



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

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375 - 11th Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

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**Notice of Time Change**

**LEGISLATIVE/HUMAN RESOURCES  
COMMITTEE MEETING**

**8:00 a.m.**

**Tuesday, January 13, 2015**

Notice is hereby given that on Tuesday, January 13, 2015 the Legislative/Human Resources Committee Meeting of the Board of Directors has been rescheduled from 10:15 a.m. to 8:00 a.m. The meeting will be held in the Training Resource Center of the Administration Building, 375 - 11th Street, Oakland, California.

Dated: January 8, 2015

A handwritten signature in cursive script, reading 'Lynelle M. Lewis', is written over a horizontal line.

Lynelle M. Lewis  
Secretary of the District





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

375 – 11<sup>th</sup> Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

## **AGENDA**

### **Legislative/Human Resources Committee**

**Tuesday, January 13, 2015**

**8:00 a.m.**

**Training Resource Center**

**(Committee Members: Directors McIntosh {Chair}, Coleman and Mellon)**

#### **ROLL CALL:**

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

#### **DETERMINATION AND DISCUSSION:**

1. Affirmative Action Plan Amendments and Name Change of the Office and Officer Position (Turner)
2. Legislative Report (Dumaine)
  - Federal Legislative Initiatives for 2015
  - Update on Legislative Issues of Interest to EBMUD

#### **ADJOURNMENT:**

##### **Disability Notice**

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

##### **Document Availability**

*Materials related to an item on this Agenda that have been submitted to the EBMUD Board of Directors within 72 hours prior to this meeting are available for public inspection in EBMUD's Office of the Secretary at 375 11th Street, Oakland, California, during normal business hours.*



## EAST BAY MUNICIPAL UTILITY DISTRICT

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DATE: January 8, 2015

MEMO TO: Board of Directors

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

FROM: Delores Turner, Manager of Human Resources *DL Turner*

SUBJECT: Affirmative Action Plan Amendments and Name Change of the Office and Officer Position

This information is being provided in advance of the introduction of a new format for the District's Affirmation Action Plan (AAP), and outlines planned modifications in the plan that will be presented for adoption to the Board of Directors at the regular meeting on February 10, 2015. The planned AAP changes will be discussed at the Legislative/Human Resources Committee meeting on January 13, 2015.

### SUMMARY

With the appointment of a new Affirmative Action Officer on October 6, 2014, staff took the opportunity to take a fresh look at the AAP. Based on that review, this report outlines recommended changes to the District's AAP to enhance compliance with applicable regulations and improve readability of the plan document. The changes are a hybrid of the AAP models suggested by the National Employment Law Institute (NELI)<sup>1</sup> and Biddle Consulting Group<sup>2</sup> (Biddle) in their structure, content and approach. The planned changes advance the quality of the District's AAP based on industry best practices.

In addition to the AAP structural changes, staff will outline plans to rename the organizational unit from Affirmative Action Office (AAO) to the Office of Diversity and Inclusion, and retitle the Officer position to Diversity and Inclusion Officer.

### DISCUSSION

#### Affirmative Action Plan

The District is a federal contractor pursuant to a long-term water supply contract with the U.S. Bureau of Reclamation, and is therefore subject to the following affirmative action laws:

- Executive Order 11246 (EO 11246)
- The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA)
- Section 503 of the Rehabilitation Act of 1973, as amended (Section 503)

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<sup>1</sup> NELI is a continuing education organization comprised of experts in labor and employment law and human resource issues, including Affirmative Action. NELI conducts employment law seminars and publishes employment law reference and resource manuals, books, and treatises.

<sup>2</sup> Biddle specializes in Equal Employment Opportunity (EEO) consulting, litigation support, personnel testing software development, and AAP outsourcing and software. Biddle is the District's current AAP reporting vendor.

These laws, taken together, require federal contractors to take affirmative action to recruit and advance qualified minorities, women, individuals with disabilities (IWDs), and covered veterans (Vets) in employment, including developing and implementing a written affirmative action program.<sup>3</sup> An EO 11246 program should reflect the utilization of women and minorities in the workforce as compared to the relevant labor pool, and when the percentage of minorities or women employed in a particular job group is less than would reasonably be expected given their availability, the contractor (in this case the District) must develop and implement goals and specific action-oriented programs to address these problem areas. Starting with the 2015 AAP, staff will be changing the utilization analysis to conform to the CFR, i.e., setting forth the incumbency, availability and any needed placement goal by minorities as a whole, rather than by ethnic/racial subset. In addition, staff will utilize a statistical analysis approach to determine placement goals, as it has proven to be more effective in determining when incumbency is “less than would reasonably be expected.”

A required Section 503 program should detail a utilization analysis of qualified IWDs by job group based on a nationwide 7% utilization goal, assess problem areas, and establish specific action-oriented programs to address any identified problem areas. Lastly, a VEVRAA program should document the number of Vets hired and evaluate the effectiveness of outreach and recruitment efforts in identifying and recruiting qualified Vets. The Office of Federal Contract Compliance Programs (OFCCP), of the U.S. Department of Labor (USDOL) enforces these laws and drafts and administers regulations regarding these laws under the Code of Federal Regulations (CFR).

The required contents as well as the required structure of a compliant Affirmative Action Program (herein referred to as “Program”) pursuant to EO 11246, VEVRAA and Section 503, are illustrated in Attachment 1. For comparison purposes, the District’s current AAP is laid out alongside the legal requirements of the program requirements set by the OFCCP and CFR. The comparison shows areas where the District’s AAP should be updated to more closely align with the required OFCCP and CFR structure/content. Aligning the District’s AAP with the structure detailed in OFCCP guidelines is important to ensure, in the case of an OFCCP audit, that our program is easy to review and understand, and that it contains the required elements.

Accordingly, to conform to the established requirements of the OFCCP and CFR, the following additions will be made to the District’s Program for Minorities and Women:

- Organization Profile
- Placement of Incumbents in Job Groups
- Determining Availability
- Comparing Incumbency to Availability
- Internal Audit and Reporting Systems

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<sup>3</sup> Pursuant to the Code of Federal Regulations (CFR), the implementing regulations of the affirmative action law, it is a “program,” not a “plan.”

The District's Program for Vets and IWDs will also be updated in structure and content to include the following additional elements:

- Review of Personnel Processes and Physical and Mental Qualifications
- Reasonable Accommodation Procedures
- Harassment Prevention
- Audit and Reporting Systems
- Training to Ensure Program Implementation
- Data Collection Analysis<sup>4</sup>

In addition to updating the overall structure of the District's Program, staff will separate the EO 11246 program from the VEVRAA/Section 503 program, as the programs fall under different legal statutes.

The Biddle AAP Narrative Templates will be used to create the program document for both areas for the two programs, as modified by the NELI Model, as staff found the NELI and Biddle structures are the most consistent in complying with the three legal statutes (illustrated in Attachment 2). Staff's recommendation to follow the hybrid NELI/Biddle model and template, will result in a FY15 AA Program which conforms to industry best practices and federal and state contract compliance guidelines.

To ensure continued compliance with regulatory changes, future AA Programs will continue to evolve. For example, the FY16 Program will introduce an expansion of the race/ethnic categories, from five to seven, to correspond with the changes in the federal reporting requirements of the Equal Employment Opportunity Commission (EEOC)'s biennial report, the EEO-4<sup>5</sup>. The EEO-4 will soon require reporting of race using seven categories, and the OFCCP has agreed to allow contractors to report using the same seven categories in AA Programs. Another future change will involve a comprehensive look at the District's job groups to ensure the categories are still appropriate.

As in prior years, when the FY15 AAP is presented to the Board of Directors at the February 10, 2015 meeting, the presentation will include a summary of the EO 11246 AA Program for Minorities and Women. We will identify problem areas and correction of deficiencies, provide a summary of placement goals and outline the development and execution of action-oriented programs to address the problem areas. A similar summary of the District's actions and activities relating to the Vets and IWDs program will be shared.

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<sup>4</sup> This element will not be included until the FY16 program as the data required to complete this analysis is to be collected for the first time this year in accordance with the CFR.

<sup>5</sup> The Equal Employment Opportunity Commission requires periodic reports, on a biennial basis in odd numbered years, from public and private employers, and unions and labor organizations which indicate the composition for their work forces by sex and by race/ethnic category. The race/ethnic category will break out the "Asian" race into two categories: Asian and Pacific Islanders. In addition, the Commission will add a new race/ethnic category, "Two or more races" to allow individuals to self-report if they are of mixed races.

Lastly, as the District policies are reviewed, updated and presented for adoption by the Board of Directors on a prescribed schedule, reaffirmation of the Equal Employment Opportunity (EEO) policies will occur on the established Board policy review schedule rather than as an element of the AA Program adoption. However, to ensure that all District staff are reminded of the existence of the EEO policies and procedures, as well as the Board of Director's and General Manager's support of these policies and procedures, annually the General Manager will send out an email to all employees with a reminder of our commitment to diversity and inclusion.

#### Unit Name Change and Change in the Position Title

The Affirmative Action Office is tasked with more than just developing and administering the Program. The current organizational unit name does not fully describe the breadth of responsibilities of the unit. The unit is not only responsible for taking affirmative action to advance employment of women, minorities, IWDs and Vets, but also the unit plays a key role in workforce planning, outreach, equal employment opportunity, training, policy development and compliance, and the investigation of alleged policy violations.

Accordingly, staff will be recommending a change in the unit's name to the Office of Diversity and Inclusion. The proposed organizational name is contemporary, based on a broader nomenclature, and represents how the District's efforts and commitment of inclusion has evolved. The recommended name also aligns with best practices of both public and private agencies, such as PG&E, Alameda County, Santa Clara Valley Water District, and the U. S. Department of Veteran Affairs, to name a few, that have updated their program name to "Diversity and Inclusion." Furthermore, the recent values project findings reported that employees perceive "diversity and inclusion" as a value of the District, as it demonstrates our commitment to family. Staff will also bring forward a recommendation to change the Affirmative Action Officer's job title to Diversity and Inclusion Officer. The change in the organizational unit will be accomplished by General Manager Authority, and the job title change will be incorporated into the Position Resolution adopted as a component of and during the FY16 and FY17 budget process.

ARC:DT:DWB:rdw

#### Attachments

TUR15-6a.docx

I:\Sec\2015 Board Related Items\01-13-15 LEGHR Committee\HRD - Affirmative Action Plan Amendments and Name Change



**ATTACHMENT 1**  
**AAP STRUCTURE/CONTENT TABLE**  
**OFCCP AND EBMUD**

<b>AAP LEGAL REQUIREMENTS</b>		<b>CURRENT AAP</b>
<b>Code of Federal Regulations and Office of Federal Contract Compliance Programs</b>		<b>EBMUD</b>
<b>EO 11264 - 41 CFR 60-2(b) and EO 11246 Sample Affirmative Action Program</b>		<b>EBMUD AA PLAN</b>
Table of Contents	Table of Contents	
\$60-2.11: Organizational Profile:	<b>TO BE ADDED</b>	
Organizational Display; or		
Workforce Analysis.		
\$60-2.12: Job Group Analysis: Listing of Job Titles		
\$60-2.13 - \$60-2.15: Utilization Analysis		
Placement of Incumbents in Job Groups		
Determining Availability	<b>TO BE ADDED</b>	
Comparing Incumbency to Availability and	<b>TO BE ADDED</b>	
60-2.15: Establishing Placement Goals	<b>TO BE ADDED</b>	
\$60-2.17: Additional Required Elements	Table A: 2014 AA Placement Goals	
Designation of Responsibility for Implementation		
Identification of Problem Areas	Section 4 - Roles and Responsibilities	
	Discussion of Recommendations	
	Adopt AA Plan and Placement Goals	
	Workplace Underutilization	
Action-Oriented Programs	Section 6 <sup>1</sup> - AA Goals and Action Plan	
Internal Audit and Reporting Systems	<b>TO BE ADDED</b>	
	Recommendation	
	Adopt AA Plan and Placement Goals	
	Discussion of Recommendations	
	AA/EEO Action Plan to Address Workforce Underutilization	

<sup>1</sup>Only the Action Plan section aligned with the requirements. The AA goals portion was extraneous.

**Legend:**

Yellow: Information to be added

Green: Information to be removed

**ATTACHMENT 1**  
**AAP STRUCTURE/CONTENT TABLE**  
**OFCCP AND EBMUD**

<b>LEGAL REQUIREMENTS</b>		<b>CURRENT AAP</b>
<b>Code of Federal Regulations and Office of Federal Contract Compliance Programs</b>		<b>EBMUD</b>
<b>EO 11264 - 41 CFR 60-2(b) and EO 11246 Sample Affirmative Action Program</b>		<b>EBMUD AA PLAN</b>
	Section 1 – Introduction	
	Section 2 - EEO Policy 2.25	
	Section 3 – AA Requirements	
	EO 11246	
	OFCCP Requirements for AA	
	Other Applicable AA Laws and Regulations	
	Section 5 – Evaluation of Workforce Changes and 2013 Goal Achievement	
	Introduction	
	Evaluation of Previous Year Changes in District Workforce Underutilization	
	Evaluation of Previous Year Goals Achievement	
	Monitoring Veteran Rep in District Workforce	
	District AA Previous Year Placement Goal Monitoring Report	
	Section 7 – Dissemination of the AA Plan	
	Section 8 – Prevention of Sexual Harassment in the Workplace Policy 2.26	
	Section 9 – Procedure 227	
	APPENDIX	
	Glossary of terms	
	Alpha listing of classification with corresponding job groups	
	Goal setting methodology and workforce analysis data	

**Legend:**

Yellow: Information to be added  
Green: Information to be removed

**ATTACHMENT 1**  
**AAP STRUCTURE/CONTENT TABLE**  
**OFCCP AND EBMUD**

<b>AAP LEGAL REQUIREMENTS</b>		<b>CURRENT AAP</b>
<b>Code of Federal Regulations and Office of Federal Contract Compliance Programs</b>		<b>EBMUD</b>
<b>VEVRAA - 41 CFR §60-300.44 / Section 503 - 41 CFR §60-741.44 and Sample Section 503 and VEVRAA Affirmative Action Program</b>	<b>Section 11 - Affirmative Action Plan for Special Disabled Veterans and Other Protected Veterans/ Section 10 – Affirmative Action Plan for Person with Disabilities</b>	
Table of Contents	Table of Contents	
Policy Statement - Equal Employment Opportunity	Policy <sup>2</sup>	
Review of Personnel Processes	TO BE ADDED	
Physical and Mental Qualifications <sup>3</sup>	TO BE ADDED	
Harassment Prevention	TO BE ADDED	
External Dissemination of Policy, Outreach and Positive Recruitment	Section 7 – Dissemination of the AA Plan	
Internal Dissemination of Policy	Section 7 – Dissemination of the AA Plan	
Audit and Reporting System	TO BE ADDED	
Responsibility for Implementation of AAP	Responsibility	
Training to Ensure AAP Implementation	TO BE ADDED	
Data collection analysis	TO BE ADDED	
	Intro	
	Policy Dissemination	
	Affirmative Actions	

<sup>2</sup>New CFR regulations were implemented on March 24, 2014, after adoption of the District's Affirmative Action Plan, which require additional elements.

<sup>3</sup>Reasonable accommodation procedures must also be outlined in accordance with the CFR regulations.

**Legend:**

Yellow: Information to be added  
Green: Information to be removed



**ATTACHMENT 2**  
**AAP STRUCTURE/CONTENT TABLE**  
**OF CCP AND NELI AND BIDDLE**

<b>LEGAL REQUIREMENTS</b>		<b>BEST PRACTICES</b>	
<b>Code of Federal Regulations and Office of Federal Contract Compliance Programs</b>		<b>NELI</b>	<b>Biddle</b>
<b>EO 11264 - 41 CFR 60-2 et seq. and EO 11246 Sample Affirmative Action Program</b>		<b>Workbook and Model Affirmative Action Program</b>	<b>Biddle Executive Order 11246 AA Plan Narrative Template</b>
Table of Contents		Table of Contents	
\$60-2.11: Organizational Profile:		5. Organizational Profile	Table of Contents
Organizational Display; or		a. Organizational Display; or	Chapter 1: Organizational Profile
Workforce Analysis.		b. Workforce Analysis	Workforce Analysis
\$60-2.12: Job Group Analysis: Listing of Job Titles		6. Job Group Analysis: Job Titles and Placement of Incumbents in Job Groups	Chapter 2: Job Group Analysis
\$60-2.13 - \$60-2.15: Utilization Analysis			
Placement of Incumbents in Job Groups		6. Job Group Analysis: Job Titles and Placement of Incumbents in Job Groups	Chapter 3: Placement of Incumbents in Job Groups - Job Group Analysis Summary
Determining Availability		7. Availability Analysis	Chapter 4: Determining Availability
Comparing Incumbency to Availability and		8. Placement Goal Analysis	Availability
60-2.15: Establishing Placement Goals		8. Placement Goal Analysis	Chapter 6: Placement Goals
\$60-2.17: Additional Required Elements		Narrative	
Designation of Responsibility for Implementation		1. Responsibility for Implementation	Chapter 7: Designation of Responsibility
Identification of Problem Areas		2. Identification of Problem Areas and Correction of Deficiencies	Chapter 8: Identification of Problem Areas
Action-Oriented Programs		3. Development and Execution of Action-Oriented Programs	Chapter 9: Action-Oriented Programs
Internal Audit and Reporting Systems		4. Design & Implementation of Internal Audit & Reporting Systems	Chapter 10: Internal Audit and Reporting
		Front Page	Front Page
		Confidentiality Disclaimer	Confidentiality Disclaimer
			Introduction to Parts I and II

**Legend:**

Yellow:	Information to be added
Green:	Information to be removed

**ATTACHMENT 2**  
**AAP STRUCTURE/CONTENT TABLE**  
**OF CCP AND NELI AND BIDDLE**

LEGAL REQUIREMENTS		BEST PRACTICES	
Code of Federal Regulations and Office of Federal Contract Compliance Programs		NELI	Biddle
EO 11264 - 41 CFR 60-2 et seq. and EO 11246 Sample Affirmative Action Program		NELI Affirmative Action Resource Manual and Workbook and Model Affirmative Action Program	Biddle Executive Order 11246 AA Plan Narrative Template
			Background
			Policy Statement
			Applicable Affirmative Action Laws and Regulations
			Protected Groups
			Program Terminology
			Reliance on EEOC's Guidelines
			Reporting Period
			Statement of Purpose for Parts I and II
			Parts I: Affirmative Action Plan for Minorities and Women

**Legend:**

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Green:	Information to be removed



**ATTACHMENT 2**  
**AAP STRUCTURE/CONTENT TABLE**  
**OFCCP AND NELI AND BIDDLE**

<b>BEST PRACTICES</b>	
<b>LEGAL REQUIREMENTS</b>	
<b>Code of Federal Regulations and Office of Federal Contract Compliance Programs</b>	<b>NELI</b>
<b>VEVRAA - 41 CFR §60-300.44 et seq./ Section 503</b>	<b>Biddle</b>
<b>41 CFR §60-741.44 et seq. and Sample Section 503 and VEVRA Affirmative Action Program</b>	<b>PART II: Affirmative Action Plan for Protected Veterans and Individuals with Disabilities<sup>1</sup></b>
Table of Contents	Table of Contents
Policy Statement - Equal Employment Opportunity	Chapter A: Policy Statement
Review of Personnel Processes	Chapter B: Review of Personnel Processes
Physical and Mental Qualifications and Reasonable Accommodation to Physical and Mental Limitations	Chapter C: Physical and Mental Qualifications
Harassment Prevention	Chapter D: Reasonable Accommodation to Physical and Mental Limitations
External Dissemination of Policy, Outreach and Positive Recruitment	Chapter E: Harassment
Internal Dissemination of Policy	Chapter F: External Dissemination of Policy, Outreach and Positive Recruitment
Audit and Reporting System	Chapter G: Internal Dissemination of Policy
Responsibility for Implementation of AAP	Chapter H: Audit and Reporting System
Training to Ensure AAP Implementation	Chapter I: Responsibility for Implementation
Data Collection Analysis	Chapter J: Training
	Chapter K: Data Collection Analysis
	Chapter L: Compensation

<sup>1</sup>Biddle includes the VEVRAA and Section 503 plans as part of the Executive Order 11246 Plan.

**Legend:**

Yellow: Information to be added  
Green: Information to be removed





## EAST BAY MUNICIPAL UTILITY DISTRICT

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DATE: January 8, 2015

MEMO TO: Board of Directors

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

FROM: Marlaigne Dumaine, Manager of Legislative Affairs *M. Dumaine*

SUBJECT: Federal Legislative Initiatives for 2015

### **RECOMMENDED ACTION**

Approve the proposed EBMUD federal legislative initiatives for 2015, which focus on: 1) seeking federal funding opportunities for EBMUD projects via any new and existing federal programs, 2) advancing EBMUD's interests in the context of federal drought legislation, and 3) advancing EBMUD's Delta needs.

### **OVERVIEW**

The 114<sup>th</sup> Congress convened this month ushering in a new political environment with a Republican majority in both houses that is expected to pursue policy objectives ranging from tax to budget to environmental program reforms. Congress and the administration will begin the fiscal year 2016 (FY16) budget process with a clean slate since agreement was reached in late 2014 on a FY15 omnibus spending bill that funds the majority of the government through September.

It is expected that water resources policy, such as drought legislation, water supply reliability, and the Sacramento-San Joaquin Delta, will dominate the legislative agenda in the first several months of the session given the ongoing drought and the unsuccessful attempts to pass emergency drought legislation in 2014. Other policy issues that congress will likely consider include infrastructure assistance, tax reform and the continued availability of tax-exempt financing, water use and energy efficiency, regulatory streamlining, endangered species reform, and climate change. In addition, the president's FY16 budget may place a strong emphasis on programs that address climate change impacts, including areas of interest to EBMUD, such as sustainable alternative energy, and efforts to reduce the use of energy in the conveyance and/or treatment of water.

With regard to infrastructure assistance, congress and the administration will likely consider this issue in the context of the Water Resources Reform and Development Act (WRRDA) of 2014, which outlined a new approach to project assistance requiring enhanced interaction with the administration, provided for State Revolving Fund loans, and created a Water Infrastructure Financing and Innovation Act (WIFIA) pilot program. Discussions regarding infrastructure may also include alternative financing proposals, such as infrastructure banks, as well as tax-exempt financing. As the process to seek infrastructure funding assistance continues to evolve, it will be important to advance EBMUD's infrastructure funding needs with the administration and EBMUD's congressional delegation in order to seek support for project assistance through any available means.

On the policy front, issues of interest to EBMUD continue to be focused primarily on matters relating to water supply and the Sacramento-San Joaquin Delta, including water supply reliability, funding, and mitigation. With the ongoing drought, vigorous debate on federal drought legislation will likely continue in 2015 with a focus on efforts to change existing regulatory mandates and the priority currently given to ecosystem needs versus water supply for agriculture. Overall, these discussions could have important consequences for EBMUD's water supply and its commitment to natural resources as an integral part of EBMUD's primary role to provide water supply and wastewater treatment services.

EBMUD's 2015 federal legislative initiatives have been developed consistent with the past year's goals and objectives with the understanding that the manner in which congress and the administration approach federal funding assistance and policymaking (in light of new majority's priorities) is evolving. EBMUD's 2015 federal legislative initiatives are focused on items of highest priority for EBMUD: funding, including FY16 funding for projects with existing Water Resources Development Act (WRDA) authorizations and water supply reliability projects, advancing EBMUD's interests in the context of federal drought legislation, and advancing EBMUD's Delta needs. These three EBMUD 2015 federal initiatives are summarized in the table below and described in detail in the attachment. In addition to the three initiatives, staff will continue to closely monitor congressional activities and work with EBMUD's congressional delegation to advance EBMUD's interests on other relevant water and wastewater-related issues as they arise.

FEDERAL INITIATIVE	ACTION
1. Seek federal funding opportunities for EBMUD projects via any new and existing federal programs.	<ul style="list-style-type: none"> <li>• Pursue FY16 federal funding for WRDA authorized projects in order of priority: the San Ramon Valley Recycled Water Project, the Integrated Regional Recycled Water Program, and the Bay Area Regional Desalination Project as a component of the Bay Area Regional Reliability Project.</li> <li>• Pursue FY16 federal funding for the Bay Area Regional Reliability Project.</li> <li>• Seek any available federal funding opportunities for EBMUD's infrastructure projects consistent with EBMUD's priorities including, but not limited to, EBMUD's Capital Improvement Program, the Regional EBMUD Seismic Component Upgrade (RESCU) program, recycled water projects, projects to facilitate regional and/or local water supply reliability, and projects or programs to facilitate climate change mitigation and resiliency, including water and energy conservation.</li> </ul>
2. Advance EBMUD's interests in the context of any federal drought legislation with congress and the administration.	<ul style="list-style-type: none"> <li>• Staff will focus on EBMUD's priority issues: <ul style="list-style-type: none"> <li>○ All stakeholders must be treated equitably with regard to any new water resources policy, including but not limited to, water contract allocations, water delivery rescheduling and expediting water transfers.</li> </ul> </li> </ul>

	<ul style="list-style-type: none"><li>○ Existing regional water supply programs and projects, including the Freeport Regional Water Project, must be protected from direct or indirect impacts.</li><li>○ Environmental protections must be preserved in any effort to expedite regulatory review for water supply needs.</li></ul>
3. Advance EBMUD's Delta needs.	<ul style="list-style-type: none"><li>● Staff will focus on EBMUD's priority issues:<ul style="list-style-type: none"><li>○ EBMUD's ratepayers should not be held responsible for the flow obligations, project mitigation, or expected habitat restoration success of others, including the state and federal projects.</li><li>○ EBMUD's ratepayers should not be asked to pay for costs that are the responsibility of others, or for any user fee or surcharge that subsidizes other parties.</li><li>○ Any project or project-related activity that would impact the Mokelumne salmonid fishery should include mitigation by the responsible parties for the impacts.</li></ul></li></ul>

Attachment

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## **FEDERAL INITIATIVES - 2015**

### **INITIATIVE #1 – SEEK FEDERAL FUNDING OPPORTUNITIES FOR EBMUD PROJECTS VIA ANY NEW AND EXISTING FEDERAL PROGRAMS**

#### **Background**

The 114<sup>th</sup> Congress is expected to continue to discuss water and wastewater infrastructure and how to address providing federal assistance, largely in the context of both the ongoing drought and the Water Resources Reform and Development Act (WRRDA) of 2014, as well as what role private sector financing, tax-exempt financing tools, conventional funding via the State Revolving Fund Loan Program, Water Infrastructure Financing Innovation Act assistance, infrastructure banks, or other innovative financing approaches may play.

#### **Authorized Projects**

In 2014, EBMUD sought FY15 federal funding appropriations for three projects with prior Water Resources Development Act (WRDA) authorizations: the San Ramon Valley Recycled Water Project; the Integrated Regional Recycled Water Program; and the Bay Area Regional Desalination Project. However, the combination of a congressional ban on specific project earmarks and WRRDA's new approach to water resources funding that seeks to provide federal assistance programmatically through federal agencies rendered each of these requests unsuccessful and suggests that the likelihood of receiving project-specific congressionally directed FY16 appropriations remains low.

However, consistent with the new WRRDA approach, there may be funding opportunities at the administration level for projects with existing authorizations. This will require working directly with federal agencies to secure funding through the federal budget process and/or through any discretionary funding opportunities available. It will also be important to communicate to EBMUD's congressional delegation how these projects and needs would benefit from funding. The projects are presented below in order of priority.

#### **San Ramon Valley Recycled Water Project**

The San Ramon Valley Recycled Water Project is estimated to provide approximately 6,400 acre-feet of recycled water per year for irrigation uses within the San Ramon Valley. Total joint project costs for the participating agencies (EBMUD and Dublin San Ramon Services District) are estimated to be more than \$150 million.

In 1999, WRDA provided congressional authorization for \$15 million in federal funding toward planning, design, and construction assistance by the U.S. Corps of Engineers for the San Ramon Valley Recycled Water Project. The total appropriations for this project to date have nearly exhausted the authorized funding level with approximately \$450,000 remaining in this initial \$15 million authorization. Project appropriations totaling approximately \$14.5 million were granted from FY02 through FY10 for planning, design, and construction activities.

Staff will continue to pursue the remaining \$450,000 in the existing WRDA authorization for this project. This funding will be used toward the construction of pipelines that are part of Phases 3 and 4 of the project. Staff will simultaneously pursue any new funding opportunities as well.

#### **Integrated Regional Recycled Water Program**

The 2008 enactment of WRDA provided a \$25 million funding authorization for the Integrated Regional Recycled Water Program project. An appropriation for this project has not yet been secured.

EBMUD staff will continue to pursue initial funding for the Integrated Regional Recycled Water Program. Funding for this project will be used for the design and construction of Phase 1B of the East Bayshore Recycled Water Project. This project could ultimately supply up to approximately 2.5 million gallons per day of recycled water, and would include replacing the use of some potable water in portions of Alameda, Oakland, Emeryville, Berkeley and Albany.

#### **Bay Area Regional Desalination Project**

The Bay Area's largest water agencies, the Contra Costa Water District, the East Bay Municipal Utility District, the San Francisco Public Utilities Commission, the Santa Clara Valley Water District and the Alameda County Flood Control and Water Conservation District – Zone 7, have jointly been exploring the development of regional desalination facilities that would benefit over 5.6 million Bay Area residents and businesses served by these agencies. The existing authorization for regional desalination is \$4 million. However, the Bay Area Regional Desalination Project is now being viewed as a component of a broader regional reliability effort, the Bay Area Regional Reliability (BARR) project. Accordingly, the project partners are now seeking to leverage the existing authorization as a potential avenue to secure funding for BARR, which is further discussed below.

#### **Bay Area Regional Reliability Project**

Since authorization of the Bay Area Regional Desalination project, the regional partners have expanded the concept to consider not just desalination, but other projects that will improve regional reliability. This comprehensive regional reliability effort, BARR, seeks to address multiple demands faced by the region and is guided by principles jointly developed by the regional partners. The Board adopted these Bay Area Regional Reliability Principles at the May 27, 2014 Board meeting. The partner agencies are now working cooperatively to pursue funding for BARR and are seeking to leverage the existing authorization for the Bay Area Regional Desalination Project to undertake preliminary studies to identify BARR projects that will provide the greatest regional benefit.

Due to its active presence in Washington, D.C., EBMUD agreed to represent the partner agencies in pursuing the existing authorization. Accordingly, EBMUD staff will continue to pursue FY16 funding on behalf of the project partners and seek to leverage the existing authorization to secure funding for BARR.

#### **Infrastructure Funding**

While the passage of WRRDA in 2014 set forth a new approach to water resources funding that seeks to provide federal assistance programmatically through federal agencies, congress and the

administration will likely continue to consider how providing federal assistance for water and wastewater infrastructure should be addressed. In addition, congress will likely continue to consider ways to provide specific assistance for water supply reliability and emergency relief assuming drought conditions continue in the west.

Although EBMUD staff pursued funding authorization requests in 2014 for two projects: (1) the Regional EBMUD Seismic Component Upgrade (RESCU) program to increase seismic stability of EBMUD's water distribution and raw water storage reservoirs and (2) the San Ramon Valley Recycled Water Project, these requests were unsuccessful as WRRDA was approved without traditional earmarks. With the passage of WRRDA in 2014 and its programmatic funding approach, FY16 congressional authorization requests are not appropriate at this time. However, staff will work with federal agencies and EBMUD's delegation to secure any funding that may become available for these projects and any other EBMUD infrastructure funding needs. An overview of the RESCU program and the San Ramon Valley Recycled Water Project are below.

### RESCU

EBMUD's RESCU program recognizes the presence of several active earthquake faults that run through its service area in the East Bay and on-going seismic risks in the Delta. This program is intended to increase the seismic stability of the water system, including water storage reservoirs, pipelines, and facilities to treat and pump water. This would help protect the proximate densely populated urban communities from flooding during a major earthquake and enhance EBMUD's water supply reliability. Components of the RESCU program include:

- Briones, Chabot, Upper San Leandro, and Lafayette Tower Seismic Upgrades;
- Dam Seismic, Operational, Surveillance, and Instrumentation Upgrades;
- Walnut Creek Treatment Plant Upgrades;
- West of Hills Master Plan Upgrades; and
- Mokelumne Aqueduct Protection, including ongoing levee upgrades.

The cost of the RESCU program is estimated to be \$250 million or more. Staff will continue to seek any level of funding that may become available via federal agencies and EBMUD's delegation.

### San Ramon Valley Recycled Water Project

With the near exhaustion of the existing \$15 million funding authorization for the San Ramon Valley Recycled Water Project, staff will continue to communicate a need for additional federal assistance and will seek any level of funding that may become available via federal agencies and EBMUD's delegation. Funding is expected to be used for the design and construction of phases 3A, 3B, 3C (pump station only), 4 (pump station and pipe), and 5 of the project.

### Recommended Actions

Work with EBMUD's delegation, appropriate committee staff and the administration to:

1. Pursue FY16 federal funding for WRDA authorized projects in order of priority: the San Ramon Valley Recycled Water Project, the Integrated Regional Recycled Water Program, and

the Bay Area Regional Desalination Project as a component of the Bay Area Regional Reliability Project.

2. Pursue FY16 federal funding for the Bay Area Regional Reliability Project.
3. Advance EBMUD's infrastructure funding needs, including but not limited to, the Capital Improvement Program, the RESCU program, recycled water projects, projects to facilitate regional and/or local water supply reliability, and projects or programs to facilitate climate change mitigation and resiliency, including water and energy conservation. Seek project assistance opportunities within the context of any discussions regarding drought or emergency relief.

## **INITIATIVE #2 – ADVANCE EBMUD'S INTERESTS IN THE CONTEXT OF ANY FEDERAL DROUGHT LEGISLATION WITH CONGRESS AND THE ADMINISTRATION**

Given the ongoing drought and the unsuccessful efforts to pass emergency drought legislation in 2014, it is expected that there will be continued debate in congress surrounding water resources and water supply policies. In 2014, EBMUD staff worked with its congressional delegation and relevant stakeholders to support the development of a balanced and reasonable approach to address the challenges created by the ongoing drought. Congress will likely continue to focus on drought issues in 2015, including an appropriate federal response to address water supply, water quality, and ecosystem protection needs. As was the case in 2014, there may be efforts to aid the agricultural exporters and provide drought relief or emergency assistance independent of the Bay Delta Conservation Plan (BDCP). It is crucial that EBMUD work to protect the security of its primary and supplemental water supply. Staff will closely monitor the development of any drought related legislation or policies and communicate EBMUD's needs and perspective.

### **Recommended Actions**

Work with EBMUD's congressional delegation, the administration, relevant congressional committees, and others, as appropriate, to advance EBMUD's interests in the context of any federal drought legislation. Staff will focus on EBMUD's priority issues:

1. All stakeholders must be treated equitably with regard to any new water resources policy, including, but not limited to, water contract allocations, water delivery rescheduling and expediting water transfers.
2. Existing regional water supply programs and projects, including the Freeport Regional Water Project, must be protected from direct or indirect impacts.
3. Environmental protections must be preserved in any effort to expedite regulatory review for water supply needs.



### **INITIATIVE #3 – ADVANCE EBMUD’S DELTA NEEDS**

In 2015, the process to finalize the BDCP will continue with key anticipated actions including the expected recirculation of the draft BDCP and the associated draft Environmental Impact Report/Environmental Impact Statement and the draft Implementing Agreement. Congress is likely to continue to debate the appropriate federal response to California water resources issues, including the BDCP. The administration, which has expressed specific concerns that BDCP could violate Clean Water Act water quality standards and further degrade the Delta’s ecosystem, is also expected to continue focusing attention on the BDCP. In the past few years, EBMUD has worked with its congressional delegation and relevant stakeholders to ensure that any Delta-related federal policy or legislation does not negatively impact EBMUD ratepayers. Congress and the administration are expected to continue to consider Delta-related issues in 2015, including the progress of the BDCP and issues related to overall water supply reliability and the health of the ecosystem.

Actions taken to address the Delta and California’s overall water supply may affect EBMUD’s water supply and delivery systems, as well as the Mokelumne River fishery. As part of its commitment to the Mokelumne River fishery, which is integral to EBMUD’s long-term water supply reliability, EBMUD has invested tens of millions of dollars and undertaken ongoing activities, including habitat restoration projects and the use of pulse flows, to restore and enhance the Mokelumne River ecosystem and its fish hatchery. Staff will continue to closely monitor the development of Delta-related legislation and administration policies and communicate EBMUD’s Delta needs and perspective on any Delta-related legislation and administration policies.

#### **Recommended Actions**

Work with EBMUD’s congressional delegation, the administration, relevant congressional committees, and others, as appropriate, to advance EBMUD’s Delta needs and provide information on how any related legislative proposals or policies may impact EBMUD. Staff will focus on EBMUD’s priority issues:

1. EBMUD’s ratepayers should not be held responsible for the flow obligations, project mitigations, or expected habitat restoration success of others, including the state and federal projects.
2. EBMUD’s ratepayers should not be asked pay for costs that are the responsibility of others, or for any user fee or surcharge that subsidizes other parties.
3. Any project or project-related activity that would impact the Mokelumne salmonid fishery should include mitigation by the responsible parties for the impacts.

