



**BOARD OF DIRECTORS
EAST BAY MUNICIPAL UTILITY DISTRICT**

375 - 11th Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

Notice of Time Change

**LEGISLATIVE/HUMAN RESOURCES
COMMITTEE**

Tuesday, January 10, 2023

10:00 a.m.

Boardroom

375 11th Street

Oakland, CA 94607

Notice is hereby given that the Tuesday, January 10, 2023 Legislative/Human Resources Committee meeting of the Board of Directors has been rescheduled from 10:15 a.m. to 10:00 a.m. The meeting will be held in the Administration Building Boardroom at 375 11th Street, Oakland, California.

Dated: January 5, 2023



Rischa S. Cole

Secretary of the District

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**BOARD OF DIRECTORS
EAST BAY MUNICIPAL UTILITY DISTRICT**

375 - 11th Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

**AGENDA
Legislative/Human Resources Committee
Tuesday, January 10, 2023
10:00 a.m.
Boardroom
375 11th Street
Oakland, CA 94607**

***** Please see appendix for public participation instructions*****

Committee Members: Directors Lesa R. McIntosh {Chair}, John A. Coleman, and William B. Patterson

ROLL CALL:

PUBLIC COMMENT: The Board of Directors is limited by State law to providing a brief response, asking questions for clarification or referring a matter to staff when responding to items that are not listed on the agenda.

DETERMINATION AND DISCUSSION:

1. Diversity, Equity, and Inclusion Strategic Plan Update (Moten)
2. Legislative Update: (Viatella)
 - State Legislative Initiatives for 2023 Legislative Year
 - Federal Initiatives for 2023
 - Update on Legislative Issues of Interest to EBMUD

ADJOURNMENT:

Disability Notice

If you require a disability-related modification or accommodation to participate in an EBMUD public meeting please call the Office of the Secretary (510) 287-0404. We will make reasonable arrangements to ensure accessibility. Some special equipment arrangements may require 48 hours advance notice.

Document Availability

Materials related to an item on this agenda that have been submitted to the EBMUD Board of Directors within 72 hours prior to this meeting are available for public inspection in EBMUD's Office of the Secretary at 375 11th Street, Oakland, California, during normal business hours, and can be viewed on our website at www.ebmud.com.



APPENDIX

Legislative/Human Resources Committee Meeting Tuesday, January 10, 2023 - 10:00 a.m.

*EBMUD public Board meetings will be conducted in person in the Boardroom and via Zoom.
These meetings are recorded, live-streamed, and posted on the District's website.*

In Person

In accordance with District safety protocols, masks are required while in the building and Boardroom regardless of vaccination status.

Online

<https://ebmud.zoom.us/j/98022213415?pwd=Q0JkaXptbSt3eW5XRElvRUNIZHRpUT09>

Webinar ID: 980 2221 3415

Passcode: 352334

By Phone

Telephone: 1 669 900 6833

Webinar ID: 980 2221 3415

Passcode: 352334

International numbers available: <https://ebmud.zoom.us/u/kdplKckQaS>

*To familiarize yourself with Zoom, please visit <https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-Meeting>

Providing public comment - *The EBMUD Board of Directors is limited by State law to providing a brief response, asking questions for clarification, or referring a matter to staff when responding to items that are not listed on the agenda.*

- Each speaker is allotted 3 minutes to speak; the Board President has the discretion to amend this time based on the number of speakers
- The Secretary will track time and inform each speaker when the allotted time has concluded
- Comments on **non-agenda items** will be heard at the beginning of the meeting
- Comments on **agenda items** will be heard when the item is up for consideration
- The Secretary will call each speaker in the order received

In person

- Fill out and submit a blue speaker card which is available in the foyer of the Boardroom

Via Zoom

- Use the raise hand feature in Zoom to indicate you wish to make a public comment
<https://support.zoom.us/hc/en-us/articles/205566129-Raising-your-hand-in-a-webinar>
 - If you participate by phone, press *9 to raise your hand
- When prompted by the Secretary, please state your name, affiliation if applicable, and topic

Submitting written comments or materials

- Email written comments or other materials for the Board of Directors to SecOffice@ebmud.com
- Please indicate the meeting date and agenda item number or non-agenda item in the subject of the email. Contact information is optional.
- **Please email by 4 p.m. the day prior to the scheduled regular meeting;** written comments and other materials submitted to the Board of Directors will be filed in the record.


To observe the Legislative/Human Resources Committee Meeting,
please visit: <https://www.ebmud.com/about-us/board-directors/board-meetings/>

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: January 5, 2023

MEMO TO: Board of Directors

THROUGH: Clifford C. Chan, General Manager 

FROM: Derry L. Moten, Special Assistant to the General Manager 

SUBJECT: Diversity, Equity, and Inclusion Strategic Plan Update

SUMMARY

This memo provides an update on the implementation of the Diversity, Equity, and Inclusion Strategic Plan's (DEISP) five Strategic Pillars (Pillars). Progress on action items and activities under the Pillars will be presented at the January 10, 2023 Legislative/Human Resources Committee meeting.

DISCUSSION

The District's DEISP implementation is led by the Office of Diversity, Equity, and Culture (ODEC) and three staff-driven work groups: the Diversity Committee, the Equity Core Team, and the Values Advocates. In addition to these groups, various departments and work teams have made substantive contributions to DEI work throughout the District. This update provides information on the implementation efforts of the following Pillars: Leadership Commitment, Workforce Diversity, Inclusive Culture, and Supplier Diversity.

Pillar 1 - Leadership Commitment

This Pillar engages leaders in dialogue and education around DEI and to provide metrics for accountability.

Staff is working with the Senior Management Team (SMT) on piloting an annual Diversity, Equity, and Inclusion (DEI) self-reflection assessment. The assessment includes a series of reflective questions that create a foundation for each leader to create a personal DEI action plan. The action plan includes setting development goals, action items (based on the DEISP), and connection with accountability partners. Staff will review findings from the SMT pilot, adjust as needed, and plan to roll out the assessment to the Management Team and then to all remaining staff.

Pillar 2 - Workforce Diversity

This Pillar provides an intentional and focused effort to attract and retain applicants from diverse and underrepresented groups to achieve and maintain a workforce that is equitably represented across all levels and functions.

During the December 13, 2022 Legislative/Human Resources Committee meeting, the Committee asked staff to consider working with labor councils and their apprenticeship programs. The District partners with labor councils via pre-apprentice programs such as Cypress Mandela, Richmond Build, Future Build, Civicorps, Tradeswomen Inc., and Rising Sun. The District's in-house trainee programs, in partnership with various educational institutions, job development organizations, and the District's unions, have been an effective means of expanding diversity in trades jobs. Accordingly, the District has focused its resources and long-term workforce development strategy on the expansion of these in-house trainee programs while continuing to build upon relationships with community pre-apprenticeship programs.

The Committee also requested the District consider partnering with the Contra Costa Community College (CCCC) District which includes three community colleges: Contra Costa College (CCC) in San Pablo, Diablo Valley College (DVC) in Concord, and Los Medanos College (LMC) in Pittsburg, as part of the District's post-secondary internship program.

The District is a founding member of BAYWORK, a consortium of water/wastewater agencies which formed in 2009. BAYWORK identified seven-mission critical job categories¹ specific to the Bay Area and reviewed and endorsed local community colleges' established curriculums and certifications that targeted these job categories. Using these recommendations, and aligned with the District's long-term workforce development strategy, the District established post-secondary program partnerships targeted at the District's hard-to-fill positions with partners such as LMC; neither CCC or DVC offer programs in those job categories. In addition to the LMC program, BAYWORK and the District also partner with other local community college districts including Peralta, Chabot-Las Positas, and Solano.

LMC offers established Electrical and Instrumentation Technology (EETEC) and Process Technology (PTEC) certification programs, which prepares graduates to compete for hard-to-fill positions at the District, specifically the Electrical and Instrumentation workers. With the District's participation in BAYWORK, there is not a current need for the District to partner directly with CCC and/or DVC. However, staff will continue to explore future partnership opportunities, including adding CCC and DVC to the District's distribution list for job postings.

Pillar 3 – Inclusive Culture

This Pillar will create and maintain a work environment where all employees have a sense of belonging, purpose, value, and voice; and are engaged in the successful fulfillment of the District's mission.

Staff is assessing the best approach to develop and implement the District's long-term DEI learning strategy. ODEC is working with a consultant on how to best sequence the District's DEI learning strategy so that employees' knowledge will advance and progress throughout their tenure with the District. This will inform the blueprint to move people from

¹ Electrician, Electronic Maintenance Technician, Instrument Technician, Engineer, Machinist/Mechanic, Wastewater Treatment Operator, Water Distribution Operator, Water Treatment Operator

individual/interpersonal understandings to structural/systemic understandings of discrimination and racism.

Additionally, Inclusive Leadership Forums (ILF) feature panel interviews and discussions on methods to increase teamwork, productivity, and engagement through inclusive leadership practices. Six ILFs have been conducted; and the next session is scheduled for February 2023 about creating an inclusive mentoring experience.

Pillar 4 - Supplier Diversity

This Pillar will promote economic growth and wellbeing, developing, and nurturing underrepresented suppliers, and addressing income inequality for groups that have been historically underutilized.

During the months of November and December 2022, staff participated in 11 local business and chamber organization supplier diversity outreach events, including a trade fair, workshop, conference, and matchmaking. On December 7, 2022, the District co-hosted a Contractors Meet and Greet with the National Association of Minority Contractors – Northern California, and Contractors Resource Center in the Administration Building. Over 100 participants attended to learn of upcoming contract opportunities, of available business resources, and about the District's Contract Equity Program (CEP).

Staff conducted an internal Contracting and CEP (Procurement Training) MAST class which describes the District's policies, procedures, and best practices for selecting vendors, awarding contracts for goods and services, and meeting CEP objectives. This class is the first step to achieving the DEISP's objective of providing contract equity education. Staff is also working with various departments to update the Professional Services Contracting Guidelines and developing Supplier Performance Reporting Guidelines to meet the DEISP objectives.

Staff continued discussions with the internal Contract Equity Advisory Committee and external Advisory Council to promote District contracting opportunities and identify barriers to participation in the District's contracting process.

NEXT STEPS

Staff will continue implementation of the DEISP and provide the Board with monthly updates of action items and outcomes.


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EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: January 5, 2023

MEMO TO: Board of Directors

THROUGH: Clifford C. Chan, General Manager 

FROM: Kathy Viatella, Manager of Legislative Affairs

SUBJECT: State Legislative Initiatives for 2023 Legislative Year

The following issues are being referred to the Legislative/Human Resources Committee for review and recommendation to the Board of Directors for action, as appropriate, on January 10, 2023.

BACKGROUND

Each year the Office of Intergovernmental Affairs, in consultation with the Senior Management Team, develops specific legislative initiatives for the coming year. The initiatives represent priority focus areas for EBMUD that are likely to be before the legislature as well as any proposals for EBMUD-sponsored legislation. In addition to advancing these specific initiatives before the legislature, staff will continue to assess all legislation throughout the year for a nexus to EBMUD operations and policy objectives and route relevant bills to designated staff for feedback.

NEXT STEPS

For 2023, the Office of Intergovernmental Affairs is proposing the five legislative initiatives listed in alphabetical order below and in the summary table. Detailed evaluations of each of the legislative initiatives are set forth in the attachment.

1. Climate Change – Advance EBMUD’s interests related to climate change, including wildfire and forest resilience in the context of providing reliable water and wastewater service.
2. Customer Assistance – Seek constructive ways to advance EBMUD’s interests as the administration and the legislature consider ways to provide assistance to water and wastewater customers.
3. Diversity, Equity, and Inclusion (DEI) – Advance EBMUD’s DEI interests as the legislature and administration continue to consider DEI issues in the context of policy development.

4. Water Quality – Advance EBMUD’s interests in legislative and policy discussions on water quality issues.
5. Water Supply Reliability and Resiliency – Protect and advance EBMUD’s interests in the context of water supply reliability and resiliency, including the use of recycled water, water rights, and the Mokelumne River fishery.

| LEGISLATIVE PROPOSAL | 2023 RECOMMENDATIONS |
|-------------------------------|---|
| 1. Climate Change | <p>Proceed – Advance EBMUD’s interests related to climate change, including wildfire and forest resilience in the context of providing reliable water and wastewater service.</p> <ol style="list-style-type: none"> 1. Continue to monitor discussions and evaluate legislation with particular attention on those areas that have a direct nexus to EBMUD operations and EBMUD’s Climate Action Plan and bring specific legislative proposals to the Board for discussion and consideration, as appropriate. 2. Continue to actively engage with the legislature on wildfire and forest resilience and bring specific legislative proposals to the Board for discussion and consideration, as appropriate, including potential opportunities for EBMUD to engage in tree mortality issues including those in EBMUD’s service area, as well as opportunities for EBMUD to engage through its role in the Upper Mokelumne River Watershed Authority. |
| 2. Customer Assistance | <p>Proceed – Seek constructive ways to advance EBMUD’s interests as the administration and the legislature consider ways to provide assistance to water and wastewater customers. The administration and legislature are expected to resume discussions on establishing a permanent ratepayer assistance program for low-income water and wastewater customers, as well as how to provide greater protection to customers facing water shutoffs due to non-payment through expansion of the Water Shutoff Protection Act (SB 998, Dodd, 2018). EBMUD will continue to identify ways to support customers through legislative efforts and protect EBMUD’s Customer Assistance Program (CAP).</p> <ol style="list-style-type: none"> 1. As discussions on ratepayer assistance and shutoff protections occur at the legislative and administration levels, continue to engage and share information on EBMUD’s CAP and alternatives to shutoffs policy to help shape future programs. Promote and protect EBMUD’s local efforts to ensure customers have access to a range of financial assistance programs in meeting their needs, as appropriate. 2. Bring relevant legislative proposals to the Board for discussion and consideration, as appropriate. |

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|--|--|
| <p>3. Diversity, Equity, and Inclusion (DEI)</p> | <p><u>Proceed</u> – Advance EBMUD’s DEI interests as the legislature and administration continue to consider DEI issues in the context of policy development. In 2023, the legislature is likely to broadly discuss ways to address DEI through policy changes as well as by providing limited funding opportunities in areas that may be aligned with EBMUD’s DEI Strategic Plan, such as promoting workforce development and workforce diversity.</p> <ol style="list-style-type: none"> 1. Seek opportunities to advance District interests in policy and funding discussions that support the objectives of the DEI Strategic Plan and bring relevant legislative proposals to the Board for discussion and consideration, as appropriate. |
| <p>4. Water Quality</p> | <p><u>Proceed</u> – Advance EBMUD’s interests in legislative and policy discussions on water quality issues. Water quality issues from both a drinking water and wastewater discharge to receiving waters standpoint are expected to be discussed in the legislature in 2023.</p> <ol style="list-style-type: none"> 1. Actively engage with the legislature and stakeholders on water quality issues, including in relevant funding discussions, as appropriate. 2. Continue to evaluate legislation and bring specific legislative proposals to the Board for discussion and consideration, as appropriate. |
| <p>5. Water Supply Reliability and Resiliency</p> | <p><u>Proceed</u> – Protect and advance EBMUD’s interests in the context of its water supply reliability and resiliency, including the use of recycled water, water rights and the Mokelumne River fishery.</p> <ol style="list-style-type: none"> 1. Continue to actively seek opportunities to engage with the administration and legislature to provide EBMUD’s perspective on potential legislation that could impact EBMUD’s water supply reliability and resiliency, including the use of recycled water, and water rights and the Mokelumne River fishery and bring specific legislative proposals to the Board for discussion and consideration, as appropriate. |

CCC:KV:DM/JW

Attachment

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STATE LEGISLATIVE INITIATIVES – 2023

INITIATIVE # 1 – CLIMATE CHANGE: ADVANCE EBMUD’S INTERESTS RELATED TO CLIMATE CHANGE, INCLUDING WILDFIRE AND FOREST RESILIENCE IN THE CONTEXT OF PROVIDING RELIABLE WATER AND WASTEWATER SERVICE

The state’s response to climate change continues to be a key focus in policy and fiscal discussions in the legislature and administration that will continue in 2023. Consistent with the current approach by the legislature and administration, the issues of forest health and wildfire prevention and response are now included under the broad topic of climate change in this initiative.

BACKGROUND

In 2022, Governor Newsom signed into law numerous climate change-related bills that, among other things, codify the state’s commitment to reach net-zero greenhouse gas emissions (GHG) by 2045 and create clean energy targets. Additionally, the California Air Resources Board (CARB) approved a rule in August 2022 requiring 100 percent of new car sales in California to be zero-emissions vehicles (ZEVs) by 2035. Wildfire-related actions in 2022 were focused on providing additional programmatic funding for wildfire resilience in the state budget to bolster relevant state departments and existing grant programs.

These actions are relevant to EBMUD’s climate-change related efforts. EBMUD continues to pursue greening its vehicle fleet, as well as increase the use of renewable energy through the District’s own generation of electricity from hydropower, solar, and biogas. EBMUD’s Energy Policy 7.07, Climate Action Policy 7.15, and 2021 Climate Action Plan detail EBMUD’s commitment to make the District’s water operations carbon neutral by 2030 and to eliminate indirect GHG emissions and reduce direct emissions by 50 percent for the wastewater system by 2040.

Consistent with EBMUD’s comprehensive vegetation management program, EBMUD undertakes annual fuels reduction and wildfire mitigation efforts in its service area. EBMUD also engages through its role in the Upper Mokelumne River Watershed Authority (UMRWA) on issues related to forest health and wildfire resilience.

Climate change discussions are expected to continue in 2023 and will likely include the areas covered above as well as other issues of interest to EBMUD such as water/energy nexus, workforce transition, renewable energy, grid reliability, electrification, carbon neutrality, greening of vehicle fleets and expansion of charging infrastructure, improving habitat and access for salmon, and responding to sea level rise.

NEXT STEPS

Staff will continue to advance EBMUD's climate change related interests as detailed below.

1. Continue to monitor discussions and evaluate legislation with particular attention on those areas that have a direct nexus to EBMUD operations and EBMUD's Climate Action Plan and bring specific legislative proposals to the Board for discussion and consideration, as appropriate.
2. Continue to actively engage with the legislature on wildfire and forest resilience and bring specific legislative proposals to the Board for discussion and consideration, as appropriate, including potential opportunities for EBMUD to engage in tree mortality discussions, as well as opportunities for EBMUD to engage through its role in the Upper Mokelumne River Watershed Authority.

INITIATIVE #2 – CUSTOMER ASSISTANCE: SEEK CONSTRUCTIVE WAYS TO ADVANCE EBMUD'S INTERESTS AS THE ADMINISTRATION AND THE LEGISLATURE CONSIDER WAYS TO PROVIDE ASSISTANCE TO WATER AND WASTEWATER CUSTOMERS

The administration and legislature are expected to resume discussions on establishing a permanent ratepayer assistance program for low-income water and wastewater customers, as well as how to provide greater protections to customers facing water shutoffs due to non-payment by expanding the scope of the Water Shutoff Protection Act (SB 998, Dodd, 2018).

BACKGROUND

Numerous state budget actions in 2021 came in the form of providing pandemic relief – financial assistance to those who were struggling to pay bills due to the impacts of COVID-19 – and such efforts continued in 2022. The legislature and administration considered the creation of a permanent ratepayer assistance program for low-income water and wastewater customers through SB 222 (Dodd), which was vetoed due to lack of identified ongoing funding source. The legislature and administration are expected to continue discussing low-income ratepayer assistance, as well as the expansion of protections for customers facing water shutoffs due to non-payment.

State Budget Actions

To address ongoing water and wastewater arrearages that customers accrued during the COVID-19 pandemic, the state budget included \$200 million for the Low-Income Household Water Assistance Program (LIHWAP). Combined with \$116 million provided by the federal government, total LIHWAP funding is \$316 million. The California Department of Community Services and Development launched LIHWAP in June of 2022. To date, EBMUD has received approximately \$310,000 on behalf of customers that have applied for one-time financial assistance through LIHWAP.

Legislative Actions

SB 222 (Dodd) would have required the State Water Resources Control Board (SWRCB) to develop and administer the Water Rate Assistance Program (Program) to provide water rate assistance for both drinking water and wastewater services to low-income residential ratepayers. After numerous rounds of amendments by the author, EBMUD's final position on the measure, adopted in July 2022, was "Support if Amended" to seek clarity in three areas: 1) clarify state and water system roles and obligations; 2) address Proposition 218 and 26 limitations for water systems and require full state funding; and 3) ensure equitable access to the Program for any low-income customer that meets the required eligibility in the bill.

Governor Newsom vetoed the bill, noting that it would have created a permanent program with no sustainable, ongoing funding source identified, and would have required all community water systems and wastewater systems to participate which would have resulted in significant General Fund pressures. Discussions about a permanent rate-payer assistance program for water and wastewater customers are expected to continue in 2023.

SB 998 (Dodd, 2018) established the Water Shutoff Protection Act to require all public water systems with more than 200 connections to have a written policy on discontinuation of residential water service, provide that policy in multiple languages, prohibit shutoffs for certain customers, prohibit the shutoff of water service until a bill has been delinquent for 60 days, and capped the reconnection fees for restoring water service. Efforts to expand the scope of the Act through SB 223 (Dodd, 2021) stalled in the legislature, but are expected to resume in 2023.

NEXT STEPS

In 2023, EBMUD will continue to identify ways to support customers through legislative efforts and protect the District's Customer Assistance Program (CAP).

1. As discussions on ratepayer assistance and shutoff protections occur at the legislative and administration levels, continue to engage and share information on EBMUD's CAP and alternative to shutoffs policy to help shape future programs. Promote and protect EBMUD's local efforts to ensure customers have access to a range of financial assistance programs in meeting their needs, as appropriate.
2. Bring relevant legislative proposals to the Board for discussion and consideration, as appropriate.

INITIATIVE # 3 – DIVERSITY, EQUITY, AND INCLUSION: ADVANCE EBMUD’S DEI INTERESTS AS THE LEGISLATURE AND ADMINISTRATION CONTINUE TO CONSIDER DEI ISSUES IN THE CONTEXT OF POLICY DEVELOPMENT

Diversity, equity, and inclusion (DEI) will continue to be a focus area for the administration and the legislature in 2023, as well as for the District.

BACKGROUND

In 2022, the legislature considered DEI in several areas, including workforce diversity and workforce development programs, and ways to leverage state funding to enhance diversity and equity goals. Legislative efforts created oversight at the state level of California’s workforce transition to a sustainable and equitable carbon neutral economy, including the goal to upskill workers for clean energy jobs and jobs in related fields, and expanded the scope of the state’s Community Economic Resilience Fund to include career pathways for individuals with less than a two-year degree.

In February 2022, the EBMUD Board approved the Diversity, Equity, and Inclusion Strategic Plan, a five-year plan which is centered around five strategic pillars including leadership commitment, workforce diversity, inclusive culture, supplier diversity, and social responsibility.

NEXT STEPS

In 2023, the legislature is likely to broadly discuss ways to address diversity, equity, and inclusion through policy changes as well as by providing limited funding opportunities in areas that may be aligned with the District’s DEI Strategic Plan, such as promoting workforce development and workforce diversity.

1. Seek opportunities to advance District interests in policy and funding discussions that support the objectives of the DEI Strategic Plan and bring relevant legislative proposals to the Board for discussion and consideration, as appropriate.

INITIATIVE #4 – WATER QUALITY: ADVANCE EBMUD’S INTERESTS IN LEGISLATIVE AND POLICY DISCUSSIONS ON WATER QUALITY ISSUES

The issue of water quality from both a drinking water and wastewater discharge receiving water standpoint will likely be a topic of discussion in the administration and legislature in 2023.

BACKGROUND

Administrative and legislative discussions on water quality issues have been ongoing and are expected to continue in 2023. Discussions and policy proposals will likely include perfluoroalkyl or polyfluoroalkyl substances (PFAS), nutrients, and other contaminants of emerging concern.

In recent years, the administration and legislature have largely focused on perfluoroalkyl or polyfluoroalkyl substances (PFAS). The State Water Resources Control Board has established monitoring requirements to better understand where and how much PFAS are present in drinking water supplies and wastewater discharges throughout the state. Legislative efforts have focused on taking a pollution prevention approach to PFAS. Successful legislative measures have narrowly sought to reduce or eliminate the use of PFAS in specific products while a more comprehensive approach to address PFAS remains elusive.

In addition to PFAS, the administration and the legislature will likely discuss the issue of nutrients, especially in the context of wastewater discharges to receiving waters. During the summer of 2022, a harmful algal bloom (HAB) or “red tide” and extensive fish die off occurred in the San Francisco Bay. Though the specific conditions that caused this HAB are unknown, the issue of nutrients in the San Francisco Bay has been highlighted as a contributing factor. Administrative and legislative discussions will likely focus on nutrient discharge limits or caps that would affect wastewater agencies.

Administrative and legislative discussions regarding PFAS, nutrients, and other water quality issues have the potential to affect EBMUD’s water and wastewater operations.

NEXT STEPS

While it is unclear at this time what the universe of water quality-related legislation in 2023 will include, it is likely that water quality from both a drinking water and wastewater discharge receiving water perspective will be a topic of discussion in the administration and the legislature.

1. Actively engage with the legislature and stakeholders on water quality issues, including in relevant funding discussions, as appropriate.
2. Continue to evaluate legislation and bring specific legislative proposals to the Board for discussion and consideration, as appropriate.

INITIATIVE #5 - WATER SUPPLY RELIABILITY AND RESILIENCY: PROTECT AND ADVANCE EBMUD’S INTERESTS IN THE CONTEXT OF ITS WATER SUPPLY RELIABILITY AND RESILIENCY, INCLUDING THE USE OF RECYCLED WATER, WATER RIGHTS, AND THE MOKELUMNE RIVER FISHERY

Water supply reliability and resiliency, as well as related topics such as water rights and Bay-Delta issues, will likely be key focus areas for the administration and legislature in 2023.

BACKGROUND

Water supply related policy discussions in 2023 are likely to focus on water supply, water use efficiency, and water rights, among other topics. Discussions are expected to be informed by three main factors – the current drought, the administration’s efforts to update the Bay-Delta Water Quality Control Plan, and the governor’s August 2022 “California Water Supply Strategy.”

California is possibly entering the fourth year of extreme drought. According to the Department of Water Resources, California experienced its driest January through April on record in 2022 with only 25 percent of the average statewide precipitation based on records dating back to 1895. The National Oceanic and Atmospheric Administration expects drier than average conditions in California to extend into 2023. EBMUD is currently in a Stage Two Significant Drought. In addition to requiring customers to reduce water use, EBMUD has procured additional water supplies and is planning to procure further supplemental water supplies if 2023 remains dry. As the drought continues in California and the West, the legislature and the administration will likely consider water supply-related measures including, but not limited to, water use efficiency, water recycling, and water rights.

The State Water Resources Control Board’s update of the Bay-Delta Water Quality Control Plan (Bay-Delta Plan) has the potential to impact EBMUD’s water supply reliability and the Mokelumne River fishery. EBMUD continues to engage in discussions with the administration on the update to the Bay-Delta Plan. In 2023, legislative discussions pertaining to the Bay-Delta Plan could occur. Any legislation in this area has the potential to affect access to water supplies, the Mokelumne River fishery, and may have implications for water rights.

In August 2022, Governor Newsom’s administration released a new report titled California’s Water Supply Strategy (Strategy) which outlines priority actions to increase water supply in response to more extreme weather patterns caused by climate change. The Strategy identifies four categories for action: 1) develop new water supplies through recycling and desalination; 2) capture and save more stormwater, above and below ground; 3) reduce use of water in cities and on farms; and 4) improve all water management actions with better data, forecasting, conveyance, and improved administration of water rights. Issues of specific interest in the Strategy to EBMUD include increasing recycling of wastewater otherwise discharged to oceans and modernizing the administration of water rights. It is likely that legislative and administrative discussions will focus on how to accelerate implementation of the report’s recommendations.

NEXT STEPS

Water supply and reliability will likely continue to be a topic of discussion for the legislature and administration in 2023, especially if the state experiences another dry year. Staff will continue to work to protect and advance EBMUD's interests, particularly in the context of EBMUD's water supply reliability and resiliency, including the use of recycled water, water rights, and the Mokelumne River fishery.


1. Continue to actively seek opportunities to engage with the administration and legislature to provide EBMUD's perspective on potential legislation that could impact EBMUD's water supply reliability and resiliency, including the use of recycled water, water rights, and the Mokelumne River fishery and bring specific legislative proposals to the Board for discussion and consideration, as appropriate.

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EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: January 5, 2023

MEMO TO: Board of Directors

THROUGH: Clifford C. Chan, General Manager 

FROM: Kathy Viatella, Manager of Legislative Affairs

SUBJECT: Federal Initiatives for 2023

The following issues are being referred to the Legislative/Human Resources Committee for review and recommendation to the Board of Directors for action, as appropriate, on January 10, 2023.

BACKGROUND

Each year the Office of Intergovernmental Affairs develops specific initiatives for the coming year. The initiatives represent important focus areas for EBMUD that are likely to come before Congress. In addition to these specific initiatives, staff will assess federal actions throughout the year for a nexus to EBMUD operations and policy objectives and will bring relevant items to the Board for consideration as appropriate. An overview of the current federal climate and a summary of the four initiatives are included below. The attachment provides greater detail about each initiative.

OVERVIEW

The 118th Congress convened on January 3, 2023, with a closely divided House and Senate, which will likely complicate the policymaking process. With respect to matters of interest to EBMUD, the 118th Congress is likely to focus on climate resilience, water quality, infrastructure spending oversight, and water supply reliability and natural resources protection.

The Biden administration will continue implementing its climate agenda, including distributing project funding. On the regulatory front, the Biden administration is expected to continue to advance environmental justice, protect natural resources, reduce drought impacts, and focus on assistance to economically disadvantaged communities. Within these broad priorities, Congress is expected to consider several issues relevant to EBMUD's operations and policy objectives including climate change resiliency, perfluoroalkyl or polyfluoroalkyl substances (PFAS), infrastructure funding for drought-related projects, and implementation of the Build America Buy America mandates.

EBMUD's 2023 federal initiatives have been developed based on known congressional priorities at this time and are consistent with EBMUD's mission to provide reliable, high-quality water and

wastewater services, and to preserve and protect the environment for future generations. The federal initiatives are focused on addressing areas of opportunity, need, and risk for EBMUD in the context of the Biden administration's and expected congressional priorities.

NEXT STEPS

For 2023, the Office of Intergovernmental Affairs is proposing four federal initiatives listed in alphabetical order below and in the summary table. Detailed evaluations of each initiative are included in the attachment.

1. **Climate Change Resiliency** – Actively assess and seek opportunities to engage in climate change policies and potential funding opportunities that promote EBMUD priorities to ensure safe, reliable, and resilient water and wastewater services.
2. **Infrastructure and Other Funding Assistance** – Advance EBMUD's funding needs through relevant programmatic funding opportunities and congressionally directed spending, as appropriate.
3. **Water Quality** – Monitor the development of relevant water quality-related legislation and policies at the federal level and work to ensure EBMUD's interests are effectively communicated, including through appropriate national associations.
4. **Water Supply Reliability and Natural Resources Protection** – Advance EBMUD's interests in water supply reliability and supporting the Mokelumne River fishery.

In addition to the issues discussed above, staff will continue to monitor the development of any cybersecurity-related legislation and policies at the federal level for the water and wastewater sectors, and work to ensure EBMUD's interests are effectively communicated.

| Federal Initiative | 2023 RECOMMENDATIONS |
|--|---|
| <p>1. Climate Change Resiliency</p> | <p>Proceed - Actively assess and seek opportunities to engage in climate change policies and potential funding opportunities that promote EBMUD priorities to ensure safe, reliable, and resilient water and wastewater services.</p> <ol style="list-style-type: none"> 1. Seek programmatic funding opportunities consistent with EBMUD’s Climate Action Plan to mitigate and adapt to climate change. 2. Pursue opportunities to advance EBMUD’s interests in efforts to address forest and watershed health and wildfire prevention and response, and identify potential opportunities for EBMUD to engage, particularly on federal lands and through its role in the Upper Mokelumne River Watershed Authority (UMRWA). 3. Support expanded federal grants assistance to encourage water and wastewater sector workforce development and transition. |
| <p>2. Infrastructure and Other Funding Assistance</p> | <p>Proceed - Advance EBMUD’s funding needs through relevant programmatic funding opportunities and congressionally directed spending, as appropriate.</p> <ol style="list-style-type: none"> 1. Continue to advance EBMUD’s comprehensive water and wastewater infrastructure funding needs via federal funding opportunities, including programmatic funding. 2. Pursue additional opportunities for congressionally directed spending and/or seek funding off existing authorizations for EBMUD projects, as appropriate. 3. Actively monitor ratepayer assistance discussions and bring relevant legislative proposals to the Board for discussion and consideration, as appropriate. |
| <p>3. Water Quality</p> | <p>Proceed - Monitor the development of relevant water quality-related legislation and policies at the federal level and work to ensure EBMUD’s interests are effectively communicated, including through appropriate national associations.</p> <ol style="list-style-type: none"> 1. Continue to work through relevant water and wastewater industry associations to ensure appropriate standards are established under the Safe Drinking Water Act; Clean Water Act; and Superfund Act and to support efforts to eliminate the use of PFAS, establish producer responsibility, and seek expanded federal assistance for PFAS treatment in the water and wastewater sectors, as appropriate. 2. Pursue opportunities to advance EBMUD’s interests in potential nutrient-related discussions, including in relevant funding discussions, as appropriate. |

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| <p>4. Water Supply Reliability and Natural Resources Protection</p> | <p>Proceed - Advance EBMUD's interests in water supply reliability and supporting the Mokelumne River fishery.</p> <ol style="list-style-type: none">1. Protect EBMUD's Mokelumne River water supplies and seek to preserve EBMUD's access to water transfers and its Central Valley Project (CVP) contract supplies.2. Protect the Mokelumne River fishery, including working to ensure that any policy or program revision, or project or project-related activity that is likely to affect the Mokelumne River fishery includes mitigation for the impacts by the responsible parties.3. Work with other Municipal and Industrial (M&I) CVP contractors to safeguard CVP policies that support M&I contractors, including access to adequate water supplies.4. Protect EBMUD's regional water supply programs and projects, including the Freeport Regional Water Project. |
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Attachment

FEDERAL INITIATIVES – 2023**INITIATIVE #1: CLIMATE CHANGE RESILIENCY**

Congress and the Biden administration will continue to focus on climate change in 2023, although no meaningful climate bills are expected to pass in the next two years given the divided Congress. Implementation of the Inflation Reduction Act (IRA), signed into law in August 2022, is ongoing and directs several billion dollars to support states' climate efforts, including funds for building electrification, energy efficiency initiatives, and heavy-duty zero emission vehicles and charging infrastructure. Although the breadth and scope of climate change and resiliency discussions are not yet clear at the congressional level, topics relevant to EBMUD such as water supply reliability, fisheries, infrastructure, forest and watershed health, wildfire prevention and response, renewable energy, and workforce transition and development viewed through the lens of climate change are likely.

EBMUD's Climate Action Plan adopted in 2021 and relevant policies seek to mitigate and adapt to climate change impacts. EBMUD is committed to making water operations carbon neutral by 2030 and eliminating indirect greenhouse gas emissions and reducing direct emissions by 50 percent for the wastewater system by 2040. Mitigation strategies include continuing to conserve water, to pursue greening EBMUD's vehicle fleet, and to increase the use of renewable energy through the District's own generation of electricity from hydropower, solar and biogas. EBMUD's adaptation strategies include diversification of water supplies, enhanced water quality and ecosystem protection, and investment in resilient infrastructure to augment responses to sea level rise, floods, changes in water quality, and drought conditions. There may be programmatic funding opportunities for EBMUD's mitigation and adaptation strategies.

To address wildfire prevention and response, the U.S. Forest Service (Forest Service) released a plan in January 2022 entitled "Confronting the Wildfire Crisis: A 10-Year Implementation Plan" that seeks to reduce wildfire risk to people, communities, and natural resources through fuels and forest health treatments over the next ten years. Numerous high-risk areas in California were identified in the plan, including the Mokelumne River watershed. Although the Forest Service selected ten initial landscape investments in eight states for Bipartisan Infrastructure Law (BIL) funding in 2022 not including the Mokelumne, there may be opportunities for funding fuels and forest health treatment projects in future rounds of BIL investments.

EBMUD continues to work through the Upper Mokelumne River Watershed Authority (UMRWA) on forest health in the Mokelumne River watershed. UMRWA will continue to pursue grant funding and, when grants are secured, administer and implement those grant projects. There may be federal funding opportunities for these types of projects as well as those in EBMUD's service area, including tree mortality and wildland urban interface projects.

As part of climate change discussions, Congress is expected to continue to consider ways to expand workforce development and workforce transition programs to support the zero- or low-level carbon emissions technologies and industries of importance to the water sector.

NEXT STEPS

Work with EBMUD's congressional delegation, the administration, relevant congressional committees, and other stakeholders, as appropriate, to:

1. Seek programmatic funding opportunities consistent with EBMUD's Climate Action Plan to mitigate and adapt to climate change.
2. Pursue opportunities to advance EBMUD's interests in efforts to address forest and watershed health and wildfire prevention and response; and identify potential opportunities for EBMUD to engage, particularly on federal lands and through its role in UMRWA.
3. Support expanded federal grants assistance to encourage water and wastewater sector workforce development and transition.

INITIATIVE #2: INFRASTRUCTURE AND OTHER FUNDING ASSISTANCE

The 117th Congressional session was marked by historic levels of multi-year funding, including through the American Rescue Plan Act (ARPA), the Bipartisan Infrastructure Law (BIL), and the Inflation Reduction Act (IRA). In the 118th session, the divided Congress is unlikely to agree on additional large infrastructure funding packages.

ARPA, signed into law in March of 2021, was a \$1.9 trillion coronavirus aid package that included \$43 billion for California with \$27 billion to the state and the remainder for cities and counties to use for COVID-19 budgetary expenses in addition to necessary water and sewer projects.

BIL, signed into law in November 2021, was a \$1.2 trillion measure that funded all types of infrastructure projects including water and wastewater and contained \$550 billion in additional funding for the U.S. Environmental Protection Agency (U.S. EPA), U.S. Bureau of Reclamation and the U.S. Army Corps of Engineers to be administered through existing programs over the next five years. IRA, signed into law in August 2022, directed several billion dollars to support states' climate and clean energy efforts. Opportunities may arise to apply for programmatic grant funding through BIL and IRA for the advancement of EBMUD's comprehensive water and wastewater funding needs and climate-related activities.

The 117th Congress saw a return to congressionally directed spending, otherwise known as earmarks, after a long absence. EBMUD advanced its Upper San Leandro Drinking Water Treatment Improvements project, which was included as part of the FY 2022 spending bill package at a \$3.5 million funding level. EBMUD also pursued an appropriation as part of the 2023 spending bill for the East Bayshore Emeryville-Albany recycled water pipeline project, through an existing \$25 million authorization in the 2007 Water Resources Development Act for recycled water treatment facilities within the EBMUD service area. Representative Barbara Lee

sponsored the request, which was included in the FY 2023 Omnibus spending bill package and signed into law by President Biden on December 29, 2022.

Congressionally directed spending is likely to continue in the 118th Congress although the process between the two houses and funding levels are currently unclear.

Congressional interest in providing rate assistance for low-income water and wastewater customers was high during the 117th Congress. ARPA and H.R. 133 (December 2020) contained \$500 million and \$638 million nationwide, respectively, for establishment of the Low-Income Household Water Assistance Program (LIHWAP). LIHWAP was rolled out in California in June 2022 to reduce arrearages and rates to low-income households. BIL established a Rural and Low-Income Customer Assistance Pilot Program, to provide 40 grants per year to utilities to assist low-income ratepayers but did not include corresponding funding for the U.S. EPA to implement the pilot. EBMUD will continue to actively monitor these efforts in the context of a federally funded permanent rate assistance program for drinking water and wastewater services.

NEXT STEPS

Staff will continue to communicate to EBMUD's congressional delegation the importance of EBMUD projects and how those projects and the local communities would benefit from funding.

1. Continue to advance EBMUD's comprehensive water and wastewater infrastructure funding needs via federal funding opportunities, including programmatic funding.
2. Pursue additional opportunities for congressionally directed spending and/or seek funding from existing authorizations for EBMUD projects, as appropriate.
3. Actively monitor ratepayer assistance discussions and bring relevant legislative proposals to the Board for discussion and consideration, as appropriate.

INITIATIVE #3: WATER QUALITY

Water quality issues are expected to be a topic of discussion for the 118th Congress and the Biden administration. Discussions may include topics such as perfluoroalkyl or polyfluoroalkyl substances (PFAS) in drinking water supplies, wastewater discharges and biosolids; nutrient loadings; and contaminants of emerging concern. The U.S. Environmental Protection Agency (U.S. EPA) continues to implement its 2021 PFAS Strategic Roadmap (Roadmap) with the issuance of PFAS health advisories for drinking water and a proposal to designate PFAS as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (known as Superfund). The U.S. EPA is expected to continue its efforts to implement the Roadmap in 2023. It is also likely that Congress will consider PFAS-related legislation, such as designation of PFAS as hazardous substances under Superfund and source control measures.

In addition to PFAS, the issue of nutrients, especially in the context of wastewater discharges to receiving waters, could garner Congressional and administration attention. During the summer of 2022, a harmful algal bloom (HAB) or “red tide” and extensive fish die off occurred in the San Francisco Bay. Though the specific conditions that caused this HAB are unknown, the issue of nutrients in the San Francisco Bay has been highlighted as a contributing factor. Any potential congressional or administrative discussions would likely focus on nutrient discharge limits or caps that would affect wastewater agencies.

Administrative and legislative discussions regarding PFAS, nutrients, and other water quality issues have the potential to affect EBMUD’s water and wastewater operations. For example, designating PFAS as hazardous substances could impact wastewater treatment facilities, such as EBMUD’s, by requiring that biosolids containing PFAS be considered hazardous waste and disposed of as such. The hazardous waste designation would also potentially subject wastewater treatment facilities to liability for PFAS present in biosolids.

NEXT STEPS

Staff will monitor the development of water quality-related legislation and policies at the federal level and work to ensure EBMUD’s interests are effectively communicated, including through appropriate national associations.

1. Continue to work through relevant water and wastewater industry associations to ensure appropriate standards are established under the Safe Drinking Water Act; Clean Water Act; and Superfund; and to support efforts to eliminate the use of PFAS, establish producer responsibility, and seek expanded federal assistance for PFAS treatment in the water and wastewater sectors, as appropriate.
2. Pursue opportunities to advance EBMUD’s interests in potential nutrient-related discussions, including in relevant funding discussions, as appropriate.

INITIATIVE #4: WATER SUPPLY RELIABILITY AND NATURAL RESOURCES PROTECTION

Water resources issues are expected to be part of the 118th congressional agenda as drought conditions persist across the West. Issues of direct relevance to EBMUD may include Central Valley Project (CVP) operations, CVP allocations, drought response, fishery and habitat restoration and protection, and actions related to the state’s implementation of the Bay-Delta Water Quality Control Plan.

NEXT STEPS

Staff will work to:

1. Protect EBMUD's Mokelumne River water supplies and seek to preserve EBMUD's access to water transfers and its CVP contract supplies.
2. Protect the Mokelumne River fishery, including working to ensure that any policy or program revision, or project or project-related activity that is likely to affect the Mokelumne River fishery includes mitigation for the impacts by the responsible parties.
3. Work with other Municipal and Industrial (M&I) CVP contractors to safeguard CVP policies that support M&I contractors, including access to adequate water supplies.
4. Protect EBMUD's regional water supply programs and projects, including the Freeport Regional Water Project.