

PLEASE COMPLETE THIS INFORMATION

RECORDING REQUESTED BY:

Name: EAST BAY MUNICIPAL UTILITY DISTRICT

Address: 375 ELEVENTH STREET
MS 806
OAKLAND CA 94607-4240

WHEN RECORDED MAIL TO:

Name: EAST BAY MUNICIPAL UTILITY DISTRICT

Address: 375 ELEVENTH STREET
MS 806
OAKLAND CA 94607-4240

2022-00180

FILED

May 3, 2022

**DEBORAH COOPER
CLERK-RECORDER**

By 
Deputy clerk

(THIS SPACE FOR RECORDER'S USE ONLY)

NOTICE OF EXEMPTION

TITLE OF DOCUMENT

RECEIVED

MAY 06 2022

Office of the Secretary

RECEIVED

MAY 06 2022

Office of the Secretary



NOTICE OF EXEMPTION

TO:
Contra Costa County
Clerk-Recorder's Office
555 Escobar Street
Martinez, CA 94553

FROM: (LEAD AGENCY)
EAST BAY MUNICIPAL UTILITY DISTRICT
Office of the Secretary - (510) 287-0404
375 Eleventh Street, MS 806
Oakland, CA 94607-4240
☒ Lead Agency is the Project Applicant
☒ Lead Agency is Public Agency Approving Project
☒ Lead Agency is Carrying Out Project

PROJECT INFORMATION

- TITLE:** Shortage Response Actions Triggered by Water Supply Shortage Findings
- LOCATION:** (City, County, and specific location)
Alameda and Contra Costa County. See attached Figure 1-1
- DESCRIPTION:** East Bay Municipal Utility District's (EBMUD) Board of Directors declared a water shortage emergency within EBMUD's service area on April 26, 2022. The Board also declared a Stage 2 Drought pursuant to the Water Shortage Contingency Plan and adopted multiple shortage response actions to implement the Plan and address the drought. See Attachment A for more information.

EXEMPTION FINDING (Check one)

This project is exempt from CEQA because:

- ☐ Activity is not a project
- ☐ Activity is Ministerial (Sec.21080(b)(1); Guideline 15268)
- ☒ Activity is a Declared Emergency (Sec.21080(b)(3); Guideline 15269(a))
- ☐ Activity is an Emergency Project (Sec.21080(b)(4); Guideline 15269(b)(c))
- ☐ Activity is Categorically Exempt Under Guideline _____
- ☒ Activity is Statutorily Exempt Under Guideline Pub. Res. Code, § 21080(b)(4)
- ☒ Reasons why project is exempt: Pursuant to Water Code section 10652, CEQA does not apply to these actions, which are triggered by the finding of insufficient water supply in the 2022 Water Supply Availability and Deficiency Report conducted pursuant to Water Code sections 10632(a) and 10632.1. These actions are also being undertaken to prevent or mitigate an emergency and are exempt pursuant to CEQA section 21080(b) and Guidelines section 15269. The actions will not significantly affect water supplies for fish and wildlife because EBMUD will continue to meet existing commitments for instream flows, and the actions are not being undertaken to expand EBMUD's water supplies. Instead, as noted in the supporting documents, the actions are being undertaken to achieve water savings to ensure that the EBMUD can continue to meet demands in light of the shortage in supplies.

APPROVAL BY INITIATING UNIT: Water Resources Planning - 444

4/26/2022	Ginger Chen	Priyanka Jain
1. DATE PREPARED	2. PREPARED BY (Initial)	3. REVIEWED BY (Unit Supv. initial)
Ben Bray, acting for Lena Tam <i>Ben Bray</i>		
4. RECOMMENDED BY (Division/Section Manager)		
Priyanka Jain	901	Senior Civil Engineer
5. CONTACT PERSON	MAIL SLOT #	TITLE
		(510) 287-1153
		PHONE

NOTICE OF EXEMPTION APPROVED FOR FILING WITH THE COUNTY CLERK

4/27/22	Michael T. Tognolini	<i>Michael Tognolini</i>	RECEIVED MAY 06 2022 Office of the Secretary
DATE	DEPARTMENT DIRECTOR		
<i>4/29/22</i>	Rischa Cole	<i>Rischa Cole</i>	
DATE FORWARDED TO COUNTY CLERK	SECRETARY OF THE DISTRICT		

ATTACHMENT A

EAST BAY MUNICIPAL UTILITY DISTRICT

**SHORTAGE RESPONSE ACTIONS TRIGGERED BY THE 2022 WATER SUPPLY
AVAILABILITY AND DEFICIENCY REPORT**

Overview

The forecast for the year indicates that after three consecutive dry winters, water supplies are not sufficient to meet customer demands after meeting EBMUD's obligation to release water to other users downstream of the District's two primary storage reservoirs. January 2022 through March 2022 was the driest such period ever observed. In addition, EBMUD may not receive any water this year from the Central Valley Project (CVP) operated by the U.S. Bureau of Reclamation (Reclamation), and fewer sources of transfer water are available than expected.

In light of these factors, the Board, following a public hearing, adopted a resolution (a) declaring a water shortage emergency within EBMUD's service area; (b) declaring a Stage 2 drought and a 10 percent mandatory District-wide water use reduction goal; (c) adopting Section 28 of the District's Regulations Governing Water Service, "Water Use During Water Shortage Emergency Condition," which would temporarily prohibit certain uses of water and subject violations to enforcement; (d) affirming implementation of the District's Excessive Water Use Penalty Ordinance.

Background

Water Shortage Emergency

Section 350 of the California Water Code requires a public water supplier to declare a water shortage emergency "whenever it finds and determines that the ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply of the distributor to the extent that there would be insufficient water for human consumption, sanitation, and fire protection." The current supply and demand situation supports such a finding by the Board, and this is described in the adopted 2022 Water Supply Availability and Deficiency Report (WSADR) and the information presented to the Board. Furthermore, there is an ongoing threat of curtailment, which could significantly affect EBMUD's ability to store water under its Mokelumne water rights. In addition, EBMUD is experiencing challenges in acquiring supplemental supplies. Because the current CVP allocation is limited to public health and safety, EBMUD will likely not receive any CVP water this year. The water transfer market has also been less robust than expected as some sellers have insufficient water for transfer.

EBMUD, similar to other water agencies in California, also has not been able to consistently achieve its conservation goal during this drought.

These supply and demand challenges point to the need to take action now to ensure EBMUD will have sufficient supplies to meet essential needs as the drought continues. The declaration of a water shortage emergency strengthens EBMUD's authority to regulate water use. Declaring a water shortage emergency also provides the basis for the other actions approved by the Board, including declaring a mandatory water use reduction goal and adopting Section 28 of the Regulations Governing Water Service to put in place mandatory water use restrictions.

Declaration of Stage 2 Drought

Based on the EBMUD's DMP Guidelines adopted in 2021 as part of the Water Shortage Contingency Plan (WSCP), the forecasted end of year total system storage would normally correspond with a Stage 1 Drought declaration. However, given the additional gainshare allocation that must come out of that storage, the reduced availability of supplemental supplies in 2022, the potential uncertainty regarding supplemental supplies in 2023 and beyond, coupled with the severity of the drought Statewide, the Board determined that it is prudent to take more aggressive action this year to ensure EBMUD has sufficient water supplies next year. The Board has thus declared a Stage 2 Drought. This is consistent with the WSCP, because the Plan recognizes that response actions may need to be adjusted, particularly in situations like this year where there are limitations on the supplemental supplies that are projected to be available in the WSCP.

The DMP Guidelines recommend that a mandatory customer water use reduction goal of 10 to 15 percent be adopted when a Stage 2 drought is declared. Accordingly, the Board declared a mandatory District-wide water use reduction goal of 10 percent. This is a District-wide goal, and progress towards the goal will be measured on a District-wide basis. The goal will be implemented through both regulatory measures – such as by adopting the mandatory water use restrictions of Section 28 and enforcing the Excessive Water Use Penalty Ordinance – and through outreach efforts.

Declaring a Stage 2 Drought with a mandatory water use reduction triggers the implementation of the Excessive Water Use Penalty Ordinance's water use prohibitions and penalties. The Ordinance applies only to single family residential customers. For a Stage 2 Drought, the Ordinance sets a penalty of \$2 per unit for water used above the threshold of 66 units per month (approximately 1,646 gallons per day). Customers will receive a warning letter on their first exceedance of the threshold during a billing period, and a repeat exceedance will result in a violation and penalty collected on the subsequent water bill, along with the names of violators being subject to disclosure if the District receives a request under the Public Records Act.

Lastly, achieving the 10 percent reduction goal will require additional public outreach and engagement, advertising, and conservation programming to assist customers to reduce water use.

Adoption of Section 28 prohibiting specified uses of water

Section 28 of EBMUD's Regulations Governing Water Service prohibits specified uses of water during water shortage emergencies and authorizes enforcement if the prohibitions are violated. The implementation of Section 28 is included as a response action in the WSCP, and Section 28

was last in force during the previous drought. It was adopted on August 12, 2014 and rescinded on June 30, 2016. The Board adopted Section 28 with text that has been updated from its 2016 form based on the current drought.

Section 28 supplements Section 29, “Water Use Restrictions.” Unlike Section 29, which is always in effect and prohibits wasteful uses of water, Section 28 is intended for emergency conditions when additional enforceable and temporary water use restrictions are needed to reduce demand.

Many of the restrictions in Section 28 relate to irrigation, as reducing outdoor watering is one of the main tools for achieving short-term conservation savings during a drought. Customers will be prohibited from irrigating turf and ornamental landscaping more than three times per week and would only be allowed to irrigate before 9:00 a.m. and after 6:00 p.m. Irrigation of ornamental turf on public street medians will be prohibited. Customers are also be prohibited from irrigating in a manner that causes runoff or within 48 hours after measurable rainfall.

Section 28 would also prohibit other practices that are appropriate to prohibit as a means of mitigating the drought emergency. In January, the SWRCB adopted emergency regulations which prohibit certain wasteful uses of water. Section 28 aligns with these regulations. The restrictions in Section 28 apply to all EBMUD customers and are mandatory and enforceable, but EBMUD’s goal is to encourage customer compliance through outreach and education.

Project Location

The EBMUD water service area encompasses incorporated and unincorporated areas within Alameda and Contra Costa counties. The current service area is illustrated in Figure 1-1.

Environmental Effect

The actions will not significantly affect water supplies for fish and wildlife because EBMUD will continue to meet existing commitments for instream flows, and the actions are not being undertaken to expand EBMUD’s water supplies. Instead, as noted in the supporting documents, the actions are being undertaken to achieve water savings to ensure that the EBMUD can continue to meet demands in light of the shortage in supplies.

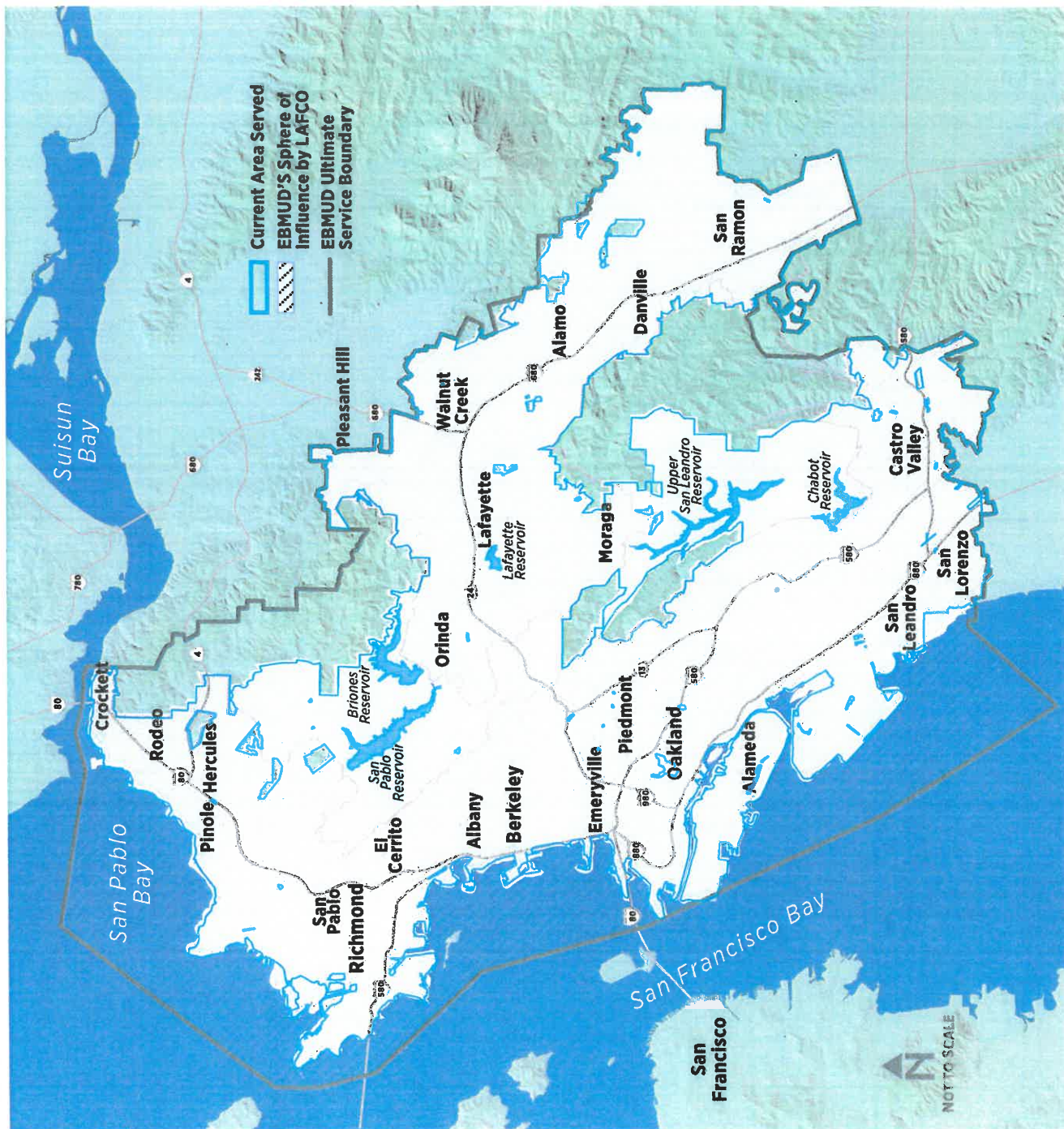
The California Environmental Quality Act (CEQA) does not apply to the implementation of actions taken pursuant to Water Code section 10632. (Wat. Code, § 10632.) The proposed actions are taken to implement EBMUD’s WSCP pursuant to section 10632, including but not limited to shortage response actions described in section 10632(a)(4) and EBMUD’s WSCP. The proposed actions are statutorily exempt from CEQA because they are actions to prevent or mitigate an emergency. (Pub. Res. Code, §21080(b)(4).)

Attachment:

Figure 1-1: EBMUD Service Boundary Map

EBMUD SERVICE BOUNDARY

FIGURE 1-1





State of California - Department of Fish and Wildlife
2022 ENVIRONMENTAL DOCUMENT FILING FEE
CASH RECEIPT
DFW 753.5a (REV. 01/01/22) Previously DFG 753.5a

Print

StartOver

Finalize&Email

RECEIPT NUMBER:

07-05/03/2022-183

STATE CLEARINGHOUSE NUMBER (If applicable)

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY.

LEAD AGENCY

EAST BAY MUNICIPAL UTILITY DISTRICT

LEAD AGENCY EMAIL

DATE

05/03/2022

COUNTY/STATE AGENCY OF FILING

CONTRA COSTA COUNTY

DOCUMENT NUMBER

2022-00180

PROJECT TITLE

SHORTAGE RESPONSE ACTIONS TRIGGERED BY WATER SUPPLY SHORTAGE FINDINGS

PROJECT APPLICANT NAME

EAST BAY MUNICIPAL UTILITY DISTRICT

PROJECT APPLICANT EMAIL

PHONE NUMBER

(510) 287-1153

PROJECT APPLICANT ADDRESS

375 ELEVENTH STREET, MS 806

CITY

OAKLAND

STATE

CA

ZIP CODE

94607-4240

PROJECT APPLICANT (Check appropriate box)

☐ Local Public Agency

☐ School District

☒ Other Special District

☐ State Agency

☐ Private Entity

CHECK APPLICABLE FEES:

☐ Environmental Impact Report (EIR)

\$ 3,539.25

☐ Mitigated/Negative Declaration (MND)(ND)

\$ 2,548.00

☐ Certified Regulatory Program (CRP) document - payment due directly to CDFW

\$ 1,203.25

☒ Exempt from fee

☒ Notice of Exemption (attach)

☐ CDFW No Effect Determination (attach)

☐ Fee previously paid (attach previously issued cash receipt copy)

☐ Water Right Application or Petition Fee (State Water Resources Control Board only)

\$ 850.00

☒ County documentary handling fee

\$ 50.00

☐ Other

\$

PAYMENT METHOD:

☐ Cash

☐ Credit

☒ Check

☐ Other

TOTAL RECEIVED \$

50.00

SIGNATURE

X

AGENCY OF FILING PRINTED NAME AND TITLE

Lara Jeffrey Deputy Clerk

R:6/1/29

Deborah Cooper
Contra Costa County
Clerk-Recorder
555 Escobar Street
Martinez, CA 94553
(925) 335-7900

Public

Receipt No.: 202200061376

Cashier: 212

Register: MAILPC1

Date/Time: 05/03/2022 02:22 PM

Description	Fee
NOTICE OF EXEMPTION	
Filing Time:	02:22 PM
Filing Total:	\$50.00
Filing Fee:	\$50.00
<hr/>	
Total Amount Due:	\$50.00
<hr/>	
Total Paid	
Check Tendered:	\$50.00
#4379	
Amount Due:	\$0.00

THANK YOU
PLEASE KEEP FOR REFERENCE

