Board Policy: EL-7 Communication and Support to the Board
The BAOs shall inform and support the Board in its work.

CEO BULLETIN / NEWSLETTERS

CEO Bulletin: 09/07/18 – 09/13/18

BOARD MEMBER REQUESTS & INFORMATIONAL ITEMS

BMR/IBMR Weekly Reports: 09/14/18
Memo from Nina Hawk, COO/WUE, to the Board, dated 09/10/18, regarding updates on Sites Reservoir Project.
Memo from Nina Hawk, COO/WUE, to the Board, dated 09/10/18, regarding Rinconada Water Treatment Plant Reliability Improvement Project construction status update.

INCOMING BOARD CORRESPONDENCE

Board Correspondence Weekly Report: 09/14/18
Email from Candace Erickson to the Board, dated 09/09/18, regarding Regnart Trail in Cupertino (C-18-0171).
Letter from Brenda Burman, Bureau of Reclamation, to Chair Santos, dated 08/30/18 (rec’d 9/10/18), regarding the California WaterFix (C-18-0172).
Letter from Philip Livengood and Michael Weber, to Chair Santos, dated 09/05/18, regarding their proposal for encroachment issues in their neighborhood (C-18-0173).
Letter from Lisa Gillmor, Mayor of Santa Clara, to Governor Brown (cc: BOD), dated 09/07/18, regarding SB 1301 (Beall) Permitting for Flood Protection & Dam Safety - Support Letter (C-18-0174).
Email from AR Shaikh to Tina Yoke, Interim COO-AS (cc: BOD), dated 09/11/18, regarding a meeting between Golden Express and the District to resolve billing issues (C-18-0175).
Letter from David Cahen, Risk Manager, to Andres Bjorkman (cc: BOD), dated 09/10/18, regarding his claim relating to the Permanente Creek Flood Project (C-18-0176).
Email from AR Shaikh to Chair Santos, dated 09/12/18, regarding billing issues between Golden Express and the District (C-18-0177).
Email from Kevin Lu to Director Hsueh, dated 09/13/18, thanking her for her reply to his email about Regnart Creek trail and additional information (C-18-0178).
Email from Linda Wyckoff to the Board, dated 09/13/18, thanking them for the reply to her email on Regnart Creek trail (C-18-0179).
Letter from David Cahen, Risk Manager, to Dr. Robin Press (cc: BOD), dated 09/10/18, regarding a claim relating to the Permanente Creek Flood Project (C-18-0180).

Letter from David Cahen, Risk Manager, to Andres Bjorkman (cc: BOD), dated 09/10/18, regarding his claim relating to the Permanente Creek Flood Project (C-18-0181).

OUTGOING BOARD CORRESPONDENCE

Memo from Rachael Gibson, DAO/Government Relations, to Rick Callender, CEA, dated 09/05/18, regarding letters from Chair Santos to Senators Feinstein and Harris, and Representatives Lofgren and Khanna, on the Shoreline funding in 2018 disaster supplemental bill.

Reply email from Chair Santos to Anita Siegel, dated 09/10/18, regarding a release form she received relating to her claim against the District (C-18-0169).

Reply email from Chair Santos to A.R. Shaikh, Golden Express, dated 09/12/18, regarding their contract with the District (C-18-0161).

Reply email from Director Hsueh to Kevin Lu, dated 09/13/18, regarding Regnart Creek Trail (C-18-0163).

Reply email from Director Hsueh to Gloria Ezerski, dated 09/13/18, regarding Regnart Creek Trail (C-18-0164/0166).

Reply email from Director Hsueh to Kathy Chole, dated 09/13/18, regarding Regnart Creek Trail (C-18-0170).

Reply email from Director Hsueh to Candace Erickson, dated 09/13/18, regarding Regnart Creek Trail (C-18-0171).

Reply email from Director Hsueh to Gary Wong, dated 09/13/18, regarding Regnart Creek Trail (C-18-0168).

Reply email from Director Kremen to Steven Pagan, dated 09/13/18, regarding a completed project along Queenswood Way between Camden Ave. and Portwood Dr. (C-18-0167).

Board correspondence has been removed from the online posting of the Non-Agenda to protect personal contact information. Lengthy reports/attachments may also be removed due to file size limitations. Copies of board correspondence and/or reports/attachments are available by submitting a public records request to publicrecords@valleywater.org.
To:   Board of Directors
From:  Norma J. Camacho, CEO

Chief Executive Officer Bulletin
Week of September 7 - September 13, 2018

Board Executive Limitation Policy EL-7:
The Board Appointed Officers shall inform and support the Board in its work. Further, a BAO shall 1) inform the Board of relevant trends, anticipated adverse media coverage, or material external and internal changes, particularly changes in the assumptions upon which any Board policy has previously been established and 2) report in a timely manner an actual or anticipated noncompliance with any policy of the Board.

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<td>Update on California WaterFix, Delta Conveyance Design and Construction Authority Request for Proposals.</td>
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<td>Public Awareness of the Board Work Plan FY 2018-19</td>
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<td>State Water Project Water Supply Contract Extension</td>
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Update on California WaterFix, Delta Conveyance Design and Construction Authority Request for Proposals.

The Delta Conveyance Design and Construction Authority (DCA) sent out Request for Proposals (RFP) for Engineering Design, Geotechnical, and Real Estate. The district, along with staff from Metropolitan Water District, Zone 7, were asked to be on review boards for live interview panels. The district was also asked to provide technical evaluations of proposals that were submitted. These evaluations took significant amount of time from the district to evaluate and required travel to Sacramento to participate in the interviews. The district business areas that have participated or will participate on the review board and live interview panels are as follows:

Water Utility Capital was on the consultant selection panel for the Engineering Design Manager. Water Utility Capital evaluated Statements of Qualification from four (4) proposers ranging between 200 and 600 pages in length. They participated in two (2) days of interviews of all four (4) proposers in Sacramento, CA on August 29 and 30, 2018.

The Dam Safety Program & Project Delivery Unit is on the consultant selection panel for Geotechnical Engineering Services. They are currently evaluating the written proposals and participated on the interview panel of the proposers on September 11, 2018, in Sacramento, CA.

The Real Estate Services Unit is on the consultant selection panel for Real Estate. They are currently providing technical review of seven (7) proposals that were submitted and will be serving on the Real Estate review board for live interviews on September 13 and 14, 2018.
Public Awareness of the Board Work Plan Fiscal Year 2018-19

The purpose of this update is to highlight the district’s approach of communicating the Board Work Plan Fiscal Year (FY) 2018-19, by implementing the following distribution efforts in order to promote public awareness of the board’s activities the district will:

- Identify Santa Clara County libraries that have informational areas that accept district collateral/materials and provide them hard copies of the Board Work Plan FY 2018-19 for distribution.

- Provide a Next Door post that will point to a PDF version of the plan, that will be sent to each director’s Next Door areas, pending their final review and approval.

- Share the plan via a Constant Contact e-blast to elected and appointed officials, and key advocacy stakeholder groups.

- Share the plan with City Councils/County during joint meetings with them.

- Share with and highlight the plan for other cities during regular Mayor/City Manager meetings (noting any specific actions within and/or around that city’s area).

- Share with and highlight the plan for elected officials/staff during routine briefings throughout the year.

- Share with and highlight the plan for newly-elected and appointed officials during routine meet-and-greets that are scheduled following appointments and elections.

For further information, please contact Rick Callender at (408) 630-2017.

State Water Project Water Supply Contract Extension

On September 11, 2018, the Legislature’s Joint Legislative Budget Committee (JLBC) held an information hearing regarding the State Water Project (SWP) water supply contract extension. The hearing is mandated by California Water Code Section 147.5, which requires the Department of Water Resources (DWR) to present the details of new or extended long-term water supply contracts to the JLBC at least 60 days prior to executing the contract. The JLBC hearing meets the Water Code requirement and contract extensions may now move forward for the various SWP contractors.

Under the long-term water supply contract terms, DWR provides water service to SWP contractors, including the district, in exchange for payments that recoup all costs associated with providing this water service over the life of the SWP. Most of the capital costs associated with the development and maintenance of the SWP are financed using revenue bonds. At present, DWR does not issue debt beyond 2035, the current term of the long-term water supply contracts. As the 2035 contract term approaches, revenue bond repayment schedules are further compressed, resulting in significant and unnecessary impacts for district ratepayers.

With each passing year, it becomes more challenging to affordably finance SWP capital
expenditures because bonds used to finance these expenditures are limited to terms that only extend to the year 2035. To ensure continued debt service affordability to SWP contractors, it is necessary to extend the contract termination date to 2075, thus enabling DWR to again sell bonds with 30-year terms or longer, commensurate with the economic life of the project being financed. Now that the JLBC hearing has occurred, the SWP contracts with water agencies may be extended, pending other procedural actions such as the final approval of an associated Environmental Impact Report, ensuring the debt service on these bonds remains affordable to SWP contractors and their water customers.

For further information, please contact Rick Callender at (408) 630-2017.
BOARD MEMBER REQUESTS
& INFORMATIONAL ITEMS
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<th>Request</th>
<th>Request Date</th>
<th>Director</th>
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<tr>
<td>I-18-0011</td>
<td>08/31/18</td>
<td>Kremen</td>
<td>Tikekar Yamamoto</td>
<td>Director Kremen, when accessing information regarding the Coastal Cleanup Day on September 15th discovered that he needed to agree to the legal disclaimer before accessing maps for the locations to participate in the cleanup effort. He would like to know why we are asking for people to &quot;agree to the above terms and conditions&quot; before being able to view the location maps. Director Kremen's email is being distributed to Tina Yoke and Stan Yamamoto separately.</td>
<td>09/20/18</td>
<td></td>
<td></td>
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<tr>
<td>I-18-0012</td>
<td>09/05/18</td>
<td>Kremen</td>
<td>Hakes</td>
<td>Director Kremen requests staff to provide a project timeline and schedule for Pacheco Expansion Reservoir Project, including when engineering and project management contracts will be brought to the Board and Water Storage Exploratory Committee for review and approval.</td>
<td>09/25/18</td>
<td></td>
<td></td>
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<tr>
<td>R-18-0013</td>
<td>06/26/18</td>
<td>Keegan</td>
<td>Gordon</td>
<td>Director Keegan requested that staff provide the Board with the status and report on the last major District-wide security assessment and provide a schedule for the next assessment.</td>
<td>08/14/18</td>
<td>10/09/2018</td>
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08/13/18 CEO Bulletin: The Office of Emergency and Security Services and Information Technology units are both working collaboratively to provide a presentation to the Board to discuss security and threat assessments in a closed session tentatively scheduled in October. In the closed session, staff will provide an overview on what measures have been completed related to security equipment, hardware/software, infrastructure along with...
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<tr>
<td>R-18-0015</td>
<td>08/14/18</td>
<td>Kremen</td>
<td>Cahen</td>
<td>The Board requested staff to place an item on a future agenda for discussion of a potential policy allowing staff to approve claims up to a specific dollar amount.</td>
<td>09/04/18</td>
<td></td>
<td>information technology cybersecurity threats. Staff will also provide an overview on professional assessment status and the required action(s) and estimated timelines to address and improve the district's vulnerability to threats.</td>
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Per request of the District Water Storage Exploratory Committee (Committee) at its August 15, 2018 meeting, this memo provides a status update of Sites Reservoir Project (Project) governance and outstanding issues. On July 26, 2016 the Board approved participation in Phase 1 (initial phase) of the Project, which committed the District to support an application for California Proposition 1 funding under the Water Storage Investment Program (WSIP). The District currently holds a 4.8 percent share of anticipated Project yields via a Phase 1 commitment not to exceed $1,440,000. On July 24, 2018, the California Water Commission announced that the Project would receive approximately $816.3 million in WSIP funding, with around $40.8 million in early funding. Project managers are expecting to move forward with additional planning, preliminary engineering and design, and environmental review as defined under Phase 2 of the Project. To maintain the Phase 1 Project share going forward the District will need to commit approximately $26.5 million for Phase 2. Once additional critical information becomes available, Project staff will update the Board’s Committee and provide a timeline for staff recommendation on whether and how to participate in Phase 2.

Project Governance

The Sites Project Authority (Sites JPA), comprised of Sacramento Valley water agency and landowner interests, was formed on August 26, 2010 to pursue the development and construction of the Project. The Sites JPA delegates authority to the Project Reservoir Committee (Reservoir Committee) which has effectively become responsible for design and analysis of Sites Reservoir facilities and financing. The District, as well as other State Water Contractor Participants (SWC Participants) and some Sites JPA participants, form the Reservoir Committee which holds regular monthly meetings. This governance structure with a list of current participants is shown in Attachment 1. Changes to this structure are not being proposed under Phase 2, as the District will only be asked to consider continued participation in the Reservoir Committee, but staff anticipate that if the Project continues into future phases the governance structure will be evaluated and potentially adjusted.

Outstanding Issues

Key issues which must be resolved in order for the Project to be successful, including the following:

1. Project integration with the SWP and CVP. Several SWC Participants are working with the California Department of Water Resources (DWR) to discuss options for financial and (general) operational integration of the Project into the SWP. Water rights used to divert from Sacramento River and possible impacts or coordination with SWP and CVP must also be addressed.

2. Possible impacts of unsettled environmental regulations and permitting restrictions. Ongoing discussions surrounding potential environmental regulations or permitting restrictions must be reviewed for substantial impacts to the Project.

3. Project participation level: A current breakdown of Project participation is shown in Attachment 2. There is uncertainty surrounding the intentions of other participants to retain, adjust, or dissolve Project shares moving forward into Phase 2.
Attachment 1: Sites JPA and Reservoir Committee structure
Attachment 2: Project participation breakdown
ATTACHMENT 1
SITES JPA AND RESERVOIR COMMITTEE STRUCTURE

Below is a general diagram showing the roles of the Sites Project Authority (Sites JPA) and the Project Reservoir Committee (Reservoir Committee), adapted from Project documentation.

Sites JPA roles and responsibilities:
- Applicant for Proposition 1 Water Storage Investment Program (WSIP) application.
- CEQA lead agency, and work with USBR as NEPA lead agency.
- Hold title to any water rights issued by State Water Resources Control Board (SWRCB).
- Obtain permits and acquire property, easements and rights-of-way.
- Be owner of record for dam safety requirements and regulatory obligations.
- Work with DWR and USBR for Project operations and coordination with SWP and CVP.
- May delegate (or rescind) responsibilities of Project Reservoir Committee.

Reservoir Committee roles and responsibilities:
- Comply with terms and conditions established by Sites JPA in Reservoir Project Agreement.
- Maintain sufficient reserves to ensure positive cash flow.
- For Phase 1, manage the studies and related materials that will be required in the WSIP application.
- For Phase 2, studies and materials required for additional planning, preliminary engineering and design, and environmental review.

Decision Making:
Each decision-making body has discretion to make decisions within limits of their authorities. Limits are defined as thresholds that may result in a Material Change from baseline conditions approved by Sites JPA.
- Sites JPA: Chartering documents and bylaws.
- Reservoir Committee: Bylaws and compliance with terms and conditions delegated by Sites JPA in the Reservoir Project Agreement.

Material Change provisions:
- Budgets: operating and target, including line-item transfers or adjustments.
- Eligibility to receive funds from WSIP.
- Impact to water rights and/or annualized yield.
- Changes in Participants' levels of funding commitment that may shift additional costs to other participants.
- Dam safety permits and compliance.
- Changes in scope, schedule, or cost – both up-front and O&M.
- Change in pumping power (or renewable generation).
- Comply or require extreme measures to comply with OSHA requirements.
- Shifting or significant risk.
- Changes in environmental mitigation or compliance obligations.
- Changes in facility performance or reliability.
ATTACHMENT 2

PROJECT PARTICIPATION BREAKDOWN

Below are charts showing the current breakdown of Project participants as of August 20, 2018. Groupings are broken down between ‘North of Delta’ (Sacramento Valley) and ‘South of Delta’ participants, which includes SWC Participants. The District currently holds a 4.8 percent share of total Project yields, separate from the state and federal ‘Public Benefits’ portions from WSIP and Water Infrastructure for Improvements to the Nation (WINN) Act funding, respectively. This follows the understood ‘beneficiary pays’ model where percentage funding share is proportional to Project yields and benefits (i.e., District 4.8 percent entitles them to equivalent share of yields, while WSIP and WINN pay for ‘separate’ share used for environmental and recreational purposes).
TO: Board of Directors

FROM: Nina Hawk, COO, Water Utility Enterprise

SUBJECT: Rinconada Water Treatment Plant Reliability Improvement Project (Project No. 93294057) Project Construction Status Update

DATE: September 10, 2018

The purpose of this memorandum is to provide the Board an update on the status of the Rinconada Water Treatment Plant Reliability Improvement Project (Project) construction, and recent communications between the District and the contractor, Balfour Beatty Infrastructure, Inc. (BBII) regarding their performance and Project completion.

**Background**

On May 26, 2015, the Board awarded a $179,850,000 construction contract (Contract) to BBII which provided for the Project to be built in five phases during a 5-year period. The existing Rinconada Water Treatment Plant (RWTP) is to remain operational during the entire construction period, with the newly built facilities and upgrades to be integrated with plant operations at the end of each phase.

Phase 2 of the work included the construction of several new facilities for the upgraded treatment system at the RWTP—the flocculation/sedimentation, ozone generation, and washwater recovery facilities. It also included the installation of an electrical control building and appurtenant wiring and control systems, significant underground piping, and installation of chemical feed systems.

BBII’s current estimated completion date of Phase 2 work is about 2 years late per the original construction schedule. On June 6, 2018, the District sent a letter to BBII (Attachment 1) detailing its concerns regarding several construction issues, including BBII’s failure to follow Contract specifications and correct defective work in a timely manner; failure to diligently progress construction work; and lack of facts to support its non-performance in building the Project. The District noted that these issues were a potential basis for finding BBII in default with regards to performing the construction Contract, and requested a meeting with the company’s executive management to discuss these critical issues.

BBII responded to the District with a letter dated June 20, 2018 (Attachment 2), and a meeting was held by the two parties on June 26, 2018. In its letter and at the meeting, BBII generally denied responsibility, made excuses, suggested shared fault, but provided no supporting facts for its position.

On August 29, 2018, the District sent a letter of findings to BBII (Attachment 3) concluding that BBII’s defective concrete work and failure to remedy the defects are a material breach of the Contract; that BBII failed to diligently progress the Contract work, and when unexcused, is considered a material breach of the Contract; that the time impact analyses (TIAs) submitted by BBII have no merit and must be corrected; that the delay to complete Phase 2 is a basis to assess liquidated damages; and that it is BBII’s responsibility to perform quality construction so that the RWTP will be fully certified by all regulatory agencies.
Staff plans to provide a Project status update to the Board at the September 25, 2018 Board Meeting. For more information, please contact Katherine Oven at (408) 630-3126.

Nina Hawk  
Chief Operating Officer  
Water Utility Enterprise

Attachment 1. June 6, 2018 Letter from District to BBII
Attachment 2. June 20, 2018 Letter from BBII to District
Attachment 3. August 29, 2018 Letter from District to BBII

Cc: K. Oven, M. Munson, P. Carter