



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

375 - 11th Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

**AGENDA
Tuesday, August 8, 2017**

**REGULAR CLOSED SESSION
11:00 a.m., Board Room**

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.

ANNOUNCEMENT OF CLOSED SESSION AGENDA:

1. Conference with Labor Negotiators Bruce Heid and Glenn Berkheimer from the Industrial Employers Distributors Association, Alexander R. Coate, Laura A. Brunson and David Pak pursuant to Government Code Section 54957.6: Employee Organizations International Union of Operating Engineers, Local 39; American Federation of State, County and Municipal Employees, Locals 444 and 2019; and International Federation of Professional & Technical Engineers, Local 21.

(The Board will hold Closed Session in Conference Room 8)

**REGULAR BUSINESS MEETING
1:15 p.m., Board Room**

ROLL CALL:

BOARD OF DIRECTORS:

- Pledge of Allegiance

ANNOUNCEMENTS FROM CLOSED SESSION:

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.

CONSENT CALENDAR: (Single motion and vote approving 14 recommendations, including 3 resolutions.)

1. Approve the Regular Meeting Minutes of July 25, 2017.
2. File correspondence with the Board.
3. Award a contract to the lowest responsive/responsible bidder Cal-Line Equipment, Inc., in an amount, after the addition of taxes, not to exceed \$179,715 for supplying three Bandit Intimidator 12XP towable wood chippers under Request for Quotation No. 1715.
4. Authorize an agreement beginning on or after August 10, 2017 with Foothill Portable Toilets in an amount not to exceed \$32,000 annually for reoccurring and emergency service and maintenance of portable and vault style chemical toilets at various District locations in the Mokelumne area for two years with four options to renew for an additional one-year period, for a total cost of \$192,000.
5. Authorize an agreement beginning on or after August 9, 2017 with Platinum Scaffolding Services, Inc., in an amount not to exceed \$324,000 to provide temporary interior scaffolding in up to six digesters at the Main Wastewater Treatment Plant.
6. Authorize an agreement with Rizzo Associates in an amount not to exceed \$217,000 for consultant services to perform safety inspections and safety evaluation reports that are required under the District's license with the Federal Energy Regulatory Commission for Pardee and Camanche Dams.
7. Authorize an agreement beginning on or after August 8, 2017 with Suarez & Muñoz Construction, Inc. in an amount not to exceed \$455,406 for reestablishing the native landscape at the Estates Reservoir site per Board Resolution No. 33960-13.
8. Award a contract and authorize an agreement for work on Digester No. 2 at the Main Wastewater Treatment Plant.
 - 8.1. Award a sole-source contract to Evoqua Water Technologies in an amount, after the addition of taxes, not to exceed \$656,318 for supplying a new membrane for the Digester No. 2 cover at the Main Wastewater Treatment Plant.
 - 8.2. Authorize an agreement beginning on or after August 9, 2017 with Synagro-WWT, Inc., in an amount not to exceed \$446,300 for cleaning Digester No. 2 at the Main Wastewater Treatment Plant.
9. Approve the assignment of the contract for supply of reverse osmosis membrane elements for the Richmond Advanced Recycling Expansion Water Treatment Plant, originally awarded under Board Motion No. 190-14 on December 9, 2014 in the estimated total amount, after the addition of taxes, of \$990,483 from TCK Membrane America, Inc., to Toray Membrane USA, Inc.

CONSENT CALENDAR: (Continued)

10. Authorize execution of a Funding Agreement for Implementation of Levee Improvements and Protection of Aqueducts with Reclamation Districts Nos. 2024 (Orwood Palm), 2072 (Woodward), and 2038 (Lower Jones Tract) to define roles and responsibilities for accepting up to \$16 million in State of California Department of Water Resources funding available as an 85 percent state share (\$13.6 million) and 15 percent local share (\$2.4 million to be paid by EBMUD) for construction, administrative management, project management, and construction management for the projects.
11. Approve a Sixth Amendment to the Lease Agreement between Viridis Fuels, LLC (Viridis), and the District for a portion of the West End Property adjacent to the District's Main Wastewater Treatment Plant, in which Viridis will be allowed to defer the monthly "Additional Value" payment of \$21,666.67 for a period not to exceed five months.
12. Authorize renewal of the Alameda County standard Operational Area Agreement that provides for District participation in the County's Emergency Management Organization. (Resolution)
13. Fix the ad valorem tax rate for Special District No.1 (SD-1) to cover debt service, delinquencies, and county administrative fees in the amount of \$1,233,564 on Wastewater System General Obligation Bond Series G for Fiscal Year 2018 at a rate of \$0.0011 per \$100 of assessed value for properties located within the service area of SD-1. (Resolution)
14. Appointment of Manager of Maintenance Support. (Resolution)

DETERMINATION AND DISCUSSION:

15. Introduction and first reading of an ordinance amending Water Theft Penalty Ordinance No. 365-15 enacted by the Board of Directors on April 28, 2015, to reduce the applicable penalties for water theft resulting from meter tampering from \$1,000, \$2,000, \$3,000 to \$200, \$400, \$800 for first, second, and third offenses, respectively.
(Introduction and First Reading – Ordinance No. 368-17)
16. Legislative Update:
 - Receive Legislative Report No. 09-17 and consider positions on the following bills: SB 606 (Skinner) Water Conservation; H.R. 1071 (Tonko) Assistance, Quality and Affordability Act of 2017; H.R. 2510 (DeFazio) Water Quality Protection and Job Creation Act of 2017; and S. 1464 (Feinstein) Water Conservation Tax Parity Act; receive information on H.R. 2862 (Simpson) Wildfire Disaster Funding Act; discuss and consider SB 623 (Monning) Water Quality: Safe and Affordable Drinking Water Fund
 - Update on Legislative Issues of Interest to EBMUD
17. General Manager's Report:
 - Strategic Plan 2018 Update
 - Monthly Report – July 2017

REPORTS AND DIRECTOR COMMENTS:

18. Committee Reports:
 - Finance/Administration
 - Sustainability/Energy
 - Legislative/Human Resources
 - Planning
19. Other Items for Future Consideration.
20. Director Comments.

ADJOURNMENT:

The next Regular Meeting of the Board of Directors will be held at 1:15 p.m. on Tuesday, September 12, 2017 in the Administration Center Board Room, 375 Eleventh Street, Oakland, California.

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.

BOARD CALENDAR

Date	Meeting	Time/Location	Topics
Tuesday, August 8	Planning Committee Mellon{Chair}; Linney; Young	8:30 a.m. Training Resource Center	<ul style="list-style-type: none"> • Dam Safety Program Annual Report • Reestablish Native Landscaping at the Estates Reservoir Site • Main Wastewater Treatment Plant Odor Control Program Update • Pollution Prevention Program Update • Trihalomethanes Update
	Legislative/Human Resources Committee Coleman {Chair}; Patterson; Young	10:00 a.m. Training Resource Center	<ul style="list-style-type: none"> • Update on District Values and Organizational Improvements Programs • EBMUD and Peralta College Partnership for Workforce Development • Maintenance and Construction Organizational Changes • Legislative Update
	Board of Directors	11:00 a.m. 1:15 p.m.	<ul style="list-style-type: none"> • Closed Session • Regular Meeting
Tuesday, August 22	Finance/Administration Committee		<i>Cancelled</i>
	Board of Directors		<i>Cancelled</i>
Monday, September 4	Labor Day Holiday		<i>District Offices Closed</i>
Friday, September 8	Admission Day Holiday		<i>District Offices Closed</i>
Tuesday, September 12	Planning Committee Mellon {Chair}; Linney; Young	9:15 a.m. Training Resource Center	
	Legislative/Human Resources Committee Coleman {Chair}; Patterson; Young	10:15 a.m. Training Resource Center	
	Board of Directors	11:00 a.m. 1:15 p.m.	<ul style="list-style-type: none"> • Closed Session • Regular Meeting

MINUTES

Tuesday, July 25, 2017

**East Bay Municipal Utility District
Board of Directors
375 Eleventh Street
Oakland, California**

Regular Closed Session Meeting

President Lesa R. McIntosh called to order the Regular Closed Session Meeting of the Board of Directors at 11:00 a.m. in the Administration Center Board Room.

ROLL CALL

Directors Andy Katz, Doug Linney, Frank Mellon, William B. Patterson, Marguerite Young, and President Lesa R. McIntosh were present at roll call. Director John A. Coleman was absent (excused).

Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Assistant General Counsel Xanthe M. Berry (Item 1), Engineering Manager Serge V. Terentieff (Item 1), Manager of Customer and Community Services Sherri A. Hong (Item 2), Manager of Real Estate Services Matt Elawady (Item 2), Manager of Human Resources Laura A. Brunson (Item 3), Manager of Employee Relations David Pak (Item 3), and Industrial Employers Distributors Association representatives Glenn Berkheimer and Bruce Heid (Item 3).

PUBLIC COMMENT

There was no public comment.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

President Lesa R. McIntosh announced the closed session agenda. The Board convened to Conference Room 8 for discussion.

Regular Business Meeting

President McIntosh called to order the Regular Business Meeting of the Board of Directors at 1:15 p.m. in the Administration Center Board Room.

ROLL CALL

Directors Andy Katz, Doug Linney, Frank Mellon, William B. Patterson, Marguerite Young, and President Lesa R. McIntosh were present at roll call. Director John A. Coleman was absent (excused). Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer and Secretary of the District Rischa S. Cole.

BOARD OF DIRECTORS

President McIntosh led the Pledge of Allegiance.

ANNOUNCEMENTS FROM CLOSED SESSION

There were no announcements required from closed session.

PUBLIC COMMENT

- Addressing the Board were the following: 1) Dennis Martel, Moraga resident commented on the landslide on Augusta Drive and EBMUD's actions to date to address the landslide; and 2) Steve Garrett, Orinda resident commented on the landslide in Moraga and asked if landslide updates could be a standing agenda item until the issue is resolved.

CONSENT CALENDAR

- Items 4 and 14 were pulled from the Consent Calendar for comment.
 - Motion by Director Young, seconded by Director Linney, to approve the recommended actions for Items 1-3 and 5-13 on the Consent Calendar, carried (6-0) by the following voice vote: AYES (Katz, Linney, Mellon, Patterson, Young, and McIntosh); NOES (None); ABSTAIN (None); ABSENT (Coleman).
1. **Motion No. 122-17** – Approved the Regular Meeting Minutes of July 11, 2017.
 2. The following correspondence was filed with the Board: **1)** Formal bid protest for Leland and Almond Reservoir Roof Improvements project from JD Engquist of Andy's Roofing Co., Inc.; **2)** List of delinquent EBMUD Charges for Transfer to Alameda County 2017-2018 and Contra Costa County 2017-2018 Property Tax Rolls; **3)** Speakers' Bureau and Outreach Record CY17 as of July 25, 2017; **4)** Affidavit of Posting dated June 30, 2017 and Notice of Time and Place of Public Hearing on the collection by East Bay Municipal Utility District of unpaid delinquent charges through property tax bills for multi-family accounts and filing of report; **5)** Contra Costa Times Proof of Publication of the Notice of Public Hearing on the collection by East Bay Municipal Utility District of unpaid delinquent charges through property tax bills for multi-family accounts and filing of report (Legal No. 5982555 published June 30 and July 7, 2017); **6)** Oakland Tribune Proof of Publication of the Notice of Public Hearing on the collection by East Bay Municipal Utility District of unpaid delinquent charges through property tax bills for multi-family accounts and filing of report (Legal No. 5982555 published June 30 and July 7, 2017); and **7)** Presentation entitled "North Richmond Recycled Water Contract Negotiations Update," dated July 25, 2017.
 3. **Motion No. 123-17** – Awarded contracts to the lowest responsive/responsible bidders, Univar USA, Inc., and Olin Corporation, in the total annual amount, after the addition of taxes, not to exceed \$3,755,052 for supplying liquid sodium hypochlorite to various District sites for three years, beginning on or after August 1, 2017 with two options to renew for an additional one-year period for a total cost of \$18,775,259 under Request for Quotation No. 1718.

4. **Motion No. 132-17** – Awarded a contract to the lowest responsive/responsible bidder, Commercial Waterproofing Systems, Inc., dba ERC Roofing and Waterproofing, in the amount of \$1,797,395 for construction of Leland and Almond Reservoir Roof Improvements under Specification 2127.
 - Addressing the Board was JD Engquist from Andy's Roofing Co., Inc. who was protesting the contract award. He stated the three lowest bids should be considered non-responsive because they did not list a state-certified lead abatement contractor to perform lead related work. The Board asked questions about the certification requirements listed in the bid documents and Mr. Engquist's comments. Staff clarified that the state regulations Mr. Engquist referenced in his protest did not apply to the type of work being performed.
 - Motion by Director Mellon, seconded by Director Patterson, to approve the recommended action for Item 4, carried (6-0) by the following voice vote: AYES (Katz, Linney, Mellon, Patterson, Young, and McIntosh); NOES (None); ABSTAIN (None); ABSENT (Coleman).
5. **Motion No. 124-17** – Awarded a contract to Integrated Archive Systems, Inc., in an amount, after the addition of taxes, not to exceed \$824,520 for supplying NetApp, Inc., data storage equipment, installation, and staff training for District data centers located at the Administration Building in Oakland and the Disaster Recovery/Business Continuity site in Sacramento with three years of maintenance and support, beginning on or after August 1, 2017.
- 6a-b. **Motion No. 125-17** – Authorized an amendment to Board Motion No. 071-15 dated April 28, 2015, to increase the estimated agreement amounts by \$570,000 for the rental of fully maintained and operated (FM&O) portable welding services from Eyeball Engineering, Ferguson Welding Services, T.A.Z. Welding & Fabrication; Larsson Welding; Mid Mountain Mechanical, Nicole Welding, and Wood Welding beginning on or after July 25, 2017 through the remainder of the agreement period ending April 30, 2020; and authorized additional agreements for FM&O portable welding rental services with vendors that meet District standards and offer pricing at or below the range in the amended agreements above. These additional agreements may be issued, on an as-needed basis to increase flexibility and ensure availability of FM&O portable welding rental services to the District.
7. **Motion No. 126-17** – Authorized an agreement with Collection Bureau of America to provide collection services on unpaid terminated District customer accounts for a fee of 18 percent on the collected amount on accounts referred from September 1, 2017 through August 31, 2020, with two options to renew for an additional one-year period.
8. **Motion No. 127-17** – Authorized the extension of an agreement with Bentley Systems, Inc., in an amount, after the addition of taxes, not to exceed \$496,500 for supplying Microstation software licenses and maintenance for three years beginning on or after August 1, 2017.
9. **Motion No. 128-17** – Authorized a third amendment to the agreement with SR Bray, LLC, dba Power Plus approved under Board Motion No. 018-16 dated January 26, 2016, to increase the authorization by \$260,000, to an amount not to exceed \$616,370, to continue the rental of a standby generator at Lafayette Water Treatment Plant beginning on or after July 25, 2017.

10. **Motion No. 129-17** – Authorized staff to execute a Memorandum of Understanding with the City of Hayward to jointly prepare a Groundwater Sustainability Plan for the East Bay Plain Sub-basin, a grant application, and a cooperating agreement.
11. **Motion No. 130-17** – Cancelled the August 22, 2017 Closed Session and Regular Meetings of the Board of Directors.
12. **Motion No. 131-17** – Approved the June 2017 Monthly Investment Transactions Report.
- 13a-b. **Resolution No. 35049-17** – Authorizing The Sale Of The Stonewall Reservoir Property In Oakland, California, To JB Stonewall, LLC.
14. **Resolution No. 35050-17** – Appointing David A. Briggs As Manager Of Maintenance And Construction/Water Operations (*effective August 21, 2017*).
 - Director Mellon congratulated Mr. Briggs on his appointment and welcomed him to the District. Mr. Briggs thanked the Board for the opportunity and said he looks forward to serving his community.
 - Motion by Director Mellon, seconded by Director Young, to approve the recommended action for Item 14, carried (6-0) by the following voice vote: AYES (Katz, Linney, Mellon, Patterson, Young, and McIntosh); NOES (None); ABSTAIN (None); ABSENT (Coleman).

PUBLIC HEARING

15. **Conduct a public hearing to consider objections and protests to the General Manager's Report to Transfer Delinquent EBMUD Charges to the 2017-2018 Property Tax Rolls.**

President McIntosh opened the public hearing at 1:33 p.m. She announced that the hearing is to consider objections and protests to the General Manager's Report to Transfer Delinquent EBMUD Charges to the 2017-2018 Property Tax Rolls. She noted that staff is available to meet with customers who are protesting and want to make a payment arrangement. President McIntosh asked for speakers to come forward. There was no public comment. President McIntosh closed the hearing at 1:34 p.m.

DETERMINATION AND DISCUSSION

16. **Adopt the General Manager's Report and authorize the General Manager to exclude from the report any affected parcels or amounts as appropriate, including those that the District receives payment for on or before the reports are sent to Alameda and Contra Costa counties in electronic form by August 10, 2017.**
 - Motion by Director Patterson, seconded by Director Young, to approve the recommended action for Item 16, carried (6-0) by the following voice vote: AYES (Katz, Linney, Mellon, Patterson, Young, and McIntosh); NOES (None); ABSTAIN (None); ABSENT (Coleman).

Resolution No. 35051-17 – Approving The Transfer Of Unpaid Delinquent Charges to Alameda And Contra Costa Counties' 2017-2018 Property Tax Rolls.

17. Amend Exhibit A – Summary of Changes – of Board Position Resolution No. 35048-17 approved on July 11, 2017 for Fiscal Year 2018/2019 to correct a typographical error on the numbers of full-time and temporary construction and limited-term positions allocated.

- Motion by Director Linney, seconded by Director Patterson to approve the recommended action for Item 17, carried (6-0) by the following voice vote: AYES (Katz, Linney, Mellon, Patterson, Young, and McIntosh); NOES (None); ABSTAIN (None); ABSENT (Coleman).

Resolution No. 35052-17 – Amend Resolution No. 35048-17 Authorizing The Number And Character Of Positions And Authorizing The General Manager To Take Action In Connection Therewith.

18. Consider a request from Viridis Fuels, LLC (Viridis) to extend the current deferred Additional Value payment of \$175,244.36 due under the lease agreement between Viridis and the District for a portion of the District's West End property until December 1, 2017, for a total deferment of Additional Value payments of \$260,000.04.

- Addressing the Board was: 1) Kathy Neal, Viridis Fuels CEO who provided background information on Viridis' need for an extension on the current deferred Additional Value payment and 2) Elihu Harris, Viridis Fuels Board member who urged the Board to approve Viridis' request for an extension and stated that Viridis is on track and committed to completing the project.

There was extensive Board discussion regarding the time needed for Viridis to prepare information for the District to complete outstanding California Environmental Quality Act (CEQA) documentation, how the leased property is currently being used, Viridis' ability to make a good faith payment towards the Additional Value balance, and clarification about Viridis' non-refundable deposit being retained by the District.

Director Linney offered an amendment to the original motion to include a requirement that Viridis provide the District with monthly, written progress reports and that the Board is notified when Viridis submits the required CEQA documentation to staff. Director Patterson supported the recommended amendment.

- Motion by Director Linney, seconded by Director Patterson, to amend the original motion to include a requirement that Viridis provide the District with monthly, written progress reports and that the Board be notified when Viridis submits the required CEQA documentation to staff.

Director Mellon offered an additional amendment to Director Linney's motion to include a requirement for Viridis to make a \$50,000 good faith payment towards the Additional Value payment balance. Director Linney supported the additional amendment. After further discussion regarding Viridis' ability to make a good faith payment, Director Mellon withdrew his amendment.

- Motion by Director Linney, seconded by Director Patterson, to approve the action for Item 18, with the recommended amendment carried (4-2) by the following voice vote: AYES (Katz, Linney, Patterson and McIntosh); NOES (Mellon and Young); ABSTAIN (None); ABSENT (Coleman).

Motion No. 133-17 – Considered a request from Viridis Fuels, LLC (Viridis) to extend the current deferred Additional Value payment of \$175,244.36 due under the lease agreement between Viridis and the District for a portion of the District's West End property until December 1, 2017, for a total deferment of Additional Value payments of \$260,000.04 and included a requirement that Viridis provide the District with monthly, written progress reports and notification when Viridis submits required California Environmental Quality Act documentation to District staff.

19. **Legislative Update.**

Legislative/Human Resources Committee member William B. Patterson reported that the Committee met earlier and unanimously voted to support the recommended position for H.R. 23 (Valadao) but did not come to consensus on a recommendation for SB 623 (Monning).

- Motion by Director Patterson, seconded by Director Young, to approve the recommended position on H.R. 23 (Valadao), carried (6-0) by the following voice vote: AYES (Katz, Linney, Mellon, Patterson, Young, and McIntosh); NOES (None); ABSTAIN (None); ABSENT (Coleman).

Manager of Legislative Affairs Marlaigne K. Dumaine provided an overview of SB 623 which seeks to establish the Safe and Affordable Drinking Water Fund to provide grants and loans to assist communities and individual domestic well owners that rely on contaminated drinking water. The author intends to amend SB 623 to include a “ratepayer assessment” on retail water customers as a significant funding source for the fund. This new amendment would be in direct conflict with EBMUD’s existing policy position opposing the imposition of retail water use fees or a public goods charge. Based on the discussion during the Legislative/Human Resources Committee, staff is now seeking feedback from the Board on how to proceed in regards to a preferred position and amendments to the bill.

There was extensive Board discussion on the pros and cons of the current recommended position of “Oppose Unless Amended (As Proposed to be Amended)” and the position of “Support If Amended”. The Board also discussed in detail the District’s existing policy position, the funding mechanisms of the bill, potential impacts of a ratepayer assessment to District ratepayers, the basis of the ratepayer assessment (volumetric vs. per account), the tax implications of the bill, and the importance and intent of the bill.

- Addressing the Board were the following: 1) Phoebe Seaton, Leadership Council for Justice and Accountability, highlighted her work with communities without access to safe drinking water and urged the Board to support SB 623; 2) Jennifer Clary, Water Program Manager for Clean Water Action commented on her work on SB 623 and the desire to partner with EBMUD on this issue; 3) Tiffany Eng, California Environmental Justice Alliance, voiced her support for SB 623 and urged the Board to support the bill; 4) Thom Seaton urged the Board to support SB 623; 5) Christina Hecht, University of California Nutrition Policy Institute highlighted her agency’s work to get people clean water instead of sugar-sweetened drinks

and voiced her support for SB 623 and; and 6) Wade Crowfoot, Water Foundation, voiced his support for SB 623 and urged the Board to support the bill.

Director Young offered a motion to change the recommended position on SB 623 from “Oppose Unless Amended (As Proposed to be Amended)” to “Support If Amended”, on the version of the bill as it is proposed to be amended by the author to include a retail water users tax. Director Mellon supported the recommended change in position.

In considering the change in recommended position, the Board also directed staff to seek bill amendments to address the following five issues: 1) Option to impose volumetric tax; 2) Limit exposure to other charges; 3) Provide an exemption for low-income ratepayers; 4) Minimize EBMUD eligibility verification administration costs; and 5) Ensure agriculture is held fully accountable for its share.

- Motion by Director Young, seconded by Director Mellon, to approve a “Support if Amended” position on SB 623 (Monning), carried (5-1) by the following voice vote: AYES (Katz, Linney, Mellon, Young, and McIntosh); NOES (Patterson); ABSTAIN (None); ABSENT (Coleman).

Motion No. 134-17 – Received Legislative Report No. 08-17 and approved positions on the following bills: SUPPORT IF AMENDED (AS PROPOSED TO BE AMENDED) SB 623 (Monning) Water Quality: Safe and Affordable Drinking Water Fund; and OPPOSE H.R. 23 (Valadao) Gaining Responsibility on Water Act of 2017.

20. **General Manager’s Report.**

Senior Civil Engineer Linda H. Hu provided an update on negotiations with Chevron regarding their North Richmond recycled water contract. The current agreement with Chevron expires in December 2017. Staff has submitted two proposals to Chevron for consideration. The first proposal is for a 5-year term and would set the price of recycled water at 65 percent of the price of potable water for that term. The second proposal would move Chevron to the standard non-potable water rate but would also provide them that same rate for any potable water delivered through the North Richmond Facility unless prevented from doing so by specific unusual circumstances (acts of God, etc.). This proposal has a 10-year term. The parties will meet again on July 28 and staff will provide another negotiations update to the Board in October. The Board asked no questions. Next, General Manager Alexander R. Coate announced that the Board had received information in their packets on the District’s plan to conduct a 12-month pilot in the fall to provide audio recordings of regular Board meetings on the District’s website.

REPORTS AND DIRECTOR COMMENTS

21. **Committee Reports.**

- Filed with the Board were the Special Finance/Administration Committee and Planning Committee Minutes of July 11, 2017.

22. Other Items for Future Consideration.

None.

23. Director Comments.

- Director Coleman reported on plans to participate in the following events: ACWA Executive Committee teleconference in Arnold and the Upper Mokelumne River Watershed Authority meeting in Pardee on July 28; ACWA Executive Committee teleconference in Oakland on July 31; Presentation to Contra Costa Realtors in Walnut Creek on August 1; and the Contra Costa Mayors' Conference in San Ramon on August 3.
- Director Katz had no report.
- Director Linney had no report.
- Director Mellon reported attending/participating in the following events: Alameda County Special Districts Association meeting in Dublin on July 12; EBMUD Retirement Board meeting in Oakland on July 20; and form EBMUD employee Ben Reyes' investiture ceremony to become a Contra Costa County Superior Court judge in Martinez on July 21.
- Director Patterson had no report.
- Director Young had no report.
- President McIntosh had no report.

ADJOURNMENT

President McIntosh adjourned the meeting at 3:46 p.m.

SUBMITTED BY:

Rischa S. Cole, Secretary of the District

APPROVED: August 8, 2017

Lesa R. McIntosh, President of the Board



AGENDA NO.
MEETING DATE

3.
August 8, 2017

TITLE THREE BANDIT INTIMIDATOR TOWABLE WOOD CHIPPERS

☒ MOTION _____ ☐ RESOLUTION _____ ☐ ORDINANCE _____

RECOMMENDED ACTION

Award a contract to the lowest responsive/responsible bidder Cal-Line Equipment Inc. in an amount, after the addition of taxes, not to exceed \$179,715 for supplying three Bandit Intimidator 12XP towable wood chippers under Request for Quotation (RFQ) No. 1715.

SUMMARY

District staff utilizes wood chippers in their work on District properties in order to quickly and efficiently convert tree and plant matter into a biodegradable mulch-like material which can be spread on site. Chippers save District workforce significant time and cost as they do not have to manually cut tree and plant matter into more manageable pieces. As the mulch can be left on site, the chipper eliminates the time it would take to load the un-chipped materials into trucks and haul them to a dump site where the District would incur a disposal fee. The Bandit Intimidator 12XP towable wood chippers will replace the existing chippers in the District's fleet which have exceeded District emissions criteria and are no longer California Air Resources Board (CARB) compliant with the State of California and the Federal Environmental Protection Agency (EPA).

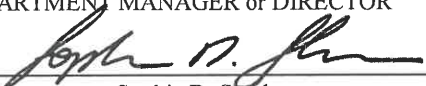

VENDOR SELECTION

Requests for quotations were sent to 21 potential proposers, posted on the District's website, and advertised in the Oakland Tribune. One bid was received and was determined to be responsible and of a reasonable cost.

SUSTAINABILITY

Economic

Funds are available in the FY18 budget.

Funds Available: FY18		Budget Code: 747/0200130/7999/5544
DEPARTMENT SUBMITTING Finance	DEPARTMENT MANAGER or DIRECTOR  Sophia D. Skoda	APPROVED  General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

Three Bandit Intimidator Towable Wood Chippers
August 8, 2017
Page 2

Social

The completed P-035 and P-061 forms for the Contract Equity Program are attached.

Environmental

Wood chips are beneficial to the environment; they preserve soil moisture for plant growth and reduce the amount of unwanted weeds that bare grounds produce. This class of diesel brush chipper is tier 4, making it more efficient and as such, will reduce the District's carbon emissions as it meets or exceeds the 2017 EPA and CARB requirements.

ALTERNATIVES

Rent chippers as needed. This alternative is not recommended because renting chippers will result in higher long-term costs and adversely impact the scheduling of projects which utilize this equipment.


Do not acquire chippers. This alternative is not recommended because the equipment is necessary to support District operations.

Attachments

P-035 – Contract Equity Program Summary
P-061 – Affirmative Action Summary

CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

TITLE Materials and Supplies Three Wood Chippers						DATE: July 31, 2017					
CONTRACTOR: Cal-Line Equipment, Inc. Livermore, CA 94551			QUOTATION NO.: 1715		PERCENTAGE OF CONTRACT DOLLARS						
			Local/Small Business/Sole Bidder		Availability Group		Contracting Objectives		Participation		
BID/PROPOSER'S PRICE: \$179,715 *		FIRM'S OWNERSHIP		White Men		25%		0.0%			
		Ethnicity White	Gender Women	White Women		2%		100.0%			
				Ethnic Minorities		25%		0.0%			
CONTRACT EQUITY PARTICIPATION											
COMPANY NAME		ESTIMATED AMOUNT	ETHNICITY	GENDER		CONTRACTING PARTICIPATION					
				M	W	White-Men	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit
PRIME: Cal-Line Equipment, Inc.		\$179,715	White		X		100.0%				
SUBS: None											
TOTAL		\$179,715				0.0%	100.0%	0.0%	0.0%	0.0%	0.0%
CONTRACTOR'S WORKFORCE PROFILE (From P-025 Form)											
		White Men		White Women		Ethnic Minorities		Total Employees			
No. of Employees:		5		3		4		12			
Percent of Total Employees:		41.7%		25.0%		33.3%					
MSA Labor Market %:		24.5%		21.6%		53.9%					
MSA Labor Market Location:		Alameda									
COMMENTS											
Contract Equity Participation - 100% White Women participation.											
*Total not to exceed: \$179,715											
Workforce Profile & Statement of Nondiscrimination Submitted				Good Faith Outreach Efforts Requirement Satisfied				Award Approval Recommended			
NA				NA							



AGENDA NO.
MEETING DATE

4.
August 8, 2017

TITLE SERVICING AND MAINTENANCE OF PORTABLE CHEMICAL TOILETS

☒ MOTION ☐ RESOLUTION ☐ ORDINANCE

RECOMMENDED ACTION

Authorize an agreement beginning on or after August 10, 2017 with Foothill Portable Toilets in an amount not to exceed \$32,000 annually for reoccurring and emergency service and maintenance of portable and vault style chemical toilets at various District locations in the Mokelumne area for two years with four options to renew for an additional one-year period, for a total cost of \$192,000.

SUMMARY

A portable chemical toilet service contract is required to support the remote work site needs of District staff, the recreational use areas and trail staging areas in the Mokelumne Watershed.



DISCUSSION

In order to meet the Cal OSHA mandates that restrooms be kept clean and safe from hazards, as well as the District's commitment to the public and workplace standards, regularly scheduled and emergency cleaning and servicing of District-owned chemical toilets is required to support the restrooms used by recreational patrons and District staff within the District's Mokelumne area.

The scope of this proposal includes servicing of portable chemical toilets, maintenance services for District-owned portable toilets, and related services as required at various District locations.

SERVICE PROVIDER SELECTION

Requests for proposals were sent to three resource organizations and to 13 potential proposers. Two bids were received. Foothill Portable Toilets provided the lowest responsive, responsible bid to provide these services in the Mokelumne area.

Funds Available: FY18		Budget Code: 491/1010517/5312
DEPARTMENT SUBMITTING Finance	DEPARTMENT MANAGER or DIRECTOR  Sophia D. Skoda	APPROVED  General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

SUSTAINABILITY

Economic

Funding for this work is available in the FY18/19 budget.

Social

The completed P-035 and P-061 forms for the Contract Equity Program are attached.

Environmental

This work meets all OSHA requirements as well as prevents human waste contamination of watershed and waterways.

ALTERNATIVES

Purchase the service on the open market. This alternative is not recommended because consolidation of requirements and areas serviced as well as a long-term contract allows the District to take advantage of more favorable pricing and more reliable and consistent service.

Do not purchase the service. This alternative is not recommended as toilets are needed for the public in these areas to collect human waste.

Attachments


P-035 – Contract Equity Program Summary

P-061 – Affirmative Action Summary



CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

TITLE General Services Agreement Servicing and Maintenance of Portable Chemical Toilets - Two-Year Contract with 4 One-Year Renewal Options						DATE: July 19, 2017					
CONTRACTOR: Foothill Portable Toilets Copperopolis, CA 95228			Small Business		PERCENTAGE OF CONTRACT DOLLARS						
					Availability Group		Contracting Objectives		Participation		
BID/PROPOSER'S PRICE:			FIRM'S OWNERSHIP		White Men		25%		0.0%		
			Ethnicity		Gender		White Women		6%		
\$32,000 /yr*			White		Women		Ethnic Minorities		25%		
CONTRACT EQUITY PARTICIPATION											
COMPANY NAME		ESTIMATED AMOUNT	ETHNICITY	GENDER		CONTRACTING PARTICIPATION					
				M	W	White-Men	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit
PRIME: Foothill Portable Toilets		\$32,000	White		X		100.0%				
SUBS: None											
TOTAL		\$32,000				0.0%	100.0%	0.0%	0.0%	0.0%	0.0%
CONTRACTOR'S WORKFORCE PROFILE (From P-025 Form)											
		White Men		White Women		Ethnic Minorities		Total Employees			
No. of Employees:		0		0		9		9			
Percent of Total Employees:		0.0%		0.0%		100.0%					
MSA Labor Market %:		28.0%		23.6%		48.4%					
MSA Labor Market Location:		California									
COMMENTS											
Contract Equity Participation - 100% White Women participation.											
*Total not to exceed: \$192,000											
Workforce Profile & Statement of Nondiscrimination Submitted				Good Faith Outreach Efforts Requirement Satisfied				Award Approval Recommended			
NA				NA							



AGENDA NO.
MEETING DATE

5.
August 8, 2017

TITLE MWWTP DIGESTER SCAFFOLDING SERVICES

☒ MOTION _____ ☐ RESOLUTION _____ ☐ ORDINANCE _____

RECOMMENDED ACTION

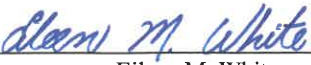

Authorize an agreement beginning on or after August 9, 2017, with Platinum Scaffolding Services, Inc., in an amount not to exceed \$324,000 to provide temporary interior scaffolding in up to six digesters at the Main Wastewater Treatment Plant (MWWTP).

SUMMARY

Temporary scaffolding around the interior perimeter of the 95-foot diameter digesters is required to perform inspections of the coatings on the concrete walls and underside of the steel covers. Six levels of scaffolding are required to a height of 45 feet above the floor of each digester. This contract will provide the scaffolding necessary to perform the inspections in up to six digesters.

DISCUSSION

The first two phases of the MWWTP Digester Upgrade Project have been completed. These projects included the rehabilitation and improvement of the anaerobic digesters, which are 30 to 55 years old, with the installation of new fixed covers and the coating of the interior concrete walls and new steel covers. The coatings carry a warranty of five years. In order to determine if warranty repairs are required, the digesters must be emptied, cleaned, and scaffolding erected to perform an inspection and repairs. Three digesters are scheduled for a complete inspection in late 2017 and early 2018. Three additional digesters, scheduled to be upgraded as part of the MWWTP Digester Upgrade Project, Phase 3, will be rehabilitated beginning 2019. This contract will provide scaffolding for these digesters in order to complete the necessary inspections for planning and design. This project supports the District's Long-term Infrastructure Investment Strategic Plan goal.

Funds Available: FY18		Budget Code: WWC/927/7999/2010752
DEPARTMENT SUBMITTING Wastewater	DEPARTMENT MANAGER or DIRECTOR  Eileen M. White	APPROVED  General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

SERVICE PROVIDER SELECTION

Requests for proposals for five digesters were sent to multiple firms with four companies responding with the District awarding contracts to three different companies. All four firms were considered for this work on additional digesters and Platinum Scaffolding Services, Inc. was selected based on a combination of cost, experience, quality of previous work, and availability.

SUSTAINABILITY

Economic

This work is included in the FY18 budget for the Digester Upgrade Project. This work supports warranty inspections and repairs, and enables future digester condition assessments that are required to maintain the reliability of the anaerobic digester system.

Social

The completed P-035 and P-061 forms for the Contract Equity Program are attached.

Local 444 was notified of this agreement on July 17, 2017, and did not raise any specific issues related to this contract.

Environmental

This contract ensures that the required digester inspections will be completed in a timely and efficient manner, ensuring digester reliability and reducing downtime, both of which are necessary to continue to meet all regulatory requirements, including sludge detention times.

ALTERNATIVES

Do not proceed with this contract. This alternative is not recommended because scaffolding is required to perform thorough coating inspections and repairs.

Select a different vendor. This alternative is not recommended because the selected vendor has performed well in the past and the cost is reasonable.

Perform work by District forces. This alternative is not recommended because the District does not have the specialized expertise required to install scaffolding of this size and complexity.

Attachments

P-035 – Contract Equity Program Summary

P-061 – Affirmative Action Summary



CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

TITLE					DATE:					
SPECIFICATION NO.: NA					June 9, 2017					
MWWTP Digester Scaffolding - Three-Year Contract										
CONTRACTOR:		Local Business		PERCENTAGE OF CONTRACT DOLLARS						
Platinum Scaffolding Services, Inc. Martinez, CA 94553				Availability Group		Contracting Objectives		Participation		
BID/PROPOSER'S PRICE:	FIRM'S OWNERSHIP		White Men		25%		100.0%			
	Ethnicity	Gender	White Women		9%		0.0%			
	\$324,000 *	White	Men	Ethnic Minorities		25%		0.0%		
CONTRACT EQUITY PARTICIPATION										
COMPANY NAME	ESTIMATED AMOUNT	ETHNICITY	GENDER		CONTRACTING PARTICIPATION					
			M	W	White- Men	White- Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit
PRIME: Platinum Scaffolding Services, Inc.	\$324,000	White	X		100.0%					
SUBS: None										
TOTAL	\$324,000				100.0%	0.0%	0.0%	0.0%	0.0%	0.0%
CONTRACTOR'S WORKFORCE PROFILE (From P-025 Form)										
	White Men	White Women	Ethnic Minorities	Total Employees						
No. of Employees:	14	2	41	57						
Percent of Total Employees:	24.6%	3.5%	71.9%							
MSA Labor Market %:	33.3%	28.2%	38.5%							
MSA Labor Market Location:	Contra Costa									
COMMENTS										
Contract Equity Participation - 100% White men participation										
*Total not to exceed \$324,000										
Workforce Profile & Statement of Nondiscrimination Submitted			Good Faith Outreach Efforts Requirement Satisfied			Award Approval Recommended				
NA			NA							



AGENDA NO.
MEETING DATE

6.
August 8, 2017

**TITLE AUTHORIZE A CONSULTING AGREEMENT FOR SERVICES TO PERFORM
SAFETY INSPECTIONS AND SAFETY EVALUATION REPORTS FOR
CAMANCHE AND PARDEE DAMS**

☒ MOTION ☐ RESOLUTION ☐ ORDINANCE

RECOMMENDED ACTION

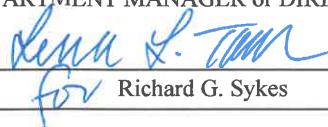

Authorize an agreement with Rizzo Associates in an amount not to exceed \$217,000 for consultant services to perform safety inspections and safety evaluation reports that are required under the District's license with the Federal Energy Regulatory Commission (FERC) for Pardee and Camanche Dams.

SUMMARY

The District must retain a FERC-approved independent consultant to perform safety inspections and prepare dam safety evaluation reports for Pardee and Camanche Dams. Under federal regulations, these inspections and reports are a required component of the safety program for hydroelectric dams and associated infrastructure that are regulated by FERC. The District holds a license for FERC Project No. 2916-004 and must comply with the Part 12D regulation to assess the safety of Camanche and Pardee Dams. An overlapping spillway safety evaluation is also required by the California Division of Safety of Dams. Rizzo's proposed contract would include work to meet this requirement. This work is consistent with the District's Strategic Plan goals for Infrastructure Investment and Long-Term Water Supply. This item was discussed at the August 8, 2017 Planning Committee meeting.

DISCUSSION

Pursuant to Part 12D of the FERC regulations, the District's Mokelumne River Project dams must be inspected and evaluated by an independent consultant (IC) once every five years. The IC reviews structural and operational conditions of the dams, reports on safety conditions, and recommends corrective measures to maintain safe facilities. Under the proposed contract, Rizzo will complete the IC inspections, update the existing potential failure mode analyses, and submit the inspection reports by March 10, 2018 for Pardee and Camanche Dams. Among the technical qualifications and professional engineer licensure requirements, the IC must be FERC-approved and may not be a current employee of the licensee, which precludes District employees from performing the work. As a result, the District must retain the services of a FERC-approved IC to inspect Pardee and Camanche Dams and associated infrastructure to prepare its Part 12D safety evaluation reports. The District received FERC's

Funds Available: FY18/19		Budget Code: WSO/WRD/B444/1011865/5231
DEPARTMENT SUBMITTING Water and Natural Resources	DEPARTMENT MANAGER or DIRECTOR  for Richard G. Sykes	APPROVED  General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

Authorize a Consulting Agreement for Services to Perform Safety Inspections and Safety Evaluation Reports for Camanche and Pardee Dams

August 8, 2017

Page 2

July 20, 2017 letter approving Dr. Paul C. Rizzo, Ph.D., P.E., of Rizzo Associates, as the IC.

The scope of services in this agreement includes inspecting and evaluating the safety of Pardee and Camanche Dams, the hydroelectric facilities, and their associated appurtenant water retaining structures and leading a dam safety workshop to audit the existing Potential Failure Mode Analysis (PFMA) for these dams. This year, FERC and the California Division of Safety of Dams are requiring a focused spillway assessment specifically required for all FERC licensees and dam owners with high and significant hazard dams. The IC will perform a detailed review of all available documents, close visual inspection of conditions, and a focused PFMA of the spillways. This requirement is precipitated by recent events involving the operation of the spillways for California's Oroville Dam, which have brought renewed attention to potential failure modes associated with both concrete chute spillways and unlined spillways at dams.

CONSULTANT SELECTION

Requests for proposals were sent to nineteen firms and posted on the District's website. Four firms that submitted proposals were interviewed. Rizzo Associates was selected based on their qualifications, resources, experience with similar work, and value. Rizzo Associates specifically brings with them their insight on FERC's focus on dam safety inspections and close working relationship with FERC because of their current project experience as the co-IC in the Part 12D inspection for Department of Water Resources' Oroville Dam and Reservoir; their lead role in reviewing potential failure modes and performing forensics analyses of high-profiled dam failures; and their time and cost efficient approach to leverage remote technology that obtains high resolution mapping and imagery of the spillway and surrounding geology for subsequent data analysis.

SUSTAINABILITY

Economic

Funding for this item is included in the FY18/19 budget for the FERC Part 12D Safety Inspections and Safety Evaluation Reports of Pardee and Camanche Dams. This work supports cost-effective planning for maintenance and improvements to the District's Mokelumne water supply infrastructure to ensure system reliability. It will help the District prioritize any follow up projects that may be needed through the Part 12D review.

Social

The completed P-035 and P-061 forms for the Contract Equity Program are attached. Locals 2019 and 21 were notified of this contract on March 14, 2017. Locals 2019 and 21 did not raise any specific issues related to this contract. This work supports public safety by maintaining safe operations of the Mokelumne dams and reservoirs.

Environmental

This work on the Mokelumne water supply infrastructure complies with federal and state requirements to maintain structural integrity and to operate facilities in a manner that protects public safety, property and the environment. Safe dam operation will prevent the environmental impacts associated with complete or partial failure.

ALTERNATIVES

Do not award a contract for this work. This alternative is not recommended because FERC's regulations mandate that the District retain an IC for the eighth Part 12D inspections and evaluation report preparation to comply with the District's hydropower license requirements. Not doing so would place the District in non-compliance with its hydropower license.

Authorize an agreement with another consulting firm. This alternative is not recommended because through the selection process Rizzo Associates demonstrated the best qualified consulting services and experience and proposed a clear project approach that aligns with the District's objectives.

Attachments

P-035 – Contract Equity Program Summary

P-061 – Affirmative Action Summary



CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

TITLE			DATE:									
Professional Services Agreement			July 28, 2017									
Authorize a Consulting Agreement for Services to Perform Safety Inspections and Safety Evaluation Reports of Camanche and Pardee Dams												
CONTRACTOR:		Small Business	PERCENTAGE OF CONTRACT DOLLARS									
Rizzo Associates Pittsburgh, PA 15235			Availability Group	Contracting Objectives	Participation							
BID/PROPOSER'S PRICE:	FIRM'S OWNERSHIP		White Men	25%	100.0%							
	Ethnicity	Gender	White Women	6%	0.0%							
	White	Men	Ethnic Minorities	25%	0.0%							
\$217,000 *												
CONTRACT EQUITY PARTICIPATION												
COMPANY NAME	ESTIMATED AMOUNT	ETHNICITY	GENDER		CONTRACTING PARTICIPATION							
			M	W	White-Men	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit	Foreign	
PRIME:												
Rizzo Associates	\$217,000	White	X		100.0%							
SUBS:												
None												
TOTAL			\$217,000		100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
CONTRACTOR'S WORKFORCE PROFILE (From P-025 Form)												
			White Men		White Women		Ethnic Minorities		Total Employees			
No. of Employees:			54		15		20		89			
Percent of Total Employees:			60.7%		16.9%		22.5%					
MSA Labor Market %:			39.0%		33.7%		27.3%					
MSA Labor Market Location:			Total USA									
COMMENTS												
Contract Equity Participation - 100.0% White Men participation												
*Total not to exceed: \$217,000												
Workforce Profile & Statement of Nondiscrimination Submitted				Good Faith Outreach Efforts Requirement Satisfied				Award Approval Recommended				
NA				NA								



AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s)' P-025 Form regarding their workforce.

Title: Authorize a Consulting Agreement for Services to Perform Safety Inspections and Safety Evaluation Reports of Camanche and Pardee Dams		Ethnic Minority Percentages From U.S. Census Data						
			B	H	A/PI	AI/AN	TOTAL	
		National	10.5	10.7	3.7	0.7	27.3	
Professional Services Agreement		DATE: 7/28/2017	9 Bay Area Counties	5.5	16.2	14.2	0.4	39.9
			Alameda/CC Counties	10.7	15.6	15.4	0.5	46.2
R=Recmmd P=Prime S=Sub	Composition of Ownership	Number of Ethnic Minority Employees						
Company Name, Owner/Contact Person, Address, and Phone Number			B	H	A/PI	AI/AN	TOTAL	PERCENT
								MSA %
RP	WM: SBE	Company Wide	1	12	5	0	18	20.2%
RIZZO Associates Rachelle Rizzo 500 Penn Center Blvd. Pittsburgh, PA 15235 412-825-2035		Manager/Prof	1	11	4	0	16	21.6%
		Technical/Sales	0	0	0	0	0	0.0%
		Clerical/Skilled	0	1	1	0	2	20.0%
		Semi/Unskilled	0	0	0	0	0	0.0%
		Bay Area	0	0	0	0	0	0.0%
		AA Plan on File:	NA		Date of last contract with District:		NA	
		Co. Wide MSA:	Total USA		# Employees-Co. Wide:		89 Bay Area: 0	
P	WM	Company Wide	7	48	25	31	111	25.0%
McMillen LLC dba McMillaen Jacobs Associates Marcus Emmons 4894 Sparks Blvd. Sparks, NV 89436 208-985-1509		Manager/Prof	5	9	19	0	33	12.5%
		Technical/Sales	0	0	3	1	4	16.7%
		Clerical/Skilled	1	29	3	22	55	57.9%
		Semi/Unskilled	1	10	0	8	19	30.6%
		Bay Area	0	1	6	0	7	25.0%
		Co. Wide MSA:	Total USA		# Employees-Co. Wide:		444 Bay Area: 28	
P	WM	Company Wide	0	2	0	0	2	3.8%
SAGE Engineers, Inc. Ed Wallach 2251 Douglas Blvd., Suite 200 Roseville, CA 95661 916-677-4800		Manager/Prof	0	2	7	0	9	20.5%
		Technical/Sales	0	0	0	0	0	0.0%
		Clerical/Skilled	0	0	0	0	0	0.0%
		Semi/Unskilled	0	0	0	0	0	0.0%
		Bay Area	0	0	2	0	2	16.7%
		Co. Wide MSA:	California		# Employees-Co. Wide:		52 Bay Area: 12	
P	WM: SBE	Company Wide	0	0	0	0	0	0.0%
TERRA Engineers, Inc. Guilaie Roussel 350 Sansome Street, Suite 830 San Francisco, CA 94104 888-888-4730		Manager/Prof	0	0	0	0	0	0.0%
		Technical/Sales	0	0	0	0	0	0.0%
		Clerical/Skilled	0	0	0	0	0	NA
		Semi/Unskilled	0	0	0	0	0	0.0%
		Bay Area	0	0	0	0	0	0.0%
		Co. Wide MSA:	San Francisco		# Employees-Co. Wide:		11 Bay Area: 5	
P	EMW: A/PI - SBE	Company Wide	1	9	2	0	12	66.7%
Woodward Drilling Company, Inc. Concing Woodward 550 River Road Rio Vista, CA 94571 707-374-4300		Manager/Prof	0	0	1	0	1	25.0%
		Technical/Sales	0	2	0	0	2	66.7%
		Clerical/Skilled	0	2	1	0	3	75.0%
		Semi/Unskilled	1	5	0	0	0	0.0%
		Bay Area	1	9	2	0	0	0.0%
		Co. Wide MSA:	Solano		# Employees-Co. Wide:		18 Bay Area: 18	

WM=White Male, WW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and AI/AN=American Indian/Alaskan Native)



AGENDA NO.
MEETING DATE

7.
August 8, 2017

TITLE **REESTABLISHING NATIVE LANDSCAPE AT THE ESTATES RESERVOIR SITE**

☒ MOTION ☐ RESOLUTION ☐ ORDINANCE

RECOMMENDED ACTION

Authorize an agreement beginning on or after August 8, 2017 with Suarez & Muñoz Construction, Inc. in an amount not to exceed \$455,406 for reestablishing the native landscape at the Estates Reservoir site per Board Resolution No. 33960-13.



SUMMARY

The native landscape at Estates Reservoir was developed through a public outreach process, as part of the Estates Reservoir Replacement Environmental Impact Report (EIR) and subsequent Supplemental EIR, and approved by the Board of Directors under Resolution No. 33960-13. The landscaping failed due to the extreme drought immediately after the application of a hydroseed mix. The native landscape needs to be reestablished to ensure compliance with the Supplemental EIR and associated Mitigation Monitoring and Reporting Program (MMRP). The scope of work for the project includes constructing a temporary irrigation system, reapplying the native grass hydroseed mix and conducting temporary intensive landscape maintenance for up to three years, the number of years it may take to reestablish the low-maintenance landscaping and turn the site over to District forces. The intensive landscape maintenance will be required weekly for the first year, monthly for the second year, and quarterly in the third year. This item was discussed at the August 8, 2017 Planning Committee meeting.

DISCUSSION

The previous open-cut Estates Reservoir was replaced with two smaller concrete tanks within the existing basin in 2014. The MMRP required implementation of a native landscape plan that was developed and vetted with neighborhood input as part of the EIR process. The approved landscape plan consisted mainly of native grasses with some trees. The hydroseed mix, which contained the native grasses, was applied in 2014, but it failed to establish due to the drought. The site currently has significant weeds with a few failing trees.

Montclair Pumping Plant, one of the District's highest-priority pumping plants identified for replacement in the Infrastructure Rehabilitation Master Plan for Distribution Pumping Plants, is located at the Estates Reservoir site and will require separate environmental review. The landscaping at Estates Reservoir

Funds Available: FY18-19; CIP 001252; Page 34		Budget Code: WSC 524/2008760:02/7999/5311
DEPARTMENT SUBMITTING Engineering and Construction	DEPARTMENT MANAGER or DIRECTOR  Xavier J. Irias	APPROVED  General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

should be reestablished prior to engagement with the community on the Montclair Pumping Plant Replacement currently scheduled for late fall 2018.

Staff identified the following corrective actions based on conversations with District forces, professional landscape architects, several landscape maintenance companies, and hydroseed wholesalers:

- Construct a temporary irrigation system to establish approved landscaping and remove the irrigation system once the landscaping is established.
- Remove weeds and brace or replace trees prior to applying the hydroseed.
- Reapply the native grass hydroseed mix.
- During the first year, conduct weekly intensive landscaping services by hand-pulling weeds over approximately three acres to ensure proper weed removal while the native grassland reestablishes.
- If necessary, conduct temporary landscape maintenance that involves hand-pulling weeds over approximately three acres every month for the second year and every quarter for the third year until the grassland is established and the site can be turned over to District forces.

District forces will manage the contract, monitor the landscape work, and determine when the landscape maintenance can be turned over to District forces. This work supports the District's Strategic Plan goal for Long-Term Infrastructure Investment.

SERVICE PROVIDER SELECTION

District staff solicited proposals from four qualified companies who had previously conducted landscaping services for the District either directly or as a subcontractor. Only one company (Suarez & Muñoz Construction, Inc.) provided a bid; two of the companies did not respond and one declined to bid.

SUSTAINABILITY

Economic

Funding for this work is available in the FY18-19 Capital Improvement Program under the Montclair Pumping Plant Replacement Project, as the Montclair Pumping Plant is located on the Estates Reservoir site and reestablishment of the landscaping is required prior to any public outreach for pumping plant replacement.

Social

The completed P-035 and P-061 forms for the Contract Equity Program are attached.

Work under this contract is subject to the payment of current prevailing wages according to determinations for each craft as established by the Director of Industrial Relations of the State of California.

Local 444 was notified of this contract on May 22, 2017. The District and Local 444 met on June 7, 2017 where staff answered all of the union's questions. Subsequent to the meeting, Local 444 objected to contracting out this work and requested the current number of vacant and unfunded Gardener positions. The District and Local 444 met again on August 2, 2017 to address Local 444's concerns; Local 444 no longer objects to contracting out this work. Staff will continue to coordinate with Local 444 and provide updates throughout the project and notify the union if changes are made to the contract.

Environmental

A Supplemental EIR and associated MMRP were certified by the Board of Directors on December 10, 2013. The work completed under this contract is required to ensure compliance with the certified MMRP.

ALTERNATIVES


Do not perform the work. This alternative is not recommended because reestablishing landscaping at the Estates Reservoir site is necessary to ensure compliance with the Board-approved MMRP under Resolution No. 33960-13.

Perform the work with District forces. This alternative is not recommended because it requires the construction of a temporary irrigation system and a specialized skill called hydroseeding; District forces do not normally construct irrigation systems nor apply hydroseed. Additionally, the proposed scope requires a temporary resource-intensive landscaping effort that is not expected to be an ongoing, long-term function of District forces; landscape maintenance will be turned over to District forces once the native landscape is established.

Attachments: P-035 Contract Equity Program Summary
P-061 Affirmative Action Summary

CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

TITLE		SPECIFICATION NO.: NA					DATE:					
		Reestablishing Native Landscape at the Estates Reservoir Site per Board Resolution No. 33960-13					June 15, 2017					
CONTRACTOR:			Sole Bidder/ Local/Small Business		PERCENTAGE OF CONTRACT DOLLARS							
Suarez & Munoz Construction, Inc. Hayward, CA 94545					Availability Group		Contracting Objectives		Participation			
BID/PROPOSER'S PRICE:		FIRM'S OWNERSHIP		White Men		25%		0.0%				
		Ethnicity	Gender	White Women		9%		0.0%				
\$455,406 *		White		Men		Ethnic Minorities		25%		100.0%		
CONTRACT EQUITY PARTICIPATION												
COMPANY NAME		ESTIMATED AMOUNT	ETHNICITY	GENDER		CONTRACTING PARTICIPATION						
				M	W	White- Men	White- Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit	Foreign
PRIME: Suarez & Munoz Construction, Inc.		\$455,406	Hispanic	X				100.0%				
SUBS: None												
TOTAL		\$455,406				0.0%	0.0%	100.0%	0.0%	0.0%	0.0%	0.0%
CONTRACTOR'S WORKFORCE PROFILE (From P-025 Form)												
		White Men		White Women		Ethnic Minorities		Total Employees				
No. of Employees:		0		0		52		52				
Percent of Total Employees:		0.0%		0.0%		100.0%						
MSA Labor Market %:		24.5%		21.6%		53.9%						
MSA Labor Market Location:		Alameda										
COMMENTS												
Contract Equity Participation - 100% Ethnic Minority participation.												
*Total not to exceed: \$455,406												
Workforce Profile & Statement of Nondiscrimination Submitted				Good Faith Outreach Efforts Requirement Satisfied				Award Approval Recommended				
NA				NA								



AGENDA NO.
MEETING DATE

8.1.
August 8, 2017

TITLE **MWWTP DIGESTER NO. 2 MEMBRANE COVER REPLACEMENT PURCHASE**

☒ MOTION ☐ RESOLUTION ☐ ORDINANCE

RECOMMENDED ACTION



Award a sole-source contract to Evoqua Water Technologies (Evoqua) in an amount, after the addition of taxes, not to exceed \$656,318 for supplying a new membrane for the Digester No. 2 cover at the Main Wastewater Treatment Plant (MWWTP).

SUMMARY

The membrane component of the Digester No. 2 cover at the MWWTP has exceeded its useful life. This contract will provide a replacement membrane that will function with the remaining existing components of the cover that have longer useful lives. A sole-source award is recommended to match the existing support cable system and equipment. A separate contract for the Digester No. 2 cleaning work is agendized for Board consideration at the August 8, 2017 Board meeting. This work was discussed during the Fiscal Year 2018 and 2019 Budget workshops and presentations.

DISCUSSION

The cover on Digester No. 2 was installed in 2006 and serves as both a cover and a biogas storage system. It provides raw biogas equalization, which improves operation of the Power Generation Station (PGS) at the MWWTP. The fabric membrane has a useful life of approximately ten years and currently needs to be replaced in conjunction with other mechanical piping improvements. The new membrane must be compatible with the other components of the cover and biogas storage system, including the structural support system and mechanical components, which have remaining useful life. Replacing the membrane will extend the overall life of the digester cover and provide continued operational benefit to the PGS. This project supports the District's Long-Term Infrastructure Investment Strategic Plan goal.

Funds Available: FY18		Budget Code: WWC/927/7999/2011134/5521
DEPARTMENT SUBMITTING Wastewater	DEPARTMENT MANAGER or DIRECTOR  Eileen M. White	APPROVED  General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

VENDOR SELECTION

As permitted by California Public Contract Code, Section 3400, staff recommends a sole-source award to Evoqua so that the membrane will match the existing structural support system and associated mechanical components. Evoqua retained the original fabrication pattern and can manufacture a replacement membrane that fits the exact profile.

SUSTAINABILITY

Economic

This item is included in the FY18 budget for the Digester Upgrade Project. Replacement of the membrane in advance of failure, and with the original equipment manufacturer (OEM), ensures minimum service disruption to the PGS to utilize biogas for renewable energy production. Replacing the membrane alone allows the District to harness the full value of other components of the cover system.

Social

The completed P-035 and P-061 forms for the Contract Equity Program are attached.

Environmental

Replacement of the membrane will protect against unplanned failure which could allow the escape of biogas to the atmosphere, an air permit violation. It also allows the District to continue to maximize renewable energy generation. Replacing the membrane with the OEM allows the District to fully use associated components and not dispose of them prematurely.

ALTERNATIVES

Do not replace the membrane. This alternative is not recommended because continued use of the membrane beyond its useful life increases the likelihood of failure, resulting in an air permit violation.

Issue a Request for Proposals for replacement of the entire cover system. This alternative is not recommended because it would increase the outage duration and significantly increase the overall costs.


Attachments

P-035 – Contract Equity Program Summary
P-061 – Affirmative Action Summary



CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

TITLE General Services Agreement MWWTP Digester No. 2 Membrane Cover Replacement Purchase				DATE: July 27, 2017							
CONTRACTOR: Evoqua Water Technologies LLC Waukesha, WI 53188		Sole Source		PERCENTAGE OF CONTRACT DOLLARS							
				Availability Group		Contracting Objectives					
BID/PROPOSER'S PRICE:		FIRM'S OWNERSHIP		White Men		25%					
		Ethnicity		Gender		White Women					
\$656,318 *		White		Men		Ethnic Minorities					
						25%					
						100.0%					
						0.0%					
						0.0%					
CONTRACT EQUITY PARTICIPATION											
COMPANY NAME	ESTIMATED AMOUNT	ETHNICITY	GENDER		CONTRACTING PARTICIPATION						
			M	W	White-Men	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit	Foreign
PRIME: Evoqua Water Technologies LLC	\$377,096	White	X		57.5%						
SUBS: Titan Contracting & Leasing Co., Inc.	\$279,222	White	X		42.5%						
TOTAL		\$656,318				100.0%	0.0%	0.0%	0.0%	0.0%	0.0%
CONTRACTOR'S WORKFORCE PROFILE (From P-025 Form)											
		White Men		White Women		Ethnic Minorities		Total Employees			
No. of Employees:		INFORMATION NOT PROVIDED									
Percent of Total Employees:											
MSA Labor Market %:											
MSA Labor Market Location:											
COMMENTS											
Contract Equity Participation - 100% White Men participation.											
*Total not to exceed: \$656,318											
Workforce Profile & Statement of Nondiscrimination Submitted				Good Faith Outreach Efforts Requirement Satisfied				Award Approval Recommended			
NA				NA							



AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

This summarizes information provided by the contractor(s)' P-025 Form regarding their workforce.

Title: MWWTP Digester No. 2 Membrane Cover Replacement Purchase		Ethnic Minority Percentages From U.S. Census Data						
			B	H	A/PI	AI/AN	TOTAL	
		National	10.5	10.7	3.7	0.7	27.3	
		9 Bay Area Counties	5.5	16.2	14.2	0.4	39.9	
		Alameda/CC Counties	10.7	15.6	15.4	0.5	46.2	
General Services Agreement		DATE: 7/27/2017	Number of Ethnic Minority Employees					
R=Recmmd P=Prime S=Sub	Composition of Ownership							
Company Name, Owner/Contact Person, Address, and Phone Number		B	H	A/PI	AI/AN	TOTAL	PERCENT	MSA %
RP	WM	INFORMATION NOT PROVIDED						
Evoqua Water Technologies LLC Anna Bermea 2607 N. Grabdview Blvd. Waukesha, WI 53188 719-550-2117		Company Wide						
		Manager/Prof						
		Technical/Sales						
		Clerical/Skilled						
		Semi/Unskilled						
		Bay Area						
		AA Plan on File:						
		Co. Wide MSA:						
S	WM	Company Wide	2	15	0	0	17	9.2%
Titan Contracting & Leasing Co. Inc. Wayne Lewis 2205 Ragu Drive Owensboro, KY 42303 270-683-6564		Manager/Prof	0	3	0	0	3	5.3%
		Technical/Sales	0	1	0	0	1	11.1%
		Clerical/Skilled	2	11	0	0	13	11.5%
		Semi/Unskilled	0	0	0	0	0	0.0%
		Bay Area	0	0	0	0	0	0.0%
		Co. Wide MSA: Kentucky	# Employees-Co. Wide: 185		Bay Area: 0			

WM=White Male, WW=White Women, EM=Ethnic Minority (Ethnicities: B=Black, H=Hispanic, A/PI=Asian/Pacific Islander, and AI/AN=American Indian/Alaskan Native)



AGENDA NO.
MEETING DATE

8.2.
August 8, 2017

TITLE MWWTP DIGESTER NO. 2 CLEANING CONTRACT

☒ MOTION _____ ☐ RESOLUTION _____ ☐ ORDINANCE _____

RECOMMENDED ACTION



Authorize an agreement beginning on or after August 9, 2017, with Synagro-WWT, Inc. in an amount not to exceed \$446,300 for cleaning Digester No. 2 at the Main Wastewater Treatment Plant (MWWTP). In awarding this contract, the Board of Directors finds that this work cannot be satisfactorily performed under civil service.

SUMMARY

Due to mechanical issues, Digester No. 2 must be taken out of service as soon as possible to allow District staff to repair the draw-off valves used to remove the digested sludge. Prior to making repairs, the digester must be emptied and thoroughly cleaned. Under this agreement, the contractor will remove material from the digester, and then dewater and dispose of the solids extracted. The work must be completed within four weeks to minimize the overall digester outage duration. The gas membrane portion of the existing cover on Digester No. 2 will also be replaced while this digester is out of service. A separate contract for the gas membrane replacement work is agendized for Board consideration at the August 8, 2017 Board meeting. This work was discussed during the Fiscal Year 2018 and 2019 Budget workshops and presentations.

DISCUSSION

The eleven digesters at the MWWTP are periodically taken out of service for cleaning, inspection, and repairs. District staff carefully sequence digester outages to meet planned capital project schedules and warranty inspections with no more than three digesters out of service at one time. Recent mechanical issues, however, require that Digester No. 2 must be taken out of service as an unplanned outage. As an unplanned outage, it can only be accommodated if the outage duration is minimized, requiring an expedited cleaning schedule. District forces cannot perform this work under an expedited schedule because staff will be concurrently in various stages of cleaning and restoring to service other digesters. In addition, the equipment required for digester cleaning will not be available to clean Digester No. 2.

Funds Available: FY18		Budget Code: WWC/911/2011285/5312
DEPARTMENT SUBMITTING Wastewater	DEPARTMENT MANAGER or DIRECTOR  Eileen M. White	APPROVED  General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

If the digester is not repaired and fails when three digesters are already out of service, the District will be at risk of not meeting the required sludge detention times. In addition, the outage duration for Digester No. 2 must be minimized because its dual membrane cover provides the only biogas storage within the raw biogas system. When Digester No. 2 is out of service, the lack of biogas storage will increase the amount of biogas that must be flared. Typically, the cleaning of a single digester without the specialty equipment required for this project would take District staff approximately twelve weeks to complete. This project supports the District's Long-term Infrastructure Investment Strategic Plan goal.

SERVICE PROVIDER SELECTION

A request for proposals (RFP) was posted on the District's website and sent to five potential proposers with known expertise in digester cleaning. Two firms submitted proposals. Synagro-WWT, Inc. was selected based on its qualifications, approach, cost, and ability to meet the expedited schedule requirement.

SUSTAINABILITY

Economic

This work is included in the FY18 budget for the Digester Upgrade Project. This work will help ensure the reliability of the digesters and the biogas storage system. It will also enable other capital improvement projects to be completed on schedule to maintain the reliability of the anaerobic digester system.

Social

The completed P-035 and P-061 forms for the Contract Equity Program are attached.

Local 444 was notified of this contract on June 19, 2017, and the District and Local 444 met to discuss the project on July 18 and July 20, 2017. Local 444 does not object to contracting this work out based on recognition of the unique circumstances surrounding Digester No. 2 cleaning; the District's acknowledgement that digester cleaning is core work and that this contract is not precedent setting; and the District's commitment to fill all currently funded vacant Wastewater Plant Operator positions.

Environmental

This contract will minimize the Digester No. 2 outage, which will maximize the quantity of biogas that can be utilized for renewable energy generation.

ALTERNATIVES

Select a different contractor. This alternative is not recommended because Synagro-WWT, Inc. has the best qualified team and approach to ensure that the work is completed on schedule and the cost is reasonable.

Perform work by District forces. This alternative is not recommended because District staff is committed to other digester cleaning work, and specialty equipment is not available to complete multiple concurrent cleaning efforts.

Delay or do not proceed with the work. This alternative is not recommended because Digester No. 2 may become inoperable if the mechanical failures are not fixed. This would result in the reduced capacity for sludge and biogas storage, and thus potential regulatory violations related to sludge detention requirements, and an increase in biogas flaring.

Attachments

P-035 – Contract Equity Program Summary
P-061 – Affirmative Action Summary



CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

TITLE Professional Services Agreement MWWTP Digester No. 2 Cleaning Contract					DATE: July 25, 2017					
CONTRACTOR: Synagro-WWT, Inc. Baltimore, MD 21220					PERCENTAGE OF CONTRACT DOLLARS					
BID/PROPOSER'S PRICE: \$446,300 *		FIRM'S OWNERSHIP		Availability Group		Contracting Objectives		Participation		
		Ethnicity White	Gender Men	White Men 25%		White Women 6%		100.0% 0.0%		
				Ethnic Minorities 25%				0.0%		
CONTRACT EQUITY PARTICIPATION										
COMPANY NAME PRIME: Synagro-WWT, Inc. SUBS: None	ESTIMATED AMOUNT \$446,300	ETHNICITY White	GENDER		CONTRACTING PARTICIPATION					
			M X	W	White-Men 100.0%	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit
TOTAL		\$446,300		100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
CONTRACTOR'S WORKFORCE PROFILE (From P-025 Form)										
		White Men	White Women	Ethnic Minorities	Total Employees					
No. of Employees:		236	34	123	393					
Percent of Total Employees:		60.1%	8.7%	31.3%						
MSA Labor Market %:		34.0%	30.2%	35.8%						
MSA Labor Market Location:		Maryland								
COMMENTS										
Contract Equity Participation - 100.0% White Men participation										
*Total not to exceed: \$446,300										
Workforce Profile & Statement of Nondiscrimination Submitted				Good Faith Outreach Efforts Requirement Satisfied			Award Approval Recommended			
NA				NA						



AGENDA NO.
MEETING DATE

9.
August 8, 2017

**TITLE ASSIGNMENT OF CONTRACT FOR SUPPLY OF REVERSE OSMOSIS
 MEMBRANE ELEMENTS FOR THE RARE WATER PROJECT**

☒ MOTION _____ ☐ RESOLUTION _____ ☐ ORDINANCE _____

RECOMMENDED ACTION

Approve the assignment of the contract for supply of reverse osmosis (RO) membrane elements for the Richmond Advanced Recycling Expansion (RARE) Water Treatment Plant, originally awarded under Board Motion No. 190-14 on December 9, 2014 in the estimated total amount after the addition of taxes of \$990,483, from TCK Membrane America, Inc., to Toray Membrane USA, Inc.

SUMMARY

In April 2016, TCK Membrane America, Inc. and Toray Membrane USA, Inc. merged operations and the combined companies now operate under the name of Toray Membrane USA, Inc. As a result, the District must formally reassign this contract to Toray Membrane USA, Inc.

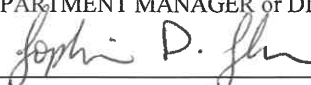

DISCUSSION

The District's contract with TCK Membrane America, Inc. is to supply RO membrane elements to replace the elements at the RARE Water Treatment Plant that have reached the end of their useful life. The contract began on December 15, 2014 and ends on December 14, 2019. The contract allows for the procurement of up to 2,600 membrane elements. In 2015 and 2016, the District replaced approximately 800 of RO membrane elements. The contract allows for future replacements as needed, prior to the end of the five-year term.

SUSTAINABILITY

Economic

There is no anticipated fiscal impact as a result of this assignment. Toray Membrane USA, Inc. will continue to provide the RO membrane elements as needed and required in the previously approved contract with TCK Membrane America, Inc.

Funds Available: FY18		Budget Code: WSC/608/5301/2009834
DEPARTMENT SUBMITTING Finance	DEPARTMENT MANAGER or DIRECTOR  Sophia D. Skoda	APPROVED  General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

Social

The completed P-035 and P-061 forms for the Contract Equity Program are attached.

Environmental

Toray Membrane USA, Inc. operates an environmental management system in compliance with the requirements of their International Organization for Standardization 14001:2004 certification.

ALTERNATIVES

Terminate the current contract and rebid. This alternative is not recommended because the District engaged in a fair and competitive bid process and obtained a bid that contains reasonable pricing.

Purchase the product on the open market. This alternative is not recommended as the District would not be taking advantage of the economies of scale which are already realized on this five-year contractual procurement.

Attachments

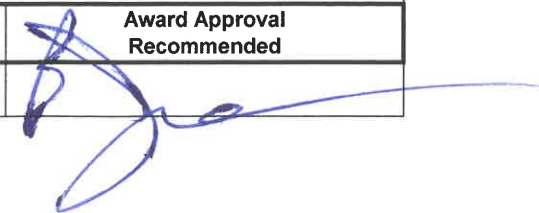
P-035 – Contract Equity Program Summary

P-061 – Affirmative Action Summary



CONTRACT EQUITY PROGRAM SUMMARY (P-035)

This summary contains information on the contractor's workforce and contract equity participation. (Completed by District)

TITLE Materials and Supplies Assignment of Contract for Supply of Reverse Osmosis Membrane Elements for the Rare Water Project						DATE: July 25, 2017					
CONTRACTOR: Toray Membrane USA, Inc.* Poway, CA 92064			QUOTATION NO.: 1508		PERCENTAGE OF CONTRACT DOLLARS						
					Availability Group		Contracting Objectives		Participation		
BID/PROPOSER'S PRICE:			FIRM'S OWNERSHIP		White Men		25%		0.0%		
			Ethnicity		Gender		White Women		2%		
\$990,483			Foreign		-		Ethnic Minorities		25%		
							25%		0.0%		
CONTRACT EQUITY PARTICIPATION											
COMPANY NAME		ESTIMATED AMOUNT	ETHNICITY	GENDER		CONTRACTING PARTICIPATION					
				M	W	White-Men	White-Women	Ethnic Minorities	Unclassified	Publicly Held Corp.	Gov't/Non Profit
PRIME: Toray Membrane USA, Inc.		\$990,483	Foreign								100.0%
SUBS: None											
TOTAL		\$990,483				0.0%	0.0%	0.0%	0.0%	0.0%	100.0%
CONTRACTOR'S WORKFORCE PROFILE (From P-025 Form)											
		White Men		White Women		Ethnic Minorities		Total Employees			
No. of Employees:		23		9		81		113			
Percent of Total Employees:		20.4%		8.0%		71.7%					
MSA Labor Market %:		20.2%		16.4%		63.5%					
MSA Labor Market Location:		Los Angeles									
COMMENTS											
Contract Equity Participation - Zero Contract Equity participation since firm is a foreign-owned corporation. *Previous Contractor - TCK Membrane America, Inc.											
Workforce Profile & Statement of Nondiscrimination Submitted				Good Faith Outreach Efforts Requirement Satisfied				Award Approval Recommended			
NA				NA							



AGENDA NO.
MEETING DATE

10.
August 8, 2017

**TITLE FUNDING AGREEMENT WITH RECLAMATION DISTRICTS FOR LEVEE
IMPROVEMENTS**

☒ MOTION ☐ RESOLUTION ☐ ORDINANCE

RECOMMENDED ACTION

Authorize execution of a Funding Agreement for Implementation of Levee Improvements and Protection of Aqueducts with Reclamation Districts Nos. 2024 (Orwood Palm), 2072 (Woodward), and 2038 (Lower Jones Tract) to define roles and responsibilities for accepting up to \$16 million in State of California Department of Water Resources (DWR) funding available as an 85 percent state share (\$13.6 million) and 15 percent local share (\$2.4 million to be paid by East Bay Municipal Utility District - EBMUD) for construction, administrative management, project management, and construction management for the projects.

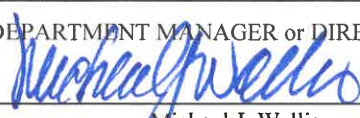
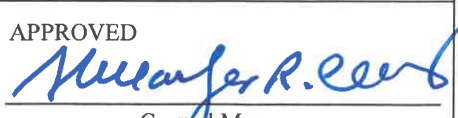
SUMMARY

EBMUD and Reclamation Districts Nos. 2024, 2072, and 2038 (Reclamation Districts) submitted a concept proposal in response to the DWR's 2016 Projects Solicitation Package for Multi-Benefit Projects to assist the Reclamation Districts with improving levee systems that protect EBMUD's water supply aqueducts from flood-related damage. The Board of Directors approved an agreement with the Reclamation Districts in July 2016 when the grant application advanced to the second phase of the application process based on a 90 percent state share 10 percent local share. DWR awarded the grant funding in early 2017, and, at their discretion, the shares were changed to 85 percent state and 15 percent local share. Based on the revised funding requirements, the July 2016 agreement has been rescinded.

The three projects that have been selected for funding by DWR further improve levees adjacent to EBMUD's aqueducts. EBMUD and the Reclamation Districts have negotiated an agreement so the Reclamation Districts can accept the DWR funding and implement the projects. Under the agreement, EBMUD will provide the local share and the Reclamation Districts will be responsible for the administrative management, project management, and construction management of the projects.

DISCUSSION

The three Mokelumne Aqueducts are steel pipelines with diameters of 65, 67, and 87 inches, constructed in the 1920s, 1940s, and 1960s, and cross the Orwood Palm and Woodward islands, and Lower Jones

Funds Available: FY18		Budget Code: WO/various/5241
DEPARTMENT SUBMITTING Operations and Maintenance	DEPARTMENT MANAGER or DIRECTOR  Michael J. Wallis	APPROVED  General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

Tract (Islands/Tracts). The Mokelumne Aqueducts are vulnerable to failures of the levees that protect these Islands/Tracts which could result in an interruption of water supply to the East Bay. The aqueduct system is protected by 55 miles of levees owned and maintained by five reclamation districts. Since the aqueducts were constructed, the Islands/Tracts have subsided to elevations as much as fifteen to twenty feet below sea level. Since the early 1980s, EBMUD has voluntarily contributed towards levee repairs and improvements on the Islands/Tracts that protect the Mokelumne Aqueducts. Five reclamation districts, with financial support from EBMUD and the DWR, have completed nine EBMUD Aqueduct Protection Levee Projects totaling over \$38.8 million. The total cost to EBMUD was about \$5.8 million from 2010 to 2014. The prior funding was not sufficient to complete the work on Reclamation Districts Nos. 2024 (Palm Orwood), 2072 (Woodward) and 2038 (Lower Jones).

The DWR has approved funding to further the rehabilitation of the remaining levees. The focus will be to bring the high priority levees to the new standard and to complete the work on remaining levees. EBMUD and the Reclamation Districts have negotiated an agreement to accept the DWR funding. Under the agreement, the Reclamation Districts' Engineer will be the engineer of record for these levee improvements, and the Reclamation Districts will remain the owners, controllers, and operators of the Reclamation Districts' levees and their improvements.

Executing this agreement supports the District's Strategic Plan goal for Long-Term Infrastructure Investment by ensuring that the Mokelumne Aqueduct system in the Delta region is adequately protected from flooding.

SUSTAINABILITY

Economic

The funds for the local share are included in the FY18-19 Capital Improvement Program budget. Completion of these levee projects will further demonstrate the local effort and EBMUD's ongoing commitment to levee improvements which will help ensure eligibility for disaster assistance.

Social

The levee improvements will protect EBMUD's water supply and the region's agricultural, cultural, and historical resources.

Environmental

The levee improvements will include ecosystem restoration.

ALTERNATIVE

Do not implement the agreement. This alternative is not recommended as these levee improvements are necessary to protect EBMUD's water supply and the region's agricultural, cultural and historical resources, as well as to protect the ecosystems in the Delta.



AGENDA NO. 11.
MEETING DATE August 8, 2017

TITLE VIRIDIS FUELS, LLC LEASE AMENDMENT

☒ MOTION ☐ RESOLUTION ☐ ORDINANCE

RECOMMENDED ACTION

Approve a Sixth Amendment to the Lease Agreement between Viridis Fuels, LLC (Viridis) and the District for a portion of the West End Property adjacent to the District's Main Wastewater Treatment Plant, in which Viridis will be allowed to defer the monthly "Additional Value" payment of \$21,666.67 for a period not to exceed five months.

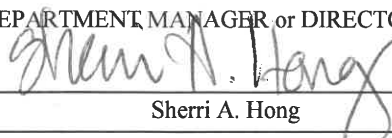

SUMMARY

In July 2017, Viridis requested an additional five-month deferral of its obligation to pay "Additional Value" payments under its lease for the District's West End property and stated that the deferred "Additional Value" payment will be paid with interest by December 1, 2017. At the July 25, 2017 Board of Directors' meeting, the Board discussed and approved the deferral and authorized staff to draft a Sixth Amendment to the lease to memorialize the terms of the deferral with a deferment date beginning July 1, 2017.

DISCUSSION

The District entered into a lease agreement with Viridis on October 27, 2011, for a portion of the West End Property adjacent to the District's Main Wastewater Treatment Plant, which Viridis plans to develop as a biodiesel fuel refining facility. The lease requires Viridis to make monthly rental payments for the use of the property, as well as monthly "Additional Value" payments. These "Additional Value" payments were meant to compensate the District in lieu of providing the District with glycerin from the refining process. Rental payments were to begin on the lease "Commencement Date," and "Additional Value" payments were to begin one year later.

The lease has been amended five times since it was originally executed, resulting in several extensions of the "Commencement Date" and Viridis' corresponding obligation to begin making rent and "Additional Value" payments. Viridis began paying \$24,393.60 in full rent and \$21,666.67 in "Additional Value" payments in July 2016.

Funds Available: FY18		Budget Code:
DEPARTMENT SUBMITTING Customer and Community Svcs.	DEPARTMENT MANAGER or DIRECTOR  Sherri A. Hong	APPROVED  General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

On December 2, 2016, Viridis requested that the District defer the “Additional Value” payments for a period beginning December 2016 for up to six months in order to relieve “substantial pressure” on Viridis’ development funds. Viridis proposed to make these deferred “Additional Value” payments with interest at the end of six months or at the close of its request for \$24,165,000 in funding from the California Pollution Control Finance Authority, whichever comes first. The Board authorized the deferment at the December 13, 2016 meeting resulting in the Fifth Amendment.

In July 2017, Viridis requested a second deferment of its obligation to make “Additional Value” payments under the lease, until December 1, 2017. Viridis explained their financing was dependent upon the completion of various permitting and California Environmental Quality Act items, currently in process to acquire. After consideration and discussion of Viridis’ request, the Board agreed again to one final deferment, and directed staff to draft a Sixth Amendment to the lease to incorporate the deferment terms. This amendment captures the terms of the Board’s authorization.

SUSTAINABILITY

Economic

A second deferral of the “Additional Value” payment for six months would temporarily result in a cost of \$260,000 to the District; however, under the terms of the Sixth Amendment, on December 1, 2017 Viridis will pay this amount plus interest that will be included in the December rent invoice.

Environmental

The District finalized and certified the Environmental Impact Report for the Main Wastewater Treatment Plant Land Use Master Plan (“EIR”), in accordance with the California Environmental Quality Act, on June 28, 2011. The EIR analyzes the impact of the biodiesel processing facility included in the Lease Agreement. The proposed deferral of the “Additional Value” payment will not change the analyzed project in any way. The District is waiting for information from Viridis to complete a required addendum or amendment to the EIR to account for Viridis’ planned project on the site.

Social

The Viridis biodiesel project intends to support local community efforts to reduce pollution in West Oakland and to provide jobs for local community members.

ALTERNATIVES

The Sixth Amendment is drafted in accordance with the Board’s direction after weighing the alternatives listed below:

Accept Request to Defer Payments. Authorize staff to prepare and execute a Sixth Amendment to the Lease Agreement that will provide for a temporary deferral of the “Additional Value” payments from December 1, 2016 through December 1, 2017. The amendment shall include an interest rate the same as the District pays on its debt for the deferred payments and Viridis will have the right to pay the deferred amount and accumulated interest sooner than December 1, 2017. It is uncertain if Viridis will be able to

pay the deferred “Additional Value” Payments at the end of the six month period should it fail to obtain its financing.

Reject the Request to Defer Payments. Do not accept Viridis’ request. Should Viridis default, the District will pursue leasing opportunities with a new party.



AGENDA NO.
MEETING DATE

12.
August 8, 2017

TITLE ALAMEDA COUNTY OPERATIONAL AREA AGREEMENT

☐ MOTION ☒ RESOLUTION ☐ ORDINANCE

RECOMMENDED ACTION

Authorize renewal of the Alameda County standard Operational Area Agreement (OAA) that provides for District participation in the County's Emergency Management Organization (EMO).

SUMMARY

California law established each county as an Operational Area that serves as a link between the state's emergency response organization and the political subdivisions in the operational area. The District coordinates emergency planning, response and recovery with the county operational areas where District operations occur. This agreement describes the relationship and approach that cities, special districts and other public benefit, non-profit organizations will use for a unified and coordinated effort to plan for, respond to, and recover from emergencies.

DISCUSSION

The State of California established the Standardized Emergency Management System (SEMS) as the standard for all emergency response agencies, and regulations require an agreement be signed between the County of Alameda and all cities and special districts within its geographic boundary to respond cooperatively in any regional emergency. Alameda County has requested that cities and special districts execute an agreement to continue participation in the Alameda County OAA through a Board Resolution. Under this standard agreement, the District will receive training and orientation, and will have access to mutual aid resources including incident command communications networks, services, supplies, and direct liaison with law enforcement, fire services, and other first response agencies. This agreement allows the District greater efficiency in emergency preparedness, response, recovery, and mitigation.

In July 2005, the Board of Directors passed Resolution 33484-05 to execute the Alameda County OAA and participate in the County's EMO. In May 2016, the updated Alameda County OAA was adopted by the Board of Supervisors. EBMUD must adopt the revised agreement to continue the District's participation in the County's EMO. The revised agreement is effective through December 31, 2025.

Funds Available: FY18		Budget Code: 782-8731
DEPARTMENT SUBMITTING Operations and Maintenance	DEPARTMENT MANAGER or DIRECTOR Michael J. Wallis	APPROVED General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

Inter-agency coordination and cooperation is crucial to a successful initial response to a disaster, as well as the process of disaster recovery. This agreement, allowing for the sharing of resources in an emergency among public agencies, is coordinated under the auspices of the California Master Mutual Aid Agreement. Under this agreement, the District resolves to name the District's Manager of Security and Emergency Preparedness, and two Security Shift Supervisors to represent the District to the EMO. Renewing the OAA supports the District's Strategic Plan goal for Customer and Community Services by maintaining an active Emergency Preparedness Program to plan for and manage the District's functions during an emergency and allow for an efficient and effective recovery following an emergency.

SUSTAINABILITY

Economic

The agreement specifies there shall not be any monetary compensation required as a condition of assistance, except for reimbursement of direct costs as designated in mutual aid agreements.

Social

This partnership with the County of Alameda, cities, special districts, and other public benefit, non-profit corporations supports a systematic approach for exchanging disaster intelligence, mutual aid requests, and resource requests in emergencies and also provides emergency preparedness on a day-to-day-basis through cooperative sharing and exercise activities.

Environmental

The preservation of life, property, and the environment is the responsibility of local, state, and federal government. This agreement helps to ensure a unified and coordinated effort between state and local government agencies.

ALTERNATIVE

Do not participate in the Alameda County Operational Area EMO. This alternative is not recommended because the District's water and wastewater systems are critical infrastructure and inter-jurisdictional cooperation is crucial to a successful response to disasters. In addition, EBMUD must engage in such agreements under the National Incident Management System to allow the District to remain eligible to apply for federal funding during and following a disaster.

RESOLUTION NO. _____

AUTHORIZING EXECUTION OF THE ALAMEDA COUNTY OPERATIONAL AREA
EMERGENCY MANAGEMENT AGREEMENT

Introduced by Director

; Seconded by Director

WHEREAS, the potential for a major catastrophe due to natural or human-caused disaster causes all government entities within Alameda County to be prepared to share resources and information among themselves as well as with the State of California in order to protect public welfare; and

WHEREAS, greater efficiency and disaster preparedness, response, recovery, and mitigation can be achieved by joining the efforts of the County of Alameda, its cities, special districts, and other public benefit non-profit corporations together in pre-disaster agreements; and

WHEREAS, the California Emergency Services Act makes reference to the “operational area” and defines it as “an intermediate level of the state emergency services organization” created to perform extraordinary functions for local governments within a county area such as strengthening mutual coordination, providing a focal point and conduit for disaster information, and assisting in the efficient management of resources; and

WHEREAS, the sharing of resources in an emergency among public agencies is coordinated under the auspices of the California Master Mutual Aid Agreement; and

WHEREAS, in July 2005, the East Bay Municipal Utility District’s (“District”) Board of Directors passed Resolution 33484-05 authorizing the execution of the Alameda County Operational Area Agreement so as to allow the District to participate in the County’s Emergency Management Organization; and

WHEREAS, under this standard agreement, the District has received training and orientation, and will have access to mutual aid resources, including incident command communications networks, services, supplies, and direct liaison with law enforcement, fire services, and other first response agencies in the event of an emergency; and

WHEREAS, the agreement allows the District greater efficiency in emergency preparedness, response, recovery and mitigation; and

WHEREAS, every 10 years, the District must enter into a new agreement with the County of Alameda, in order to allow the District a continuing partnership for exchanging disaster intelligence, mutual aid requests and resource requests during emergencies; and

WHEREAS, in May 2016, the Alameda County Operational Area Agreement was adopted by the County Board of Supervisors; and

WHEREAS, the District must now execute this agreement with the County of Alameda in order to renew the District's continuing partnership for communications and resource requests during emergencies.

NOW THEREFORE, BE IT RESOLVED, that the General Manager is hereby authorized and directed to execute the *Agreement for Participation in Alameda County Operational Area Emergency Management Organization*, in the form approved by the Alameda County Board of Supervisors on May 10, 2016; and

BE IT FURTHER RESOLVED, that the General Manager shall designate, in writing, the following:

- 1) Three persons who will be provided training and orientation to the policies and procedures so that they may represent the District to the Operational Area Emergency Management Organization; and
- 2) A line of succession of officials who are empowered to represent the District to the Operational Area Emergency Management Organization as follows: the Director of Operations and Maintenance; the Manager of Security and Emergency Preparedness; and the Security Supervisors.

BE IT FURTHER RESOLVED, that the General Manager shall provide these two lists to the Alameda County Operational Area Emergency Management Organization within thirty (30) days of adoption of this Resolution.

ADOPTED this 8th day of August, 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

President

Secretary

APPROVED AS TO FORM AND PROCEDURE:

General Counsel

{00019001;2}



AGENDA NO.
MEETING DATE

13.
August 8, 2017

TITLE **SPECIAL DISTRICT NO. 1 GENERAL OBLIGATION BOND TAX RATE**

☐ MOTION ☒ RESOLUTION ☐ ORDINANCE

RECOMMENDED ACTION

Fix the ad valorem tax rate for Special District No.1 (SD-1) to cover debt service, delinquencies, and county administrative fees in the amount of \$1,233,564 on Wastewater System General Obligation (GO) Bond Series G for Fiscal Year 2018 (FY18) at a rate of \$0.0011 per \$100 of assessed value for properties located within the service area of SD-1.

SUMMARY

In accordance with Section 12899 of the Municipal Utility District (MUD) Act, the fixing of the ad valorem tax rate for FY18 is the necessary administrative process to continue the collection of the tax. The county tax collector relies on the certification of the formal annual "fixing" of the rate by the Board as authority to include the levy on the tax bill for the current fiscal year. This is the final time we will set and collect the ad valorem tax as FY18 is the final year of debt service on the GO bonds.

DISCUSSION

Following a public meeting on July 25, 1995 and a public hearing on August 8, 1995, the Board adopted a policy utilizing an ad valorem tax to cover the GO bond debt service approved by SD-1 voters in 1970. The basis of the ad valorem tax is the assessed values of secured and unsecured property established by the assessors of Alameda and Contra Costa counties. Alameda and Contra Costa counties are authorized to collect the ad valorem tax for SD-1 and to withhold customary fees and charges for collection, which are limited by statute to no more than one-half of one percent of the amount of ad valorem tax collected.

The table below shows the calculation that was used to develop the ad valorem tax rate for FY18. The FY18 payment is the final GO bond debt service payment.

Funds Available: FY		Budget Code:
DEPARTMENT SUBMITTING Finance	DEPARTMENT MANAGER or DIRECTOR Sophia D. Skoda	APPROVED General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

Special District No. 1 General Obligation Bond Tax Rate

August 8, 2017

Page 2

Wastewater System General Obligation Bond Series G - Ad Valorem Tax Rate		
	FY17	FY18
Debt Service	\$4,126,950	\$3,620,450
Offsetting Property Tax Revenue	(1,436,523)	(2,416,931)
Delinquencies*	41,582	24,213
County Collection Fee (0.50%)	<u>12,932</u>	<u>5,832</u>
Total Tax Collected	\$2,744,941	\$1,233,564
Estimated Assessed Valuation		
Alameda County		
Secured and Utility	\$85,641,229,317	\$92,000,188,539
Unsecured**	5,492,659,692	5,458,719,232
Contra Costa County		
Secured and Utility	5,610,222,636	5,966,943,830
Unsecured**	<u>64,230,394</u>	<u>60,395,094</u>
Total	\$96,808,342,039	\$103,486,246,695
Ad Valorem Tax Rate (\$/\$100 of Assessed Value)	0.0028	0.0011

*Delinquencies in Alameda County are projected at 4.41% on unsecured property and 1.46% on secured property; delinquencies in Contra Costa County are 0% as the county forwards the full amount levied regardless of actual collections.

**Unsecured property is assessed in arrears so FY17 tax rate of 0.0028 is used on prior year unsecured property levy.

As shown in the table above, the tax rate of \$0.0011 per \$100 (\$1.10 per \$100,000) of assessed value for FY18 is a decrease of \$0.0017 per \$100 (approximately 61%), from the FY17 tax rate of \$0.0028 per \$100 of assessed value. This results in part from the offsetting property tax revenues shown in the above table. These are property taxes collected by the counties since 2012 in excess of the funds required by the District to pay debt service and other associated expenses. This allows the District to lower the costs of debt service for property tax payers for the final year of debt service. A second reason for the reduction in the ad valorem tax rate is that property valuations within the SD-1 service area have increased as a result of a strong local real estate market which decreases the tax rate needed to recover the required revenue. Assessed value in the SD-1 service area increased by 6.9 percent between FY17 and FY18.

The levy of \$0.0011 per \$100 of assessed value will generate sufficient revenues to cover the debt service on outstanding GO bonds for FY18 as provided in the District's budget.

SUSTAINABILITY

Economic

Fixing the ad valorem tax rate at a rate of \$0.0011 per \$100 of assessed value covers expected debt service, delinquencies, and county administrative fees with no use of wastewater rate funds.

Social

Fixing the ad valorem tax rate at a rate of \$0.0011 per \$100 of assessed value reflecting offset from funds received allows for a reduced tax burden on existing customers within the SD-1 service area, while covering expected debt service, delinquencies, and county administrative fees.

ALTERNATIVE

Use funds from wastewater rates and charges to pay debt service on the bonds instead of the voter approved property tax. This alternative is not recommended. The District has already noticed and adopted its FY18 wastewater treatment charges in conformance with notice requirements under Proposition 218 and the tax levy has been in place since 1995.

ARC:SDS:TG

RESOLUTION NO. _____

FIXING THE RATE OF TAX FOR EAST BAY MUNICIPAL
UTILITY DISTRICT SPECIAL DISTRICT NO. 1

Introduced by Director

; Seconded by Director

WHEREAS, pursuant to an election duly and regularly held in East Bay Municipal Utility District on November 3, 1970, the Board of Directors on June 8, 1971, adopted Resolution No. 25676 providing for the issuance of \$60,000,000 principal amount of East Bay Municipal Utility District Special District No. 1 Bonds, Issue of 1970 (the "Bonds"), authorizing the issuance of said Bonds in series and providing for the levy of a tax on the property of said Special District to pay the principal and interest of said bonds; and

WHEREAS, on August 8, 1995, following a duly noticed public hearing, the Board of Directors adopted Resolution No. 32933-95 determining (1) that the revenues of East Bay Municipal Utility District Special District No. 1 would not be sufficient to pay the principal of and interest on the Bonds as the same become due, or to carry out the objects and purposes of said Special District No. 1, or to provide a sum for sinking fund purposes for the retirement of the Bonds and (2) that a tax shall be levied upon properties within the Special District No. 1 for the payment of the principal of and interest on the Bonds and fixed the rate of taxation for fiscal year 1996; and

WHEREAS, the Board of Directors, having elected to avail itself of the assessments made by the assessors of Alameda and Contra Costa Counties and by the State Board of Equalization for the two counties, is required by Public Utilities Code section 12899 to fix the rate of tax using as a basis the value of property transmitted annually to the Board of Directors by the county auditors; and

WHEREAS, the Board of Directors hereby determines that the total amount of revenue required by Special District No. 1 which will be derived from ad valorem tax on property on the tax roll, for the fiscal year beginning July 1, 2017, and ending June 30, 2018, is the sum of \$1,233,564 and divides the sum so determined between the counties of Alameda and Contra Costa as follows: Alameda County, \$1,161,258; Contra Costa County, \$72,306;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the East Bay Municipal Utility District that the rate of taxation for East Bay Municipal Utility District Special District No. 1, for the Fiscal Year 2018 beginning July 1, 2017, and ending June 30, 2018, is hereby fixed at the rate of \$0.0011 upon each \$100 of the valuation of secured property as so assessed by the County Assessor of Alameda County and by the State Board of Equalization for the property within Alameda County, and at \$0.0011 upon each \$100 of assessed valuation of secured property as so assessed by the County Assessor of Contra Costa County and by the State Board of Equalization for the property within Contra Costa County, said rates of tax being

necessary to raise the amount of revenue hereinbefore apportioned to each county by the Board of Directors.

BE IT FURTHER RESOLVED that the Secretary is hereby instructed to immediately transmit to the County Auditors of said counties, respectively, a statement of the rate of taxation so fixed by the Board of Directors by filing with each of said County Auditors a certified copy of this resolution.

BE IT FURTHER RESOLVED that there shall be set aside out of the sum raised by the foregoing tax levy and/or out of other revenues of said Special District No. 1 amounts sufficient to constitute sinking funds to pay the outstanding Bonds of said Special District No. 1, as it becomes due, and the interest on any of said Bonds, which interest becomes due before the next general tax levy, and to carry out the objects and purposes of said Special District No. 1.

BE IT FURTHER RESOLVED that Fiscal Year 2018 shall be the final time the District sets and collects the ad valorem tax as it is the final year of the debt service on the General Obligation bond adopted pursuant to Resolution No. 32933-95.

ADOPTED this 8th day of August, 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

President

ATTEST:

Secretary

APPROVED AS TO FORM AND PROCEDURE:

General Counsel

{00019456;1}



AGENDA NO.
MEETING DATE

14.
August 8, 2017

TITLE APPOINTMENT OF MANAGER OF MAINTENANCE SUPPORT

☐ MOTION ☒ RESOLUTION ☐ ORDINANCE

RECOMMENDED ACTION

Appoint Gina L. Jenkins as the Manager of Maintenance Support effective August 21, 2017.

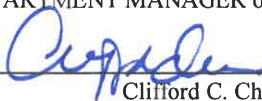

SUMMARY

The Manager of Maintenance Support will be responsible for the construction, installation, maintenance, and repair of infrastructure including the District's meters and backflow devices, meter reading, Fleet management, and construction and equipment support. The Maintenance Support Division is a new division in the Maintenance and Construction Department, replacing the Meter Reading and Maintenance Division.

Ms. Jenkins is recommended for appointment to this position. This position is exempt from the civil service provisions of the Municipal Utility District Act in accordance with Section 12055.

Ms. Jenkins is currently the Manager of Meter Reading and Maintenance and has been in that position since 2013. She has managed the division and is responsible for planning, organizing, and directing the activities of her division including meter reading and maintenance, equipment acquisition, budgeting, automated meter reading, staff health and safety, and staff development. Prior to her current role, Ms. Jenkins was the Customer Services Manager in the Customer and Community Services Department at the District.

Ms. Jenkins holds a Master's of Business Administration from Holy Names University and a Bachelor's in Mass Communications and English from California State University Hayward.

Funds Available: FY		Budget Code:
DEPARTMENT SUBMITTING	DEPARTMENT MANAGER or DIRECTOR	APPROVED
Maintenance and Construction	 Clifford C. Chan	 General Manager

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Contact the Office of the District Secretary with questions about completing or submitting this form.

RESOLUTION NO. _____

APPOINTING GINA L. JENKINS AS MANAGER OF MAINTENANCE SUPPORT

Introduced by Director

; Seconded by Director

WHEREAS, at the July 11, 2017 meeting of the Board of Directors, the Board authorized a change to the class title of Manager of Meter Reading & Maintenance to Manager of Maintenance Support and to increase the salary range for the newly titled position as codified in Resolution 35048-17;

WHEREAS, the Board of Directors has established the position of Manager of Maintenance Support in the Maintenance Support Division, and such position has been assigned a salary range under the Management Salary Plan heretofore established for District officers, assistant officers, civil service exempt and certain civil service classes; and

WHEREAS, the Manager of Maintenance Support position is exempt from the District civil service pursuant to State of California Public Utilities Code section 12055; and

WHEREAS, the position of Manager of Meter Reading & Maintenance was held by the incumbent, Gina L. Jenkins; and

WHEREAS, as the incumbent holding the position of Manager of Meter Reading & Maintenance, the District desires Gina L. Jenkins to continue to serve in the newly titled position of Manager of Maintenance Support, and the General Manager has recommended that Gina L. Jenkins continue to serve as Manager of Maintenance Support;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the East Bay Municipal Utility District that it hereby appoints Gina L. Jenkins to serve as Manager of Maintenance Support effective August 21, 2017.

Adopted this 8th day of August, 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

President

Secretary

APPROVED AS TO FORM AND PROCEDURE

General Counsel



AGENDA NO.

15.

MEETING DATE

August 8, 2017

TITLE **FIRST AMENDMENT TO WATER THEFT PENALTY ORDINANCE**☐ MOTION ☐ RESOLUTION ☒ ORDINANCE**RECOMMENDED ACTION**

Introduction and first reading of an ordinance amending Water Theft Penalty Ordinance No. 365-15 ("Ordinance") enacted by the Board of Directors on April 28, 2015, to reduce the applicable penalties for water theft resulting from meter tampering from \$1,000, \$2,000, \$3,000 to \$200, \$400, \$800 for first, second, and third offenses, respectively.

SUMMARY


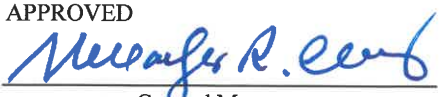
On April 28, 2015, the Board adopted Water Theft Penalty Ordinance No. 365-15 to provide the District with authority to impose administrative penalties on any individual who attempts water theft, including the unauthorized use of water from a public fire hydrant or other facilities, as set forth in the Ordinance. The proposed amendments reflect input from the Finance/Administration Committee on June 27, 2017 to reduce the applicable penalties for water theft via meter tampering and retain the existing penalties for water theft resulting from lateral diversions and unauthorized hydrant use. Additional non-substantive revisions were also made to the Ordinance for clean-up and clarification purposes (see Exhibit A). A second reading of the proposed amendments will be conducted on September 12, 2017.

DISCUSSION

Water theft, including the unauthorized use of the District's water resources, impacts the District as unknown or unmetered quantities of water are taken without the District's knowledge, consent or compensation. Water theft, as defined in the Ordinance, includes the unauthorized use, diversion, receipt or taking of District water by any means without paying the full and lawful District fees or charges. This can occur at a hydrant, service lateral, or via meter tampering. Water theft is a misdemeanor under the California Penal Code. The purpose of the Ordinance is to further deter water theft by authorizing the District to impose an administrative penalty on customers who engage in water theft. Government Code Section 53069.4 allows:

"[t]he legislative body of a local agency...by ordinance [to] make any violation of any ordinance enacted by the local agency subject to an administrative fine or penalty."

While the Ordinance has been effective in reducing water theft, the District has received extensive feedback that the associated penalties have disproportionately impacted low-income customers and made it more difficult for them to maintain water service and avoid shutoffs.

Funds Available: FY		Budget Code:
DEPARTMENT SUBMITTING Customer and Community Svcs.	DEPARTMENT MANAGER or DIRECTOR  Sherri A. Hong	APPROVED  General Manager

Contact the Office of the District Secretary with questions about completing or submitting this form.

In response to this feedback, during the Finance/Administration Committee meeting on June 27, 2017, staff presented the following options to address water theft:

Make no change to the existing ordinance; or

- A. Reduce the penalty charges for meter tampering (restoral of service) and lateral diversions (illegal connections) and retain the existing penalty charge for unauthorized hydrant use; or
- B. Eliminate meter tampering from the ordinance as there are other mechanisms and fees in place to address tampering. Retain lateral diversions (unauthorized connection) and hydrant use as applicable theft types; or
- C. Eliminate the Water Theft Penalty Ordinance in its entirety and retain the other required charges associated with tampering to obtain/restore service.

The Committee recommended an additional option “D” to reduce the applicable penalties for water theft via meter tampering to \$200, \$400, and \$800 for the first, second, and third occurrence, and retain the existing penalties of \$1,000, \$2,000 and \$3,000 for water theft resulting from lateral diversions and unauthorized hydrant use. Committee members reasoned that it is appropriate to have lower penalties for meter tampering because it results in lower costs and lesser water loss to the District than the other forms of water theft. Water theft from hydrants, and/or the improper use of hydrant meters results in greater water loss to the District than water theft resulting from meter tampering, and may also include the further offense of reselling of District water. Similarly, water theft in the form of lateral diversion poses significant risks and costs to the District and the community because it could result in compromising the District’s water quality, adverse public health impacts, loss of revenues from water sales, and damage to District facilities.

The costs and various options are outlined below:

Theft Type	No Change to Ordinance	Option A - Reduce Tampering and Diversion	Option B - Eliminate Tampering	Option C - Eliminate Ordinance	ADDITIONAL Option D – Reduce Tampering	Other charges imposed under current rates and charges
Meter Tampering	\$ 1,000/ \$ 2,000/ \$ 3,000	\$ 200/ \$ 400/ \$ 800	No Penalty Charge ¹	No Penalty Charge ¹	\$ 200/ \$ 400/ \$ 800	Trip Chgs \$ 92 Lock 59 Plug <u>402</u> \$ 553
Lateral Diversion	\$ 1,000/ \$ 2,000/ \$ 3,000	\$ 200/ \$ 400/ \$ 800	\$ 1,000/ \$ 2,000/ \$ 3,000	No Penalty Charge ¹	\$ 1,000/ \$ 2,000/ \$ 3,000	¹ Lateral \$ 6,200
Unauthorized Hydrant Use	\$ 1,000/ \$ 2,000/ \$ 3,000	\$ 1,000/ \$ 2,000/ \$ 3,000	\$ 1,000/ \$ 2,000/ \$ 3,000	No Penalty Charge ¹	\$ 1,000/ \$ 2,000/ \$ 3,000	¹ Site visit \$ 222

¹Other charges applicable under EBMUD’s rates and charges apply

The Ordinance provides that any proposed water theft penalty levied by the District may be appealed in writing to the District within 15 days of the date of the invoice. Denied appeals can be resubmitted and escalated two additional times before the appeal is deemed final.

This action supports the District's Strategic Plan goal for Long-Term Financial Stability to implement water and wastewater rates and charges that are legal, fair, reasonable, and equitable.

SCHEDULE

This is the first reading of the proposed amended Water Theft Penalty Ordinance. The second reading and final action is currently set for the September 12, 2017 Board meeting. If adopted by the Board on September 12, 2017, the Water Theft Penalty Ordinance would take effect 30 days after its passage.

SUSTAINABILITY

Economic

Reducing the penalty for meter tampering to a more reasonable amount may increase collection of the penalty.

Social

This action will help address the unintended consequences of the high penalty impacts to low-income customers and their ability to maintain water service.

ALTERNATIVES

Do not approve the proposed ordinance amendment. This alternative is not recommended. The amendment to the Ordinance will help address impacts to low-income customers.

Select a different option. The Board has the discretion to select an alternative option.

ORDINANCE NO. _____

WATER THEFT PENALTY ORDINANCE

Introduced by Director

; Seconded by Director

WHEREAS, California Penal Code section 498 prohibits the theft of utility services, including water; and

WHEREAS, California Penal Code section 624 prohibits every person from willfully damaging, tampering with, or digging up water pipes or waterworks; and

WHEREAS, California Penal Code section 625 prohibits every person who, with intent to defraud or injure, opens or causes to be opened, or draws water from any disconnected utility connection after having been notified that the same has been closed or shut for specific cause, by order of competent authority; and

WHEREAS, any person who violates Penal Code sections 498, 624, or 625 is guilty of a misdemeanor; and

WHEREAS, California Civil Code section 1882 *et seq.* authorizes the East Bay Municipal Utility District (the "District") to bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts any of the following acts:

- a. Diverts, or causes to be diverted, utility services by any means whatsoever.
- b. Makes, or causes to be made, any connection or reconnection with property owned or used by the utility to provide utility service without the authorization or consent of the utility.
- c. Prevents any utility meter, or other device used in determining the charge for utility services, from accurately performing its measuring function by tampering or by any other means.
- d. Tampers with any property owned or used by the utility to provide utility services.
- e. Uses or receives the direct benefit of all, or a portion, of the utility service with knowledge of, or reason to believe that, the diversion, tampering, or unauthorized connection existed at the time of the use, or that the use or receipt, was without the authorization or consent of the utility; and

WHEREAS, pursuant to California Civil Code section 1882 *et seq.*, the District may bring a civil action for the unauthorized use of District water; and

WHEREAS, the District's "Regulations Governing Water Service to Customers of the East Bay Municipal Utility District" (the "Regulations"), including Sections 7, 15, 19, and 23, establish rules and regulations that govern the use of water and prohibit water theft from District facilities; and

WHEREAS, pursuant to California Government Code section 53069.4, the District may, by ordinance, make the violation of any ordinance enacted by its Board of Directors subject to a civil administrative fine or penalty; and

WHEREAS, because water is a vital resource, the District has determined that it is appropriate to impose civil administrative fines for the theft of water to protect this vital resource; and

WHEREAS, water theft from hydrants and/or the improper use of hydrant meters results in greater water loss to the District than water theft resulting from meter tampering, and may involve a more egregious violation which includes the reselling of water; and

WHEREAS, water theft in the form of lateral diversion poses significant risks and costs to the District and the community because it may result in compromising water quality, adverse public health impacts, loss of revenues from water sales, and damage to District facilities; and

WHEREAS, those engaging in water theft in the form of unauthorized hydrant use and lateral diversions typically involve individuals who avoid obtaining proper service from the District and paying the associated fees, have a more egregious intent of theft, do not have District water service accounts, and thus impose greater costs to the District in identifying and pursuing them for the purposes of this Ordinance.
; and

BE IT ENACTED by the Board of Directors of the East Bay Municipal Utility District as follows:

Section 1. Recitals. The District hereby finds and determines that the above recitals are true and correct and are incorporated herein.

Section 2. Administrative Penalties.

a. For the purposes of this Ordinance, "water theft" means and includes all of the following:

1. the use, diversion, receipt or taking of District water by any means from any public fire hydrant, blow-off valve, water main, water service lateral or other District facility or connection to a District facility, to which a District authorized metering device has not been installed or has been removed by the District; and

2. the use, diversion, receipt, or taking of District water by any means without paying the full and lawful District fees or charges for such water, or by tampering with District property or facilities, such as by removing a lock or plug that has been placed on a customer's service or meter, or unauthorized use, or by tampering with a service connection or bypassing a meter, or by making an unauthorized connection to any District facilities and any public fire hydrant.

3. For the purposes of this ordinance, "unauthorized use" includes the use of water from a stationary service connection where lawful water service has been discontinued or from a public fire hydrant to supply water outside of the District service area, regardless of whether payment is provided to the District for the water drawn from the public fire hydrant, or any use of a hydrant meter in violation of the terms and conditions of a hydrant meter permit.

b. Water theft is prohibited. Each act of water theft constitutes a misdemeanor.

c. The District may report any water theft to the appropriate prosecuting agency and press for prosecution of said activity pursuant to the Penal Code. In addition to pursuing criminal penalties, the District, upon discovering water theft or tampering with District property, may also pursue the following remedies or other remedies available at law or equity:

1. require the immediate removal of any equipment, connections or tools used to accomplish the water theft that is attached to District property;

2. require compliance with District regulations and standards for proper water service;

3. charge the ~~customer or perpetrator~~person committing the water theft an administrative penalty ~~of~~ based on type of water theft, as set forth below:

A. Water Theft Via Meter Tampering

i. \$1,000-200 for the first violation;

ii. B. — \$2,000-400 for a second violation within a twelve-month period; and

iii. \$3,000-800 for each violation thereafter within a twelve-month period.

B. All Other Forms of Water Theft

i. \$1,000 for the first violation;

ii. \$2,000 for a second violation within a twelve-month period; and

iii. \$3,000 for each violation thereafter within a twelve-month period.

Section 3. Other Remedies. In addition to any other remedies provided in this Ordinance or available under applicable law, the District may alternatively seek injunctive relief in the Superior Court or take enforcement action. All remedies provided herein shall be cumulative and not exclusive. If a District customer or any other person turns on water service without District authorization, tampers with any locked water meter, tampers with a service connection or District facilities, bypasses a meter, ~~or~~ otherwise makes an unauthorized connection to District facilities without District permission, or commits water theft, the District may do any, or a combination of any, of the following:

- a. turn off the water service and install a lock;
- b. estimate, if necessary, the water taken and charge the customer, offender and/or ~~water-recipient~~ of the stolen water three times the normal rate of the water taken or estimated to be taken from the District facility;
- c. charge the customer, offender ~~or and/or water-recipient~~ of the stolen water for the damage to the District lock, meter or other property;
- d. remove the meter and plug the service;
- e. terminate and remove the service from its connection to the water main;
- f. charge the customer a deposit of two times the amount of the estimated average periodic bill use to reestablish service;
- g. require the return of any District hydrant meter; and
- h. prohibit any person who has committed three violations of this Ordinance within a twelve-month period from obtaining a District hydrant meter permit for a period of three (3) years from the date of the third violation.

Section 4. Payment and Appeal Procedures. The District shall calculate the amount of damages and penalty(ies) to be imposed, and shall send a bill to the customer, or if the offender is not a customer of record or the recipient of stolen water, an invoice for payment of the damages or penalty(ies) may be sent to the offender and/or ~~water-user or the~~ recipient of the stolen water.

- a. All costs relating to the District's processing and handling of the water theft, investigation and enforcement thereof, and potential charges for reestablishment of service, shall be borne by the party having responsibility for the water account at the time of the water theft, or if there is no customer of record, by the offender or ~~water-user or~~ recipient of the stolen water. These charges include, but are not limited to, service call charges, water charges, turnoff of service, charges for damage to District facilities and equipment, and plug and/or termination fees. Before the meter will be replaced and service reestablished, the party requesting service, if

in any way involved in or related to, or associated with, parties involved in the water theft, shall deposit twice the average bi-monthly water bill, plus the standard meter reinstallation fee, in addition to all service call charges, and an amount representing any damage to District property.

b. All charges relating to the District's processing and handling of the water theft involving the taking of water from a public fire hydrant shall be borne by the offender and/or water user or the recipient of the stolen water, including, but not limited to, the cost of any water, charges for any damage to District facilities and equipment, and costs of investigation and enforcement.

c. Any person (an "appellant") who wishes to appeal the imposition of an administrative penalty imposed by the District pursuant to this Ordinance, or who wishes to appeal the imposition of a three-year prohibition on a hydrant meter permit pursuant to Section 3(h), shall comply with the following procedures:

1. The appellant shall submit an appeal request form to the District's Customer Service Division no later than fifteen (15) calendar days from the date of the bill or invoice sent to the customer or offender.

2. A response to the appeal request shall be provided by the District within thirty (30) calendar days from receipt of the appeal request form.

3. If an appeal request is denied, the appellant may resubmit the appeal request form no later than fifteen (15) calendar days from the date of the denial for review by the District's Customer Service Manager.

4. If an appeal request is denied, the appellant may resubmit the appeal request form for review by the District's Manager of Customer and Community Services Department, or his or her authorized designee. The request form shall be resubmitted no later than fifteen (15) calendar days from the date of the denial of the appeal by the District's Customer Service Manager. The appellant may request to provide evidence in writing or in person in support of his or her appeal to the District's Manager of Customer and Community Services Department, or his or her authorized designee.

5. The decision by the District's Manager of Customer and Community Service, or authorized designee, shall be final.

6. Within ten (10) days after the denial of the appeal is deemed final, the appellant shall pay any disputed penalty(ies) imposed by the District.

7. The provisions of Section 1094.6 of the Code of Civil Procedure of the State of California shall be applicable to judicial review of the decision.

Section 5. Conflicting Provisions. If provisions of this Ordinance are in conflict with each other, other provisions of the District's regulations or policies, any other resolution or

ordinance of the District, or any State law or regulation, the more restrictive provisions shall apply.

Section 6. Severability. If any provision, section, subsection, sentence, clause or phrase or sections of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance shall not be affected, it being the intent of the Board of Directors in adopting this Ordinance that no portions, provisions, or regulations contained herein shall become inoperative, or fail by reason of the unconstitutionality of any other provision hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 7. Effective Date. This Ordinance shall become effective and in full force at 12:01 a.m. on the thirty-first day after its passage.

President

I HEREBY CERTIFY that the foregoing Ordinance was duly and regularly introduced at a regular meeting of EAST BAY MUNICIPAL UTILITY DISTRICT held on April 14, 2015, at the offices of said District, 375 - 11th Street, Oakland, California, and thereupon, after being read, further action was scheduled for the regular meeting of said Board of Directors held at the same place on April 28, 2015, at which time the same Ordinance was finally adopted. ~~by the following vote:~~ An amendment to the foregoing Ordinance was duly and regularly introduced at a regular meeting of EAST BAY MUNICIPAL UTILITY DISTRICT on August 8, 2017, and thereupon, after being read, further action was scheduled for the regular meeting of said Board of Directors on September 12, 2017, at which time the Amended Ordinance was finally adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Secretary

APPROVED AS TO FORM AND PROCEDURE:

General Counsel

{00019438;1}

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: August 3, 2017

MEMO TO: Board of Directors

FROM: Alexander R. Coate, General Manager *ARC*

SUBJECT: Legislative Report No. 09-17

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.

RECOMMENDED ACTION

Approve positions on the following bills: 1) Support if Amended SB 606 (Skinner) Water Conservation; 2) Support H.R. 1071 (Tonko) Assistance, Quality, and Affordability Act of 2017; 3) Support H.R. 2510 (DeFazio) Water Quality Protection and Job Creation Act of 2017; 4) Support S. 1464 (Feinstein) Water Conservation Tax Parity Act; receive information on H.R. 2862 (Simpson) Wildfire Disaster Funding Act; and discuss and consider SB 623 (Monning) Water Quality: Safe and Affordable Drinking Water Fund.

STATE LEGISLATION

RECOMMENDED POSITION

SB 606 WATER CONSERVATION (Skinner)

SUPPORT IF AMENDED

At the May 9th meeting, the Board adopted positions on five pieces of legislation relative to drought planning and long-term water conservation. The Board adopted “support if amended” positions on AB 968 (Rubio) and AB 1669 (Friedman), both of which addressed the topic of long-term water use targets. The Board also adopted “support if amended” positions on AB 1654 (Rubio) and AB 1668 (Friedman), both of which addressed the topic of drought response and urban water management planning. The Board adopted an “oppose unless amended” position on draft Budget Trailer Bill 810, which contains substantially similar language as AB 1668 and AB 1669, on the basis that the policy should be considered in the regular legislative process rather than the budget trailer bill process.

The legislature is currently considering the policy proposed by these bills and has identified three measures as potential vehicles, AB 1654, AB 1668 and SB 606 (Skinner), as amended on July 13. All three bills have been amended to include only intent language, with each bill stating that it is the intent of the legislature to enact legislation necessary to help make water conservation a California way of life.

To be consistent with EBMUD's position on the other policy bills, staff is requesting a "support if amended" position on SB 606. Staff will continue to work with the authors, the legislature, and other stakeholders in an effort to reach an acceptable approach.

FEDERAL LEGISLATION

H.R. 1071 ASSISTANCE, QUALITY, AND AFFORDABILITY SUPPORT (Tonko) ACT OF 2017

The Drinking Water State Revolving Fund (DWSRF) program was created in 1996 as a federal-state partnership to help ensure safe drinking water by providing federal funding to drinking water infrastructure projects. The United States Environmental Protection Agency (U.S. EPA), after funds are appropriated by Congress, provides grants to states to fund DWSRF loan programs. States contribute a 20-percent match and provide various types of assistance for drinking water infrastructure projects including grants, loans, refinancing, and loan guarantees.

In addition, the Safe Drinking Water Act requires public water systems to take specified actions to test for and remediate certain contaminants in drinking water, including lead and copper. Existing law prohibits the use of any pipe, pipe or plumbing fitting or fixture, solder, or flux that is not lead-free in the installation or repair of any public water system or any plumbing in a facility providing water for human consumption.

H.R. 1071 (Tonko), is known as the Assistance, Quality, and Affordability Act of 2017 (AQUA Act) and is co-sponsored by Representative Jerry McNerney. Substantially similar to H.R. 4653 (Tonko) from 2016, which EBMUD supported, the AQUA Act is intended to provide increased funding authorizations for water infrastructure projects. The measure would primarily do two things: 1) authorize approximately \$21 billion to support the DWSRF over five years, 2018 through 2022; and 2) increase funding for a grant program established by last year's S. 612 (Cornyn), known as the Water Infrastructure Improvements for the Nation (WIIN) Act, to assist with removal of lead service lines from public water systems. The AQUA Act includes additional provisions making changes to the administration of the DWSRF, including, additional assistance for disadvantaged communities, as well as provisions for drought mitigation and response planning and evaluating impacts of pharmaceuticals and personal care products in sources of drinking water.

DWSRF

With regard to the DWSRF, a long-term authorization of the DWSRF has not occurred since its initial authorization expired in 2003. Without a long-term authorization, funding for this important water infrastructure assistance program is dependent on being included in annual budget and appropriation measures. The AQUA Act would authorize the DWSRF for five years at higher funding levels than the program has received in the past, beginning with \$3.13 billion in fiscal year 2018 and increasing by 15 percent annually thereafter to provide \$5.5 billion in fiscal year 2022.

Historically, EBMUD has been supportive of efforts to continue funding the State Revolving Fund (SRF) programs. Most recently, in 2016, in addition to supporting H.R. 4653, EBMUD requested that Representative Barbara Lee support an appropriation for the SRF. By providing a long-term authorization, the AQUA Act would allow congress to increase the SRF appropriations over the longer term. Increased DWSRF funding levels could benefit EBMUD as EBMUD is currently seeking DWSRF funding for various infrastructure projects, including the South Reservoir and the MacArthur-Davenport Pipeline Replacement Projects.

Removal of lead service lines

The WIIN Act, enacted last year, included provisions intended to protect drinking water by establishing a grant program and authorizing \$300 million in funding, over five years, to facilitate the removal of lead service lines. The AQUA Act would increase this funding to \$500 million over five years, \$100 million annually for fiscal years 2018 through 2022, for the grant program to remove lead service lines from public water systems.

With regard to EBMUD, in compliance with federal regulations adopted in the 1990s, EBMUD has replaced known lead service lines in its system, has developed and implemented a corrosion control plan, and has been monitoring lead levels at customer home fixtures since 1992. EBMUD is also completing an inventory of its service line material and is replacing any lead service lines as they are identified. In addition, EBMUD has been a leader in efforts to promote the protection of public health by reducing lead exposure in drinking water. EBMUD was a strong proponent of federal legislation, S. 3874 (Boxer) in 2010 which was signed into law, modeled after California's landmark "Get the Lead Out" legislation sponsored by EBMUD, to essentially adopt a "lead-free" standard for pipes and plumbing fixtures nationwide.

Other provisions

The AQUA Act includes other provisions intended to provide additional DWSRF funding assistance to public water systems serving disadvantaged communities; require the U.S. EPA to develop a strategic plan for assessing and managing the risk of drought to drinking water; require the U.S. EPA to study the presence of pharmaceuticals and personal care products in sources of drinking water to identify the source of such products in drinking water, the effects on humans, the environment, and the safety of drinking water, and methods to control, limit, treat or prevent the presence of such products.

The AQUA Act would provide funding assistance for overall water infrastructure projects as well as infrastructure projects intended to reduce lead exposure in drinking water. In addition, the AQUA Act could provide potential funding eligibility for various EBMUD infrastructure projects.

Overall, support of H.R. 1071 is consistent with support of EBMUD's support for H.R. 4653 in 2016, EBMUD's 2017 federal legislative initiatives to seek federal funding opportunities, as well as EBMUD's efforts to reduce lead exposure in drinking water, including EBMUD's support of

S. 3874 (Boxer) in 2010. S. 3874, which was signed into law, reduced the allowable lead content in pipes and plumbing fixtures to a level that virtually eliminates lead contamination in faucets and drinking water.

**H.R. 2510 WATER QUALITY PROTECTION AND JOB SUPPORT
(DeFazio) CREATION ACT OF 2017**

The Clean Water State Revolving Fund (CWSRF) program was created in 1987 as federal-state partnership to help protect water quality by providing federal funding to water quality infrastructure projects. Eligible projects include, but are not limited to, construction of municipal wastewater facilities, water conservation, water reuse, and controlling nonpoint sources of pollution. The United States Environmental Protection Agency, after funds are appropriated by Congress, provides grants to states to fund CWSRF loan programs. States contribute a 20-percent match and provide various types of assistance for drinking water infrastructure projects including grants, loans, refinancing, and loan guarantees.

H.R. 2510 (DeFazio) is known as the Water Quality Protection and Job Creation Act of 2017 and is co-sponsored by Representatives Grace Napolitano, Mark DeSaulnier, John Garamendi, and Jared Huffman. H.R. 2510 is intended to address the need to bolster aging wastewater infrastructure and address local water quality changes by providing approximately \$25 billion in increased infrastructure investment over the next five years.

The measure would primarily do four things: 1) authorize \$20 billion to support the CWSRF over five years, 2018 through 2022; 2) authorize \$600 million over five years, 2018 through 2022, for Clean Water pilot programs; 3) authorize \$2.5 billion over five years, 2018 through 2022, for sewer overflow and stormwater grants; and 4) authorize \$375 million in grants over five years, 2018 through 2022, for alternative water source projects, including projects that reuse wastewater and stormwater. H.R. 2510 includes additional provisions to authorize \$1.5 billion in funds to assist states with implementing water pollution control programs; authorize technical assistance to rural, small, and tribal communities; and for states to update their list of projects for which CWSRF funding will be sought.

CWSRF

With regard to the CWSRF, the authorization for appropriations expired in 1993. Without a long-term authorization, funding for this important water quality infrastructure assistance program is dependent on being included in annual budget and appropriation measures. H.R. 2510 would authorize the CWSRF for five years, at a higher funding level, of \$4 billion annually, than the program has received in the past.

Historically, EBMUD has been supportive of efforts to continue funding the State Revolving Fund (SRF) programs. Most recently, in 2016, EBMUD requested that Representative Barbara Lee support an appropriation for the SRF. EBMUD also supported H.R. 4653 (Tonko) in 2016

which would have provided a long-term authorization for the Drinking Water State Revolving Fund. Increased funding levels could benefit EBMUD, if EBMUD chose to pursue CWSRF funding in the future.

Clean water pilot programs

H.R. 2510 would authorize \$600 million over five years, \$120 million annually for each of the fiscal years 2018 through 2022, for Clean Water Pilot programs. This would include watershed-based or system-wide efforts to address wet weather discharges or to promote stormwater best management practices. EBMUD would potentially be eligible to compete for funding under these provisions.

Sewer overflow and stormwater grants

The measure would authorize \$2.5 billion over five years, \$500 million for each of the fiscal years 2018 through 2022, for grants for “planning, design, and construction of treatment works to intercept, transport, control, treat, or reuse municipal combined sewer overflows, sanitary sewer overflows, or stormwater. EBMUD would potentially be eligible to compete for funding under these provisions.

Alternative water source projects

H.R. 2510 would authorize \$375 million in grants over five years, \$75 million for each of the fiscal years 2018 through 2022, for alternative source water source projects, including projects that reuse wastewater and stormwater to augment the existing sources of water. EBMUD would potentially be eligible to compete for funding for recycled water projects under these provisions.

Other provisions

H.R. 2510 includes additional provisions intended to assist with wastewater and water quality projects. The measure would authorize \$1.5 billion over five years, 2018 through 2022, for grants for state water pollution control agencies to implement state water pollution control programs; authorize technical assistance to rural, small, and tribal communities to help them gain access to wastewater infrastructure financing; and for states to update their list of projects for which CWSRF funding will be sought.

H.R. 2510 would provide a long-term authorization for the CWSRF and provide funding assistance for overall wastewater infrastructure and water quality projects. In addition, the measure could provide potential funding eligibility for EBMUD projects, such as efforts to reduce wet weather flows to the Main Wastewater Treatment Plant during storm events and water recycling projects.

Overall, support of H.R. 2510 is consistent with EBMUD’s 2017 federal legislative initiatives to seek federal funding opportunities, as well as EBMUD’s efforts to support SRF funding, including support of H.R. 4653 (Tonko) in 2016 which would have provided a long-term authorization for the Drinking Water State Revolving Fund loan program. H.R. 4653 did not advance out of Congress.

**S. 1464
(Feinstein)**

**WATER CONSERVATION TAX
PARITY ACT**

SUPPORT

The Comprehensive National Energy Policy Act (Act) of 1992 provides that public utility subsidies, or rebates, paid to residential customers for energy conservation measures are exempt from federal income tax. The Act defines energy conservation measure as “any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand with respect to a dwelling unit.”

S. 1464 (Feinstein), is a companion measure to H.R. 448 (Huffman), which EBMUD supports, and would ensure that rebates for water conservation improvements are exempt from federal taxes, similar to energy conservation rebates. Specifically, S. 1464 would amend the Internal Revenue Code to exempt from federal taxes rebates provided to public utility customers for the purchase or installation of any water conservation or stormwater management measure.

Rebate programs for participation in water conservation measures can incentivize private investment to reduce water use. These rebates are not intended to be considered income, but rather are an effort to defray upfront consumer costs. Encouraging residents to reduce water usage through the use of rebates can help reduce water consumption. However, some water conservation improvements can be too expensive for property owners to install without a financial incentive. Many water utilities have established rebate programs to encourage the installation of water conservation improvements. S. 1464 would ensure that rebates for these improvements are not subject to federal taxes.

EBMUD provides rebates to its residential customers for the installation of water conservation improvements, such as lawn conversion and irrigation equipment upgrades. S. 1464 would promote water conservation by clarifying that water conservation rebates provided by a public utility, such as the rebates provided by EBMUD, are not subject to federal taxes.

EBMUD has previously supported legislation to encourage water conservation efforts. As mentioned above, earlier this year, the Board adopted a “support” position on H.R. 448 (Huffman), which is substantially similar to S. 1464. In 2015, EBMUD supported S. 176 (Boxer) and H.R. 291 (Napolitano), identical companion measures known as the Water in the 21st Century Act, that among other things would have provided funding for the WaterSense program. The WaterSense program is a voluntary labeling program to recognize water-using products that are 20 percent more water-efficient and perform as well or better than standard products. The measures did not advance out of Congress.

H.R. 2862 **WILDFIRE DISASTER FUNDING ACT** **INFORMATION**
(Simpson)

Current practice with regard to funding wildfire suppression has been to appropriate money through an Interior and Environment Appropriations bill based on the average cost of fighting wildfires over the past ten years, known as the “ten-year average.” When wildfire costs exceed the budgeted amount, agencies are forced to borrow from other non-fire accounts to pay for fire suppression. When this occurs, less funding is available for land management activities, including hazardous fuels removal.

H.R. 2862 (Simpson), known as the Wildfire Disaster Funding Act, is co-sponsored by Representatives John Garamendi, Jared Huffman, and Mike Thompson. H.R. 2862 is intended to end the need to borrow wildfire suppression funds from other non-fire accounts by treating wildfires like other natural disasters when wildfire suppression funds are exhausted. Under H.R. 2862, wildfire suppression costs would be funded at the ten-year average, as of 2015, and if wildfire suppression costs exceed the budgeted amount, instead of borrowing from non-fire accounts, federal agencies, such as the United States Forest Service (USFS), would be able to fund the additional wildfire suppression costs through disaster relief funding, similar to how costs are funded for other natural disasters.

Wildfire suppression costs have increased substantially over the past 20 years. According to the USFS, only 16 percent of the total USFS budget was spent fighting wildfires in 1995. In 2016, wildfire costs had increased to 56 percent of the total USFS budget. In eight of the past ten years, funding has been borrowed from non-fire accounts to cover these increased wildfire suppression costs. H.R. 2862 is intended to end the practice of borrowing from non-fire accounts to pay for wildfire suppression in order to ensure federal agencies, including the USFS, have the resources necessary for land management activities, such as wildfire preparedness and forest management.

In accordance with EBMUD’s 2017 federal legislative initiatives to investigate federal efforts to promote healthy forests and to identify opportunities for EBMUD to engage in federal legislation on this topic, particularly through its role in the Upper Mokelumne River Watershed Authority (UMRWA), staff is recommending that H.R. 2862 be considered by UMRWA. After consideration by UMRWA, staff will bring back H.R. 2862 for consideration by the Board, as appropriate.

DISCUSS AND CONSIDER

**EBMUD
POSITION**

SB 623
(Monning)

**WATER QUALITY: SAFE AND
AFFORDABLE DRINKING WATER
FUND**

**SUPPORT IF
AMENDED
(AS PROPOSED
TO BE AMENDED)**

Staff was asked to provide an update on SB 623 (Monning) to the Board for discussion and consideration. A summary of the activities that have occurred since July 25th is provided below. For reference, the bill write-up from the July 25th Board meeting is also provided.

Update

At the July 25th meeting, EBMUD's Board adopted a "support if amended" position on SB 623, as it is proposed to be amended to include a retail water-user tax. At that time the Board directed staff to seek language to address the five issues listed below.

- Flexibility to enable local agencies to impose a volumetric charge;
- Limit water agencies' exposure to other charges;
- Exemption for low income ratepayers;
- Minimize the income eligibility verification administrative burden on water agencies;
- Ensure agriculture is held fully accountable for its share so that urban water agencies are not disproportionately burdened.

Staff communicated the Board's position via an initial meeting with the senator's staff and a July 27th position letter to the senator that included the five areas of concern listed above. At that time, staff indicated additional detail on each area of concern would be forthcoming in a subsequent letter.

Additional information on the retail water user tax and agricultural tax provisions was obtained from proponents at the July 25th Board meeting and via a July 25th presentation made by Senator Monning to the Bay Area Council. This information is provided below.

Retail water user tax

- A flat tax on residential water bills that will not exceed \$1 per month.
- A tax of up to \$10 per month for commercial, institutional, and industrial accounts.
- An exemption for low-income customers.
- Expected to yield \$90 - \$110 million annually to the Safe and Affordable Drinking Water Fund on an indefinite basis.

Agricultural tax

- Expected to yield about \$30 million annually, that is in addition to the monies collected by the retail water user tax.
- Would be imposed at the full rate for a period of 15 years.
- After 15 years, the agricultural tax would be reduced by two-thirds such that \$10 million in agricultural tax revenue would then be collected annually.

This information helped inform the additional detail and language request for each of the five areas of concern that was communicated to Senator Monning in a July 31st letter. The language requests provided to Senator Monning for each of the five areas of concern are provided below.

Staff also communicated that further language requests may be forthcoming pending additional discussion by the Board.

1. Flexibility to enable local agencies to impose a volumetric charge

Language is needed to provide local water agencies the discretion and flexibility to impose a volumetric tax in lieu of a flat tax on its retail customers. The bill should provide the specific volumetric and flat tax rates that a retail water agency could choose between when imposing the tax on its ratepayers.

2. Limit water agencies' exposure to other charges

EBMUD understands and agrees with the stated intent of SB 623 to limit the expenditure of the funds to the purposes specified in SB 623 - "to assist communities and individual domestic well users to address contaminants in drinking water that exceed safe drinking water standards, the treatment of which would otherwise make the cost of water service unaffordable." Language should be included that strictly limits the use of the fund for this stated purpose. Language should also be included that explicitly states the fund shall not be expanded to meet other needs, including affordability.

3. Exemption for low income ratepayers

EBMUD understands and agrees with the author's intention to exempt low-income customers from the residential retail water tax. Language should be included to provide this exemption.

4. Minimize the administrative burden on water agencies for income eligibility verification

Language is needed to direct the state to take responsibility for income eligibility verification at regular intervals and provide that information to retail water agencies for the purpose of low-income exemptions. Retail water agencies do not have the capacity or authority to access income records to verify eligibility for taxation purposes.

5. Ensure agriculture is held fully accountable for its share so that urban water agencies are not disproportionately burdened

Language is needed to provide some level of parity between the tax burdens to be borne by agriculture and retail water agencies. The agriculture provisions include a 15-year time limit on the full tax rate with a two-thirds reduction after 15 years. For the first 15 years, urban retail water users would bear a funding burden about three times greater than the funding burden imposed on agriculture. After 15 years, the relative burden on retail water users would jump to ten times greater than the burden imposed on agriculture, with retail water users supplying about 90 percent of the fund. This disparity is not justified. To ensure proportionate treatment, language should be included to provide retail water users with the same 15-year time limit on the imposition of full rate of the retail water tax and the same two-thirds reduction in that tax after 15 years.

SB 623 - July 20, 2017 Legislative Report Write-up

Existing law establishes the state policy that “every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.” In addition, the California Safe Drinking Water Act requires the State Water Resources Control Board (SWRCB) to administer provisions relating to the regulation of drinking water to protect public health. Existing law also establishes the Office of Sustainable Water Solutions within the SWRCB with the purpose of promoting permanent and sustainable drinking water and wastewater treatment solutions to ensure the effective and efficient provision of safe, clean, affordable, and reliable drinking water and wastewater treatment services.

SB 623 (Monning), as amended on July 3, 2017, is intended to address the issue of access to safe drinking water by assisting communities and domestic well owners in addressing contaminants in drinking water that exceed safe drinking water standards. To do this, SB 623 would do two primary things: 1) establish the Safe and Affordable Drinking Water Fund (Fund), administered by the SWRCB, to provide grants and loans to assist communities and individual domestic well owners that rely on contaminated drinking water, though the bill does not yet include a specific funding source; and 2) require the SWRCB to annually adopt an assessment of funding needed to ensure all Californians have access to safe drinking water, adopt an implementation plan to guide expenditures from the Fund, and prepare a report of expenditures from the Fund.

Under SB 623, moneys from the Fund could be used to provide replacement water on a short-term basis; to develop and implement long-term solutions, including, capital costs and operations and maintenance costs; to identify and provide outreach to Californians without access to safe drinking water who are eligible to receive funding; and, to test drinking water quality of individual domestic wells serving low-income households. SB 623 also includes agriculture-related provisions intended to provide enforcement relief for nitrate exceedances in groundwater if specific conditions are met and a yet-to-be determined assessment is paid by the agricultural operator to the Fund.

In addition, the author intends to amend SB 623 in the near future to include a “ratepayer assessment” on retail water customers, also referred to as a retail water tax, public goods charge, or retail water use fee, as a significant funding source for the Fund. This new language would be directly contrary to EBMUD’s existing policy position opposing the imposition of retail water use fees.

Public Goods Charge

On May 26, 2015, EBMUD’s Board adopted a policy position opposing the imposition of state retail water use fees or surcharges on customer water bills on the basis of equity, affordability, and accountability. The policy position notes that retail water use fees added to customer bills would not be related to the cost of water service and would increase the payment amount, directly affecting the affordability for ratepayers. Imposing a retail water use fee would also effectively redirect ratepayer dollars to the state and displace critical investments in local infrastructure.

While the goal of SB 623 is laudable, the bill, as proposed to be amended, is contrary to EBMUD's policy position and would establish the precedent of requiring a local water agency to impose a retail water use fee on its ratepayers in order to fund a state-level responsibility. Establishing the mechanism for such a fee would provide an opening for other unfunded "public goods" to be funded under the same mechanism, most notably affordability, which is not intended to be covered under SB 623. A public goods charge, or retail water use fee, has been formally discussed as a potential funding mechanism for the SWRCB's implementation of a statewide low-income rate assistance program.

To put this in perspective, the SWRCB estimates about \$45 million is needed annually to assist public water systems with operations and maintenance for the access to safe drinking water. In order to pay for this, SB 623 will propose an average charge of about \$1 per month on retail water accounts. For EBMUD customers this would equate to on average a 2 percent rate increase, and as high as 3 percent for low water users. However, once established a public goods charge would likely be used for other purposes.

For example, the SWRCB estimates approximately \$600 million annually is needed to address low income rate assistance and has also proposed a public goods charge to fund low income rate assistance. This estimate is about 13 times greater than the access to safe drinking water estimate. A public goods charge to address the combined needs for access to safe drinking water and low income rate assistance would likely result in a charge of no less than \$13 per month, per bill on retail water accounts. This rough estimate does not take into account that the SWRCB estimates about 34 percent of retail water ratepayers would be eligible for assistance and therefore would not contribute to a public goods charge or any administrative charges, thereby shifting even more costs to other ratepayers. For EBMUD customers, the combined charge, as estimated, would equate to a rate increase on the average of 27 percent, and as high as 39 percent on lower water users. These estimates in no way represent a ceiling as a public goods charge has also been discussed to fund other items in addition to access to safe drinking water and low income rate assistance, such as stormwater management and watershed protection.

The imposition of a public goods charge, or retail water use fee, raises four primary policy concerns: 1) the cost would be borne by retail water ratepayers and impair the ability of local agencies, including EBMUD, to raise rates needed to fund critical infrastructure; 2) it places the burden of statewide issues properly managed at the state level on local agencies, requiring local agencies to collect what amounts to a tax, which local agencies are not equipped to do; 3) it places a significant administrative cost burden on local agencies in addition to the cost of the public goods charge; and, 4) local agencies are not equipped to assess eligibility based on incomes in reference to state mandated programs and criteria to determine which ratepayers would and would not be assessed the public goods charge.

Other policy concerns

In addition to the use of a public goods charge as a funding source, SB 623 also raises other policy questions as described below.

It is not clear what the funding need is for all of the items included in SB 623. While the SWRCB estimates that \$45 million is needed annually for public water system operations and maintenance needs associated with access to safe drinking water, SB 623 is also intended to fund capital costs, as well as testing and assistance for domestic wells and state small systems. To date, the state has indicated it does not have cost estimates for these additional items. In the absence of cost estimates, it is unclear how the state will determine the total amount of need that should be funded by this Fund. However, capital costs are already eligible for other funding sources, including bonds, such as Proposition 1, and the Safe Drinking Water Revolving Fund, while operations and maintenance costs cannot be covered by those sources. It is unclear how SB 623 would ensure other funding sources are exhausted prior to using the Fund to cover capital costs. Finally, while SB 623 would give funding preference to low income communities it would be preferable to limit the funding eligibility to only low income communities.

Conclusion

Though EBMUD agrees with the goal of SB 623, to provide assistance to communities that do not have access to safe drinking water, staff is recommending an “oppose unless amended” position on SB 623, as proposed to be amended. At a minimum, a funding source other than a public goods charge, such as the general fund, should be identified.

This approach is consistent with the policy position adopted by EBMUD’s Board opposing the imposition of state retail water use fees or surcharges on customer water bills, and EBMUD’s 2017 State Legislative Initiative to advance EBMUD’s interests in any efforts to impose a statewide surcharge or public goods charge on water and advocate for a balanced approach.

An official list of support and opposition to SB 623 as proposed to be amended is not available. The official list of support and opposition to the current version of the bill is shown below.

Support

Alliance of Child and Family Services
American Heart Association
American Rivers
American Stroke Association
Arvin Community Services District
Asian Pacific Environmental Network
Asociacion de Gente Unida por el Agua
Black Women for Wellness
California Audubon
California Bicycle Coalition
California Environmental Justice Alliance

California Food Policy Advocates
California League of Conservation Voters
California Rural Legal Assistance
Foundation
California Pan-Ethnic Health Network
California Water Service
Catholic Charities, Diocese of Stockton
Central California Environmental Network
Center for Race Poverty and the
Environment
City of Arvin

City of Porterville
Clean Water Action
Comité Civico del Valle
Community Alliance for Agroecology
Community Water Center
Council for a Strong America
County of Tulare
Cultiva la Salud
Dolores Huerta Foundation
El Quinto Sol de America
Environmental Defense Fund
Esperanza Community Housing Corporation
Faith in the Valley
Friends Committee on Legislation in California
Friends of Calwa
Fresno Building Healthy Communities
Latino Coalition for a Healthy California
Leadership Counsel for Justice and Accountability
League of Women Voters
Lutheran Office of Public Policy
Mission: Readiness

Opposition

Alameda County Water District
American Water Works Association,
California-Nevada Section
Association of California Water Agencies
Bella Vista Water District
California Sportfishing Protection Alliance
California Water Impact Network
Calleguas Municipal Water District
City of Fairfield
City of Indio
City of Roseville
Cucamonga Valley Water District
Desert Water Agency
East Valley Water District
Eastern Municipal Water District
Elsinore Valley Municipal Water District
El Dorado Irrigation District
Foresthill Public Utility District

Pacific Institute
Pacific Water Quality Association
Physicians for Social Responsibility Los Angeles
Planning and Conservation League
PolicyLink
Public Health Advocates
Pueblo Unido CDC
Self-Help Enterprises
Service Employees International Union (SEIU)
Strategic Actions for a Just Economy
Strategic Concepts in Organizing & Policy Education
Sunflower Alliance
RCAC
The Nature Conservancy
TransForm
Water Quality Association
Western Center on Law & Poverty
Western Growers Association
Wholly H2O

Humboldt Baykeeper
Humboldt Bay Municipal Water District
Indian Wells Valley Water District
Indio Water Authority
Inland Empire Waterkeeper
Kern County Water Agency
La Canada Irrigation District
Las Virgenes Municipal Water District
Mesa Water District
Monte Vista Water District
Monterey Coastkeeper
Pacific Coast Federation of Fishermen's Association
Padre Dam Municipal Water District
Placer County Water Agency
Regional Water Authority
Rincon del Diablo Municipal Water District
Rowland Water District

Russian Riverkeeper
San Gabriel County Water District
San Juan Water District
Santa Barbara Channelkeeper
Santa Margarita Water District
Southern California Water Committee
The Otter Project
Three Valleys Municipal Water District
Valley Center Municipal Water District
Vista Irrigation District
Western Municipal Water District
Yorba Linda Water District

ARC:MD:JW

AMENDED IN ASSEMBLY JULY 13, 2017

AMENDED IN ASSEMBLY JUNE 22, 2017

AMENDED IN SENATE APRIL 6, 2017

SENATE BILL

No. 606

**Introduced by Senators ~~Hertzberg, Lara, and Mitchell Skinner and~~
*Hertzberg***
(Principal coauthor: ~~Assembly Member Jones-Sawyer~~)

February 17, 2017

~~An act to add Section 201.8 to the Revenue and Taxation Code, relating to taxation. An act relating to water.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 606, as amended, ~~Hertzberg Skinner. Property taxation: exemption: Los Angeles Memorial Coliseum. Water conservation.~~

Existing law requires the state to achieve a 20% reduction in urban per capita water use in California by December 31, 2020. Existing law requires agricultural water suppliers to prepare and adopt agricultural water management plans with specified components on or before December 31, 2012, and to update those plans on or before December 31, 2015, and on or before December 31 every 5 years thereafter. Existing law sets forth various findings and declarations related to water conservation.

This bill would state the intent of the Legislature to enact legislation necessary to help make water conservation a California way of life.

~~Existing property tax law requires that all property subject to tax be assessed at its full value, and includes certain possessory interests among those property interests subject to tax. The California Constitution~~

~~exempts certain property from property taxation, including property owned by the state or a local government.~~

~~This bill would require a nonprofit corporation that has contracted with a qualified governmental entity, as defined, for the conduct of activities and events at, and for the improvement, restoration, and maintenance of, the Los Angeles Memorial Coliseum and related properties, to be deemed an agent of the qualified governmental entity on or after July 29, 2013, for purposes of property taxation, and would provide that the Los Angeles Memorial Coliseum, and related properties, including only interests in those properties, that are used or possessed by the nonprofit corporation for the conduct of activities and events and that are improved, restored, and maintained by the nonprofit corporation, are exempt from taxation as governmental property.~~

~~By imposing new duties upon local officials with respect to property taxation, this bill would impose a state-mandated local program.~~

~~This bill would make legislative findings and declarations regarding the public purpose served by the bill.~~

~~This bill would make legislative findings and declarations as to the necessity of a special statute for the Los Angeles Memorial Coliseum.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

~~Existing law requires the state to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.~~

~~This bill would provide that, notwithstanding those provisions, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes-no. State-mandated local program: yes-no.~~

The people of the State of California do enact as follows:

- 1 SECTION 1. *It is the intent of the Legislature to enact*
- 2 *legislation necessary to help make water conservation a California*
- 3 *way of life.*

1 ~~SECTION 1. The Legislature finds and declares all of the~~
2 ~~following:~~

3 ~~(a) The Los Angeles Memorial Coliseum (hereafter coliseum)~~
4 ~~is one of the world's most famous stadiums, having hosted~~
5 ~~countless iconic sporting events, including two Summer Olympic~~
6 ~~Games, two Super Bowls (Super Bowl I and Super Bowl VII), the~~
7 ~~World Series, including the largest crowd ever to see a baseball~~
8 ~~game, and scores of professional and college football games.~~

9 ~~(b) The coliseum has also served as an important part of the~~
10 ~~social, cultural, and community fabric for all Californians, hosting~~
11 ~~a Papal Mass and visits by three United States Presidents, and also~~
12 ~~providing an event and gathering place for charitable organizations;~~
13 ~~religious organizations, concert events, and other community~~
14 ~~events.~~

15 ~~(c) The Los Angeles Memorial Coliseum Commission (hereafter~~
16 ~~coliseum commission) is a governmental entity that was established~~
17 ~~in 1945 under a joint powers authority agreement between the City~~
18 ~~of Los Angeles (hereafter city), the County of Los Angeles~~
19 ~~(hereafter county), and the Sixth District Agricultural Association~~
20 ~~(hereafter state), referred to as the California Science Center, an~~
21 ~~institution of the State of California.~~

22 ~~(d) In 1956, the coliseum commission leased the coliseum and~~
23 ~~related properties from the state, under the public benefit restriction~~
24 ~~that the property be used only for competitive sports; athletics;~~
25 ~~games; pageants; public recreations; motion picture production or~~
26 ~~displays; public gatherings; festivals; exhibits; industrial, trade,~~
27 ~~horticultural, or agricultural shows; conventions; and exhibitions~~
28 ~~and productions of a local, regional, national, or international~~
29 ~~character; and for purposes related or incidental to any or all of~~
30 ~~the foregoing, primarily to the end that the citizens and public~~
31 ~~generally may enjoy and receive the greatest benefit possible from~~
32 ~~the coliseum or stadium and that the city, the county, and the state~~
33 ~~may more effectively demonstrate and exploit their climatic,~~
34 ~~geographic, recreational, cultural, and commercial resources and~~
35 ~~advantages. This public benefit restriction was incorporated into~~
36 ~~other agreements concerning the coliseum and related properties~~
37 ~~between the coliseum commission, the city, the county, and the~~
38 ~~state.~~

39 ~~(e) Under a July 2013 agreement, the coliseum commission~~
40 ~~entrusted the University of Southern California (hereafter USC);~~

~~1 a California nonprofit public benefit corporation, with the~~
~~2 maintenance, repair, and operation of the coliseum and related~~
~~3 properties, thus transferring the day-to-day management and~~
~~4 operational role over the coliseum and related properties previously~~
~~5 done by the coliseum commission and relieving the coliseum~~
~~6 commission from significant ongoing and future costs with respect~~
~~7 to the coliseum.~~

~~8 (f) The July 2013 agreement imposes on USC the same public~~
~~9 benefit use limitations and requirements over the coliseum and~~
~~10 related properties that were previously set forth in the 1956 lease~~
~~11 agreement and the other agreements between the coliseum~~
~~12 commission, the city, the county, and the state. In facilitating these~~
~~13 uses, USC is supporting the public benefit goals and duties of the~~
~~14 coliseum commission. The use of the coliseum is further limited~~
~~15 to 25 major events in a calendar year, and the coliseum commission~~
~~16 has the independent right to designate eight public interest events~~
~~17 to be held rent free. The coliseum commission continues to have~~
~~18 control via approval rights over capital improvements to, or~~
~~19 alterations of, the coliseum and related properties, and the use of~~
~~20 trademarks incorporating the coliseum, as well as the right to enter~~
~~21 and inspect the coliseum and related properties. The July 2013~~
~~22 agreement also directs USC to cooperate with any request by the~~
~~23 city, the county, or the state for the use of the coliseum by a~~
~~24 National Football League team on a temporary basis, and to make~~
~~25 the coliseum available for events related to the 2015 International~~
~~26 Special Olympics and any Olympics hosted in the county.~~

~~27 (g) Prior to the July 2013 agreement, the coliseum commission~~
~~28 had been historically operating under annual financial deficits, and~~
~~29 routine maintenance and repairs, as well as capital improvements,~~
~~30 had been deferred.~~

~~31 (h) All revenues that USC receives from outside third-party~~
~~32 event users of the coliseum are budgeted for the care, maintenance,~~
~~33 operation, administration, improvement, or development of the~~
~~34 coliseum. In addition, USC plans to support the care, maintenance,~~
~~35 operation, administration, improvement, and development of the~~
~~36 coliseum by funding more than \$270,000,000 towards the~~
~~37 renovation of the coliseum, as well as contributing in-kind services~~
~~38 and directing other funds USC independently raises from outside~~
~~39 donors for the maintenance and upkeep of the coliseum.~~

1 ~~(i) USC now directly supports the operations of the coliseum~~
2 ~~commission by paying the annual rent due to the state for the lease~~
3 ~~of the coliseum and related properties by the coliseum commission,~~
4 ~~funding the annual operating budget of the coliseum commission,~~
5 ~~and paying for the retiree health care premiums of coliseum~~
6 ~~commission employees. The state and other governmental entities~~
7 ~~who own parking areas near the coliseum are also benefited as~~
8 ~~they receive parking revenue from coliseum events.~~

9 ~~(j) In addition, USC is obligated to cover the general liability~~
10 ~~insurance and directors and officers insurance for the coliseum~~
11 ~~commission and is required to provide semiannual financial and~~
12 ~~operational reports to the coliseum commission regarding the~~
13 ~~operations of the coliseum and related properties.~~

14 ~~SEC. 2. Section 201.8 is added to the Revenue and Taxation~~
15 ~~Code, to read:~~

16 ~~201.8. (a) A nonprofit corporation that has contracted with a~~
17 ~~qualified governmental entity for the conduct of activities and~~
18 ~~events at, and for the improvement, restoration, and maintenance~~
19 ~~of, the Los Angeles Memorial Coliseum and related properties~~
20 ~~shall be deemed to be an agent of the qualified governmental entity~~
21 ~~on or after July 29, 2013, for purposes of this division and for no~~
22 ~~other purpose, and the Los Angeles Memorial Coliseum, and~~
23 ~~related properties, including only interests in those properties, that~~
24 ~~are used or possessed by the nonprofit corporation for the conduct~~
25 ~~of activities and events and that are improved, restored, and~~
26 ~~maintained by the nonprofit corporation, are exempt from taxation~~
27 ~~under subdivision (a) or (b) of Section 3 of Article XIII of the~~
28 ~~California Constitution.~~

29 ~~(b) This section shall not be construed to exempt any~~
30 ~~profit-making organization or concessionaire from any property~~
31 ~~tax, including a property tax on a possessory interest, for the~~
32 ~~conduct of activities and events at the Los Angeles Memorial~~
33 ~~Coliseum and related properties.~~

34 ~~(c) For purposes of this section, both of the following definitions~~
35 ~~shall apply:~~

36 ~~(1) "Los Angeles Memorial Coliseum Commission" means a~~
37 ~~joint powers authority consisting of the City of Los Angeles, the~~
38 ~~County of Los Angeles, and the Sixth District Agricultural~~
39 ~~Association known and designated as the California Science~~
40 ~~Center.~~

1 ~~(2) “Qualified governmental entity” means the Los Angeles~~
2 ~~Memorial Coliseum Commission or the state.~~

3 ~~SEC. 3. The Legislature finds and declares that the addition of~~
4 ~~Section 201.8 to the Revenue and Taxation Code by this act serves~~
5 ~~a public purpose, as described in Section 1 of this act, and does~~
6 ~~not constitute a gift of public funds within the meaning of Section~~
7 ~~6 of Article XVI of the California Constitution.~~

8 ~~SEC. 4. The Legislature finds and declares that a special statute~~
9 ~~is necessary and that a general statute cannot be made applicable~~
10 ~~within the meaning of Section 16 of Article IV of the California~~
11 ~~Constitution because of the unique circumstances relating to the~~
12 ~~Los Angeles Memorial Coliseum and related properties.~~

13 ~~SEC. 5. If the Commission on State Mandates determines that~~
14 ~~this act contains costs mandated by the state, reimbursement to~~
15 ~~local agencies and school districts for those costs shall be made~~
16 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
17 ~~4 of Title 2 of the Government Code.~~

18 ~~SEC. 6. Notwithstanding Section 2229 of the Revenue and~~
19 ~~Taxation Code, no appropriation is made by this act and the state~~
20 ~~shall not reimburse any local agency for any property tax revenues~~
21 ~~lost by it pursuant to this act.~~

115TH CONGRESS
1ST SESSION

H. R. 1071

To amend the Safe Drinking Water Act to increase assistance for States, water systems, and disadvantaged communities; to encourage good financial and environmental management of water systems; and to strengthen the Environmental Protection Agency's ability to enforce the requirements of the Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 15, 2017

Mr. TONKO (for himself, Mr. PALLONE, Ms. MATSUI, Ms. NORTON, Mr. BLUMENAUER, Mr. CÁRDENAS, Mr. SARBANES, Mrs. DINGELL, Mr. MCNERNEY, Ms. ESHOO, Mr. GENE GREEN of Texas, Mr. MICHAEL F. DOYLE of Pennsylvania, Ms. SCHAKOWSKY, Mr. PETERS, Mr. WELCH, Ms. DEGETTE, and Ms. CASTOR of Florida) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Safe Drinking Water Act to increase assistance for States, water systems, and disadvantaged communities; to encourage good financial and environmental management of water systems; and to strengthen the Environmental Protection Agency's ability to enforce the requirements of the Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Assistance, Quality, and Affordability Act of 2017”.

4 (b) TABLE OF CONTENTS.—The table of contents of
5 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Prevailing wages.
- Sec. 3. Use of funds.
- Sec. 4. Requirements for use of American materials.
- Sec. 5. Data on variances, exemptions, and persistent violations.
- Sec. 6. Assistance for restructuring.
- Sec. 7. Priority and weight of applications.
- Sec. 8. Disadvantaged communities.
- Sec. 9. Administration of State loan funds.
- Sec. 10. State revolving loan funds for American Samoa, Northern Mariana Islands, Guam, and the Virgin Islands.
- Sec. 11. Authorization of appropriations.
- Sec. 12. Affordability of new standards.
- Sec. 13. Focus on lifecycle costs.
- Sec. 14. Streamlining reporting and enforcement.
- Sec. 15. Presence of pharmaceuticals and personal care products in sources of drinking water.
- Sec. 16. Best practices for administration of State revolving loan fund programs.
- Sec. 17. Water loss and leak control technology.
- Sec. 18. Risks of drought to drinking water.
- Sec. 19. Reducing lead in drinking water.

6 **SEC. 2. PREVAILING WAGES.**

7 Subsection (e) of section 1450 of the Safe Drinking
8 Water Act (42 U.S.C. 300j–9) is amended to read as fol-
9 lows:

10 “(e) LABOR STANDARDS.—

11 “(1) IN GENERAL.—The Administrator shall
12 take such action as the Administrator determines to
13 be necessary to ensure that each laborer and me-
14 chanic employed by a contractor or subcontractor in
15 connection with a construction project financed, in

1 whole or in part, by a grant, loan, loan guarantee,
2 refinancing, or any other form of financial assistance
3 provided under this title (including assistance pro-
4 vided by a State loan fund established under section
5 1452) is paid wages at a rate of not less than the
6 prevailing wages for the same type of work on simi-
7 lar construction in the immediate locality, as deter-
8 mined by the Secretary of Labor in accordance with
9 subchapter IV of chapter 31 of title 40, United
10 States Code.

11 “(2) AUTHORITY OF SECRETARY OF LABOR.—
12 With respect to the labor standards specified in this
13 subsection, the Secretary of Labor shall have the au-
14 thority and functions established in Reorganization
15 Plan Numbered 14 of 1950 (5 U.S.C. App.) and sec-
16 tion 3145 of title 40, United States Code.”.

17 **SEC. 3. USE OF FUNDS.**

18 Section 1452(a)(2)(B) of the Safe Drinking Water
19 Act (42 U.S.C. 300j–12(a)(2)(B)) is amended by striking
20 “(including expenditures for planning, design, and associ-
21 ated preconstruction activities, including activities relating
22 to the siting of the facility, but not” and inserting “(in-
23 cluding expenditures for planning, design, siting, and as-
24 sociated preconstruction activities, for replacing or reha-
25 bilitating aging treatment, storage, or distribution facili-

1 ties of public water systems, or for producing or capturing
 2 sustainable energy on site or through the transportation
 3 of water through the public water system, but not”.

4 **SEC. 4. REQUIREMENTS FOR USE OF AMERICAN MATE-**
 5 **RIALS.**

6 Section 1452(a)(4) of the Safe Drinking Water Act
 7 (42 U.S.C. 300j–12(a)(4)) is amended—

8 (1) in subparagraph (A), by striking “During
 9 fiscal year 2017, funds” and inserting “Funds”; and

10 (2) by striking subparagraph (G).

11 **SEC. 5. DATA ON VARIANCES, EXEMPTIONS, AND PER-**
 12 **SISTENT VIOLATIONS.**

13 Section 1452(b)(2) of the Safe Drinking Water Act
 14 (42 U.S.C. 300j–12(b)(2)) is amended—

15 (1) in subparagraph (B), by striking “and” at
 16 the end;

17 (2) in subparagraph (C), by striking the period
 18 at the end and inserting “; and”; and

19 (3) by adding at the end the following:

20 “(D) a list of all public water systems
 21 within the State that have in effect an exemp-
 22 tion or variance for any national primary drink-
 23 ing water regulation or that are in persistent
 24 violation of the requirements for any maximum
 25 contaminant level or treatment technique under

1 a national primary drinking water regulation,
2 including identification of—

3 “(i) the national primary drinking
4 water regulation in question for each such
5 exemption, variance, or violation; and

6 “(ii) the date on which the exemption
7 or variance came into effect or the viola-
8 tion began.”.

9 **SEC. 6. ASSISTANCE FOR RESTRUCTURING.**

10 (a) **DEFINITION.**—Section 1401 of the Safe Drinking
11 Water Act (42 U.S.C. 300f) is amended by adding at the
12 end the following:

13 “(17) **RESTRUCTURING.**—The term ‘restruc-
14 turing’ means changes in operations (including own-
15 ership, management, cooperative partnerships, joint
16 purchasing arrangements, consolidation, and alter-
17 native water supply).”.

18 (b) **RESTRUCTURING.**—Clause (ii) of section
19 1452(a)(3)(B) (42 U.S.C. 300j–12(a)(3)(B)) is amended
20 by striking “changes in operations (including ownership,
21 management, accounting, rates, maintenance, consolida-
22 tion, alternative water supply, or other procedures)” and
23 inserting “restructuring”.

1 **SEC. 7. PRIORITY AND WEIGHT OF APPLICATIONS.**

2 (a) PRIORITY.—Section 1452(b)(3) of the Safe
3 Drinking Water Act (42 U.S.C. 300j–12(b)(3)) is amend-
4 ed—

5 (1) in subparagraph (A)—

6 (A) in clause (ii), by striking “and” at the
7 end;

8 (B) in clause (iii), by striking the period at
9 the end and inserting “; and”; and

10 (C) by adding at the end the following:

11 “(iv) improve the ability of public
12 water systems to protect human health and
13 comply with the requirements of this title
14 affordably in the future.”;

15 (2) by redesignating subparagraph (B) as sub-
16 paragraph (D);

17 (3) by inserting after subparagraph (A) the fol-
18 lowing:

19 “(B) AFFORDABILITY OF NEW STAND-
20 ARDS.—For any year in which enforcement be-
21 gins for a new national primary drinking water
22 regulation, each State that has entered into a
23 capitalization agreement pursuant to this sec-
24 tion shall evaluate whether capital improve-
25 ments required to meet the standard are afford-
26 able for disadvantaged communities (as defined

1 in subsection (d)(3)) in the State. If the State
2 finds that such capital improvements do not
3 meet affordability criteria for disadvantaged
4 communities in the State, the State's intended
5 use plan shall provide that priority for the use
6 of funds for such year be given to public water
7 systems affected by the standard and serving
8 disadvantaged communities.

9 “(C) WEIGHT GIVEN TO APPLICATIONS.—
10 After determining priority under subparagraphs
11 (A) and (B), an intended use plan shall provide
12 that the State will give greater weight to an ap-
13 plication for assistance if the application con-
14 tains—

15 “(i) a description of measures under-
16 taken by the public water system to im-
17 prove the management and financial sta-
18 bility of the public water system, which
19 may include—

20 “(I) an inventory of assets, in-
21 cluding a description of the condition
22 of the assets;

23 “(II) a schedule for replacement
24 of assets;

25 “(III) an audit of water losses;

1 “(IV) a financing plan that fac-
2 tors in all lifecycle costs indicating
3 sources of revenue from ratepayers,
4 grants, bonds, other loans, and other
5 sources to meet the costs; and

6 “(V) a review of options for re-
7 structuring;

8 “(ii) a demonstration of consistency
9 with State, regional, and municipal water-
10 shed plans;

11 “(iii) a water conservation plan con-
12 sistent with guidelines developed for such
13 plans by the Administrator under section
14 1455(a); and

15 “(iv) a description of measures under-
16 taken by the public water system to im-
17 prove the efficiency of the public water sys-
18 tem or reduce the public water system’s
19 environmental impact, which may in-
20 clude—

21 “(I) water efficiency or conserva-
22 tion, including the rehabilitation or re-
23 placement of existing leaking pipes;

24 “(II) use of reclaimed water;

1 “(III) actions to increase energy
2 efficiency;

3 “(IV) actions to generate or cap-
4 ture sustainable energy on site or
5 through the transportation of water
6 through the public water system;

7 “(V) actions to protect source
8 water;

9 “(VI) actions to mitigate or pre-
10 vent corrosion, including design, selec-
11 tion of materials, selection of coating,
12 and cathodic protection; and

13 “(VII) actions to reduce disinfec-
14 tion byproducts.”; and

15 (4) in subparagraph (D) (as redesignated by
16 paragraph (2)) by striking “periodically” and insert-
17 ing “at least biennially”.

18 (b) GUIDANCE.—Section 1452 of the Safe Drinking
19 Water Act (42 U.S.C. 300j–12) is amended—

20 (1) by redesignating subsection (r) as sub-
21 section (t); and

22 (2) by inserting after subsection (q) the fol-
23 lowing:

24 “(r) SMALL SYSTEM GUIDANCE.—The Administrator
25 may provide guidance and, as appropriate, tools, meth-

1 odologies, or computer software, to assist small public
 2 water systems in undertaking measures to improve the
 3 management, financial stability, and efficiency of the pub-
 4 lic water system or reduce the public water system's envi-
 5 ronmental impact.”.

6 **SEC. 8. DISADVANTAGED COMMUNITIES.**

7 (a) ASSISTANCE TO INCREASE COMPLIANCE.—Sec-
 8 tion 1452(b)(3) of the Safe Drinking Water Act (42
 9 U.S.C. 300j–12(b)(3)), as amended, is further amended
 10 by adding at the end the following:

11 “(E) ASSISTANCE TO INCREASE COMPLI-
 12 ANCE.—A State’s intended use plan shall pro-
 13 vide that, of the funds received by the State
 14 through a capitalization grant under this sec-
 15 tion for a fiscal year, the State will, to the ex-
 16 tent that there are sufficient eligible project ap-
 17 plications, reserve not less than 6 percent to be
 18 spent on assistance under subsection (d) to
 19 public water systems included in the State’s
 20 most recent list under paragraph (2)(D).”.

21 (b) ASSISTANCE FOR DISADVANTAGED COMMU-
 22 NITIES.—Section 1452(d) of the Safe Drinking Water Act
 23 (42 U.S.C. 300j–12(d)) is amended—

1 (1) in paragraph (1), by adding at the end the
2 following: “Such additional subsidization shall di-
3 rectly and primarily benefit such community.”; and

4 (2) in paragraph (3), by inserting “, or portion
5 of a service area,” after “service area”.

6 (c) AFFORDABILITY CRITERIA.—Section 1452(d)(3)
7 of the Safe Drinking Water Act (42 U.S.C. 300j-
8 12(d)(3)) is amended by adding at the end: “Each State
9 that has entered into a capitalization agreement pursuant
10 to this section shall, in establishing affordability criteria,
11 consider, solicit public comment on, and include as appro-
12 priate—

13 “(A) the methods or criteria that the State
14 will use to identify disadvantaged communities;

15 “(B) a description of the institutional, reg-
16 ulatory, financial, tax, or legal factors at the
17 Federal, State, or local level that affect identi-
18 fied affordability criteria; and

19 “(C) a description of how the State will
20 use the authorities and resources under this
21 subsection to assist communities meeting the
22 identified criteria.”.

1 **SEC. 9. ADMINISTRATION OF STATE LOAN FUNDS.**

2 Section 1452(g) of the Safe Drinking Water Act (42
3 U.S.C. 300j-12(g)) is amended by adding at the end the
4 following new paragraph:

5 “(5) TRANSFER OF FUNDS.—

6 “(A) IN GENERAL.—The Governor of a
7 State may—

8 “(i) reserve for any fiscal year not
9 more than the lesser of—

10 “(I) 33 percent of a capitaliza-
11 tion grant made under this section; or

12 “(II) 33 percent of a capitaliza-
13 tion grant made under section 601 of
14 the Federal Water Pollution Control
15 Act; and

16 “(ii) add the funds so reserved to any
17 funds provided to the State under this sec-
18 tion or section 601 of the Federal Water
19 Pollution Control Act.

20 “(B) STATE MATCHING FUNDS.—Funds
21 reserved under this paragraph shall not be con-
22 sidered for purposes of calculating the amount
23 of a State contribution required by subsection
24 (e) of this section or section 602(b) of the Fed-
25 eral Water Pollution Control Act.”.

1 **SEC. 10. STATE REVOLVING LOAN FUNDS FOR AMERICAN**
2 **SAMOA, NORTHERN MARIANA ISLANDS,**
3 **GUAM, AND THE VIRGIN ISLANDS.**

4 Section 1452(j) of the Safe Drinking Water Act (42
5 U.S.C. 300j–12(j)) is amended by striking “0.33 percent”
6 and inserting “1.5 percent”.

7 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

8 Subsection (m) of section 1452 of the Safe Drinking
9 Water Act (42 U.S.C. 300j–12) is amended to read as
10 follows:

11 “(m) AUTHORIZATION OF APPROPRIATIONS.—

12 “(1) IN GENERAL.—There are authorized to be
13 appropriated to carry out this section—

14 “(A) \$3,130,000,000 for fiscal year 2018;

15 “(B) \$3,600,000,000 for fiscal year 2019;

16 “(C) \$4,140,000,000 for fiscal year 2020;

17 “(D) \$4,800,000,000 for fiscal year 2021;

18 and

19 “(E) \$5,500,000,000 for fiscal year 2022.

20 “(2) AVAILABILITY.—Amounts made available
21 pursuant to this subsection shall remain available
22 until expended.

23 “(3) RESERVATION FOR NEEDS SURVEYS.—Of
24 the amount made available under paragraph (1) to
25 carry out this section for a fiscal year, the Adminis-
26 trator may reserve not more than \$1,000,000 per

1 year to pay the costs of conducting needs surveys
 2 under subsection (h).”.

3 **SEC. 12. AFFORDABILITY OF NEW STANDARDS.**

4 (a) TREATMENT TECHNOLOGIES FOR SMALL PUBLIC
 5 WATER SYSTEMS.—Clause (ii) of section 1412(b)(4)(E)
 6 of the Safe Drinking Water Act (42 U.S.C. 300g–
 7 1(b)(4)(E)) is amended by adding at the end the following:
 8 “If no technology, treatment technique, or other means
 9 is included in a list under this subparagraph for a category
 10 of small public water systems, the Administrator shall pe-
 11 riodically review the list and supplement it when new tech-
 12 nology becomes available.”.

13 (b) ASSISTANCE FOR DISADVANTAGED COMMU-
 14 NITIES.—

15 (1) IN GENERAL.—Subparagraph (E) of section
 16 1452(a)(1) of the Safe Drinking Water Act (42
 17 U.S.C. 300j–12(a)(1)) is amended—

18 (A) by striking “except that the Adminis-
 19 trator may reserve” and inserting “except
 20 that—

21 “(i) in any year in which enforcement
 22 of a new national primary drinking water
 23 regulation begins, the Administrator may
 24 use the remaining amount to make grants
 25 to States whose public water systems are

disproportionately affected by the new regulation for the provision of assistance under subsection (d) to such public water systems;

“(ii) the Administrator may reserve”;

and

(B) by striking “and none of the funds reallotted” and inserting “; and

“(iii) none of the funds reallotted”.

(2) ELIMINATION OF CERTAIN PROVISIONS.—

(A) Section 1412(b) (42 U.S.C. 300g-1(b)) of the Safe Drinking Water Act is amended by striking paragraph (15).

(B) Section 1415 (42 U.S.C. 300g-4) of the Safe Drinking Water Act is amended by striking subsection (e).

(3) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 1414(c)(1) of the Safe Drinking Water Act (42 U.S.C. 300g-3(c)(1)(B)) is amended by striking “, (a)(2), or (e)” and inserting “or (a)(2)”.

(B) Section 1416(b)(2) of the Safe Drinking Water Act (42 U.S.C. 300g-5(b)(2)) is amended by striking subparagraph (D).

1 (C) Section 1445(h) of the Safe Drinking
2 Water Act (42 U.S.C. 300j-4(h)) is amended—

3 (i) by striking “sections
4 1412(b)(4)(E) and 1415(e) (relating to
5 small system variance program” and in-
6 serting “section 1412(b)(4)(E)”; and

7 (ii) by striking “guidance under sec-
8 tions 1412(b)(4)(E) and 1415(e)” and in-
9 serting “guidance under section
10 1412(b)(4)(E)”.

11 **SEC. 13. FOCUS ON LIFECYCLE COSTS.**

12 Section 1412(b)(4) of the Safe Drinking Water Act
13 (42 U.S.C. 300g-1(b)(4)) is amended—

14 (1) in subparagraph (D), by striking “taking
15 cost into consideration” and inserting “taking
16 lifecycle costs, including maintenance, replacement,
17 and avoided costs, into consideration”; and

18 (2) in subparagraph (E)(ii), in the matter pre-
19 ceding subclause (I), by inserting “taking lifecycle
20 costs, including maintenance, replacement, and
21 avoided costs, into consideration,” after “as deter-
22 mined by the Administrator in consultation with the
23 States,”.

24 **SEC. 14. STREAMLINING REPORTING AND ENFORCEMENT.**

25 (a) ENFORCEMENT.—

1 (1) ADVICE AND TECHNICAL ASSISTANCE.—

2 Section 1414(a)(1) of the Safe Drinking Water Act

3 (42 U.S.C. 300g-3(a)(1)) is amended—

4 (A) in subparagraph (A), in the matter fol-

5 lowing clause (ii), by striking “and provide such

6 advice and technical assistance to such State

7 and public water system as may be appropriate

8 to bring the system into compliance with the re-

9 quirement by the earliest feasible time”; and

10 (B) by adding at the end the following:

11 “(C) At any time after providing notice of a violation

12 to a State and public water system under subparagraph

13 (A), the Administrator may provide such advice and tech-

14 nical assistance to such State and public water system as

15 may be appropriate to bring the system into compliance

16 with the requirement by the earliest feasible time. In de-

17 ciding whether the provision of advice or technical assist-

18 ance is appropriate, the Administrator may consider the

19 potential for the violation to result in serious adverse ef-

20 fects to human health, whether the violation has occurred

21 continuously or frequently, and the effectiveness of past

22 technical assistance efforts.”.

23 (2) ADDITIONAL INSPECTIONS.—

1 (A) IN GENERAL.—Section 1414 of the
2 Safe Drinking Water Act (42 U.S.C. 300g–3) is
3 amended—

4 (i) by redesignating subsections (d)
5 through (i) as subsections (e) through (j),
6 respectively; and

7 (ii) by inserting after subsection (c)
8 the following:

9 “(d) ADDITIONAL INSPECTIONS FOLLOWING VIOLA-
10 TIONS.—

11 “(1) IN GENERAL.—The Administrator shall,
12 by regulation, and after consultation with the States,
13 prescribe the number, frequency, and type of addi-
14 tional inspections to follow any violation requiring
15 notice under subsection (c). Regulations under this
16 subsection shall—

17 “(A) take into account—

18 “(i) differences between violations
19 that are intermittent or infrequent and vio-
20 lations that are continuous or frequent;

21 “(ii) the seriousness of any potential
22 adverse health effects that may be in-
23 volved; and

24 “(iii) the number and severity of past
25 violations by the public water system; and

1 “(B) specify procedures for inspections fol-
 2 lowing a violation by a public water system that
 3 has the potential to have serious adverse effects
 4 on human health as a result of short-term expo-
 5 sure.

6 “(2) STATE PRIMARY ENFORCEMENT RESPONSI-
 7 BILITY.—Nothing in this subsection shall be con-
 8 strued or applied to modify the requirements of sec-
 9 tion 1413.”.

10 (B) CONFORMING AMENDMENTS.—

11 (i) Subsections (a)(1)(B), (a)(2)(A),
 12 and (b) of section 1414 of the Safe Drink-
 13 ing Water Act (42 U.S.C. 300g–3) are
 14 amended by striking “subsection (g)” each
 15 place it appears and inserting “subsection
 16 (h)”.

17 (ii) Section 1448(a) of the Safe
 18 Drinking Water Act (42 U.S.C. 300j–7(a))
 19 is amended by striking “1414(g)(3)(B)”
 20 and inserting “1414(h)(3)(B)”.

21 (b) ELECTRONIC REPORTING OF COMPLIANCE MONI-
 22 TORING DATA TO THE ADMINISTRATOR.—

23 (1) REQUIREMENT.—Section 1414 of the Safe
 24 Drinking Water Act (42 U.S.C. 300g–3), as amend-

1 ed, is further amended by adding at the end the fol-
2 lowing:

3 “(k) ELECTRONIC REPORTING OF COMPLIANCE
4 MONITORING DATA TO THE ADMINISTRATOR.—The Ad-
5 ministrator shall by rule establish requirements for—

6 “(1) electronic submission by public water sys-
7 tems of all compliance monitoring data—

8 “(A) to the Administrator; or

9 “(B) with respect to public water systems
10 in a State which has primary enforcement re-
11 sponsibility under section 1413, to such State;
12 and

13 “(2) electronic submission to the Administrator
14 by each State which has primary enforcement re-
15 sponsibility under section 1413 of all compliance
16 monitoring data submitted to such State by public
17 water systems pursuant to paragraph (1)(B).”.

18 (2) FINAL RULE.—Not later than 12 months
19 after the date of the enactment of this Act, the Ad-
20 ministrator of the Environmental Protection Agency
21 shall issue a final rule to carry out section 1414(k)
22 of the Safe Drinking Water Act, as added by para-
23 graph (1).

1 **SEC. 15. PRESENCE OF PHARMACEUTICALS AND PERSONAL**
2 **CARE PRODUCTS IN SOURCES OF DRINKING**
3 **WATER.**

4 Subsection (a) of section 1442 of the Safe Drinking
5 Water Act (42 U.S.C. 300j-1) is amended by adding at
6 the end the following:

7 “(11) PRESENCE OF PHARMACEUTICALS AND PER-
8 SONAL CARE PRODUCTS IN SOURCES OF DRINKING
9 WATER.—

10 “(A) STUDY.—The Administrator shall carry
11 out a study on the presence of pharmaceuticals and
12 personal care products in sources of drinking water,
13 which shall—

14 “(i) identify pharmaceuticals and personal
15 care products that have been detected in
16 sources of drinking water and the levels at
17 which such pharmaceuticals and personal care
18 products have been detected;

19 “(ii) identify the sources of pharma-
20 ceuticals and personal care products in sources
21 of drinking water, including point sources and
22 nonpoint sources of pharmaceutical and per-
23 sonal care products;

24 “(iii) identify the effects of such pharma-
25 ceuticals and personal care products on hu-

1 mans, the environment, and the safety of drink-
2 ing water; and

3 “(iv) identify methods to control, limit,
4 treat, or prevent the presence of such personal
5 care pharmaceuticals and products.

6 “(B) CONSULTATION.—The Administrator shall
7 conduct the study described in subparagraph (A) in
8 consultation with the Secretary of Health and
9 Human Services (acting through the Commissioner
10 of Food and Drugs), the Director of the United
11 States Geological Survey, the heads of other appro-
12 priate Federal agencies (including the National In-
13 stitute of Environmental Health Sciences), and other
14 interested stakeholders (including manufacturers of
15 pharmaceuticals and personal care products and
16 consumer groups and advocates).

17 “(C) REPORT.—Not later than 4 years after
18 the date of the enactment of this paragraph, the Ad-
19 ministrator shall submit to the Congress a report on
20 the results of the study carried out under this para-
21 graph.

22 “(D) DEFINITIONS.—In this paragraph:

23 “(i) The term ‘personal care product’ has
24 the meaning given the term ‘cosmetic’ in section

1 201 of the Federal Food, Drug, and Cosmetic
2 Act.

3 “(ii) The term ‘pharmaceutical’ has the
4 meaning given the term ‘drug’ in section 201 of
5 the Federal Food, Drug, and Cosmetic Act.”.

6 **SEC. 16. BEST PRACTICES FOR ADMINISTRATION OF STATE**
7 **REVOLVING LOAN FUND PROGRAMS.**

8 Section 1452 of the Safe Drinking Water Act (42
9 U.S.C. 300j–12) is amended by inserting after subsection
10 (r), as added by section 7(b), the following:

11 “(s) BEST PRACTICES FOR PROGRAM ADMINISTRA-
12 TION.—The Administrator shall—

13 “(1) collect information from States on admin-
14 istration of State programs with respect to State
15 loan funds, including—

16 “(A) efforts to streamline the process for
17 applying for assistance through such programs;

18 “(B) programs in place to assist with the
19 completion of application forms;

20 “(C) incentives provided to systems that
21 partner with small public water systems for the
22 application process; and

23 “(D) techniques to ensure that obligated
24 balances are liquidated in a timely fashion;

1 “(2) not later than 3 years after the date of en-
2 actment of the Assistance, Quality, and Affordability
3 Act of 2017, disseminate to the States best practices
4 for administration of such programs, based on the
5 information collected pursuant to this subsection;
6 and

7 “(3) periodically update such best practices, as
8 appropriate.”.

9 **SEC. 17. WATER LOSS AND LEAK CONTROL TECHNOLOGY.**

10 Part E of the Safe Drinking Water Act (42 U.S.C.
11 300j et seq.) is amended by adding at the end the fol-
12 lowing:

13 **“SEC. 1459C. WATER LOSS AND LEAK CONTROL TECH-**
14 **NOLOGY.**

15 “The Administrator shall—

16 “(1) not later than 5 years after the date of en-
17 actment of this section, develop criteria for effective
18 water loss and leak control technology to be used by
19 public water systems; and

20 “(2) implement a program through which a
21 manufacturer of such technology may apply, on a
22 voluntary basis, for certification of compliance with
23 such criteria.”.

1 **SEC. 18. RISKS OF DROUGHT TO DRINKING WATER.**

2 Part E of the Safe Drinking Water Act (42 U.S.C.
3 300j et seq.) is further amended by adding at the end the
4 following new section:

5 **“SEC. 1459D. DROUGHT RISK ASSESSMENT AND MANAGE-**
6 **MENT.**

7 “(a) STRATEGIC PLAN.—

8 “(1) DEVELOPMENT.—Not later than 90 days
9 after the date of enactment of this section, the Ad-
10 ministrator shall develop and submit to Congress a
11 strategic plan for assessing and managing the risks
12 of drought to drinking water provided by public
13 water systems. The strategic plan shall include steps
14 and timelines to—

15 “(A) evaluate the risks posed by drought
16 to drinking water provided by public water sys-
17 tems;

18 “(B) compile a comprehensive list of the
19 effects of drought on drinking water provided
20 by public water systems which the Adminis-
21 trator determines may have an adverse effect
22 on human health;

23 “(C) summarize—

24 “(i) the known adverse human health
25 effects resulting from the effects of

drought on drinking water included on the list established under subparagraph (B);

“(ii) factors that cause drought; and

“(iii) factors that exacerbate the effects of drought on drinking water provided by public water systems;

“(D) with respect to the effects of drought on drinking water included on the list compiled under subparagraph (B), determine whether to—

“(i) establish guidance regarding feasible analytical methods to quantify such effects; and

“(ii) establish guidance regarding the frequency of monitoring necessary to detect such effects;

“(E) recommend feasible treatment options, including procedures, equipment, and source water protection practices, to mitigate such effects; and

“(F) enter into cooperative agreements with, and provide technical assistance to, affected States and public water systems, as identified by the Administrator, for the purpose of

1 managing risks associated with the effects of
2 drought on drinking water.

3 “(2) UPDATES.—The Administrator shall, as
4 appropriate, update and submit to Congress the
5 strategic plan developed under paragraph (1).

6 “(b) INFORMATION COORDINATION.—In carrying out
7 this section the Administrator shall—

8 “(1) identify gaps in the Agency’s under-
9 standing of the effects of drought on drinking water
10 provided by public water systems, including—

11 “(A) the human health effects of drought;
12 and

13 “(B) methods and means of testing and
14 monitoring for the effects of drought on source
15 water of, or drinking water provided by, public
16 water systems;

17 “(2) as appropriate, consult with—

18 “(A) other Federal agencies that—

19 “(i) examine or analyze drought; or

20 “(ii) address public health concerns
21 related to drought;

22 “(B) States;

23 “(C) operators of public water systems;

24 “(D) multinational agencies;

25 “(E) foreign governments;

1 “(F) research and academic institutions;
2 and

3 “(G) companies that provide relevant
4 drinking water treatment options; and

5 “(3) assemble and publish information from
6 each Federal agency that has—

7 “(A) examined or analyzed drought; or

8 “(B) addressed public health concerns re-
9 lated to drought.

10 “(c) FEASIBLE.—For purposes of this section, the
11 term ‘feasible’ has the meaning given such term in section
12 1412(b)(4)(D).”.

13 **SEC. 19. REDUCING LEAD IN DRINKING WATER.**

14 Section 1459B(d) of the Safe Drinking Water Act
15 (42 U.S.C. 300j–19b(d)) is amended by striking
16 “\$60,000,000 for each of fiscal years 2017 through 2021”
17 and inserting “\$100,000,000 for each of fiscal years 2018
18 through 2022”.

○

115TH CONGRESS
1ST SESSION

H. R. 2510

To amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 18, 2017

Mr. DEFazio (for himself, Mr. DUNCAN of Tennessee, and Mrs. NAPOLITANO) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Water Quality Protection and Job Creation Act of
6 2017”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Amendment of Federal Water Pollution Control Act.

TITLE I—WATER QUALITY FINANCING

Subtitle A—Technical and Management Assistance

- Sec. 101. Technical assistance.
- Sec. 102. State management assistance.
- Sec. 103. Watershed pilot projects.
- Sec. 104. Nonpoint source management programs.

Subtitle B—State Water Pollution Control Revolving Funds

- Sec. 121. Capitalization grant agreements.
- Sec. 122. Water pollution control revolving loan funds.
- Sec. 123. State planning assistance.
- Sec. 124. Intended use plan.
- Sec. 125. Technical assistance.
- Sec. 126. Authorization of appropriations.

TITLE II—ALTERNATIVE WATER SOURCE AND SEWER OVERFLOW AND STORMWATER GRANTS

- Sec. 201. Pilot program for alternative water source projects.
- Sec. 202. Sewer overflow control grants.

1 **SEC. 2. AMENDMENT OF FEDERAL WATER POLLUTION CON-** 2 **TROL ACT.**

3 Except as otherwise expressly provided, whenever in
4 this Act an amendment or repeal is expressed in terms
5 of an amendment to, or repeal of, a section or other provi-
6 sion, the reference shall be considered to be made to a
7 section or other provision of the Federal Water Pollution
8 Control Act (33 U.S.C. 1251 et seq.).

**TITLE I—WATER QUALITY
FINANCING
Subtitle A—Technical and
Management Assistance**

SEC. 101. TECHNICAL ASSISTANCE.

(a) TECHNICAL ASSISTANCE FOR RURAL AND SMALL
TREATMENT WORKS.—Section 104(b) (33 U.S.C.
1254(b)) is amended—

(1) by striking “and” at the end of paragraph
(6);

(2) by striking the period at the end of para-
graph (7) and inserting “; and”; and

(3) by adding at the end the following:

“(8) make grants to nonprofit organizations—

“(A) to provide technical assistance to
rural, small, and tribal municipalities for the
purpose of assisting, in consultation with the
State in which the assistance is provided, such
municipalities and tribal governments in the
planning, developing, and acquisition of financ-
ing for eligible projects described in section
603(e);

“(B) to provide technical assistance and
training for rural, small, and tribal publicly
owned treatment works and decentralized

1 wastewater treatment systems to enable such
2 treatment works and systems to protect water
3 quality and achieve and maintain compliance
4 with the requirements of this Act; and

5 “(C) to disseminate information to rural,
6 small, and tribal municipalities and municipali-
7 ties that meet the affordability criteria estab-
8 lished under section 603(i)(2) by the State in
9 which the municipality is located with respect to
10 planning, design, construction, and operation of
11 publicly owned treatment works and decentral-
12 ized wastewater treatment systems.”.

13 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
14 104(u) (33 U.S.C. 1254(u)) is amended—

15 (1) by striking “and (6)” and inserting “(6)”;

16 and

17 (2) by inserting before the period at the end the
18 following: “; and (7) not to exceed \$100,000,000 for
19 each of fiscal years 2018 through 2022 for carrying
20 out subsections (b)(3), (b)(8), and (g), except that
21 not less than 20 percent of the amounts appro-
22 priated pursuant to this paragraph in a fiscal year
23 shall be used for carrying out subsection (b)(8)”.

1 **SEC. 102. STATE MANAGEMENT ASSISTANCE.**

2 (a) AUTHORIZATION OF APPROPRIATIONS.—Section
3 106(a) (33 U.S.C. 1256(a)) is amended—

4 (1) by striking “and” at the end of paragraph
5 (1);

6 (2) by striking the semicolon at the end of
7 paragraph (2) and inserting “; and”; and

8 (3) by inserting after paragraph (2) the fol-
9 lowing:

10 “(3) such sums as may be necessary for each
11 of fiscal years 1991 through 2017, and
12 \$300,000,000 for each of fiscal years 2018 through
13 2022;”.

14 (b) TECHNICAL AMENDMENT.—Section 106(e) (33
15 U.S.C. 1256(e)) is amended by striking “Beginning in fis-
16 cal year 1974 the” and inserting “The”.

17 **SEC. 103. WATERSHED PILOT PROJECTS.**

18 Section 122(c) is amended to read as follows:

19 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
20 is authorized to be appropriated to carry out this section
21 \$120,000,000 for each of fiscal years 2018 through
22 2022.”.

23 **SEC. 104. NONPOINT SOURCE MANAGEMENT PROGRAMS.**

24 Section 319(j) (33 U.S.C. 1329(j)) is amended by
25 striking “\$70,000,000” and all that follows through “fis-

1 cal year 1991” and inserting “\$200,000,000 for each of
2 fiscal years 2018 through 2022”.

3 **Subtitle B—State Water Pollution**
4 **Control Revolving Funds**

5 **SEC. 121. CAPITALIZATION GRANT AGREEMENTS.**

6 Section 602(b) (33 U.S.C. 1382(b)) is amended—

7 (1) in paragraph (13)(B)(iii), by striking “;
8 and” and inserting a semicolon;

9 (2) in paragraph (14), by striking the period at
10 the end and inserting “; and”; and

11 (3) by adding at the end the following:

12 “(15) the State will use at least 15 percent of
13 the amount of each capitalization grant received by
14 the State under this title after September 30, 2017,
15 to provide assistance to municipalities of fewer than
16 10,000 individuals that meet the affordability cri-
17 teria established by the State under section
18 603(i)(2) for projects or activities included on the
19 State’s priority list under section 603(g), to the ex-
20 tent that there are sufficient applications for such
21 assistance.”.

22 **SEC. 122. WATER POLLUTION CONTROL REVOLVING LOAN**
23 **FUNDS.**

24 Section 603(d) (33 U.S.C. 1383(d)) is amended—

1 (1) by striking “and” at the end of paragraph
2 (6);

3 (2) by striking the period at the end of para-
4 graph (7) and inserting a semicolon; and

5 (3) by adding at the end the following:

6 “(8) to provide grants to owners and operators
7 of treatment works that serve a population of
8 10,000 or fewer for obtaining technical and planning
9 assistance and assistance in financial management,
10 user fee analysis, budgeting, capital improvement
11 planning, facility operation and maintenance, equip-
12 ment replacement, and other activities to improve
13 wastewater treatment plant management and oper-
14 ations, except that the total amount provided by the
15 State in grants under this paragraph for a fiscal
16 year may not exceed one percent of the total amount
17 of assistance provided by the State from the fund in
18 the preceding fiscal year, or 2 percent of the total
19 amount received by the State in capitalization grants
20 under this title in the preceding fiscal year, which-
21 ever amount is greatest; and

22 “(9) to provide grants to owners and operators
23 of treatment works for conducting an assessment of
24 the energy and water consumption of the treatment
25 works, and evaluating potential opportunities for en-

1 energy and water conservation through facility oper-
2 ation and maintenance, equipment replacement, and
3 projects or activities that promote the efficient use
4 of energy and water by the treatment works, except
5 that the total amount provided by the State in
6 grants under this paragraph for a fiscal year may
7 not exceed one percent of the total amount of assist-
8 ance provided by the State from the fund in the pre-
9 ceding fiscal year, or 2 percent of the total amount
10 received by the State in capitalization grants under
11 this title in the preceding fiscal year, whichever
12 amount is greatest.”.

13 **SEC. 123. STATE PLANNING ASSISTANCE.**

14 Section 604(b) (33 U.S.C. 1384(b)) is amended by
15 striking “1 percent” and inserting “2 percent”.

16 **SEC. 124. INTENDED USE PLAN.**

17 (a) INTEGRATED PRIORITY LIST.—Section 603(g)
18 (33 U.S.C. 1383(g)) is amended to read as follows:

19 “(g) PRIORITY LIST.—

20 “(1) IN GENERAL.—For fiscal year 2019 and
21 each fiscal year thereafter, a State shall establish or
22 update a list of projects and activities for which as-
23 sistance is sought from the State’s water pollution
24 control revolving fund. Such projects and activities
25 shall be listed in priority order based on the method-

1 ology established under paragraph (2). The State
2 may provide financial assistance from the State's
3 water pollution control revolving fund only with re-
4 spect to a project or activity included on such list.
5 In the case of projects and activities eligible for as-
6 sistance under subsection (c)(2), the State may in-
7 clude on such list a category or subcategory of
8 nonpoint sources of pollution to be addressed.

9 “(2) METHODOLOGY.—

10 “(A) IN GENERAL.—Not later than 1 year
11 after the date of enactment of this paragraph,
12 and after providing notice and opportunity for
13 public comment, each State shall establish a
14 methodology for developing a priority list under
15 paragraph (1).

16 “(B) PRIORITY FOR PROJECTS AND AC-
17 TIVITIES THAT ACHIEVE GREATEST WATER
18 QUALITY IMPROVEMENT.—In developing the
19 methodology, the State shall seek to achieve the
20 greatest degree of water quality improvement,
21 taking into consideration—

22 “(i) the requirements of section
23 602(b)(5);

1 “(ii) whether such water quality im-
2 provements would be realized without as-
3 sistance under this title; and

4 “(iii) whether the proposed projects
5 and activities would address water quality
6 impairments associated with existing treat-
7 ment works.

8 “(C) CONSIDERATIONS IN SELECTING
9 PROJECTS AND ACTIVITIES.—In determining
10 which projects and activities will achieve the
11 greatest degree of water quality improvement,
12 the State shall consider—

13 “(i) information developed by the
14 State under sections 303(d) and 305(b);

15 “(ii) the State’s continuing planning
16 process developed under sections 205(j)
17 and 303(e);

18 “(iii) whether such project or activity
19 may have a beneficial impact related to the
20 purposes identified under section 302(a);

21 “(iv) the State’s management pro-
22 gram developed under section 319; and

23 “(v) conservation and management
24 plans developed under section 320 with re-

1 spect to an estuary lying in whole or in
2 part within the State.

3 “(D) NONPOINT SOURCES.—For categories
4 or subcategories of nonpoint sources of pollu-
5 tion that a State may include on its priority list
6 under paragraph (1), the State shall consider
7 the cumulative water quality improvements as-
8 sociated with projects or activities carried out
9 pursuant to the listing of such categories or
10 subcategories.

11 “(E) EXISTING METHODOLOGIES.—If a
12 State has previously developed, after providing
13 notice and an opportunity for public comment,
14 a methodology that meets the requirements of
15 this paragraph, the State may use the method-
16 ology for the purposes of this subsection.”.

17 (b) INTENDED USE PLAN.—Section 606(c) (33
18 U.S.C. 1386(c)) is amended—

19 (1) in the matter preceding paragraph (1) by
20 inserting “and publish” after “each State shall an-
21 nually prepare”;

22 (2) by striking paragraph (1) and inserting the
23 following:

24 “(1) the State’s priority list developed under
25 section 603(g);”;

1 (3) in paragraph (4), by striking “and” at the
2 end;

3 (4) by striking the period at the end of para-
4 graph (5) and inserting “; and”; and

5 (5) by adding at the end the following:

6 “(6) if the State does not fund projects and ac-
7 tivities in the order of the priority established under
8 section 603(g), an explanation of why such a change
9 in order is appropriate.”.

10 (c) **TRANSITIONAL PROVISION.**—Before completion
11 of a priority list based on a methodology established under
12 section 603(g) of the Federal Water Pollution Control Act
13 (as amended by this section), a State shall continue to
14 comply with the requirements of sections 603(g) and
15 606(c) of such Act, as in effect on the day before the date
16 of enactment of this Act.

17 **SEC. 125. TECHNICAL ASSISTANCE.**

18 Section 607 is amended to read as follows:

19 **“SEC. 607. TECHNICAL ASSISTANCE.**

20 “(a) **SIMPLIFIED PROCEDURES.**—Not later than 1
21 year after the date of enactment of this section, the Ad-
22 ministrators shall assist the States in establishing sim-
23 plified procedures for treatment works to obtain assistance
24 under this title.

1 “(b) PUBLICATION OF MANUAL.—Not later than 2
 2 years after the date of the enactment of this section, and
 3 after providing notice and opportunity for public comment,
 4 the Administrator shall publish a manual to assist treat-
 5 ment works in obtaining assistance under this title and
 6 publish in the Federal Register notice of the availability
 7 of the manual.”.

8 **SEC. 126. AUTHORIZATION OF APPROPRIATIONS.**

9 Title VI (33 U.S.C. 1381 et seq.) is amended by add-
 10 ing at the end the following:

11 **“SEC. 609. AUTHORIZATION OF APPROPRIATIONS.**

12 “There is authorized to be appropriated to carry out
 13 the purposes of this title \$4,000,000,000 for each of fiscal
 14 years fiscal year 2018 through 2022.”.

15 **TITLE II—ALTERNATIVE WATER**
 16 **SOURCE AND SEWER OVER-**
 17 **FLOW AND STORMWATER**
 18 **GRANTS**

19 **SEC. 201. PILOT PROGRAM FOR ALTERNATIVE WATER**
 20 **SOURCE PROJECTS.**

21 (a) SELECTION OF PROJECTS.—Section 220(d) (33
 22 U.S.C. 1300(d)) is amended by striking paragraph (2) and
 23 redesignating paragraph (3) as paragraph (2).

24 (b) COMMITTEE RESOLUTION PROCEDURE.—Section
 25 220 (33 U.S.C. 1300(e)) is amended by striking sub-

1 section (e) and redesignating subsections (f) through (j)
 2 as subsections (e) through (i), respectively.

3 (c) DEFINITIONS.—Section 220(h)(1) (as redesignig-
 4 nated by subsection (c) of this section) is amended by
 5 striking “or wastewater or by treating wastewater” and
 6 inserting “, wastewater, or stormwater or by treating
 7 wastewater or stormwater”.

8 (d) AUTHORIZATION OF APPROPRIATIONS.—Section
 9 220(i) (as redesignated by subsection (c) of this section)
 10 is amended by striking “\$75,000,000 for fiscal years 2002
 11 through 2004” and inserting “\$75,000,000 for each of fis-
 12 cal years 2018 through 2022”.

13 **SEC. 202. SEWER OVERFLOW CONTROL GRANTS.**

14 Section 221 (33 U.S.C. 1301) is amended—

15 (1) by amending the section heading to read as
 16 follows: “**SEWER OVERFLOW AND STORMWATER**
 17 **REUSE MUNICIPAL GRANTS**”;

18 (2) by amending subsection (a) to read as fol-
 19 lows:

20 “(a) IN GENERAL.—

21 “(1) GRANTS TO STATES.—The Administrator
 22 may make grants to States for the purpose of pro-
 23 viding grants to a municipality or municipal entity
 24 for planning, design, and construction of treatment
 25 works to intercept, transport, control, treat, or reuse

1 municipal combined sewer overflows, sanitary sewer
2 overflows, or stormwater.

3 “(2) DIRECT MUNICIPAL GRANTS.—Subject to
4 subsection (g), the Administrator may make a direct
5 grant to a municipality or municipal entity for the
6 purposes described in paragraph (1).”;

7 (3) by amending subsection (e) to read as fol-
8 lows:

9 “(e) ADMINISTRATIVE REQUIREMENTS.—A project
10 that receives assistance under this section shall be carried
11 out subject to the same requirements as a project that
12 receives assistance from a State water pollution control
13 revolving fund under title VI, except to the extent that
14 the Governor of the State in which the project is located
15 determines that a requirement of title VI is inconsistent
16 with the purposes of this section. For the purposes of this
17 subsection, a Governor may not determine that the re-
18 quirements of title VI relating to the application of section
19 513 are inconsistent with the purposes of this section.”;

20 (4) by amending subsection (f) to read as fol-
21 lows:

22 “(f) AUTHORIZATION OF APPROPRIATIONS.—

23 “(1) IN GENERAL.—There is authorized to be
24 appropriated to carry out this section \$500,000,000
25 for each of fiscal years 2018 through 2022.

1 “(2) MINIMUM ALLOCATIONS.—To the extent
2 there are sufficient eligible project applications, the
3 Administrator shall ensure that a State uses not less
4 than 20 percent of the amount of the grants made
5 to the State under subsection (a) in a fiscal year to
6 carry out projects to intercept, transport, control,
7 treat, or reuse municipal combined sewer overflows,
8 sanitary sewer overflows, or stormwater through the
9 use of green infrastructure, water and energy effi-
10 ciency improvements, and other environmentally in-
11 novative activities.”; and

12 (5) by amending subsection (g) to read as fol-
13 lows:

14 “(g) ALLOCATION OF FUNDS.—

15 “(1) FISCAL YEAR 2018.—Subject to subsection
16 (h), the Administrator shall use the amounts appro-
17 priated to carry out this section for fiscal year 2018
18 for making grants to municipalities and municipal
19 entities under subsection (a)(2) in accordance with
20 the criteria set forth in subsection (b).

21 “(2) FISCAL YEAR 2019 AND THEREAFTER.—
22 Subject to subsection (h), the Administrator shall
23 use the amounts appropriated to carry out this sec-
24 tion for fiscal year 2019 and each fiscal year there-
25 after for making grants to States under subsection

1 (a)(1) in accordance with a formula to be established
2 by the Administrator, after providing notice and an
3 opportunity for public comment, that allocates to
4 each State a proportional share of such amounts
5 based on the total needs of the State for municipal
6 combined sewer overflow controls, sanitary sewer
7 overflow controls, and stormwater identified in the
8 most recent survey conducted pursuant to section
9 516 and any other information the Administrator
10 considers appropriate.”.

○

115TH CONGRESS
1ST SESSION

S. 1464

To amend the Internal Revenue Code of 1986 to expand the exclusion for energy conservation subsidies provided by public utilities to include subsidies provided by public utilities and State and local governments for water conservation and storm water management.

IN THE SENATE OF THE UNITED STATES

JUNE 28, 2017

Mrs. FEINSTEIN (for herself, Mr. HELLER, Mr. BENNET, and Mr. GARDNER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to expand the exclusion for energy conservation subsidies provided by public utilities to include subsidies provided by public utilities and State and local governments for water conservation and storm water management.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Water Conservation
5 Tax Parity Act”.

1 **SEC. 2. MODIFICATIONS TO INCOME EXCLUSION FOR CON-**
2 **SERVATION SUBSIDIES.**

3 (a) IN GENERAL.—Subsection (a) of section 136 of
4 the Internal Revenue Code of 1986 is amended—

5 (1) by striking “any subsidy provided” and in-
6 serting “any subsidy—

7 “(1) provided”;

8 (2) by striking the period at the end and insert-
9 ing a comma; and

10 (3) by adding at the end the following new
11 paragraphs:

12 “(2) provided (directly or indirectly) by a public
13 utility to a customer, or by a State or local govern-
14 ment to a resident of such State or locality, for the
15 purchase or installation of any water conservation
16 measure, or

17 “(3) provided (directly or indirectly) by a storm
18 water management provider to a customer, or by a
19 State or local government to a resident of such State
20 or locality, for the purchase or installation of any
21 storm water management measure.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) DEFINITION OF WATER CONSERVATION
24 MEASURE AND STORM WATER MANAGEMENT MEAS-
25 URE.—Section 136(c) of the Internal Revenue Code
26 of 1986 is amended—

(A) by striking “ENERGY CONSERVATION MEASURE” in the heading thereof and inserting “DEFINITIONS”;

(B) by striking “IN GENERAL” in the heading of paragraph (1) and inserting “ENERGY CONSERVATION MEASURE”; and

(C) by redesignating paragraph (2) as paragraph (4) and by inserting after paragraph (1) the following:

“(2) WATER CONSERVATION MEASURE.—For purposes of this section, the term ‘water conservation measure’ means any installation or modification primarily designed to reduce consumption of water or to improve the management of water demand with respect to a dwelling unit.

“(3) STORM WATER MANAGEMENT MEASURE.—For purposes of this section, the term ‘storm water management measure’ means any installation or modification of property primarily designed to reduce or manage amounts of storm water with respect to a dwelling unit.”.

(2) DEFINITION OF PUBLIC UTILITY.—Section 136(c)(4) of such Code (as redesignated by paragraph (1)(C)) is amended by striking subparagraph (B) and inserting the following:

1 “(B) PUBLIC UTILITY.—The term ‘public
2 utility’ means a person engaged in the sale of
3 electricity, natural gas, or water to residential,
4 commercial, or industrial customers for use by
5 such customers.

6 “(C) STORM WATER MANAGEMENT PRO-
7 VIDER.—The term ‘storm water management
8 provider’ means a person engaged in the provi-
9 sion of storm water management measures to
10 the public.

11 “(D) PERSON.—For purposes of subpara-
12 graphs (B) and (C), the term ‘person’ includes
13 the Federal Government, a State or local gov-
14 ernment or any political subdivision thereof, or
15 any instrumentality of any of the foregoing.”.

16 (3) CLERICAL AMENDMENTS.—

17 (A) The heading of section 136 of such
18 Code is amended—

19 (i) by inserting “**AND WATER**” after
20 “**ENERGY**”; and

21 (ii) by striking “**PROVIDED BY PUB-**
22 **LIC UTILITIES**”.

23 (B) The item relating to section 136 in the
24 table of sections of part III of subchapter B of
25 chapter 1 of such Code is amended—

1 (i) by inserting “and water” after
2 “energy”; and

3 (ii) by striking “provided by public
4 utilities”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to amounts received after January
7 1, 2015.

8 (d) NO INFERENCE.—Nothing in this Act or the
9 amendments made by this Act shall be construed to create
10 any inference with respect to the proper tax treatment of
11 any subsidy received directly or indirectly from a public
12 utility, a storm water management provider, or a State
13 or local government for any water conservation measure
14 or storm water management measure before January 1,
15 2015.

○

115TH CONGRESS
1ST SESSION

H. R. 2862

To provide for wildfire suppression operations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 2017

Mr. SIMPSON (for himself, Mr. SCHRADER, Mrs. McMORRIS RODGERS, Mr. DEFazio, Mr. CALVERT, Ms. MCCOLLUM, Mr. WALDEN, Ms. BONAMICI, Mr. AMODEI, Mr. COSTA, Mr. LABRADOR, Ms. KAPTUR, Mr. NEWHOUSE, Mr. KILMER, Mr. TIPTON, Mr. POLIS, Ms. SINEMA, and Mr. STIVERS) introduced the following bill; which was referred to the Committee on the Budget, and in addition to the Committees on Agriculture, and Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for wildfire suppression operations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Wildfire Disaster
5 Funding Act”.

1 **SEC. 2. WILDFIRE DISASTER FUNDING AUTHORITY.**

2 (a) **DISASTER FUNDING.**—Section 251(b)(2)(D) of
3 the Balanced Budget and Emergency Deficit Control Act
4 of 1985 (2 U.S.C. 901(b)(2)(D)) is amended—

5 (1) in clause (i)—

6 (A) in the matter preceding subclause (I),
7 by striking “the total of—” and inserting “an
8 amount equal to the difference between—”;

9 (B) by redesignating subclauses (I) and
10 (II) as items (aa) and (bb), respectively, and in-
11 denting the items appropriately;

12 (C) by inserting before item (aa) (as so re-
13 designated) the following:

14 “(I) the sum obtained by add-
15 ing—”;

16 (D) in item (bb) of subclause (I) (as so re-
17 designated)—

18 (i) by striking “subclause (I)” and in-
19 serting “item (aa)”; and

20 (ii) by striking the period at the end
21 and inserting “; and”; and

22 (E) by adding at the end the following:

23 “(II) the additional new budget
24 authority provided in an appropria-
25 tions Act for wildfire suppression op-
26 erations pursuant to subparagraph

1 (E) for the preceding fiscal year.”;
2 and

3 (2) by adding at the end the following:

4 “(v) Beginning in fiscal year 2018
5 and for each fiscal year thereafter, the cal-
6 culation of the ‘average funding provided
7 for disaster relief over the previous 10
8 years’ shall include, for each fiscal year
9 during that period, the additional new
10 budget authority provided in an appropria-
11 tions Act for wildfire suppression oper-
12 ations pursuant to subparagraph (E) for
13 the preceding fiscal year.”.

14 (b) WILDFIRE SUPPRESSION.—Section 251(b)(2) of
15 the Balanced Budget and Emergency Deficit Control Act
16 of 1985 (2 U.S.C. 901(b)(2)) is amended by adding at
17 the end the following:

18 “(E) WILDFIRE SUPPRESSION.—

19 “(i) DEFINITIONS.—In this subpara-
20 graph:

21 “(I) ADDITIONAL NEW BUDGET
22 AUTHORITY.—The term ‘additional
23 new budget authority’ means the
24 amount provided for a fiscal year in
25 an appropriations Act that is—

1 “(aa) in excess of the 10-
2 year average of the costs for
3 wildfire suppression operations,
4 as calculated for fiscal year 2015;
5 and

6 “(bb) specified to pay for
7 the costs of wildfire suppression
8 operations.

9 “(II) WILDFIRE SUPPRESSION
10 OPERATIONS.—The term ‘wildfire sup-
11 pression operations’ means the emer-
12 gency and unpredictable aspects of
13 wildland firefighting including—

14 “(aa) support, response, and
15 emergency stabilization activities;

16 “(bb) other emergency man-
17 agement activities; and

18 “(cc) the funds necessary to
19 repay any transfers needed for
20 the costs of wildfire suppression
21 operations.

22 “(ii) ADDITIONAL NEW BUDGET AU-
23 THORITY.—If a bill or joint resolution
24 making appropriations for a fiscal year is
25 enacted that specifies an amount for wild-

1 fire suppression operations in the Wildland
2 Fire Management accounts at the Depart-
3 ment of Agriculture or the Department of
4 the Interior, the adjustments for that fiscal
5 year shall be the amount of additional new
6 budget authority provided in that Act for
7 wildfire suppression operations for that fis-
8 cal year, but shall not exceed—

9 “(I) for fiscal year 2017,
10 \$1,410,000,000 in additional new
11 budget authority;

12 “(II) for fiscal year 2018,
13 \$1,460,000,000 in additional new
14 budget authority;

15 “(III) for fiscal year 2019,
16 \$1,560,000,000 in additional new
17 budget authority;

18 “(IV) for fiscal year 2020,
19 \$1,780,000,000 in additional new
20 budget authority;

21 “(V) for fiscal year 2021,
22 \$2,030,000,000 in additional new
23 budget authority;

1 “(VI) for fiscal year 2022,
2 \$2,320,000,000 in additional new
3 budget authority;

4 “(VII) for fiscal year 2023,
5 \$2,650,000,000 in additional new
6 budget authority;

7 “(VIII) for fiscal year 2024,
8 \$2,690,000,000 in additional new
9 budget authority;

10 “(IX) for fiscal year 2025,
11 \$2,690,000,000 in additional new
12 budget authority; and

13 “(X) for fiscal year 2026,
14 \$2,690,000,000 in additional new
15 budget authority.

16 “(iii) AVERAGE COST AND OUTYEAR
17 CALCULATIONS.—The 10-year average of
18 the costs for wildfire suppression oper-
19 ations and the outyear forecasts of the
20 costs for wildfire suppression operations
21 shall be—

22 “(I) calculated annually; and

23 “(II) reported in the budget of
24 the President submitted under section

1 1105(a) of title 31, United States
2 Code, for each fiscal year.”.

3 (c) REPORTING REQUIREMENTS.—If the Secretary of
4 the Interior or the Secretary of Agriculture determines
5 that supplemental appropriations are necessary for a fiscal
6 year for wildfire suppression operations (as defined in sub-
7 paragraph (E)(i) of section 251(b)(2) of the Balanced
8 Budget and Emergency Deficit Control Act of 1985 (2
9 U.S.C. 901(b)(2))), the Secretary of the Interior or the
10 Secretary of Agriculture, as applicable, shall—

11 (1) promptly submit to Congress a request for
12 the supplemental appropriations; and

13 (2) not later than 30 days after the date on
14 which the supplemental appropriations are made
15 available, submit to Congress a plan describing the
16 manner in which the Secretary of the Interior or the
17 Secretary of Agriculture, as applicable, intends to
18 obligate the supplemental appropriations.

○

AMENDED IN ASSEMBLY JULY 3, 2017

AMENDED IN ASSEMBLY JUNE 26, 2017

AMENDED IN SENATE APRIL 26, 2017

AMENDED IN SENATE MARCH 30, 2017

SENATE BILL

No. 623

**Introduced by Senator Monning
(Principal coauthors: Senators De León and Hertzberg)
(Coauthor: Senator Stone)**

February 17, 2017

An act to amend Section 116395 of, and to add Chapter 4.6 (commencing with Section 116765) to Part 12 of Division 104 of, the Health and Safety Code, and to amend Section 13050 of, and to add ~~and repeal~~ Article 4.5 (commencing with Section 13278) of Chapter 4 of Division 7 of, the Water Code, relating to water, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 623, as amended, Monning. Water quality: Safe and Affordable Drinking Water Fund.

(1) Existing law, the California Safe Drinking Water Act, requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health. Existing law establishes the Office of Sustainable Water Solutions within the State Water Resources Control Board with the purpose of promoting permanent and sustainable drinking water and wastewater treatment solutions to ensure the effective and efficient provision of safe, clean, affordable, and reliable drinking water and wastewater treatment services.

This bill would establish the Safe and Affordable Drinking Water Fund in the State Treasury and would provide that moneys in the fund are continuously appropriated to the office. The bill would require the board to administer the fund to assist communities and individual domestic well users to address contaminants in drinking water that exceed safe drinking water standards, as specified. The bill would authorize the board to provide for the deposit of federal contributions and voluntary contributions, gifts, grants, or bequests. The bill would require the board to expend moneys in the fund for grants, loans, contracts, or services to assist those communities and individual domestic well owners that rely on contaminated drinking water to have access to safe and affordable drinking water consistent with a fund implementation plan adopted annually by the board, as prescribed. The bill would require the board annually to prepare and make available a report of expenditures of the fund and to adopt annually, after a public hearing, an assessment of funding needed to ensure all Californians have access to safe drinking water. By creating a new continuously appropriated fund, this bill would make an appropriation.

The bill would state the intent of the Legislature to subsequently amend the bill to seek specific funding from agricultural operations to assist in providing emergency, interim, and long-term assistance to community water systems and individual domestic well users whose wells are located in agricultural areas.

(2) The act provides for the operation of public water systems and imposes on the state board various duties and responsibilities for the regulation and control of drinking water in the state. The act generally does not apply to state small water systems, except that the act requires the board to adopt regulations specifying minimum requirements for operation of a state small water system, which are authorized to be less stringent than the requirements for public water systems, requires the enforcement of these requirements, and authorizes the reasonable costs of the local health officer to be recovered. The act, within 3 years after September 19, 1985, required the State Department of Public Health to, among other things, conduct training workshops to assist health officers in evaluation of small public water systems, as defined, for organic chemical contamination, and in sampling and testing procedures and required the local health officer, in consultation with the department, to conduct an evaluation of all small public water systems under their jurisdictions to determine the potential for contamination of groundwater sources by organic chemicals and to develop a sampling plan for each

system within their jurisdiction. The act provided that these provisions were operative during any fiscal year only if the Legislature appropriated sufficient funds to pay for all state-mandated costs to be incurred by local agencies during that year due to these provisions.

This bill would require the state board, by January 1, 2019, to promulgate regulations to require state small water systems and individual domestic wells to test their water supply wells for contamination. The bill would require testing to be prioritized based on local water quality conditions and would require the state board to review these regulations at least every 5 years. The bill would exempt these provisions from the above-described inoperative provision.

(3) Under the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board and the California regional water quality control boards are the principal state agencies with authority over matters relating to water quality. The act requires the state board to formulate and adopt state policies for water quality control and requires the regional boards to adopt regional water quality control plans in compliance with the state policies. Under the act, the state board and the regional boards prescribe waste discharge requirements for the discharge of waste that could affect the quality of the waters of the state. The act requires, upon the order of a regional board, a person who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, to clean up the waste or abate the effects of the waste, or in the case of threatened pollution or nuisance, to take other remedial action.

This bill would prohibit the state board or a regional ~~board~~ board, *until January 1, 2028*, from subjecting an agricultural operation, as defined, to specified enforcement for causing or contributing to an exceedance of a water quality objective for nitrate in groundwater or for causing or contributing to a condition of pollution or nuisance *for nitrates in groundwater* if that agricultural operation demonstrates that it has satisfied certain mitigation requirements, including, among other requirements, the timely payment of any applicable fee, assessment, or charge into the fund. *The bill would prohibit the state board or a regional board, beginning January 1, 2028, until January 1, 2033, from subjecting an agricultural operation to specified enforcement for creating or threatening to create a condition of pollution or nuisance for nitrate in groundwater if that agricultural operation demonstrates*

that it has satisfied the prescribed mitigation requirements. The bill would require the state board, by January 1, 2027, to conduct a public review of regulatory and basin plan amendment implementation programs to evaluate progress toward achieving water quality objectives with respect to nitrates in groundwater and assess compliance with adopted timelines, monitoring requirements, and implementation of best practicable treatment or control. ~~The bill would repeal these provisions on January 1, 2028.~~

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 116395 of the Health and Safety Code
- 2 is amended to read:
- 3 116395. (a) The Legislature finds and declares all of the
- 4 following:
- 5 (1) The large water system testing program has discovered
- 6 chemical contamination of the state's drinking water with
- 7 increasing frequency.
- 8 (2) A significant number of California residents rely on the
- 9 state's small water systems and individual domestic wells to
- 10 provide their water.
- 11 (3) The small systems and individual domestic wells, because
- 12 they tend to be located in outlying rural areas where pesticide use
- 13 is prevalent, and because they draw their water from shallow
- 14 aquifers, face a serious threat of contamination.
- 15 (4) Unchecked water sources that may be contaminated pose a
- 16 potentially serious threat to the health of the citizens of California,
- 17 particularly those living in outlying rural areas.
- 18 (5) It is in the interest of all Californians that a testing program
- 19 for small public water systems and individual domestic wells be
- 20 implemented and carried out as expeditiously as possible.
- 21 (6) Section 106.3 of the Water Code declares that every
- 22 Californian has the right to sufficient clean, safe, affordable, and
- 23 accessible water adequate for human consumption, cooking, and
- 24 sanitary purposes.
- 25 (7) To ensure that the right of every Californian to sufficient
- 26 clean, safe, affordable, and accessible water adequate for human
- 27 consumption, cooking, and sanitary purposes is met, it is in the

1 interest of the State of California to identify water quality threats
2 in the state's drinking water supply, to the extent feasible, whether
3 those supplies serve a public water system, state small water
4 system, or an individual domestic well.

5 (b) (1) For purposes of this section, "small public water system"
6 means a system with 200 connections or less, and is one of the
7 following:

8 (A) A community water system that serves at least 15 service
9 connections used by yearlong residents or regularly serves at least
10 25 yearlong residents.

11 (B) A state small water system.

12 (C) A noncommunity water system such as a school, labor camp,
13 institution, or place of employment, as designated by the state
14 board.

15 (2) For the purposes of this section, "individual domestic well"
16 means a groundwater well used to supply water for the domestic
17 needs of an individual residence or systems of four or less service
18 connections.

19 (c) The state board shall conduct training workshops to assist
20 health officers in evaluation of small public water systems for
21 organic chemical contamination, and in sampling and testing
22 procedures. The state board shall, at a minimum, provide health
23 officers with guidelines for evaluating systems and instructions
24 for sampling.

25 (d) The state board shall develop a schedule for conduct of the
26 programs by the local health officers. The schedule shall establish
27 a program to address first those systems with the most serious
28 potential for contamination. The state board shall enter into
29 agreements with the local health agencies to conduct the necessary
30 work to be performed pursuant to the schedule. The department
31 shall begin the program no later than three months after September
32 19, 1985. All local health officers shall complete the evaluation,
33 sampling, testing, review of sampling results, and notification to
34 the public water systems within their jurisdiction in accordance
35 with the agreements entered into with the state board and within
36 the schedule established by the state board. All work required by
37 this subdivision shall be completed within three years after
38 September 19, 1985.

39 (e) By January 1, 2019, the state board shall promulgate
40 regulations to require state small water systems and individual

1 domestic wells to test their water supply wells for contamination.
2 The state board shall prioritize testing based on local water quality
3 conditions. The state board shall review these regulations at least
4 every five years.

5 (f) (1) Except as provided in paragraph (2), this section shall
6 be operative during any fiscal year only if the Legislature
7 appropriates sufficient funds to pay for all state-mandated costs
8 to be incurred by local agencies pursuant to this section during
9 that year.

10 (2) Subdivisions (a), (b), (e), and (f) shall not become
11 inoperative.

12 SEC. 2. Chapter 4.6 (commencing with Section 116765) is
13 added to Part 12 of Division 104 of the Health and Safety Code,
14 to read:

15
16 CHAPTER 4.6. SAFE AND AFFORDABLE DRINKING WATER
17

18 116765. For the purposes of this chapter:

19 (a) "Agricultural operations" has the same meaning as defined
20 in Section 13050 of the Water Code.

21 (b) "Board" means the State Water Resources Control Board.

22 (c) "Community water system" has the same meaning as defined
23 in Section 116275.

24 (d) "Disadvantaged community" has the same meaning as
25 defined in Section 116275.

26 (e) "Fund" means the Safe and Affordable Drinking Water Fund
27 established pursuant to Section 116766.

28 (f) "Nontransient noncommunity water system" has the same
29 meaning as defined in Section 116275.

30 (g) "Public water system" has the same meaning as defined in
31 Section 116275.

32 (h) "Replacement water" includes, but is not limited to, bottled
33 water, point-of-use, or point-of-entry treatment units.

34 (i) "Safe Drinking Water Plan" means the plan prepared pursuant
35 to Section 116355.

36 116766. The Safe and Affordable Drinking Water Fund is
37 hereby established in the State Treasury. Notwithstanding Section
38 13340 of the Government Code, all moneys in the fund are
39 continuously appropriated to the Office of Sustainable Water
40 Solutions within the board without regard to fiscal years, in

1 accordance with this chapter. Moneys in the fund at the close of
2 the fiscal year shall remain in the fund and shall not revert to the
3 General Fund.

4 116767. (a) The board shall administer the fund for the
5 purposes of this chapter to provide a stable source of funding to
6 assist communities and individual domestic well users to address
7 contaminants in drinking water that exceed safe drinking water
8 standards, the treatment of which would otherwise make the cost
9 of water service unaffordable. The board shall prioritize the use
10 of this funding to assist low-income communities and low-income
11 individual domestic well users. In addition, the board shall
12 prioritize the use of this funding for costs other than those related
13 to capital construction costs. An expenditure from the fund shall
14 be consistent with the annual fund implementation plan developed
15 pursuant to Section 116769. On and after January 1, 2020, the total
16 unencumbered amount in the fund shall not exceed the board's
17 total estimated need for moneys in the fund over a two-year period.

18 (b) In accordance with subdivision (a), the board shall expend
19 moneys in the fund for grants, loans, contracts, or services to assist
20 those communities and individual domestic well owners that rely
21 on contaminated drinking water to have access to safe and
22 affordable drinking water with any of the following:

23 (1) The provision of replacement water, as needed, to ensure
24 immediate protection of health and safety as a short-term solution.

25 (2) The development, implementation, and sustainability of
26 long-term solutions, including, but not limited to, planning,
27 construction, and operation and maintenance costs associated with
28 replacing, blending, or treating contaminated wells and
29 consolidating water systems.

30 (3) Identifying Californians without access to safe drinking
31 water who are eligible to receive assistance from the fund and
32 providing outreach to them.

33 (4) Testing the drinking water quality of individual domestic
34 wells serving low-income households.

35 (c) Eligible applicants for funding include public agencies,
36 nonprofit organizations, public utilities, federally recognized Indian
37 tribes, state Indian tribes listed on the Native American Heritage
38 Commission's California tribal consultation list, groundwater
39 sustainability agencies, and mutual water companies.

(d) The board may expend up to 5 percent of the annual expenditures from the fund for reasonable costs associated with administration of the fund.

(e) The board may undertake any of the following actions to implement the fund:

(1) Provide for the deposit of any of the following available and necessary moneys into the fund:

(A) Federal contributions.

(B) Voluntary contributions, gifts, grants, or bequests.

(2) Enter into agreements for contributions to the fund from the federal government, local or state agencies, and private corporations or nonprofit organizations.

(3) Provide for appropriate audit, accounting, and fiscal management services, plans, and reports relative to the fund.

(4) Take additional incidental action as may be appropriate for adequate administration and operation of the fund.

116768. It is the intent of the Legislature to subsequently amend this section to seek specific funding from agricultural operations to assist in providing emergency, interim, and long-term assistance to community water systems and individual domestic well users whose wells have been impacted by nitrate contamination and whose wells are located in agricultural areas.

116769. Annually, the board shall do all of the following:

(a) Prepare and make available a report of expenditures from the fund.

(b) Adopt, after a public hearing, an assessment of funding needed to ensure all Californians have access to safe drinking water. This annual assessment shall incorporate information contained in the Safe Drinking Water Plan and include a list of community water systems and nontransient noncommunity water systems without access to safe drinking water, as well as identification of small communities and rural populations not served by public water systems that do not have access to safe drinking water.

(c) (1) Adopt, after a public hearing, a fund implementation plan with priorities and guidelines for expenditures of the fund. The board shall work with a multistakeholder advisory group that shall be open to participation by representatives of entities paying into the fund, public water systems, technical assistance providers,

1 local agencies, affected persons, nongovernmental organizations,
2 and the public, to establish priorities for the plan.

3 (2) The fund implementation plan shall prioritize eligibility for
4 expenditures of the fund based on the following:

5 (A) A water system's current or projected water rates needed
6 to ensure safe drinking water exceed or will exceed 1.5 percent of
7 the median household income for that water system and the water
8 system qualifies as a disadvantaged community.

9 (B) The costs for providing potable water for an individual
10 domestic well exceed or will exceed 1.5 percent of the household's
11 income and the household's income is less than 80 percent of the
12 statewide household median income.

13 SEC. 3. Section 13050 of the Water Code is amended to read:
14 13050. As used in this division:

15 (a) "State board" means the State Water Resources Control
16 Board.

17 (b) "Regional board" means any California regional water
18 quality control board for a region as specified in Section 13200.

19 (c) "Person" includes any city, county, district, the state, and
20 the United States, to the extent authorized by federal law.

21 (d) "Waste" includes sewage and any and all other waste
22 substances, liquid, solid, gaseous, or radioactive, associated with
23 human habitation, or of human or animal origin, or from any
24 producing, manufacturing, or processing operation, including waste
25 placed within containers of whatever nature prior to, and for
26 purposes of, disposal.

27 (e) "Waters of the state" means any surface water or
28 groundwater, including saline waters, within the boundaries of the
29 state.

30 (f) "Beneficial uses" of the waters of the state that may be
31 protected against quality degradation include, but are not limited
32 to, domestic, municipal, agricultural and industrial supply; power
33 generation; recreation; aesthetic enjoyment; navigation; and
34 preservation and enhancement of fish, wildlife, and other aquatic
35 resources or preserves.

36 (g) "Quality of the water" refers to chemical, physical,
37 biological, bacteriological, radiological, and other properties and
38 characteristics of water which affect its use.

39 (h) "Water quality objectives" means the limits or levels of
40 water quality constituents or characteristics which are established

1 for the reasonable protection of beneficial uses of water or the
2 prevention of nuisance within a specific area.

3 (i) "Water quality control" means the regulation of any activity
4 or factor which may affect the quality of the waters of the state
5 and includes the prevention and correction of water pollution and
6 nuisance.

7 (j) "Water quality control plan" consists of a designation or
8 establishment for the waters within a specified area of all of the
9 following:

10 (1) Beneficial uses to be protected.

11 (2) Water quality objectives.

12 (3) A program of implementation needed for achieving water
13 quality objectives.

14 (k) "Contamination" means an impairment of the quality of the
15 waters of the state by waste to a degree which creates a hazard to
16 the public health through poisoning or through the spread of
17 disease. "Contamination" includes any equivalent effect resulting
18 from the disposal of waste, whether or not waters of the state are
19 affected.

20 (l) (1) "Pollution" means an alteration of the quality of the
21 waters of the state by waste to a degree which unreasonably affects
22 either of the following:

23 (A) The waters for beneficial uses.

24 (B) Facilities which serve these beneficial uses.

25 (2) "Pollution" may include "contamination."

26 (m) "Nuisance" means anything which meets all of the following
27 requirements:

28 (1) Is injurious to health, or is indecent or offensive to the senses,
29 or an obstruction to the free use of property, so as to interfere with
30 the comfortable enjoyment of life or property.

31 (2) Affects at the same time an entire community or
32 neighborhood, or any considerable number of persons, although
33 the extent of the annoyance or damage inflicted upon individuals
34 may be unequal.

35 (3) Occurs during, or as a result of, the treatment or disposal of
36 wastes.

37 (n) "Recycled water" means water which, as a result of treatment
38 of waste, is suitable for a direct beneficial use or a controlled use
39 that would not otherwise occur and is therefor considered a
40 valuable resource.

1 (o) "Citizen or domiciliary" of the state includes a foreign
2 corporation having substantial business contacts in the state or
3 which is subject to service of process in this state.

4 (p) (1) "Hazardous substance" means either of the following:

5 (A) For discharge to surface waters, any substance determined
6 to be a hazardous substance pursuant to Section 311(b)(2) of the
7 Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.).

8 (B) For discharge to groundwater, any substance listed as a
9 hazardous waste or hazardous material pursuant to Section 25140
10 of the Health and Safety Code, without regard to whether the
11 substance is intended to be used, reused, or discarded, except that
12 "hazardous substance" does not include any substance excluded
13 from Section 311(b)(2) of the Federal Water Pollution Control Act
14 because it is within the scope of Section 311(a)(1) of that act.

15 (2) "Hazardous substance" does not include any of the
16 following:

17 (A) Nontoxic, nonflammable, and noncorrosive stormwater
18 runoff drained from underground vaults, chambers, or manholes
19 into gutters or storm sewers.

20 (B) Any pesticide which is applied for agricultural purposes or
21 is applied in accordance with a cooperative agreement authorized
22 by Section 116180 of the Health and Safety Code, and is not
23 discharged accidentally or for purposes of disposal, the application
24 of which is in compliance with all applicable state and federal laws
25 and regulations.

26 (C) Any discharge to surface water of a quantity less than a
27 reportable quantity as determined by regulations issued pursuant
28 to Section 311(b)(4) of the Federal Water Pollution Control Act.

29 (D) Any discharge to land which results, or probably will result,
30 in a discharge to groundwater if the amount of the discharge to
31 land is less than a reportable quantity, as determined by regulations
32 adopted pursuant to Section 13271, for substances listed as
33 hazardous pursuant to Section 25140 of the Health and Safety
34 Code. No discharge shall be deemed a discharge of a reportable
35 quantity until regulations set a reportable quantity for the substance
36 discharged.

37 (q) (1) "Mining waste" means all solid, semisolid, and liquid
38 waste materials from the extraction, beneficiation, and processing
39 of ores and minerals. Mining waste includes, but is not limited to,
40 soil, waste rock, and overburden, as defined in Section 2732 of

the Public Resources Code, and tailings, slag, and other processed waste materials, including cementitious materials that are managed at the cement manufacturing facility where the materials were generated.

(2) For the purposes of this subdivision, “cementitious material” means cement, cement kiln dust, clinker, and clinker dust.

(r) “Master recycling permit” means a permit issued to a supplier or a distributor, or both, of recycled water, that includes waste discharge requirements prescribed pursuant to Section 13263 and water recycling requirements prescribed pursuant to Section 13523.1.

(s) (1) “Agricultural operation” means either of the following:

(A) A discharger that satisfies both of the following conditions:

(i) The discharger is an owner, operator, or both, of land that is irrigated to produce crops or pasture for commercial purposes or a nursery.

(ii) The discharger is enrolled or named in an irrigated lands regulatory program order adopted by the state board or a regional board pursuant to Section 13263 or 13269.

(B) A discharger that satisfies both of the following conditions:

(i) The discharger is an owner, operator, or both of a facility that is used for the raising or harvesting of livestock.

(ii) The discharger is enrolled or named in an order adopted by the state board or a regional board pursuant to Section 13263 or 13269 that regulates the discharges of waste from a facility identified in clause (i) to protect ground and surface water.

(2) “Agricultural operation” does not include any of the following:

(A) ~~An off-farm~~ facility that processes crops or livestock.

(B) ~~An off-farm~~ facility that manufactures, synthesizes, stores, or processes fertilizer.

(C) Any portions of land or activities occurring on those portions of land that are not covered by an order adopted by the state board or a regional board ~~pursuant to Section 13263 or 13269~~; identified in clause (ii) of subparagraph (A) or clause (ii) of subparagraph (B) of paragraph (1).

SEC. 4. Article 4.5 (commencing with Section 13278) is added to Chapter 4 of Division 7 of the Water Code, to read:

Article 4.5. Discharges of Nitrate to Groundwater from
Agricultural Operations

13278. (a) For the purposes of this article, the Legislature finds
~~and declares~~ all of the following:

(1) Implementation of currently known best management practices for some crops can reduce but not always completely prevent nitrogen in organic and synthetic fertilizers that transform to nitrates from reaching groundwater at concentrations above the water quality objectives established pursuant to this division.

(2) It is acknowledged that discharges of nitrate from agricultural operations could reach groundwater and could cause or contribute to exceedances of drinking water standards for nitrate, *and could* cause conditions of pollution of or nuisance in those waters as defined and applied ~~pursuant to~~ *in accordance with* this division, or both.

(3) *Nitrate contamination of groundwater impacts drinking water sources for hundreds of thousands of Californians and it is necessary to protect current and future drinking water users from the impacts of nitrate contamination.*

~~(3)~~
(4) Despite ~~substantial~~ progress in controlling discharges of nitrogen that lead to nitrate formation, some groundwater sources of drinking water will continue to be adversely impacted by nitrates and it is important to have in place a program for mitigating these impacts.

~~(4) The Safe and Affordable Drinking Water Fund is established pursuant to Section 116766 of the Health and Safety Code in consideration of and in furtherance of the human right to water that has previously been codified as an established policy of the state.~~

(5) The regional boards will continue to regulate discharges to reduce nitrogen loading and protect beneficial uses of water and groundwater basins; the state board, regional boards, and courts will ensure compliance with those orders; and dischargers will pay for mitigation of ~~past and ongoing~~ pollution by funding replacement water for affected communities.

(b) ~~It is the intent of the~~ *The Legislature declares its intent* in establishing this article to do both of the following:

(1) To subsequently amend this article to establish an agricultural assessment to be paid by agricultural operations for a period of ~~10~~ 15 years to provide funding, as a portion of the Safe and Affordable Drinking Water Fund, to make available alternative supplies of safe drinking water to persons affected by discharges of nitrogen from agricultural operations that may occur in amounts that may cause or contribute to an exceedance of a water quality objective or cause conditions of pollution or nuisance.

(2) To limit ~~certain administrative~~ enforcement actions that a regional board or the state board could otherwise initiate during that ~~10-year~~ 15-year period against an agricultural operation paying the ~~nitrate mitigation~~ agricultural assessment, while maintaining the overall framework of this division to protect beneficial uses, implement water quality objectives in waters of the state, and regulate activities and factors that affect water quality to attain the highest water quality that is reasonable.

13278.1. (a) An agricultural operation shall not be subject to enforcement *undertaken or initiated* by the state board or a regional board under Chapter 5 (commencing with Section 13330) for causing or contributing to an exceedance of a water quality objective for nitrate in groundwater or for causing or contributing to a condition of pollution or nuisance *for nitrates in groundwater* if an agricultural operation that discharges or threatens to discharge, or has discharged or previously threatened to discharge, nitrate to groundwater demonstrates that it has satisfied all of the following mitigation requirements:

(1) The agricultural operation has timely paid any applicable fee, assessment, or charge into the Safe and Affordable Drinking Water Fund or an applicable agricultural assessment is providing funding into the Safe and Affordable Drinking Water Fund. For the purposes of this paragraph, “timely paid” means that an agricultural operation has paid all applicable fees, assessments, or charges, no later than 90 days after their respective due dates, since the application of the fee, assessment, or charge to the agricultural operation.

(2) Except as provided in subdivision (b), the agricultural operation is in compliance with all applicable provisions prescribed by a regional board or the state board in an order adopted pursuant to Section 13263 or 13269, including, but not limited to, the following:

1 (A) Requirements to implement best practicable treatment or
2 control.

3 (B) Best efforts, monitoring, and reporting requirements.

4 (C) Timelines.

5 (3) The agricultural operation is in compliance with an
6 applicable program of implementation for achieving groundwater
7 quality objectives for nitrate that is part of an applicable water
8 quality control plan adopted by the state board or a regional board
9 pursuant to Article 3 (commencing with Section 13240).

10 (b) (1) The mitigation requirement contained in paragraph (2)
11 of subdivision (a) does not include any generalized prohibition
12 *contained in an order adopted under Section 13263 or 13269* on
13 causing or contributing, or threatening to cause or contribute, to
14 an exceedance of a water quality objective for nitrate in
15 groundwater or a condition of pollution or nuisance for nitrate in
16 groundwater.

17 (2) (A) An agricultural operation—~~shall not be~~ *is not* in
18 compliance with the mitigation requirement in paragraph (2) of
19 subdivision (a) if the agricultural operation has been subject to an
20 enforcement action under Chapter 5 (commencing with Section
21 13330) within the preceding 12 months for any violation of an
22 order adopted under Section 13263 or 13269 authorizing discharges
23 from agricultural operations.

24 (B) Subparagraph (A) does not apply to an enforcement action
25 commenced after January 1, 2016, and before January 1, 2018,
26 inclusive, alleging that ~~discharges~~ *a discharge* from an agricultural
27 operation caused or contributed, or threatened to cause or
28 contribute, to an exceedance of a water quality objective for nitrate
29 in groundwater, conditions of pollution or nuisance for nitrate in
30 groundwater, or both.

31 (3) An agricultural operation does not qualify for the
32 enforcement exemption set forth in this subdivision if the operation
33 fails to continue to make applicable payments into the Safe and
34 Affordable Drinking Water Fund to the extent that the agricultural
35 operation maintains a continuance of farming operation.

36 (c) Both of the following apply to a discharge of nitrogen by an
37 agricultural operation that occurs when the discharger is in full
38 compliance with the mitigation requirements:

39 (1) The ~~discharge of nitrogen~~ shall not be admissible in a future
40 enforcement action against the agricultural operation by the state

board or a regional board pursuant to Chapter 5 (commencing with Section 13300) to support a claim that the agricultural operation is causing or contributing, or threatening to cause or contribute, to an exceedance of a water quality objective for nitrate in groundwater or a condition of pollution or nuisance for nitrate in groundwater.

(2) The discharge of ~~nitrogen~~ shall not be considered by the state board or a regional board to apportion responsibility and shall not be used by any person to diminish responsibility in any enforcement action initiated pursuant to Chapter 5 (commencing with Section 13300) with respect to discharges of nitrogen, regardless of source, that did not occur in compliance with the mitigation requirements.

(d) Nothing in this section alters the state board's or a regional board's authority to require or conduct investigations, to require reports on or to establish other requirements for best practicable treatment or control, or to require monitoring and reporting requirements to protect water quality.

(e) This section shall not be deemed to change or alter a water quality objective that is part of a water quality control plan adopted by the state board or a regional board pursuant to Article 3 (commencing with Section 13240).

(f) *This section shall remain in effect only until January 1, 2028, and as of that date is repealed.*

13278.2. (a) *An agricultural operation shall not be subject to enforcement undertaken or initiated by the state board or a regional board under Section 13304 for creating or threatening to create a condition of pollution or nuisance for nitrates in groundwater if an agricultural operation that discharges or threatens to discharge, or has discharged or previously threatened to discharge, nitrate to groundwater demonstrates that it has satisfied all of the following mitigation requirements:*

(1) *The agricultural operation has timely paid any applicable fee, assessment, or charge into the Safe and Affordable Drinking Water Fund or an applicable agricultural assessment is providing funding into the Safe and Affordable Drinking Water Fund. For the purposes of this paragraph, "timely paid" means that an agricultural operation has paid all applicable fees, assessments, or charges, no later than 90 days after their respective due dates,*

1 *since the application of the fee, assessment, or charge to the*
2 *agricultural operation.*

3 *(2) Except as provided in subdivision (b), the agricultural*
4 *operation is in compliance with all applicable provisions*
5 *prescribed by a regional board or the state board in an order*
6 *adopted pursuant to Section 13263 or 13269, including, but not*
7 *limited to, the following:*

8 *(A) Requirements to implement best practicable treatment or*
9 *control.*

10 *(B) Best efforts, monitoring, and reporting requirements.*

11 *(C) Timelines.*

12 *(3) The agricultural operation is in compliance with an*
13 *applicable program of implementation for achieving groundwater*
14 *quality objectives for nitrate that is part of an applicable water*
15 *quality control plan adopted by the state board or a regional board*
16 *pursuant to Article 3 (commencing with Section 13240).*

17 *(b) (1) The mitigation requirement contained in paragraph (2)*
18 *of subdivision (a) does not include any generalized prohibition*
19 *contained in an order adopted under Section 13263 or 13269 on*
20 *causing or contributing, or threatening to cause or contribute, to*
21 *an exceedance of a water quality objective for nitrate in*
22 *groundwater or a condition of pollution or nuisance for nitrate in*
23 *groundwater.*

24 *(2) An agricultural operation is not in compliance with the*
25 *mitigation requirement in paragraph (2) of subdivision (a) if the*
26 *agricultural operation has been subject to an enforcement action*
27 *under Chapter 5 (commencing with Section 13330) within the*
28 *preceding 12 months for any violation of an order adopted under*
29 *Section 13263 or 13269 authorizing discharges from agricultural*
30 *operations.*

31 *(3) An agricultural operation does not qualify for the*
32 *enforcement exemption set forth in this subdivision if the operation*
33 *fails to continue to make applicable payments into the Safe and*
34 *Affordable Drinking Water Fund to the extent that the agricultural*
35 *operation maintains a continuance of farming operation.*

36 *(c) Both of the following apply to a discharge of nitrogen by an*
37 *agricultural operation that occurs when the discharger is in full*
38 *compliance with the mitigation requirements:*

39 *(1) The discharge shall not be admissible in a future enforcement*
40 *action against the agricultural operation by the state board or a*

1 regional board pursuant to Chapter 5 (commencing with Section
2 13300) to support a claim that the agricultural operation is causing
3 or contributing, or threatening to cause or contribute, to an
4 exceedance of a water quality objective for nitrate in groundwater
5 or a condition of pollution or nuisance for nitrate in groundwater.

6 (2) The discharge shall not be considered by the state board or
7 a regional board to apportion responsibility and shall not be used
8 by any person to diminish responsibility in any enforcement action
9 initiated pursuant to Chapter 5 (commencing with Section 13300)
10 with respect to discharges of nitrogen, regardless of source, that
11 did not occur in compliance with the mitigation requirements.

12 (d) Nothing in this section alters the state board's or a regional
13 board's authority to require or conduct investigations, to require
14 reports on or to establish other requirements for best practicable
15 treatment or control, or to require monitoring and reporting
16 requirements to protect water quality.

17 (e) This section shall not be deemed to change or alter a water
18 quality objective that is part of a water quality control plan adopted
19 by the state board or a regional board pursuant to Article 3
20 (commencing with Section 13240).

21 (f) (1) This section shall become operative on January 1, 2028.

22 (2) This section shall remain in effect only until January 1, 2033,
23 and as of that date is repealed, unless a later enacted statute that
24 is enacted before January 1, 2033, deletes or extends that date.

25 ~~13278.2.~~

26 13278.3. By January 1, 2027, the state board shall conduct a
27 public review of regulatory and basin plan amendment
28 implementation programs to evaluate progress toward achieving
29 water quality objectives with respect to nitrates in groundwater
30 and assess compliance with adopted timelines, monitoring
31 requirements, and implementation of best practicable treatment or
32 control.

33 ~~13278.3.~~

34 13278.4. Nothing in this article limits the liability of a
35 discharger under any other law, including, but not limited to, Part
36 3 (commencing with Section 3479) of Division 4 of the Civil Code.

1 ~~13278.4. This article shall remain in effect only until January~~
2 ~~1, 2028, and as of that date is repealed, unless a later enacted statute~~
3 ~~that is enacted before January 1, 2028, deletes or extends that date.~~

O

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: August 8, 2017

MEMO TO: Board of Directors

FROM: Alexander R. Coate, General Manager *ARC*

SUBJECT: Strategic Plan 2018 Update

INTRODUCTION

The District's Strategic Plan was last updated and adopted by the Board in June 2016. The Plan can be accessed online at: www.ebmud.com/Strategic-Plan. The 2016 update included comprehensive in-depth outreach and reflected feedback from all employees. During the course of the 2016 update, the Board expressed interest to participate earlier in the next update process. In response to this request, the attached tables identify the venues where Board input has been provided into each goal area of the Strategic Plan during FY17. The tables also identify areas of planned discussion for FY18. This approach will be discussed at the August 8, 2017 Board meeting.

DISCUSSION

The Strategic Plan is a key planning document that establishes the long-term goals and strategies to effectively respond to future challenges and changing priorities. The Strategic Plan goals address the most critical issues facing the District in the coming years. Since the Plan sets forth long-term goals and strategies, the process of updating the Plan every two years varies. It is advantageous to minimize the number of significant changes to long-term goals in order to maintain focus. This is why the District conducts interim reviews every two years, and more comprehensive updates every four to six years depending upon how quickly external factors change. Key performance indicators are updated more frequently as progress is made towards achieving our goals.

In Fiscal Year 2017 (FY17), the Board was actively involved in decisions and providing guidance to staff in support of each of the Strategic Plan goals. Much has been accomplished during FY17 as shown in the attachment to this memo. The 2018 Strategic Plan update process is launching earlier than prior years to ensure the Board's guidance is incorporated. This next update of the Plan will focus on revising key performance indicators, modifying performance targets and in some cases, changing strategies or objectives as needed to ensure the goals are achieved.

Looking ahead, staff will continue throughout FY18 to work through the various Board Committees and workshops as shown in the attachment to consider changes to the Plan in preparation for the May 2018 Strategic Plan Board workshop.

ARC:SDS:JC

Attachment

Strategic Plan Goal: Long-Term Water Supply

Strategy	FY17	FY18
Supplemental Supply	<ul style="list-style-type: none"> Jul. 2016 – Planning Cttee: Statewide Groundwater Management Act & Groundwater Sustainability Agency Formation Aug. 2016 – Board meeting: Hearing and resolution on Groundwater Sustainability Agency formation Aug. 2016 – Board Info Memo: San Joaquin County Groundwater Banking Demonstration Project Nov. 2016 – Planning Cttee: Groundwater banking in Sacramento and San Joaquin Counties Jan. 2017 – Board meeting: Application to the US Department of the Interior, Bureau of Reclamation for a WaterSMART Drought Resiliency Grant to Fund the Bay Area Regional Reliability Regional Exchange Demonstration Project Mar. 2017 – Board workshop: Long-Term Water Supply Jun. 2017 – Planning Cttee: Sustainable Groundwater Management Act compliance update 	<ul style="list-style-type: none"> Jul. 2017 – Planning Cttee: DREAM Project update Sept. 2017 – Board meeting: Sustainable Groundwater Planning Grant application, DREAM Project implementation agreements, City of Hayward MOU for GSP development, and jointly apply for Prop 1 grant funding Oct. 2017 – Update water transfer MOU with Placer County Water Agency Dec. 2017 – Planning Cttee: Los Vaqueros Reservoir Expansion project update, Bay Area Regional Reliability partnership, and development of water transfer agreements Mar. 2018 – Board workshop: Annual Water Supply Workshop
Water Conservation	<ul style="list-style-type: none"> Board meetings: Water conservation highlights Aug. 2016 – Board Info Memo: 2014-2016 Drought Report Executive Summary, and Water Conservation On-Bill Finance Pilot Oct. 2016 – Board Info Memo: 2016 WaterSmart certification program update & award event Nov. 2016 – Board Info Memo: Landscape Advisory Cttee meeting schedule, and water conservation incentive program update Dec. 2016 – Board meeting: State of California Framework for Long-Term Urban Water Conservation Policy Exec. Order B-37-16 Feb. 2017 – Board Info Memo: Water conservation program semi-annual report, and State of California emergency conservation regulation extension Mar. 2017 – Board meeting: Water supply update 	<ul style="list-style-type: none"> Monthly – Board meetings: Continue General Manager water conservation highlights Nov. 2017 – Planning Cttee & Board meeting: AMI Water Energy Study update and contract award Mar. 2018 – Board workshop: Semi-annual Water Conservation Master Plan Update (AMI, Landscape water budgets, Home water reports, online portal), and State Long-Term Water Efficiency Framework
Water Recycling	<ul style="list-style-type: none"> Sept. 2016 – Planning Cttee: Recycled Water Master Plan update & North Richmond Water Recycling Jan. 2017 – Planning Cttee: West County Wastewater District Recycled Water Supply agreement Mar. 2017 – Board workshop: Long-Term Water Supply 	<ul style="list-style-type: none"> Mar. 2018 – Board workshop: Annual Water Supply Workshop to include review of Recycled Water Program and status of Master Plan update
Climate Change	<ul style="list-style-type: none"> Jul. 2016 – Sustainability/Energy Cttee: 2015 GHG Inventory & Mitigation, energy strategy update, Admin Bldg Efficiency Project, microplastics, & food waste program Oct. 2016 – Sustainability/Energy Cttee: FY16 Sustainability Report, purchasing carbon offsets, and biosolids handling update Feb. 2017 – Sustainability/Energy Cttee: Marin Clean Energy, PGE Cost & CO₂ comparison, drinking water bottle filling stations, employee commute/GHG emissions, and photo voltaic projects update 	<ul style="list-style-type: none"> Jul. 2017 – Sustainability/Energy Cttee: Integrated Pest Management Program, 2016 GHG Inventory and Mitigation Efforts Oct. 2017 – Sustainability/Energy Cttee: Progress on solar and other renewable energy, GHG reduction, Integrated Pest Management Program, employee commute survey, energy source costs, and drinking water bottle filling stations

Strategic Plan Goal: Water Quality & Environmental Protection

Strategy	FY17	FY18
Watershed Protection	<ul style="list-style-type: none"> • Various Board meetings: Purchase of Carr Ranch & Oursan Ridge Conservation Bank implementation • Aug. & Dec. 2016 – Board meetings: East Bay Watershed Master Plan updates • Oct. 2016 – Board Info Memo: SWRCB Bay-Delta Water Quality Control Plan Update – Phase 1 & 2 • Oct. 2016 – Board meeting: Proposed Revisions to EBMUD Delta Principles • Feb. 2017 – Planning Ctte: Annual Recreation Report • Apr. 2017 – Planning Ctte: 2016 Moke. Fall-run Chinook Salmon & Steelhead Returns • Jun. 2017 – Board tour: Watershed trails 	<ul style="list-style-type: none"> • TBD – Board meetings on: <ul style="list-style-type: none"> ▪ East Bay Watershed and Recreation Master Plan revisions with appropriate limited bicycle access plan ▪ Work with Department of Fish and Wildlife on a Voluntary Agreement in lieu of state directive for an updated Bay-Delta Water Quality Control Plan
Drinking Water Regulations	<ul style="list-style-type: none"> • Aug. & Nov. 2016 – Planning Ctte: Customer Lead Tap Sampling Program • Sept. 2016 & Mar. 2017 – Planning Ctte: Semi-Annual Water Quality Reports • Oct. 2016 – Planning Ctte: Lead water service laterals • Jan. 2017 – Planning Ctte: Lead sampling in schools • Jan. 2017 – Planning Ctte: Lead in EBMUD's Drinking Water Plans • Apr. 2017 – Board workshop: Biennial budget presentation on water quality challenges • May 2017 – Planning Ctte: Residential Backflow Devices update • Jun. 2017 – Planning Ctte: THMs update 	<ul style="list-style-type: none"> • TBD – Planning Ctte & Board meeting: THM action plan, lead sampling program updates, and water quality reports • Jul. 2017 – Planning Ctte: Lead sampling in schools
Wastewater Regulations Compliance	<ul style="list-style-type: none"> • Jul. 2016 – Fin/Adm Ctte: Biosolids Management Program • Aug. 2016 – Planning Ctte: MWWTP Odor Control Program • Sept. 2016 & Mar. 2017 – Planning Ctte: Regulatory Compliance Semi-Annual Reports • Oct. 2016 – Sustainability/Energy Ctte: Biosolids Handling Contract • Oct. 2016 – Planning Ctte: Wet Weather Consent Decree update • Dec. 2016 – Board Info Memo: Wet Weather events 	<ul style="list-style-type: none"> • Jul. 2017 – Sustainability/Energy Ctte: Integrated Pest Management program update • Jul. 2017 – Board meeting: Poison Pond Funding agreements • Aug. 2017 – Planning Ctte: Odor Control Program • Sept. 2017 – Planning Ctte: Wet Weather Program Management, MWWTP seismic evaluation, and Regulatory Compliance Semi-Annual Reports • Oct. 2017 – Planning Ctte: Digester Upgrade Project, and Biosolids Management Program • Nov. 2017 – Planning Ctte: Wet Weather Consent Decree
Sustainable Resource Management	<ul style="list-style-type: none"> • Jul. 2016 – Fin/Adm Ctte: Biosolids Management Program • Jul. 2016 – Sustainability/Energy Ctte: Food Waste Program • Oct. 2016 – Sustainability/Energy Ctte: FY16 Sustainability Report, Biosolids handling contract • Nov. 2016 – Board workshop: Food Waste Program • Jan. 2017 – Planning Ctte: West County Wastewater District Recycled Water Supply Agreement • Feb. 2017 – Sustainability/Energy Ctte: GHG Emissions Report • May 2017 – Planning Ctte: Resource Recovery Program 	<ul style="list-style-type: none"> • TBD – Sustainability/Energy Ctte: Reduction of GHGs • Aug. 2017 – Planning Ctte: Pollution Prevention Program • Oct. 2017 – Planning Ctte: Biosolids Management Program
Protect SF Bay	<ul style="list-style-type: none"> • Jul. 2016 – Sustainability Ctte: Microplastics • Nov. 2016 – Board workshop: Nutrients in SF Bay • Apr. 2017 – Board workshop: biennial budget on nutrient management & proposed capital program 	<ul style="list-style-type: none"> • Aug. 2017 – Planning Ctte: Pollution Prevention Program • Nov. 2017 – Planning Ctte: Nutrients Management
Pardee & Camanche Operation	<ul style="list-style-type: none"> • Board meetings: General Manager monthly report on water supply updates & storm reports 	<ul style="list-style-type: none"> • TBD – Board / Planning Ctte: Participation in SWRCB Bay-Delta Water Quality Control Plan

Strategic Plan Goal: Long-Term Infrastructure Investment

Strategy	FY17	FY18
Facilities & Assets Master Plans	<ul style="list-style-type: none"> Jul. & Oct. 2016, Jan. & Apr. 2017 – Board Info Memos: Major New Service Activity Reports Jul. 2016 – Sustainability/Energy Ctte: Trench Spoils Program update Oct. 2016 – Planning Ctte: Local Hazard Mitigation Plan Oct. 2016 – Sustainability/Energy Ctte: Envision & Environmental Certifications for Infrastructure Jan., Mar. & Apr. 2017 – Board workshops: Three biennial budget workshop presentations on increasing investment in aging infrastructure 	<ul style="list-style-type: none"> Aug. 2017 – Planning Ctte: Dam Safety Program Annual update Oct. 2017 – Planning Ctte: Dos Osos Reservoir Replacement Project, Pipeline Rebuild, and information on risk assessment model
Effective Maintenance	<ul style="list-style-type: none"> Jul. 2016 – Fin/Adm Ctte: Water Distribution System Leak Detection Program update Sept. 2016 – Fin/Adm Ctte: FY16 Annual KPI Report; KPI for main breaks, leak rate, corrective work, and meter repairs Feb. 2017 – Fin/Adm Ctte: Geospatial and Tagging Technology to Enhance Materials Inspection, Inventory Control and Asset Management Oct. 2016 & Mar. 2017 – Board Info Memos: Polybutylene Lateral Replacement Program semi-annual status report, and RFID Pilot Study 	<ul style="list-style-type: none"> Jul. 2017 – Board Info Memo: Polybutylene Lateral Replacement Program semi-annual status report Oct. 2017 – Fin/Adm Ctte: FY17 Annual KPI report Oct. 2017 – Planning Ctte: Inline WTP Study - Pretreatment Planning and Recommendations for Long-Term Projects to Control THMs, and Orinda WTP Disinfection Improvements Project
Capital Budget Priorities	<ul style="list-style-type: none"> Monthly – Board meetings: Water supply assessments, design and construction contracts for multiple capital projects throughout the year Jul. 2016 – Planning Ctte: Carisbrook Reservoir & Skyline PP Replacements & Montclair Reservoir Rehab Project update Sept. 2016 – Fin/Adm Ctte: FY16 Annual KPI Report; KPI for pipe installed, steel tanks and pumping plant rehabbed, & interceptor repairs Oct. 2016 – Board Info Memo: Orinda Water Treatment Plant Outage Dec. 2016 – Planning Ctte: Alameda-North Bay Farm Island Pipeline Crossings Project update & Final Environmental Impact Report Jan., Mar. & Apr. 2017 – Board workshops: Three biennial budget workshop presentations on proposed 5-year capital improvement program Mar. 2017 – Planning Ctte: Central Reservoir Replacement Project Apr. 2017 – Planning Ctte: AC Transit Water Main Relocation update May 2017 – Planning Ctte: Dos Osos Reservoir Replacement and Pipeline Rebuild update Jun 2017 – Planning Ctte: THMs update 	<ul style="list-style-type: none"> Same as Strategy 1 Oct. 2017 – Fin/Adm Ctte: FY17 Annual KPI report Dec. 2017 & May 2018 – Planning Ctte: Leland Reservoir Replacement Project update & Environmental Impact Report

Strategic Plan Goal: Long-Term Financial Stability

Strategy	FY17	FY18
Long-Term Funding Needs	<ul style="list-style-type: none"> Sept. 2016 – Fin/Adm Ctte: Proposed FY17 Financing Plan Dec. 2016 – Board workshop: Long-Term Financial Stability Jan. 2017 – Fin /Adm Ctte: Interest rate swap portfolio summary and financial services organizations Apr. 2017 – Fin/Adm Ctte & Board meeting: Water & wastewater revenue bonds Jun. 2017 – Fin /Adm Ctte: Monthly Investment Transactions Report 	<ul style="list-style-type: none"> TBD – Board workshops: Additional Long-Term Financial Stability workshop TBD – Fin/Adm Ctte: Key financial policies updates. Sept. 2017 – Board meeting & Fin/Adm Ctte: Proposed FY18 Financing Plan Monthly – Fin/Adm Ctte & Board meetings: Investment Transactions Report
Rates & Charges	<ul style="list-style-type: none"> Sept. & Nov. 2016 – Fin/Adm Ctte: Statewide Community Infrastructure Program Oct. 2016 – Board workshop: Water rates Oct. 2016 – Fin/Adm Ctte: Annual Power Sales Report Jan., Mar., & Apr. 2017 – Board workshops: Three biennial budget & rate workshops Feb. 2017 – Fin/Adm Ctte: Review of System Capacity Charges Feb. 2017 – Fin /Adm Ctte: Laboratory business development opportunity Jun. & Jul. 2017 – Board meeting: Adoption of FY18 & FY19 biennial budget, rates & charges 	<ul style="list-style-type: none"> TBD – Fin/Adm Ctte: Water rate alternatives, affordability and low income assistance, and Annual Power Sales Report update Aug. & Sept. 2017 – Board meeting: Reading of water theft penalty ordinance update Aug. 2017 – Board meeting: Wastewater Ad Valorem Tax May 2018 – Board workshop: FY19 Mid-cycle Budget & Non-Prop 218 Rates & Charges Jun. 2018 – Board meeting: Affirmation of FY19 Mid-cycle Budget & adoption of Non-Prop 218 Rates & Charges
Integrity, Accountability, and Transparency	<ul style="list-style-type: none"> Monthly – Board meetings: General Manager report on contract equity outreach Jul. 2016 – Fin/Adm Ctte: Annual Internal Audit Report Jul. & Oct. 2016, Apr. 2017 – Fin/ Adm Ctte: Adoption of new policy and review revisions Jul. & Oct. 2016, Jan. & Apr. 2017 – Fin/Adm Ctte: Quarterly, investment and financial reports Sept. 2016 – Fin/Adm Ctte: Annual Financial Review, Key Performance Indicator Report, and Annual Insurance Summary Dec. 2016 – Leg / HR Ctte: Contract Equity Program Annual Report Jan. 2017 – Fin/Adm Ctte: Semi-annual Internal Audit Report Feb. 2017 – Fin/Adm Ctte: Semi-annual Budget Report Apr. 2017 – Fin/Adm Ctte: Debt policy revisions and investment policy review 	<ul style="list-style-type: none"> Monthly – Board meetings: Continue General Manager contract equity report highlights Monthly – Fin/Adm Ctte & Board meetings: Investment Transactions Report Quarterly Fin/Adm Ctte: Investment Report, and Payroll /Disbursement/Real Estate Report Jul. 2017 – Fin/Adm Ctte: Annual Internal Audit Report Sept. 2017 – Board Info memo: Financial Summary/Publish in Oakland Tribune Sept. 2017 – Fin/Adm Ctte: FY18 Insurance Summary Sept. 2017 – Fin/Adm Ctte & Board meeting: Proposed FY18 Financing Plan Oct. 2017 – Fin/Adm Ctte: FY17 Financial Review and FY17 KPI Report Oct. 2017 – Board meeting: GM Report: Wells Fargo corrective actions after one year suspension Jan. 2018 – Semi-annual Internal Audit Report Feb. 2018 – Semi-annual Budget Report TBD 2018 – Debt and investment policy review
Technologies	<ul style="list-style-type: none"> Mar. 2017 – Board workshop: Biennial budget staffing to address IT security risks, replace the Laboratory Information Management System, and incorporate geospatial data in IT upgrades 	<ul style="list-style-type: none"> Sept. 2017 – Planning Ctte: IT security update Sept. 2017 – Fin/Adm Ctte: Cloud computing update

Strategic Plan Goal: Customer & Community Services

Strategy	FY17	FY18
Customer Satisfaction	<ul style="list-style-type: none"> Sept. 2016 – Board meeting: Customer survey contract approval Oct. 2016 – Board meeting: GM Report on Statistical Opinion and Customer Research Jan. 2017 – Board meeting: 2016 Statistical Opinion and Customer Outreach Research Results and 2017 Outreach Plan May 2017 – Board meeting: Customer outreach update 	<ul style="list-style-type: none"> TBD – Board meeting: Customer outreach efforts update
Customer Experience	<ul style="list-style-type: none"> Sept. 2016 – Board Info Memo: Advanced Metering Infrastructure (AMI) Grant Study acceptance, AMI update and 2016 request for proposal Oct. 2016 – Board meeting: Telephony System contract approval Mar. 2017 – Long-Term Water Supply / Water Conservation update Jun. 2017 – Board meeting: Customer payment enhancements & trend update 	<ul style="list-style-type: none"> Sept. & Oct. 2017 – Board Info Memo: Contact Center telephony system/IVR update implementation (telephony system) Dec. 2017 – Board meeting: AMI contract approval Dec. 2017 – Board Info Memo: Customer Payment Trends update (payment options)
Customer Service	<ul style="list-style-type: none"> Dec. 2016 – Planning Cttee: Customer Assistance Programs (CAP) update, overdue bill handling /shut-offs, low-income customer support Dec. 2016 – Board Info Memo: Water conservation outreach for multi-family and low-income customers & commercial private fire service connections Feb. 2017 – Planning Cttee: CAP update – Response to SWPAUW demands and low-income efforts in progress Mar. 2017 – Board Info Memo: City of Oakland utility affordability outreach Mar. 2017 – Board meeting: Legislative Report 03-17, State Level Policy Update – Affordability and Access to Safe Drinking Water Mar. 2017 – Planning Cttee: Drink tap outreach plan May 2017 – Board Info Memo: CAP update Jun. 2017 – Fin/Adm Cttee: Water Theft Penalty and Guarantee Deposits 	<ul style="list-style-type: none"> Jul. 2017 – Fin/Adm Cttee: Water Theft Penalty and Guarantee Deposits Jul. 2017 – Board Info Memo: Low-Income Affordability Efforts Jul. 2017 – Board meeting: Legislative update on State Low-Income Rate Affordability Plan (AB401) Aug. 2017 – Board meeting: Low-Income Assistance Policy Aug. 2017 – Board Info Memo: District comment letter to State's recent proposal for AB401 Aug. & Sept. 2017 – Board meeting: First and second reading of water theft penalty ordinance update Nov. 2017 – Board workshop: Long-Term Financial Stability workshop including CAP enrollment process, deposits and payment plans, rate structures, monthly billing, agency billing, and shutoff KPI Jan. / Feb. 2018 – Board Info Memo: State proposal on AB401
Emergency Preparedness	<ul style="list-style-type: none"> Jul. 2016 – Planning Cttee: Emergency Preparedness & Business Readiness Sept. 2016 – Fin/Adm Cttee: FY16 Annual KPI Report; KPIs for emergency preparedness Dec. 2016, Feb. & Mar. 2017 – Board Info Memo: Lease negotiations – East Bay Regional Communications Sys. Authority Jan. 2017 – Board meeting: Board Succession Plan Apr. 2017 – Planning Cttee: Earthquake preparedness May 2017 – Board meeting: Alternate site meeting at Orinda & approval of Board Succession Plan Jun. 2017 – Board Info Memo: Board succession next steps 	<ul style="list-style-type: none"> Oct. 2017 – Fin/Adm Cttee: FY17 Annual KPI report Oct. 2017 – Board meeting: Approval of successor officers TBD – Planning Cttee: Business Continuity Plan update to incorporate succession plan

Strategic Plan Goal: Workforce Planning & Development

Strategy	FY17	FY18
Workforce Plans	<ul style="list-style-type: none"> Jan. 2017 – Leg/HR Ctte: Cohort learning program: Peralta Community College partnership Mar. & Apr. 2017 – Board workshops: Two biennial budget presentations on proposed staffing changes 	<ul style="list-style-type: none"> Jul. 2017 – Board meeting: Adoption of Position Resolution & amendment Aug. 2017 – Leg/HR Ctte: Cohort learning program: Peralta Community College partnership Jun. 2018 – Board meeting: Adoption of FY19 Position Resolution
Employee Development	<ul style="list-style-type: none"> Monthly – Board meetings: General Manager report on employment data, training hours and tuition reimbursement participants Sept. 2016 – Fin/Adm Ctte: FY16 Annual KPI Report; KPI for training hours and development programs participation 	<ul style="list-style-type: none"> Monthly – Board meetings: Continue General Manager Report highlights Aug. 2017 – Leg/HR Ctte: Implementation progress of the Tuition Reimbursement Program change to allow for tuition advancement to assist employees with college expenses Oct. 2017 – Fin/Adm Ctte: FY17 Annual KPI report
Values & Performance Culture	<ul style="list-style-type: none"> Sept. 2016 – Fin/Adm Ctte: FY16 Annual KPI Report; KPI for performance plans, appraisals and injury/illness incidents Nov. 2016 and Feb. 2017 – Leg/HR Ctte: Values quarterly update; Employee Recognition & Service Award Program Feb. 2017 – Board meeting: Approval of new District Employee Recognition & Service Award Program Jun. 2017 – Leg/HR Ctte & Board meeting: Employee Assistance Program 	<ul style="list-style-type: none"> Quarterly – Leg/HR Ctte: Values and Organizational Improvements effort updates Sept. 2017 – Leg/HR Ctte: Employee Wellness update Oct. 2017 – Fin/Adm Ctte: FY17 Annual KPI report
Recruitment	<ul style="list-style-type: none"> Monthly – Board meetings: General Manager report on outreach activities, completed recruitment exams, and employment data Sept. 2016 – Fin/Adm Ctte: FY16 Annual KPI Report; KPI for District eligibility lists with AA hire opportunities Sept. 2016 – Board Info Memo: Benefit Plan Renewals Dec. 2016 – Board Info Memo: Alameda County Public Health Care Task Force Debrief Jan. 2017 – Board Info Memo: Retirement System Rate of Return Feb. 2017 – Leg/HR Ctte: Diversity & Inclusion Program update May 2017 – Board meetings: Two readings of the Retirement System ordinance update to the actuarially assumed rate of return Jun. 2017 – Fin/Adm Ctte: Report on state of Retirement System and Retirement Board 	<ul style="list-style-type: none"> Monthly – Board meetings: Continue General Manager monthly report highlights and annual report on Retirement System Sept. 2017 – Board Info Memo: Annual Health Insurance Plan update Oct. 2017 – Fin/Adm Ctte: FY17 Annual KPI report Dec. 2017 – Board meeting: Deferred compensation plan revisions TBD – Leg/HR Ctte: Diversity & Inclusion Program update

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: August 3, 2017

MEMO TO: Board of Directors

FROM: Alexander R. Coate, General Manager *ARC*

SUBJECT: Monthly Report – July 2017

HIGHLIGHTS

On July 20, Contra Costa Water District (CCWD) held a public meeting at EBMUD's Administration Building to receive public comments on the draft Supplemental Environmental Impact Statement-Environmental Impact Report for the Los Vaqueros Expansion Project which was released in June. The report includes analysis of potential impacts to the Lower Mokelumne River resulting from the EBMUD's participation in the proposed project. The deadline to submit written comments is September 5, 2017.

In July, the District received Coding Accuracy Support System (CASS) certification from the United States Postal Service. CASS certification allows the District to send bill statements with improved mailing address accuracy at a special reduced postal rate which will result in a savings of approximately \$150,000 - \$160,000 annually.

WATER SUPPLY

San Ramon Valley recycled water customer site retrofits are continuing. On July 12, cross-connection testing for Bishop Ranch Building 15 was successfully completed. Coyote Crossing Park in San Ramon was connected to recycled water. Staff is updating the hydraulic model of the San Ramon Phase 2 recycled water system to ensure adequate water pressure while possibly adding Crow Canyon Country Club and Canyon Lakes Golf Course to the current Phase 2 project instead of the future Phase 3.

Precipitation. There was no East Bay precipitation for July and the season total through July is 0.00 inches (0% of average). There was no Mokelumne precipitation for July and the season total through July is 0.00 inches (0% of average).

Water Releases

Camanche Reservoir. The average rate of Camanche release for July was 1,411 cfs (1,074 cfs generation, 322 cfs sluice, and 15 cfs through the hatchery), and the average flow below Woodbridge Dam was 1,135 cfs, both in accordance with the Joint Settlement Agreement "Normal & Above" criteria.

East Bay Reservoirs. The Chabot Reservoir 80 gpm environmental releases were made over the spillway with temporary pipes and pumps because the outlet tower is out of service for construction. There were no other releases from East Bay reservoirs in July.

Water Storage

Mokelumne reservoirs storage is 114% of average. As of July 31, 2017, Pardee Reservoir was at 565.2 feet or 100% of average, and Camanche Reservoir was at 229.6 feet or 123% of average. Combined Pardee and Camanche reservoir storage was 573,000 acre-feet compared to 498,000 acre-feet last year.

East Bay reservoirs storage is 99% of average. As of July 31, 2017, USL Reservoir was at 438.8 feet or 81% of average, San Pablo Reservoir was at 309.3 feet or 115% of average, and Briones Reservoir was at 567.9 feet or 99% of average. Total terminal reservoir storage was 127,000 acre-feet compared to 134,000 acre-feet last year.

Mokelumne Aqueducts and Raw Water Pumping Plants. The average rate of Mokelumne Aqueduct draft for July 2017 was 187 MGD. Lafayette Aqueduct No. 1 was shut down on July 13 with all flow through Lafayette Aqueduct No. 2 to optimize raw water chlorination. Walnut Creek, Moraga and Briones Raw Water Pumping Plants remained out of service for the month.

Water Production. Average rate of gross water production for July:

	July 2017	July 2016	July 2013	Average of FY 2005-2007
East of Hills	75 MGD	67 MGD	88 MGD	99 MGD
West of Hills	136 MGD	128 MGD	152 MGD	187 MGD
Total	211 MGD	195 MGD	240 MGD	286 MGD
Max Day Production	227 MGD (7/7/2017)	216 MGD (7/25/2016)	259 MGD (7/1/2013)	

Note: Data are all from preliminary daily operational reports and are subject to revision

WATER QUALITY AND ENVIRONMENTAL PROTECTION

The District finalized a cost sharing agreement with the US Department of the Interior, and the Bureau of Land Management (BLM) to perform remediation work at Poison Lake. The work, which includes scraping, consolidating, and capping contaminated mine tailings onsite, is expected to begin this summer and be completed before the next wet season. After the remediation work, staff will be responsible for ongoing water quality monitoring at the site and BLM will be responsible for maintaining and monitoring the capped tailings to ensure the repository is effective.

Fire road and trail maintenance for 2017 were completed in July. The long wet winter resulted in substantial additional fire road and trail maintenance work which included mowing.

Acute toxicity results for the Main Wastewater Treatment Plant (MWWTP) and Orinda were completed successfully. Acute toxicity bioassays were completed for the MWWTP and Orinda with 100% fish survival.

Reporting and corrective actions continue for wastewater digester venting incident. Staff submitted a 30-day report to BAAQMD in accordance with all regulatory timeframes on the suspected cause and corrective actions for the June 4, 2017 unabated digester venting incident. The incident occurred because an electrical short tripped other equipment and led to pressure buildup in the low pressure gas holder. The failed wiring has been replaced.

All authorized discharges from the MWWTP were in compliance with the permit limits for the month of July. This is the 215th consecutive month that the MWWTP experienced no exceedances.

The District received two odor reports in July from the public. Staff determined one of the reports was likely due to draining and cleaning of a secondary clarifier at the MWWTP. Managing odors from this process is particularly challenging due to the large surface area and volume of material in the clarifier, and the fact that the process extends over multiple shifts. Staff continues to modify existing practices to reduce the potential for offsite odors during this process. The MWWTP likely contributed to the odors in the second report; however, staff's investigation was unable to ascertain a specific source at the MWWTP.

INFRASTRUCTURE INVESTMENT

Preliminary evaluations of long-term pre-treatment and disinfection improvements at in-line WTPs have been completed. On July 6, the District held a workshop to review preliminary results of a detailed alternatives analysis, which included a technical evaluation of pretreatment and disinfection improvements options at the Walnut Creek, Lafayette, and Orinda WTPs. Staff developed a preliminary implementation plan to add post-filtration disinfection improvements at the Orinda WTP and pre-treatment at the Walnut Creek WTP. No long-term improvements are proposed for Lafayette WTP. An overview of the recommended in-line WTP improvements will be presented at the October 10, 2017 Planning Committee meeting.

On July 11 and 12, staff completed emergency drain valve exercises for the Briones, Lafayette, San Pablo, and Upper San Leandro terminal reservoirs. The Division of Safety of Dams (DSOD) inspector was present for these exercises. DSOD requires the emergency drain valves to be exercised annually and in their presence once every three years to ensure that the valves are in working condition and will perform satisfactorily during an emergency. Chabot Reservoir Outlet Tower is under construction and was not required to be exercised.

Short-term actions for trihalomethanes (THM) removal are underway at the Lafayette Water Treatment Plant (WTP). In response to elevated THMs in the distribution system, staff developed a novel approach to reduce THMs using aeration in the Lafayette WTP clearwell. Staff constructed a temporary pump and spray system, which is expected to remove between 15-30% of the THMs produced at the Lafayette WTP. Since the new system went online July 24, the latest monitoring results showed significant improvement and confirmed that the new system was successful in reducing THM levels originating from the Lafayette WTP and reducing THM concentrations in the system.

Aqueduct levee investigations. On July 24, the District's contractor completed the investigation of voids within the Aqueduct levee crossings at the Old River East and West Levees, Middle River East and West Levees, Deep Water Channel East Levee, and at the Trapper Slough Levee. The locations that indicated the presence of voids first were confirmed with a probe and then filled with grout to restore the integrity of the levees.

Construction of the Engineers Road Widening Project was completed under SD-357A. This \$3.1 million project was to establish Engineers Road as the new primary access road for the MWWTP. This involved rerouting the MWWTP main access road, replacement of underground water lines, and installation of a new recycled water main. Approximately \$1.8 million of the construction costs will be reimbursed by the City of Oakland.

Construction of the MWWTP Flare Improvements Project was completed under SD-369. This \$3.9 million project included the installation of two new high-capacity waste gas burners, a new battery backup system, and 330 linear feet of large diameter overhead stainless steel gas header to improve redundancy and reliability for the MWWTP digester gas system.

Chabot Dam Seismic Upgrade Project update. All work on the dam face has been completed as well as the installation of the outlet pipe in the lake bottom. Demolition of the outlet tower continues but was delayed a couple of weeks due to the presence of swallows. Work on the outlet tower access shaft ladder and landings is ongoing.

Orinda Water Treatment Plant Reliability and Maintenance Project update. Painting on the washwater piping in the filter gallery, six of 19 filter underdrain replacements, and the sample water piping and stainless steel air header piping in filter No. 13 were completed.

Main breaks in July totaled 97. The attached table lists the main breaks that were repaired by staff in July sorted by city and street. The associated map shows the location of the breaks.

CUSTOMER AND COMMUNITY SERVICES

During FY17, staff processed 1,117 new water services applications resulting in the total collection of \$53 million in system capacity charges (SCCs) and \$7.8 million in wastewater capacity fees (WCFs). The applications resulted in the installation of approximately five miles of water distribution pipes to connect and integrate the new services into the water system.

On July 6, staff participated in a teleconference meeting with personnel at Kaiser Oakland Hospital to discuss emergency preparedness and water supply expectations for both the District and the hospital. The objective of the meeting was to reach out to the hospital to learn about their recent construction improvements related to on-site water supply capabilities, learn about their emergency water supply plans, and to receive updated contact information to ensure ongoing communications. Staff also shared information on the District's past water supply and seismic improvements, current water supply capabilities and expectations in the event of a major earthquake, and its emergency preparedness. The meeting was well received by the hospital personnel and resulted in a good understanding of the hospital's capabilities and its emergency preparedness for various hazards such as a seismic event.

On July 11, staff held a community meeting at Mills College for the MacArthur Davenport Pipeline Replacement Project (Oakland). Staff presented the construction project, community impacts, and answered questions from the public on paving, traffic, and project schedule. Four community members and two City of Oakland staff attended the meeting.

On July 13, the State Water Resources Control Board (SWRCB) held a Clean Water State Revolving Fund workshop at EBMUD. The SWRCB solicited feedback on streamlining of the funding application process and prioritization of applications for funding consideration.

On July 15, the Tribute to the Troops Concert was held at Lafayette Reservoir. Approximately 100 attended the concert presented by the Lafayette Rotary Club.

On July 15, the Mokelumne River Day Use Area (MRDUA) reopened to boaters. The access for kayakers, rafters, and other boaters to launch in the Mokelumne River below Camanche Dam had been closed due to high, hazardous flows. Since flows were reduced to 1,100 cfs, resulting in safer conditions, there was a joint decision by the District and San Joaquin County Parks to open the put-in at MRDUA and the popular take-out at Stillman Magee Park in Clements.

On July 17, staff conducted a briefing for management from the City of San Diego Public Utilities and hosted a tour of the Contact Center. The purpose of the visit was to provide insight into District practices in the areas of performance management and monitoring, training, and Contact Center operations.

Trihalomethanes (THMs) update. Staff provided information on THM levels to residents throughout the service area via Nextdoor and by direct outreach to elected officials and city staff. THM FAQs were provided to all mayors, council members, city managers and county supervisors within our service area. Staff fielded phone calls from the public and briefed elected and city officials in Berkeley and Orinda. Updated FAQs in Chinese and Spanish were posted to the website. Two elected officials from Berkeley and Lafayette toured the Orinda Water Treatment Plant to learn more about District efforts.

Go Paperless eBill campaign. The District which encourages customers to go paperless on their water bill was promoted in the July/August 2017 *Customer Pipeline*, on the website and through social media.

Contract Equity Outreach

On July 14, staff presented at the Alameda County Public Works Agency's *Building Opportunity for Business (BOB) Professional Services Workshop* in Hayward, CA. The presentation included upcoming Engineering Consultant Roster's Request for Statement of Qualifications, ongoing maintenance services contracts, and the Contract Equity Program. Approximately 45 local small business owners were in attendance.

Water Conservation

During the month of July, staff kicked off Smart Irrigation Month, an educational campaign lead by the Irrigation Association. Activities included publishing a sample irrigation schedule in the *Customer Pipeline* newsletter, writing weekly Twitter content sharing top tips and promoting District programs, and distributing educational flyers to irrigation centers, hardware stores, nurseries, and farmers markets. Educational messages focused on low-water use gardening and irrigation technology.

On July 11, the District hosted the Landscape Advisory Committee (LAC) General Meeting: Irrigation Assessment - A Business Opportunity. A landscape professional discussed existing irrigation systems assessments and outlined a step-by-step approach to recommend irrigation system repairs, design upgrades, and watering schedule adjustments to improve customers' water efficiency. Data collection sheets and report templates were provided. Updates were provided on the District's water supply and the state's long-term conservation regulations. Attendees also received brief reports from the LAC Education and Outreach and Professional Development and Technology sub-committees. Forty-five landscape contractors, maintenance workers, designers, educators, and architects attended the meeting.

On July 27, staff presented at the Santa Clara Valley Water District's Advanced Metering Infrastructure (AMI) Workshop at Environmental Innovation Center in San Jose. The presentation included a detailed background on meters, AMI, and customer web interfaces as well as a review of EBMUD's AMI pilot projects. Approximately fifty attendees including water agency staff, board members, and city council members attended the workshop.

State of the District Address presentations. During July staff provided eight of ten 2017 State of the District Address presentations that focused on work accomplished during fiscal year (FY) 2017 and planned for FY 2018. The presentations highlighted the work done by staff and officially launched the new employee recognition program. Presentations have been held at the MWWTP, North and South Yards, the Administration Building, Adeline Maintenance Center, and Orinda Watershed.

Media. The District received significant media and public interest regarding the proposed rates in the weeks leading up to the public hearing on July 11. Staff was present for media availability the day of the public hearing, distributed a press release and provided interviews to 15 media outlets.

Social Media. The top tweet on Twitter highlighted the recently approved water and wastewater rates, generating 600 impressions. Twitter followers reached 1,814, an increase of 24 followers over last month.

The top post on LinkedIn featured an On the Job profile of a Water Distribution Plumber generating 1,800 impressions. LinkedIn followers reached 3,551, an increase of 36 new followers over last month.

Website Enhancements. During July, a new website tool was implemented for customers to locate pay stations through a mapping interface for ease in identifying nearby pay stations to pay their water bill.

WORKFORCE PLANNING AND DEVELOPMENT

During the month of July, Contact Center staff began training on the new telephone and automated call distributed systems in preparation for implementation in late-August.

On July 25, a celebration was held for the 2017 Summer Youth Program high school interns. Interns spoke about their experiences and the skills they obtained and will utilize throughout their education and future careers. District intern supervisors and program partners also spoke about how the internship was a positive experience. Most completed their internship this month with the exception of a few who will complete their internship in August.

On July 26, staff attended the Annual Oakland Unified School District (OUSD) Summer Pathway Internship Program Exploring College & Career Options (ECCO) Summer Demonstration of Mastery event at the Scottish Rite Center in Oakland. Staff observed presentations given by the ECCO summer interns that highlighted the skills for success the students acquired during their internship through the District's Summer Youth Program, as well as with other organizations, and how the experience has contributed to their professional growth and career readiness.

On July 28, staff attended the Girls Inc. Eureka! program summer celebration at San Leandro Performing Arts Center. The event recognized high school student participants in the program (including three District Summer Youth Program interns) along with Girls Inc. alumni. The high school students spoke about the leadership and technical skills they gained during the summer program, and exhibits depicted some of their projects, including descriptions of career paths for civil engineering, psychiatry, architecture, and endocrinology.

Diversity and Inclusion Efforts. Throughout the month of July 2017, staff provided information to veteran support organizations, approximately 30 local job developers, community colleges and other organizations such as Building Opportunities for Self-Sufficiency, Cypress Mandela Training Center, Laney College that support the advancement of females, minorities, veterans and disabled individuals about the upcoming hiring opportunities for Wastewater Plant Operator Trainee and Water Treatment Distribution Operator Trainee.

Engineering Staff Rotation Program. Six of seven District engineers completed their six-month rotations in July and the seventh will complete his rotation in September. Six engineers have commenced six-month rotations to their assigned work groups where they will broaden their experience and enhance their skills working in new work units, while gaining a better understanding of how their regular work assignments complement and connect with other District work groups; these assignments are scheduled to end in January 2018.

Tuition Reimbursement

	July 2017	FY18 Total
# of Employees	35	35
# of Classes	53	53
Total Reimbursed	\$38,156	\$38,156

Employment Information

	July 2017	FY18 Total
Retirements – Regular	5	5
Retirements – Vested	1	1
Hires/Rehires	8	8
Other Separations	6	6

FINANCIAL STABILITY

There was one material, supply or construction contract over \$70,000 and less than \$100,000 approved by the General Manager in July 2017.

VENDOR NAME	DATE AWARDED	CEP STATUS	ITEM(S) PURCHASED	PROJECT	VALUE
Skalar Inc.	07/27/17	White Male	Segmented Flow Analyzer Instrument	RFQ 1713	\$91,720.84

The Net Mokelumne Power Revenue for July was \$1,070,065. Inflows into Pardee Reservoir for July were 98 percent of plan. Generation was 97 percent of plan. The District sold Renewable power, related Renewable Energy Credits (REC), and Resource Adequacy capacity to Marin Clean Energy (MCE). Sales of RECs generated \$231,350, and Resource Adequacy sales generated \$11,915 in revenue. The average electricity price was \$35.40/MWh. Total net FY18 Mokelumne Power Revenue is an estimated \$1,070,065 which is 28.9 percent of budgeted \$3,700,000 and 20.1 percent of the planned revenue of \$5,319,300.

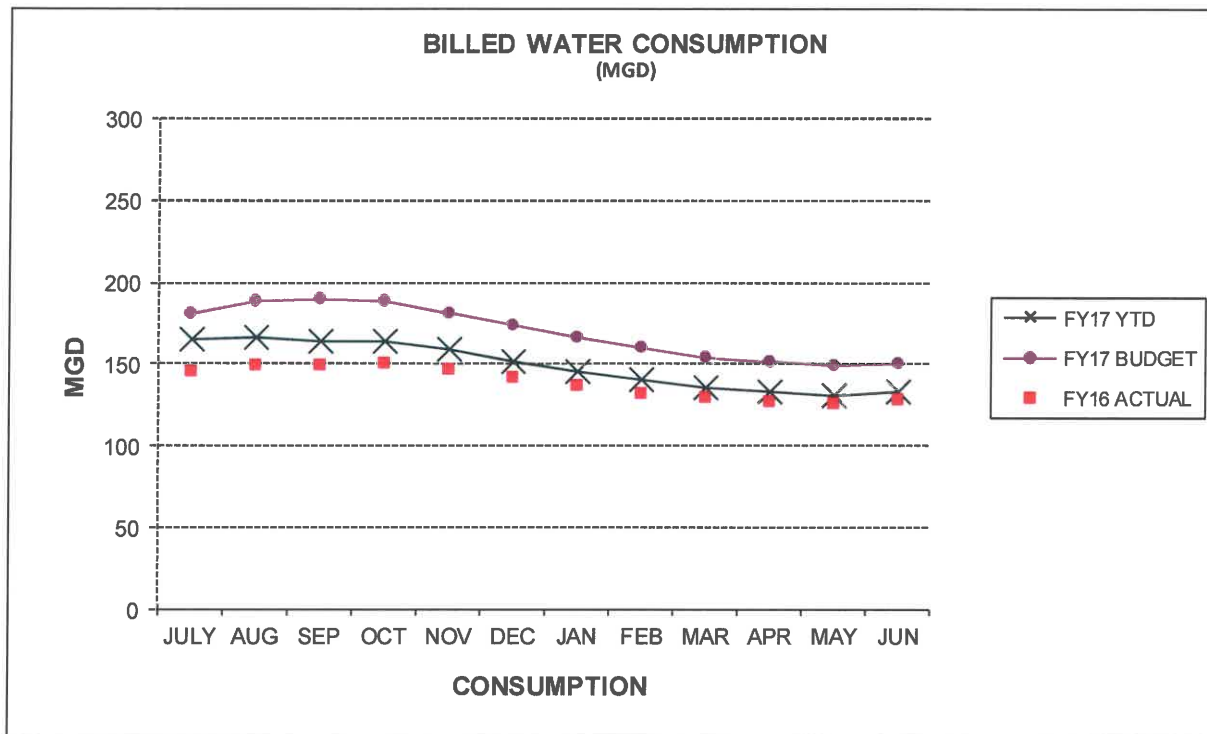
FY18	Net Revenue		Inflow (Acre Feet)	
	Plan	Actual	Plan	Actual
July 2017	\$799,250	\$1,070,065	84,000	82,000
FY18 YTD Total	\$799,250	\$1,070,065	84,000	82,000

Bold items are estimated

Water Sales (Consumption)

Billed water consumption for FY17 averaged 132.7 million gallons per day (MGD). The budgeted average daily water consumption for FY17 was 151 MGD. The table below shows the average billed water consumption information by customer class with a comparison to FY16 where billed water consumption averaged 128.1 MGD. FY17 actual water consumption was above FY16 consumption by 3.6% but below budget by 12.1%.

Fiscal Year Billed Water Consumption			
Usage Type	FY17 (MGD)	FY16 (MGD)	Year-over-Year (% change)
Residential	67.5	62.8	7.5%
Commercial	44.5	43.3	2.8%
Industrial	15.1	16.6	-9.0%
Public Authority	5.6	5.4	3.7%
Total Billed Water Consumption	132.7	128.1	3.6%



Source: Customer Information System

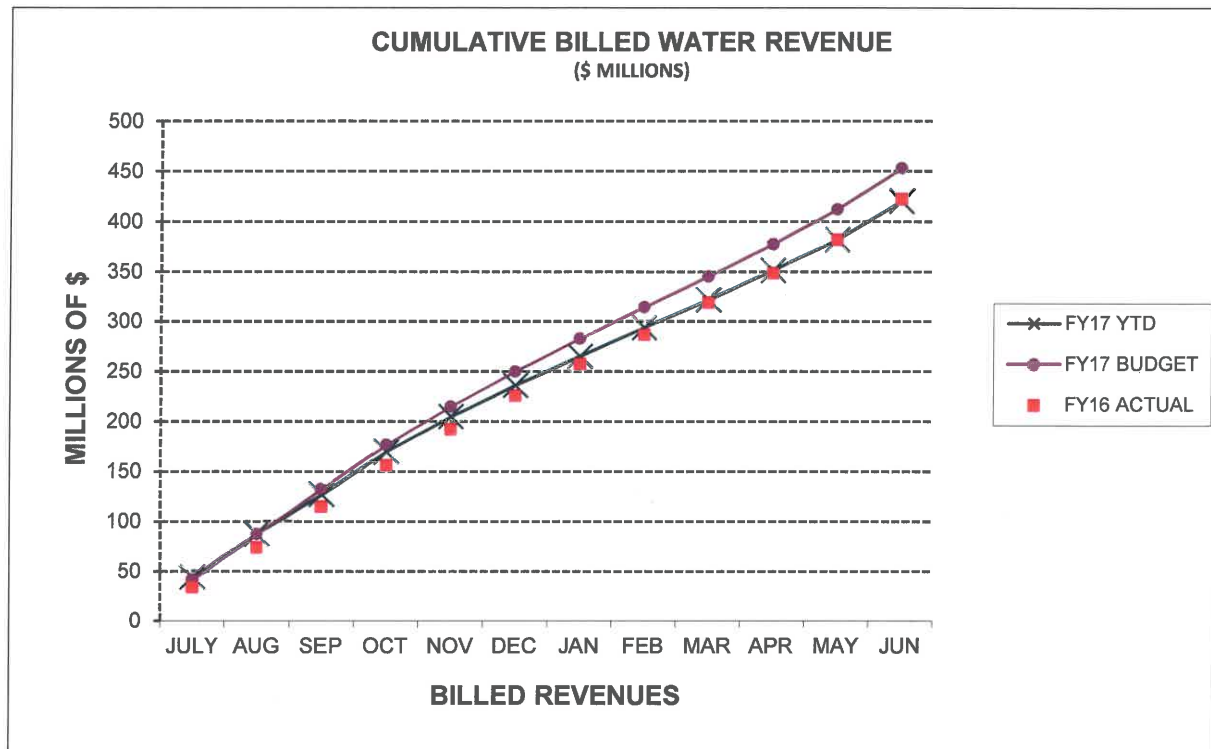
Water Sales (Revenue)

The following revenue information is the total billed water revenue in million dollars for FY17. Water revenue billed for FY17 was \$420.1 million. The table below shows the total billed water revenue information by revenue type with a comparison to the budgeted data for FY16. FY17 actual revenue of \$420.1 million was below the FY17 budgeted amount of \$453.0 million, a decrease of 7.3%. Whereas water sales were lower than budget by 12.1%, other revenues, such as System Capacity Charges, came in higher than budgeted. FY17 actual revenue was about the same as FY16 actual revenue.

Fiscal Year Water Revenue (\$ Millions)				
Usage Type	FY17 Budget ¹	FY17 Actuals ²	FY16 Actuals	Year-over-Year (% change)
Normal	\$453.0	\$414.2	\$369.9	12.0%
Drought Surcharge	-	\$5.7	\$51.2	-88.9%
Drought Excessive Use Penalty	-	\$0.2	\$0.7	-71.4%
Total Revenue	\$453.0	\$420.1	\$421.8	-0.4%

¹Based on the estimated annual water sales of 151 MGD.

²Includes prorated drought surcharge revenue from the July and August billing cycles for consumption from May and June 2016.



Source: Customer Information System

JULY 2017 MAIN BREAKS										
City	Pre	Street	Suf	Pipe Material	Pipe Diameter	Year Installed	Est Water Loss (Gal)	Identified On	Completed On	KPI Met?
ALAMO		LA SONOMA	DR	ASBESTOS CEMENT	6.00	1961	450	7/21/2017	7/21/2017	Yes
ALAMO		MIRANDA	AVE	ASBESTOS CEMENT	6.00	1951	900	7/21/2017	7/21/2017	Yes
ALBANY		MARIN	AVE	CAST IRON	4.00	1919	17,280	7/21/2017	7/24/2017	Yes
BERKELEY		CRAGMONT	AVE	CAST IRON	6.00	1932	9,000	7/10/2017	7/11/2017	Yes
BERKELEY		CRAGMONT	AVE	CAST IRON	6.00	1932	9,000	7/16/2017	7/16/2017	Yes
BERKELEY		HILLDALE	AVE	CAST IRON	6.00	1927	9,000	7/20/2017	7/21/2017	Yes
BERKELEY		ROCK	LN	CAST IRON	4.00	1934	4,500	7/17/2017	7/17/2017	Yes
BERKELEY		SOUTHAMPTON	AVE	STEEL	6.00	1966	11,520	7/11/2017	7/18/2017	Yes
BERKELEY		TAMALPAIS	RD	CAST IRON	12.00	1925	6,300	7/2/2017	7/2/2017	Yes
CASTRO VALLEY	N	5TH	ST	CAST IRON	4.00	1931	25,200	7/31/2017	7/31/2017	Yes
CASTRO VALLEY		CARMEL	DR	ASBESTOS CEMENT	6.00	1955	1,350	7/26/2017	7/27/2017	Yes
CASTRO VALLEY		LAMAR	LP	NON METALLIC/PLASTIC	8.00	1999	20,160	6/20/2017	7/3/2017	Yes
CASTRO VALLEY		SAN MIGUEL	AVE	CAST IRON	6.00	1949	900	7/6/2017	7/6/2017	Yes
CASTRO VALLEY		SARGENT	AVE	CAST IRON	4.00	1940	11,520	7/12/2017	7/19/2017	Yes
CROCKETT		ROLPH	AVE	CAST IRON	12.00	1970	1,350	7/13/2017	7/14/2017	Yes
DANVILLE		GOLD CREEK	CT	NON METALLIC/PLASTIC	6.00	1989	18,000	7/19/2017	7/19/2017	Yes
DANVILLE		GREEN VALLEY	RD	ASBESTOS CEMENT	6.00	1961	0	6/25/2017	7/7/2017	Yes
DANVILLE		MORNINGHOME	RD	ASBESTOS CEMENT	6.00	1972	0	6/19/2017	7/5/2017	Yes
EL CERRITO		BATES	AVE	CAST IRON	6.00	1952	1,350	7/14/2017	7/14/2017	Yes
KENSINGTON		COVENTRY	RD	CAST IRON	6.00	1939	22,500	7/30/2017	7/30/2017	Yes
KENSINGTON		RINCON	RD	CAST IRON	6.00	1946	4,500	7/3/2017	7/3/2017	
LAFAYETTE		CAVALLERO	LN	CAST IRON	4.00	1953	8,640	6/28/2017	7/3/2017	
LAFAYETTE		CREST	RD	CAST IRON	6.00	1940	0	6/29/2017	7/5/2017	Yes
LAFAYETTE		DIABLO	CIR	ASBESTOS CEMENT	6.00	1975	36,000	7/6/2017	7/6/2017	Yes
LAFAYETTE		GREENHILLS	DR	ASBESTOS CEMENT	8.00	1983	900	7/22/2017	7/22/2017	Yes

*KPI=turnaround time to repair the leak

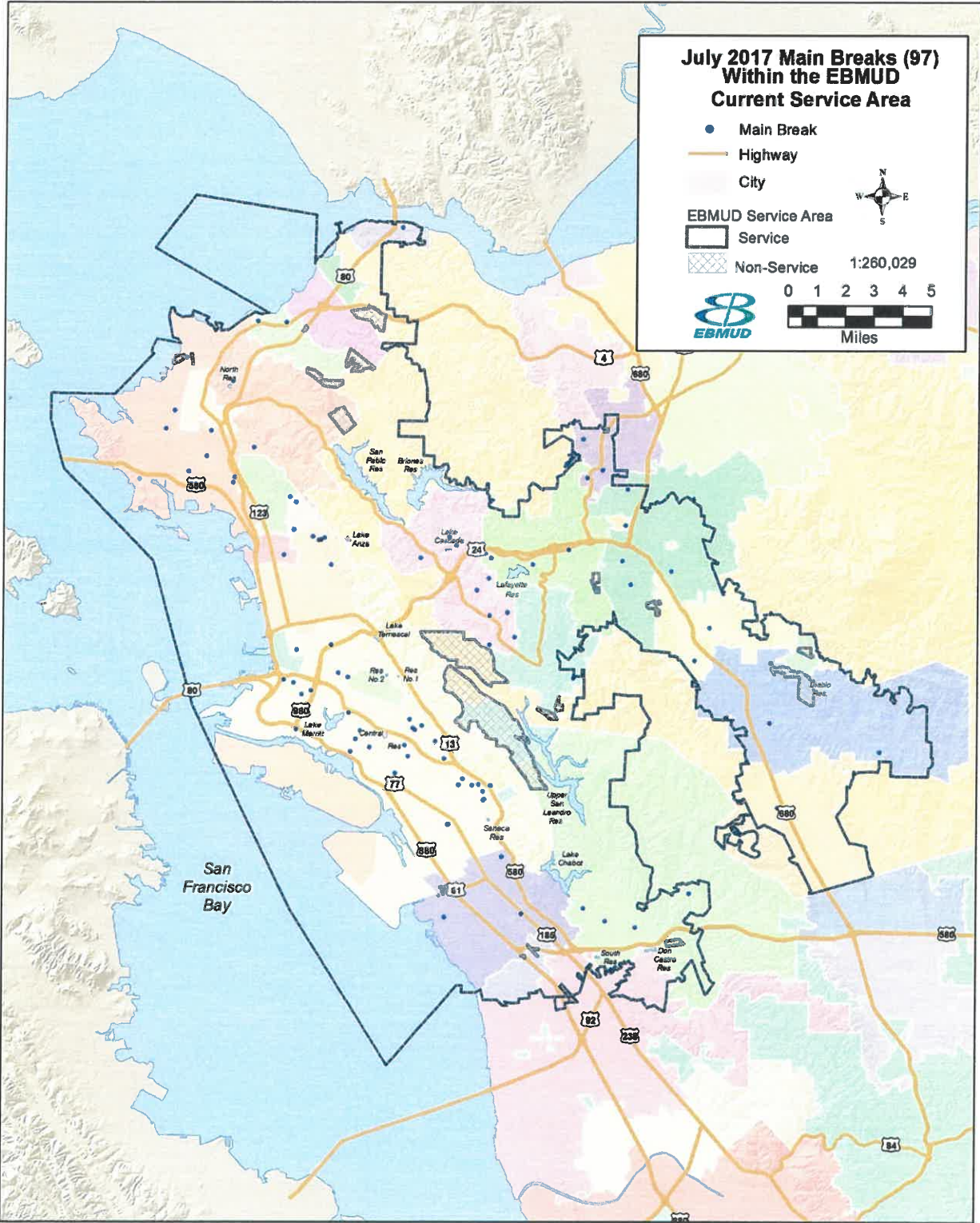
JULY 2017 MAIN BREAKS

City	Pre	Street	Suf	Pipe Material	Pipe Diameter	Year Installed	Est Water Loss (Gal)	Identified On	Completed On	KPI Met?
LAFAYETTE		HIGHLAND	CT	CAST IRON	12.00	1948	0	6/28/2017	7/5/2017	Yes
LAFAYETTE		SILVERHILL	DR	ASBESTOS CEMENT	6.00	1980	4,500	7/21/2017	7/21/2017	Yes
MORAGA		MERRILL CIRCLE N		ASBESTOS CEMENT	6.00	1987	7,200	7/21/2017	7/22/2017	Yes
OAKLAND		10TH	AVE	CAST IRON	6.00	1940	9,000	7/15/2017	7/16/2017	Yes
OAKLAND		15TH	AVE	CAST IRON	6.00	1935	450	7/23/2017	7/24/2017	Yes
OAKLAND		21ST	AVE	CAST IRON	6.00	1926	9,000	7/11/2017	7/11/2017	Yes
OAKLAND	E	21ST	ST	CAST IRON	8.00	1868	0	7/26/2017	7/28/2017	Yes
OAKLAND		27TH	ST	CAST IRON	6.00	1893	11,520	7/6/2017	7/13/2017	Yes
OAKLAND		83RD	AVE	CAST IRON	6.00	1931	18,000	7/19/2017	7/20/2017	Yes
OAKLAND		30TH	ST	CAST IRON	6.00	1935	18,000	7/19/2017	7/20/2017	Yes
OAKLAND		ABBEY	ST	CAST IRON	4.00	1940	11,520	7/6/2017	7/13/2017	Yes
OAKLAND		AILEEN	ST	CAST IRON	6.00	1951	270	7/23/2017	7/23/2017	Yes
OAKLAND		AYALA	AVE	ASBESTOS CEMENT	8.00	1967	31,680	7/7/2017	7/14/2017	Yes
OAKLAND		B	ST	ASBESTOS CEMENT	6.00	1958	17,280	7/1/2017	7/1/2017	Yes
OAKLAND		CALIFORNIA	ST	CAST IRON	4.00	1935	1,800	7/5/2017	7/6/2017	Yes
OAKLAND		CARLSEN	ST	CAST IRON	6.00	1939	9,000	7/4/2017	7/5/2017	Yes
OAKLAND		COLUMBIAN	DR	CAST IRON	6.00	1924	18,000	7/21/2017	7/21/2017	Yes
OAKLAND		COOLIDGE	AVE	CAST IRON	6.00	1931	23,040	7/18/2017	7/25/2017	Yes
OAKLAND		CURRAN	AVE	CAST IRON	6.00	1939	10,080	7/19/2017	7/25/2017	Yes
OAKLAND		ECHO	AVE	CAST IRON	6.00	1938	31,680	7/21/2017	7/31/2017	Yes
OAKLAND		ETTIE	ST	ASBESTOS CEMENT	6.00	1960	450	7/19/2017	7/19/2017	Yes
OAKLAND		EXCELSIOR	CT	ASBESTOS CEMENT	6.00	1967	1,440	7/5/2017	7/5/2017	Yes
OAKLAND		FOOTHILL	BL	CAST IRON	4.00	1936	5,400	7/7/2017	7/7/2017	Yes
OAKLAND		GILBERT	ST	CAST IRON	4.00	1920	9,000	7/12/2017	7/12/2017	Yes
OAKLAND		GREENLY	DR	CAST IRON	6.00	1926	27,000	7/22/2017	7/22/2017	Yes
OAKLAND		LAIRD	AVE	CAST IRON	2.00	1938	0	7/18/2017	7/24/2017	Yes

JULY 2017 MAIN BREAKS

City	Pre	Street	Suf	Pipe Material	Pipe Diameter	Year Installed	Est Water Loss (Gal)	Identified On	Completed On	KPI Met?
OAKLAND		LINCOLN	AVE	CAST IRON	6.00	1925	41,760	6/22/2017	7/20/2017	No
OAKLAND		M L KING JR	WAY	CAST IRON	18.00	1916	0	7/5/2017	7/6/2017	Yes
OAKLAND		MAGNOLIA	ST	CAST IRON	6.00	1932	17,280	7/27/2017	7/28/2017	Yes
OAKLAND		MAYNARD	AVE	CAST IRON	6.00	1953	9,000	7/18/2017	7/19/2017	Yes
OAKLAND		MAYNARD	AVE	CAST IRON	6.00	1953	27,000	7/22/2017	7/23/2017	Yes
OAKLAND		MOKELUMNE	AVE	CAST IRON	6.00	1949	0	7/23/2017	7/23/2017	Yes
OAKLAND		PARTRIDGE	AVE	CAST IRON	6.00	1939	450	7/23/2017	7/23/2017	Yes
OAKLAND		PATTERSON	AVE	CAST IRON	4.00	1949	9,000	7/12/2017	7/12/2017	Yes
OAKLAND		SUNKIST	DR	CAST IRON	6.00	1941	9,000	7/18/2017	7/19/2017	Yes
OAKLAND		SUNKIST	DR	CAST IRON	6.00	1949	4,500	7/19/2017	7/19/2017	Yes
OAKLAND		TOMPKINS	AVE	CAST IRON	6.00	1927	18,000	7/20/2017	7/21/2017	Yes
OAKLAND		TOMPKINS	AVE	CAST IRON	6.00	1927	2,700	7/21/2017	7/21/2017	Yes
ORINDA		ALICE	LN	NON METALLIC / PLASTIC	2.00	1980	3,600	7/25/2017	7/26/2017	Yes
ORINDA		CANON	DR	STEEL	12.00	1975	28,800	7/3/2017	7/6/2017	Yes
ORINDA		DOLORES	WAY	CAST IRON	6.00	1951	8,640	7/19/2017	7/24/2017	Yes
ORINDA		GLORIETTA	BL	CAST IRON	8.00	1945	18,000	7/27/2017	7/27/2017	Yes
ORINDA		HEATHER	LN	ASBESTOS CEMENT	6.00	1953	9,000	7/21/2017	7/21/2017	Yes
ORINDA		LA CAMPANA		CAST IRON	4.00	1934	2,700	7/10/2017	7/10/2017	Yes
ORINDA		LAS AROMAS		CAST IRON	10.00	1948	14,400	6/24/2017	7/3/2017	Yes
ORINDA		LOMA LINDA	CT	CAST IRON	6.00	1953	12,960	6/30/2017	7/8/2017	Yes
ORINDA		RAE	DR	ASBESTOS CEMENT	6.00	1961	5,760	7/6/2017	7/7/2017	Yes
PINOLE		PARK	ST	CAST IRON	6.00	1953	72,000	7/9/2017	7/9/2017	Yes
PINOLE		SAN PABLO	AVE	ASBESTOS CEMENT	6.00	1960	43,200	6/28/2017	7/3/2017	Yes
PLEASANT HILL		RANDOM	WAY	CAST IRON	6.00	1947	18,000	7/19/2017	7/20/2017	Yes
RICHMOND		7TH	ST	CAST IRON	6.00	1951	0	7/7/2017	7/12/2017	Yes
RICHMOND		29TH	ST	CAST IRON	4.00	1939	2,250	7/14/2017	7/15/2017	Yes

JULY 2017 MAIN BREAKS										
City	Pre	Street	Suf	Pipe Material	Pipe Diameter	Year Installed	Est Water Loss (Gal)	Identified On	Completed On	KPI Met?
RICHMOND	S	49TH	ST	ASBESTOS CEMENT	6.00	1956	900	7/31/2017	7/31/2017	Yes
RICHMOND	S	50TH	ST	CAST IRON	4.00	1941	0	7/19/2017	7/24/2017	Yes
RICHMOND		CYPRESS	AVE	CAST IRON	4.00	1938	9,000	7/26/2017	7/26/2017	Yes
RICHMOND		CYPRESS	AVE	CAST IRON	4.00	1938	90	7/26/2017	7/26/2017	Yes
RICHMOND		FILBERT	ST	CAST IRON	4.00	1940	900	7/31/2017	7/31/2017	Yes
RICHMOND		FLORIDA	AVE	CAST IRON	6.00	1941	17,280	7/8/2017	7/13/2017	Yes
RICHMOND	S	GARRARD	BL	ASBESTOS CEMENT	6.00	1962	13,500	7/30/2017	7/30/2017	Yes
RICHMOND		HENDERSON	DR	ASBESTOS CEMENT	6.00	1955	8,640	7/5/2017	7/10/2017	Yes
RICHMOND		MALLARD	DR	STEEL	6.00	1970	5,760	7/24/2017	7/24/2017	Yes
RICHMOND		MARICOPA	AVE	CAST IRON	6.00	1941	18,000	7/25/2017	7/26/2017	Yes
RICHMOND		PHANOR	DR	ASBESTOS CEMENT	4.00	1950	18,000	7/29/2017	7/29/2017	Yes
SAN LEANDRO		148TH	AVE	CAST IRON	6.00	1939	40,320	7/11/2017	7/14/2017	Yes
SAN LEANDRO		FAIRBANKS	ST	CAST IRON	6.00	1951	0	7/11/2017	7/19/2017	Yes
SAN LEANDRO		HELEN	AVE	CAST IRON	6.00	1938	14,400	7/7/2017	7/11/2017	Yes
SAN RAMON		SANTANDER	DR	ASBESTOS CEMENT	6.00	1979	7,200	7/23/2017	7/27/2017	Yes
WALNUT CREEK		CARMELLO	RD	CAST IRON	4.00	1942	3,600	7/18/2017	7/18/2017	Yes
WALNUT CREEK		CHANCE	LN	ASBESTOS CEMENT	6.00	1955	12,960	7/26/2017	7/26/2017	Yes
WALNUT CREEK		HERRON	AVE	ASBESTOS CEMENT	6.00	1960	9,000	7/22/2017	7/22/2017	Yes
WALNUT CREEK		TICE VALLEY	BL	STEEL	12.00	1959	180	7/11/2017	7/11/2017	Yes
WALNUT CREEK		WHYTE PARK	AVE	CAST IRON	4.00	1933	8,640	7/23/2017	7/28/2017	Yes
TOTAL							1,062,000			



EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: August 3, 2017

MEMO TO: Board of Directors

THROUGH: Alexander R. Coate, General Manager *ARC*

FROM: Rischa S. Cole, Secretary of the District *RSC*

SUBJECT: Finance/Administration Committee Minutes – July 25, 2017

Chair William B. Patterson called to order the Finance/Administration Committee meeting in the Training Resource Center at 10:13 a.m. Director Frank Mellon was present at roll call and Director John A. Coleman was absent (excused). Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Director of Finance Sophia D. Skoda, Internal Auditor Supervisor Barry N. Gardin, Special Assistant to the General Manager Alison A. Kastama, and Secretary of the District Rischa S. Cole.

Public Comment. None.

Annual Internal Audit Report. Internal Auditor Supervisor Barry N. Gardin reviewed the Fiscal Year 2017 (FY17) audit plan and advised there were no material findings, significant control weaknesses, sizeable exposure, or other significant issues identified that require immediate Board action or attention. However, he noted that staff is implementing the recommended improvements to processes for making open market purchases and managing capital budget expenditures. Final reports for labor Memoranda of Understanding Compliance and Fleet Administration assessments conducted in FY17 are scheduled to be issued in the first quarter of FY18. Next, he highlighted the planned audits for FY18. The Committee asked staff to use the findings from the upcoming materials management audit to inform District radio-frequency identification (RFID) and Materials Management Information System efforts and requested an update on Information Technology security at a future Planning Committee.

Monthly Investment Transactions Report – June 2017. Director of Finance Sophia D. Skoda reviewed the report for June and advised it would be forwarded to the Board for consideration. It was moved (Mellon), and seconded (Patterson) and carried (2-0) to forward the report to the Board for approval. Director Coleman was absent (excused).

Quarterly Financial Reports. Director of Finance Sophia D. Skoda reported that the quarterly reports were filed in compliance with government statutes. The reports cover quarterly investment transactions along with quarterly payroll, disbursement and real estate summary reports for the Water and Wastewater systems covering the quarter January 1 through June 30, 2017. The Committee asked about the recent bond sale. Staff provided the interest rate received for the water and wastewater bonds and confirmed that employees are able to participate in District bond sales.

Adjournment. Chair Patterson adjourned the meeting at 10:28 a.m.

ARC/RSC

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: August 3, 2017

MEMO TO: Board of Directors

THROUGH: Alexander R. Coate, General Manager *ARC*

FROM: Rischa S. Cole, Secretary of the District *RC*

SUBJECT: Sustainability/Energy Committee Minutes – July 25, 2017

Chair Marguerite Young called to order the Sustainability/Energy Committee at 9:00 a.m. in the Training Resource Center. Director Doug Linney was present at roll. Director Andy Katz arrived at 9:18 a.m. (absent). Staff present included: General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Director of Operations and Maintenance Michael J. Wallis, Senior Environmental Health and Safety Specialist Cynthia C. Adkisson, Manager of Environmental Compliance Chandra R. Johannesson, Special Assistant to the General Manager Alison A. Kastama, and Secretary of the District Rischa S. Cole.

Public Comment. Addressing the Committee was Merri Mitchell who commented on the recent rate increase and its impact on customers who actively conserved during the drought.

2016 Greenhouse Gas (GHG) Inventory and Mitigation Efforts. Senior Environmental Health and Safety Specialist Cynthia C. Adkisson provided an update on the District's emissions goals, 2016 inventory and recent activity to reduce emissions. The District surpassed its 2016 goal for indirect emissions by emitting 10,861 MT CO_{2e} less than the goal. As a result, the District will not need to purchase tradable renewable energy credits this year. The District did not meet its goal for direct emissions by emitting 358 MT CO_{2e} more than the goal. Staff does not intend to purchase carbon offsets to mitigate the minor direct emissions exceeded in 2016 because in aggregate the combined indirect and direct emissions are far below the 2016 goal. The District's GHG emissions inventory can be categorized into five sectors representing major areas of operations including buildings, fleet, raw water, treatment and distribution and wastewater. Ms. Adkisson reviewed the options being considered to reduce direct emissions including a pilot project to use renewable diesel for District vehicles and equipment, route balancing for meter reading routes to reduce vehicle miles traveled and operating hours, and upgrading the District's fleet with more efficient vehicles. Going forward, staff will continue exploring ways to reduce GHG and opportunities to use photo voltaic, conduct a commuter survey, and upgrade lighting and heating, ventilation and air conditioning systems in District facilities. The Committee asked questions about the decommissioned turbines at the Administration Building and exploring the use of wind as an alternative energy source.

- Addressing the Committee was Marla Schmalle who discussed the relationship between GHG and tonsillectomies in the 1960s and suggested the District stop removing healthy trees and instead use the funds to plant more trees.

Integrated Pest Management (IPM) Program. Manager of Environmental Compliance Chandra R. Johannesson provided an overview of the District's phased approach to managing its IPM program. The program is implemented on watershed lands and rights of way, at operating and administrative facilities, and inside structures; it is also documented in a recently updated IPM Plan and provides guidance for determining the most appropriate pest control methods for a particular application. These methods are used by multiple District departments for employee and public safety, infrastructure management, fire suppression, regulatory compliance, flood control, habitat management, and aesthetics. Staff is working to finalize the IPM Plan update and will have a third-party expert review the plan and make recommendations for improvement. In addition, staff will establish clear objectives for each site; document pests identified, monitoring practices, drivers to take action, and selected management strategies for sites or types of sites; develop an electronic data management approach/system to help evaluate the volume and toxicity of pesticides applied; engage experts to provide training on implementation of the plan, processes, and strategies; and consider an update to District policy regarding pest management and/or use of pesticides.

- The following persons addressed the Committee: 1) Mary McAllister expressed appreciation for the actions being taken and is seeking commitment that the District will monitor pesticide use; 2) Wanda Warkentiin commented on glyphosate spraying and the link between pesticides, Crohn's disease and tonsillectomies; 3) Merri Mitchell commented on the use of glyphosate in Berkeley and its link to THMs in the water. She also provided staff a handout on an alternative to using chlorine in the water system; 4) Marg Hall commented the District should consider a zero pesticide use policy and hire an organic farmer to manage the IPM Plan; 5) Mary Sue Mends commented about the use of fluoride and chloramines in water and that staff should consider using Marin Municipal Utility District's model for addressing pests; 6) Marla Schmalle asked the District to be careful about using pesticides; 7) Isis Feral commented that information about pesticide use is hard to locate on the District's website and requested the District discontinue using pesticides and adding chloramine and fluoride to the water; and 8) Stephanie Thomas commented on pesticide use and its link to THMs in the water.
- The following items were filed with the Committee: 1) Letter to EBMUD Sustainability Committee from Mary McAllister regarding Integrated Pest Management policy dated July 25, 2017; and 2) Comments from Isis Feral regarding the East Bay Municipal Utility District Draft Update of the East Bay Watershed Master Plan dated September 15, 2016 with attached letter to Douglas I. Wallace EBMUD Environmental Affairs Officer, from Lawrence Bragman, Attorney at Law, regarding the East Bay Watershed Master Plan (Draft Master Plan) dated September 2, 2016.

The Committee thanked the public speakers for their comments and staff for their work to update the IPM Plan. The Committee asked staff to follow up on the actions identified in the "next steps" section of the presentation and the comments by the public speakers and to consider the appropriate timing to develop a draft IPM policy for the District.

Adjournment. Chair Young adjourned the meeting at 10:09 a.m.

ARC/RSC

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: August 3, 2017

MEMO TO: Board of Directors

THROUGH: Alexander R. Coate, General Manager *ml*

FROM: Rischa S. Cole, Secretary of the District *RC*

SUBJECT: Special Legislative/Human Resources Committee Minutes – July 25, 2017

Director William B. Patterson called to order the Special Legislative/Human Resources Committee at 10:31 a.m. in the Training Resource Center. Director Marguerite Young was present at roll call and Chair John A. Coleman was absent (excused). Staff present included: General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Manager of Legislative Affairs Marlaigne K. Dumaine, Special Assistant to the General Manager Alison A. Kastama, and Secretary of the District Rischa S. Cole.

Public Comment. None.

Legislative Update. Manager of Legislative Affairs Marlaigne K. Dumaine provided an update on Legislative Report No. 08-17 which contained information on SB 623 (Monning) Water Quality: Safe and Affordable Drinking Water Fund and H.R. 23 (Valadao) Gaining Responsibility on Water Act of 2017. Ms. Dumaine said that H.R. 23 seeks to amend the Central Valley Project Improvement Act in order to provide increased water supply reliability for some Central Valley Project contractors, particularly agricultural contractors. Director Young requested the bill voting record of the California delegates and an update on other water agencies' position on the bill. Next, she reviewed SB 623 which seeks to establish the Safe and Affordable Drinking Water Fund to provide grants and loans to assist communities and individual domestic well owners that rely on contaminated drinking water. The author intends to amend SB 623 to include a "ratepayer assessment" on retail water customers as a significant funding source for the fund. This new amendment would be in direct conflict with EBMUD's existing policy position opposing the imposition of retail water use fees or a public goods charge. Staff is recommending the Board oppose SB 623, as proposed to be amended to include the ratepayer assessment, unless the bill is instead amended to seek funding from another source other than a public goods charge. The Committee discussed staff's recommendation. Director Young put forth a recommendation to "support if amended" to allow staff the opportunity to continue working with the author on the bill language pertaining to the ratepayer assessment. Director Patterson agreed with staff's recommendation to "oppose unless amended" due to potential future impacts if a ratepayer assessment became a part of the bill language. After additional discussion, the Committee did not come to consensus on a recommendation to forward to the full Board.

Adjournment. Director Patterson adjourned the meeting at 10:46 a.m.

ARC/RSC

