



Posting Date: 04-30-2021

NOTICE OF REGULAR BI-MONTHLY MEETING BOARD OF DIRECTORS

MEETING DATE: 05-04-2021

TIME: 7:30 p.m. Open Session Meeting

LOCATION: This meeting will be held virtually, pursuant to the Governor's Executive Order N-29-20.

To participate online, go to <https://zoom.us/j/95194555772>. You can also participate by phone by calling 1-669-900-6833 and entering the webinar ID#: 951 9455 5772.

PARTICIPATION DURING MEETINGS: During the public comment periods, the public may comment by clicking the "raise hand" button on the bottom of the Zoom screen; if you are joining by phone and would like to comment, press *9 and we will call on you as appropriate.

EMAILED PUBLIC COMMENTS: You may submit your comments in advance of the meeting by emailing them to BoardComment@MarinWater.org. All emailed comments received by 3 p.m. on the day of the meeting will be provided to the Board of Directors prior to the meeting. Those emailed comments on approval items received by 3 p.m. will also be summarized by the board secretary at the board meeting. All emails will be posted on our website. (Please do not include personal information in your comment that you do not want published on our website such as phone numbers and home addresses.)

AGENDA ITEMS	RECOMMENDATIONS
Call to Order and Roll Call	
Adopt Agenda	<i>Approve</i>

Public Comment

Members of the public may comment on any items not listed on the agenda during this time. Comments will be limited to three (3) minutes per speaker, and time limits may be reduced by the board president to accommodate the number of speakers and ensure that the meeting is conducted in an efficient manner.

Directors' and General Manager's Announcements	
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MARIN WATER BOARD OF DIRECTORS: LARRY BRAGMAN, JACK GIBSON, CYNTHIA KOEHLER, LARRY RUSSELL, AND MONTY SCHMITT

AGENDA ITEMS**RECOMMENDATIONS****Consent Calendar**

All matters listed on the consent calendar are considered to be routine and will be enacted by a single action of the Board, unless specific items are removed from the consent calendar by the Board during adoption of the agenda for separate discussion and action.

1. Minutes of the Board of Directors' Regular Bi-Monthly Meeting of April 20, 2021	<i>Approve</i>
2. Authorize the General Manager to execute the First Amendment to District Lease No. 59 with VBT Sub 1.	<i>Approve</i>
Public Hearing	
3. Adopt Ordinance No. 450 calling for additional mandatory water conservation measures relating to irrigation and requiring recreational pool covers	<i>Approve</i>
Regular Calendar	
4. Approve Incentive Programs to support Customers Drought Response	<i>Approve</i>
5. Long-Term Water Supply Review	<i>Information</i>
6. Adopt recommended positions on SB 323-Support, SB 45-Support, AB 1500-Support	<i>Approve</i>
7. Authorize the General Manager to recruit and hire one Engineering Technician in the Engineering Division	<i>Approve</i>
8. Future Meeting Schedule and Agenda Items	<i>Information</i>
Adjournment	

ADA NOTICE AND HEARING IMPAIRED PROVISIONS:

In accordance with the Americans with Disabilities Act (ADA) and California Law, it is Marin Water's policy to offer its public programs, services, and meetings in a manner that is readily accessible to everyone, including those with disabilities. If you are disabled and require a copy of a public hearing notice, an agenda, and/or agenda packet in an appropriate alternative format, or if you require other accommodations, please contact Board Secretary Terrie Gillen at 415.945.1448, at least two days in advance of the meeting. Advance notification will enable the Marin Water to make reasonable arrangements to ensure accessibility.

INFORMATION PACKETS ARE AVAILABLE FOR REVIEW AT THE CIVIC CENTER LIBRARY, CORTE MADERA LIBRARY, FAIRFAX LIBRARY, MILL VALLEY LIBRARY, MARIN WATER OFFICE, AND ON THE MARIN WATER WEBSITE (MARINWATER.ORG)

FUTURE BOARD MEETINGS:

- ❖ May 13, 2021
Board of Directors' Special Meeting (10-Year Financial Plan Workshop 3)
10:00 a.m.
- ❖ May 18, 2021
Board of Directors' Regular Bi-Monthly Meeting
7:30 p.m.
- ❖ May 19, 2021
Communications & Water Efficiency Committee/Board of Directors (Communications & Water Efficiency) Meeting
9:30 a.m.
- ❖ May 21, 2021
Operations Committee/Board of Directors (Operations) Meeting
9:30 a.m.



Board Secretary



Item Number: 01
Meeting Date: 05-04-2021
Meeting: Board of Directors

Approval Item

TITLE

Minutes of the Board of Directors' Regular Bi-Monthly Meeting of April 20, 2021

RECOMMENDATION

Approve the adoption of the minutes.

SUMMARY

On April 20, 2021, the board held its regular bi-monthly meeting. The minutes of these meetings are attached.

DISCUSSION


None

FISCAL IMPACT

None

ATTACHMENT(S)

1. Minutes of the Board of Directors' Regular Bi-Monthly Meeting of April 20, 2021

DEPARTMENT OR DIVISION	DIVISION MANAGER	APPROVED
Communications & Public Affairs Department	 Terrie Gillen Board Secretary	 Ben Horenstein General Manager

**MARIN MUNICIPAL WATER DISTRICT
BOARD OF DIRECTORS**

MEETING MINUTES

Tuesday, April 20, 2021

Via teleconference

(In accordance with Governor Gavin Newsom's Executive Order N-29-20)

DIRECTORS PRESENT: Larry Bragman, John C. Gibson, Monty Schmitt, and Cynthia Koehler

DIRECTORS ABSENT: Larry L. Russell

CALL TO ORDER AND ROLL CALL

Board President Koehler called the meeting to order at 6:00 p.m.

ADOPT AGENDA

On motion made by Director Gibson and seconded by Director Schmitt, the board adopted the agenda. The following roll call vote was made.

Ayes: Directors Bragman, Gibson, Schmitt, and Koehler
Noes: None
Absent: Russell

Before convening to Closed Session, there were no public comments. Director Russell arrived at approximately 6:15 p.m.

CONVENE TO CLOSED SESSION

CLOSED SESSION ITEM

1. Conference with Legal Counsel – Existing Litigation (moved from the end of the meeting)
(Government Code §54956.9)

Walker v. Marin Municipal Water District
Marin Superior Court
Case No. CIV 1501914

2. Public Employee Performance Evaluation
(Government Code §54957)

Title: General Manager

The Closed Session ended at approximately 7:27 p.m.

CONVENE TO OPEN SESSION AT OR AFTER 7:30 P.M.

The meeting convened to open session at 7:32 p.m.

CLOSED SESSION REPORT OUT

Board President Koehler stated that no reportable action was taken.

PUBLIC COMMENT

There was one public comment made during this portion of the meeting.

DIRECTORS' AND GENERAL MANAGER'S ANNOUNCEMENTS

Director Bragman mentioned meetings he had and would attend to meet to discuss the drought and conservation. President Koehler shared some information President Biden's American Jobs Plan and the water infrastructure investments proposed under the Plan.

CONSENT CALENDAR (ITEMS 2-4)

- Item 2 Minutes of the Board of Directors' Special Meeting of March 23, 2021 and Regular Bi-Monthly Meeting of April 6, 2021**
- Item 3 General Manager's Report for March 2021**
- Item 4 Authorize the General Manager to execute an agreement with Verizon Wireless pursuant to the California Department of Technology's CALNET contract for cellular phone and wireless device services in an amount not to exceed \$75,000 per fiscal year**

There was no public comment.

On motion made by Director Bragman and seconded by Director Gibson, the board approved the Consent Calendar by the following roll call vote:

Ayes: Directors Bragman, Gibson, Russell, Schmitt, and Koehler
Noes: None
Absent: None

REGULAR CALENDAR (ITEM 5)

Item 5 Drought Update

Water Quality Manager Lucy Croy and Water Conservation Manager Carrie Pollard shared with the board latest water production news and conservation efforts to curtail the use of the water supply. The board and staff conversated throughout the presentation.

There were six (6) public comments.

The board took no formal action, because this was an informational item.

PUBLIC HEARING (ITEM 6)

Item 6 (1) Adopt a Resolution to Declare Water Shortage Emergency and Call for Mandatory Water Conservation; (2) Adopt an Ordinationa to Enact Mandatory Water Use Reduction Program; and (3) Adopt a Resolution to Defer Implementation of Emergency Water Rates

General Manager Ben Horenstein presented this item to the board. Afterwards, discussion between the directors ensued.

Then, Director Koehler opened the public hearing. There were 16 public comments. The public hearing was closed after the last comment.

Discussion ensued with the directors and staff about the proposed resolutions, but mainly the proposed ordinance. The board and General Counsel Molly MacLean amended the proposed ordinance with the following changes to 13.04.020 Drought Water Waste Prohibitions:

- (1)(C) Srike out “and the refilling or make-up of any recreational pool or spa.”
- (1)(H) Eliminate what’s currently stated about the outdoor irrigation and we would bring this item back
- (1)(M) Add that the golf course irrigation would take effect on May 20, 2021

On motion made by Director Gibson and seconded by Director Schmitt, the board approved the resolution to declare a water shortage emergency and call for mandatory water conservation, by the following roll call vote:

Ayes:	Directors Bragman, Gibson, Russell, Schmitt, and Koehler
Noes:	None
Absent:	None

On motion made by Director Gibson and seconded by Director Bragman, the board approved the resolution to defer implementation of emergency water rates, by the following roll call vote:

Ayes: Directors Bragman, Gibson, Russell, Schmitt, and Koehler
Noes: None
Absent: None

On motion made by Director Gibson and seconded by Director Russell, the board approved Ordinance 449 as revised indicated by general counsel, by the following roll call vote:

Ayes: Directors Bragman, Gibson, Russell, Schmitt, and Koehler
Noes: None
Absent: None

REGULAR CALENDAR (ITEMS 7-10)

General Manager Horenstein brought forth Items 7-9. Brief discussion followed.

There were no public comments.

On motion made by Director Bragman and seconded by Director Gibson, the board approved all the recruitment of the positions, by the following roll call vote:

Ayes: Directors Bragman, Gibson, Russell, Schmitt, and Koehler
Noes: None
Absent: None

Item 7 Approval to fill Summer Helper, Intern and Watershed Aide positions

Item 8 Approval to fill Controls Technician position

Item 9 Approval to fill Water Quality Lab Manager position

Item 10 Future Meeting Schedule and Agenda Items

Mr. Horenstein also presented this item. Also, the board secretary asked the board for their availability of the next 10-Year Financial Plan Workshop 3. The Directors agreed to May 13, 2021, between 10 a.m. and noon. There was no public comment.

ADJOURNMENT

There being no further business, the regular bi-monthly Board of Directors' meeting of April 6, 2021, adjourned at 10:32 p.m.

Board Secretary



Approval Item

TITLE

First Amendment to District Lease No. 59 with VBT Sub 1, LLC

RECOMMENDATION

Authorize the General Manager to execute the First Amendment to District Lease No. 59 with VBT Sub 1.

SUMMARY

This item was reviewed by the Board in closed session on March 16, 2021. The proposed amendment to the lease is consistent with the price and terms parameters provided to staff.

The District's property at Crecienta Lane, Sausalito, comprises a 2,402 square foot lot (Assessor's Parcel No. 064-252-09), and is the location for the District's Monte Mar Vista tank. This bolted steel tank has a capacity of 60,000 gallons and was installed in 2005. Since 1996, the District has leased a 300 square foot portion of the Property for a communications facility. Table 1 provides a summary of the lease terms.

Table 1
Lease 59 Terms

Term	Description
Tenant	VBT Sub 1, LLC
Lease Term	15 years
Commencement Date	November 6, 2014
Renewal Date Option	May 9, 2024
Current Lease Area	300 square feet
Current Rent, effective November 2020	\$64,096.18/year
Annual Rate Adjustment	Each anniversary of Commencement Date based on CPI percentage change or 3%, whichever is greater

Amendment No. 1 to Lease 59 includes leasing an additional 140 square feet for installation of a 25 KW emergency generator. The Tenant's generator is designed to improve the reliability of the Tenant's communications facility in response to PG&E's Public Safety Power Shutoff events. No changes to the existing communications equipment or antennas are proposed. The terms for Amendment No. 1 are shown in Table 2.

Table 2
Terms for Amendment No. 1 to Lease 59

Term	Description
Additional lease area	140 square feet
Increase in rent	<u>\$6,000</u> /year
New total rent amount	Current Rent = \$64,096.18 Additional Rent = <u>\$6,000</u> Total New Rent = \$70,096.18/year
One-time Administration Fee	\$6,000

In summary, District staff recommends the Board to authorize the General Manager to execute the First Amendment to Lease 59 with VBT Sub 1, LLC.

FISCAL IMPACT

Payment by the Tenant of a one-time administration fee of \$6,000, and an increase of \$6,000 to the annual rent, increasing the annual rent amount from \$64,096.18 to \$70,096.18.

ATTACHMENT(S)

1. Location Map
2. First Amendment to Lease No. 59

DEPARTMENT OR DIVISION	DIVISION MANAGER	APPROVED
Engineering	 Michael Ban Director of Engineering	 Ben Horenstein General Manager

LOCATION MAP





Location Map, Crecienta Lane, Sausalito

FIRST AMENDMENT TO
MARIN MUNICIPAL WATER DISTRICT
LEASE NO. 59
MONTE MAR VISTA TANK SITE
APN 064-252-09

This Lease Amendment ("First Amendment") is entered into by and between Marin Municipal Water District ("District"), and VBT Sub 1, LLC, a Delaware limited liability company (the "Assignee"), a subsidiary of VERTICAL BRIDGE TOWERS III, LLC.

For good and valuable consideration the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

Section 1. Recitals:

- A. District and T-MOBILE WEST LLC (the "Lessee") entered into that certain Communications Lease Agreement that commenced on November 6, 2014, for a term of five years and that was extended for one additional five-year term on November 6, 2019, for the purpose of constructing and operating a communications facility at the Monte Mar Vista Tank Site in Sausalito (the "Premises").
- B. On July 7, 2020, the District, T-MOBILE WEST LLC, and VBT Sub 1, LLC entered into a Consent to Assignment Agreement ("Consent") whereby the District agreed to approve the assignment of the Lease from T-MOBILE WEST LLC to VBT Sub 1, LLC.
- C. Assignee desires to add additional equipment ("Generator") to the Communications Facility on the Premises.
- D. The installation of the Generator requires an addition of 140 square feet of lease area to be added to the existing lease area for a totally new lease area of 440 square feet, as described in Exhibit A and depicted in Exhibit B.
- E. Per Section 2 of the Lease, the installation of a Generator requires an amendment to the Lease; per Section 26 of the Lease, the additions constitute a construction project.
- F. District and Assignee desire to amend the Lease to incorporate the Generator into the Premises.

Section 2. Terms:

- A. This First Amendment modifies the Lease. Except for the modifications contained herein, all of the terms of the Lease shall apply.
- B. The Lease is amended to include the additional 140 square feet of ground space as part of the leased Premises, as henceforth described in Exhibit A and depicted in Exhibit B, both attached hereto and made part of this Amendment.
- C. The Lease is further amended to allow installation of the Generator as described in the project plans entitled "T-MOBILE BA00305A, HARDENING NATIONAL – 25kW DIESEL SF305 NORTH SAUSALITO, 50 CRECIENTA LANE, SAUSALITO, CA 94965", prepared by SYNERGY, signed by Adam Bronnenkant, P.E., dated October 2, 2020, hereinafter referenced as Exhibit C-1, which are attached hereto and incorporated herein by this reference. Exhibit C-1 supplements Exhibit C to the Lease and shall not be deemed to supersede or otherwise modify Exhibit C or any part thereof except to the extent specifically set forth in Exhibit C-1. Upon receipt of permit approval by the City of

SG

Sausalito, Lessee may perform the modifications set forth in Exhibit C-1 in accordance therewith.

- D. Assignee agrees to pay one-time oversight fees to District in the amount of \$6,000.00, within thirty (30) days following the issuance of a building permit by the City of Sausalito.
- E. District and Assignee agree that the annual rent payment, as described in Section 4 of the Lease, shall increase by \$6,000.00 per year, effective on the first day of the month following the issuance of a building permit by the City of Sausalito, partial years to be prorated ("Increased Rent Commencement Date"), based on a 365 day year. Payment of any prorated additional rental amount due from the Increased Rent Commencement Date shall be payable within 30 days of issuance of the permit by the Sausalito Planning Department, and thereafter the additional rental amount shall be due and payable as part of the annual rent.
- F. The current annual rental amount as described in Section 4 of the Lease, effective November 5, 2020, is \$64,096.18. As of the full execution of this First Amendment, provided that the Increased Rent Commencement Date is between November 5, 2020, and November 5, 2021, District and Lessee agree that the annual rental amount of \$70,096.18 (\$64,096.18 + \$6,000.00) shall be subject to the rental adjustment provision described in Section 4.B.i on November 5, 2021, and each subsequent annual adjustment in the Lease thereafter. If the Increased Rent Commencement Date is after November 5, 2021, then the additional rental amount shall be paid in accordance with Section 2 (E) of this Amendment and subject to the rental adjustment provision described in Section 4.B.i of the Lease.

MARIN MUNICIPAL WATER DISTRICT

By: _____
Bennett Horenstein
General Manager

Date: _____

VB T SUB 1, L.L.C.

DocuSigned by:

By: _____
Adam D. Ginder
VP and Associate General Counsel

Date: 4/21/2021

SG

EXHIBIT A

Legal Description
T-Mobile Telecommunication Equipment Lease Area
Lands of Marin Municipal Water District
City of Sausalito, County of Marin, State of California
APN 64-252-09

A lease area for telecommunication equipment and associated support equipment over a portion of the lands of Marin Municipal Water District, said lands lying situate in the City of Sausalito, County of Marin, State of California, said lands of Marin Municipal Water District being described in the Grant Deed from Sausalito Land and Ferry Company, a Corporation, recorded on September 30, 1939, and filed in Book 387, at page 108, Marin County Records, State of California, said lease area for telecommunication equipment and associated support equipment being described as follows:

Commencing at the most southerly corner of Lot 1, as Lot 1 is shown on the map titled, "Monte-Mar Vistas", recorded on June 21, 1937, and filed in Volume 5 of Maps, at page 71, Marin County Records;

Thence, from said most southerly corner of Lot 1, North 30° 53' 32" West along the westerly line of said lands of Marin Municipal Water District, a distance of 17.51 feet to the **Point of Beginning**, said westerly line also being the easterly line of the lands of the State of California as described in the Grant Deed from Marin Municipal Water District to the State of California, recorded on June 4, 1955, and filed in Book 809, at page 328, Marin County Records;

Thence, from said **Point of Beginning**, and continuing along said westerly line of Marin Municipal Water District, North 30° 53' 32" West, a distance of 45.66 feet to the northerly line of said lands of Marin Municipal Water District;

Thence, North 52° 41' 40" East, along said northerly line, a distance of 8.00 feet;

Thence, leaving said northerly line, South 30° 53' 32" East, a distance of 8.16 feet to the beginning of a non-tangent curve to the left, to which a radial line bears South 83° 40' 51" West, being concave northeasterly, having a radius of 16.50 feet:

Thence, proceeding southeasterly along said non-tangent curve, an arc-distance of 21.014 feet through a delta of 72° 58' 14";

Thence, South 30° 53' 32" East, a distance of 19.20 feet;

Thence, South 59° 06' 28" West, a distance of 12.00 feet to the **Point of Beginning**.

The courses recited above encompass an area of 440.0 sq. ft.

End of Legal Description

EXHIBIT A

Legal Description
T-Mobile Telecommunication Equipment Lease Area
Lands of Marin Municipal Water District
City of Sausalito, County of Marin, State of California
APN 64-252-09

Attached hereto is a plat (Exhibit B) to accompany Legal Description, and by this reference made a part hereof.

This Legal Description was prepared by Lionel Keith Vincent:



PLS 8248

License Expires: 12/31/21





EXHIBIT B

T-MOBILE EQUIPMENT LEASE AREA

LANDS OF MARIN MUNICIPAL WATER DISTRICT

CITY OF SAUSALITO, MARIN COUNTY, CALIF.

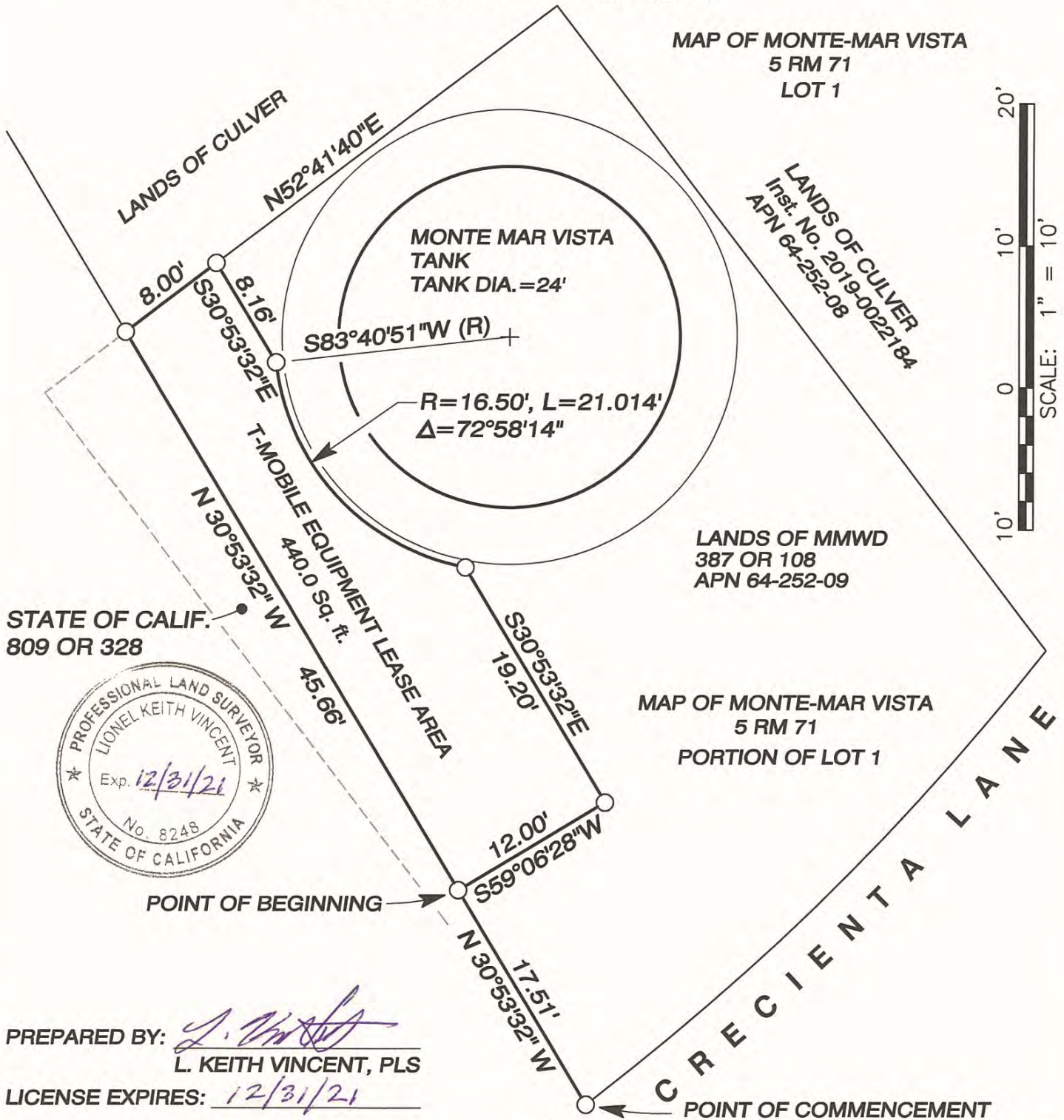
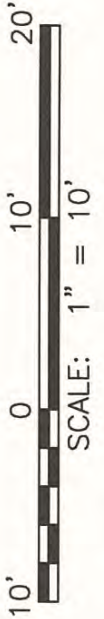
MONTE MAR VISTA TANK LOT

MAP OF MONTE-MAR VISTA
5 RM 71
LOT 1

LANDS OF CULVER
Inst. No. 2019-0022184
APN 64-252-08

LANDS OF MMWD
387 OR 108
APN 64-252-09

MAP OF MONTE-MAR VISTA
5 RM 71
PORTION OF LOT 1



MARIN MUNICIPAL WATER DISTRICT
220 NELLEN AVE., CORTE MADERA, CA 94925 (415) 924-4600

DATE: MAR 2021 JOB NO: _____ SHEET: 1 of 1

PREPARED BY: KV DESIGN BY: KV

T-MOBILE EQUIPMENT LEASE AREA
MMWD LEASE NO. 59

SAUSALITO, MARIN COUNTY, CALIF.
APN 64-252-09

EXHIBIT C-1

ADDITIONAL EQUIPMENT

Additional Equipment

- One (1) 25kW Diesel Generator

T-Mobile Site Number BA00305A - Project Plans dated March 31, 2021

SG

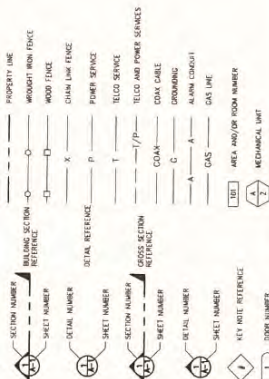
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C. COATING SYSTEM SPECIFICATIONS

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SYMBOLS



ABBREVIATIONS AND SYMBOLS

SPECIFICATIONS

		PROJECT INFORMATION: 1855 GATEWAY BLVD., SUITE 300 CONCORD, CA 94520 (HARDENING NATIONAL - 25kW DIESEL) BA00305A SF305 NORTH SAUSALITO 50 GRECENIA LANE SAUSALITO, CA 94965 CONTRA COSTA COUNTY	
CURRENT ISSUE DATE: <div style="border: 1px solid black; padding: 5px; width: 150px; margin: 0 auto;">03/31/21</div>		ISSUED FOR: <div style="border: 1px solid black; height: 40px; width: 100%;"></div>	
CONSTRUCTION			
REV.	DATE	DESCRIPTION	BY
A	05/02/20	305 CD ISSUED FOR REVIEW	VA
B	07/09/20	REVISED CD	VA
C	09/01/20	100% CD	VA
D	10/02/20	100% CD REVISED PER FIELD VERIFICATION	VA
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<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;"> <p>Synergy advantage engineers</p> <p>7545 Woodside Ave., #201, San Bruno, CA 94066 Office (415) 440-0888 Fax (415) 440-0708</p> </div> <div style="text-align: center;"> <p>Synergy advantage engineers</p> <p>7545 Woodside Ave., #201, San Bruno, CA 94066 Office (415) 440-0888 Fax (415) 440-0708</p> </div> </div>			
CONSULTANT		DRAWN BY: <u>CHK: APV</u>	
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GENERAL NOTES

1. ALL CONSTRUCTION AND WORKMANSHIP SHALL CONFORM TO THE DRAWINGS AND CBC-2019 SPECIFICATIONS
2. THE GENERAL CONTRACTOR SHALL VERIFY ALL DANGEROUS AND HAZARDOUS CONDITIONS AT THE JOB SITE AND SHALL BE RESPONSIBLE FOR CORRECTING THE WORK OF ALL TRADES AND CONDITIONS OF ALL MATERIALS AND MATERIALS HANDLING THROUGHOUT THE PROJECT. ANY DISCREPANCIES SHALL BE CALLED OUT IMMEDIATELY AND SHALL BE RESOLVED BEFORE PROCEEDING WITH THE WORK
3. MECHANICAL, ELECTRICAL, AND PLUMBING DRAWINGS SHALL CONFORM WITH ARCHITECTURAL, MECHANICAL, ELECTRICAL, AND PLUMBING SPECIFICATIONS
4. DESIGN, MATERIALS, EQUIPMENT, AND PRODUCTS OTHER THAN THOSE DESCRIBED OR INDICATED ON THE DRAWINGS MAY BE CONSIDERED FOR USE ONLY AFTER THE GENERAL CONTRACTOR OBTAINS WRITTEN APPROVAL FROM THE STRUCTURAL ENGINEER
5. ALL CONDITIONS SHOWN OR NOTED AS EXISTING ARE BASED ON THE BEST INFORMATION AVAILABLE AT THE TIME OF PREPARATION OF THESE DRAWINGS. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING ALL CONDITIONS. ANY CONDITIONS SHOULD BECOME APPARENT THAT DIFFER FROM THOSE SHOWN OR NOTED AS EXISTING, THE GENERAL CONTRACTOR SHALL IMMEDIATELY NOTIFY THE PROFESSIONAL ENGINEER. THE PROFESSIONAL ENGINEER WILL THEN PREPARE ADDITIONAL DRAWINGS AS MAY BE NEEDED TO ACCOMMODATE THE CONDITIONS AS BROUGHT TO THEIR ATTENTION
6. MECHANICAL EQUIPMENT MUST BE FIRMLY ATTACHED TO THE STRUCTURE, ISOLATORS, FASTENERS, AND OTHER ELEMENTS PROVIDING STABILITY FOR THE EQUIPMENT. THE EQUIPMENT MUST BE CAPABLE OF TRANSMITTING CORRESPONDING LOADS, BUT NOT EXCEEDING THE EQUIPMENT'S DESIGN LOADS TO 0.45 TIMES THE OPERATING WEIGHT OF THE EQUIPMENT
7. WATERPROOFING SEE ARCHITECTURAL DRAWINGS
8. THE FOUNDATION DESIGN IS BASED ON CBC-2019 TABLE 1806.2, ALLOWABLE SOIL BEARING VALUE IS 1500
9. THE NOTES AND DETAILS ON DRAWINGS SHALL TAKE PRECEDENCE OVER GENERAL STRUCTURAL NOTES AND TYPICAL DETAILS
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CONCRETE

- | NO. | DESCRIPTION | INSPECTION TYPE | REFERENCE STANDARD |
|-----|--|-------------------|--------------------|
| | | CONTINUOUS PERIOD | |
| 1. | ALL REINFORCED STEEL CONCRETE SHALL HAVE AN ULTIMATE COMPRESSIVE STRENGTH OF 3000 PSI AT 28 DAYS UNLESS OTHERWISE NOTED. CEMENT TO BE TYPE-B FROM TESTED STOCK PER ASTM C-150 | | |
| 2. | CONCRETE PER TOLERANCES SHALL BE WITHIN THE STANDARDS SET BY THE AMERICAN CONCRETE INSTITUTE. | | |
| 3. | ALL REINFORCING STEEL, ANCHOR BOLTS, DOWELS OR OTHER INSERTS SHALL BE INSPECTED AND INSPECTED BY THE LOCAL BUILDING DEPARTMENT INSPECTOR PRIOR TO THE POURING OF ANY CONCRETE. | | |
| 4. | NO PIPES OR DUCTS SHALL BE PLACED IN STRUCTURAL CONCRETE UNLESS OFFICIALLY DETAILED REFER TO ARCHITECTURAL, MECHANICAL, PLUMBING, AND ELECTRICAL DRAWINGS FOR LOCATIONS. | | |
| 5. | FORM EXPLODED CORNERS OF COLUMNS, BEAMS, WALLS, ETC. WITH 3/4" CHAMFERS UNLESS DETAILED OTHERWISE. | | |
| 6. | PROVIDE LIGHT BROOM FINISH ON ALL EXPOSED CONCRETE UNLESS NOTED OTHERWISE. | | |

STRUCTURAL STEEL

- THE LABOR, MATERIALS AND EXECUTION REQUIRED FOR ALL CONCRETE WORK, AS NOTICED ON THE DRAWINGS SHALL BE IN ACCORDANCE WITH THE APPLICABLE PORTIONS OF CHAPTER 22 OF THE LATEST ADOPTED EDITION OF THE CALIFORNIA BUILDING CODE.
- STRUCTURAL STEEL NOT ENCASED IN CONCRETE SHALL BE SHOP PAINTED WITH INTERCOAT METAL PRIMER OR APPROVED EQUIVALENT.
- UNLESS NOTED OTHERWISE, ALL BOLTS SHALL BE ASTM A307 THUS INCLUDES EXPANSION/ADHESIVE ANCHORS. BOLTED CONNECTIONS SHALL CONFORM TO AISC SPECIFICATIONS UNLESS NOTED OTHERWISE ON THE DRAWINGS.
- UNLESS NOTED OTHERWISE ALL WELDS PER THE LATEST EDITIONS OF THE AISC STANDARDS SHALL CONFORM TO AISC SPECIFICATIONS. WELDING SHALL BE DONE IN ACCORDANCE WITH THE AISC WELDING CODE. THERE SHALL BE NO DISCREPANCY OR CONFLICT IN THE TYPE OF WELD SHOWN ON THE DRAWINGS OR NOTES. THESE DRAWINGS DO NOT DISTINGUISH BETWEEN SHOP AND FIELD WELDS.
- CONTRACTOR IS PERMITTED TO CUT AND WELD ANTENNA SUPPORT ASSEMBLY AS NECESSARY TO MEET THE LENGTH REQUIREMENTS IN THE FIELD. WELDS SHALL CONSIST OF A 3/16" FILLET ALL THE WAY AROUND FOR 1/4" MINIMUM WELD LENGTH. CONTRACTOR SHALL RESTORE CORROSION PROTECTANT ON ALL WELDS. CONTRACTOR SHALL RESTORE CORROSION PROTECTANT WITH AN APPROVED PAINT IN ACCORDANCE WITH BS 729-1971 AND PHEN 1029.
1. THE SPECIAL INSPECTOR SHALL OBSERVE THE WORK ASSIGNED TO BE CERTAIN THAT IT CONFORMS TO THE APPROVED DESIGN DRAWINGS AND SPECIFICATIONS. THE SPECIAL INSPECTOR SHALL BE AVAILABLE TO THE CONTRACTOR FOR REVIEW OF THE DESIGN DRAWINGS OR SPECIFICATIONS AND ALL DEVIATIONS MUST BE APPROVED BY THE ENGINEER OF RECORD PRIOR TO PROCEEDING WITH THE WORK. ALL REQUESTS FOR DEVIATIONS SHALL BE INITIATED BY THE CONTRACTOR IN A WRITTEN REQUEST FOR INFORMATION.
2. THE SPECIAL INSPECTOR SHALL FURNISH INSPECTION REPORTS TO THE ENGINEER OF RECORD. ALL DISCREPANCIES SHALL BE BROUGHT TO THE IMMEDIATE ATTENTION OF THE ENGINEER OF RECORD, THEN, IF UNCORRECTED TO THE DESIGN AUTHORITY AND THE BUILDING OFFICIAL.
3. THE SPECIAL INSPECTOR SHALL BE RESPONSIBLE FOR PROVIDING THE SPECIAL INSPECTOR ACCESS TO ALL ITEMS REQUIRING SPECIAL INSPECTION. INSPECTOR IS NOT AUTHORIZED TO OPERATE CONTRACTOR'S EQUIPMENT.
4. FOR ADDITIONAL INFORMATION ON SPECIAL STRUCTURAL INSPECTIONS, CONTACT THE ENGINEER OF RECORD PRIOR TO START OF CONSTRUCTION.
- 5.

SG

NOTE: THESE DRAWINGS HAVE BEEN CREATED BY INFORMATION GATHERED FROM (E) AS-BUILTS PROVIDED BY T-MOBILE AND WITHOUT A SURVEY. PLEASE VERIFY IN FIELD ALL DIMENSIONS, LENGTHS, PROPERTY LINES AND CONDUIT RUNS.

EXHIBIT A
LEGAL DESCRIPTION
T-MOBILE TELECOMMUNICATION EQUIPMENT LEASE AREA
LANDS OF MARIN MUNICIPAL WATER DISTRICT
CITY OF SAUSALITO, COUNTY OF MARIN, STATE OF CALIFORNIA
APN 64-252-09

A LEASE AREA FOR TELECOMMUNICATION EQUIPMENT AND ASSOCIATED SUPPORT EQUIPMENT OVER A PORTION OF THE LANDS OF MARIN MUNICIPAL WATER DISTRICT, SAID LANDS LYING SITUATE IN THE CITY OF Sausalito, COUNTY OF MARIN, STATE OF CALIFORNIA, SAID LANDS OF MARIN MUNICIPAL WATER DISTRICT BEING DESCRIBED IN THE GRANT DEED FROM SAULS TO LAND AND FERRY COMPANY, A CORPORATION, RECORDED ON SEPTEMBER 30, 1939, AND FILED IN BOOK 387, AT PAGE 108, MARIN COUNTY RECORDS, STATE OF CALIFORNIA, SAID LEASE AREA FOR TELECOMMUNICATION EQUIPMENT AND ASSOCIATED SUPPORT EQUIPMENT BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST SOUTHERLY CORNER OF LOT 1, AS LOT 1 IS SHOWN ON THE MAP TITLED, "MONTE-MAR VISTAS", RECORDED ON JUNE 21, 1937, AND FILED IN VOLUME 5 OF MAPS, AT PAGE 71, MARIN COUNTY RECORDS;

THENCE FROM SAID MOST SOUTHERLY CORNER OF LOT 1, NORTH 30° 53' 32" WEST ALONG THE WESTERLY LINE OF SAID LANDS OF MARIN MUNICIPAL WATER DISTRICT, A DISTANCE OF 17.51 FEET TO THE POINT OF BEGINNING, SAID WESTERLY LINE ALSO BEING THE EASTERLY LINE OF THE LANDS OF THE STATE OF CALIFORNIA AS DESCRIBED IN THE GRANT DEED FROM MARIN MUNICIPAL WATER DISTRICT TO THE STATE OF CALIFORNIA, RECORDED ON JUNE 4, 1955, AND FILED IN BOOK 809, AT PAGE 328, MARIN COUNTY RECORDS;

THENCE, FROM SAID POINT OF BEGINNING, AND CONTINUING ALONG SAID WESTERLY LINE OF MARIN MUNICIPAL WATER DISTRICT, NORTH 30° 33' 32" WEST, A DISTANCE OF 45.66 FEET TO THE NORTHERLY LINE OF SAID LANDS OF MARIN MUNICIPAL WATER DISTRICT;

THENCE, NORTH 52°41'40" EAST, ALONG SAID NORTHERLY LINE, A DISTANCE OF 8.00 FEET;

THENCE, LEAVING SAID NORTHERLY LINE, SOUTH 30° 53' 32" EAST, A DISTANCE OF 816 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT, TO WHICH A RADIAL LINE BEARS SOUTH 53° 40' 11" WEST, BEING CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 1550 FEET:

THENCE, PROCEEDING SOUTHEASTERLY ALONG SAID NON-TANGENT CURVE, AN

FEET THROUGH A DELTA OF 72° 58' 10";
THENCE, SOUTH 30° 53' 32" EAST, A DISTANCE OF 19.20 FEET;

THENCE, SOUTH 59° 06' 28" WEST, A DISTANCE OF 12.00 FEET TO THE POINT OF BEGINNING.

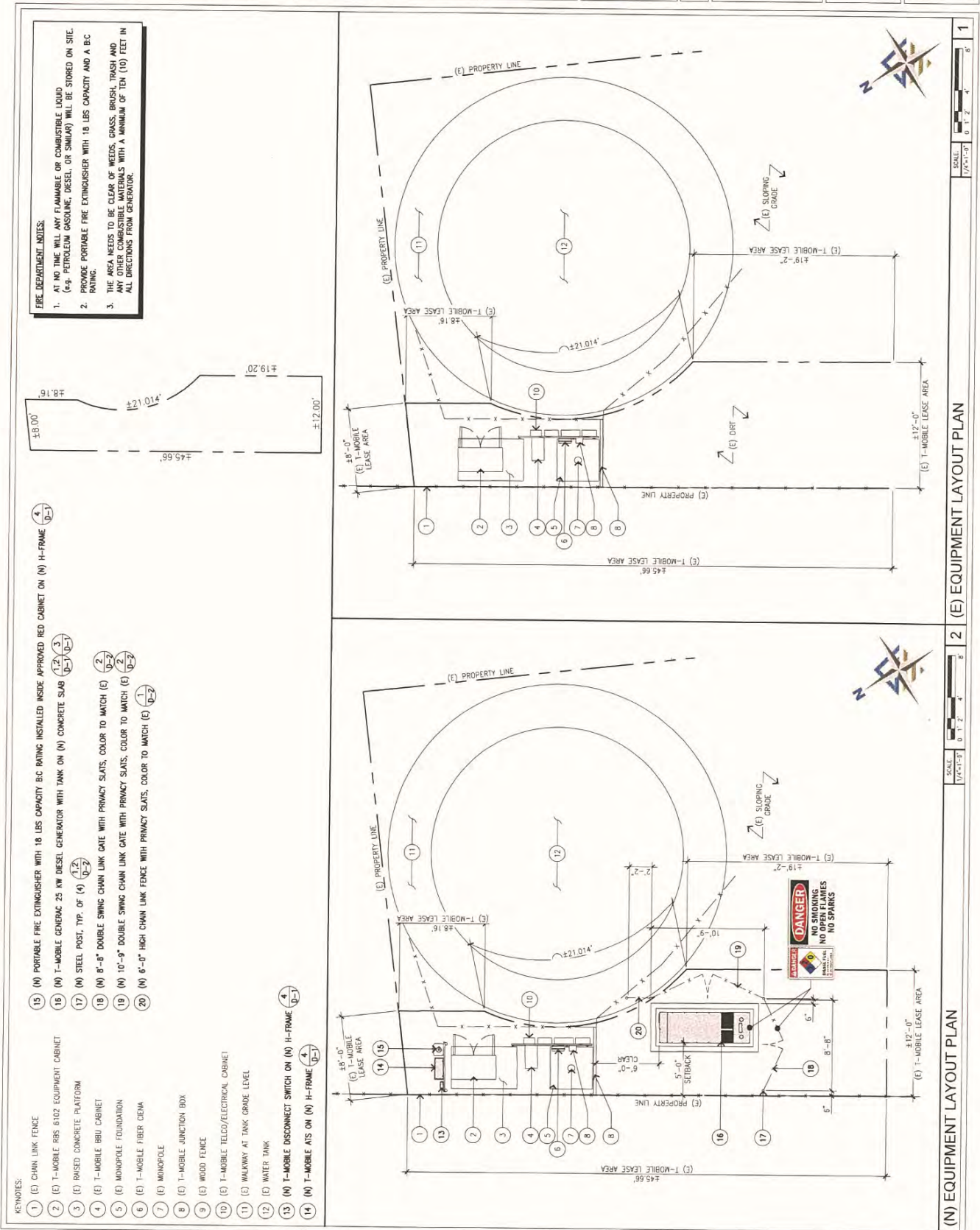
THE COURSES RECITED ABOVE ENCOMPASS AN AREA OF 440.0 SQ. FT.

END OF LEGAL DESCRIPTION



OVERALL SITE PLAN

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[illegible]

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Public Hearing - Approval Item

TITLE

Adopt Ordinance No. 450 to add additional mandatory water conservation measures

RECOMMENDATION

Adopt Ordinance No. 450 calling for additional mandatory water conservation measures relating to irrigation and requiring recreational pool covers.

SUMMARY

On April 20th, the Board declared a water shortage emergency and adopted Ordinance No. 449 setting forth a comprehensive list of mandatory water conservation measures to preserve the District's limited water supply due to the current drought. Staff will present proposed new water conservation measures relating to irrigation and pool covers and is recommending the Board adopt Ordinance No. 450 to expand the mandatory water conservation measures in response to the drought.

DISCUSSION

District reservoir storage volumes are at historically low levels after experiencing two successive dry winters with below average rainfall. Marin Water has measured 20.6 inches of rainfall to date, tracking with approximately 41% of average rainfall for this time of year. As a result of this drought, the District reservoirs are 56% of average storage volume for this date and are projected to be as low as 22,000 – 25,000 AF on December 1, 2021 in the absence of above average rainfall and runoff.

In order to preserve the District's limited water supply, the Board adopted Resolution No. 8624 on February 16, 2021, declaring Initial Drought Water Conservation Actions for District customers to voluntarily reduce their water usage. Due to continued dry conditions and historically low storage levels, on April 20, 2021, the Board adopted Resolution No. 8630 declaring a water shortage emergency and enacting mandatory water use reduction measures (Mandatory Water Use Reduction Program or Program).

Additional Measures of Mandatory Water Use Reduction Program

The purpose of the Mandatory Water Use Reduction Program is to significantly reduce the consumption of water during the drought to extend existing water supplies. Recognizing that in recent years, overall summer peak demand has averaged nearly twice winter demand due to outdoor water use and irrigation, the Program focuses on prohibiting outdoor water wastage through the implementation of both mandatory restrictions and an expanded incentive program.

Since 2015, the District code has included provisions that prohibit irrigating ornamental landscape areas or turf areas more than three days per week, and through the District's water use efficiency program customers have been encouraged to irrigate even fewer days per week as needed to maintain plant health. The proposed water conservation measures in Ordinance No. 450 would augment those adopted by the Board pursuant to Ordinance No. 449 and are intended to reduce outdoor water wastage and encourage efficient water use by limiting sprinkler irrigation to two days per week. Drip irrigation is considered an efficient means of watering plants and would continue to be limited to three days per week as captured in the 2015 provisions added to the District code. Hand-watering would be exempt from any specific day limitations.

Water use reduction actions included in the Program are highlighted below and are proposed to be adopted by Ordinance No. 450, which if adopted by the Board, will go into effect immediately:

- Limit outdoor sprinkler irrigation systems to two days per week, excluding drip irrigation which would continue to be limited to three days per week; hand-watering is exempt from any specific day limitations.
- All recreational pools and spas shall be covered when not in use to reduce water loss through evaporation.

Customer Programs during Drought


Public outreach and communications regarding the drought and the Mandatory Water Use Reduction Program will continue to be a primary focus educating customers of the importance to conserve water during this dry period. Drought-specific programs for customers are ongoing and will be continue to be rolled out, including offerings such as turf removal rebates, customer flowmeter technology incentives, and pool cover incentives.

FISCAL IMPACT

As previously shared with the Board, the combined loss in revenue and unbudgeted expenses due to the drought is projected at \$12.5M over the next 8 months due to voluntary conservation efforts. An additional \$8M of revenue loss is projected over the same period if mandatory conservation efforts are implemented, bringing the net projected fiscal impact to \$20.5M over 8 months. The District's reserves, along with tight expenditure controls, is initially anticipated to address the deficit.

ATTACHMENT(S)

1. Ordinance No. 450
2. PowerPoint Slides

DEPARTMENT OR DIVISION	DIVISION MANAGER	APPROVED
Office of the General Manager	 Molly MacLean General Counsel	 Ben Horenstein General Manager

MARIN MUNICIPAL WATER DISTRICT

ORDINANCE NO. 450

AN ORDINANCE AMENDING CHAPTER 13.04 ENTITLED “ COMPREHENSIVE DROUGHT WATER CONSERVATION AND ENFORCEMENT MEASURES” OF TITLE 13 OF THE MARIN MUNICIPAL WATER DISTRICT CODE ENTITLED “WATER SERVICE CONDITIONS AND WATER CONSERVATION MEASURES” ADOPTING ADDITIONAL WATER CONSERVATION AND ENFORCEMENT MEASURES PURSUANT TO WATER CODE SECTION 375

BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE MARIN MUNICIPAL WATER DISTRICT AS FOLLOWS:

SECTION 1. Purpose: Due to the current drought conditions existing in the service area of the Marin Municipal Water District (District), the District adopted Ordinance No. 449 on April 20, 2021 setting forth a comprehensive list of mandatory water conservation measures to enhance the District’s water conservation program pursuant to Water Code section 375. The purpose of these conservation measures is aimed at reducing the quantity of water used by all District customers to preserve the District’s limited water supply due to the current drought given the uncertainty of future water supply conditions. The purpose of this ordinance is to amend Ordinance No. 449 to add additional water conservation measures to help the District reach its overall goal of 40% water use reduction, while still providing customers flexibility in achieving individual water use reductions. For example, customers may achieve 40% water use reduction by reducing water use by 20% indoors and 60% outdoors during the warmer months when outdoor irrigation water usage peaks.

SECTION 2. Section 13.04.020 of the Marin Municipal Water District Code entitled “Drought water waste prohibitions” is hereby amended to add the following subsections:

13.04.020(1)(N) Operating outdoor sprinkler irrigation systems delivering overhead spray more than two days within any calendar week and drip irrigation more than three days per week within any calendar week, but excluding hand-watering. For the purpose of this section, “calendar week” shall mean a period running from Monday-Sunday.

13.04.020(5) All recreational pools and spas shall be covered when not in use to reduce the amount of water evaporation.

SECTION 3. Findings of Necessity: The findings supporting this ordinance are those set forth and adopted by the Board pursuant to Ordinance No. 449, Section 11.

SECTION 4. Environmental Determination: This project has been reviewed for compliance with the California Environmental Quality Act (CEQA) and based upon the above findings and purposes of this ordinance, qualifies for an exemption pursuant to section 21080(b)(4) in that the Board of Directors find that these measures are necessary to preserve water supply to avoid a more severe water supply emergency.

SECTION 5. Severability: If any section, subsection, sentence, clause, phrase, portion or part of this ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such section shall not affect the validity of the remaining portions of this code. The Board of Directors hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections subsections, clauses, phrases, parts or portions be declared invalid or unconstitutional.

SECTION 6. Effective Date: Pursuant to Water Code section 376, this ordinance shall be effective on the day of its adoption. Within 10 days of adoption, this ordinance, or a summary hereof, shall be published in the Marin Independent Journal pursuant to Section 6061 of the Government Code.

PASSED AND ADOPTED this 4th day of May, 2021, by the following vote of the Board of Directors:

AYES:

NOES:

ABSENT:

President, Board of Directors

ATTEST:

Secretary, Board of Directors



**Additional Conservation
Measures
for
Mandatory Water Use
Reduction Program**

May 4, 2021

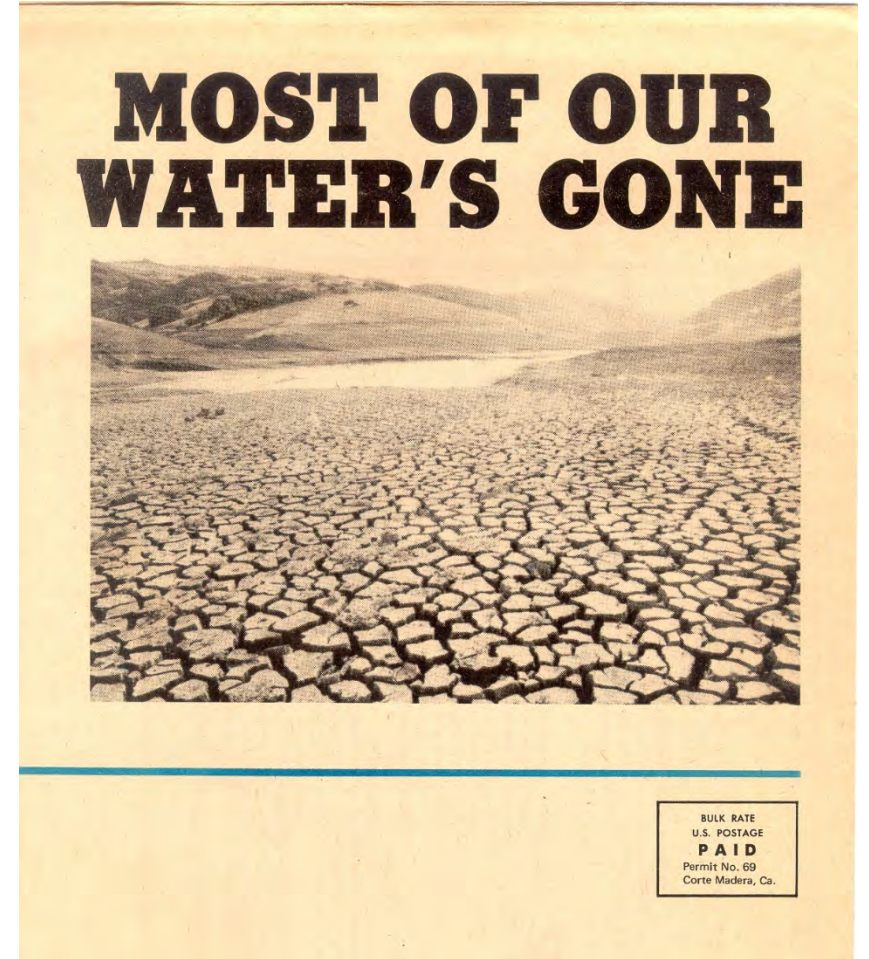


Overview

- Conservation efforts during historical droughts
- Existing Water Conservation Measures and Prohibitions
- Additional Proposed Drought Measures
- Next Steps

Drought of 1976-77

- Drought of record – historically low rainfall and runoff
- Reservoirs essentially emptied
- Water use reduced by over 60%
- Initial deliveries of imported supply (Sonoma Water)
- Pipeline across Richmond- San Rafael Bridge



Drought of 1976-77

1976: 25% Mandatory Water Use Restrictions

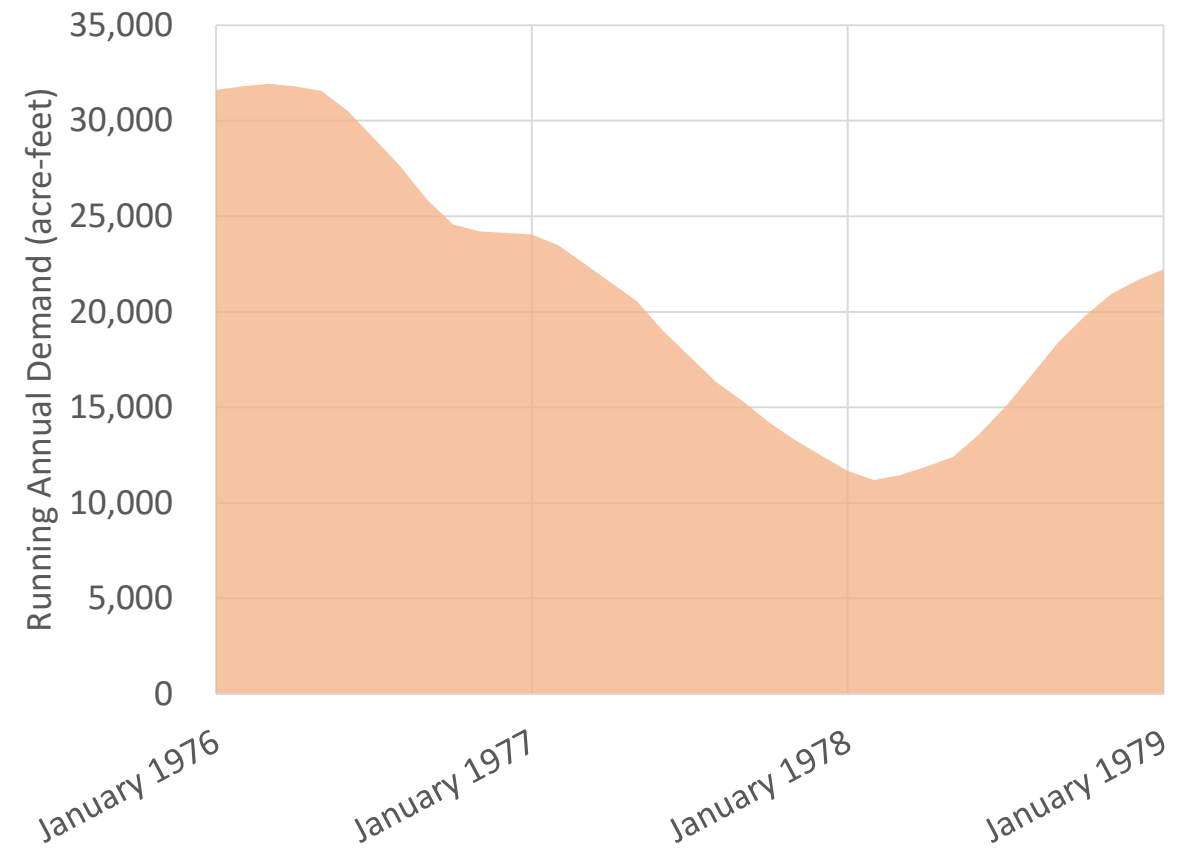
- Declared water shortage emergency
- Prohibition of non-essential water uses (no lawn irrigation, washing hard surfaces, refilling pools)
- Enacted drought rates and penalties
- Achieved 25% savings (Over 1 year)

1977: 57% Mandatory Rationing Program

- Transitioned to allotment per capita
- Enacted additional drought rates
- Achieved 65% savings (Over 2 years)

Drought declared over in February 1978

Demand During Drought, 1976-78

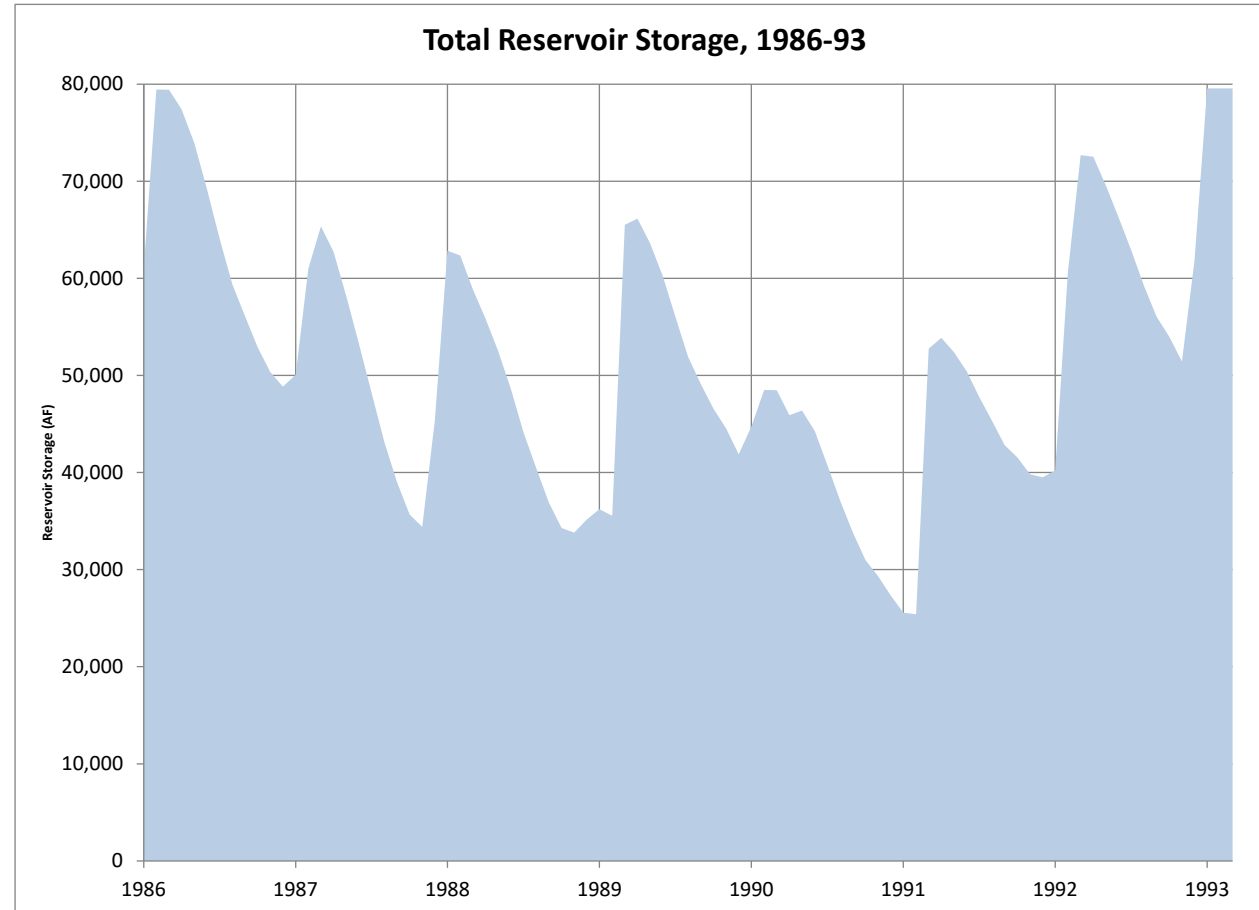


Drought of 1987-92

Longer, but less extreme drought

- Reservoirs did not fill for 6 consecutive years

- 1988:**
- May – 15% Voluntary conservation
 - July – Water Shortage Emergency
Moratorium on new connections
- 1989:**
- Feb – 35% Mandatory Rationing
Drought Rates, penalties
 - Apr – Ended all rationing due to rainfall
- 1990:**
- Mar – 22% Voluntary conservation
- 1991:**
- Feb – 50% Mandatory Rationing
 - Apr – Ended 50%, Transitioned to 25% Voluntary
- 1992:**
- Mar – End 25% Voluntary Conservation & drought ends



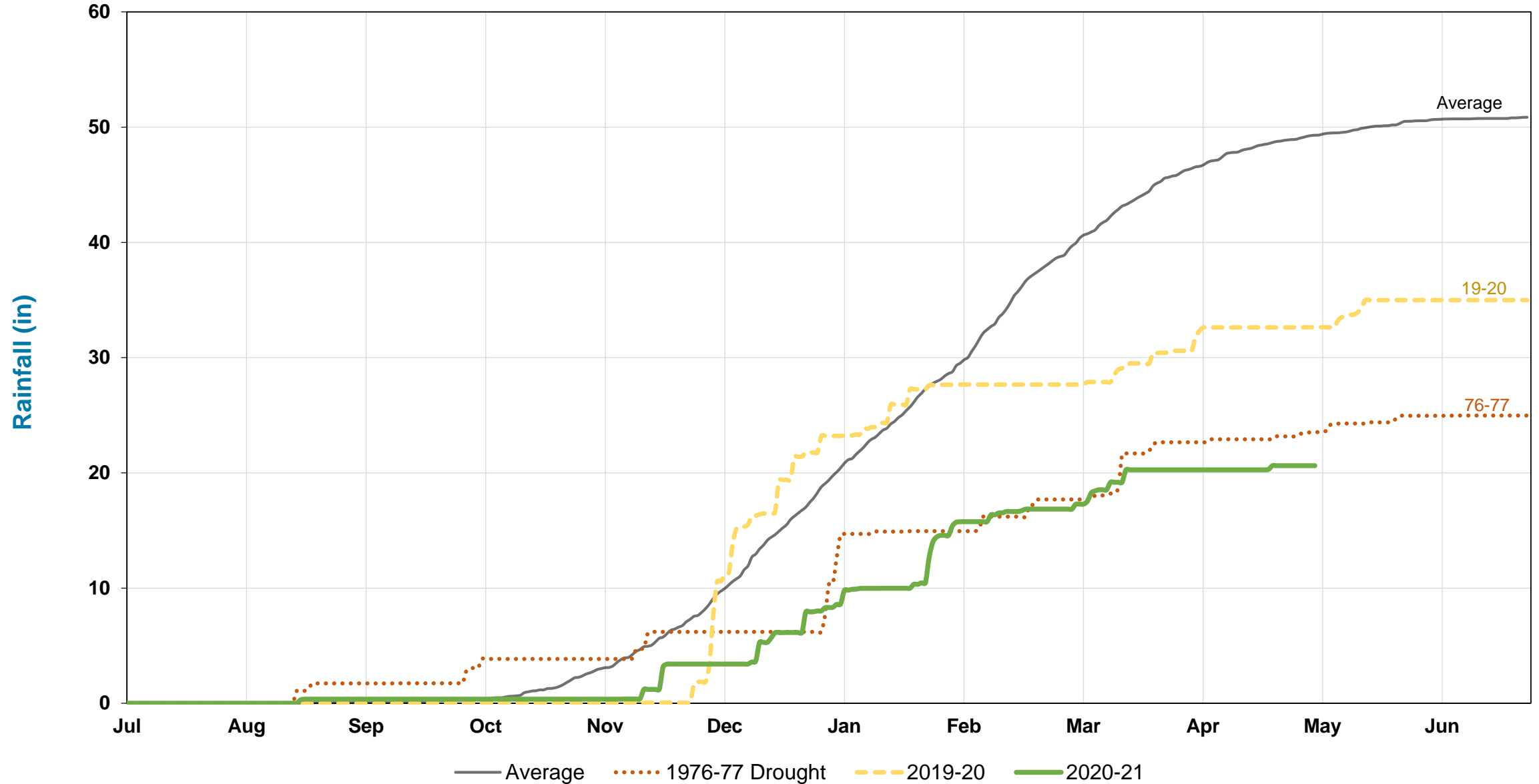
MMWD Water Supply Improvements

- ✓ **Conservation Program** further developed with customers from all sectors – residential, commercial and industrial
 - Outreach
 - Education
 - Incentives
- ✓ **Supplemental water supply** with Sonoma Water developed (1976, 1988, 1996)
- ✓ **Recycled Water Program** (1981) established and expanded
- ✓ **Local storage** volume increased by 51% or 27,000 AF
 - Built Soulajule reservoir (1979)
 - Enlarged Kent Lake (1983) – Doubled storage capacity to 32,900 AF

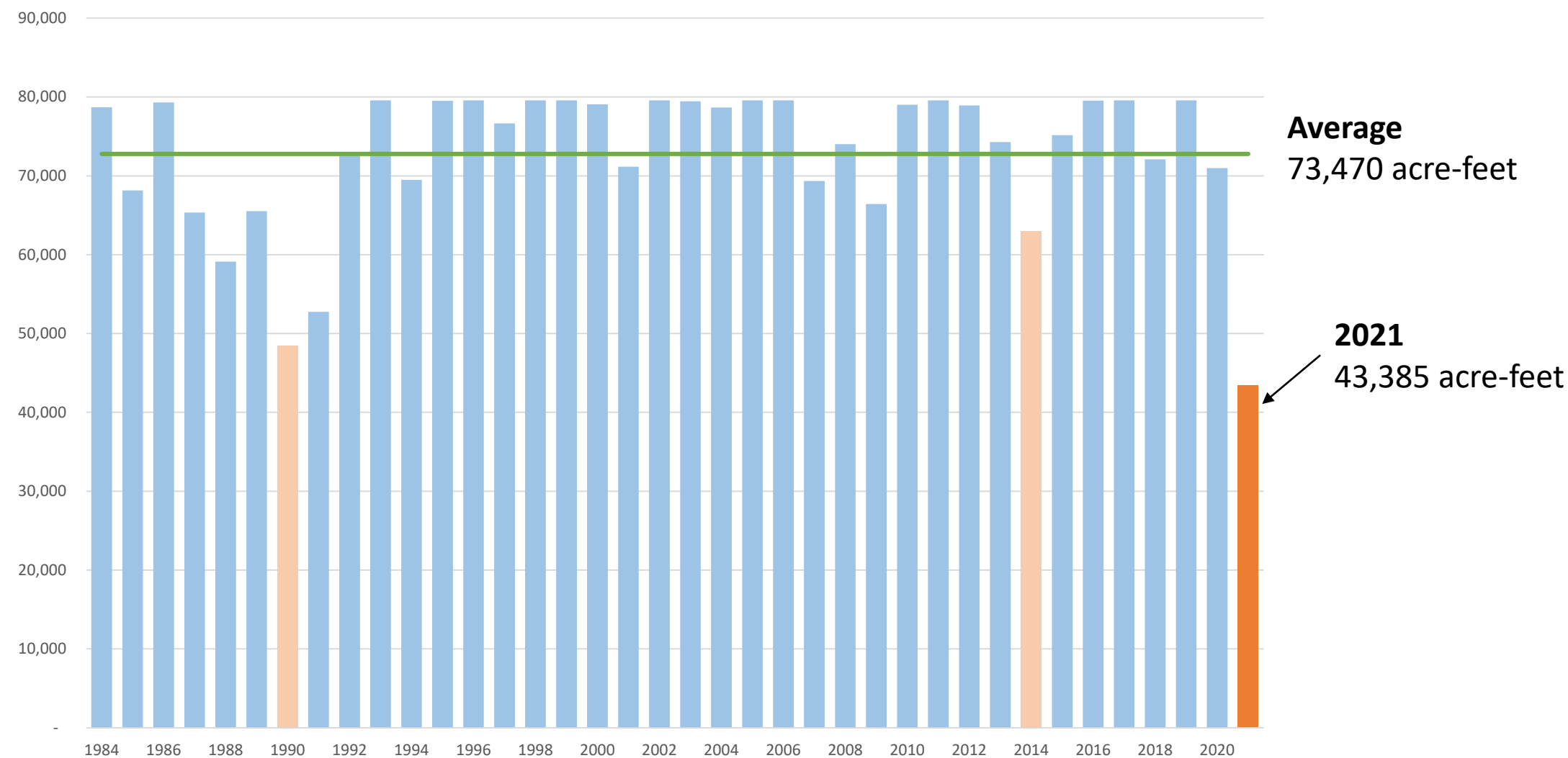


Cumulative Rainfall

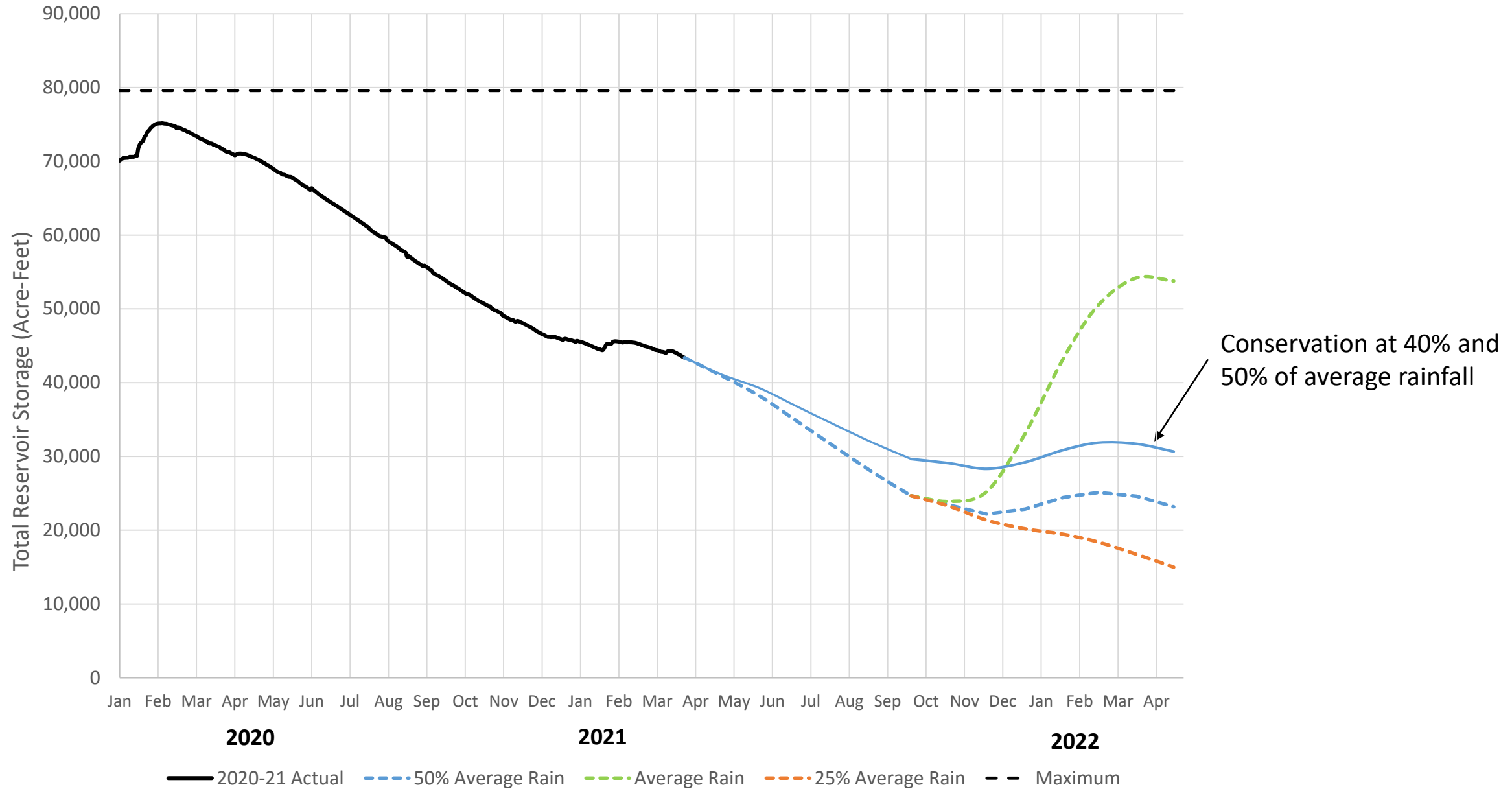
Lake Lagunitas Rain Gauge



Historical Total Reservoir Storage (April 1st)



Projected Reservoir Storage



Approach to Drought and Conservation Efforts

- Historic drought conditions
- Continue and enhance voluntary indoor water usage savings
- Water waste restrictions and outdoor irrigation
- Customer outreach, education, and support
 - Preserve water supply due to unknown future rainfall



Comprehensive Conservation Measures

Existing Water Waste Prohibitions

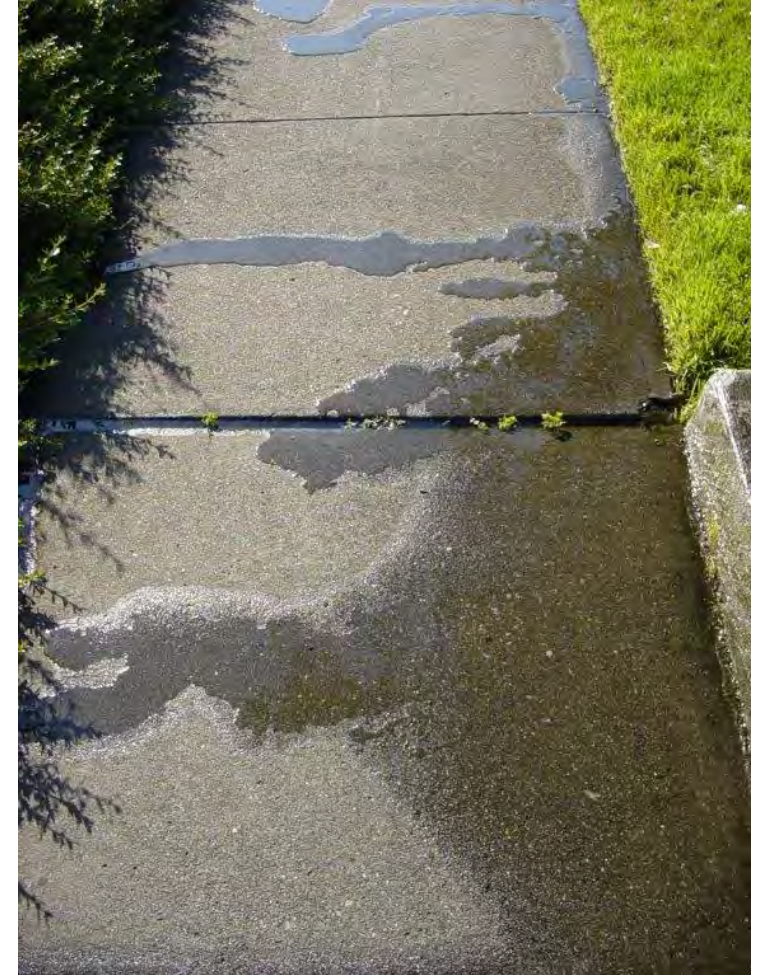
Mandatory Water Use Restrictions

Additional Proposed Drought Measures

Existing (Normal Year) Water Waste Prohibitions

Irrigation Prohibitions

- Between the hours of 9:00 AM and 7:00 PM
- Ornamental landscapes or turf more than three days per week
- Public street medians
- Run off and overspray
- Within 48 hours of rainfall
- Using a garden hose without a shut-off nozzle



Existing Water Waste Prohibitions

Gutter Flooding

- Prohibit excess runoff
- Hosing down hard surfaces

Hospitality

- Linen and towel service only daily upon request
- Drinking water served upon request only

Pools and Fountains

- Pool covers are required for new outdoor swimming pools
- Non-recycling decorative water fountains

Leak Repair



Mandatory Water Use Reduction Program

Adopted per
Ordinance No. 449
at April 20th Board
meeting –
effective May 1st

- Washing of vehicles
- Refilling or adding make-up water for decorative fountains or pools
- Golf course irrigation restricted to greens and tees effective May 20th
- Use of private fire taps, also known as fire service lines, shall solely provide water for fire protection and annual fire service line testing
- Power washing of buildings and homes
- Use of potable water for dust control, compaction, sewer flushing, street cleaning, or any other use that can be met with tertiary recycled water

Additional Proposed Drought Measures

1. Restrict sprinkler irrigation to two days per week
 - Drip irrigation still limited to three days per week
 - Hand-watering is exempt from day restrictions
2. Require use of pool covers to minimize water losses

Implementation Plan

- Customer Outreach and Education
- Drought support programs for customers
 - e.g. Turf Replacement Incentives
- Adaptive approach based on tracking progress reduction in demand

It's every-drop-counts time.
Drought is here. Save water.

We're in a drought, Marin, and you know what that means. It's time for us to cut back on our water usage. So let's drive our cars dirty, fix every leak we find, and water landscaping by hand.

MarinWater.org/Conserve



 MARIN WATER

Variances

- Variance and appeal process recognizing these restrictions may not be applicable in all circumstances
- District may grant variances for:
 - Unnecessary and undue hardship on applicant or public adverse economic impacts
 - Emergency condition affecting health, sanitation, fire protection or safety of the applicant or public
 - District will consider alternative compliance proposals that provide comparable conservation savings
- Two-step appeal process

Recommendation

- Adopt Ordinance No. 450
 - Limit overhead sprinkler irrigation to 2 days per week
 - Drip irrigation still limited to 3 days per week
 - Hand-watering exempt
 - Require use of pool covers to minimize water losses

Next Steps

Ongoing updates to the Board regarding progress demand reduction and financial status



Approval Item

TITLE

Incentive Programs to Support Customers Drought Response

RECOMMENDATION

Approve Incentive Programs to Support Customers Drought Response.

SUMMARY

Due to continued dry conditions and historically low reservoir storage levels, the Board declared a water shortage emergency and adopted mandatory water use restrictions at the April 20th Board meeting. Staff will present proposed updates to the district's water efficiency programs to support the recent mandatory water use restrictions.

DISCUSSION

The following programs have been developed, for Board consideration, in response to the current drought conditions. They are designed to achieve immediate water savings, yet provide long term water savings to both the district and our customers. Each of the programs would be offered for a limited time to encourage our customers to take immediate action to reduce their water use.

Turf Conversion Incentive Program aka "Landscape Your Lawn"

In response to drought conditions Staff proposes to enhance the Turf Conversion Incentive Programs to help customers convert high water-use grass to environmentally beneficial low water-use landscaping. Both the property owner and the surrounding community benefit from: (1) long-term water savings, (2) reduced runoff laden with fertilizer and herbicides, and (3) improvement in local habitat. The current offer of \$1.00 per square foot of turf is proposed to be increased to \$3.00 per square foot of turf for a limited time.

A Sheet Mulch Installation Program would also be offered in lieu of a direct monetary incentive. The Sheet Mulch Installation Program would provide free delivery and free installation of the compost, cardboard, and mulch along with capping of the overhead sprinkler irrigation system. An irrigation conversion kit would be installed to prepare the area for drip irrigation. While the Sheet Mulch Installation Program is in place the existing Sheet Mulch Delivery Program would be suspended in favor of the proposed amended program.

With both of these programs the district would require the participants to hold off on the installation of environmentally beneficial low water-use landscaping to avoid the need to irrigate at a level necessary to establish the new landscaping. This approach is intended to ensure the district receives the short term benefit of water savings and the long term benefit of low water use landscapes.

Direct Metering

The district wants to support customers with real-time information on their use of water in more frequent intervals than the 60-day billing period. Wi-fi enabled flowmeters provide detailed water use information directly to the customer in real time. Staff proposes launching a program with Flume. Flume is easy to install and requires no changes to the plumbing. Flume connects directly to customers' Wi-Fi and provides minute by minute water use information, including leak notifications. As a member benefit to the California Water Efficiency Partnership, Flume has reduced the price to \$165 per device, from the \$200 retail rate. Staff is proposing that the district pay \$115 per device and the customer pay \$50 per device. Prop 1 funds are being leveraged to offset a portion of the district's cost. Prop 1 will reimburse the district \$75 for each device installed.

Pool Covers

Covering pools is essential to minimize evaporation. Covered pools are estimated to reduce evaporation of approximately ¼" per day during the summer. Staff proposes a rebate of up to \$100 for installing a new solar or safety pool cover. The rebate amount cannot exceed the cost of the pool cover (excluding taxes). This program would support the Board's consideration of requiring the use of pool covers as a mandatory water conservation measure during the drought.

Hot Water Recirculating

Some customers need to wait minutes for hot water to arrive at the fixture furthest from the hot water heater. The installation of a hot water recirculating system would significantly shorten and in many cases completely stop the water waste that occurs waiting for hot water to arrive. Staff proposes reinstating the \$50 rebate for hot water recirculating systems.



Marin Challenge

The district will support the local communities in achieving the water savings goal by developing a friendly, community based competition. The competition will involve reviewing water consumption, as compared to 2020 consumption, to determine which community achieves the most water savings. The winning community will receive the incentive of a drought tolerant garden courtesy of the district. The district will commit \$10,000 towards the drought tolerant garden installation.

FISCAL IMPACT

Funding is allocated in the current year budget Water Conservation Fund. Additional funding may be requested based on participation levels.

ATTACHMENT(S)
None

DEPARTMENT OR DIVISION	DIVISION MANAGER	APPROVED
Facilities and Watershed Division	 Crystal Yezman, Director of System Maintenance and Natural Resources	 Ben Horenstein General Manager



Item Number: 05
Meeting Date: 05-04-2021
Meeting: Board of Directors

Informational Item

TO: Board of Directors

FROM: Paul Sellier, Operations Director

THROUGH: Ben Horenstein, General Manager

DIVISION NAME: Operations

ITEM: Long-Term Water Supply Review

SUMMARY

In response to Board comments received during the continuing 10-year financial plan workshops, staff presented at the Operations Committee Meeting on April 16th an overview of the District's historical water efficiency program and a review of innovative water conservation programs. Staff will continue the discussion and provide a review of long-term water supply opportunities and potential investment strategies in existing or future water use efficiency programs for the Board to consider for inclusion into the 10-Yr Financial Plan.

DISCUSSION

Providing a reliable water supply is the core function of the District. Over the years, the District has made investments to increase reservoir storage capacity, improve system reliability and secure contractual rights to supplemental water supply. In addition, the District has benefited from increased investment in water use efficiency measures. At the May 4th Board meeting, staff will present a summary of potential future water efficiency programs packaged by increasing investment levels as well as information on long term water supply options for consideration.

Conservation Program: The District has had a water conservation program in place for many decades resulting in significant water savings. Demand reductions have been achieved through the implementation of the plumbing code and water conservation programs. Staff will present opportunities to expand the program through policy, strategic investments in distributed infrastructure, as well as data-driven programs aimed at accurately understanding customer usage patterns.

Imported Supply from Sonoma County Water Agency: Since 1976, the District has imported supplemental water supply from Sonoma County Water Agency to extend its local reservoir supply, especially through dry periods. In 1977, the District constructed Kastania Pump Station to increase the flow and pressure available in the North Marin Aqueduct and the pump station

was operated until August 2015. The District is evaluating rehabilitation of Kastania Pump Station to improve the operational efficiency of the District's imported supplemental supply.

Recycled Water: The District's recycled water program annually provides over 600 acre-feet of recycled water to customers in Terra Linda, Marinwood, and Santa Venetia. First distributed during the drought of 1976-77, the District was one of the first agencies in Northern California to recycle wastewater. Expansion of the recycled water distribution system largely occurred in the midst of the drought of the early 1990s, and the District has continued to evaluate opportunities to further expand the system. An overview of potential system expansion options and associated costs will be presented.

Water Transfers: Importing additional water supplies from new regions would require significant effort and resources from the District to implement. Conveyance infrastructure would be required to connect the District's water system to a neighboring agency, in addition to significant contractual wheeling and water rights negotiations.

Regional Groundwater Conjunctive Use: Engagement in a regional groundwater conjunctive use partnership to utilize groundwater storage to provide a source of water that could be accessed during drought conditions. Operation of this supplemental supply would require a regional effort where water would be stored in a groundwater basin in normal or wet years, and withdrawn from the groundwater basin in dry years.

Desalination:

Desalination options include participation in the Bay Area Regional Desalination Plant, potentially developing a new regional desalination effort located in the North Bay, and a local desalination plant.

FISCAL IMPACT

None

ATTACHMENT(S)

None

Approval Item

TITLE

Adopt Positions on Pending State Legislation

RECOMMENDATION

Adopt recommended positions on SB 323-Support, SB 45-Support, AB 1500-Support

SUMMARY

On March 26th, a Grant and Legislative Update was provided to the Operations Committee. At that meeting, three bills in the State Legislature were forwarded to the full Board for consideration for a formal position of support. This item provides an update on the three subject bills with staff recommendations for Board positions on each piece of legislation.

DISCUSSION**Recommended Positions**

- **State Legislation:** SB 323 (Caballero) Water/Sewer Service

Recommended District Position: Support

ACWA Position: Support

Status: In Committee (Judiciary)

This bill would authorize a local agency or interested person to bring a validation action in a superior court to determine the validity of a fee or charge for water and sewer service. The proposal would require an interested party bring an action within 120 days after the local agency adopts the fee or charge.

- **State Legislation:** SB 45 (Portantino) Wildfire/Flood Protection

Recommended District Position: Support

ACWA Position: Support if Amended

Status: In Committee (Appropriations)

This bill would enact the Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2022, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$5,595,000,000 pursuant to the State General Obligation Bond Law to finance projects for a wildfire prevention, safe drinking water, drought preparation, and flood protection program.

➤ **State Legislation:** AB 1500 (Garcia) Water/Wildfire Protection

Recommended District Position: Support

ACWA Position: Support if Amended

Status: In Committee (Natural Resources)

This bill would enact the Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2022, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$6,955,000,000 pursuant to the State General Obligation Bond Law to finance projects for safe drinking water, wildfire prevention, drought preparation, flood protection, extreme heat mitigation, and workforce development programs.

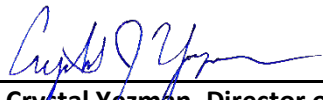

RECOMMENDED BOARD ACTION: Adopt positions on SB 323-support, SB 45-support, and AB 1500-support.

FISCAL IMPACT

No fiscal impact

ATTACHMENT(S)

- 1) Legislative Positions
- 2) SB323 Independent Bill Analysis
- 3) SB45 Independent Bill Analysis
- 4) AB1500 Independent Bill Analysis

DEPARTMENT OR DIVISION	DIVISION MANAGER	APPROVED
Facilities and Watershed Division	 Crystal Yezman, Director of System Maintenance and Natural Resources	 Ben Horenstein General Manager

Attachment 1

Legislative Positions

Support— Measure has substantial significance; District actively supports the proposed legislation.

Support and Seek Amendments— Measure has substantial significance; District will actively support the proposed legislation while continuing to seek specific amendments.

Support if Amended— Measure has substantial significance; District will actively support the proposed legislation if it is amended to address specific shortcomings identified by the District.

Favor— Legislation is generally beneficial to District; it will join other organizations in support but will not engage actively in advocacy for the measure.

Favor if Amended— Legislation is generally beneficial to District; it will join with other organizations in support if legislation is amended to address specific shortcomings identified by the District but will not engage actively in advocacy for the measure.

Watch— Measures or general issues of potential significance to District but have not been sufficiently defined for a formal position.

Not Favor— Legislation is generally detrimental to District; it will join with other organizations in opposition but will not engage actively in advocacy against the measure.

Oppose Unless Amended— Measure has substantial significance; District will actively oppose the proposed legislation unless amended to address specific shortcomings.

Oppose— Measure has substantial significance; District actively opposes the proposed legislation.

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2021-2022 Regular Session

SB 323 (Caballero)
Version: March 17, 2021
Hearing Date: April 20, 2021
Fiscal: No
Urgency: No
JT

SUBJECT

Local government: water or sewer service: legal actions

DIGEST

This bill establishes a 120-day limitations period for, and applies existing validation action procedures to, judicial challenges to water and sewer fees and charges.

EXECUTIVE SUMMARY

Code of Civil Procedure sections 860 through 870.5, known as the “validation statutes,” establish an expedited procedure for challenging certain government acts. Under these procedures, once a public agency takes an action, a complaint must be filed within 60 days. Notice of the claim must be served on all interested parties by publication, and a challenge under these provisions receives calendar preference. If no challenge is brought within 60 days, the action is deemed valid and becomes immune from attack. The validation statutes were originally devised in order to speedily validate local government bonds and provide certainty to prospective bondholders, but these statutes have since been applied in a variety of contexts, including certain types of fees and charges, in order to support the fiscal stability of public agencies.

This bill establishes a 120-day limitations period for judicial challenges to fees or charges for water or sewer services that have been adopted, modified, or amended after January 1, 2022. The bill applies the validation statutes to such challenges, subject to the 120-day limitations period. The bill also provides that it does not apply to any statutes that establish specific timeframes and procedures for judicial challenges to water or sewer service fees. The bill is sponsored by the Association of California Water Agencies (ACWA) and is supported by numerous water agencies. The bill is opposed by the Consumer Attorneys of California (CAOC) and the Howard Jarvis Taxpayers Association. The bill passed the Senate Governance and Finance Committee by a vote of 4 to 1.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes procedural and substantive requirements for the imposition of property-related fees and charges, including requirements for notice, a public hearing, the calculation of the fee or charge and the use of revenue; subjects such fees and charges to voter approval, but specifically excludes water and sewer fees and charges from this requirement. (Cal. Const. art. XIII § 6; Gov. Code § 53750 et seq.)
- 2) Provides a procedure for seeking a tax refund, which must be commenced not later than one year after the accrual of the cause of action. (Cal. Const. art. XIII, § 32, Gov. Code §§ 945.4, 911.2.) Establishes a three-year limitations period for any action upon liability created by statute, which is applicable to challenges against fees and charges. (Code Civ. Proc. 338(a).)
- 3) Establishes procedures governing validation actions that provide a 60-day period in which a public entity or any interested person may sue to determine the validity of a governmental act. (Code Civ. Proc. 860 et seq.)

This bill:

- 1) Establishes a 120-day limitations period for any lawsuit that challenges an ordinance, resolution, or motion adopting a fee or charge for water or sewer service, starting from the effective date of the fee or charge.
- 2) Requires challenges to be brought under the existing statutes for validation suits, except that the 120-day period applies to any action initiated under the bill.
- 3) Specifies that the above provisions do not apply to fees or charges for water or sewer service for which another statute establishes a specific time and procedure for bringing a judicial action or proceeding to attack, review, set aside, void, or annul a fee or charge of that type.
- 4) Specifies that its provisions do not apply to a fee or charge for water or sewer service that has been adopted, modified, or amended after January 1, 2022.

COMMENTS

1. Author's statement

The author writes:

The COVID-19 pandemic has put strain on many essential businesses, including ones that the public depends on for basic needs. Public utilities, such as water and sewer service providers have experienced a reduction in the number of consumers who are able to pay for their services. Yet because of Governor Newsom's Executive Order prohibiting water shutoffs, water agencies have continued to service every customer regardless of their ability to pay, which has made water districts' revenue and financial planning more unpredictable. In light of this new financial strain, another long standing issue comes into focus that needs to be addressed- the lack of a time line for rate challenges. Other utility agencies, such as electricity, have a 120-day statute of limitations for challenges to rates or charges that have been in effect for decades. This is because lawsuits arising years after rates were adopted create unstable funding for the agency. This statute of limitations has not been extended to water agencies yet, and the inability to plan for such claims effects funding necessary to supply safe drinking water, upgrade and improve aging infrastructure, and operate effectively. That is why I have introduced SB 323, which would require an interested party to bring an action within 120 days after the local water agency adopts the new rate. By allowing customers to bring challenges within a reasonable – but limited – period of time, this proposal would balance the interests of ratepayers with those of public water and sewer agencies and end the current piecemeal character of existing law.

2. Proposition 218

Proposition 218 provides for, among other things, procedural and substantive requirements for the imposition of property-related fees. (Cal. Const. art. XIII D § 6(a), (b).) To impose a new fee, a local agency must identify parcels subject to the fee, calculate the amount, and provide notice by mail to affected property owners of the proposed fee. (*Id.* at § 6(a)(1).) The local agency must conduct a public hearing and consider all written protests filed by the affected property owners. (*Id.* at § 6(a)(2).) If a majority of the property owners present written protests against the fee, the fee may not be imposed. (*Id.*) The fee is subject to various requirements related to the amount charged and the purposes for which the money may be used. (*Id.* at (b).) The agency has the burden to demonstrate the lawfulness of the fee, if challenged. (§ 6(b)(5).) As a general matter, a fee must also receive voter approval; however, this requirement does not apply to sewer and water fees. (*Id.* at (c).) The Proposition 218 Omnibus Implementation Act (Gov. Code § 53750 et seq) further delineates the procedural

requirements for notice and hearing applicable to changes in property-related fees and charges (Gov. Code § 53755).

3. Validation actions

The validation statutes provide for an expedited procedure for challenging certain government actions in order to promptly settle the validity of a public agency's actions. (*McLeod v. Vista United School Dist.* (2008) 158 Cal.App.4th 1156, 1166; Code Civ. Proc. § 860 et seq.) When made applicable by another substantive statute, the validation statutes provide a 60-day period in which the public entity or any interested person may sue to determine the validity of a governmental act. (*Golden Gate Hill Development Company, Inc. v. County of Alameda* (2015) 242 Cal.App.4th 760, 765–767.) Lawsuits brought by the public entity are called “validation actions,” and lawsuits by the public are called “reverse validation actions.” (*Id.*)

Validations actions were traditionally used to enable public agencies to establish the validity of their bonds and assessments. (*City of Ontario v. Superior Court* (1970) 2 Cal. 3d 335, 340.) “[I]n its most common and practical application, the validation proceeding is used to secure a judicial determination that proceedings by a local government entity, such as the issuance of municipal bonds and the resolution or ordinance authorizing the bonds, are valid, legal, and binding. Assurance as to the legality of the proceedings surrounding the issuance of municipal bonds is essential before underwriters will purchase bonds for resale to the public.” (*Friedland v. City of Long Beach* (1998) 62 Cal. App.4th 835, 842, citations omitted [*Friedland*]) However, the governing statutes apply to “any matter which under any other law is authorized to be determined pursuant to this chapter” (Code Civ. Proc. § 860) and a variety of statutes authorize actions under these procedures, including various types of charges that use 120-day limitations period akin to the one established under this bill (*see e.g.* Gov. Code § 66022 [capacity fees]; Pub. Util. Code § 10004.5 [electric rates]; Wat. Code § 30066 [county water district property assessments]).

Under these procedures, once a public agency takes an action, a complaint must be filed within 60 days of the act to be challenged. (Code Civ. Proc. § 860.) Notice of the claim must be served on all interested parties by publication. (*Id.* § 861.) The claim or action must be given preference over other civil actions. (*Id.* § 867). Appeal of the trial court's ruling must be noticed within 30 days of the notice of entry of judgment. (*Id.* § 870(b).) If not appealed or overturned, the judgment is “forever binding and conclusive ... against the agency and against all other persons.” (*Santa Clarity Organization for Planning & the Environment v. Abercrombie* (2015) 240 Cal.App.4th 300, 308, citing section 870(a).)

If no challenge is brought within 60 days, the action is deemed valid and “become[s] immune from attack.” (*Kaatz v. City of Seaside* (2006) 143 Cal.App.4th at 30.) As a result, all matters “which have been or which could have been adjudicated in a validation

action, ... including constitutional challenges,” must be “raised within the statutory limitations period in section 860 et seq. or they are waived.” (*Friedland, supra*, 62 Cal.App.4th at 846–847.) Courts have concluded the 60-day period is reasonable given the important purposes of the validation statutes, which include “the need to limit the extent to which delay due to litigation may impair a public agency’s ability to operate financially.” (*California Commerce Casino, Inc. v. Schwarzenegger* (2007) 146 Cal.App.4th 1406, 1420.) “We recognize the statutory period of limitation for commencing a validation action is extremely short but it is not unique in its brevity. ‘What constitutes a reasonable time is a question ordinarily left to the Legislature, whose decision a court will not overrule except where palpable error has been committed.’” (*Id.*, citations omitted.)

4. Water agencies argue the bill is crucial to their fiscal stability

Water rates have been a fount of litigation since the passage of Proposition 218 in 1996,¹ including a recent class action lawsuit filed against 81 water suppliers in California,² challenging their ability to defray the cost of supplying water for fire hydrants. For some of the agencies sued, the challenged rates were adopted five years before the lawsuit.

The bill is sponsored by ACWA and supported by scores of water agencies, who argue that the threat of lawsuits to long-established rates undermines their ability to manage their operations and invest in infrastructure. They jointly write:

Reliable long-term financial planning is paramount in providing essential government services, like water and sewer. Public water and sewer utility budgets are largely funded by revenue collected through service rates. These rates provide the funding necessary to supply safe drinking water, upgrade and improve aging infrastructure, and operate effectively. While public water and sewer service providers require financial stability to meet these demands, existing law does not prevent lawsuits that seek refunds or seek to invalidate existing rate structures years after rates have been adopted and collected.

The California State Legislature has recognized the need to minimize fiscal uncertainty for public agencies providing essential government services by creating statutes of limitation for legal challenges to certain fees and charges, such as municipal electric rates and connection and capacity fees assessed by water and sewer agencies. However, existing law offers a piecemeal statutory landscape where statutes of limitation are afforded to fees and charges that fund some essential government services but not others. SB 323 would close this gap

¹ This case prompted legislative action to clarify that fire hydrants and the water provided by them are a component of water service in SB 1386 (Moorlach, Ch. 240, Stats. 2020).

² *Kessner et al v. City of Santa Clara et al. Santa Clara County Superior Court Case No. 20CV364054*. This bill applies prospectively and would not interfere with pending litigation.

in existing law by allowing customers to bring legal challenges to water and sewer rates within a reasonable – but limited – period of time. By following precedent established in existing law, this bill strikes a balance between the interests of ratepayers and the need for public agencies to maintain reliable sources of revenue.

(Emphasis in original; footnotes omitted.)

5. Opposition claims are not supported by judicial precedents involving short limitations periods and Proposition 218

The Howard Jarvis Taxpayers Association opposes the bill, arguing, among other things, that validation statutes are an unfair denial of due process. Likewise, CAOC, asserts that the bill is likely unconstitutional, writing:

Article XIII D, section 6, subdivision (b) of the California Constitution mandates apply to all existing fees or charges. In other words, this constitutional provision clearly states the intent to leave open constitutional challenges regardless of when the fee itself was originally enacted. This is likely the case because although the fee may have been set in place 10 years ago, the injury is suffered each month the illegal fee is charged and collected.

CAOC cites to *Howard Jarvis Taxpayers Assn. v. City of La Habra* (2001) 25 Cal.4th 809 (*Jarvis*), in which the Supreme Court held that “where the three-year limitations period for actions on a liability created by statute (Code Civ. Proc., § 338, subd. (a)) applies, and no other statute or constitutional rule provides differently, the validity of a tax measure may be challenged within the statutory period after any collection of the tax, regardless of whether more than three years have passed since the tax measure was adopted.” (*Id.* at 825.) Thus, a new violation occurred, and a separate limitations period ran, every time the city collected a tax that had not been approved by the requisite majority vote of the electorate. (*Id.* at 821–822.) The renewal of the limitations period by the repeated misfeasance of collecting an invalid tax, as opposed to the act of adopting it, falls under the doctrine of “continuous accrual,” in which “a series of wrongs or injuries may be viewed as each triggering its own limitations period, such that a suit for relief may be partially time-barred as to older events but timely as to those within the applicable limitations period.” [Citation.]” (*Luke v. Sonoma County* (2019) 43 Cal. App. 5th 301, 306.) However, the Supreme Court in *Jarvis* expressly limited the holding, stating: “We are not concerned in this case with bond issues or other governmental actions that, by state law, are made subject to the accelerated validation procedures of Code of Civil Procedure sections 860-870.5.” (*Id.*)

Pointing to this caveat, subsequent cases have held that the continuous accrual doctrine is inapplicable when validation statutes govern. (See e.g., *Utility Cost Management v. Indian Wells Valley Water District* (2001) 26 Cal.4th 1185, 1195 [rejecting the continuous

accrual doctrine; distinguishing the 120-day limitations period applicable to capital facilities fees under Government Code section 66022, which runs from the “effective date” of fee legislation]; *Barratt American, Inc. v. City of San Diego* (2004) 117 Cal.App.4th 809, 819-820 [same; distinguishing the 30-day limitations period under section 329.5 applicable to an action contesting the validity of an assessment against real property for public improvements]; *Coachella Valley Water Dist. v. Superior Court* (Mar. 9, 2021) 61 Cal.App.5th 755, 773-774 [same; distinguishing 60-day limitations period for a property assessment under Water Code section 30066, which incorporates the validation statutes].)

Nor do short limitations periods conflict with Article XIII D. *Barratt American, Inc. v. City of San Diego*, *supra*, 117 Cal.App.4th 809 rejected the contention that Proposition 218 impliedly repealed the 30-day limitations period under section 329.5 applicable to an action contesting the validity of an assessment against real property for public improvements. “There is no basis to conclude Proposition 218 expressly or impliedly repealed section 329.5.” (*Id.* at 818.) Likewise, the Fourth District Court of Appeal rejected an argument that the 120-day limitations period under Government Code section 66022 violated due process, stating:

Finally, appellant argues it was denied due process because it was not afforded an opportunity to challenge the fee assessed against it. This argument was impliedly rejected in *Utility Cost Management v. Indian Wells Valley Water Dist.*, *supra*, 26 Cal.4th at page 1196. There, the court held that adoption by the local agency of an improper fee ordinance constitutes the wrong and that the objector has the right at that time to challenge the ordinance. Inherent in the Supreme Court’s analysis is the idea the 120-day limitations period, beginning when the wrong occurs, is adequate to satisfy due process concerns. [Citation.]

(*California Psychiatric Transitions, Inc. v. Delhi County Water Dist.* (2003) 111 Cal.App.4th 1156, 1164.)

While courts have upheld various statutes that are similar to the one proposed by this bill, they have found that fees and rates enacted under validation statutes may again be subject to challenge when reenacted, even if they are essentially the same as previous ones for which the limitations period has expired. (*Barratt American, Inc. v. City of Rancho Cucamonga* (2005) 37 Cal.4th 685, 702–703.) Were “all subsequent reenactments ... immune to judicial challenge or review,” then “there would be no effective enforcement mechanism to ensure that local agencies” base rates on the cost of service. (*Id.* at 703.) “[I]mmunity from judicial review” would create “an incentive for local agencies to overvalue the estimated costs of services and then continually readopt that fee.” (*Id.*) This has been held to be applicable to rate structures that provide for automatic adjustments and that were duly enacted under validations statutes, where the rate structure was not itself pledged for the payment of bonds. (*San Diego County Water Authority v. Metropolitan Water Dist. Of Southern California* (2017) 12 Cal. App. 5th

1124, 1142-1143.) Some related statutes expressly provide that an automatic adjustment re-triggers the limitations period while others, like this bill, do not. (*Compare* Gov. Code § 66022 with Pub. Util. Code § 10004.5.) In any event, an agency providing water or sewer service may not adopt a schedule of fees for property-related service that exceeds five years. (Gov. Code § 53756(a).)³

SUPPORT

Alameda County Water District
Amador Water Agency
Aromas Water District
Association of California Water Agencies
Bella Vista Water District
Bodega Bay Public Utility District
Brooktrails Township Community Services District
California Association of Sanitation Agencies
California Municipal Utilities Association
California Special Districts Association
Calleguas Municipal Water District
City of Fountain Valley
City of Garden Grove
City of La Habra
City of Oceanside
City of Riverside
City of Roseville
City of Sacramento
City of Santa Ana
City of Santa Monica
City of Santa Rosa
City of Shasta Lake
City of Torrance
City of Watsonville
Coachella Valley Water District
Corcoran Irrigation District
Cucamonga Valley Water District
Desert Water Agency
Diablo Water District

³ A coalition of organizations that includes Mesa Water District, CalMutuals, Tuolumne Utilities District, and Yorba Linda Water District takes a support-if-amended position. They argue that the bill should be amended to require certain mailings and require the agency's website and social media to include information relating to the limitations period under the bill. They also argue that additional public notice should be provided by an agency if it seeks to obtain the benefits of the validation procedures. The author and sponsor respond that such requirements would be out of step with similar provisions in existing law. They also note that nothing prevents a water agency from voluntarily providing additional notice.

East Orange County Water District
Eastern Municipal Water District
El Dorado Irrigation District
El Toro Water District
Elk Grove Water District
Elsinore Valley Municipal Water District
Foothill Municipal Water District
Fresno Metropolitan Flood Control District
Helix Water District
Hidden Valley Lake Community Services District
Humboldt Bay Municipal Water District
Humboldt Community Services District
Indian Wells Valley Water District
Inland Empire Utilities Agency
Irvine Ranch Water District
Kings River Conservation District
Las Virgenes Municipal Water District
League of California Cities
Los Angeles County Sanitation Districts
Mariana Ranchos County Water District
Marin Water
McKinleyville Community Services District
Mercy Springs Water District
Mid-peninsula Water District
Modesto Irrigation District
Monte Vista Water District
Monterey Peninsula Water Management District
Municipal Water District of Orange County
North Coast County Water District
North Marin Water District
Olivenhain Municipal Water District
Otay Water District
Panoche Water District
Pine Grove Community Services District
Princeton Codora Glenn Irrigation District
Provident Irrigation District
Public Water Agencies Group
Rainbow Municipal Water District
Rancho California Water District
Reclamation District #1500
Regional Water Authority
Root Creek Water District
Sacramento Suburban Water District
San Bernardino Municipal Water Department

San Diego County Water Authority
San Francisco Public Utilities Commission
San Juan Water District
Sanitation Districts of Los Angeles County
Santa Clara Valley Water District
Santa Clarita Valley Water Agency
Santa Margarita Water District
Scotts Valley Water District
Sonoma County Water Agency
South San Joaquin Irrigation District
South Tahoe Public Utility District
Southern California Water Coalition
Stege Sanitary District
Tahoe City Public Utility District
Tehama-Colusa Canal Authority
Trabuco Canyon Water District
Tuolumne Utilities District
United Water Conservation District
Valley Center Municipal Water District
Vista Irrigation District
Walnut Valley Water District
West County Wastewater District
Western Municipal Water District
Westlands Water District

OPPOSITION

Consumer Attorneys of California
Howard Jarvis Taxpayers Association

RELATED LEGISLATION

Pending Legislation: SBs 810, 811, and 812 (Committee on Governance and Finance, 2021) collectively comprise the annual Validating Acts that validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities. The bills are pending in the Assembly.

Prior Legislation: SB 1386 (Moorlach, Ch. 240, Stats. 2020) provided that fire hydrants are a part of water service for the purposes of Proposition 218.

PRIOR VOTES:

Senate Governance and Finance Committee (Ayes 4, Noes 1)

SENATE COMMITTEE ON NATURAL RESOURCES AND WATER

Senator Henry Stern, Chair
2021 - 2022 Regular

Bill No:	SB 45	Hearing Date:	March 16, 2021
Author:	Portantino		
Version:	December 7, 2020		
Urgency:	No	Fiscal:	Yes
Consultant:	Dennis O'Connor		

Subject: Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2022

BACKGROUND AND EXISTING LAW

Existing law:

- 1) Authorizes, pursuant to Section One of Article XVI of the California Constitution and the State General Obligation Bond Law, the issuance of general obligation bonds.
- 2) Authorizes the Legislature to place general obligation bonds on the ballot for specific purposes with a two-thirds vote of the Assembly and Senate.

PROPOSED LAW

This bill would enact the Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2022, which, subject to approval by the voters in the November 8, 2022 general election, would authorize the issuance of \$5.51 B in general obligation bonds to finance projects for wildfire prevention, safe drinking water, drought preparation, and flood protection.

The bond act is organized as follows:

	Chapter 1. General Provisions
\$2,200 M	Chapter 2. Wildfire Prevention and Community Resilience from Climate Impacts
1,470	Chapter 3. Ensuring Safe Drinking Water and Protecting Water Supply and Water Quality from Climate Risks
620	Chapter 4. Protecting Fish and Wildlife from Climate Risks
190	Chapter 5. Protecting Agricultural Lands from Climate Risks
970	Chapter 6. Protecting Coastal Lands, Bays, and Oceans from Climate Risks
60	Chapter 7. Climate Resilience, Workforce Development, and Education
	Chapter 8. Fiscal Provisions
<hr/>	
\$5,510 M	

Chapter 1. General Provisions establishes overarching policies governing the bond act, including:

- Findings, such as the investment of public funds pursuant to this bond act will result in public benefits that will address the most critical statewide needs and priorities for public funding while saving local and state agencies billions of dollars.

- Priorities for funding, such as for projects that:
 - leverage private, federal, and local funding or produce the greatest public benefit;
 - reduce near-term risks of climate impacts while promoting long-term resilience;
 - incorporate natural and green infrastructure solutions;
 - avoid solutions that would likely worsen climate impacts; and
 - advance solutions to prevent displacement of low-income residents that could occur as an unintended consequence of a project that causes an increase in the cost of owning or renting property.
- Definitions, including defining “fire hardening,” “natural infrastructure,” “regional greenprint,” “resilience,” and “restoration.”
- Allowable expenditures, including:
 - No more than 5% for a grant program for administrative costs;
 - Up to 10% for each program for planning and monitoring;
 - At least 35% of the fund must be for projects that “provide meaningful and direct benefits to disadvantaged communities, vulnerable populations, or economically distressed areas;”
 - Up to 10% of each chapter for technical assistance and capacity building for disadvantaged communities and other vulnerable populations or groups, or more than 10% if the granting agency determines that there is a need for additional funding; and
 - Up to 5% of funding for each agency for community access projects.
 - Advanced payments of grants for projects serving disadvantaged and other vulnerable groups, as specified.
- Required findings for funding an expenditure; the funding agency must find that the expenditure will do one or more of the following:
 - Reduce the risk of wildfire, flood, sea level rise, drought, unhealthy exposure to heat or air pollution, or other danger that is associated with climate change;
 - Increase the resilience of a community of residents, workers, visitors, or a natural system to the risks of wildfire, flood, sea level rise, drought, unhealthy exposure to heat or pollution, or other danger that is associated climate change;
 - Help a community recover from the impacts of a wildfire, flood, drought, or other climate-related events, or help restore a natural system or public recreation area from the impacts of wildfire, flooding, drought, or other climate-related events;
 - Help a community develop a plan to support increasing the community’s resilience to the impacts of climate change, recovering from damage events associated with climate change, or helping train a workforce to improve resilience, response, or recovery from events associated with climate change; or
 - Improve the resilience of a community’s water supply or provide safe drinking water or clean water benefits in light of California’s changing climate.

Chapter 2. Wildfire Prevention and Community Resilience from Climate Impacts provides \$2.2 B to reduce the risk of wildfire threat to lives, properties, and natural habitats, as follows:

- \$175 M To the Office of Emergency Services (OES), in conjunction with the Department of Forestry and Fire Protection (CalFire), for a prehazard mitigation grant program.
- 280 M To the Natural Resources Agency (NRA) and its constituent agencies for projects to reduce the risk of wildfire spreading into populated areas from wildlands and to improve forest health and fire resiliency.
- 75 M To CalFire to enhance California's fire prevention, fuel management, and fire response, as follows:
- \$7 M To improve water quality at CalFire facilities to enhance safe human use and consumption;
 - 20 M To upgrade existing infrastructure and for new CalFire facilities for suppression and fuel reduction crews;
 - 16 M To purchase Type 3 engines and related equipment to be used for fire suppression and fuel reduction;
 - 5 M To enhance CalFire's communications centers and mobile communications, including the capacity to provide culturally relevant and multilingual communication services;
 - 20 M For grants to assist local agencies for equipment for wildland firefighting, fire prevention, and fuel management; and
 - 7 M For a public or private conservancy to identify or describe the increasing scale of fires, fire risks, modernized vegetation management, efficacious building materials, and effective partnerships in preparing and responding to fires, and to develop methods to reduce exposure to and the impacts of hazardous and other materials that can impair the health and safety of first responders and community members from fires.
- 300 M To NRA to implement the Regional Fire and Forest Capacity Program to fund regional approaches to restoring watersheds, reducing the conditions that lead to catastrophic wildfire, and protecting natural resources throughout California.
- 225 M To NRA and its constituent agencies to protect, restore, and improve forests, to reduce risk of extreme wildfires, floods, and other climate impacts, and to improve water supply and water quality, carbon sequestration, community access, and other public benefits.

Of the \$225 M provided for these purposes:

- Not less than \$50 M must be allocated to the Sierra Nevada Watershed Improvement Program;
- Not less than \$50 M must be allocated to the Air Resources Board to incentivize new projects in California that convert forest and other vegetation waste removed for wildfire mitigation to beneficial uses that maximize reductions in the emissions of greenhouse gases and provide other specified benefits; and
- \$25 M must be allocated for the establishment of a Forest Carbon Monitoring Program.

- 50 M To the Department of Parks and Recreation (DPR) to plan for and implement projects to reduce the risks of fire, flood, inundation, sea level rise, and other risks associated with climate change and protect and restore infrastructure and natural resources for units of the state park system.
- 460 M To the following conservancies for climate resilience, wildfire prevention, and natural resource protection, allocated as follows:
- \$10 M Baldwin Hills Conservancy
 - 40 M California Tahoe Conservancy
 - 20 M Coachella Valley Mountains Conservancy
 - 40 M Sacramento-San Joaquin Delta Conservancy
 - 85 M San Diego River Conservancy
 - 85 M San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy
 - 10 M San Joaquin River Conservancy
 - 85 M Santa Monica Mountains Conservancy
 - 85 M Sierra Nevada Conservancy
- 395 M To NRA and its constituent agencies to reduce climate impacts on disadvantaged communities and vulnerable populations.

Of the \$395 M provided for these purposes, the following amounts would be made available for the following purposes:

- \$75 M Urban greening projects, including at least \$25 M to protect or augment California's urban forests;
 - 20 M Projects pursuant to the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy Act, including expansion of access corridors to encourage fewer greenhouse gas emissions, expansion of green spaces to reduce the urban heat island effect, and expansion of ecosystem-based water management projects; and
 - 20 M Projects pursuant to the Santa Monica Mountains Conservancy Act, including expansion of access corridors to encourage fewer greenhouse gas emissions, expansion of green spaces to reduce the urban heat island effect, and expansion of ecosystem-based water management projects.
- 240 M To the Strategic Growth Council (SGC) to fund the development and implementation of regional and subregional climate metrics and strategies to improve the resilience of local communities and natural resources to the impacts of climate change and to help local communities and natural resources adapt to a changing climate. Strategies funded pursuant to this provision could also include components to reduce greenhouse gas emissions.

Of the \$240 M provided for these purposes, the following amounts would be made available for the following purposes:

- \$40 M For grants to develop or update general plans and zoning ordinances to facilitate timely investment in projects that address

flood and fire resilience, sea level rise, climate adaptation, and environmental justice objectives;

- 20 M To implement the regional climate collaborative program;
- 130 M To implement the Transformative Climate Communities Program for projects that address wildfire, flood, drought, heat, air pollution, and other climate risks and that improve the resilience of local communities; and
- 10 M For green alleyway projects that include, but are not limited to, impervious pavements, rain gardens, and other low-impact pavement materials.

Chapter 3. Ensuring Safe Drinking Water and Protecting Water Supply and Water Quality from Climate Risks provides \$1.47 B for the protection of California's water supply and water quality, as follows:

- \$190 M For grants to provide safe drinking water, protect drinking water sources, and promote public health.

Ten percent of the funds made available by this provision would be allocated for grants to provide outreach and technical assistance that directly benefits disadvantaged communities.

- 200 M To the Wildlife Conservation Board (WCB), or other entity designated by the Legislature for these purposes, for groundwater sustainability projects that provide wildlife habitat and support implementation of the Sustainable Groundwater Management Act (SGMA).

- 130 M To the Department of Water Resources (DWR) for competitive grants for projects that develop and implement groundwater plans and projects in accordance with the groundwater planning requirements established under SGMA.

Preference would be given to plans that include projects that address water quality and quantity needs of disadvantaged communities.

At least 10 percent of the funds allocated under this provision would be allocated for grants that provide outreach and technical assistance that directly benefits disadvantaged communities.

- 250 M To NRA and its constituent agencies for the protection and restoration of rivers, lakes, and streams to improve climate resilience, water supplies, water quality, and other benefits.

Of the \$250 M provided for these purposes, the following amounts would be made available for the following purposes:

- \$65 M For multibenefit river projects that protect and restore riparian habitats, improve climate resilience, enhance natural drainages, protect and restore watersheds, improve water supply resilience, improve instream flow, or provide public access;

- 165 M To NRA for outlay projects and operations that provide air quality and habitat benefits, including projects that implement the Natural Resources Agency's Salton Sea Management Program; and
- 20 M To the Salton Sea Authority for purposes consistent with the New River Water Quality, Public Health, and River Parkway Development Program.

240 M To NRA and its constituent agencies to protect and restore urban streams and river parkways to improve climate resilience, water supplies, water quality, and other benefits.

Of the \$240 M provided for these purposes, the following amounts would be made available for the following purposes:

- \$70 M For the Urban Streams Restoration Program and for river parkway projects that protect and restore riparian habitats, improve climate resilience, enhance natural drainages, protect and restore watersheds, and provide public access;
- 70 M For projects that improve the climate resiliency or protect the Los Angeles River watershed or are consistent with the Lower Los Angeles River Revitalization Plan; and
- 70 M For projects that improve the climate resiliency or protect the Los Angeles River watershed or are a part of the revitalization plan developed by the Upper Los Angeles River and Tributaries Working Group or the Los Angeles River Master Plan. Funds are to be split \$40 M for the upper LA River & tributaries and \$30 M for the lower LA River.

At least 40 percent of the funds provided by this provision would be required to benefit disadvantaged communities, vulnerable populations, or socially disadvantaged farmers or ranchers.

140 M To NRA and its constituent agencies for flood management projects that are components of multibenefit flood management system improvements that reduce risks to public safety and provide improvement to wildlife habitat.

Eligible project types include, but are not limited to, levee setbacks, connecting rivers with flood plains, enhancement of flood plains and bypasses, off-stream groundwater recharge, improved coordination and management of surface and groundwater supplies, and land acquisitions and easements necessary for these projects.

Of the \$140 M provided for these purposes, at least \$50 M would be required to be allocated for multibenefit flood management projects in urban coastal watersheds.

100 M To the water board for recycled water projects.

90 M To DWR for projects that improve water data collection, monitoring, and management through enhanced quality and availability of water data.

Of the \$90 M provide by this provision, up to \$80 M would be made available as matching grants to groundwater sustainability agencies for the purchase of monitoring equipment and construction of monitoring wells.

100 M To NRA for implementation of the settlement agreement to restore the San Joaquin River, allocated as follows:

\$50 M For restoration of capacity of the Friant-Kern Canal that was lost due to subsidence; and

50 M To implement the restoration goal and funding to support the work of the Restoration Administrator and Technical Advisory Committee.

30 M To DWR for water infrastructure upgrades to increase climate resilience, improve wildlife and fish passage, and modernize water infrastructure.

Funds for feasibility studies of projects pursuant to this provision may exceed 10 percent of the funds allocated.

Chapter 4. Protecting Fish and Wildlife From Climate Risks provides \$620 M to protect and improve the resilience of California's fish and wildlife to climate change, as follows:

\$600 M To WCB for the protection of California's fish and wildlife resources in response to changing climate conditions and the highly variable habitat needs of fish and wildlife, as well as for restoration and stewardship projects that restore or manage the land to improve its resilience to climate impacts and natural disasters.

20 M To DFW to improve the climate resilience of fish and wildlife habitat.

Chapter 5. Protecting Agricultural Lands from Climate Risks provides \$190 M for agricultural resiliency projects, as follows:

\$100 M To the Department of Food and Agriculture (DFA) to improve the climate resilience of agricultural lands and ecosystem health.

Of the \$11 M provided for these purposes, the following amounts would be made available for the following purposes:

\$45M For grants to promote practices on farms and ranches that improve soil health, carbon sequestration, water quality, and enhanced groundwater recharge and surface water supplies, and provide fish and wildlife habitat;

45 M For grants for multibenefit projects that improve groundwater management, water quality, surface water use efficiency, drought and flood tolerance, on-farm water use efficiency, or water supply and water quality conditions for fish and wildlife.

10 M For deposit into the Invasive Species Account for the purposes of funding invasive species projects and activities recommended by the Invasive Species Council of California.

- 90 M To the DOC to protect and restore farmland and rangelands, including the acquisition of fee title or easements, that improve climate resilience and provide multiple benefits.

Chapter 6. Protecting Coastal Lands, Bays, and Oceans from Climate Risks provides \$970 M for the protection and restoration of coastal and ocean resources from the impacts of sea level rise, ocean acidification, and other impacts of climate change, as follows.

- \$100 M To the State Coastal Conservancy for projects that are consistent with the San Francisco Bay Restoration Authority Act, including, but not limited to, projects that address sea level rise, flood management, and wetland restoration.
- 700 M To the State Coastal Conservancy for projects it finds meets one or more of the funding requirements established in Chapter 1.
- Of the \$700 M provided for these purposes, the following amounts would be made available for the following purposes:
- \$30 M To restore and protect coastal habitat, dunes, wetlands, uplands, estuary conditions, or forest habitat associated with estuarine and designated wildlife areas, including coastal conservation aquaculture for native California marine plants and wildlife in designated areas.
- 100 M For the restoration of coastal land for public uses on surplus land for formerly fossil-fueled powerplants.
- 50M For deposit into the California Ocean Protection Trust Fund for grants to increase resilience from the impacts of climate change.
- Priority would be given to projects that conserve, protect, and restore marine wildlife, healthy ocean and coastal ecosystems including, but not limited to, estuarine and kelp forest habitat, the state's system of marine protected areas, and sustainable fisheries.
- 10 M For projects identified by DFW to implement climate-ready fisheries management approaches that expand opportunities for experimentation and adaptive cooperative management, and to implement modernized electronic fisheries data management systems and increase the use of electronic technologies to improve fisheries management responses and resiliency under changing ocean conditions.
- 10 M For projects identified by DFW to support the management of kelp ecosystems.
- 100 M To the State Coastal Conservancy for grants to remove or upgrade outdated or obsolete dams and water infrastructure. Projects may also install infrastructure to increase climate resilience, enhance sediment supply, improve wildlife and fish passage, and modernize water infrastructure, including related planning, permitting, habitat restoration, and recreational improvements.

Funds for planning, monitoring, and implementation of projects pursuant to this provision may exceed 10 percent of the funds allocated if the State Coastal Conservancy determines there is a need for the additional funding.

Chapter 7. Climate Resilience, Workforce Development, and Education provides \$60 M “for climate resilience and natural disaster prevention and restoration projects and programs that promote workforce development, disaster volunteering and preparedness, education, and career pathway opportunities for careers in fire prevention and management, watershed and forest restoration, forestry, prescribed fire, forest and vegetation management, invasive plant management, park and open-space operations and management, fisheries management, nature-based recreation and tourism, sustainable forest products industries, sustainable agriculture, and disaster response and preparedness.”

Of the \$60 M provided in this chapter, the following amounts would be made available for the following purposes:

- \$30 M To the California Conservation Corps for purposes of this chapter, at least half of which would be made available as grants to certified local conservation corps;
- 5 M To the California Community Colleges for workforce development programs for prescribed fire treatments, forest and woodland restoration, fire hardening, defensible space management, and approved community defense techniques;
- 15 M To the University of California for a Fire Outreach and Extension Program that includes fire extension advisors located in selected counties; and
- 10 M To the California State Universities for fire education purposes.

Chapter 8. Fiscal Provisions establishes how the bonds are to be issued and the funds managed, including:

- All of the provisions of the State General Obligation Bond Law would apply to this Act and the associated bond, except:
 - The expenditure of bond funds would not limited to the costs of construction or acquisition of capital assets, as defined in the State General Obligation Bond Law.
 - The use of bond funds to make grants or loans would not limited to funding the costs of construction or acquisition of capital assets.
- Funds authorized by this act could be used for grants and loans to nonprofit organizations to repay financing related to projects that are consistent with the purpose of the relevant provisions of this Act.

ARGUMENTS IN SUPPORT

According to the author, “SB 45 will provide the necessary investment to help our state become more resilient to climate change. If passed by the voters, this bond will provide funding for concrete on-the-ground measures that will help reduce the severity, frequency, and impacts of climate-related disasters including fires, drought, flood and

mudslides. According to California's 4th Climate Assessment, the cost of climate change for California alone could be more than \$113 billion annually by 2050."

"The wildfire season is becoming longer and more intense each year due to hotter temperatures and wide scale tree death resulting from prolonged drought. In fact, between 2010-2017 an estimated 129 million trees died, leaving behind massive amounts of highly combustible fuel. This phenomenon has led to the worst fires on record. A record 4.2 million acres burned in 2020, and over the last four years, fires have killed 134 people, destroyed 44,000 structures, and polluted the air for millions. In California, frequent coastal flooding exacerbated by sea-level rise is expected to threaten nearly half a million people, \$100 billion in property, and 3500 miles of roads within the next 80 years. The number of hazardous sites, like wastewater plants, which are susceptible to 100-year flood events is expected to increase by nearly 2.5 times over a similar period, drastically increasing the risk of pollutant disasters if adaptation measures are not taken. Droughts are an expected feature of California's arid climate, but the four-year period between fall 2011 and fall 2015, which correlated with the hottest two years on record in 2014 and 2015, was the driest since record keeping began in 1895."

"SB 45 proposes a general obligation bond to inject much needed revenue to address these impacts. The measure proposes to fund projects to reduce fire risk and restore already damaged areas; restore and protect impacted wetlands, watersheds, waterways, coastal resources, and fish and wildlife populations; reduce impacts in local communities and on vulnerable populations; and improve the resiliency of the state's water supplies and agricultural lands."

ARGUMENTS IN OPPOSITION: None received

COMMENTS

Funding For Disadvantaged Communities. Numerous studies show that disadvantaged communities and other vulnerable populations will bear a disproportional impact of climate change. Part of that is because they lack the adaptive capacity to adequately keep up with the changes in the climate and part is because they are starting from significantly lower baseline conditions: It is hard to keep up with increasingly challenging water supply and quality conditions when you currently don't have access to ample safe and affordable water.

This bond measure addresses this challenge by providing:

- At least 35% of the fund must be for projects that "provide meaningful and direct benefits to disadvantaged communities, vulnerable populations, or economically distressed areas;"
- Up to 10% of each chapter may be for technical assistance and capacity building for disadvantaged communities and other vulnerable populations or groups, or more than 10% if the granting agency determine that there is a need for additional funding;

In addition, a number of programs are required to provide a preference for projects that address disadvantaged communities and other vulnerable populations.

Is The Bond The Right Size? (Part 1). The author noted above that this proposal is intended to help reduce the severity, frequency, and impacts of climate-related disasters, including fires, drought, flood, and mudslides.

There isn't a current and systematic evaluation of the likely cost to California's residents, agriculture, water supply, water quality, and the health of forests, watersheds, fish and wildlife, our biodiversity, and our economy associated with catastrophic wildfire, drought, floods, severe heat events, intense rain events, sea level rise, and other climate change related events. But, those costs are likely to be quite large.

As the author further noted, California's 4th Climate Assessment, released in August 2018, included a table suggesting that by 2050 the estimated costs of different climate impacts to the state will be in the neighborhood of \$113 B/yr. However, that table did not include cost estimates of a number of key impacts, such as costs associated with increased morbidity, loss of human life, property damage from wildfire, and ecological values.

Moreover, recent studies of those impacts that were estimated suggest that at least some of the costs likely were significantly underestimated. As we get a better understanding of climate change and its impacts, it seems likely that the costs estimates will increase.

This bill proposes a \$5.51 B bond to address these impacts. One might argue that amount is barely a down payment on just one year's expected costs per the 4th Assessment.

Is The Bond The Right Size? (Part 2). Numerous groups have written asking for an increase in the funding for programs already included in this measure or the inclusion of funding for additional programs.

Requests for additional funding include augmentations for the following:

- Workforce development opportunities,
- California conservation corps and certified local community conservation corps,
- DFW's program to improve the climate resilience of fish and wildlife habitat,
- Recycled water program,
- Wastewater infrastructure funding,
- Drinking water infrastructure funding,
- Transformative climate communities program,
- Community resilience centers, and
- Local parks and urban greening projects

Requests for funding for additional programs include:

- Conveyance improvements,
- Ecosystem restoration unrelated to adapting to climate change,
- Grants for groundwater storage projects & SGMA compliance,
- Improving dam safety,
- Conserving 30 percent of California's lands and waters by 2030 per Executive Order N-82-20,
- A desert conservation program,

- Projects that provide air quality, public health, and habitat benefits to the Salton Sea and surrounding communities,
- Taxonomy programs, seed banks and herbaria at the University of California and other accredited institutions,
- Repair of State Water Project and Central Valley Project infrastructure, and
- Weatherization and zero emission energy upgrades for all home types within disadvantaged communities.

Additionally, there are a number of bills that have been referred to this committee that might be funded from a bond focused on wildfire prevention, safe drinking water, drought preparation, and flood protection.

Is The Bond The Right Size? (Part 3). Other considerations of a bond measure are the state's bonding capacity, the appropriateness of issuing bonds for specific programs, and the electorate's willingness to incur the debt. The Senate Governance & Finance Committee will likely address the question of the state's bonding capacity and the appropriateness of issuing bonds for specific programs. (See below).

Advanced Funding of Grants. In §80209, this bond measure would authorize, for grants for projects that serve disadvantaged communities and other vulnerable groups, the administering entity to provide advanced payments of 25% of the grant award to the recipient to initiate the project in a timely manner, and would be further authorized to maintain advance payments in increments of 25% of the award, as needed, throughout project implementation.

In recent years there have been a number of bills introduced that would have provided advanced payment of grants for various programs.

In 2018, this committee and the Senate Environmental Quality Committee heard AB 2060 (E. Garcia) and AB 2064 (Gloria). AB 2060 would have provided for advance payment of the SWRCB's Small Community Grant program; AB 2064 would have provided for advance payments of grants awarded through DWR's Integrated Regional Water Management Act.

Both committees recommended and the authors accepted extensive amendments to increase the financial and project management safeguards of both bills. (See e.g., this committee's analysis of AB 2064 for details on the need for the amendments.) With those amendments, both bills passed to the Governor's desk ... and Governor Brown vetoed both bills.

In his veto statement for AB 2060, the Governor wrote the bill was unnecessary, as "the State Water Board has established other means for grantees [to] address cash-flow problems." In his statement on AB 2064, the Governor wrote "Notwithstanding the merits of this bill, the additional financial risk and administrative costs associated with the advanced payment process, as proposed in this bill, are unwarranted."

In 2019, Asm. Rivas introduced AB 1252. That bill, among other things, would have authorized advance payments for environmental justice grants. In his veto statement on that bill, Governor Newsom wrote "state agencies have to ensure state monies are

appropriately spent by verifying the expense prior to disbursing the funds. The resources required to attempt to track down, verify or recover misspent grant dollars after they have been paid would divert staff time and resources away from administering the program and assisting other grant applicants.”

The provisions in §80209 may raise similar concerns.

Technical Amendments are necessary to correct some cross references and to clarify some of the provisions. Staff is working with the author’s office to draft these amendments, which will be taken in a later committee.

Virtually identical to last Session’s SB 45 (Allen) as it passed out of the Senate. That bill passed this committee 7-1, and the Senate floor 29-6. It was not referred to committee in the Assembly.

Other Related Bills:

AB 1500 (E Garcia) would, subject to approval by the voters in the November 8, 2022 general election, authorize a \$6.7 B general obligation bond to finance projects for safe drinking water, wildfire prevention, drought preparation, flood protection, extreme heat mitigation, and workforce development programs.

Double Referred to Governance & Finance Committee. Some of the issues the Governance & Finance Committee may opt to explore include the provisions in Chapter 8, the state’s bonding capacity, and other issues in their jurisdiction.

SUGGESTED AMENDMENTS: None at this time

SUPPORT

Alliance of Nurses for Healthy
Environments
Big Sur Land Trust
Bolsa Chica Land Trust
California Academy of Sciences
California American Water
California Association of Resource
Conservation Districts
California Council of Land Trusts
California Invasive Plant Council
California Municipal Utilities Association
California State Association of Counties
California Tahoe Alliance
California Trout
California Urban Forests Council
California Watershed Network
California Young Democrats
City of Escondido
City of Sacramento
City of San Diego
Conservation Fund, The
County of Marin

Eastern Sierra Land Trust
Friends Committee on Legislation of
California
Friends of Desert Mountains
Guadalupe River Park Conservancy
Helix Water District
Irvine Ranch Water District
Metropolitan Water District of Southern
California
Mojave Desert Land Trust
Monterey County Board of Supervisors
Monterey County Water Resources
Agency
Mountains Recreation and Conservation
Authority
Napa Land Trust
North Coast Regional Land Trust
Northern California Water Association
Ojai Valley Land Conservancy
Outdoor Alliance California
Peninsula Open Space Trust
Placer County Water Agency

Planning and Conservation League
 Professional Engineers in California
 Government (PECG)
 Sacramento County
 Safe Agriculture Safe Schools
 San Diego County Water Authority
 San Dieguito Water District
 Santa Clara Valley Open Space
 Authority
 Santa Fe Irrigation District
 Sierra Business Council
 Smith River Alliance
 Sonoma Land Trust
 Sonoma Water
 Surfrider Foundation

Sweetwater Authority
 The Nature Conservancy
 Transition Habitat Conservancy
 Trout Unlimited
 Trout Unlimited
 Trust for Public Land
 Turlock Irrigation District
 Vallecitos Water District
 Valley Center Municipal Water District
 Valley Water Management Company
 Western Rivers Conservancy
 Wholly H2O
 Wildlands Conservancy
 Yuba Water Agency

Support if Amended:

Antelope Valley East Kern Water
 Agency
 Association of California Water
 Agencies (ACWA)
 California Association of Local
 Conservation Corps
 California Native Plant Society
 Central Coast Water Authority
 Citizens for Los Angeles Wildlife
 (CLAW)
 Coachella Valley Water District
 Coastal Ranches Conservancy
 Community Nature Connection
 Defenders of Wildlife
 Escondido Creek Conservancy, the
 Friends of Harbors, Beaches and Parks
 Hills for Everyone
 In Defense of Animals
 Kern County Water Agency
 Laguna Greenbelt INC.
 Land Trust of Santa Cruz County
 Madrone Audubon Society, Sonoma
 County
 Mammoth Lakes Trails and Public
 Access Foundation (MLTPA)

Midpeninsula Regional Open Space
 District
 Mojave Water Agency
 Napa County Flood Control and Water
 Conservation District
 Palmdale Water District
 Paula Lane Action Network, Sonoma
 County
 Placer Land Trust
 Resolute
 San Bernadino Valley Municipal Water
 District
 San Diego River Park Foundation
 Santa Clarita Valley Water Agency
 Sc Wildlands
 Silicon Valley Leadership Group
 Solano County Water Agency
 Sonoma County Agricultural
 Preservation and Open Space
 District
 Southern California Water Coalition
 State Water Contractors, INC.
 Tulare Lake Basin Water Storage
 District
 Watereuse Association
 Wildlands Network

OPPOSITION

None Received

Date of Hearing: April 8, 2021

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

Eduardo Garcia, Chair

AB 1500 (Eduardo Garcia) – As Introduced February 19, 2021

SUBJECT: Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2022

SUMMARY: Enacts the Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Act of 2022 (Act), a \$6.7 billion general obligation bonds to address the impacts of climate change, and places the Act on the November 8, 2022 General Election ballot. Specifically, **this bill:**

- 1) Makes legislative findings and declarations relative to the severity of impacts of climate change to communities, the economy, and California's diverse natural resources and the need for action to address the risk posed by these impacts.
- 2) Provides that agencies administering funds authorized by this bill shall prioritize projects that leverage private, federal, and local funding or produce the greatest public benefit.
- 3) Requires that projects funded by the Act include signage informing the public that the project received funding from the Act.
- 4) Defines various terms for purposes of the Act.
- 5) Provides that up to 5% of the funds allocated to a program may be used to cover the administrative costs of that program.
- 6) Requires the Department of Finance to audit the expenditure of bond funds pursuant to the Act and requires the Natural Resources Agency (Resources Agency) to make specified information regarding expenditures pursuant to the Act publicly available on its internet website.
- 7) Requires at least 25% of the funds allocated by each chapter of the Act to provide meaningful and direct benefits to vulnerable populations, under-resourced communities, or disadvantaged communities, as defined. Requires at least 10% of the funds allocated by each chapter of the Act to provide direct and meaningful benefits to severely disadvantaged communities, as defined.
- 8) Permits state agencies administering grant programs pursuant to the Act to provide advance payments of up to 25% of a grant award to a grantee to initiate projects in a timely manner.
- 9) Permits up to 10% of the funds available pursuant to each chapter of the Act to be for technical assistance and capacity building. Specifies that this 10% cap may be exceeded for projects disadvantaged communities, severely disadvantaged communities, under-resourced communities, or vulnerable populations.
- 10) Requires projects funded by the Act to demonstrate ongoing monitoring and scientific review. Specifies that up to 5% of project funds may be used for this purpose.

- 11) Prohibits any funds allocated by the Act from being used for mitigation requirements or compliance obligations imposed by law or for the design, construction, operation, mitigation, or maintenance of Delta conveyance facilities.
- 12) Requires state agencies administering grant programs pursuant to the Act to develop project solicitation and evaluation guidelines through a public process.
- 13) Provides that projects utilizing the services of the California Conservation Corps or a certified community conservation corps shall be given preference for the award of grant funds pursuant to the Act.
- 14) Authorizes the Legislature to enact legislation necessary to implement the Act.
- 15) Establishes the Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation and Workforce Development Fund (Fund) and requires proceeds of bonds issued and sold to be deposited into the Fund. Requires the Fund to be available, upon appropriation, for the purposes of the Act.
- 16) Allocates \$1.1 billion under **Chapter 2, Wildfire Prevention, Climate Risk Reduction, and Protection Against Power Shutoffs**, for the prevention and reduction in the risk of wildfires as follows:
 - a) \$300 million to the Office of Emergency Services (OES) for a pre-hazard mitigation grant program to prevent wildfires and reduce the risk of wildfires to communities by increasing community hardening;
 - b) \$150 million to the Resources Agency's Regional Fire and Forest Capacity Program to increase regional capacity to prioritize, develop, and implement projects that improve forest health and fire resilience;
 - c) \$150 million to the Department of Forestry and Fire Protection (CAL FIRE) to support various long-term forest health projects;
 - d) \$150 million to the Resources Agency for watershed improvement projects that include the use of prescribed fire and improve water supply or water quality;
 - e) \$50 million to the Sierra Nevada Conservancy for forest health and watershed improvement;
 - f) \$30 million to the Air Resources Board to convert forest and other vegetation waste removed for wildfire mitigation to beneficial uses that maximize greenhouse gas (GHG) emission reductions;
 - g) \$70 million to the Department of Parks and Recreation (State Parks) and regional and local park agencies to plan for and implement projects to reduce the risks of fire and for the fire hardening of infrastructure for units of the state park system;
 - h) \$150 million to the Resources Agency for block grants to city, county, district, and regional park and open space entities for projects that reduce the risk of fire, flood, or drought to safeguard public lands and communities. Minimum awards for these block

grants are \$150,000 for cities and districts and \$300,000 for counties and regional entities; and

- i) \$50 million to the California Conservation Corps and certified community corps for projects that mitigate unemployment and address critical infrastructure needs or that address natural disasters or other climate impacts to communities. Specifies that at least 60% of these funds shall go to certified community conservation corps.

17) Allocates \$1.2 billion under **Chapter 3, Protecting Coastal Lands, Bays, and Oceans from Sea Level Rise and Other Climate Risks**, for the protection of coastal communities from sea level rise, restoration of coastal and ocean resources, mitigation of ocean acidification, and addressing the impacts of climate change along California's coast as follows:

- a) \$515 million to the State Coastal Conservancy (Coastal Conservancy) for projects to protect, restore, and increase the resilience of beaches, bays, coastal dunes, wetlands, coastal forests, and coastal watershed resources;
- b) \$300 million to the Coastal Conservancy for projects consistent with the San Francisco Bay Restoration Authority Act including projects to address sea level rise, flood management, and wetland restoration;
- c) \$10 million to the San Francisco Bay Program within the Coastal Conservancy;
- d) \$10 million to the Santa Ana River Conservancy Program within the Coastal Conservancy;
- e) \$100 million to the Coastal Conservancy for competitive grants for demonstration and pilot projects that use natural infrastructure to protect critical infrastructure that is vulnerable to sea level rise and flooding;
- f) \$65 million to the Coastal Conservancy for grants to remove outdated or obsolete dams and water infrastructure;
- g) \$30 million to the California Coastal Commission for grants for local adaptation planning and updating local coastal programs;
- h) \$20 million to the San Francisco Bay Conservation and Development Commission for coastal planning and projects within its jurisdiction;
- i) \$80 million for deposit into the California Ocean Protection Trust Fund for competitive grants awarded by the Ocean Protection Council to eliminate or reduce threats to coastal and ocean ecosystems, improve the management of fisheries, or foster sustainable fisheries;
- j) \$20 million to the Ocean Protection Council for projects that increase the ability of ocean and coastal ecosystems to sequester and store carbon; and
- k) \$50 million to State Parks to implement projects that reduce the risks of sea level rise for units of the state park system.

- 18) Allocates \$1.6 billion under **Chapter 4, Ensuring Safe Drinking Water, Drought Preparation, and Enhancing the State's Flood Protection**, for the delivery of safe drinking water, drought preparation and response, and flood protection as follows:
- a) \$250 million to the Department of Water Resources (DWR) for projects that support implementation of the Sustainable Groundwater Management Act (SGMA). At least 65% of these funds shall be allocated to critically overdrafted basins;
 - b) \$300 million to the State Water Resources Control Board (State Water Board) for grants or loans to provide clean, safe, and reliable drinking water. At least \$30 million of these funds shall be for developing and implementing regional or countywide drought contingency plans;
 - c) \$100 million to the State Water Board for grants or loans for projects that prevent or reduce the contamination of drinking water supplies and improve access to wastewater infrastructure;
 - d) \$400 million to the Resources Agency for the protection and restoration of rivers, lakes, and streams to improve climate resilience, water supplies, or water quality. When administering these funds, the Resources Agency shall give preference to natural infrastructure projects, to the extent feasible. These funds shall be available as follows:
 - i) For multiple benefit river and urban stream parkway projects;
 - ii) At least \$240 million shall be for capital outlay projects that provide air quality, public health, and habitat benefits to the Salton Sea and surrounding communities. Of these funds, \$30 million shall be available to the Salton Sea Authority and \$2 million shall be for projects developed and prioritized using a participatory budgeting process;
 - iii) At least \$30 million shall be for the Tijuana River Border Pollution Control Project;
 - iv) At least \$25 million shall be available to the Santa Monica Mountains Conservancy for projects within the San Fernando Valley that enhance the Los Angeles River and its tributaries; and,
 - v) At least \$25 million shall be available to the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy for projects that protect or enhance the Los Angeles River watershed and its tributaries.
 - e) \$15 million to the California Environmental Protection Agency for purposes consistent with the New River Water Quality, Public Health, and River Parkway Development Program;
 - f) \$200 million to the DWR for flood management projects that are components of multiple benefit flood management system improvements. Preference shall be given to natural infrastructure projects. A portion of these funds shall be available as follows:
 - i) \$50 million for multiple benefit projects in urban coastal watersheds; and
 - ii) \$50 million for projects in the delta to improve existing levees.

- g) \$35 million to the Central Valley Flood Protection Board for further development of the State Plan of Flood Control; and
 - h) \$300 million to the State Water Board for grants or loans for water recycling projects. A 50% local cost share is required for projects receiving funds.
- 19) Allocates \$800 million under **Chapter 5, Protecting Fish, Wildlife, and Natural Areas from Climate Risks**, to protect and restore natural lands to maintain biodiversity and ecosystem benefits as climate conditions change as follows:
- a) \$400 million to the Wildlife Conservation Board (WCB) for the protection and restoration of California's fish and wildlife resources in response to changing climate conditions. Funding shall not be used to offset environmental mitigation or compliance obligations;
 - b) \$50 million to WCB for groundwater sustainability projects that provide habitat;
 - c) \$50 million to the Department of Fish and Wildlife (DFW) to improve climate resilience of fish and wildlife on DFW lands or through a competitive grant process; and
 - d) \$300 million to the Baldwin Hills Conservancy, California Tahoe Conservancy, Coachella Valley Mountains Conservancy, Sacramento-San Joaquin Delta Conservancy, San Diego River Conservancy, San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy, and Sierra Nevada Conservancy for reducing the risks of climate change impacts on communities, fish and wildlife, and natural resources. Provides that each of these conservancies shall receive a minimum of \$10 million.
- 20) Requires the conservancies mentioned in #19 to develop a climate resiliency plan that meets specified requirements by June 1, 2023.
- 21) Allocates \$300 million under **Chapter 6, Protecting Farms, Ranches, and Working Lands from the Impacts of Climate Change**, to protect California's agricultural resources and working lands from the impacts of climate change as follows:
- a) \$50 million to the Department of Food and Agriculture (CDFA) for grants to promote practices on farms and ranches that improve soil health or carbon sequestration, improve air or water quality, enhance groundwater recharge, or improve fish and wildlife habitat. 35% of these funds shall benefit farmers and ranchers in disadvantaged communities or severely disadvantaged communities and preference shall be given to socially disadvantaged farmers, as defined;
 - b) \$40 million to CDFA to promote on-farm water use efficiency. 35% of these funds shall benefit farmers and ranchers in disadvantaged communities or severely disadvantaged communities and preference shall be given to socially disadvantaged farmers, as defined;
 - c) \$40 million to CDFA for projects that promote the reduction of methane emissions from dairy and livestock operations. Preference shall be given to socially disadvantaged farmers, as defined;

- d) \$20 million to CDFA for projects and activities recommended by the Invasive Species Council of California;
 - e) \$100 million to CDFA for grants that benefit small- and medium-sized farms and socially disadvantaged farmers, as defined, and increase the sustainability of agricultural infrastructure and facilities; and
 - f) \$50 million to the Department of Conservation for the protection and restoration of farmland and rangeland. 35% of these funds shall benefit farmers and ranchers in disadvantaged communities or severely disadvantaged communities.
- 22) Allocates \$640 million under **Chapter 7, Responding to Extreme Heat**, to address extreme heat events through investments in parks, urban green infrastructure, and community forestry projects as follows:
- a) \$400 million to State Parks for the Statewide Park Program to create and expand parks in park-poor neighborhoods. Emphasis shall be placed on projects that reduce urban heat island effect or mitigate extreme heat events. Specifies that \$50 million of these funds shall be available for local park creation and improvements grants in the Central Valley, Inland Empire, gateway, rural, and desert communities;
 - b) \$75 million to the Resources Agency for urban greening projects that benefit vulnerable populations and mitigate extreme heat impacts;
 - c) \$75 million to CAL FIRE for urban forestry projects that mitigate extreme heat impacts;
 - d) \$50 million to the Department of Community Services and Development for low-income weatherization projects; and
 - e) \$40 million to the Strategic Growth Council (SGC) for projects that reduce the heat island effect and other extreme heat impacts from climate change.
- 23) Allocates \$1.06 billion under **Chapter 8, Strengthening California's Regional Climate Resilience**, for improving each region's climate resilience as follows:
- a) \$850 million to the SGC for reduction in the risk of climate impacts to communities, including wildfire, sea level rise, flood, and extreme heat events. Funds shall be available to regional climate networks, at least 60% of which shall be allocated based on population. The remaining funds can augment grants to the extent a regional climate network's plan addresses specified priorities (e.g., protecting vulnerable populations);
 - b) \$100 million to the SGC for the Transformative Climate Communities Program;
 - c) \$50 million to the OES for competitive grants to create climate resilience centers to provide emergency response services during disruptions (e.g., public safety power shutoff, extreme heat event, etc.) or emergency services during a disaster; and,
 - d) \$60 million to the CDFA for grants to fairgrounds to enhance their ability to serve as multirole community, staging, and evacuations centers or deploy communications and broadband infrastructure during a disaster, emergency, or public safety power shutoff.

- 24) Provides that bonds authorized pursuant to the Act shall be prepared, executed, issued, sold, paid, and redeemed consistent with the General Obligation Bond Law (Government Code, Section 16720 *et seq.*).
- 25) Establishes the Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Finance Committee (Committee).
- 26) Provides that the Committee shall determine when to issue and sell bonds authorized pursuant to the Act.
- 27) Provides that an amount necessary to pay the principal or, and interest on, bonds issued pursuant to the Act shall be continuously appropriated from the General Fund.
- 28) Exempts the provisions of the Act from certain provisions of the General Obligation Bond Law that require bond funds to only be used to fund or provide grants or loans for capital outlay projects.
- 29) Provides that the Act shall be submitted to voters for approval at the November 8, 2022 statewide general election.

EXISTING LAW:

- 1) Provides that the Legislature cannot authorize the sale of general obligation bonds in excess of \$300,000 without a two-third's vote of the Legislature and the approval of a majority of the voters at primary or general election (California Constitution, Article XVI, § 1).
- 2) Specifies the procedure to authorize, issue, prepare and sell general obligation bonds and places limits on the use of bond funds under the General Obligation Bond Law (Government Code, § 16720 *et seq.*).

FISCAL EFFECT: Unknown. This bill is keyed fiscal.

COMMENTS:

- 1) **Purpose of this bill.** According to the authors, "The impacts of climate change to our state and our communities require us to act quickly. California needs to protect itself against future climate disasters and rebuild our workforce from an ongoing pandemic that has shown us what can happen when we aren't prepared for an emergency. (This bill) seeks to make California more climate resilient by investing in various adaptation activities throughout the state, ranging from wildfire risk reduction, to drought preparation, to protection against sea-level rise. Not only will this measure help create new jobs for Californians, it will create long-term green jobs that help the state reach its climate goals. We must invest in the infrastructure necessary to protect our communities, our environment, and our economy from an evolving climate crisis."
- 2) **Background.** California is increasingly experiencing the impacts of climate change. These impacts include sea level rise, increased severity and frequency of wildfire, changes in precipitation that increase the risk of both drought and flooding, and increases in temperatures that can affect air quality, public health, and habitat. California's experience

with its wildfire season over the past decade is one jarring example of this phenomenon. The 2020 wildfire season was the largest on record with nearly 10,000 fires that burned more than 4.2 million acres or over 4% of California's land mass. This is after California had recently broken wildfire records in 2018 with 1.8 million acres burned and in 2017 with 1.3 million acres burned.

Likewise, California experienced its worst drought on record from 2012 through 2016 and is currently in its second dry year, with dry conditions on par with those of 2014-15 during the previous drought. In addition, research published in 2020 indicates that Southwestern North America experienced its second worst "megadrought" in the last 1200 years from 2000-2018 and estimates (based on climate models) that 46% of this megadrought's severity is due to climate change, making what would have been a moderate drought a severe one.

4th Climate Change Assessment (Assessment). Led by state agencies and completed in 2018, the Assessment includes over 44 peer-reviewed technical reports that examine specific aspects of climate change in California. Among the Assessment's findings is that California is one of the most "climate-challenged" regions of North America and must actively plan and implement strategies to prepare for and adapt to extreme events and shifts in previously "normal" averages. The report stated that climate change impacts are here, including the following impacts: 1) temperatures are warming, heat waves are more frequent, and precipitation has become increasingly variable; 2) glaciers in the Sierra Nevada have lost an average of 70% of their area since the start of the 20th century; and 3) the sea level along the central and southern California coast has risen more than 5.9 inches over the 20th century.

General obligation bonds. General obligation bonds are debt that is secured by the General Fund; the debt service on bonds issued by the state must be paid on an annual basis. Fully paying off a bond issue can take decades (sometimes 30+ years). Bonds issued by the State of California are able to obtain favorable financing because interest on these bonds is tax exempt (i.e., investors are willing to offer lower financing rates because they do not pay income tax on gains from their investment).

Per the California Constitution, voters must approve general obligation bonds in excess of \$300,000. There are two pathways to the ballot for general obligation bonds that exceed this \$300,000 threshold: 1) through an act of the Legislature; and, 2) via the citizens' initiative process.

What can bonds be used for? Typically, general obligation bond are used to pay for public benefits derived from planning, constructing, and renovating infrastructure including dams, bridges, prisons, parks, schools, and buildings. The General Obligation Bond Law provides that bonds can only be used to pay for or provide grants or loans for the construction or acquisition of "capital assets" and defines "capital assets" as "tangible physical property with an expected useful life of 15 years or more," major maintenance necessary between 5 to 15 years to extend the useful life of a "capital asset," or equipment with an expected useful life greater than 2 years [Government Code, Section 16727(a) and (b)]. Because of these restrictions on the use of bond funds, and others in federal law governing tax exempt bonds, the state typically uses bonds to pay for projects that provide benefits over many years as opposed to paying for ongoing operations and maintenance costs. While this bill exempts itself from Government Code, Section 16727(a) and (b) of the General Obligation Bond Law (as have previous water and natural resource bonds), in practice, bond funds are only used for

purposes that have long-term, public benefits.

Previous natural resource and water bonds. Since the mid-1990's, California voters have authorized the state to take on more than \$30 billion in general obligation bond debt to fund various water, natural resource, and flood protection programs:

Year	#	Ballot Title	Amount	Election Result	Type
2018	3	Authorizes Bonds to Fund Projects for Water Supply and Quality, Watershed, Fish, Wildlife, Water Conveyances, and Groundwater Sustainability and Storage.	\$8.9 billion	Fail	citizen's initiative
2018	68	Authorizes Bonds Funding Parks, Natural Resources Protection, Climate Adaptation, Water Quality and Supply, and Flood Protection.	\$4 billion	Pass	legislative
2014	1	Water Bond. Funding For Water Quality, Supply, Treatment, And Storage Projects.	\$7.1 billion	Pass	legislative
2006	1E	Disaster Preparedness and Flood Prevention Bond Act of 2006.	\$4.1 billion	Pass	legislative
2006	84	Water Quality, Safety and Supply, Flood Control, Natural Resource Protection, Park Improvements.	\$5.4 billion	Pass	citizen's initiative
2002	40	The California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002.	\$2.6 billion	Pass	legislative
2002	50	Water Quality, Supply and Safe Drinking Water Projects. Coastal Wetlands Purchase and Protection.	\$3.4 billion	Pass	citizen's initiative
2000	12	Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000.	\$2.1 billion	Pass	legislative
2000	13	Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Bond Act.	\$2 billion	Pass	legislative

1996	204	Safe, Clean, Reliable Water Supply Act	\$1 billion	Pass	legislative
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- 3) **Policy Considerations.** More than 50 organizations or agencies have submitted letters to the Committee expressing a “support if amended” position on this bill. In general, these stakeholders express support for a bond issue, but seek policy changes and additional funding for programs that are either already included or not currently included in this bill. There is no question that there is tremendous demand for funding to address climate change impacts and many meritorious activities and projects that the state could fund through this bill. As the Committee weighs whether or not to increase the funding amounts or add new programs to this bill, the following considerations should be taken into account:

How much is left? Before issuing a general obligation bond it is important to consider how much funding is still available from previous bond issues. According to the state’s Bond Accountability website, roughly \$473 million from Proposition 68 (2018), \$201 million from Proposition 1 (2014), \$2.7 million from Proposition 84 (2006), and \$34 million from Proposition 1E (2006) are uncommitted to a specific grantee or project at this time. It is certain that more of these bond funds will be committed before this bill, should it pass the Legislature, goes to the voters in November 2022. Further, if voters approved this bill, funding would not likely be appropriated and available until after July 2023.

Public versus private benefit. Given that the general public will pay for the principal and interest of a bond issue (via the General Fund), previous bond issues have funded projects and activities that provide benefits to the general public. This is also an important consideration to maintain a bond issue’s tax exempt status because Internal Revenue Service regulations apply a “private business use test” to government-issued bonds and require that no more than 10% of a total bond issue shall be for property that is used for nongovernmental uses (i.e., private uses).

Durability. Paying off a bond issue can take as long as 40 years so, arguably, the benefit of a project or activity endure over time. This is why bonds are often used for capital outlay projects or activities with enduring benefits rather than annual, ongoing expenses such as operations and maintenance. Having a durable benefit from a bond expenditure is also a requirement the General Bond Obligation Law, discussed above.

Other funding source? While projects often draw on multiple sources of funding, one factor for determining whether or not a given type of project or activity should be allocated funding in a bond issue is whether or not that type of project or activity can draw on other state funding sources to achieve its goals. For example, State Parks’ Statewide Park Program funded by previous bonds (Propositions 84 and 68) receives little or no funding from other state sources such as the General Fund or Greenhouse Gas Reduction Fund and, therefore, has historically relied on bond funding.

- 4) **Arguments in Support.** The Bay Area Council supports this bill arguing that we have witnessed California’s volatile and changing climate in recent years and that action is needed to address these impacts. The Bay Area Council also points out the current amount of funding in this bill could generate over 75,000 jobs and generate in excess of \$9.6 billion in

economic activity. Likewise, the Trust for Public Land supports this bill asserting that a “climate bond is not only needed to address catastrophic wildfires, urban heat and flood vulnerability, but is fundamentally a ‘**Green Economic Stimulus**’ for Californians to resume and keep working – providing for their families – while addressing the real climate impacts that are already devastating our landscapes, critical habitats and the health of Californians.”

5) **Possible Amendments.** The Committee may wish to consider the following amendments:

Amendment 1. Increase funding for the State Water Board’s Drinking Water and Small Community Wastewater Programs from \$300 million to \$400 million (see Section 80545).

Amendment 2. Increase funding for WCB from \$400 million to \$500 million (see Section 80562).

Amendment 3. Add \$15 million in funding for restoration and remediation of Clear Lake (add under Section 80547).

Amendment 4. Add \$15 million for the Lower American River Conservancy Program (add under Section 80547).

Amendment 5. Add \$25 million for implementation of the Open and Transparent Water Data Act (new section under Chapter 4).

Amendment 6. Specify that at least \$100 million (rather than \$10 million) of the State Coastal Conservancy’s \$1 billion allocation shall be for the San Francisco Bay Area Conservancy Program [see Section 80531(b)].

Amendment 7. Specify that at least \$40 million (rather than \$10 million) of the State Coastal Conservancy’s \$1 billion allocation shall be for the Santa Ana River Conservancy Program [see Section 80531(b)].

Amendment 8. Add requirement under “Chapter 1, General Provisions” that before making a grant or contract with funds pursuant to this bill, a state agency must make a finding that the funds will go towards addressing a climate change impact.

Amendment 9. Define eligible applicants for all grant programs under this bill as public agencies, local agencies, nonprofit organizations, park and open-space districts and authorities, resource conservation districts, joint powers authorities, tribes, public water agencies, groundwater sustainability agencies, and regional collaboratives for climate adaptation.

Amendment 10. Prioritize increased access for disabled individuals as defined by the Americans with Disabilities Act under three programs administered by State Parks (Sections 80524, 80525, and 80581) and one program administered by Coastal Conservancy (Section 80531).

Amendment 11. Delete language included in Section 80531(a), “in or adjacent to the California coastal zone,” that unnecessarily restricts use of certain Coastal Conservancy funds.

Amendment 12. Consolidate two allocations of \$80 million and \$20 million, respectively, into a single allocation for the Ocean Protection Council via the California Ocean Protection Trust Fund [Sections 80533(a) and (b)].

Amendment 13. Reformulate \$250 million allocation to DWR for SGMA implementation to emphasize addressing needs of disadvantaged communities.

Amendment 14. Require that at least 10% of the funds under Chapters 7 and 8 be used for outreach and technical assistance to benefit disadvantaged communities and vulnerable populations.

Amendment 15. Provide that the bond issue in this bill shall go to voters at the June 7, 2022 Primary Election rather than the November 8, 2022 General Election.

Amendment 16. Add an urgency clause due to the drought conditions the state is currently facing and the proximity to the next fire season.

Technical and clarifying amendments. There are a number of technical and clarifying amendments that include deleting redundant language, changing “resiliency” to “resilience,” and emphasizing drought preparation and response that committee staff have identified and will work with the authors to address.

6) **Related Legislation.**

AB 897 (Mullin). Establishes requirements for the formation of regional climate networks and delineates a process for setting standards for regional adaptation actions plans developed by regional climate networks. SB 45 is set for hearing in the Assembly Natural Resources Committee on April 14, 2021.

SB 45 (Portantino). Places a \$5.5 billion bond entitled the Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2022 on the November 8, 2022 ballot. SB 45 is pending in the Senate Governance and Finance Committee.

AB 3256 (E. Garcia). Would have placed a \$6.98 billion bond entitled the Economic Recovery, Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020 on the November 3, 2020 ballot. AB 3256 died in the Assembly Rules Committee.

AB 1298 (Mullin). Would have placed the Climate Resiliency, Fire Risk Reduction, Recycling, Groundwater and Drinking Water Supply, Clean Beaches, and Jobs Infrastructure Bond Act of 2020 on the November 3, 2020 ballot. A total amount was not specified. AB 1298 died in the Committee on Water, Parks, and Wildlife.

SB 45 (Allen). Would have placed a \$5.5 billion bond entitled the Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2020 on the November 3, 2020 ballot. SB 45 died in the Assembly.

REGISTERED SUPPORT / OPPOSITION:

Support

Bay Area Council
Big Sur Land Trust
Bolsa Chica Land Trust
California Water Association
California Watershed Network
East Bay Regional Park District
Nature Conservancy, The
Professional Engineers in California Government
Save the Bay
Sierra Club
Sonoma Land Trust
Tree Care Industry Association
Trust for Public Land, The

Opposition

None on file

Analysis Prepared by: Pablo Garza / W., P., & W. / (916) 319-2096



Approval Item

TITLE

Approval to fill Engineering Technician position

RECOMMENDATION

Authorize the General Manager to recruit and hire one Engineering Technician in the Engineering Division.

SUMMARY

An Engineering Technician position in the Engineering Division will become vacant upon the retirement of the incumbent, who has served the District for over 33 years. The Engineering Technician is the primary point of contact for District customers interested in connecting to the District's water system or making changes to their existing water service connection or meter. This position runs the Engineering Customer Service counter and assists customers with the water service application process which includes explaining the water system application process, guiding customers through the District's website, responding to questions and inquiries, reviewing the application, routing the application to the appropriate divisions at the District for review, maintaining contact with the customer throughout the application process, and collecting the required fees. The District annually processes 200 – 250 water service applications. In addition, this position issues work orders, compiles detailed records and maintains monthly reporting data.

In summary, staff requests the Board authorize the General Manager to recruit and fill the vacant Engineering Technician position. Staff further requests the Board authorize the General Manager to recruit and fill any vacant position that may be subsequently created upon filling this Engineering Technician position.

FISCAL IMPACT

The total annual salary with benefits for the Engineering Technician position ranges from \$114,605 to \$137,494. This position is included in the Engineering Division's FYE 2021 and 2022 budget. Filling this position will not increase the total number of FTEs in the Engineering Division.

ATTACHMENT(S)

None

DEPARTMENT OR DIVISION	DIVISION MANAGER	APPROVED
Engineering	 Michael Ban Director of Engineering	 Ben Horenstein General Manager



Item Number: 08
Meeting Date: 05-04-2021
Meeting: Board of Directors

Informational Item

TO: Board of Directors

FROM: Terrie Gillen, Board Secretary

THROUGH: Ben Horenstein, General Manager

DIVISION NAME: Communications & Public Affairs Department

ITEM: Future Meeting Schedule and Agenda Items

SUMMARY

Review of the upcoming Board of Directors and Committee meetings.

DISCUSSION

Below are the upcoming meetings of the Board of Directors and/or Committees:

- Thursday, May 13, 2021
Board of Directors' Special Meeting (10-Year Financial Plan Workshop 3)
10:00 a.m.
- Tuesday, May 18, 2021
Board of Directors' Regular Bi-Monthly Meeting
7:30 p.m.
- Wednesday, May 19, 2021
Communications & Water Efficiency Committee/Board of Directors (Communications & Water Efficiency) Meeting
9:30 a.m.
- Friday, May 21, 2021
Operations Committee/Board of Directors (Operations) Special Meeting
9:30 a.m.

FISCAL IMPACT

None

ATTACHMENT(S)

None