and proves that an update is needed.

Director Zigterman appreciated the historical information which he would have found helpful leading up to the consultant selection and launch of the effort. He asked how 2045 was selected as the planning horizon?

Ms. Sandkulla stated that 2045 is the current planning horizon for UWMP. She explained that part of this effort is to not get ahead of the agencies and their planning. A longer window that is at a different level of granularity can be considered if that is something the member agencies and the Board are interested in.

Director Zigterman stated that maybe BAWSCA should think about leading individual agency's planning horizon on a broader, longer view. He commented that there are big unknowns including how much water San Francisco will be able to deliver. As well as the impacts of the changing population and cultural, political and economic factors. Both supply and demand need to be bracketed which will take a lot of expertise.

Director Schneider commented that California's population decreased after the 1989 earthquake, but ultimately, the population will continue to expand. She asked if Strategy 2045 will have tree coverage and account for climate resiliency work. Population will rise and the need to maintain trees for a host of environmental reasons will grow and it is going to take water.

Ms. Sandkulla stated that consideration of all those elements will be a part of the scoping effort to identify what should be included in Strategy 2045. BAWSCA now has the experience and history in working with the agencies on projects and policies to move things forward, and that relationship will help in identifying what can potentially be on the table. But the effort does have to go back to a defined goal. Establishing the goal and objectives for Strategy 2045 is critical. The Board will be in the driver's seat in determining that.

Director Schneider added that the cost of not maintaining a tree canopy means that our residents are going to have to install air conditioners and there is a long list of climate categories under that. Will the strategic plan compare the investments in additional new water to keep trees alive and nature base solutions versus mechanical solutions?

In response to Director Schneider, Ms. Sandkulla stated that it could, but the efforts are not that far along yet.

Public comments were provided by Peter Drekmeier and Dave Warner

- C. CEO/General Manager Performance Evaluation Process: Director Larsson reported that administration of the CEO/GM performance evaluation begins with the Committee's discussion of the process before it moves forward to the Board in July. As Chair of the BAWSCA Board, he will be driving the process.

Director Larsson proposed to continue the existing process which has been implemented over a number of years. A survey will be sent to all Board members following the July Board meeting. The survey will include a multiple choice section and an open response section. The questions will remain the same as last year.

The multiple choice have defined metrics and evaluation categories. The essay section will have specific areas where Board members can provide free form responses. The Committee's discussion is an opportunity to suggest changes to the format, should the Committee see it necessary.

Director Larsson believes that the existing process and evaluation questions are in a good place as it has been revisited and refined over a number of years. He noted that last year's performance evaluation included both a 360 review and a

compensation survey. Those are big efforts that are not done every year, but will be done regularly every few years moving forward.

As done in previous years, the survey will be done electronically in a google form that can be completed at the members' convenience within a given time period. Director Larsson will send reminder emails as the deadline approaches.

Responses will be compiled in a summary report that will be included in the agenda packet for the September Board meeting, in which the Board will discuss potential changes to the CEO/General Manager's contract and compensation.

Director Larsson noted that Board participation has been very good in the past, and emphasized that Board members' input are valuable and taken very seriously by the CEO/General Manager.

Director Cormack stated her comfort with the existing process, and suggested that the compensation survey be done every other year so as not to delay it too much.

Director Hardy commented on the number of new members on the Board, and suggested that perhaps the length of how long a Board member has been on the board can be built into the metric.

Director Vella was in agreement with Director Hardy's comments, and additionally asked the CEO/General Manager's feedback on the existing process.

Ms. Sandkulla thanked Director Vella for his question, and stated that she appreciates where the existing process is. Having worked in public service her entire career, Ms. Sandkulla enjoyed the 360 evaluation that was conducted in 2022, and welcomes well-provided feedback. She acknowledged her responsibility to the Board and the member agencies and stated that if there are changes needed for improvement, she would want to make them happen. The Board members' participation in this process is important to her, and she believes that conducting the evaluation survey electronically has helped in increasing the participation level.

Director Pierce noted that perhaps Board members who just recently left the Board could be contacted since they would have been on the Board for the majority of the fiscal year.

In response, Director Larsson stated that he plans to encourage new Board members to reach out to their predecessors to get feedback.

Director Cormack commented that part of the CEO/General Manager's job is to on-board new Board members multiple times a year, and it is important how quickly the new Board members get acquainted with BAWSCA. She cautioned against diminishing in any way, shape, or form what a new Board member does or does not understand about what the CEO does. The views of the new Board members are relevant to the CEO/General Manager's performance, and is an important component of the evaluation.

Director Larsson noted that as a follow up the Director Cormack's comment about the compensation survey, there was a period a few years ago when BAWSCA did not do a compensation survey for the CEO and fell behind significantly. It is an important institutional process to keep in mind and carried out moving forward.

There were no public comments.

- D. Discussion of Board Member Compensation, Board Diversity, and the Board Member Expense Reimbursement: Legal Counsel, Allison Schutte, provided a follow up report to the Committee's discussions at its April meeting.

As previously reported, BAWSCA's enabling legislation provides a compensation of \$100/day for board members. The water code statute that it refers to authorizes a 5% a year increase, and payment for a maximum of no more than 10-days of service per month. Ms. Schutte explained that Hanson Bridgett has interpreted the escalation statute to be a simple interest escalator of 5% per year. There are attorney general opinions that say compound interest is disfavored in California. While some agencies allow for compounding interest in this calculation, Hanson Bridgett is generally conservative.

In response to the Committee's April discussion, staff expanded the list of agencies included in the comparison, added information about election practices for the appointing agencies that appoint members of the BAWSCA Board, and explained the Board adopted reimbursement policy in the staff report.

Ms. Schutte referred to Table 1 of the staff report which provides an expanded agency board member compensation comparison. Most of the agencies provided in Table 1 follow the same regime as BAWSCA's \$100/day of service with up to 10 days of service per month. She noted that the comparison is a bit apples to oranges because BAWSCA has no direct comparator.

- Of the 15 comparator agencies, there are only three agencies that have appointed governing bodies. That includes BAWSCA, the Golden Gate Bridge, Highway, and Transportation District (Golden Gate District), and Metropolitan Water District of Southern California (MWD).
- The remaining 12 agencies are their own agencies that either have their own enabling legislation, or they are under the county water district act, or some other similar act.
- Peninsula Clean Energy and Silicon Valley Clean Energy are shown in the footnote because they do not provide any compensation to their appointed board members. The appointing/home agencies may provide compensation, but that is not a perfect comparison to BAWSCA.

For additional information, Ms. Schutte noted that some agencies have other forms of compensation provided to Board members such as a small PERS participation amount, medical, and cellphone benefits. Ms. Schutte offers this information to let the Board know about additional elements that other agencies consider as part of their board compensation.

With regards to the question of how to improve diversity on the BAWSCA Board, Ms. Schutte stated that BAWSCA does not have control over the appointing bodies or who they appoint to BAWSCA. The most relevant data is to look at what is going on within each of the member agency appointing bodies and their respective diversity. For example, because "by-district" elections has been perceived under the voting rights act to improve diversity on elected bodies, the CEO/General Manager reached out to the member agency appointed WMRs for this information. Table 2 in the staff report identifies which member agency have by-district elections. About half of the member agencies have by-district elections, including the City of Santa Clara (which was incorrectly shown in Table 2).

Ms. Schutte noted that BAWSCA does have a reimbursement policy with specific activities authorized for reimbursement with receipts and documentation. Some of the barriers for board attendance may be addressed by the reimbursement policy. As a reminder, Ms. Schutte noted that reimbursements by BAWSCA must be reported at a subsequent meeting, just as they are for the Board members' appointing agencies.

Ms. Schutte asked the Committee for further direction, including if there is additional information or proposals the Committee would like legal counsel to prepare, should this item be moved to the Board or come back to the Committee, or if the Committee is satisfied with the status quo.

Director Cormack expressed her personal perspectives and stated that her biggest challenge to serve on the Board is simply the time, specifically for the BPC which, in general, can be limited to those who do not have or can fit it in their 9-to-5 jobs. She appreciated the reflection on the Board's diversity, and noted that it is helpful to remember the differences amongst the appointing agencies. One of the ways Palo Alto has thought about the approach to diversity in the council and commission is to share information in advance of the appointment. An idea might be that BAWSCA provides the appointing agency information on who is serving on the BAWSCA Board. With regards to the reimbursement policy, she hopes that reimbursement for childcare in order to attend an evening meeting would be contemplated. Aside from that, she appreciates the thoughtful time and effort spent on this item, and sees no need for further discussion.

Director Pierce agreed with Director Cormack. Similarly, Redwood City's appointment is based on who has the ability to engage with BAWSCA. She does not believe that raising the compensation would be the key to solving any problem. Director Pierce is satisfied with the status quo and with ending the discussion. For the Board's information, she stated her support to document the rationale behind the BPC's decision to not pursue the item further.

Director Schneider stated that while she has never been paid for her public service, she believes that compensation can make a difference for people in different socio-economic situations.

Director Larsson appreciated the thoughtful process and found the information helpful. Given BAWSCA's particular case in comparison to other agencies and with the legislative cap on how much compensation can be increased, he felt that BAWSCA has done its due diligence. He is in favor of maintaining status quo and moving on.

Director Chambers was in agreement to move on. He preferred that efforts put focus on the agency's workplan. If there are agencies willing to pay their appointed board members to serve on the BAWSCA Board, he would be fine with that.

Public comments were provided by John Weed, Alameda County Water District and BAWSCA Board member, speaking as a member of the public.

8. CEO Reports:

- A. BAWSCA Regional Reliability Roundtable: Given the time, Ms. Sandkulla moved this item to the July Board meeting.

- B. **Bay Delta Plan/FERC Update:** Ms. Sandkulla reminded the Committee that the State Water Resources Control Board (State Board) initiated the process to do an analysis of the proposed Tuolumne River Voluntary Agreement (TRVA) that was signed by the SFPUC, Irrigation Districts, State Resource Agencies, and other MOU signatories in November 2022. They have committed to the evaluation of the TRVA as an amendment to the adopted Bay Delta Plan. Twenty-one (21) water agencies provided oral comments to the State Board in support of its evaluation of the proposed TRVA, sixteen (16) of which were BAWSCA member agencies. Ms. Sandkulla emphasized that it is compelling that the water agencies, who are the most directly impacted by this regulation, are the ones that speak before the State Board as part of a public dialogue. The agencies who commented called out the impacts resulting from the adopted Bay Delta Plan and what it would mean to their service area if it were to experience the resulting 50% cutbacks. Their presence was certainly noticed. The State Board is on a timeline to release its draft staff report and environmental report in early 2024.

Ms. Sandkulla noted that the State Board is the correct entity that should be analyzing the TRVA as an amendment to the adopted Bay Delta Plan, and BAWSCA is expecting a thorough and robust evaluation. She emphasized the difference between supporting the State Board's analysis of the TRVA, and supporting the TRVA itself. The TRVA can provide a great opportunity to achieve the Bay Delta Plan objectives while providing more flows for fish and ensuring water supply reliability for the health, safety and economic well-being of the water uses.

Regardless of the outcome of the State Board's actions, San Francisco's contractual and legal obligations to the wholesale customers will remain. Ms. Sandkulla will issue a statement to help provide that clarity, which she will encourage Board members to circulate as needed.

There were no public comments.

9. **Closed Session:** The Committee adjourned to Closed Session at 3:49pm.
10. **Report from Closed Session:** The Committee reconvened to Open Session at 3:57pm. Ms. Schutte reported that no reportable action was taken during Closed Session.
11. **Comments by Committee Members:** There were no comments from members of the Committee.
12. **Adjournment:** The meeting was adjourned at 3:58pm. The next meeting is October 11th in Sequoia Room of Burlingame Community Center.

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. 14, 2023	Apr. 12, 2023	Feb. 8, 2023	Dec. 14, 2022	Oct. 12, 2022	Aug. 10, 2022	Jun. 8, 2022	Apr. 13, 2022	Feb. 9, 2022
Santa Clara	Hardy, Karen (C)	✓	✓	✓	✓	✓	CANCELLED	✓		✓
MPWD	Vella, Lou (VC)	✓	✓		n/a	n/a		n/a	n/a	n/a
Westborough	Chambers, Tom	✓	✓	✓	✓	✓		✓	✓	✓
Palo Alto	Cormack, Alison	✓	✓	✓	✓	✓		✓	✓	✓
Menlo Park	Doerr, Maria		✓		n/a	n/a		n/a	n/a	n/a
Sunnyvale	Larsson, Gustav	✓	✓	✓	✓	✓		✓	✓	✓
Redwood City	Pierce, Barbara	✓	✓	✓		✓		✓	✓	✓
Millbrae	Schneider, Ann	✓	✓	✓	n/a	n/a		n/a	n/a	n/a
CalWater	Smegal, Tom	✓	✓	✓	n/a	n/a		n/a	n/a	n/a
Stanford	Zigterman, Tom	✓	✓			✓		✓	✓	✓

✓: present

☎: Teleconference

June 14, 2023 Meeting Attendance (*In-Person*)

BAWSCA Staff:

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

Public Attendees:

Peter Drekmeier	Tuolumne River Trust	Rebecca Oliver	City of Palo Alto
Alison Kastama	SFPUC	Spreck Rosekrans	Restore Hetch Hetchy
Manisha Kothari	SFPUC	Dave Warner	Self
		John Weed	ACWD

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BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD POLICY COMMITTEE MEETING

Agenda Title: **Adoption of Resolution 2023-04 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 was extended in November 2022 and expires December 31, 2023.

BAWSCA and the member agencies initiated negotiations to update the Tier 2 Plan in January 2022. Negotiations are still in progress and not anticipated to be completed by December 31, 2023.

In order to provide more time for the Wholesale Customers to complete negotiations of an updated Tier 2 Plan and to ensure that a Plan is in place in the event of a drought next year, it is recommended that the Board extend the 2021 Amended and Restated Tier 2 Plan for one calendar year; from January 1, 2024 through December 31, 2024.

Recommendation:

That the Board Policy Committee recommend Board adoption of Resolution 2023-04 extending the term of the 2021 Amended and Restated Tier 2 Plan through December 31, 2024.

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.

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, 2024.

Status of Ongoing Tier 2 Plan Update Negotiations

In January 2022, BAWSCA and the member agencies initiated an update to the Tier 2 Plan. BAWSCA is facilitating negotiations among its member agencies, with technical support from the consulting firm Woodard & Curran. Early on, each agency appointed a lead negotiator to represent its 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 Water Management Representatives (WMR) meetings in a remote setting. Since September 2022, negotiation meetings have been held in person on a monthly basis 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.

In April 2022, 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-2024.

While the productive discussions and progress made to date is encouraging, 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 through December 31, 2022. The current Tier 2 Plan was extended in November 2022 and expires December 31, 2023.

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 2023-04 Approving the Extension of the 2021 Amended and Restated Tier 2 Drought Response Implementation Plan

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**RESOLUTION NO. 2023-04
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, in November 2022, the BAWSCA Board of Directors adopted the 2021 Amended and Restated Tier 2 Plan, by Resolution 2022-11 to amend the Tier 2 Plan and extend the term through December 31, 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 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, 2024.

BE IT RESOLVED, that the Board of Directors of the Bay Area Water Supply and Conservation Agency will rely on the methodology provided in the 2021 Amended and Restated Tier 2 Drought Implementation Plan for one additional year, through December 31, 2024, 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 _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

Chair, Board of Directors

ATTEST:

Secretary

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BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD POLICY COMMITTEE MEETING

Agenda Title: **BAWSCA's Long-Term Reliable Water Supply Strategy 2045**

Summary:

This memo is for informational purposes to provide the Board Policy Committee with an update on the current work related to the scoping of the Long-Term Reliable Water Supply Strategy 2045 (Strategy 2045). BAWSCA will finalize the scope of work this fiscal year. The development of Strategy 2045 will begin in FY 2024-25,

As part of the scoping effort, BAWSCA must define the purpose and objectives of Strategy 2045. Board feedback is critical to that definition. BAWSCA has completed a Condition Assessment and is completing a Needs Assessment that will support the identification of the purpose and objectives of Strategy 2045. An update of these two assessments are provided below and will be presented to the Committee.

Recommendation:

This item is for information and discussion purposes only. No action is requested at this time. Feedback from the Committee on what further information should be provided to the Board to support its review of the proposed draft Strategy 2045 purpose and objectives are welcome.

Discussion:

BAWSCA recently completed a Condition Assessment as an initial step in scoping of Strategy 2045. The Condition Assessment consisted of a review of a variety of regional and local planning documents within the BAWSCA area to develop a comprehensive summary of known local and regional needs and identify technical gaps in water resources planning that could be addressed through Strategy 2045. Additionally, other long-term water resources plans prepared by large water agencies outside of the BAWSCA service area were reviewed to identify potential innovative tools and techniques employed. Some of those tools include alternative approaches to water demand forecasting, the modeling of supply risks, the inclusion of adaptive management approaches, and options for institutional frameworks that could be used for regional water planning, including elements that have been effective and their potential drawbacks. A draft TM-1 was developed and comments and edits from the member agencies are being incorporated at this time. BAWSCA will share the results of the Condition Assessment in a presentation to the BPC during the October BPC Meeting.

The member agencies have also been asked to respond to an online survey which seeks further input on their water management and planning needs and desired outcomes for Strategy 2045. The deadline for the agencies to complete the agency survey was September 28, 2023, and while responses are coming in, as of October 3, all responses have not yet been received. Once all responses are obtained, the survey results and the comments to the draft TM #1 will be used to prepare the Needs Assessment.

The Needs Assessment will help answer the following questions:

- What are the consistencies, inconsistencies, and information gaps across individual agency planning efforts?
- What is the overall water supply potential identified as part of current planned efforts?

- In addition to known concerns on SFPUC supply reliability, what are the common challenges (regulatory, financial, institutional, and other) that BAWSCA member agencies are facing in their water supply planning?
- Across the region and individual agencies, which water supply challenges are already being addressed through local efforts, and which challenges could benefit from regional collaboration through the 2045 Strategy?

The Needs Assessment is anticipated to be completed by the end of October 2023 and will support the identification of the purpose and objectives of Strategy 2045.

At the September Board meeting, the purpose and objective of the 2015 Strategy and reasons why it should be updated were explained. BAWSCA proposes to establish a new Strategy 2045 purpose (long-term goal) and objectives (short-term goals that are specific, concrete, and measurable). The Strategy 2045 purpose and objectives will guide BAWSCA to the desired outcomes and results of the Strategy.

At the October 11, 2023, Board Policy Committee (BPC) Meeting, aside from a discussion of the Conditions Assessment as noted previously, the presentation will also provide preliminary details of the Needs Assessment.

And while the draft Strategy 2045 purpose and objectives will not be presented to the Committee, it is envisioned that the preliminary results of the Needs Assessment will give the BPC context in terms of what Strategy 2045 purpose and objectives should be and generate useful questions and comments for staff considerations.

The BPC will also be asked to provide insight into what additional information would be useful for the Board for a similar discussion at its November meeting, which will include a presentation of the proposed draft Strategy 2045's purpose and objectives.



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MEMORANDUM

TO: BAWSCA Board of Directors
FROM: Nicole Sandkulla, CEO/General Manager
DATE: October 6, 2023
SUBJECT: Chief Executive Officer/General Manager's Letter

Follow Up on SFPUC OPEB and Pension Liabilities Update

As part of the September 27, 2023 special Board meeting, staff provided an annual update of BAWSCA's OPEB and pension liabilities funded status to the Board. That report included an update of the SFPUC's OPEB and pension liabilities funded status including the BAWSCA auditor's opinion about the potential risks of San Francisco's unfunded liabilities to BAWSCA agencies was provided.

Based on the auditor's letter as shown in Exhibit A of both staff reports, staff stated in its presentation that "through the established wholesale water rates, BAWSCA agencies pay the wholesale customers' share of SFPUC's OPEB and pension benefits costs attributable to SFPUC's current employees". After the meeting, a question was raised about this statement, which had caused the impression that the wholesale water rates would only include the SFPUC's current employee's retirement benefits not the retired employees. This impression is not intended by the BAWSCA auditor or staff.

To provide full clarity, this statement should be modified to say, "through the established wholesale water rates, BAWSCA agencies pay the wholesale customers' share of SFPUC's OPEB and pension benefits costs attributable to SFPUC's current and retired employees."

Additionally, while the auditor have confirmed that the SFPUC's unfunded OPEB and pension liabilities are not liabilities of BAWSCA or its member agencies, a question has also been raised as to whether BAWSCA's unfunded OPEB and pension liabilities are considered BAWSCA member agencies' liabilities. To address this question, BAWSCA will consult with its auditor and legal counsel, and report back to the Board at a later time.

Inter-agency Collaboration for Water Reuse (BACWA Workshop):

BAWSCA was invited to participate in an all-day workshop on September 27, 2023, hosted by the Bay Area Clean Water Association (BACWA) entitled "Advancing Water Reuse in the Bay Area: Exploring Opportunities and Challenges for Interagency Collaboration".

BACWA is a joint powers agency whose members include municipalities and special districts that provide sanitary sewer services located throughout the Bay Area. The event brought together representatives from water agencies, wastewater agencies, non-governmental organizations (NGO), as well as State Regulatory agencies. Approximately 50 people were

in attendance. Tom Franics, BAWSCA's Water Resources Manager, and Negin Ashoori, BAWSCA's Senior Water Resources Engineer, attended for BAWSCA.

The identified purpose of the workshop was to identify similarities and differences between key parties (water agencies, wastewater agencies, NGO, and the regulatory community) on issues and drivers related to water reuse. BACWA hoped that the workshop would begin a process where parties can better recognize opportunities for partnerships to address current and future reuse challenges. Discussion also touched on the need to evaluate project opportunities at the right scale(s) (regional/subregional/local) to address these challenges to and improve capacity for and commitment to collaboration among Bay area agencies and utilities.

The workshop was successful in bringing groups together, yet it was clear that much work lies ahead toward forming successful partnerships to further water reuse opportunities.

RFP for Drought Report:

BAWSCA is soliciting proposals from qualified water resources firms/professionals to assist BAWSCA in preparing a 2021-2023 Drought Report summarizing the activities and efforts in response to the 2021-2023 drought taken by BAWSCA, its member agencies and other entities. The requested professional services will include reviewing documents about BAWSCA's drought response actions, meeting with BAWSCA and member agencies to collect information and receive input on the contents of the 2021-2023 Drought Report, analyzing the effectiveness and water savings of various drought response measures, and drafting the 2021-2023 Drought Report.

The Request for Proposals (RFP) was issued on September 25, 2023. Interested firms have until October 23, 2023 to submit proposals. Consultant interviews will take place on November 3, 2023. Consultant selection and contracting would then proceed. BAWSCA's Board of Directors will be asked to approve the recommended consultant and associated contract following consultant selection.

BAWSCA Resiliency Project - Update:

An all staff kick-off workshop on the Resiliency Project was held at the end of August. The purpose of the workshop was to discuss the purpose and objective of the Project as well as engage in a brainstorm session on what resilience means for BAWSCA for the next 20+ years. The results of the workshop are being distilled into a summary of ideas for further refinements and prioritization. A more complete report will be provided to the Board in a few months as this work progresses.

Board Policy Committee

Policy Calendar Through June 2024

Meeting Date	Purpose	Issue or Topic
December 2023	D&A R&D R&D R&D R&D	Mid-Year 2023-24 Work Plan, Budget and General Reserve Review Review of FY 2024-25 Work Plan and Budget Planning Process Tier 2 Drought Allocation Plan Negotiations Strategy 2045 Review of Water Supply Forecast
February 2024	D&A R&D R&D R&D R&D R R	Consideration of BAWSCA Bond Surcharges for FY 2024-25 Presentation of Preliminary FY 2024-25 Work Plan and Budget Tier 2 Drought Allocation Plan Negotiations Strategy 2045 Review of Water Supply Forecast Annual WSA Balancing Account Update Review of Regular Consultant Rates
April 2024	R&A R&D R&D R&D	Consideration of Proposed FY 2024-25 Work Plan and Budget Tier 2 Drought Allocation Plan Negotiations Strategy 2045 Review of Water Supply Forecast
June 2024	D&A	Review of CEO/GM Evaluation Procedure