



EAST BAY DISCHARGERS AUTHORITY
2651 Grant Avenue
San Lorenzo, CA 94580-1841
(510) 278-5910
FAX (510) 278-6547

A Joint Powers Public Agency

COMMISSION MEETING AGENDA

Thursday, June 15, 2023

12:00 P.M.

EAST BAY DISCHARGERS AUTHORITY
Oro Loma Sanitary District
2655 Grant Avenue, San Lorenzo, CA 94580

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Public Forum

CONSENT CALENDAR

- MOTION
5. Commission Meeting Minutes of May 18, 2023
 6. List of Disbursements for May 2023 – See Item No. FM4
 7. Treasurer’s Report for May 2023 – See Item No. FM5

REGULAR CALENDAR

- INFORMATION
8. **General Manager’s Report**
(The General Manager will report on EBDA issues.)
- INFORMATION
9. **Report from the Managers Advisory Committee**
(The General Manager will report on Managers Advisory Committee activities.)
- INFORMATION
10. **Report from the Regulatory Affairs Committee**
(The General Manager will report on the meeting.)
- RESOLUTION
11. **Resolution Adopting Findings of Certification of the Environmental Impact Report for the Cargill Mixed Sea Salts Processing and Brine Discharge Project – See Item No. RA7**
(The Commission will consider the resolution.)
- INFORMATION
12. **Report from the Financial Management Committee**
(The General Manager will report on the meeting.)
- MOTION
13. **Motion Setting the City of Hayward Recycled Water Fee for Fiscal Year 2023/2024 at \$9000 per Quarter – See Item No. FM6**
(The Commission will consider the motion.)

- MOTION 14. Motion Authorizing the General Manager to Execute Amendment No. 11 to the Fee Contract by and Between East Bay Dischargers Authority and Meyers Nave, a Professional Corporation – See Item No. FM7**
(The Commission will consider the motion.)
- RESOLUTION 15. Resolution Adopting the East Bay Dischargers Authority’s Fiscal Year 2023/2024 Budget – See Item No. FM8**
(The Commission will consider the resolution.)
- INFORMATION 16. Report from the Operations & Maintenance Committee**
(The Operations & Maintenance and General Managers will report on the meeting.)
- MOTION 17. Motion to Approve the Renewal and Replacement Fund Project List for Fiscal Year 2023/2024 – See Item No. OM6**
(The Commission will consider the motion.)
- MOTION 18. Motion Authorizing the General Manager to Issue a Purchase Order to Univar Solutions USA, Inc. for Sodium Bisulfite 24% Solution for Fiscal Year 2023/2024 in the Amount of \$350,000 – See Item No. OM7**
(The Commission will consider the motion.)
- MOTION 19. Motion Authorizing the General Manager to Execute an Agreement with Affordable Painting Services Inc. for Painting and Flooring Projects at the EBDA Administration Building and MDF in the Amount of \$98,808 – See Item No. OM8**
(The Commission will consider the motion.)
- MOTION 20. Motion to Accept Fiscal Year 2023/2024 Committee Appointments and Schedule**
(The Commission will consider the motion.)
- RESOLUTION 21. Resolution Adopting Updated Rules of the Commission**
(The Commission will consider the resolution.)
- RESOLUTION 22. Resolution Approving Updates to the Personnel Policy**
(The Commission will consider the resolution.)
- INFORMATION 23. Items from the Commission and Staff**
(The Commission and staff may address items of general interest.)
- CLOSED SESSION 24. Closed Session**
(The Commission may meet in closed session pursuant to Government Code §54957(b)(1) to consider the General Manager’s performance evaluation.)
- OPEN SESSION 25. Reconvene Open Session**
(The Commission Chair will report any action taken in Closed Session.)
- 26. Adjournment**

Any member of the public may address the Commission at the commencement of the meeting on any matter within the jurisdiction of the Commission. This should not relate to any item on the agenda. It is the policy of the Authority that each person addressing the Commission limit their presentation to three minutes.

Agenda Explanation
East Bay Dischargers Authority
Commission Agenda
June 15, 2023

Non-English speakers using a translator will have a time limit of six minutes. Any member of the public desiring to provide comments to the Commission on an agenda item should do so at the time the item is considered. It is the policy of the Authority that oral comments be limited to three minutes per individual or ten minutes for an organization. Speaker's cards will be available in the Boardroom and are to be completed prior to speaking.

In compliance with the Americans with Disabilities Act of 1990, if you need special assistance to participate in an Authority meeting, or you need a copy of the agenda, or the agenda packet, in an appropriate alternative format, please contact the Administration Manager at the EBDA office at (510) 278-5910 or juanita@ebda.org. Notification of at least 48 hours prior to the meeting or time when services are needed will assist the Authority staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.

In compliance with SB 343, related writings of open session items are available for public inspection at East Bay Dischargers Authority, 2651 Grant Avenue, San Lorenzo, CA 94580. For your convenience, agenda items are posted on the East Bay Dischargers Authority website located at <http://www.ebda.org>.

**The next Commission meeting will be held
Thursday, July 20, 2023 at 4:00 p.m.**

GLOSSARY OF ACRONYMS

ACWA	Association of California Water Agencies	DSRSD	Dublin San Ramon Services District
AQPI	Advanced Quantitative Precipitation Information	DTSC	Department of Toxic Substances Control
AMP	Asset Management Plan	EBDA	East Bay Dischargers Authority
ANPRM	Advanced Notice of Proposed Rulemaking	EBRPD	East Bay Regional Park District
BAAQMD	Bay Area Air Quality Management District	EIS/EIR	Environmental Impact Statement/Report
BACC	Bay Area Chemical Consortium	EPA	United States Environmental Protection Agency
BACWA	Bay Area Clean Water Agencies	FOG	Fats, Oils and Grease
BPA	Basin Plan Amendment	GASB	Government Accounting Standards Board
BCDC	Bay Conservation and Development Commission	HEPS	Hayward Effluent Pump Station
BOD	Biochemical Oxygen Demand	JPA	Joint Powers Agreement
CARB	California Air Resources Board	LAVWMA	Livermore-Amador Valley Water Management Agency
CASA	California Association of Sanitation Agencies	LOCC	League of California Cities
CBOD	Carbonaceous Biochemical Oxygen Demand	MAC	Managers Advisory Committee
CDFA	CA Department of Food & Agriculture	MCC	Motor Control Center
CEC	Compound of Emerging Concern	MCL	Maximum Contaminant Level
CEQA	California Environmental Quality Act	MDF	Marina Dechlorination Facility
CFR	Code of Federal Regulations	MG	Million Gallons
CMMS	Computerized Maintenance Management System	MGD	Million Gallons per Day
COH	City of Hayward	MMP	Mandatory Minimum Penalty
CPUC	California Public Utilities Commission	MOU	Memorandum of Understanding
CSL	City of San Leandro	MSS	Mixed Sea Salt
CTR	California Toxics Rule	N	Nitrogen
CVCWA	Central Valley Clean Water Association	NACWA	National Association of Clean Water Agencies
CVSAN	Castro Valley Sanitary District	NBS	Nature-Based Solutions
CWA	Clean Water Act	NGO	Non-Governmental Organization
CWEA	CA Water Environment Association	NOX	Nitrogen Oxides
DO	Dissolved Oxygen	NPDES	National Pollutant Discharge Elimination System
DPR	Department of Pesticide Regulation	NPS	Non-Point Source

GLOSSARY OF ACRONYMS

O&M	Operations & Maintenance	SSMP	Sewer System Management Plan
OLEPS	Oro Loma Effluent Pump Station	SSO	Sanitary Sewer Overflow
OLSD	Oro Loma Sanitary District	SWRCB	State Water Resources Control Board
OMB	Office of Management and Budget	TDS	Total Dissolved Solids
P	Phosphorous	TIN	Total Inorganic Nitrogen
PAHs	Polynuclear Aromatic Hydrocarbons	TMDL	Total Maximum Daily Load
PCBs	Polychlorinated Biphenyls	TP	Total Phosphorus
PLC	Programmable Logic Controller	TRC	Total Residual Chlorine
PFAS	Per and Polyfluoroalkyl Substances	TSO	Time Schedule Order
POTW	Publicly Owned Treatment Works	TSS	Total Suspended Solids
QA/QC	Quality Assurance / Quality Control	UEPS	Union Effluent Pump Station
Region IX	Western Region of EPA (CA, AZ, NV & HI)	USD	Union Sanitary District
ReNUWit	Re-Inventing the Nation's Urban Water Infrastructure Engineering Research Center	UV	Ultraviolet Treatment
RFP	Request For Proposals	VFD	Variable Frequency Drive
RFQ	Request For Qualifications	VOCs	Volatile Organic Compounds
RMP	Regional Monitoring Program	WAS	Waste Activated Sludge
RO	Reverse Osmosis	WDR	Waste Discharge Requirements
RRF	Renewal and Replacement Fund	WEF	Water Environment Federation
RWB	Regional Water Board	WET	Whole Effluent Toxicity or Waste Extraction Test
RWQCB	Regional Water Quality Control Board	WIN	Water Infrastructure Network
SBS	Sodium Bisulfite	WLA	Waste Load Allocation (point sources)
SCADA	Supervisory Control and Data Acquisition	WPCF	Water Pollution Control Facility
SCAP	Southern California Alliance of POTWs	WQBEL	Water Quality Based Effluent Limitation
SEP	Supplementary Environmental Project	WQS	Water Quality Standards
SFEI	San Francisco Estuary Institute	WRDA	Water Resource Development Act
SFEP	San Francisco Estuary Partnership	WRF	Water Research Foundation
SLEPS	San Leandro Effluent Pump Station	WWTP	Wastewater Treatment Plant
SRF	State Revolving Fund	WWWIFA	Water and Wastewater Infrastructure Financing Agency

CONSENT CALENDAR

Consent calendar items are typically routine in nature and are considered for approval by the Commission with a single action. The Commission may remove items from the Consent Calendar for discussion. Items on the Consent Calendar are deemed to have been read by title. Members of the public who wish to comment on Consent Calendar items may do so during Public Forum.

Item No. 5 Commission Meeting Minutes of May 18, 2023

Item No. 6 List of Disbursements for May 2023 – See Item No. FM4

Item No. 7 Treasurer’s Report for May 2023 – See Item No. FM5

Recommendation

Approve Consent Calendar

ITEM NO. 5 COMMISSION MEETING MINUTES OF MAY 18, 2023

1. Call to Order

Chair Andrews called the meeting to order at 4:00 P.M. on Thursday, May 18, 2023 at the Oro Loma Sanitary District, 2655 Grant Avenue, San Lorenzo, CA 94580.

2. Pledge of Allegiance

3. Roll Call

Present:	Ralph Johnson	Castro Valley Sanitary District
	Anjali Lathi	Union Sanitary District
	Fred Simon	Oro Loma Sanitary District
	Bryan Azevedo	City of San Leandro
	Angela Andrews	City of Hayward

Absent: None

Attendees:	Jacqueline Zipkin	East Bay Dischargers Authority
	Howard Cin	East Bay Dischargers Authority
	Juanita Villasenor	East Bay Dischargers Authority
	Bert Manzo	East Bay Dischargers Authority
	Erica Gonzalez	Legal Counsel
	Alex Ameri	City of Hayward
	David Donovan	City of Hayward
	Hayes Morehouse	City of San Leandro
	Jimmy Dang	Oro Loma Sanitary District
	Paul Eldredge	Union Sanitary District
	Roland Williams	Castro Valley Sanitary District

4. Public Forum

No members of the public were present.

C O N S E N T C A L E N D A R

5. Commission Meeting Minutes of April 20, 2023

6. List of Disbursements for April 2023

7. Treasurer's Report for April 2023

8. Third Quarter Expense Summary, Fiscal Year 2022/2023

Vice-Chair Lathi requested removal of Item No. 7 from the Consent Calendar. Commissioner Johnson moved to approve Items No. 5, 6, and 8. The motion was seconded by Commissioner Lathi and carried unanimously 5-0, by roll call vote.

Ayes: Commissioners Johnson, Lathi, Simon, Azevedo, Andrews
Noes: None
Absent: None
Abstain: None

7. Treasurer’s Report for April 2023

The Commission discussed the Authority’s Investment Policy and Investment Strategy. The Commission asked staff to review the Investment Strategy and consider additional investment options. After this discussion, Commissioner Lathi moved to approve Item No. 7. The motion was seconded by Commissioner Simon and carried unanimously 5-0, by roll call vote.

Ayes: Commissioners Johnson, Lathi, Simon, Azevedo, Andrews
Noes: None
Absent: None
Abstain: None

REGULAR CALENDAR

9. General Manager’s Report

The General Manager (GM) and Commissioner Johnson discussed efforts by the Alameda Local Agency Formation Commission (LAFCO) on recycled water planning and collaboration, including a presentation at the May 11 LAFCO Meeting. LAFCO’s work complements the Bay Area Clean Water Agencies (BACWA)’s water reuse efforts, including a water collaboration workshop planned for Fall 2023. The GM raised the question of changing the meeting time of the monthly Commission Meeting. The Commission agreed to meet at noon on June 15. They will further discuss a suitable time for future meetings in June.

10. Management Advisory Committee

The GM reported the MAC discussed the Cargill draft contract and allocation of Cargill revenues to Member Agencies. The GM anticipates bringing the Cargill Project Environmental Impact Report to the Commission for approval in June.

11. Report from the Financial Management Committee

The GM reported on the May 15 meeting of the Financial Management Committee. The Committee reviewed the List of Disbursements, Treasurer’s Report, and 3rd Quarter Expense report and recommended approval. The Committee then discussed the status of the Draft 2023/2024 Budget, which will be brought to the Commission for consideration in June.

12. Report from the Operations and Maintenance Committee

The Operations and Maintenance (O&M) Manager and GM reported on the May 15 meeting of the Operations and Maintenance Committee. The O&M Manager updated the Commission on EBDA’s facilities and the status of current projects and compliance data. The O&M Manager also discussed the draft List of FY 2023/2024 Renewal and Replacement Fund Projects. The Committee reviewed the list and supports bringing it to the Commission for consideration next month.

13. Report from the Personnel Committee

The GM reported on the May 17 meeting of the Personnel Committee. The Committee

discussed the Committee preference form for the next fiscal year and reviewed updates to the Rules of the Commission pertaining primarily to remote participation in meetings. The Committee did not recommend any changes, so the Rules will be brought to the Commission for consideration in June. Next, the Committee reviewed and supports the proposed revisions to the Personnel Policy, which will also be brought to the Commission for approval. The Committee then reviewed the resolutions adopting the FY 2023/2024 Compensation Plan and the updated Commissioner Compensation Policy and recommended adoption. Finally, the Committee recommended approval of the motion to appoint the FY 2023/2024 Commission Chairperson from Union Sanitary District and Vice Chairperson from Oro Loma Sanitary District.

14. Resolution Adopting the Authority’s Fiscal Year 2023/2024 Compensation Plan

Commissioner Lathi moved to approve the item. The motion was seconded by Commissioner Johnson and carried unanimously 5-0, by roll call vote.

Ayes: Commissioners Johnson, Lathi, Simon, Azevedo, Andrews
Noes: None
Absent: None
Abstain: None

15. Resolution Adopting the Updated Commissioner Compensation Policy

Commissioner Azevedo moved to approve the item. The motion was seconded by Commissioner Simon and carried unanimously 5-0, by roll call vote.

Ayes: Commissioners Johnson, Lathi, Simon, Azevedo, Andrews
Noes: None
Absent: None
Abstain: None

16. Motion to Approve Fiscal Year 2023/2024 Commission Chairperson and Vice Chairperson

Chair Andrews moved to approve the item. The motion was seconded by Commissioner Lathi and carried unanimously 5-0, by roll call vote.

Ayes: Commissioners Johnson, Lathi, Simon, Azevedo, Andrews
Noes: None
Absent: None
Abstain: None

17. Items from Commission and Staff

The Commission and staff congratulated staff member Bert “Bubba” Manzo on the birth of his daughter, Emma Manzo.

18. Adjournment

Chair Andrews adjourned the meeting at 4:49 p.m.

ITEM NO. 8 GENERAL MANAGER'S REPORT

The General Manager will discuss items of interest to EBDA.

ITEM NO. 9 REPORT FROM THE MANAGERS ADVISORY COMMITTEE

**MANAGERS ADVISORY COMMITTEE
AGENDA**

**Monday, June 5, 2023
2:00 P.M.**

Via Zoom

- 1. Cargill Brine Project**
 - a. EIR Certification**
 - b. Agreement Negotiation with Cargill**
 - c. Revenue Allocation**
- 2. Biosolids Next Steps**
- 3. O&M Agreements**
- 4. Strategic Planning**
- 5. EBDA Commission Agenda**
- 6. Managers Information Sharing**



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ITEM NO. 10

REGULATORY AFFAIRS COMMITTEE AGENDA

Wednesday, June 14, 2023

2:00 P.M.

**East Bay Dischargers Authority
2651 Grant Avenue, San Lorenzo, CA 94580**

Committee Members: Lathi (Chair); Johnson

RA1. Call to Order

RA2. Roll Call

RA3. Public Forum

RA4. EBDA NPDES Compliance – See Item No. OM4
(The Committee will review NPDES Permit compliance data.)

RA5. BACWA Key Regulatory Issues Matrix
(The Committee will review BACWA's issue summary.)

RA6. Regulatory Reporting Checklist
(The Committee will review a checklist of completed regulatory reporting items.)

RA7. Resolution Adopting Findings of Certification of the Environmental Impact Report for the Cargill Mixed Sea Salts Processing and Brine Discharge Project
(The Committee will consider the resolution.)

RA8. Adjournment

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Agenda Explanation
East Bay Dischargers Authority
Regulatory Affairs Committee
June 14, 2023

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**Next Scheduled Regulatory Affairs Committee meeting:
Monday, September 18, 2023 at 12:00 p.m.**

ITEM NO. RA5 BACWA KEY REGULATORY ISSUES MATRIX

Recommendation

For the Committee's information only; no action is required.

Background

Periodically, BACWA's Regulatory Program Manager updates a Key Regulatory Issues Summary that contains succinct information on regulatory issues of interest to Bay Area wastewater agencies. The Summary matrix contains background, challenges and recent updates, next steps for BACWA, and links to key resources and documents.

Discussion

The most recent issue summary is attached. This latest version highlights updates made in purple. Previous versions are available at <https://bacwa.org/regulatory-issues-summaries/>.



KEY REGULATORY ISSUE SUMMARY

Updated May 2, 2023

Action items for member agencies are in **bold**

Contents	Page		
Nutrients in San Francisco Bay	1	Sanitary Sewer Systems General Order	10
SF Bay Nutrient Watershed Permit	2	Laboratory Accreditation	11
Chlorine Residual Compliance	3	Phase-Out of Biosolids as Alternative Daily Cover	12
Pesticides	4	Climate Change Mitigation	13
Mercury and PCBs	5	Climate Change Adaptation	14
State Water Board Toxicity Provisions	6	Toxic Air Contaminants	15
Compounds of Emerging Concern (CECs)	7	Recycled Water	16
Microplastics	8	Acronyms	17
Per- and Polyfluoroalkyl Substances (PFAS)	9		

New updates in this version are shown in Purple highlighting

Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
NUTRIENTS IN SAN FRANCISCO BAY			
<ul style="list-style-type: none"> San Francisco Bay receives some of the highest nitrogen loads among estuaries worldwide, yet has not historically experienced the water quality problems typical of other nutrient-enriched estuaries. It is not known whether this level of nitrogen loading, which will continue to increase in proportion to human population increase, is sustainable over the long term. Because of the complexity of the science behind nutrient impacts in SF Bay, stakeholders in the region are participating in the Nutrient Management Strategy (NMS) steering committee to prioritize scientific studies and ensure that all science to be used for policy decisions is conducted under one umbrella. 	<ul style="list-style-type: none"> For FY23, BACWA is contributing \$1.8M to fund scientific research needed to make management decisions for the 3rd Watershed Permit. This funding is required by the 2nd Watershed Permit. The focus of current scientific efforts is improving model representation of biogeochemistry, light attenuation, dissolved oxygen, and Harmful Algal Bloom dynamics. Field and lab observations are supporting these improvements. The science team is developing an Assessment Framework for Open Bay habitats and Lower South Bay sloughs. In summer 2022, a harmful algae bloom in San Francisco Bay brought increased public attention to this topic. The NMS science team is assisting with data interpretation, and has revised the science plan accordingly. 	<ul style="list-style-type: none"> Continue to participate in NMS steering committee, Nutrient Technical Workgroup, and planning subcommittee meetings, and provide funding for scientific studies. Working with NMS stakeholders, identify preliminary scenarios for nutrient modeling of the Bay. Continue to assist with preparation of a brief “State of the Science” document summarizing the scientific accomplishments of the NMS team for public use. Continue to engage with Nutrient Technical Team and BACWA’s Nutrient Management Strategy technical consultant, Mike Connor, to provide review of recent work products and charge questions for the science team. 	<p>BACWA Nutrients Page: https://bacwa.org/nutrients/</p> <p>NMS FY23 Program Plan (Revised Dec. 2022) https://docs.google.com/document/d/11IWlrDMpUw_OBQ6Lj-qj67sOLwl490lk_RWW431e9nuU</p> <p>NMS Work Products https://sfbaynutrients.sfei.org/books/reports-and-work-products</p> <p>SFEI Presentation on Science of 2022 Bloom https://docs.google.com/presentation/d/1R468fFPMfq1d1xY6cHFU-uta9aMCynx5/</p> <p>BACWA Nutrient FAQ https://bacwa.org/wp-content/uploads/2023/01/BACWA-Nutrient-Fact-Sheet.pdf</p>

SF BAY NUTRIENT WATERSHED PERMIT

<ul style="list-style-type: none"> • The 1st Nutrient Watershed Permit was adopted in 2014, and required a regional study on Nutrient Treatment by Optimization and Upgrades, completed in 2018. • The 2nd Nutrient Watershed Permit was adopted in 2019. It includes: <ul style="list-style-type: none"> ○ Continued individual POTW nutrient monitoring and reporting; ○ Continued group annual reporting; ○ Significantly increased funding for science; ○ Regional assessment of the feasibility and cost for reducing nutrients through nature-based systems and recycled water; ○ Establishing current performance for Total Inorganic Nitrogen (TIN), and “load targets” for nutrient loads based on 2014 to 2017 load data plus a 15% buffer for growth and variability ○ Recognition of “early actors” who are planning projects that will substantially decrease TIN loads. • Through the nutrient surcharge levied on permittees, BACWA funds compliance with the following provisions on behalf of its members: <ul style="list-style-type: none"> ○ Group Annual Reporting ○ Regional Studies on Nature-Based Systems and Recycled Water ○ Support of scientific studies through the Regional Monitoring Program (RMP) with \$11M over the five-year permit term. 	<ul style="list-style-type: none"> • Studies related to Recycled Water and Nature-Based Systems are underway, and will be completed by the due date of July 1, 2023. • Each year by February 1, BACWA submits a Group Annual Report on behalf of its members. The report summarizes trends in nutrient concentrations and loading for each agency, and for all the agencies as a whole. The annual reporting period in the 2nd Watershed Permit is based on a water year (Oct. 1 – Sept. 30). In the dry season of 2022, TIN loads were the second lowest since monitoring began in July 2012 (only 2021 was lower). • In response to the summer 2022 algae bloom, Regional Water Board staff have signaled that the 3rd Watershed Permit is likely to include nutrient load reduction requirements (see presentation at right). The magnitude, timing, and format of these reductions have yet to be determined. • BACWA staff met with the 18 largest wastewater treatment plants (representing 95% of the regional TIN load from POTWs) to identify projects that could reduce nutrient loads during the term of the 3rd Watershed Permit and beyond. 	<ul style="list-style-type: none"> • BACWA continues to convene a Nutrient Strategy Team to develop BACWA’s key tenets for the 3rd Watershed Permit, and members are encouraged to participate. The Nutrient Strategy Team is actively engaging with the Regional Water Board to expand upon the key tenets and discuss implementation details for the 3rd Watershed Permit, such as how and when load reductions would be required. • Review draft reports by consultant teams from HDR and SFEI for the Nutrient Removal by Recycled Water Evaluation and the Nature-Based Solutions study. Individual agency reports have been drafted, and draft summary reports will be available by May 2023. Agency sign-off on the final reports will be required. • Agencies will continue to report nutrient monitoring data both through CIWQS and directly to BACWA. 	<p>2nd Nutrient Watershed Permit: https://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2019/R2-2019-0017.pdf</p> <p>Special Studies of Recycled Water and Nature-Based Solutions: https://bacwa.org/document-category/2nd-watershed-permit-studies/</p> <p>Optimization/Upgrade Study Information: https://bacwa.org/document-category/optimization-and-upgrade-studies/</p> <p>BACWA Group Nutrient Annual Reports: http://bacwa.org/document-category/nutrient-annual-reports/</p> <p>Presentations to SF Board of Supervisors Land Use and Transportation Committee (October 2022) https://sfgov.legistar.com/View.ashx?M=F&ID=11339273&GUID=863B565D-6662-419D-B519-87D5FBB4BAE3</p> <p>BACWA Presentation to East Bay Leadership Council https://bacwa.org/document/sf-bay-nutrient-management-presentation-to-eblc-2023-04-18/</p>
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CHLORINE RESIDUAL COMPLIANCE

<ul style="list-style-type: none"> • The Basin Plan chlorine residual effluent limit is 0.0 mg/L. Chlorine residual is the most frequent parameter for violations for Region 2 POTWs. Because there are 24 hourly reporting events each day, the “opportunities” for violations are enormous. However, the actual violation rates are infinitesimal (~0.001%). • Agencies are overdosing their effluent with the dechlorination agent, sodium bisulfite, to prevent chlorine violations, a practice which costs more than \$1 million regionally each year. • The Regional Water Board worked with BACWA to develop a Basin Plan Amendment modifying the effluent limit for chlorine residual. 	<ul style="list-style-type: none"> • The Basin Plan Amendment includes: <ul style="list-style-type: none"> ○ A 0.013 mg/L Water Quality Objective in marine and estuarine waters, which will be applied as a WQBEL in permits and calculated incorporating dilution. The WQBEL will be applied as a 1-hour average. ○ A Minimum Level (ML), or Reporting Limit of 0.05 mg/L for online continuous monitoring system. • The Basin Plan Amendment was adopted by the Regional Water Board in 2020, and approved by the State Water Board and Office of Administrative Law in 2021. Unfortunately, the EPA does <u>not</u> plan to approve the Basin Plan Amendment due to concerns expressed by federal natural resource agencies about potential chlorine toxicity to fish. • Sections of the Basin Plan Amendment related to removal of Oil & Grease effluent limits are in effect. This change is being implemented in reissued NPDES permits. The blanket permit amendment for Oil & Grease that was meant to implement the change region-wide will not go into effect. 	<ul style="list-style-type: none"> • Engage with Regional Water Board staff to identify an alternative regulatory strategy for modifying chlorine effluent limits. Regional Water Board staff are currently exploring regulatory options. 	<p>Background and Status information about Basin Plan Amendment: https://www.waterboards.ca.gov/sanfranciscobay/water_issue_s/programs/planningtmdls/amendments/chlorinebpa.html</p> <p>Final Basin Plan Amendment adopted by Regional Water Board: https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/planningtmdls/amendments/chlorinebpa/2_Chlorine_Resolution_R2-2020-0031.pdf</p>
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Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
PESTICIDES			
<ul style="list-style-type: none"> • Pesticides are regulated via FIFRA, and not the Clean Water Act. POTWs do not have the authority to regulate pesticide use in their service area, but may be responsible for pesticide impacts to their treatment processes or to surface water. • Through BAPPG, BACWA aims to proactively support a scientific and regulatory advocacy program so that pesticides will not impact POTWs' primary functions of collecting and treating wastewater, recycling water, and managing biosolids, or impact receiving waters via the "down the drain" route. 	<ul style="list-style-type: none"> • EPA reviews all registered pesticides at least once every 15 years. Each review allows opportunity for public comment. • BACWA continues to fund consultant support to write comment letters advocating for the consideration of POTW and surface water issues by EPA and the California Department of Pesticide Registration (CalDPR). Funding for pesticide regulatory outreach in FY23 is \$60K. The pesticides regulatory team also supports the California Stormwater Quality Association (CASQA) on outreach work related to urban pesticide use. • The Regional Water Board leverages BACWA's efforts to provide their own comment letters. • With chronic toxicity limits likely in the near term, POTWs will be in compliance jeopardy if pesticides contribute to toxicity. • Baywise.org has launched webpages on flea and tick control messaging to pet owners and veterinarians. • In January 2023, CalDPR released a Sustainable Pest Management Roadmap. The Roadmap identifies actions that would enhance understanding of pesticide use in urban areas and enhance outreach to urban pesticide users. 	<ul style="list-style-type: none"> • Advocate for implementation of specific actions from the Sustainable Pesticide Management Roadmap, and for additional resources to be directed to CalDPR to support implementation. • Continue to comment on EPA pesticide re-registrations and CalDPR actions. • Engage with EPA on proposed changes to the regulatory approval process for pesticides (see comment letter at right). • Work with veterinary associations on messaging with respect to flea and tick control alternatives. • Continue to develop summaries of EPA actions on pesticides. • Look for opportunities to work with CalDPR on pesticides research. • Work with other regional associations, such as the CASQA to collaborate on funding pesticide regulatory outreach. 	<p>BACWA Pesticide Regulatory Support Page: https://bacwa.org/bappg-pesticides/</p> <p>Baywise flea and tick pages: https://baywise.org/residential/pets/keep-pets-free-of-fleas-and-ticks/ https://baywise.org/residential/pets/</p> <p>BACWA-CASQA Urban Pesticides Collaboration Fact Sheet: https://bacwa.org/wp-content/uploads/2022/08/CASQA-BACWA-Factsheet-July2022.pdf</p> <p>CalDPR Sustainable Pest Management Roadmap https://www.cdpr.ca.gov/docs/pressrls/2023/012623.htm</p> <p>BACWA coalition letter on modernizing the pesticide approval process https://bacwa.org/document/bacwa-nacwa-coalition-comments-on-fda-epa-pesticide-modernization-2023-04-25/</p>

Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
MERCURY AND PCBs			
<ul style="list-style-type: none"> • The Mercury & PCBs Watershed Permit was reissued by the Regional Water Board in December 2022. The Watershed Permit is based on the TMDLs for each of these pollutants. • Aggregate mercury and PCBs loads have been well below waste load allocations through 2021, the last year for which data have been compiled. • Method 1668C for measuring PCB congeners has not been promulgated by EPA. Data collected during the first permit term varied widely depending on which laboratory performed the analyses. BACWA Laboratory Committee developed an updated PCB Protocol to reduce variability between laboratories running Method 1668C, effective January 1, 2014. Data have been more consistent since the distribution of this document. • In 2017, EPA adopted federal pretreatment program rules requiring dental offices to install dental amalgam separators. The rule is intended to reduce dental office discharge of mercury. The compliance date was July 14, 2020. 	<ul style="list-style-type: none"> • The Mercury & PCBs Watershed Permit requires risk reduction program funding. For FY24, BACWA has budgeted \$12,500 to support risk reduction activities related to fish consumption. • In January 2022, monitoring requirements for mercury were reduced for most dischargers by a blanket NPDES Permit amendment (Order R2-2021-0028) (see link at right). Revised monitoring frequencies are also reflected in the reissued permit. • As part of the 2021 Triennial Review of the Basin Plan, the Regional Water Board has prioritized designation of three new beneficial uses: Tribal Tradition and Culture (CUL), Tribal Subsistence Fishing (T-SUB) and Subsistence Fishing (SUB). Water bodies designated with these beneficial uses could also be assigned lower mercury objectives. • The Mercury & PCBs Watershed Permit reissued in December 2022 is very similar to the 2017 Permit. Effluent limitations are unchanged. The only significant difference is a reduction in the monitoring frequency for PCB Congeners for some agencies. 	<ul style="list-style-type: none"> • Coordinate with local community-based organizations and Water Boards staff to develop concepts for risk reduction activities that BACWA could support during the term of the reissued permit. Later in FY24, BACWA may solicit proposals to support risk reduction activities during the term of the reissued permit. • Continue outreach to dentists BAPPG and BACWA's pretreatment committee. Per federal rules, all dental facilities were required to submit one-time compliance reports by October 2020. • Schedule risk reduction presentations by the current grantees to the Regional Water Board in 2023. • Track potential Basin Plan Amendments resulting from the Triennial Review project related to new beneficial use designations. The new designations are not expected to impact the bay-wide mercury TMDL in the near term, but there could be localized or longer-term impacts. 	<p>2022 Mercury & PCBs Watershed Permit (Effective Feb. 1, 2023) https://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2022/R2-2022-0038.pdf</p> <p>Risk Reduction Materials: https://bacwa.org/mercurypcb-risk-reduction-materials/</p> <p>BACWA PCBs Protocol: https://bacwa.org/wp-content/uploads/2014/02/PCBs-Sampling-Analysis-and-Reporting-Protocols-Dec13.pdf</p> <p>One-Time Compliance Report for Dental Offices: https://www.waterboards.ca.gov/water_issues/programs/npdes/docs/drinkingwater/one-time_compliance_report_for_dental_offices.pdf</p> <p>NPDES Permit Amendment for Monitoring and Reporting https://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2021/R2-2021-0028.pdf</p>

STATE WATER BOARD TOXICITY PROVISIONS

<ul style="list-style-type: none"> • The State Water Board has been working since before 2012 to establish Toxicity Provisions in the SIP that would introduce uniform Whole Effluent Toxicity Requirements for the state. • During individual permit reissuances since 2015, the Regional Water Board has been performing RPAs for chronic toxicity and giving chronic toxicity limits to agencies with Reasonable Potential. • Proposed Final Statewide Toxicity Provisions were released in October 2020, incorporating revisions to previous versions from 2018 to 2020. The Provisions establish: <ul style="list-style-type: none"> ○ Use of Test of Significant Toxicity (TST) as statistical method to determine toxicity replacing EC25/IC25 (with concerns it will lead to more false positive results); ○ Numeric limits for chronic toxicity for POTWs >5 MGD and with a pretreatment program; smaller POTWs would receive effluent targets and only receive limits if Reasonable Potential is established; ○ Regional Water Board discretion on whether to require RPAs for acute toxicity; ○ For POTWs with <i>Ceriodaphnia dubia</i> as most sensitive species, numeric targets rather than limits until after completion of state-wide study on lab/ testing issues (Dec. 31, 2023). 	<ul style="list-style-type: none"> • The State Water Board first adopted the Statewide Toxicity Provisions in December 2020. In October 2021, the State Water Board affirmed that the Statewide Toxicity Provisions were adopted as state policy for water quality control for all inland surface waters and estuaries. • USEPA approved the Statewide Toxicity Provisions on May 1, 2023. • Since 2016, agencies have had the option to skip sensitive species screening upon permit reissuance and pay the avoided funds to the RMP to be used for CECs studies. Under the Toxicity Provisions, agencies will be required by the provisions to do sensitive species screening once every 15 years. • BACWA joined SCAP, CVCWA and NACWA in a lawsuit alleging EPA did not follow proper procedure in requiring use of the TST, which has not been officially promulgated. The lawsuit was dismissed. POTWs' only recourse is to challenge individual permits that include the procedure. • The State Water Board is collaborating with stakeholders on a special study to improve the quality of <i>Ceriodaphnia dubia</i> testing. The first phase of this multi-laboratory study of toxicity testing has been completed, and a second intercalibration round of testing will be conducted in late spring and summer 2023. 	<ul style="list-style-type: none"> • Begin conducting toxicity testing using the Statewide Toxicity Provisions. Member agencies with individual NPDES permits reissued after August 2022 will automatically transition to new toxicity testing requirements on June 1, 2023. • Plan to conduct a species sensitivity screening to comply with the Toxicity Provisions, which require a study no more than 10 years old be used to determine a "Tier I" species for use in compliance monitoring. • Continue to review draft NPDES permits implementing the Toxicity Provisions. As of August 2022, all reissued individual NPDES permits contain language implementing the Toxicity Provisions. Regional Water Board staff developed this language with BACWA member input. Although the new language is mostly standardized, small changes may be necessary to clarify details of the new provisions. • Share information on the special study on the <i>Ceriodaphnia dubia</i> test method with agencies who have that species in their permits. 	<p>SWRCB Toxicity Page: http://www.swrcb.ca.gov/water_issues/programs/state_implementation_policy/tx_ass_cntrl.shtml</p> <p>Toxicity Workshop Presentations from 2017 BACWA Workshop: https://bacwa.org/bacwa-toxicity-workshop-september-18-2017/</p> <p>Regional Water Board presentation on implementation of Statewide Toxicity Provisions from December 2020: https://bacwa.org/wp-content/uploads/2021/01/Slides-from-RWQCB-Regarding-R2-Tox-Language-in-NPDES-Permits-2020-12-08.pdf</p> <p><i>Ceriodaphnia</i> Quality Assurance Study https://www.sccwrp.org/about/research-areas/additional-research-areas/ceriodaphnia-toxicity-testing-quality-assurance/</p> <p>USEPA Approval of Statewide Toxicity Provisions https://bacwa.org/wp-content/uploads/2023/05/05.01.2023-EPA-CWA-303c-Approval-of-California-Toxicity-Provisions.pdf</p>
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COMPOUNDS OF EMERGING CONCERN (CECS)

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| <ul style="list-style-type: none"> • Pharmaceuticals and other trace compounds of emerging concern (CECs) are ubiquitous in wastewater at low concentrations and have unknown effects on aquatic organisms. • The State Water Board has formed a Pretreatment and CECs Unit. • Region 2's CEC strategy focuses on monitoring/tracking concentrations of constituents with high occurrence and high potential toxicity. Much of what the State Water Board is considering for its monitoring program is already being implemented in Region 2 through the RMP. | <ul style="list-style-type: none"> • The Regional Water Board has stated that voluntary and representative participation in RMP CECs studies is key to avoiding regulatory mandates for CECs monitoring. These studies are informational and not for compliance purposes. BACWA developed a White Paper on representative participation to support facility selection for these studies. • Bay dischargers are continuing to provide supplemental funding for RMP CECs studies through the NPDES Permit Amendment adopted in December 2021 by the Regional Water Board. • The State Water Board has recently increased its focus on CECs. In November 2022, a State Water Board Science Advisory Panel released a report identifying risk-based and occurrence-based monitoring strategies in aquatic ecosystems. Similar approaches are already in use in the Bay Area by the RMP. | <ul style="list-style-type: none"> • Continue to participate in the RMP Emerging Contaminants Workgroup. • Participate in RMP studies by collecting wastewater samples at member facilities. Studies in FY23 include ethoxylated surfactants and quaternary ammonia compounds, in addition to the Regional PFAS Study and OPC-funded microplastic study (see next page). • Update the 2020 White Paper created for use by the RMP or others in selecting representative POTWs for participation in CEC studies. The 2020 White Paper will be updated to note recently completed and ongoing studies of CECs in Bay Area wastewater. | <p>RMP Emerging Contaminant Workgroup:
 http://www.sfei.org/rmp/ecwg#ab-1-4</p> <p>BACWA CECs White Paper:
 https://bacwa.org/document/bacwa-cec-white-paper-updated-june-2020/</p> <p>NPDES Permit Amendment for Monitoring and Reporting
 https://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2021/R2-2021-0028.pdf</p> <p>State Water Board CECs webpage:
 https://www.waterboards.ca.gov/water_issues/programs/cec/index.html</p> |
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Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
MICROPLASTICS			
<ul style="list-style-type: none"> • Microplastic pollution is an environmental threat with the potential to impact wastewater disposal and reuse, as well as biosolids end uses. • Microplastics have been a focus of the RMP in recent years. BACWA has participated in the Workgroup and developed a POTW Fact Sheet. One conclusion of the RMP work is that POTWs contribute much lower microplastic loads than stormwater. As a result, the RMP is focusing future microplastics sampling efforts on stormwater pathways. 	<ul style="list-style-type: none"> • In February 2022, the Ocean Protection Council (OPC) adopted a Statewide Microplastics Strategy that calls for increased water recycling, additional monitoring of wastewater, source control in wastewater, and additional scientific research. • In 2021, the OPC funded a study investigating microplastic removal through wastewater treatment processes. The study is being carried out by SCCWRP. The study commenced in 2021 with a pilot study involving BACWA member agency participation. Full-scale sampling and analysis of influent, effluent, and biosolids is planned to be completed in 2023. • The Draft 2024 California Integrated Report (303(d) List) notes that San Francisco Bay is “potentially threatened” by microplastics. Due to data limitations, the Bay is <u>not</u> proposed to be listed as an impaired water body during this listing cycle. • Additional research to improve scientific understanding of microplastics in aquatic ecosystems will be needed to support a future impairment determination for San Francisco Bay. The Water Boards and Ocean Protection Council are supporting allocation of funding towards these research efforts. • Ongoing microplastics investigations by the RMP are focused on tire particles in stormwater. 	<ul style="list-style-type: none"> • Continue to participate in the RMP Microplastics Workgroup. • Three BACWA member agencies are participating in the OPC-funded microplastic study. As of May 2023, sampling efforts are ongoing. • Continue tracking State Water Board and Ocean Protection Council actions via the CASA Microplastics Workgroup. CASA is working with SCCWRP to provide additional funding for testing of new sample collection and/or analysis methods. 	<p>BACWA Microplastics Fact Sheet: https://bacwa.org/wp-content/uploads/2019/09/BACWA-Microplastics-flyer.pdf</p> <p>SFEI Microplastics project: https://www.sfei.org/projects/microplastics</p> <p>Ocean Protection Council Microplastics Strategy: https://www.opc.ca.gov/webmaster/ftp/pdf/agenda_items/2022_0223/Item_6_Exhibit_A_Statewide_Microplastics_Strategy.pdf</p> <p>2024 California Integrated Report / 303(d) List https://www.waterboards.ca.gov/water_issues/programs/water_quality_assessment/2024-integrated-report.html</p>

PER- AND POLYFLUOROALKYL SUBSTANCES (PFAS)

<ul style="list-style-type: none"> • Per- and polyfluoroalkyl substances (PFAS) are a group of human-made substances that are very resistant to heat, water, and oil. PFAS have been used in surface coating and protectant formulations. Common PFAS-containing products are non-stick cookware, cardboard/paper food packaging, water-resistant clothing, carpets, and fire-fighting foam. • Perfluorooctane sulfonic acid (PFOS) and perfluorooctanoic acid (PFOA) are two types of PFAS no longer manufactured in the US; however, other types of PFAS are still produced and used in the US. • All PFAS are persistent in the environment, can accumulate within the human body, and have demonstrated toxicity at relatively low concentrations. • Potential regulatory efforts to address PFAS focus on drinking water in order to minimize human ingestion of these chemicals, although regulators have also expressed concern about uptake into food from biosolids. • In July 2020, the SWRCB issued an investigative order for POTWs. At that time, BACWA obtained SWRCB approval to fund and conduct a Regional PFAS Study in lieu of the investigative order. • In April 2021, the formation of an “EPA Council on PFAS” was announced. 	<ul style="list-style-type: none"> • The EPA and State of California are developing drinking water standards for PFAS compounds. <ul style="list-style-type: none"> ○ DDW has developed drinking water notification levels (NLs) and response levels for PFOA, PFOS, and Perfluorobutane Sulfonic Acid (PFBS), Perfluorohexane Sulfonic Acid (PFHxS). ○ EPA has released final health advisories for PFOA (0.004 ng/L) and PFOS (0.02 ng/L). ○ In February 2023, EPA proposed Maximum Contaminant Levels for PFOA and PFOS as individual contaminants, and PFHxS, PFNA, PFBS, and HFPO-DA (commonly referred to as GenX Chemicals) as a PFAS mixture. By design, these MCLs are very close to the current limits of quantification. • EPA is conducting pretreatment standards rulemaking for three types of industrial users: Metal Finishing, Organic Chemicals, Plastics and Synthetic Fibers, and landfills. • EPA is developing a new analytical method for PFAS in complex matrices like wastewater. Draft Method 1633 is expected to be finalized later in 2023. • In August 2022, EPA proposed a rule designating PFOA and PFOS as hazardous substances under CERCLA (the Superfund law). BACWA submitted a comment letter on the proposal (link at right). • In late 2022, EPA issued permitting guidance for pretreatment programs and NPDES permits. It recommends use of Draft Method 1633. 	<ul style="list-style-type: none"> • BACWA’s Regional PFAS Study is being conducted by SFEI in two phases: <ul style="list-style-type: none"> ○ In Phase 1, fourteen representative facilities collected samples in Q4 2020 for influent, effluent, RO concentrate, and biosolids. BACWA prepared a Fact Sheet regarding Phase 1 results (see link at right). ○ Sample collection for Phase 2 of the PFAS Regional Study was completed in mid-2022 and included sampling of influent, effluent, and biosolids; residential sewersheds, commercial and industrial users; hauled organic waste used as digester feed; and groundwater. Phase 2 study results will be shared with members in May 2023 once QA/QC is complete. • BACWA’s Phase 2 study results could support new legislative efforts in 2023. For example, BAPPG submitted comments on legislation banning PFAS in menstrual products (AB246). • BACWA will continue tracking developments at the federal, state and regional level, in particular to understand the impact of the CERCLA designation on biosolids reporting. 	<p>BACWA PFAS Documents: https://bacwa.org/pfas-links/</p> <p>SWRCB PFAS Resources: https://www.waterboards.ca.gov/pfas/</p> <p>EPA PFAS Resources https://www.epa.gov/pfas</p> <p>EPA PFAS Strategic Roadmap https://www.epa.gov/pfas/pfas-strategic-roadmap-epas-commitments-action-2021-2024</p> <p>EPA Proposed Drinking Water Regulations https://www.epa.gov/pfas/pfas-strategic-roadmap-epas-commitments-action-2021-2024</p> <p>2022 PFAS Legislation Outcomes for CA: https://www.cwea.org/news/pfas-legislation-we-have-seen-in-2022/</p> <p>BACWA Comment Letter on CERCLA Designation: https://bacwa.org/wp-content/uploads/2022/11/BACWA-PFAS-CERCLA-Ltr-2022-11-07.pdf</p> <p>EPA NPDES Permitting Guidance (Dec. 2022) https://www.epa.gov/system/files/documents/2022-12/NPDES_PFAS_State%20Me mo_December_2022.pdf</p>
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Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
SANITARY SEWER SYSTEMS GENERAL ORDER			
<ul style="list-style-type: none"> In 2022, the State Water Board reissued the statewide Sanitary Sewer Systems General Order (SSS-WDR). The reissued order replaces the 2006 Order and the 2013 Monitoring and Reporting Program. BACWA and partner organizations were successful in working with the State Water Board to make many favorable modifications to the draft prior to its final adoption. The State Water Board's goals for the update were: <ul style="list-style-type: none"> Updating the 2006 Order Clarifying compliance expectations and enhancing enforceability Addressing system resiliency, including climate change impacts Identifying valuable data and eliminating non-valuable reporting requirements 	<ul style="list-style-type: none"> The reissued order effective date is June 5, 2023. The reissued SSS-WDR contains numerous new and modified requirements, such as: <ul style="list-style-type: none"> A prohibition on discharges to groundwater; Reduced spill reporting requirements for small spills (spills from laterals or <50 gallons); New spill monitoring requirements such as photo documentation and faster water quality sampling; New requirements for preparation of Sewer System Management Plans (SSMPs), including a focus on system resiliency, prioritizing corrective actions, and coordinating with stormwater agencies; Modified annual reporting requirements; New mapping requirements; and Modified timelines for preparation of audits and SSMPs. The State Water Board has prepared an online tool to assist agencies in determining compliance dates (at right). 	<ul style="list-style-type: none"> Sanitary Sewer System Agencies must certify continuing coverage in the reissued WDR by June 4th. Other key deadlines before June 5th order effective date include: <ul style="list-style-type: none"> Uploading existing SSMPs to CIWQS Updating Spill Emergency Response Plans Identifying an appropriate Legally Responsible Official Work with the Collection System committee and CASA to identify and fulfill member needs for guidance and templates materials, such as guidance for Sewer System Management Plans. Continue to coordinate with CASA and CWEA on training opportunities for members as they transition to enrollment under the new SSS-WDR. 	<p>State Water Board SSS-WDR page: (includes training video on certifying continued coverage by June 4th) https://www.waterboards.ca.gov/water_issues/programs/ssol/</p> <p>Reissued SSS-WDR (General Order 2022-0103-DWQ), Effective June 5, 2023 https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2022/wqo_2022-0103-dwq.pdf</p> <p>Materials from Clean Water Summit Partners Webinars on Reissued SSS-WDR https://casaweb.org/resources/speaker-presentations/</p> <p>SSMP and Audit Due Dates Lookup Tool from State Water Board https://www.waterboards.ca.gov/water_issues/programs/ssol/lookup/</p>

Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
LABORATORY ACCREDITATION			
<ul style="list-style-type: none"> • In May 2020, the State Water Board adopted new comprehensive regulations for the Environmental Laboratory Accreditation Program. • Adoption of the new regulations was required by AB 1438, legislation that became effective in 2018. • The new ELAP regulations are replacing the current state-specific accreditation standards with a national laboratory standard established by The NELAC Institute (TNI). 	<ul style="list-style-type: none"> • The new ELAP regulations became effective as of January 1, 2021. Compliance with TNI standards is required beginning January 1, 2024. • Adoption of TNI standards poses a challenge since there are more than 1,000 individual requirements. Setup costs may include: <ul style="list-style-type: none"> ○ Hiring and/or training staff; ○ Hiring consultants to set up the TNI documentation framework; ○ Purchasing Laboratory Information Management System (LIMS) software; ○ Purchasing documents and training material from TNI, etc. • The new standards will be a particular burden on small laboratories, which may choose to close if they cannot economically meet the new standards. • ELAP's "Roadmap to ELAP Accreditation" Program is the outreach and training component of the new regulations. ELAP staff have presented to the Lab Committee in June 2020, February 2021, April 2021, June 2022, and April 2023. • The BACWA Lab Committee began providing monthly TNI training sessions beginning in July 2021. BACWA has provided funding for the TNI training sessions to continue through FY23. 	<ul style="list-style-type: none"> • Offer monthly training sessions to BACWA members. The free virtual training sessions are open to BACWA members holding a valid copy of the 2016 TNI Standard, and are occurring on the 3rd Tuesday of each month. Training is provided by Diane Lawver of Quality Assurance Solutions, LLC, and other subject matter experts. BACWA's TNI training sessions are recorded, and a link is available upon request. • Communicate with ELAP staff on behalf of BACWA's Laboratory Committee as new guidance and training materials are developed for TNI implementation and methods updates. • Continue to work through BACWA's Laboratory Committee to support members as they navigate laboratory accreditation under the new TNI standards. • Publicize training opportunities offered by consultants, ELAP, and others. • Provide a forum for BACWA laboratories to share experiences and lessons learned from various approaches to TNI implementation. 	<p>State Water Board's 'Roadmap to ELAP Accreditation' page: https://www.waterboards.ca.gov/drinking_water/certlic/labs/roadmap_to_elap_accreditation.html</p> <p>Roadmap to Accreditation Presentation to BACWA Lab Committee: https://bacwa.org/wp-content/uploads/2020/06/California-ELAP-Regulations-BACWA_06092020.pdf</p> <p>State Water Board's ELAP regulations page: http://www.waterboards.ca.gov/drinking_water/certlic/labs/elap_regulations.shtml</p> <p>Monthly Training Session flyer: https://bacwa.org/wp-content/uploads/2021/07/BACWA-Lab-TNI-Training-Series-Flyer.pdf</p> <p>ELAP Timeline Guidance Tool: https://www.waterboards.ca.gov/drinking_water/certlic/labs/docs/2022/elap-scheduler-1-1.xlsx</p>

PHASE-OUT OF BIOSOLIDS AS ALTERNATIVE DAILY COVER

<ul style="list-style-type: none"> Regulatory drivers are indicating that biosolids used as alternative daily cover (ADC) or disposed in landfills will be phased out. SB 1383, adopted in September 2016 requires organics diversion: <ul style="list-style-type: none"> -50% by 2020 (relative to 2014) -75% by 2025 (relative to 2014) CalRecycle is the state agency responsible for implementation. Regulations implementing SB 1383 went into effect in 2022. Jurisdictions can begin local enforcement January 1, 2024, and compliance is required by January 1, 2025. Requirements include: <ul style="list-style-type: none"> Diverted biosolids must be anaerobically digested and/or composted to qualify as landfill reduction. CalRecycle is accepting applications to qualify other specific treatment technologies as landfill reduction (per Article 2 of SB 1383). Local ordinances restricting land application are disallowed. While the regulations implementing SB 1383 do not explicitly forbid biosolids disposal/reuse in landfills, it is assumed that since biosolids are a relatively "clean" waste stream that can be easily diverted, landfills will stop accepting biosolids. The Bay Area Biosolids Coalition (BABC) was formed to find sustainable, cost-effective, all-weather options for biosolids management. BABC is a BACWA Project of Special Benefit. 	<ul style="list-style-type: none"> BACWA's 2021 Biosolids Trends Survey Report compiles member agency activities in 2018-2020, as well as survey responses regarding SB 1383 implementation. Jurisdictions that divert organic waste must also procure the end products of diversion, such as biogas, biomethane, and compost (but not biosolids). Procurement rules are being phased in over three years (2023 to 2025) and there are interim rules regarding procurement of biogas from POTWs. Currently, some County ordinances restrict the beneficial use of biosolids. CalRecycle considers bans on land application to be unenforceable and has agreed to approach counties with restrictive ordinances to conduct outreach and assess compliance. AB 1857, signed in 2022, removes a diversion credit for municipal solid waste incinerators. CalRecycle will soon prepare draft regulations implementing the law, which could be applicable to biosolids treated using pyrolysis. The <i>Biosolids in the Baylands</i> white paper was released in 2022 by the San Francisco Bay Joint Venture. The white paper identifies data gaps that need to be filled. Studies funded by BACWA and BABC (e.g., PFAS) and other current studies will be considered to help fill remaining data gaps before identifying new monitoring requirements at land applications sites. 	<ul style="list-style-type: none"> Engage through CASA and BABC to follow development of regulations implementing AB 1857, with the goal of avoiding limits on POTWs using pyrolysis for organic waste management. Continue to engage with the Regional Water Board regarding supplemental monitoring requirements for biosolids land application sites in the Baylands. Actively work through CASA with California Air Resource Board, CalRecycle, State Water Board, and California Department of Food and Agriculture to develop sustainable long-term options for biosolids beneficial use. Meet with BAAQMD regularly in 2023 to discuss alignment of state and local regulations. 	<p>BACWA 2021 Biosolids Trends Survey Report: https://bacwa.org/wp-content/uploads/2021/12/BACWA-2021-Biosolids-Trends-Survey-Report.pdf</p> <p>BABC website: http://www.bayareabiosolids.com/</p> <p>CASA White Paper on SB 1383 Implementation: https://bacwa.org/document/summary-of-sb-1383-and-its-implementation-casa-2020/</p> <p>CalRecycle website for California Short-Lived Climate Pollutant Reduction Strategy https://www.calrecycle.ca.gov/organics/slcp</p> <p>CalRecycle Procurement FAQ (Updated per AB 1985) https://calrecycle.ca.gov/organics/slcp/faq/recycledproducts/</p> <p><i>Biosolids in the Baylands</i> White Paper https://bacwa.org/wp-content/uploads/2022/07/Biosolids-in-the-Baylands-White-Paper-March-2022.pdf</p> <p>Viewpoint Video https://www.viewpointproject.com/ptv-segments-biosolids/</p>
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CLIMATE CHANGE MITIGATION

<ul style="list-style-type: none"> • CARB's Climate Change Scoping Plan Update lays out the approach for the State to meet its greenhouse gas (GHG) emissions reduction targets through 2030. The latest Scoping Plan was updated in 2022 targeting carbon neutrality by 2045, including policies addressing: <ul style="list-style-type: none"> ○ Short-lived climate pollutants ○ Carbon sequestration on Natural and Working Lands ○ Largest emitters (transportation, electricity, and industrial sectors) • SB 1383 (Short-Lived Climate Pollutant Reduction) calls for: <ul style="list-style-type: none"> ○ 40% methane reduction by 2030 ○ 75% diversion of organic waste from landfills by January 1, 2025 ○ Policy / regulatory development encouraging production/use of biogas • BAAQMD developed a Clean Air Plan requiring GHG emissions supporting CARB's 2050 target (80% below 1990 levels). • BAAQMD proposed the development of Regulation 13 (climate pollutants) targeting methane and nitrous oxide reductions related to organics diversion and management. After a pause of several years, BAAQMD may revisit Regulation 13 later in 2023. • CARB states POTWs are part of the solution for reducing fugitive methane and encourages diversion of organics to POTWs to use available digester capacity and produce biogas. 	<ul style="list-style-type: none"> • CARB is pursuing rapid fleet conversion to zero-emission vehicles (ZEVs), including medium and heavy-duty vehicles, through the Advanced Clean Fleet rule. The proposed regulations will allow organizations to opt into one of two programs: <ul style="list-style-type: none"> ○ Public Fleets: With exceptions, requiring 50% of vehicles added to be ZEV by 2024, and 100% by 2027. ○ High Priority Fleet (Group 3): With exceptions, requiring 10% of vehicles added to be ZEV by 2030 and 100% by 2042. • Complete conversion will be difficult for heavy-duty specialty trucks, and will remove a potential market for biogas. CASA is engaging to request continued allowance of biogas as a sustainable transportation fuel. • In addition to pushing for ZEVs, CARB is proposing changes to the Low Carbon Fuel Standard that reflect increasing emphasis on hydrogen as a transportation fuel. Conversion of biogas into hydrogen is currently in research & development stage. • Many POTWs are exploring energy generation, but BAAQMD air toxics regulations could make such programs more difficult to implement. Direct injection of biogas to PG&E's pipelines or use as a transportation fuel may be more efficient. • In late 2022, EPA released a draft proposal for apportionment of renewable fuel credits (RINs) for food waste-based and sludge-based biogas. 	<ul style="list-style-type: none"> • Closely follow rule development of Regulation 13 (climate pollutants), which BAAQMD plans to revisit later in 2023. • The Advanced Clean Fleet rule was adopted April 28, 2023 with a Board Resolution directing staff to work with CASA to implement SB 1383 and preserve multiple uses of biomethane. BACWA is supporting CASA's enhanced advocacy to CARB to preserve existing pathways that allow biogas to be used for fueling vehicles. The outreach is required so that biogas produced at treatment plants continues to have a permissible and economical end use, and so utilities have reliable power for heavy-duty vehicles. • Look for ways to inform BAAQMD on opportunities and challenges for climate change mitigation by Bay Area POTWs, including education about anaerobic digesters and POTW operations. • Work with PG&E and BAAQMD to explore options for POTWs to inject biogas into PG&E pipelines. In February 2022, the CPUC approved a mandatory biomethane procurement program for CA's four large gas IOUs (including PG&E) under SB 1440. CASA has been discussing the barriers to pipeline injection with CPUC and CalOSHA staff. 	<p>Climate Change Scoping Plan, including 2022 Update: https://ww2.arb.ca.gov/our-work/programs/ab-32-climate-change-scoping-plan</p> <p>CARB Low Carbon Fuel Standard: https://ww2.arb.ca.gov/our-work/programs/low-carbon-fuel-standard</p> <p>CARB Advanced Clean Fleet Rule: https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets</p> <p>SB 1383: https://www.calrecycle.ca.gov/organics/slcp</p> <p>BAAQMD Clean Air Plan: http://www.baaqmd.gov/plans-and-climate/air-quality-plans/current-plans</p> <p>BAAQMD Regulation 13 http://www.baaqmd.gov/rules-and-compliance/rules/regulation-13-climate-pollutants</p> <p>EPA Renewable Fuel Standards https://www.epa.gov/renewable-fuel-standard-program/proposed-renewable-fuel-standards-2023-2024-and-2025</p>
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Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
CLIMATE CHANGE ADAPTATION			
<ul style="list-style-type: none"> Climate change and water resilience are a strategic priority of both the State Water Board and Regional Water Board. In April 2019, Governor Newsom signed Executive Order N-10-19 directing State Agencies to recommend a suite of priorities and actions to build a climate-resilient water system and ensure healthy waterways through the 21st century. Bay Area coordination occurs through Bay Adapt, the Bay Area Climate Adaptation Network (BayCAN), and other venues. BACWA has signed a letter of support for the Bay Adapt Joint Platform. In April 2022, the State released a Climate Adaptation Strategy, including an updated climate change assessment for the Bay Area region. The California Coastal Commission's November 2021 <i>Sea Level Rise Planning Guidance</i> recommends that agencies "understand and plan" for 2.7 feet of sea level rise by 2050. The Regional Water Board is modifying the Basin Plan to address climate change and wetland policy. The changes will occur through multiple Basin Plan amendments. 	<ul style="list-style-type: none"> In 2022, the Regional Water Board adopted a Climate Change Basin Plan amendment addressing dredge and fill procedures near the region's shorelines, especially for climate adaptation projects. Separately from the Basin Plan amendment, the NDPES division has released information regarding NPDES permitting of nature-based solutions. Shallow groundwater response to Sea Level Rise is a concern in low-lying Bay Area communities. Information about current and future depth-to-groundwater maps is summarized in a January 2023 report now available from Pathways Climate Institute and SFEI. In 2023, the Bay Conservation and Development Commission (BCDC) plans to develop "Regional Shoreline Adaptation Guidance" and standards for the Bay Area. 	<ul style="list-style-type: none"> Follow up with members regarding sea level rise planning, as discussed at a member agency roundtable in August 2022. Prepare for engagement with the Regional Water Board on expectations for sea level rise planning Work with members to identify a suitable way to track sea level rise adaptation plans, per the request of Regional Water Board staff. Engage with BCDC during the agency's development of Regional Shoreline Adaptation Plan guidance, which will likely impact most BACWA member agencies. BACWA is participating in an advisory group for the Regional Shoreline Adaptation Plan. Continue to work with Regional Water Board and other resource agencies to look for regulatory solutions to encourage wetlands projects for shoreline resiliency. 	<p>California Coastal Commission's <i>Critical Infrastructure at Risk</i> https://documents.coastal.ca.gov/assets/slr/SLR%20Guidance_Critical%20Infrastructure_12.6.2021.pdf</p> <p>OPC Sea Level Rise Action Plan – August 2022 https://www.opc.ca.gov/webmaster/media_library/2022/08/SLR-Action-Plan-2022-508.pdf</p> <p>Climate Change Basin Plan Amendment https://www.waterboards.ca.gov/sanfranciscobay/board_info/agendas/2022/July/7_ssr.pdf</p> <p>California Climate Adaptation Strategy https://climateresilience.ca.gov</p> <p>BayCAN Funding Tracker https://www.baycanadapt.org/</p> <p>Bay Adapt Joint Platform https://www.bayadapt.org/</p> <p>NPDES Permitting for Nature-Based Solutions https://bacwa.org/wp-content/uploads/2022/08/NPD-ES-Permitting-for-Nature-Based-Solutions-5.pdf</p> <p>2023 Report on Shallow Groundwater Response https://www.sfei.org/projects/shallow-groundwater-response-sea-level-rise</p>

TOXIC AIR CONTAMINANTS

<ul style="list-style-type: none"> • Regulation 11, Rule 18 (Rule 11-18), adopted in 2017, is BAAQMD's local effort to protect public health from toxic air pollution from existing facilities, including POTWs. • Per the Rule, BAAQMD will conduct site-specific Health Risk Screening Analyses (HRSAs) and determine each facility's prioritization score (PS). BAAQMD will conduct Health Risk Assessments (HRAs) for all facilities with a cancer PS>10 or non-cancer PS>1.0. After verifying the model inputs, if the facility still has PS above that threshold, that facility would need to develop and implement a Risk Reduction Plan that may include employing Best Available Retrofit Control Technology for Toxics (TBARCT). • AB 617 (Community Air Protection Program) – requires CARB to harmonize community air monitoring, reporting, & local emissions reduction programs for air toxics and GHGs). POTWs within communities already impacted by air pollution may have to accelerate implementation of risk reduction measures. • AB 2588 (Air Toxics “Hot Spots” Program) - Establishes a statewide program for the inventory of air toxics emissions from individual facilities, as well as requirements for risk assessment and public notification of potential health risks. 2020 updates expanded compound list from >500 to >1,700. 	<ul style="list-style-type: none"> • BACWA developed a White Paper on BAAQMD Rule 11-18 to describe its potential impacts on the POTW community. • In response to planning and budgeting challenges identified by the AIR Committee, BAAQMD moved all POTWs to Phase 2 to give sufficient time to update the model's inputs, and plan for emissions reduction or TBARCT, as needed. • AIR Committee gathered data on proximity factors from each facility and submitted to BAAQMD for updating prioritization scores, which will be use in HRA development. • In the <i>Final Statement of Reasons</i> for rulemaking on AB 617 and AB 2588, CARB provided the wastewater sector time to develop a short-list of relevant compounds and perform a pooled emissions estimating effort to update outdated default emission factors (through 2028). • In December 2021, BAAQMD amended Rule 2-5 to reduce allowable levels of toxic air contaminants in new source permitting. In March 2022, BAAQMD and BACWA convened a working group to address concerns related to toxic air contaminants and rule-making, which is meeting quarterly. BACWA is coordinating with BAAQMD about implementation of the two-step process and its timing relative to BAAQMD Rule 11-18 and 2-5. 	<ul style="list-style-type: none"> • Continue participating in the BAAQMD working group to discuss toxic air contaminants, rule development, and related air quality regulatory issues. • Report “business as usual” for air toxics through 2028 (for year 2027 data). If BAAQMD requests additional monitoring of air toxics, member agencies should refer to the one-page handout on this topic prepared by CASA. The wastewater sector has until 2028 to perform a statewide “two-step process” to determine a shortlist of compounds relevant to the wastewater sector to report. • Continue to Participate in CASA Subgroup meetings to plan the "two-step process" study. • For budget planning purposes, BACWA members with permitted capacity > 5 MGD should expect the study to cost approximately \$2,300 per MGD of permitted average dry weather flow. Study costs will be refined and spread over four fiscal years. BACWA will assist CASA in collecting funds for this effort from participants who are BACWA's members. BACWA members should anticipate budgeting for this process beginning in FY25. 	<p>BAAQMD Rule 11-18 page: https://www.baaqmd.gov/rules-and-compliance/rules/regulation-11-rule-18-reduction-of-risk-from-air-toxic-emissions-at-existing-facilities</p> <p>BAAQMD Rule 2-5 https://www.baaqmd.gov/rules-and-compliance/rules/reg-2-permits?rule_version=2021%20Amendments</p> <p>Rule 11-18 Process Flowchart: https://bacwa.org/document/baaqmd-11-18-process-flowchart-08-17-17/</p> <p>CARB page on AB 617 and AB 2588: https://ww2.arb.ca.gov/our-work/programs/criteria-and-toxics-reporting <i>Final Statement of Reasons</i> https://ww3.arb.ca.gov/board/15day/ctr/fsor.pdf</p> <p>CASA One-Page Handout on Air Toxics Reporting https://bacwa.org/wp-content/uploads/2022/03/CTR-EICG_CASAOnePageIssue-Approach_March2022.pdf</p> <p>Timing of Rule 11-18 vs. Process for AB 617 https://bacwa.org/document/baaqmd-rule-11-18-vs-carb-two-step-process-for-ab-617-feb-2023/</p>
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Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
RECYCLED WATER			
<ul style="list-style-type: none"> • Approximately 10 percent of the municipal wastewater of Region 2 POTWs is currently recycled. Expansion of recycled water projects is a goal of many BACWA members, but implementation is slowed by high costs, regulatory uncertainty, and administrative requirements. • As of 2018, the State Water Board has adopted uniform water recycling criteria for two types of Indirect Potable Reuse: surface water augmentation and groundwater augmentation. • As of 2020, virtually all recycled water in Region 2 was produced at centralized facilities using municipal wastewater, and was treated to meet standards for non-potable reuse. • The State Water Board is developing regulations for Direct Potable Reuse. Regulations for raw water augmentation must be adopted by December 31, 2023. The State Water Board is pursuing a regulatory path that also includes treated water augmentation. The State Water Board will issue draft regulations for Direct Potable Reuse in spring 2023. 	<ul style="list-style-type: none"> • Beginning in 2020, all agencies have been required to report monthly wastewater and recycled water volumes into the State’s Geotracker database. The 2023 survey included new questions about future plans for increased recycled water production. • The State Water Board is currently developing standards for onsite treatment and reuse of non-potable water in multi-family, mixed use, and commercial buildings. Draft regulatory concepts for onsite non-potable reuse were released in August 2022. The State Water Board is expected to begin rulemaking for onsite non-potable recycled water by late spring and complete the regulations by the end of 2023. • BACWA is currently completing a Regional Evaluation of Potential Nutrient Discharge Reduction by Water Recycling, as required by the 2nd Nutrient Watershed Permit. • The State Water Board is launching a “Strike Team” to assess how California will meet new recycled water goals listed in California’s Water Supply Strategy (August 2022). The new goals call for 800,000 acre-feet per year of recycled water by 2030 and 1.8 million acre-feet per year by 2040. The Strike Team will also document challenges to meeting these goals, including but not limited to funding. 	<ul style="list-style-type: none"> • This spring, BACWA members should plan to sign off on individual facility reports and review the draft overall report for the Regional Evaluation of Potential Nutrient Discharge Reduction. The consultant team has completed most individual reports, and will produce the overall draft report by May 2023. The overall report, including individual facility reports, must be submitted by July 1, 2023. • Review draft regulations for Direct Potable Reuse and Onsite Non-potable Reuse and work through Recycled Water committee to develop comments, as needed. • Track California legislation with potential impacts on recycled water funding, mandates, or regulations. 	<p>Water Boards Recycled Water Policy and Regulations https://www.waterboards.ca.gov/water_issues/programs/recycled_water/</p> <p>Direct Potable Reuse framework documents https://www.waterboards.ca.gov/drinking_water/certlic/drinkinwater/direct_potable_reuse.html</p> <p>Volumetric Annual Reporting Data: https://www.waterboards.ca.gov/water_issues/programs/recycled_water/volumetric_annual_reporting.html</p> <p>Special Studies of Recycled Water and Nature-Based Systems: https://bacwa.org/document-category/2nd-watershed-permit-studies/</p> <p>California’s Water Supply Strategy (August 2022) https://resources.ca.gov/-/media/CNRA-Website/Files/Initiatives/Water-Resilience/CA-Water-Supply-Strategy.pdf</p>

Previously covered issues with no updates can be found in previous [BACWA issues summaries](#).

ACRONYMS

ADC	Alternate Daily Cover	PCB	Polychlorinated Biphenyl
BAAQMD	Bay Area Air Quality Management District	PFAS	Per- and Polyfluoroalkyl Substances
BACT	Best Available Control Technology	PFBS	Perfluorobutane Sulfonic Acid
BCDC	Bay Conservation and Development Commission	PFHxS	Perfluorohexane Sulfonic Acid
BTU/SCF	British thermal units per standard cubic foot	PFOA	Perfluorooctanoic Acid
CalDPR	California Department of Pesticide Registration	PFOS	Perfluorooctane Sulfonic Acid
CARB	California Air Resources Board	POTW	Publicly Owned Treatment Works
CASA	California Association of Sanitation Agencies	PS	Prioritization Score
CAP	Criteria Air Pollutant	RMP	Regional Monitoring Program
CEC	Compound of Emerging Concern	RPA	Reasonable Potential Analysis
CIWQS	California Integrated Water Quality System	SCAP	Southern California Alliance of POTWs
CVCWA	Central Valley Clean Water Agencies	SF Bay	San Francisco Bay
CWEA	California Water Environment Association	SFEI	San Francisco Estuary Institute
DDW	Division of Drinking Water, State Water Resources Control Board	SSMP	Sewer System Management Plan
EC25/IC25	25% Effect Concentration/25% Inhibition Concentration	TMDL	Total Maximum Daily Load
ELAP	Environmental Laboratory Accreditation Program	TIN	Total Inorganic Nitrogen
ELTAC	Environmental Laboratory Technical Advisory Committee	TNI	The NELAC Institute
EPA	United States Environmental Protection Agency	TST	Test of Significant Toxicity
FIFRA	Federal Insecticide, Fungicide, and Rodenticide Act	WQBEL	Water Quality Based Effluent Limitation
FY	Fiscal Year	WQO	Water Quality Objective
GHG	Greenhouse Gas	ZEV	Zero-Emission Vehicle
HRSA	Health Risk Screening Analyses		
HRA	Health Risk Assessment		
MCL	Minimum Contaminant Level (Drinking Water)		
MGD	Million Gallons per Day		
NACWA	National Association of Clean Water Agencies		
NELAC	National Environmental Laboratory Accreditation Conference		
NMS	Nutrient Management Strategy		
OEHHA	Office of Environmental Health Hazard Assessment		
OPC	Ocean Protection Council		

ITEM NO. RA6 REGULATORY REPORTING CHECKLIST

Recommendation

For the Committee’s information only; no action is required.

Background

Authority staff maintains a checklist of all regulatory reporting and related tasks to ensure timely and complete reporting.

Discussion

The following checklist is extracted from a complete list of routine regulatory activities addressed throughout the year. The following items were completed during the period of February 1, 2023 through May 31, 2023; there are no outstanding activities.

<i>Authority</i>	<i>Required Action</i>	<i>Occurrence</i>	<i>Date Completed</i>
Bay Area Air Quality Management District	Complete <i>Data Update</i> form Plant #13187 - Permit Expiration Date: May 1, 2023	Annual	2/10/2023
State Controller’s Office	Government Compensation in CA Report (GCC)	Annual	3/8/2023
Bay Area Air Quality Management District	Pay renewal fee for <i>Permit to Operate</i> Plant #13187	Annual	3/14/2023
System for Award Management	Renew entity registration (See: sam.gov) Renewal Date: March 25, 2023	Annual	3/21/2023
Alliant Insurance Services, Inc	CSRMA Property Insurance Program Renewal	Annual	3/29/2023
Fair Political Practices Commission	Statement of Economic Interests, Form 700 filing with Alameda County	Annual	4/3/2023
Alliant Insurance Services, Inc	CSRMA AMVP Auto Physical Damage Insurance Program Renewal	Annual	4/18/2023
State Water Resources Control Board	NPDES Quarterly Report (Jan-Mar)	Quarterly	4/27/2023
State Water Resources Control Board	Influent and Recycled Water Volumetric Reporting	Annual	4/27/2023
ADP Business Payroll	Payroll Quarter-End Tax Return Download	Quarterly	5/3/2023
Bureau of Labor Statistics	Report monthly employment figures, include Commissioners and Staff	Monthly	5/15/2023
East Bay Dischargers Authority	Website review/update	Monthly	5/15/2023
Regional Water Quality Control Board	Recycled Water monthly reports	Monthly	5/25/2023
State Water Resources Control Board	NPDES monthly reports	Monthly	5/30/2023
Regional Monitoring Program % SFEI	Participant Fee Installment (See: annual invoice)	Semi-Annual	5/31/2023

ITEM NO. RA7 RESOLUTION ADOPTING FINDINGS OF CERTIFICATION OF THE ENVIRONMENTAL IMPACT REPORT FOR THE CARGILL MIXED SEA SALTS PROCESSING AND BRINE DISCHARGE PROJECT

Recommendation

Approve a resolution certifying the Environmental Impact Report (EIR) for the Cargill Mixed Sea Salts Processing and Brine Discharge Project

Background

At its July 2020 meeting, the Commission approved a non-binding Term Sheet with Cargill, Incorporated (Cargill) to jointly develop a project to introduce mixed sea salt (MSS) brine from Cargill's Newark facility into EBDA's system for discharge to San Francisco Bay (Project). In February 2021, the Commission approved a California Environmental Quality Act (CEQA) Review and Reimbursement Agreement between EBDA and Cargill. Under the agreement, EBDA committed to act as the CEQA Lead Agency to analyze environmental impacts associated with the overall Project, which includes construction of a pump station at Cargill's facility, a pipeline connecting Cargill's facility to EBDA's transport system downstream of the Oro Loma Effluent Pump Station (OLEPS), and discharge of the MSS brine through EBDA's system.

Following a Request for Proposals process, Ascent Environmental, Inc. (Ascent) was selected as the consultant to perform the environmental impacts analysis for the project. The Commission approved a contract with Ascent in June 2021, and subsequently amended it in November 2021.

Ascent prepared, and EBDA released, a Draft EIR analyzing the environmental impacts of the proposed Project for public review and comment in January 2023. On June 5, 2023, EBDA released the Final EIR, including responses to comments received on the Draft EIR. The EIR is posted on [EBDA's website](#) and has been provided to Commission for its review and certification.

Discussion

Approval of a project under CEQA requires three steps: (1) certification of the environmental review document (in this case, the EIR); (2) adoption of CEQA findings regarding the environmental impacts of the project and adoption of mitigation measures; and (3) approval of the project.

Here, the Commission is only considering the first step of the process—certification of the EIR. After the Commission has certified the EIR, the Commission may then consider whether to approve the project. Approval of the proposed Project would occur if the Commission approves a Project Development and Operating Agreement with Cargill, which staff is currently negotiating with Cargill. The Agreement, along with the required CEQA findings based on the certified EIR, will be brought to the Commission for consideration in the coming months.

If the Authority certifies the EIR, other agencies may then rely upon it for approval of actions related to the proposed Project. Union City is expected to rely on the certified EIR when it considers Cargill's proposal to place underground pipeline when Union City constructs its bike lane project, tentatively scheduled for consideration and possible approval in July and August 2023.

EAST BAY DISCHARGERS COMMISSION
EAST BAY DISCHARGERS AUTHORITY
ALAMEDA COUNTY, CALIFORNIA

RESOLUTION NO. 23-06

INTRODUCED BY _____

**RESOLUTION ADOPTING FINDINGS OF CERTIFICATION OF THE
ENVIRONMENTAL IMPACT REPORT FOR THE CARGILL MIXED SEA SALTS
PROCESSING AND BRINE DISCHARGE PROJECT**

WHEREAS, Cargill, Incorporated (Cargill) has proposed construction of new pipelines and pumping facilities within Cargill's Solar Salt Facility in Newark, CA, and construction of approximately 16 miles of new underground pipeline to connect the Solar Salt Facility to East Bay Dischargers Authority's outfall system on the site of the Oro Loma Sanitary District/Castro Valley Sanitary District Water Pollution Control Plant (Project), and

WHEREAS, as proposed by Cargill, the Project would enhance extraction of additional salts from the mixed sea salts (MSS) inventory, dissolve the residual MSS to produce a brine to be blended with and further diluted by Member Agency effluent and then discharged back into the Bay, in accordance with the Authority's National Pollutant Discharge Elimination System (NPDES) permit, and

WHEREAS, the Authority prepared an Environmental Impact Report (SCH #2022050436) (EIR) consisting of the Draft EIR and Responses to Comments/Final EIR pursuant to the California Environmental Quality Act (CEQA; Public Resources Code § 21000 et seq.) to analyze the environmental effects of the Project, and

WHEREAS, CEQA and section 15000 et. seq. of Title 14 of the California Code of Regulations (CEQA Guidelines), which govern the preparation, content, and processing of environmental impact reports, have been fully implemented in the preparation of the EIR; and

WHEREAS, the Authority filed a notice of preparation (NOP) on May 20, 2022 for a Draft EIR for the proposed Project, and distributed a revised NOP on July 8, 2022, and

WHEREAS, the Authority prepared and on January 4, 2023 distributed the Draft EIR for the project for a 45-day public review and comment period, which concluded on February 17, 2023, and

WHEREAS, the Draft EIR was posted at the State Clearinghouse, and the notice

of availability of the Draft EIR was mailed to relevant public agencies, responsible and trustee agencies, and interested parties, and

WHEREAS, the Authority held a public meeting to present the findings from and receive comments on the Draft EIR on January 24, 2023, and

WHEREAS, the Authority prepared a Responses to Comments/Final EIR which was released to the public, including commenting agencies, on June 5, 2023, which responded to all comments received on the Draft EIR during the comment period; and

WHEREAS, a full description of the proposed Project analyzed in the EIR is included in Chapter 2 of the Draft EIR with additional information provided in the Final EIR, all of which are incorporated herein by reference, and

WHEREAS, the EIR describes the objectives that EBDA and Cargill seek to achieve with the proposed project are as follows:

- Provide wastewater disposal capacity and services to Cargill in a manner that provides economic advantage to EBDA Member Agencies, with emphasis on offsetting and reducing expenses to EBDA and its ratepayers, and furthers the purpose and goals of EBDA's Joint Powers Agreement.
- Further EBDA's sustainability objectives, including those in support of reclamation and reuse of wastewater, by creating or facilitating the creation of permanent infrastructure available for future regional water recycling efforts by EBDA and/or EBDA Member Agencies.
- Balance any impacts due to disruption to local jurisdictions with impacts to sensitive environments.
- Develop new infrastructure to process MSS brine with minimal exposure to disruptions, including connecting with and optimizing existing EBDA infrastructure to use EBDA's excess capacity for processing and blending MSS brine.
- Utilize strategic connection to an existing deep-water outfall to minimize impacts to water quality and aquatic resources in receiving waters associated with the discharge of residual MSS brine.
- Facilitate the timely harvest of liquid bittern from the MSS in Cargill's Solar Salt Facility on-site ponds and ensure that MSS brine is efficiently, sustainably, and responsibly handled at all stages, including collection, transmission, and disposal.
- Prevent operational and environmental impacts of Bay water overtopping the berms surrounding MSS ponds due to sea level rise, and

WHEREAS, the EIR, Chapter 5, describes and evaluates the environmental impacts of the following alternatives in the EIR: No Project Alternative, In-Pipe Alternative, and Bayside Parallel Pipe Alternative, and

WHEREAS, notice of and access to the Final EIR was provided to those state and

local agencies and interested parties who commented on the DEIR and posted on the Authority's website, and

WHEREAS, pursuant to CEQA Guidelines, responses to public agency comments on the Draft EIR have been published and made available to all commenting agencies at least 10 days prior to the final certification hearing, and

WHEREAS, in accordance with CEQA section 21167.6(e), the record of proceedings for the Authority's decision on the EIR, without limitation, shall include the following documents:

- The NOPs (May 20, 2022, revised July 8, 2022) and all other public notices issued by the Authority in conjunction with the scoping period for the Draft EIR on the proposed project;
- All comments submitted by agencies, organizations, and members of the public during the scoping period in response to the NOP;
- The Draft EIR (January 4, 2023) for the project (State Clearinghouse No. 2022050436);
- All comments submitted by agencies, organizations, and members of the public during the comment period on the Draft EIR;
- The Final EIR for the project (June 5, 2023), including comments received on the Draft EIR and responses to those comments, as well as revisions to the Draft EIR;
- Documents cited or referenced in the Draft EIR and Final EIR;
- All findings and resolutions adopted by the Authority in connection with the Project and all documents cited or referred to therein;
- All reports, studies, memoranda, maps, staff reports, or other planning documents related to the project prepared by the Authority, its consultants, and responsible or trustee agencies with respect to the Authority's compliance with the requirements of CEQA and with respect to the Authority's action on the project;
- All documents submitted to the Authority by other public agencies or members of the public in connection with the Project;
- All minutes and/or verbatim transcripts, as available, of all public meetings held by the Authority in connection with the project;
- Any documentary or other evidence submitted to the Authority at such public meetings;
- Any other materials required to be in the record of proceedings by CEQA section 21167.6(e), and

WHEREAS, all files have been made available to the Commission in considering these findings, and

WHEREAS, the Commission has had an opportunity to review all comments and responses thereto prior to consideration of certification of the EIR, and

WHEREAS, the Authority recognizes that the FEIR incorporates information obtained and produced after the DEIR was completed, and that the FEIR contains additions, clarifications, and modifications, and

WHEREAS, the Authority has reviewed and considered the FEIR and all of this information, and the new information added in the FEIR merely clarifies and makes insignificant changes to an adequate DEIR, and does not add significant new information to the DEIR or that the public was deprived of a meaningful opportunity to review and comment on the DEIR, that would require recirculation of the EIR under CEQA.

WHEREAS, the Authority finds that the changes and modifications made to the EIR after the DEIR was circulated for public review and comment do not individually or collectively constitute significant new information within the meaning of Public Resources Code section 21092.1 or CEQA Guidelines section 15088.5.

WHEREAS, the EIR has been reviewed and recommended for certification by the Regulatory Affairs Committee.

NOW, THEREFORE, BE IT RESOLVED that the Authority hereby certifies the EIR for the Project, pursuant to CEQA Guidelines, section 15090(a), based on the following findings:

- That the EIR has been completed in compliance with CEQA and the CEQA guidelines.
- The Authority has independently reviewed and considered the record and the EIR prior to certifying the EIR.
- The EIR represents the independent judgment, review and analysis of the Authority.
- The EIR provides information to the decision-makers and the public on the environmental consequences of the proposed Project.
- The EIR adequately discusses the potential adverse environmental effects, ways in which such affects might be mitigated, and alternatives to the Project which would reduce or avoid the adverse effects.

These findings are based on substantial evidence in the entire administrative record, and references to specific reports and specific pages of documents are not intended to identify those sources as the exclusive basis for the findings.

The Authority further certifies that the EIR is adequate to support all actions in connection with the approval of the Project, approval of any alternatives to the Project, and any minor modifications to the Project or alternatives described in the EIR, and all other actions and recommendations necessary for approval of the Project. These certification findings will be included and incorporated by reference into each and every

staff report, motion or resolution associated with the Authority's future approval of the Project.

The documents and other materials that constitute the record of proceedings upon which the Commission has based its decision may be obtained from the Authority as the official custodian of the record of proceedings.

SAN LORENZO, CALIFORNIA, JUNE 15, 2023 ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:

CHAIR
EAST BAY DISCHARGERS AUTHORITY

ATTEST: _____
GENERAL MANAGER
EAST BAY DISCHARGERS AUTHORITY
EX OFFICIO SECRETARY



ITEM NO. 12

FINANCIAL MANAGEMENT COMMITTEE AGENDA

Monday, June 12, 2023

8:00 A.M.

**East Bay Dischargers Authority
2651 Grant Avenue, San Lorenzo, CA 94580**

Committee Members: Simon (Chair); Andrews

- FM1. Call to Order**
- FM2. Roll Call**
- FM3. Public Forum**
- FM4. Disbursements for May 2023**
(The Committee will review the List of Disbursements.)
- FM5. Treasurer’s Report for May 2023**
(The Committee will review the Treasurer’s Report.)
- FM6. Motion Setting the City of Hayward Recycled Water Fee for Fiscal Year 2023/2024 at \$9000 per Quarter**
(The Committee will consider the motion.)
- FM7. Motion Authorizing the General Manager to Execute Amendment No. 11 to the Fee Contract by and Between East Bay Dischargers Authority and Meyers Nave, a Professional Corporation**
(The Committee will consider the motion.)
- FM8. Resolution Adopting the East Bay Dischargers Authority’s Fiscal Year 2023/2024 Budget**
(The Committee will consider the resolution.)
- FM9. Adjournment**

Any member of the public may address the Committee at the commencement of the meeting on any matter within the jurisdiction of the Committee. This should not relate to any item on the agenda. Each person addressing the Committee should limit their presentation to three minutes. Non-English speakers using a translator will have a time limit of six minutes. Any member of the public desiring to provide comments to the Committee on any agenda item should do so at the time the item is considered. Oral comments should be limited to three minutes per individual or ten minutes for an organization. Speaker's cards will be available and are to be completed prior to speaking.

Agenda Explanation
East Bay Dischargers Authority
Financial Management Committee
June 12, 2023

In compliance with the Americans with Disabilities Act of 1990, if you need special assistance to participate in an Authority meeting, or you need a copy of the agenda, or the agenda packet, in an appropriate alternative format, please contact the Juanita Villasenor at juanita@ebda.org or (510) 278-5910. Notification of at least 48 hours prior to the meeting or time when services are needed will assist the Authority staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.

In compliance with SB 343, related writings of open session items are available for public inspection at East Bay Dischargers Authority, 2651 Grant Avenue, San Lorenzo, CA 94580. For your convenience, agenda items are also posted on the East Bay Dischargers Authority website located at <http://www.ebda.org>.

<p>Next Scheduled Financial Management Committee: Monday, July 17, 2023 at 9:00 a.m.</p>

EAST BAY DISCHARGERS AUTHORITY

List of Disbursements

May 2023

Check #	Payment Date	Invoice #	Vendor Name	Description	Invoice Amount	Disbursement Amount
26106	05/31/2023	3023071	REGIONAL MONITORING PROGRAM C/O SFEI	SEMI-ANNUAL PARTICIPANT FEE FOR THE RMP 2023 BUDGET	158,925.50	158,925.50
26092	05/16/2023	002963	UNION SANITARY DISTRICT	O&M - MAR	38,669.49	70,001.49
26092	05/16/2023	002962	UNION SANITARY DISTRICT	O&M - FEB	31,332.00	
26083	05/16/2023	392014	CITY OF SAN LEANDRO	O&M - MAR	34,552.90	34,552.90
26095	05/31/2023	20210105.02-15	ASCENT ENVIRONMENTAL, INC	CONSULTING SERVICES - CARGILL CEQA	30,127.50	30,127.50
26107	05/31/2023	WTR-00002975	SONOMA COUNTY WATER AGENCY	AQPI COOPERATIVE AGREEMENT	29,000.00	29,000.00
26108	05/31/2023	51143710	UNIVAR	SODIUM BISULFITE - DELIVERED 05/10/2023	7,934.03	23,749.40
26108	05/31/2023	51180198	UNIVAR	SODIUM BISULFITE - DELIVERED 05/24/2023	7,920.86	
26108	05/31/2023	51107654	UNIVAR	SODIUM BISULFITE - DELIVERED 04/26/2023	7,894.51	
26077	05/16/2023	20210105.02-14	ASCENT ENVIRONMENTAL, INC	CONSULTING SERVICES - CARGILL CEQA	18,860.00	18,860.00
26079	05/16/2023	11481920	BROWN & CALDWELL	ENGINEERING SERVICES - BRINE ASSESSMENT	11,375.15	11,375.15
26087	05/16/2023	184321	ENVIRONMENTAL SCIENCE ASSOCIATES	HAYWARD FEASIBILITY STUDY WORK ORDER NO. 3	3,804.00	6,955.25
26087	05/16/2023	184320	ENVIRONMENTAL SCIENCE ASSOCIATES	FIRST MILE PROJECT WORK ORDER NO. 1	3,151.25	
26078	05/16/2023	INV-0000283502	BLACKBAUD	ACCOUNTING SOFTWARE TRAINING SUBSCRIPTION RENEWAL	3,794.76	3,794.76
26098	05/31/2023	INV-0000283502	BLACKBAUD	ACCOUNTING SOFTWARE TRAINING SUBSCRIPTION RENEWAL	3,794.76	3,794.76
26085	05/16/2023	Jan-23	DEBORAH QUINN	ACCOUNTING SERVICES - JAN	2,273.70	2,273.70
26099	05/31/2023	53572	CALCON	SCADA WET WEATHER PROGRAMMING & ROOFING PROJECT ANTENNA	1,603.98	1,962.78
26099	05/31/2023	53554	CALCON	SKYWEST ANTENNA	358.80	
26080	05/16/2023	708350	CALTEST	LAB TESTING SERVICES	1,551.70	1,551.70
26082	05/16/2023	52205711	CITY OF HAYWARD	BENEFIT PREMIUMS - MAY	1,369.42	1,369.42
26091	05/16/2023	4246044555687620	US BANK	PURCHASING CARD EXPENSES	1,344.27	1,344.27
26081	05/16/2023	FB35913	CAROLLO ENGINEERS	ENGINEERING SERVICES - WORK ORDER NO. 5	1,284.00	1,284.00
26105	05/31/2023	SW240189432	PETERSON POWER SYSTEMS	OLEPS DIESEL PUMP #3	1,139.04	1,139.04
26103	05/31/2023	00013.11-18	LARRY WALKER ASSOCIATES	PROFESSIONAL SERVICES - WORK ORDER NO. 2	950.50	950.50
26090	05/16/2023	1000924866	STATE COMPENSATION INSURANCE FUND	WORKERS COMPENSATION PREMIUM	810.00	810.00
26076	05/16/2023	10000101	ARROW FIRE PROTECTION CO	ANNUAL FIRE EXTINGUISHER INSPECTION & SERVICE - MDF	547.09	547.09
26101	05/31/2023	8397	CAYUGA INFORMATION SYSTEMS	IT SERVICES	472.50	472.50
26096	05/31/2023	51048304397166	AT&T	TELEPHONE SERVICE - MDF	231.28	231.28
26086	05/16/2023	10110000001	EBMUD	WATER & SEWER, MDF	222.24	222.24
26089	05/16/2023	CD_000582771	RINGCENTRAL INC	DIGITAL PHONE SERVICE	210.48	210.48
26097	05/31/2023	0523-21	BEECHER ENGINEERING, INC	ELECTRICAL ENGINEERING SERVICES - WORK ORDER NO. 1	210.00	210.00
26104	05/31/2023	9658	MBC CUSTODIAL SERVICES INC	JANITORIAL SERVICES - MAR	190.00	190.00
26100	05/31/2023	3779938	CALTRONICS	COPIER USAGE AND MAINTENANCE	178.35	178.35
26094	05/31/2023	3054408	ALPHA ANALYTICAL LABORATORIES	LAB SAMPLES FOR SKYWEST	85.00	170.00

EAST BAY DISCHARGERS AUTHORITY
List of Disbursements
May 2023

Check #	Payment Date	Invoice #	Vendor Name	Description	Invoice Amount	Disbursement Amount
26094	05/31/2023	3054497	ALPHA ANALYTICAL LABORATORIES	LAB SAMPLES FOR SKYWEST	85.00	
26084	05/16/2023	53229	COMPUTER COURAGE	WEBSITE HOSTING - MAY	150.00	150.00
26088	05/16/2023	9700	MBC CUSTODIAL SERVICES INC	JANITORIAL SERVICES - APR	130.00	130.00
26093	05/16/2023	9933818596	VERIZON WIRELESS	WIRELESS PHONE SERVICES	102.91	102.91
26102	05/31/2023	44777800001	EBMUD	WATER - ADMIN	73.22	73.22
TOTAL CHECK PAYMENTS					406,710.19	406,710.19
ELECTRONIC PAYMENTS						
	05/02/2023		PG&E	GAS & ELECTRIC SERVICE	62,124.65	62,124.65
	05/02/2023	100000017145786	CALPERS	HEALTH PREMIUMS - MAY	7,570.99	7,570.99
	05/03/2023	100000017113205	CALPERS	PENSION CONTRIBUTION, CLASSIC 04/16 - 30/2023	4,975.51	4,975.51
	05/17/2023	100000017140518	CALPERS	PENSION CONTRIBUTION, CLASSIC 05/1 - 15/2023	4,975.51	4,975.51
	05/03/2023	6595467	MISSION SQUARE	DEFERRED COMPENSATION 04/30/2023	2,167.35	2,167.35
	05/17/2023	6553355	MISSION SQUARE	DEFERRED COMPENSATION 05/15/2023	2,167.35	2,167.35
	05/03/2023	100000017113244	CALPERS	PENSION CONTRIBUTION, PEPRA 04/16 - 30/2023	162.45	162.45
	05/17/2023	100000017140560	CALPERS	PENSION CONTRIBUTION, PEPRA 05/1 - 15/2023	162.45	162.45
TOTAL ELECTRONIC PAYMENTS					84,306.26	84,306.26
PAYROLL						
	05/30/2023		ADP, LLC	PAYROLL PERIOD: 05/16-31/2023	25,408.64	25,408.64
	05/12/2023		ADP, LLC	PAYROLL PERIOD: 05/01-15/2023	23,065.00	23,065.00
	05/05/2023	230505	ADP, LLC	PAYROLL FEES, 04/16-30/2023	93.62	93.62
	05/19/2023	230519	ADP, LLC	PAYROLL FEES, 05/01-15/2023	77.30	77.30
TOTAL PAYROLL					48,644.56	48,644.56
TOTAL DISBURSEMENTS					539,661.01	539,661.01

ITEM NO. FM5 TREASURER'S REPORT FOR MAY 2023

The beginning cash balance on May 1, 2023 was \$3,954,002.19. Total receipts for the month were \$32,538.33 and disbursements totaled \$539,661.01, bringing the cash balance to \$3,446,879.51 at May 31. EBDA's LAIF balance is \$2,820,413.18 and the average monthly effective yield for May was 2.993%.

EBDA currently has a two-pronged investment approach that includes Local Agency Investment Fund (LAIF) and traditional bank accounts.

Approval is recommended.

**EAST BAY DISCHARGERS AUTHORITY
TREASURER'S REPORT
May 31, 2023**

FUND	DESCRIPTION	BEGINNING CASH BALANCE	DEBITS (INCREASE)	CREDITS (DECREASE)	ENDING CASH BALANCE
12	OPERATIONS & MAINTENANCE	803,102.99		277,415.22	525,687.77
13	PLANNING & SPECIAL STUDIES	600,117.80	9,611.11	194,880.75	414,848.16
14	RECLAMATION O & M (SKYWEST)	76,568.90		528.80	76,040.10
15	BRINE ACCEPTANCE	(206,941.94)	19,132.46	61,313.15	(249,122.63)
31	RENEWAL & REPLACEMENT	2,681,154.44		1,728.33	2,679,426.11
TOTALS		3,954,002.19	28,743.57	535,866.25	3,446,879.51

May-23

6/8/2023

SUPPLEMENTAL TREASURERS REPORT

DATE	TRANSACTION	RECEIPT	DISBURSEMENT CHECKING	DISBURSEMENT PAYROLL	PAYROLL TRANSFER	LAIF TRANSFER	WELLS FARGO CHECKING BALANCE	WELLS FARGO PAYROLL BALANCE	LAIF BALANCE	TOTAL CASH
04/30/23	BALANCE						1,117,518.97	16,070.04	2,820,413.18	3,954,002.19
05/02/23	ELECTRONIC BILL PAY		7,570.99				1,109,947.98	16,070.04	2,820,413.18	3,946,431.20
05/02/23	ELECTRONIC BILL PAY		62,124.65				1,047,823.33	16,070.04	2,820,413.18	3,884,306.55
05/03/23	ELECTRONIC BILL PAY		4,975.51				1,042,847.82	16,070.04	2,820,413.18	3,879,331.04
05/03/23	ELECTRONIC BILL PAY		2,167.35				1,040,680.47	16,070.04	2,820,413.18	3,877,163.69
05/03/23	ELECTRONIC BILL PAY		162.45				1,040,518.02	16,070.04	2,820,413.18	3,877,001.24
05/05/23	PAYROLL FEES			93.62			1,040,518.02	15,976.42	2,820,413.18	3,876,907.62
05/12/23	PAYROLL TRANSFER				100,000.00		940,518.02	115,976.42	2,820,413.18	3,876,907.62
05/12/23	PAYROLL			23,065.00			940,518.02	92,911.42	2,820,413.18	3,853,842.62
05/15/23	DEPOSIT - CARGILL	19,132.46					959,650.48	92,911.42	2,820,413.18	3,872,975.08
05/16/23	DISBURSEMENT		155,535.36				804,115.12	92,911.42	2,820,413.18	3,717,439.72
05/17/23	ELECTRONIC BILL PAY		4,975.51				799,139.61	92,911.42	2,820,413.18	3,712,464.21
05/17/23	ELECTRONIC BILL PAY		162.45				798,977.16	92,911.42	2,820,413.18	3,712,301.76
05/17/23	ELECTRONIC BILL PAY		2,167.35				796,809.81	92,911.42	2,820,413.18	3,710,134.41
05/19/23	DEPOSIT - ABAG	9,611.11					806,420.92	92,911.42	2,820,413.18	3,719,745.52
05/19/23	PAYROLL FEES			77.30			806,420.92	92,834.12	2,820,413.18	3,719,668.22
05/30/23	PAYROLL			25,408.64			806,420.92	67,425.48	2,820,413.18	3,694,259.58
05/30/23	VOID CHECK	3,794.76					810,215.68	67,425.48	2,820,413.18	3,698,054.34
05/31/23	DISBURSEMENT		251,174.83				559,040.85	67,425.48	2,820,413.18	3,446,879.51
	TOTAL	32,538.33	491,016.45	48,644.56	100,000.00	-	559,040.85	67,425.48	2,820,413.18	3,446,879.51
	CURRENT BALANCE						559,040.85	67,425.48	2,820,413.18	3,446,879.51

①

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③

Reconciliation

① Per Bank Statement @ 5/31/23	\$ 819,696.43
Less: Outstanding Checks	260,655.58
	\$ 559,040.85
② Per Bank Statement @ 5/31/23	\$ 67,425.48
③ Per LAIF Statement @ 5/31/23	\$ 2,820,413.18

The Supplemental Treasurer's Report is prepared monthly by the General Manager. It also serves as EBDA's cash and investments reconciliation.

ITEM NO. FM6 MOTION SETTING THE CITY OF HAYWARD RECYCLED WATER FEE FOR FISCAL YEAR 2023/2024 AT \$9000 PER QUARTER

Recommendation

Approve the motion setting recycled water fees at \$9000 per quarter (\$3000 per month) for FY 2023/2024.

Background

Since 1982, EBDA has been providing recycled water to Skywest Golf Course. The golf course property is owned by the City of Hayward (City) and was historically operated by Hayward Area Recreation and Park District (HARD). EBDA's goal for Skywest has always been for revenues to meet expenses so that the Member Agencies do not subsidize the project. From 2017-2020, EBDA charged HARD \$10,000 per month, which allowed for offset of expenses, as well as build-up of a small fund for capital needs.

In March 2020, the golf course was closed to the public due to COVID-19 restrictions, and it has not reopened. Since the course closed, EBDA has continued to provide recycled water at reduced quantities. The water is no longer used for irrigation; water levels are maintained in the ponds to provide for local wildlife.

At the end of September 2020, HARD elected to allow their lease to expire, and management of the property was taken over by the City, which is currently undertaking a facility-planning process to determine future land uses.

In May 2021 and May 2022, the Commission adopted motions setting the City of Hayward recycled water fee at \$9000 per quarter.

Discussion

The balance in EBDA's water reclamation fund, which is currently set aside for the Skywest project, is \$76,040.

Based on expenses incurred over the past year, staff recommends extending the recycled water price of \$9000 per quarter for continued reduced service to Skywest. This amount covers operational costs and allows the remaining funds in the account to be retained for the ultimate decommissioning or disposition of the system.

Staff believes that supplying EBDA's recycled water to the City's Skywest property provides financial benefits to the City, whose cost for potable water would be much higher, and environmental benefits to EBDA and its Member Agencies. Staff will continue to work with the City to identify future recycled water needs as their plans for the property take shape. One likely scenario is that the City provides recycled water from their Water Pollution Control Plant to the site in the future. That would allow the existing Skywest system to be decommissioned or repurposed for supply of recycled water to a horizontal levee.

ITEM NO. FM7 MOTION AUTHORIZING THE GENERAL MANAGER TO EXECUTE AMENDMENT NO. 11 TO THE FEE CONTRACT BY AND BETWEEN EAST BAY DISCHARGERS AUTHORITY AND MEYERS NAVE, A PROFESSIONAL CORPORATION

Recommendation

Approve a motion authorizing execution of Amendment No. 11 to the fee contract with Meyers Nave that extends the contract for FY 2023/2024 and increases the hourly rates by 4.5%.

Background

EBDA first selected Meyers Nave in March 2010 through a competitive bidding process to replace its retiring General Counsel. The compensation rate determined through that competitive bid has been adjusted historically by the Commission to correspond with inflation. The existing compensation rate is \$328 per hour for general services and \$361 per hour for litigation services, and was adopted in June 2022. The proposed 4.5% increase for inflation is consistent with prior years' adjustments and was incorporated in the FY 2023/2024 Budget (see Item No. FM8). These lower-than-market rates are specific to public agencies and apply to work directly for EBDA. Hours associated with the Cargill project are billed at Meyers Nave's commercial rates, with those costs passed through to Cargill.

Discussion

Staff recommends the extension of the Meyers Nave contract for another year based on the excellent support that has been provided to EBDA under this contract to date. EBDA benefits from the strength of Eric Casher, EBDA's primary counsel on public contracting and procurement law. In addition, Meyers Nave's regulatory team, led by Greg Newmark, has been providing significant support on the Cargill project. In the past, Meyers Nave's employment law experts, led by Jesse Lad, have also provided helpful support on personnel policy and management issues.

Meyers Nave has historically billed EBDA for approximately 100 hours annually as General Counsel. For the current fiscal year through April 2023, Meyers Nave has billed 90 hours for General Counsel work and 457 hours for the Cargill project. All Cargill-related work is fully reimbursable.

ITEM NO. FM8 RESOLUTION ADOPTING THE EAST BAY DISCHARGERS AUTHORITY'S FISCAL YEAR 2023/2024 BUDGET

Recommendation

Adopt a resolution approving the Authority's FY 2023/2024 Budget.

Background

The Authority's Amended and Restated JPA states the following:

The Commission will adopt an annual or biennial budget for the ensuing Fiscal Year(s) prior to July 1. The budget will include sufficient detail to constitute a fiscal control guideline, specify cash flow requirements from each Agency, grant reimbursements, and cash receipts and expenditures to be made for Operation and Maintenance Costs, Planning and Special Studies Costs, and Capital Costs for the Facilities, and other necessary and appropriate expenditures.

Driving factors and considerations for the FY 2023/2024 budget were discussed with the Financial Management Committee in March 2023, and a draft Budget was reviewed in April 2023.

Discussion

The proposed FY 2023/2024 Budget is presented in the following format:

1. By Program
2. By Account Number
3. Allocation to Member Agencies

Outside revenues are shown in a separate column to more accurately represent the portion of the budget that the Member Agencies and LAVWMA will be responsible for. This includes revenues associated with the EPA grant for Nature Based Solutions, the Skywest water recycling project, and the Cargill brine project.

Overall, agency expenses are projected to increase by 14%, as compared to the FY 2022/2023 budget. Details of changes by line item are provided in the attached budget tables. As discussed with the Committee previously, the increases are driven by a 4.9% cost of living adjustment for salaries, a 9% increase in National Pollutant Discharge Elimination System (NPDES) Permit Fees, significant increases in chemical costs (100% for sodium hypochlorite and 25% for sodium bisulfite), delayed implementation of the permit amendment for chlorine residual, and increases in PG&E rates.

Minor adjustments have been made to the budget from the draft reviewed by the Committee in April:

- Meyers Nave fee was increased by 4.5% (see Item No. FM7).
- Maintenance and Repair of Outfall and Force Mains was increased to reflect additional staffing.

- \$20,000 was added to the sodium hypochlorite budget for additional bacteria control.
- NPDES Permit Fee increase was adjusted from an 8.8% increase to a 9% increase based on updated information from the State Water Resources Control Board.

The agencies' Renewal and Replacement Fund (RRF) contribution remains flat at \$750k. This includes \$330k for ongoing asset management and \$420k in credit to USD to fulfill the annual JPA obligation for UEPS capital. Note that because San Leandro and LAVWMA contributions are specific to certain facilities, they pay their share of RRF expenses at the end of each fiscal year.

FISCAL YEAR 2023/2024 BUDGET BY PROGRAM

FUND NO	PROGRAM DESCRIPTION	BUDGET FY 2023/2024	OUTSIDE REVENUES	AGENCY REVENUES FY 2023/2024	AGENCY REVENUES FY 2022/2023	% FY 23/24 to 22/23	\$ Change	Explanations for Changes over 10%
12	O&M EFFLUENT DISPOSAL							
12 06	General Administration	\$ 1,487,812	\$ -	\$ 1,487,812	\$ 1,383,713	108%	\$ 104,099	
12 10	Outfall & Force mains	\$ 269,800	\$ -	\$ 269,800	\$ 181,300	149%	\$ 88,500	Projected increase in staffing needs.
12 14	Marina Dechlor Facility	\$ 614,100	\$ -	\$ 614,100	\$ 389,100	158%	\$ 225,000	Significant increase in sodium bisulfite (SBS) cost due to indefinite delay in implementation of chlorine residual limit change and chemical cost increase.
12 16	Oro Loma Pump Station	\$ 613,000	\$ -	\$ 613,000	\$ 531,000	115%	\$ 82,000	Increase in PG&E rates and diesel fuel.
12 18	Hayward Pump Station	\$ 186,000	\$ -	\$ 186,000	\$ 173,000	108%	\$ 13,000	
12 20	Union Pump Station	\$ 466,000	\$ -	\$ 466,000	\$ 390,000	119%	\$ 76,000	Increase in PG&E rates.
12 21	Bay & Effluent Monitoring	\$ 729,867	\$ -	\$ 729,867	\$ 593,450	123%	\$ 136,417	Increase in unit cost of hypo.
	TOTAL FUND # 12	\$ 4,366,579		\$ 4,366,579	\$ 3,641,563	120%	\$ 725,016	
13	SPECIAL PROJECTS							
13 36	NPDES Permit Fees	\$ 693,023	\$ -	\$ 693,023	\$ 656,019	106%	\$ 37,004	
13 37	NPDES Permit Issues	\$ -	\$ -	\$ -	\$ -		\$ -	
13 48	Regional Monitoring Program	\$ 293,760	\$ -	\$ 293,760	\$ 292,320	100%	\$ 1,440	
13 49	Nutrient Surcharge	\$ 240,143	\$ -	\$ 240,143	\$ 237,114	101%	\$ 3,029	
13 46	Alternative Monitoring & Reporting	\$ 32,314	\$ -	\$ 32,314	\$ 32,155	100%	\$ 158	
13 53	Water Research Foundation	\$ 27,665	\$ -	\$ 27,665	\$ 25,580	108%	\$ 2,085	
13 77	Nature-based Solutions	\$ 200,000	\$ 200,000	\$ -	\$ -		\$ -	
13 78	Biosolids Feasibility Study	\$ -	\$ -	\$ -	\$ -		\$ -	Implementing with previously allocated funds.
13 79	Solar Feasibility Study	\$ 5,000	\$ -	\$ 5,000	\$ 8,000	63%	\$ (3,000)	Supplement to previously allocated funds.
13 82	Bruce Wolfe Memorial	\$ 1,000	\$ -	\$ 1,000	\$ -		\$ 1,000	
	TOTAL FUND # 13	\$ 1,492,905	\$ 200,000	\$ 1,292,905	\$ 1,251,188	103%	\$ 41,716	
	TOTAL OPERATING BUDGET	\$ 5,859,484	\$ 200,000	\$ 5,659,484	\$ 4,892,751	116%	\$ 766,733	
31 99	CONTRIBUTION TO R&R FUND	\$ 750,000	\$ -	\$ 750,000	\$ 750,000	100%	\$ -	
	TOTAL AGENCY FUNDING			\$ 6,409,484	\$ 5,642,751	114%	\$ 766,733	
	PROGRAMS WITH OTHER FUNDING							
14 00	WATER RECYCLING							
14 80	Skywest	\$ 36,000	\$ 36,000	\$ -	\$ -			
	TOTAL FUND # 14	\$ 36,000	\$ 36,000	\$ -	\$ -			
15 00	BRINE ACCEPTANCE							
15 68	Mixed Sea Salt Brine (Cargill)	\$ 500,000	\$ 500,000	\$ -	\$ -			
	TOTAL FUND # 15	\$ 500,000	\$ 500,000	\$ -	\$ -			
	TOTAL EXPENDITURES	\$ 7,145,484	\$ 736,000	\$ 6,409,484	\$ 5,642,751	114%	\$ 766,733	

FISCAL YEAR 2023/2024 BUDGET BY ACCOUNT

ACCT NUMBER	ACCT TITLE	BUDGET FY 2023/2024	OUTSIDE REVENUES	AGENCY REVENUES	AGENCY REVENUES % FY 23/24		\$ Change	Explanations for Changes over 10%
					FY 22/23	to 22/23		
4010	Salary	\$ 663,595		\$ 663,595	\$ 632,367	105%	\$ 31,228	
4020	Benefits	\$ 257,217		\$ 257,217	\$ 264,960	97%	\$ (7,742)	
4030	Commissioner Compensation	\$ 45,000		\$ 45,000	\$ 45,000	100%	\$ -	
4070	Insurance	\$ 75,900	\$ 5,000	\$ 70,900	\$ 72,900	97%	\$ (2,000)	
4080	Memberships & Subscriptions	\$ 166,472		\$ 166,472	\$ 149,475	111%	\$ 16,997	Addition of National Association of Clean Water Agencies and East Bay Leadership Council memberships.
4100	Supplies, Fixed	\$ 23,000		\$ 23,000	\$ 22,000	105%	\$ 1,000	
4100	Supplies, Variable	\$ 670,000		\$ 670,000	\$ 269,000	249%	\$ 401,000	Significant increase in sodium bisulfite (SBS) cost due to indefinite delay in implementation of chlorine residual limit change and chemical cost increase.
4110	Contract Services	\$ 60,841		\$ 60,841	\$ 57,611	106%	\$ 3,230	
4120	Professional Services	\$ 1,098,831	\$ 700,000	\$ 398,831	\$ 326,150	122%	\$ 72,681	Addition of outside support for accounting function.
4140	Rents & Fees	\$ 939,446		\$ 939,446	\$ 895,413	105%	\$ 44,033	
4141	NPDES Fines	\$ 9,000		\$ 9,000	\$ 9,000	100%	\$ -	
4150	Maintenance & Repair	\$ 937,100	\$ 17,000	\$ 920,100	\$ 816,600	113%	\$ 103,500	Projected increase in staffing needs for Force Main.
4160	Monitoring	\$ 558,282	\$ 5,000	\$ 553,282	\$ 574,475	96%	\$ (21,194)	
4170	Travel & Training	\$ 18,000		\$ 18,000	\$ 18,000	100%	\$ -	
4191	Utility, Variable (PG&E)	\$ 864,800	\$ 1,000	\$ 863,800	\$ 739,800	117%	\$ 124,000	Increase in PG&E rates.
4200	Acquisitions & Other	\$ 8,000	\$ 8,000	\$ -	\$ -	0%	\$ -	
SUBTOTAL ALL ACCOUNTS		\$ 6,395,484	\$ 736,000	\$ 5,659,484	\$ 4,892,751	116%	\$ 766,733	
CONTRIBUTION TO R&R FUND		\$ 750,000		\$ 750,000	\$ 750,000	750,000	\$ -	
TOTAL EXPENDITURES		\$ 7,145,484		\$ 6,409,484	\$ 5,642,751	114%	\$ 766,733	

ESTIMATED ANNUAL BILLS TO THE EBDA MEMBER AGENCIES FOR FISCAL YEAR 2023/2024

		<i>Rates for various agencies</i>								
	San Leandro	O.L.S.D.	C.V.S.D.	Hayward	U.S.D.	LAVVMA				
Special Study Rate	13%	18%	6%	30%	33%	varies				
Variable Rate	10.1%	14.0%	7.1%	22.0%	46.7%	16.3%				
Variable Rate - MAs w/o CSL	-	15.6%	7.9%	24.5%	52.0%	17.8%				
Fixed Rate	13.7%	19.1%	10.3%	14.7%	42.1%	26.10%				
Fixed Rate - MAs w/o CSL	-	22.2%	11.9%	17.1%	48.8%	-				
RRF	varies	22.2%	11.9%	17.1%	48.8%	varies				
Regional Monitoring Program	9.3%	7.0%	3.5%	28.1%	22.0%	30.1%				
Nutrient Surcharge	9.3%	2.8%	1.3%	18.2%	48.1%	20.3%				
NPDES	7.1%	12.1%	6.5%	17.2%	30.6%	26.6%				
Alternative Monitoring and Reporting	17%	11%	6%	17%	17%	33%				
	San Leandro	O.L.S.D.	C.V.S.D.	Hayward	U.S.D.	LAVVMA	REVENUES	MA Total	Grand Total	
O&M										
O&M Fixed Charges w/CSL	\$ 187,903	\$ 261,751	\$ 140,859	\$ 201,305	\$ 575,743	\$ 482,995		\$ 1,367,560	\$ 1,850,555	
O&M Fixed Charges w/o CSL	\$ -	\$ 11,743	\$ 6,294	\$ 9,045	\$ 25,813	\$ 9,229		\$ 52,894	\$ 62,124	
O&M Variable Charges w/CSL	\$ 78,229	\$ 108,406	\$ 55,151	\$ 170,418	\$ 361,218	\$ 166,677		\$ 773,423	\$ 940,100	
O&M Variable Charges w/o CSL	\$ -	\$ 219,363	\$ 111,600	\$ 344,846	\$ 730,933	\$ 107,058		\$ 1,406,742	\$ 1,513,800	
Total O&M	\$ 266,132	\$ 601,263	\$ 313,905	\$ 725,614	\$ 1,693,707	\$ 765,959		\$ 3,600,620	\$ 4,366,579	
Last year	\$ 220,967	\$ 567,037	\$ 254,222	\$ 571,355	\$ 1,381,833	\$ 646,148		\$ 2,995,414	\$ 3,641,563	
Special Projects										
NPDES Permit Fee	\$ 48,859	\$ 83,574	\$ 45,001	\$ 118,933	\$ 212,150	\$ 184,506		\$ 508,517	\$ 693,023	
Regional Monitoring Program	\$ 27,393	\$ 20,498	\$ 10,242	\$ 82,678	\$ 64,503	\$ 88,445		\$ 205,315	\$ 293,760	
Nutrient Surcharge	\$ 22,305	\$ 6,604	\$ 3,084	\$ 43,767	\$ 115,524	\$ 48,859		\$ 191,284	\$ 240,143	
Alternative Monitoring and Reporting	\$ 5,386	\$ 3,501	\$ 1,885	\$ 5,386	\$ 5,386	\$ 10,771		\$ 21,542	\$ 32,314	
Water Research Foundation	\$ 2,798	\$ 3,878	\$ 1,973	\$ 6,096	\$ 12,921	\$ -		\$ 27,665	\$ 27,665	
Special Studies Fee	\$ 780	\$ 1,080	\$ 360	\$ 1,800	\$ 1,980	\$ -		\$ 6,000	\$ 6,000	
Total Special Projects	\$ 107,521	\$ 119,134	\$ 62,545	\$ 258,659	\$ 412,464	\$ 332,582		\$ 960,323	\$ 1,292,905	
Last Year	\$ 89,527	\$ 121,097	\$ 60,076	\$ 282,459	\$ 413,153	\$ 284,877		\$ 966,312	\$ 1,251,188	
Total Operating Budget								\$ 4,560,943	\$ 5,659,484	
Last Year								\$ 3,961,726	\$ 4,892,751	
Programs with Other Funding										
Skywest							\$ 36,000		\$ 36,000	
Mixed Sea Salt Brine (Cargill)							\$ 500,000		\$ 500,000	
EPA Grant for Nature-based Solutions							\$ 200,000		\$ 200,000	
Total							\$ 536,000		\$ 736,000	
Last Year							\$ 1,156,000		\$ 1,156,000	
							Total Outside Funding		\$ 736,000	
Renewal and Replacement Fund										
RRF Contribution		\$ 166,500	\$ 89,250	\$ 128,250	\$ 366,000	\$ -		\$ 750,000	\$ 750,000	
Total RRF	\$ -	\$ 166,500	\$ 89,250	\$ 128,250	\$ 366,000	\$ -		\$ 750,000	\$ 750,000	
							Total Capital Contribution	\$ 750,000	\$ 750,000	
Overall Total for FY 2023/2024	\$ 373,652	\$ 886,897	\$ 465,700	\$ 1,112,523	\$ 2,472,171	\$ 1,098,541		\$ 5,310,943	\$ 6,409,484	
Total FY 2022/2023	\$ 310,494	\$ 854,634	\$ 403,547	\$ 982,064	\$ 2,160,986	\$ 931,025				

EAST BAY DISCHARGERS COMMISSION
EAST BAY DISCHARGERS AUTHORITY
ALAMEDA COUNTY, CALIFORNIA

RESOLUTION NO. 23-07

INTRODUCED BY _____

**RESOLUTION ADOPTING THE EAST BAY DISCHARGERS AUTHORITY'S
FISCAL YEAR 2023/2024 BUDGET**

WHEREAS, the East Bay Dischargers Authority Joint Exercise of Powers Agreement (“JPA”) requires that a Fiscal Year Budget be adopted annually, to provide an operating guideline and authorize expenditure of funds; and

WHEREAS, the General Manager has prepared a budget for Fiscal Year 2023/2024 which is attached to the accompanying Staff Report and reflects the anticipated need for the effective management of the East Bay Dischargers Authority (“Authority”) during the ensuing fiscal year; and

WHEREAS, the Managers Advisory Committee and the Financial Management Committee reviewed the proposed FY 2023/2024 Budget and recommend adoption by the Commission; and

WHEREAS, the Managers Advisory Committee and the Financial Management Committee further recommend that unspent FY 2022/2023 funds for ongoing Special Projects shall be carried over into FY 2023/2024; and

WHEREAS, the Managers Advisory Committee and the Financial Management Committee further recommend that the Authority bill the Member Agencies for their allocated contributions on a semi-annual basis; and

NOW, THEREFORE, BE IT RESOLVED, the Commission of the East Bay Dischargers Authority hereby adopts the Fiscal Year 2023/2024 Budget for the Authority, as outlined in the accompanying Staff Report.

BE IT FURTHER RESOLVED, that the sums set forth in the Fiscal Year 2023/2024 Budget for the Authority, as outlined in the accompanying Staff Report are hereby appropriated for expenditure as detailed, and that any and all expenditures for or relating to the Budget, when expended or entered into under authority of or by the General Manager, are hereby approved and authorized, and warrants therefore may be drawn by the General Manager/Treasurer, commencing July 1, 2023, and ending June 30, 2024.

SAN LORENZO, CALIFORNIA, JUNE 15, 2023, ADOPTED BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSENT:
ABSTAIN:

CHAIR
EAST BAY DISCHARGERS COMMISSION

ATTEST: _____
GENERAL MANAGER
EAST BAY DISCHARGERS AUTHORITY
EX OFFICIO SECRETARY



ITEM NO. 16

OPERATIONS & MAINTENANCE COMMITTEE AGENDA

Monday, June 12, 2023

4:00 P.M.

**East Bay Dischargers Authority
2651 Grant Avenue, San Lorenzo, CA 94580**

Committee Members: Johnson (Chair); Azevedo

OM1. Call to Order

OM2. Roll Call

OM3. Public Forum

OM4. EBDA Permit Compliance

(The Committee will be updated on EBDA's NPDES compliance.)

OM5. Status Report

(The Committee will be updated on EBDA's O&M activities.)

OM6. Motion to Approve the Renewal and Replacement Fund Project List for Fiscal Year 2023/2024

(The Committee will consider the motion.)

OM7. Motion Authorizing the General Manager to Issue a Purchase Order to Univar Solutions USA, Inc. for Sodium Bisulfite 25% Solution for Fiscal Year 2023/2024 in the Amount of \$350,000

(The Committee will consider the motion.)

OM8. Motion Authorizing the General Manager to Execute Agreement with Affordable Painting Services Inc. for Painting and Flooring Projects at the EBDA Administration Building and MDF in the Amount of \$98,808

(The Committee will consider the motion.)

OM9. Adjournment

Any member of the public may address the Commission at the commencement of the meeting on any matter within the jurisdiction of the Commission. This should not relate to any item on the agenda. It is the policy of the Authority that each person addressing the Commission limit their presentation to three minutes. Non-English speakers using a translator will have a time limit of six minutes. Any member of the public desiring to provide comments to the Commission on an agenda item should do so at the time the item is considered. It is the policy of the Authority that oral comments be limited to three minutes per individual or

Agenda Explanation
East Bay Dischargers Authority
O&M Agenda
June 12, 2023

ten minutes for an organization. Speaker's cards will be available in the Boardroom and are to be completed prior to speaking.

In compliance with the Americans with Disabilities Act of 1990, if you need special assistance to participate in an Authority meeting, or you need a copy of the agenda, or the agenda packet, in an appropriate alternative format, contact Juanita Villasenor at juanita@ebda.org or (510) 278-5910. Notification of at least 48 hours prior to the meeting or time when services are needed will assist the Authority staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.

In compliance with SB 343, related writings of open session items are available for public inspection at East Bay Dischargers Authority, 2651 Grant Avenue, San Lorenzo, CA 94580. For your convenience, agenda items are posted on the East Bay Dischargers Authority website located at <http://www.ebda.org>.

**Next Scheduled Operations and Maintenance Committee:
Tuesday, July 18, 2023, at 2:00 p.m.**

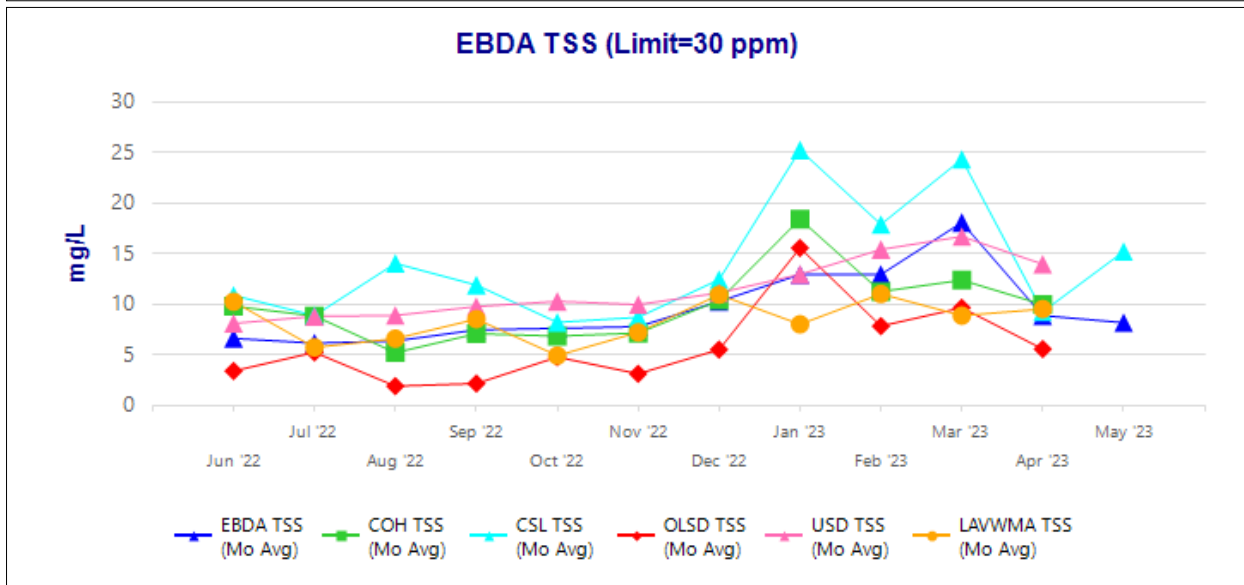
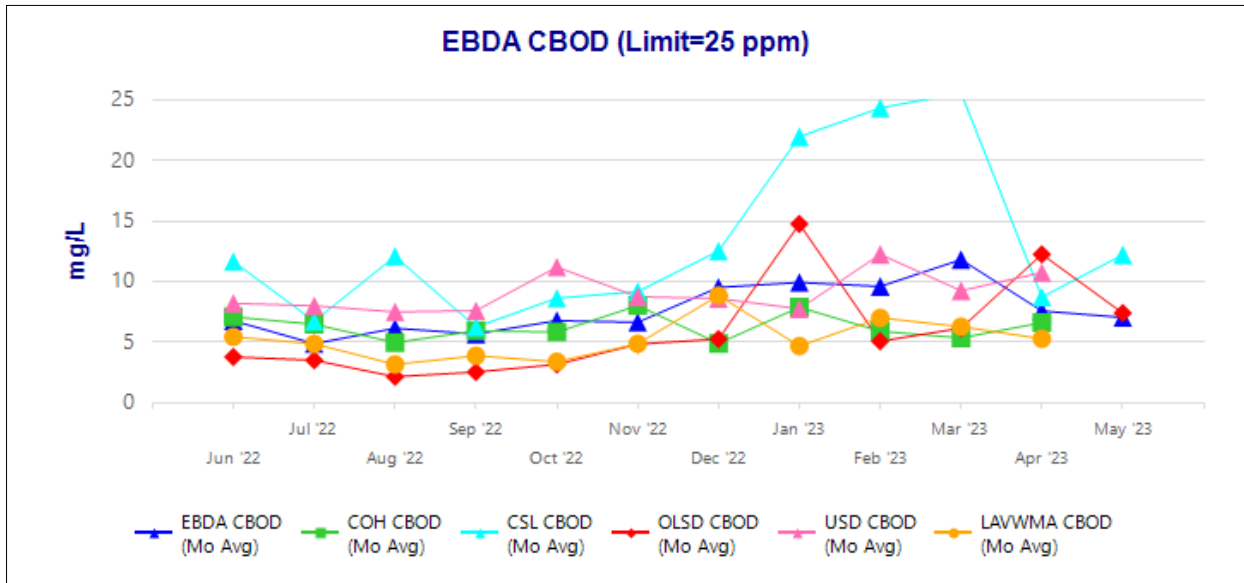
ITEM NO. OM4 EBDA PERMIT COMPLIANCE

Recommendation

For the Committee’s information only; no action is required.

Discussion

There were no NPDES permit violations in April, and preliminary data from May are also free of permit exceedances. Member Agency CBOD and TSS performance are shown below. A table with bacterial indicators is also included.



EBDA Bacterial Indicators

Date	FECAL	ENTERO
	MPN/ 100mL	MPN/ 100mL
Limit (90th Percentile)	1100	1100
Limit (Geomean)	500	280
June 2022 Geomean	5	57
July 2022 Geomean	20	6
August 2022 Geomean	15	34
September 2022 Geomean	43	28
October 2022 Geomean	12	4
November 2022 Geomean	6	6
December 2022 Geomean	21	9
January 2023 Geomean	12	14
February 2023 Geomean	4	2
March 2023 Geomean	3	2
4/3/2023	11	8
4/4/2023	7	< 2
4/5/2023	NA	6
4/10/2023	4	2
4/11/2023	79	4
4/12/2023	NA	8
4/17/2023	4	6
4/18/2023	8	8
4/24/2023	13	26
4/25/2023	9	30
April 2023 Geomean	10	7
5/1/2023	22	50
5/2/2023	13	32
5/8/2023	2	215
5/9/2023	8	84
5/15/2023	33	217
5/16/2023	23	181
5/22/2023	26	55
5/23/2023	130	429
5/29/2023	14	192
5/30/2023	4	142
May 2023 Geomean	15	122

ITEM NO. OM5 STATUS REPORT

Union Effluent Pump Station (UEPS)

Effluent Pump No. 6 Variable Frequency Drive (VFD)

USD staff is in the process of replacing the VFD inverter section for Effluent Pump No. 6, following the VFD failure. The new inverter section is on order and should arrive in 4 to 6 weeks.

Hayward Effluent Pump Station (HEPS)

Effluent Pump Replacement Project

In April, Pump Repair Service Company, Inc. (PRS) sent EBDA the Cascade Pump Company Resubmittal No. 1 for the new HEPS pumps. Currie Engineers (EBDA's project manager) responded to the submittal on May 26th with input from EBDA staff, Beecher Engineering (EBDA's electrical engineer), and the City of Hayward. EBDA is awaiting an updated lead time for the new pumps. The original lead time was quoted as 28 weeks after submittal approval.

Oro Loma Effluent Pump Station (OLEPS)

Emergency Outfall Upgrade

This project to replace and upgrade the weir at the OLEPS emergency outfall is included in the RRF Project List for FY 2023/2024 (see Item No. OM6). The upgrade will increase the height of the weir, increasing system detention time and delaying or preventing an unanticipated bypass in the event of a catastrophic failure at OLEPS. The original concept was to remove the existing lumber weir and replace it with a permanent concrete weir at an increased elevation. The new concept is to install a new permanent stainless steel weir at an increased elevation. By changing the material of the new weir from concrete to stainless steel, the installation of the new weir will be greatly simplified, reducing the cost.

Main Electrical Switchboard Upgrade

This project will be complete once Schneider Electric installs the new blanks or spacers to cover the space between the new breakers and the front panels.

Skywest Pump Station

Recycled Water Production

During the month of May 2023, the Skywest Recycled Water System operated for three days and produced 1.67 million gallons of recycled water.

Communication Issues

Following the March storms, EBDA was experiencing communication issues with the Skywest recycled water facilities. In May, Calcon completed the installation of a new antenna for EBDA's equipment near the Skywest center pond. The new antenna is twice

as tall and considerably stronger than the old antenna. The City of Hayward also trimmed one of the trees at the Skywest property that was in the direct line of the antenna. With these improvements, the communication issues are now resolved.



Old Skywest Antenna



New Skywest Antenna

Marina Dechlorination Facility (MDF)

No change; all equipment is operational.

Force Main

No change; all equipment is operational.

Operations Center

No change; all equipment is operational.

Miscellaneous Items

Underground Service Alerts

EBDA received thirteen (13) Underground Service Alert (USA) tickets during the month of May 2023. Seven required an Electronic Positive Response (EPR) and calls/emails to the excavators, and of the seven, three required field verification.

EBDA Vehicle

On September 16, 2022, a Purchase Order was submitted to National Auto Fleet Group for EBDA's new F-150 Truck. On September 26, 2022, staff traded in EBDA's 2008 Ford Ranger for \$9,100. Due to the high trade-in value, it was necessary to trade-in the truck as soon as possible before the trade-in value was reduced. The new F-150 is on order, and EBDA is waiting for an estimated delivery date from Ford.

Special Projects

Roof Replacement Projects

The Administration Building and the OLEPS roofs are complete, with the exception of the final inspection and any punch list items that are found. The MDF SBS Building roof is complete, with the exception of the installation of the downspouts, the final inspection, and any punch list items.

Cargill Brine Project

Staff is proposing certification of the Final Environmental Impact Report (EIR) for the project. See Item No. RA7.

Staff is also negotiating a Project Development and Operating Agreement with Cargill, which would be brought to the Commission for consideration in the coming months. A draft agreement was transmitted to Cargill in late February, following MAC review, and staff is currently working to address Cargill feedback. A draft technical addendum has also been developed that outlines water quality limitations and monitoring requirements to ensure EBDA's continued compliance with our NPDES permit once brine discharge commences. The addendum will also include a corrosion monitoring plan, with triggers for action if accelerating corrosion is observed.

Advanced Quantitative Precipitation Information (AQPI) Project

The regional AQPI project continues to move forward with a goal of improving prediction of rainfall events in the Bay Area. Following a series of delays, the East Bay radar was installed at Rocky Ridge in December 2022. Contra Costa County staff is currently working through data communications issues. EBDA members can access regional data through AQPI's data portal. Program Management of AQPI is shifting from Colorado State University to the Center for Western Weather and Water Extremes (CW3E) at Scripps Institution of Oceanography, UC San Diego. CW3E will be developing an updated website and data management tools, and a user group meeting to inform tool development will be held on July 5, 2023.

**ITEM NO. OM6 MOTION TO APPROVE THE RENEWAL AND REPLACEMENT
FUND PROJECT LIST FOR FISCAL YEAR 2023/2024**

Recommendation

Approve the Renewal and Replacement Fund (RRF) Project List for FY 2023/2024.

Background

Each year, the Commission is asked to approve a list of capital projects to be undertaken in the upcoming fiscal year using funds from the Authority's Renewal and Replacement Fund. The project list is developed using the Authority's Asset Management Plan (AMP), with input from the Managers Advisory Committee (MAC). The draft Project List was reviewed with the Committee in May 2023.

Discussion

The Authority's proposed RRF Project List for FY 2023/2024 is presented on the following page, with project explanations on the subsequent pages. The proposed list is unchanged from the list that the Committee reviewed and supported in May. Staff is recommending that the agencies' contribution to the RRF for FY 2023/2024 is \$750,000, consistent with the AMP 20-year projection of funding needs.

RRF Projects for FY 2023/2024

<u>Facility</u>	<u>Renewal Replacement Fund Items</u>	<u>Projected Completion Date</u>	<u>Estimated Costs</u>
UEPS	Payment #4 of 10 Per JPA	July 2023	\$ 420,000
HEPS	Additional Funds to Complete Effluent Pump Replacement Project	June 2024	\$ 330,000
OLEPS	Emergency Outfall Upgrade Construction Funds	June 2024	\$ 55,000
OLEPS	North Wet Well Gate Repair	October 2023	\$ 75,000
OLEPS	OLSD Battery Backup	December 2023	\$ 10,000
OLEPS, HEPS & MDF	Solar Engineering	June 2024	\$ 25,000
MDF	Painting	October 2023	\$ 45,000
MDF	SCADA Upgrade	June 2024	\$ 10,000
EBDA Office	Security Upgrade	June 2024	\$ 10,000
		FY 2023/2024 Sub-Total	\$ 980,000
		Small Projects Fund	\$ 100,000
		FY 2023/2024 Total	\$ 1,080,000

UEPS – Payment #4 of 10 per JPA – \$420,000

The Amended and Restated Joint Powers Agreement (JPA) states that “in fiscal years from 2020/21 through 2029/30, the Authority will pay Union a total of Four Million, Two-Hundred Thousand dollars (\$4,200,000), divided in ten equal and annual installments, as a credit toward their annual budget contribution for Operation and Maintenance Costs, for all Capital Costs associated with the Union Effluent Pump Station during the Term of the Agreement.”

HEPS – Effluent Pump Replacement Completion – \$330,000

This item provides additional funds to complete replacement of the four pumps at HEPS. The Commission approved a contract with Pump Repair Service Company, Inc. (PRS) in the amount of \$725,900. \$400,000 had previously been allocated.

OLEPS – Emergency Outfall Upgrade Construction – \$55,000

This upgrade to the emergency outfall will remove the existing lumber weir and replace it with a permanent weir at an increased elevation. Increasing the height of the weir will increase system detention time and delay or prevent an unanticipated bypass in the event of a catastrophic failure at OLEPS.

OLEPS – North Wet Well Gate Repair – \$75,000

The large North Wet Well influent gate has a broken guide-bearing and a bent shaft. These items will be repaired, and a total of four gates will be serviced.

OLEPS – OLSD Battery Backup – \$10,000

Oro Loma Sanitary District (OLSD) is planning to complete a battery storage project that will provide back-up power for the treatment plant. OLEPS will also be able to tie into the system, providing additional reliability in the event of a power failure. These funds represent EBDA’s contribution to the project.

OLEPS, HEPS & MDF – Solar Engineering – \$25,000

In FY 2022/2023, Black & Veatch Engineers began a Solar and Battery Energy Storage Assessment for EBDA’s facilities as a subtask of their similar study for Union Sanitary District. These funds are to complete the study and begin engineering work for any feasible project(s).

MDF – Painting – \$45,000

With the SBS Building roof project nearly complete, staff is recommending internal painting of the SBS Building and external painting of the trim, doors, and other non-brick surfaces of both buildings at the facility. The whale mural will not be affected.

MDF – SCADA Upgrade – \$10,000

The facility computer will be replaced and new upgraded SCADA software, that was previously purchased, will be installed.

EBDA Office – Security Upgrade – \$10,000

OLSD is planning security improvements around its Administration and Engineering Buildings and EBDA’s office, as well as the shared parking lot, to improve safety and prevent theft. These funds represent EBDA’s contribution to the project.

Small Projects Fund (formerly Contingency Fund) – \$100,000

The purpose of the Small Projects Fund is to provide additional funding for unidentified projects and/or equipment that may need to be replaced or refurbished in FY 2023/2024. Much of the smaller ancillary equipment and components that the Authority owns are operated with the intent to ‘run to failure.’ This is a common practice at wastewater facilities with these types of assets, which include fans, valves, actuators, and small pumps and motors. While preventive maintenance is completed on a regular basis, forecasting an exact date of failure is not possible. The criteria for ‘run to failure’ are both that the equipment can be readily procured and that there is sufficient redundancy to meet system firm capacity. In some cases, staff will purchase critical items and have them on the shelf, reducing system equipment downtime.

ITEM NO. OM7 MOTION AUTHORIZING THE GENERAL MANAGER TO ISSUE A PURCHASE ORDER TO UNIVAR SOLUTIONS USA, INC. FOR SODIUM BISULFITE 25% SOLUTION FOR FISCAL YEAR 2023/2024 IN THE AMOUNT OF \$350,000

Recommendation

Approve a motion authorizing the General Manager to issue a Purchase Order (PO) to Univar Solutions USA, Inc. (Univar) in the amount of \$350,000 for the purchase of Sodium Bisulfite 25% Solution in FY 2023/2024.

Background

Since 2014, EBDA has elected to work collectively with the Bay Area Chemical Consortium (BACC) to obtain a bid for Sodium Bisulfite 25% Solution (SBS). The BACC is a consortium of over fifty water and wastewater agencies in Northern California who use their common purchasing power to achieve better pricing for treatment chemicals while reducing the costs of bidding processes. BACC was created and managed by Dublin San Ramon Services District and was transitioned to the umbrella of the Bay Area Clean Water Agencies (BACWA).

Discussion

This year, Univar USA, Inc. was the lowest responsive and responsible bidder for SBS, in fact the only bidder, with a delivered cost of \$1.85 per gallon, not including sales tax. The per gallon cost of SBS has increased by \$0.375, or 25% from FY 2022/2023. Univar has been the successful bidder for SBS the past several years, so Authority staff has a history of working with them. Each agency member of BACC is responsible for issuing its own PO with the supplier.

While the FY 2022/2023 PO for SBS was initially only \$125,000, as a result of this year's wet weather and the delay in implementation of the new chlorine residual limit, the actual expense for FY 2022/2023 will be closer to \$275,000. The 25% unit-cost increase for SBS next fiscal year will add further to the projected cost increase. Therefore, staff is conservatively recommending a PO ceiling of \$350,000, consistent with the FY 2023/2024 budget (see Item No. FM8).

Pending implementation of new chlorine residual limits, actual spending on SBS next fiscal year may be lower. Regional Water Quality Control Board (Water Board) staff has circulated an administrative draft of a new blanket permit amendment that would adjust chlorine residual limits based on narrative standards in the Basin Plan. This approach allows the Water Board to revise effluent limits without seeking EPA approval for the Basin Plan Amendment, which was the impediment to implementing the previous blanket permit amendment. Under the proposed permit amendment, EBDA's permit limit would be revised from 0.0 mg/L chlorine as an instantaneous maximum to 0.98 mg/L as a one-hour average. Water Board staff is aiming for adoption later this calendar year.

ITEM NO. OM8 MOTION AUTHORIZING THE GENERAL MANAGER TO EXECUTE AN AGREEMENT WITH AFFORDABLE PAINTING SERVICES INC. FOR PAINTING AND FLOORING PROJECTS AT THE EBDA ADMINISTRATION BUILDING AND MDF IN THE AMOUNT OF \$98,808

Recommendation

Approve a motion authorizing the General Manager to execute an agreement with Affordable Painting Services Inc. in the amount of \$98,808 for painting and flooring services.

Background

EBDA owns and maintains several buildings, including two buildings at the Marina Dechlorination Facility (MDF), as well as the EBDA Administration Building located adjacent to Oro Loma Sanitary District (OLSD)’s Administration Building. Roofing projects on these buildings are nearing completion. Staff is now recommending interior and exterior painting of these buildings, and updated flooring for the EBDA Administration Building. The MDF painting is included as an FY 2023/2024 Renewal and Replacement Fund Project (see Item No. OM6). Updates to the EBDA Administration Building were approved as part of the FY 2018/2019 RRF Project List.

Discussion

Following a competitive bidding process several years ago, OLSD selected Affordable Painting Services Inc. (APS) as their preferred painting and flooring contractor. APS has continued providing service to OLSD at the same hourly rates and has performed well. Additionally, APS has completed several small painting projects for EBDA over the last several years under the OLSD contract. EBDA staff is recommending hiring APS to paint the interior of the SBS Building at MDF, and paint the exterior trim, doors, and other non-brick surfaces of both buildings at the facility. The whale mural will not be affected. Staff is also recommending that APS paint the interior of the EBDA Administration Building and install durable laminate flooring, replacing the aged carpet. Finally, staff is recommending that APS paint the EBDA Administration Building fascia and trim as part of the roof replacement project and paint the exterior walls as necessary.

Affordable Painting Services Inc.

MDF Painting	\$45,000
EBDA Administration Building Interior Painting & Flooring	\$35,146
EBDA Administration Building Exterior Painting	\$14,900
4% Contingency	\$ 3,802
Total	\$98,808

ITEM NO. 20 MOTION TO ACCEPT FISCAL YEAR 2023/2024 COMMITTEE APPOINTMENTS AND SCHEDULE

Recommendation

Approve, by motion, the Committee appointments and calendar for Fiscal Year 2023/2024.

Discussion

Commissioner Lathi has considered the Commissioner's individual preferences and made appointments to Authority Committees. The appointments are indicated in the following table.

Committee	Members	Day and Time
Financial Management	Simon (Chair), Andrews	Monday, 9:00 am
Operations & Maintenance	Johnson (Chair), Lathi	Tuesday, 2:00 pm
Personnel	Azevedo (Chair), Simon	Tuesday, 4:00 pm
Regulatory Affairs	Andrews (Chair), Lathi	Monday, 12:00 pm

A proposed schedule of Committee and Commission meetings for Fiscal Year 2023/2024 is attached.

EAST BAY DISCHARGERS AUTHORITY
Commission and Committee Meetings
July 2023 - June 2024

DRAFT

Commission	Financial Management	MAC	O&M	Personnel	Regulatory Affairs
Commissioners	Simon (Chair), Andrews	Managers	Johnson (Chair), Lathi	Azevedo (Chair), Simon	Andrews (Chair), Lathi
Thursday 4:00 PM	Monday 9:00 AM	Monday 2:00 PM	Tuesday 2:00 PM	Tuesday 4:00 PM	Monday 12:00 PM
July 20, 2023	July 17, 2023	July 10, 2023	July 18, 2023	July 18, 2023	--
September 21, 2023	September 18, 2023	September 4, 2023	September 19, 2023	--	September 18, 2023
October 19, 2023	October 16, 2023	October 2, 2023	October 17, 2023	October 17, 2023	--
November 16, 2023	November 13, 2023	November 6, 2023	November 14, 2023	--	November 13, 2023
December 21, 2023	December 18, 2023	December 4, 2023	December 19, 2023	December 19, 2023	--
January 18, 2024	January 15, 2024	January 1, 2024	January 16, 2024	--	January 15, 2024
February 15, 2024	February 12, 2024	February 5, 2024	February 13, 2024	February 13, 2024	--
March 21, 2024	March 18, 2024	March 4, 2024	March 19, 2024	--	March 18, 2024
April 18, 2024	April 15, 2024	April 1, 2024	April 16, 2024	April 16, 2024	--
May 16, 2024	May 13, 2024	May 6, 2024	May 14, 2024	--	May 13, 2024
June 20, 2024	June 17, 2024	June 3, 2024	June 18, 2024	June 18, 2024	--

Meetings are subject to rescheduling and/or cancellation. Please see the website for the latest agenda information.

The Personnel and Regulatory Affairs Committees meet every other month, however, additional meetings may be scheduled as needed.

Last Updated: June 8, 2023

ITEM NO. 21 RESOLUTION ADOPTING UPDATED RULES OF THE COMMISSION

Recommendation

Approve a resolution adopting updated Rules of the Commission.

Background

Prior to 2020, EBDA's Joint Powers Agreement (JPA) contained content regarding the conduct of the Commission and meeting protocols. That language was removed in the Amended and Restated JPA in favor of creating Rules of the Commission that would cover the details of Commission business and could be more easily modified than the JPA. The Rules of the Commission document is intended to be a high-level guidance manual for the workings of the Commission.

The Rules of the Commission formalize officer roles, meeting protocols, voting procedures, Committee practices, and communication protocols for the EBDA Commission. They are consistent with and expand upon rules and procedures outlined in the Amended and Restated JPA, including how weighted voting works and where it will be applied. The Rules also state that most actions taken by the Commission will be by motion, and only certain actions will require a resolution, a change from current practice. The Rules can be amended by the Commission as desired. The first and current version of the Rules of the Commission was adopted in June 2020.

With the passage of AB 2449 allowing remote participation in meetings under certain circumstances, staff recommended the addition of a section to the Rules of the Commission that outlines relevant procedures. A draft containing a new Rule IV. Remote Participation in Meetings, along with several additional minor edits for clarity, was reviewed by the Personnel Committee in May 2023 and recommended for adoption.

Discussion

The attached Rules of the Commission formalize officer roles, meeting protocols, voting procedures, Committee practices, and communication protocols for the EBDA Commission. The updated version also contains provisions for remote meeting attendance, consistent with the Brown Act and AB 2449. The proposed Rules are consistent with and expand upon rules and procedures outlined in the Amended and Restated JPA. The Rules can be amended by the Commission in the future as desired.

EAST BAY DISCHARGERS AUTHORITY

RULES OF THE COMMISSION

June 2023

EAST BAY DISCHARGERS AUTHORITY

RULES OF THE COMMISSION

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EAST BAY DISCHARGERS AUTHORITY COMMISSION

RULES OF THE COMMISSION

The Commission of the East Bay Dischargers Authority (“EBDA”) adopts these Rules pursuant to Section 7(j) of the Amended and Restated Joint Exercise of Powers Agreement dated July 1, 2020 (“Amended and Restated JPA”).

The Commission is the legislative body that governs EBDA and is accountable to the member agencies for the following actions:

- Establish policies for EBDA operations;
- Establish and oversee the EBDA's finances and its budgets, programs, and performance; and
- Provide the resources needed by staff to carry out EBDA policy.

These Rules are designed solely to facilitate the Commission’s conduct of its own meetings and proceedings. They are not intended to, and do not, create procedural or substantive rights in any person.

The Rules are subordinate to state and federal law.

RULE I. OFFICERS OF THE COMMISSION

- A. Chair. The Commission shall elect a Chair from among its members annually at the regular meeting in June. Until otherwise determined by the Commission, current Commission policy is to provide for the equitable rotation of the Chair position among members (see Resolution 99-11). The Chair typically will have served as the Vice-Chair the prior year.

The Chair shall preside at all meetings of the Commission.

The Chair's duties shall include calling meetings to order, adjourning meetings, announcing the business before the Commission in order in which it is to be acted upon, recognizing members and non-members entitled to the floor, putting to vote all questions moved and seconded, announcing results of votes, maintaining the rules of order, executing documents on behalf of the Commission when duly approved for action, and such other powers and duties as are provided elsewhere in these Rules or delegated by the Commission. Subject to any statutory requirement otherwise, the Chair shall be entitled to exercise his or her full voting rights on all questions before the Commission and need not relinquish the chair to discuss a question before the Commission.

The Chair may appoint members of the Commission to standing and ad hoc committees of the Commission and may designate the chairs of such committees.

The Chair may also appoint members of the Commission to serve as the representative of EBDA to other groups and organizations, unless the law requires such appointments to be made by action of the full Commission.

- B. Vice-Chair. The Commission shall elect a Vice-Chair from among its members annually at the regular meeting in June.

The Vice-Chair shall perform the duties of the Chair in the Chair's absence or incapacity. In the case of a vacancy of the office of the Chair, the Vice-Chair shall succeed to that office. In the case of a vacancy of the office of the Vice-Chairperson, an election shall be held at the next regular meeting to fill the vacancy.

- C. General Manager. The General Manager's duties and authority shall be as specified in Section 7(f) of the Amended and Restated JPA.

- D. Treasurer and Auditor. The Treasurer's and Auditor's duties and authority shall be as specified in Section 7(g) of the Amended and Restated JPA.

- E. Term. The term of officers shall be for one year commencing on July 1 of each and every Fiscal Year.

RULE II. MEETINGS OF THE COMMISSION

A. Call of Meetings

1. Regular Meetings. The Commission will hold at least six regular meetings each year. The date upon which, and the hour and place at which each such regular meetings will be held, will be fixed by resolution of the Commission. The date and/or time of a particular regular meeting may be changed by the Commission as needed to accommodate scheduling conflicts, subject to the notice requirements in Rule II.B below.
2. Special Meetings. Special meetings of the Commission may be called by the Chair or by a majority of the members of the Commission¹. The notice of the meeting shall state the particular business to be conducted. The Commission may not consider other business at such meetings.
3. Emergency Meetings. The majority of the members of the Commission may call an emergency meeting in the case of an “emergency situation,” as defined in the Brown Act.

B. Notice of Meetings. A notice stating the time and place of the meeting shall be sent to each Commissioner no later than the time the agenda is required to be distributed by Rule II.C. If the date, time or place of a regular meeting is changed, notice of the change shall be sent at least 72 hours in advance of the regular meeting date or the rescheduled date, whichever is earlier, to each member and to all newspapers of general circulation and radio and television stations that have requested notice of meetings pursuant to the Brown Act.

C. Agenda of Meetings. The General Manager shall prepare the agenda of all meetings of the Commission, in consultation with the Chair.

A copy of the agenda shall be posted in a location freely accessible to the public, EBDA's website, and delivered to each member, at least 72 hours before each regular meeting and at least 24 hours before each special meeting.

A copy of the agenda, and of all documents (other than those exempt from disclosure under the Public Records Act) distributed to the members with the agenda, shall be available for public inspection at EBDA's office at least 72 hours before each regular meeting and at least 24 hours before each special meeting. A copy of the agenda and such supporting documents shall also be available for public review at the meeting.

D. Meetings Open to the Public. All meetings of the Commission shall be open and public and conducted in accordance with the Brown Act.

¹ Special meetings may be called in accordance with Government Code Section 54956; weighted voting does not apply.

E. Order of Business. The Order of Business shall generally be as follows:

Call to Order
Pledge of Allegiance
Roll Call
Public Forum
Consent Calendar
Regular Calendar
Reports
Commissioners' Comments and/or Agenda Requests
Closed Session (if any)
Adjournment

A member may request that an item be taken out of order. The Chair may take any item out of order in response to a request by a member or on his or her own initiative, subject to the right of a member to appeal.

F. Procedure.

1. Role of Chair. Authority for conduct of meetings is assigned to the Chair, who shall be responsible for timely, fair and reasonable conduct of the meeting's business. Decisions of the Chair on questions of procedure are final, except that any ruling may be appealed to a vote of the Commission.

In the event both the Chair and Vice-Chair are absent from a meeting which otherwise would constitute a quorum and a Chair pro tem was not designated by the Chair at the last regular meeting, any member may call the meeting to order and a chair pro tem may be elected by majority vote, as set forth in Section 7(c)(1) of the Amended and Restated JPA, to serve until the Chair or Vice-Chair is present. In such case, the Chair pro tem is authorized only to conduct meetings of the Commission pursuant to these Rules and is not authorized to add items to the Agenda for any meeting of the Commission or exercise any other duties of the Chair or Vice-Chair of the Commission.

2. Convening the Meeting and Quorum. A majority of the full Commission (or, in the absence of a member, that member's alternate) constitutes a quorum for the conduct of business. The Chair shall be responsible for ascertaining and announcing the presence of a quorum and the due convening of the meeting. In the event a majority of the Commission is not also a majority of the Commissioner and weighted voting calculations pursuant to Section 7(c)(1) of the Amended and Restated JPA, the Commission may convene and hold a meeting to receive reports and information, but it may not take action to approve any item.
3. Consent Calendar. Matters to be included on the Consent Calendar are those that are regularly presented to the Commission and are routine in

nature, such as approval of minutes. All matters on the Consent Calendar may be acted upon by a single vote. Any Commission member may request that a matter on the Consent Calendar be removed for comment only, prior to a single vote on the entire Consent Calendar. If any member requests that a matter on the Consent Calendar be considered and acted upon separately, the matter shall be removed from the Consent Calendar. In the event a member of the public requests that a matter on the Consent Calendar be considered and acted upon separately, the Chair has full discretion to determine whether or not such matter shall be removed from the Consent Calendar. Such matters shall be separately considered immediately after approval of the remainder of the Consent Calendar, subject to the Chair's authority to take up the matter later in the meeting.

4. General Principles for Discussion or Debate. Discussion of any issue is subject to regulation by the Chair to assure adequate consideration of relevant points of view in the best interests of EBDA. The objectives of discussion are to:
 - Determine the will of the Commission.
 - Assure sufficient discussion and consideration of issues so that all pertinent points of view are considered.
 - Maintain the dignity and decorum of the meeting so that each recognized speaker's views are made known to the members and to ensure that appropriate respect is accorded all members and the public.
 - Present the consideration of business in a manner understood by all participants.
5. Motions. The Commission prefers a flexible format for meetings and does not insist that its meetings be conducted strictly in accordance with formal rules of procedure. The conduct of the Commission's meetings will be informed by Robert's Rules of Order, but the Commission will not be obligated to strictly comply with Robert's Rules.

The following rules of motion practice are to be applied as a guide to the Chair in disposition of motions. If a member believes that adequate order is not being maintained or that the procedures being followed do not allow for adequate and orderly discussion of an item, the member may raise a point of order to the Chair. If the member is not satisfied with the ruling of the Chair, the member may appeal to the full Commission.

All matters requiring Commission action must be presented in the form of a motion. In order for a vote to be taken on a motion, the motion must be seconded by another member. When a motion has been made and

seconded, it shall be stated by the Chair for consideration by the Commissioners.

In general, every agenda item requiring action will be presented with a written staff report and clear recommendation; however, action may be by motion and reflected in the minutes. In certain circumstances, statutory law requires Commission action by written resolution, such as matters related to CalPERS. Furthermore, in practice, the Commission may choose to adopt significant governing policies, such as a Reserve Policy and Procurement Policy, by written resolution. In each case, the Chair will call for a motion to adopt such action.

Under these Rules, motions should be limited to those set forth on the Chart of Motion Practice (Attachment 1). Motions on Attachment 1 are listed in order of precedence. When a motion is pending, any motion listed above it on the chart is in order, but those below it are out of order.

6. Voting. The affirmative vote of (a) three or more commissioners; and (b) greater than fifty percent of the weighted votes based on Maximum Flow Rate Capacity is required to adopt any action, including passing a main motion, except for unanimous or other special voting protocols as set forth in Sections 7(c)(2) and 7(c)(3) of the Amended and Restated JPA. A voice vote shall be taken first on all motions subject to weighted voting. If the voice vote is not unanimous, a roll call vote shall be taken.

A roll call shall be taken on the vote on all main motions associated with an ordinance or resolution and on any other motion when requested by a member. All votes will be recorded.

The number of votes assigned to each member for purposes of weighted voting is shown on Attachment 2.

7. Time Limit on Meetings. When a meeting of the Commission has lasted two and one quarter hours or more, no new item of business may be taken up for discussion or action unless the Commission votes to extend the meeting. This provision may be invoked by the Chair or any member. However, it has no effect on the validity of any action taken by the Commission unless and until it is invoked. Upon motion, items which were not completed within the allotted time may be continued as a future agenda item.
8. Adjournment. Upon completion of the meeting's agenda, or upon conclusion of a meeting pursuant to Rule II.G.7, the Chair shall adjourn the meeting. Adjournment may be accomplished by a motion or announcement of the Chair.
9. Minutes. The General Manager shall prepare minutes of each Commission meeting, which shall be submitted for action at a subsequent

meeting. Minutes shall record the ayes and nays on roll call votes. Minutes should not include the text of ordinances and resolutions, which shall be maintained by the General Manager in separate volumes. Minutes are intended to be a record of Commission action and a brief summary of discussion; they should not be an exhaustive record of deliberation.

RULE III. COMMITTEES OF THE COMMISSION

- A. Standing Committees. The Commission may establish standing committees that have continuing jurisdiction over a particular subject matter, or a set meeting schedule pursuant to the Brown Act. Rules II.B, C, D, and E shall apply to all meetings of a standing committee. Until otherwise determined by the Commission, the current policy is that the physical presence of a single Standing Committee member is sufficient to constitute a quorum (see Resolution 05-13). Standing committees may include, but shall not be limited to the following:
1. Financial Management Committee. The Financial Management Committee advises the Commission and General Manager regarding financial matters applicable to EBDA and its related budget and expenses.
 2. Operations and Maintenance Committee. The Operations and Maintenance Committee advises the Commission and General Manager on long range objectives of EBDA and the operation and maintenance of its facilities.
 3. Personnel Committee. The Personnel Committee advises the Commission and General Manager regarding personnel matters before the Commission.
 4. Regulatory Affairs Committee. The Regulatory Affairs Committee advises the Commission and General Manager on regulations and legislation at the local, State and Federal level which may affect EBDA, requirements of regulatory agencies, coordination with environmental and water quality organizations in and about San Francisco Bay, and other EBDA policy decisions.
- B. Ad Hoc Committees. The Commission, or the Chair on his or her own initiative, may establish ad hoc advisory committees to undertake special, specific or limited assignments on behalf of the Commission pursuant to the Brown Act.
- C. Committee Members and Alternates. Following the submission of each member's preference, the Chair may appoint members to standing and ad hoc committees of the Commission and may designate the chairs of such committees. Such appointments are effective on July 1 of each and every Fiscal Year. In the event of an absence of a Committee member, including the designated chair, that Commissioner's agency-appointed alternate will represent the Committee member, including serving as chair, if designated. In the event of a vacancy of a designated chair of a committee, the Commission Chair will designate a new committee chair.

RULE IV. REMOTE PARTICIPATION IN MEETINGS

- A. Quorum in Person. For a Commission or Committee meeting to proceed as scheduled, a quorum must be present in-person at the designated physical meeting location, which must be open to the public and within the boundaries of the Authority.
- B. Remote Participation Pursuant to AB 2449. A Commissioner may participate in a Commission or Committee Meeting via teleconference or web-conferencing platform pursuant to AB 2449, provided that the following conditions are met:
- The Authority has also provided to the public a two-way audiovisual platform or two-way telephonic service, allowing the public to remotely hear and visually observe the meeting, and remotely address the Commission; and
 - The Commissioner has not invoked the provisions of AB 2449 more than three consecutive months or 20% of the regular meetings within a calendar year; and
 - Either “just cause” or “emergency circumstances” exists as defined by AB 2449 (See Govt. Code § 54953(i)).
 - (a) "Just cause" is defined as either:
 - (i) a childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely;
 - (ii) a contagious illness that prevents a member from attending in person;
 - (iii) a need related to a physical or mental disability as defined by statute; or
 - (iv) travel while on official business of the legislative body or another state or local agency.
 - (b) "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending in person. Members shall not be required to disclose any medical diagnosis or disability, or any personal medical information.
 - The Commission must take action to approve a request to participate in the meeting remotely due to emergency circumstances. No action is required to approve a request for just cause. If a request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the Commission may take action at the

beginning of the meeting in accordance with paragraph (4) of subdivision (b) of Section 54954.2.

- C. Remote Participation under the Brown Act. A Commissioner may participate in a Commission or Committee meeting remotely via teleconference or web-conferencing platform without invoking AB 2449 if the Commissioner has provided notice in the agenda of the physical location from which they intend to participate. The public must also have access to address the Commission from that location.

RULE V. COMMUNICATIONS TO THE COMMISSION

- A. General. Members of the public should address comments and questions to the Chair.
 - 1. Agenda Items. Members of the public may speak on any item on the agenda, after receiving recognition from the Chair.
 - 2. Non-Agenda Items. Members of the public may speak on matters not on the agenda during Public Forum. The Commission will take no immediate action on matters which are not on the Agenda. Such items raised by the public may be referred to staff for review and analysis and may be reported back to the Commission at a subsequent meeting. Members and staff may also briefly respond to statements or questions made during Public Forum or take any other action permitted by law.

If a speaker refers to any document, writing, record, picture, or other exhibit, the General Manager shall request a copy so that it can be included in the record.

- B. Time Limits on Public Comments. The Chair may impose time limits on each speaker.

RULE VI. COMMISSIONER COMMUNICATIONS

- A. Communications with Staff. Members should endeavor to direct all questions and requests to the General Manager for delegation to staff, as needed. Members, by making a request to the General Manager, shall have access to information relative to the operations of EBDA, including but not limited to statistical information, information serving as the basis for certain actions of staff, justification for staff recommendations, etc. Members should receive any information from staff as preliminary and be cautious with the use of the information until the General Manager makes a formal recommendation for action.

- B. Communications on behalf of EBDA. Individual members have no authority and should not make any promises on behalf of the Commission or EBDA. Only the Commission may commit EBDA to an action or a policy. If a member is speaking on behalf of EBDA at another agency's public meeting, he/she should always clearly state that what he/she is saying has been approved by the Commission and not deviate from the message and/or position. If a member speaks as a private citizen at a public gathering, he/she should clearly state that he/she is doing so in an individual capacity.

- C. Communications with the Public. Commissioners may always speak with members of the public regarding EBDA matters. It is advisable to inform the General Manager as soon as practicable regarding complaints and concerns from members of the public. Only the Chair and General Manager are authorized to speak with the media regarding EBDA matters. All media requests should be directed to the General Manager.

RULE VII. SUSPENSION/AMENDMENT/REPEAL

A Rule may be suspended at any Commission meeting by a majority vote of the Commission. The Rules may be amended or repealed by a vote of the Commission.

ATTACHMENT 1

CHART OF MOTION PRACTICE

Motion	Second Required?	Debatable?	Amendable?	Vote Required*
MEETING CONDUCT (PRIVILEGED) MOTIONS				
Point of Privilege	No	No	No	None
Point of Order	No	No	No	None
To Appeal Ruling of Chair	No	Yes	No	Majority + Weighted
To Recess	Yes	Yes	Yes	Majority + Weighted
To Adjourn	Yes	Yes	No	Majority + Weighted
DISPOSITION (SUBSIDIARY) MOTIONS				
To Withdraw a Motion	No	No	No	None
To Postpone Consideration (Table)	Yes	Yes	Yes	Majority + Weighted
To Refer to Committee	Yes	Yes	Yes	Majority + Weighted
To Amend	Yes	Yes	Yes	Majority + Weighted
To Limit or Close Debate (Call the Question)	Yes	Yes	Yes	2/3
MAIN MOTIONS				
To Take Action; To Reconsider	Yes	Yes	Yes	Majority + Weighted

* For privileged and subsidiary motions, required vote refers to those present and voting. Main motions require a majority of the full Commission, whether or not present and voting. Except where noted, for purposes of this motion practice, weighted voting does apply.

ATTACHMENT 2

MEMBER AGENCY VOTES
UNDER WEIGHTED VOTING CALCULATION

<u>Name of Agency</u>	<u>No. of Votes</u>
Castro Valley	10.30
Hayward	14.72
Oro Loma	19.14
San Leandro	13.74
Union	42.10

In the event one or more Agencies adjusts its Maximum Flow Rate Capacity as set forth in Section 11 of the Amended and Restated JPA, this attachment will be recalculated, and all agencies will be informed, pursuant the Amended and Restated JPA. After such recalculation, a revised Attachment 2 will be automatically incorporated in these Rules.

ATTACHMENT 3

COMMISSION VOTING

A. Weighted Voting:

Except as set out in B and C below, every action will be subject to two vote calculations.

- 1) A calculation of Commissioner's votes where each Commissioner is allocated one vote; and
- 2) A calculation of weighted votes as set forth in Attachment 2.

B. Unanimous Voting:

The following actions require unanimous approval:

- 1) Amendment of the Amended and Restated JPA;
- 2) Termination of the JPA during the Term;
- 3) Approval of modifications to, or extension of, the Master Agreement between the Livermore-Amador Valley Water Management Agency ("LAVWMA") and the Authority, dated April 26, 2007;
- 4) Approval of any agreement that would result in the utilization of the Facilities to dispose of brine pursuant to Section 23(b)(1) of the Amended and Restated JPA;
- 5) Changes to the ownership of Authority Facilities; and
- 6) Approval of the Authority Policies and Procedures regarding purchasing and brine.

C. Other Actions:

For the purpose of Commission actions related to effluent violations addressed in Section 16(b) of the Amended and Restated JPA, the unanimous vote requirement will not include the violating Agency(ies) and the Commissioner from the violating Agency(ies) will not be permitted a vote.

EAST BAY DISCHARGERS COMMISSION
EAST BAY DISCHARGERS AUTHORITY
ALAMEDA COUNTY, CALIFORNIA

RESOLUTION NO. 23-08

INTRODUCED BY _____

RESOLUTION ADOPTING UPDATED RULES OF THE COMMISSION

WHEREAS, the East Bay Dischargers Authority's Amended and Restated JPA was signed by all parties in December 2019 and went into effect on July 1, 2020; and

WHEREAS, the Amended and Restated JPA contains less detail than the prior JPA with respect to administration of Commission matters; and

WHEREAS, it is in the Authority's interest to adopt Rules of the Commission to govern the business of the Commission, and to update those Rules periodically; and

WHEREAS, AB 2449 (2022) allows a legislative body to use teleconferencing without complying with the traditional Brown Act teleconferencing rules in certain circumstances; and

WHEREAS, Commissioners may wish to participate in Commission meetings via teleconference using the AB 2449 or Brown Act provisions from time to time and seek clarity in doing so; and

WHEREAS, the Personnel Committee reviewed the proposed revisions to the Rules of the Commission and recommends their adoption, effective July 1, 2023.

NOW, THEREFORE, BE IT RESOLVED, the Commission of the East Bay Dischargers Authority hereby adopts the Rules of the Commission attached hereto.

SAN LORENZO, CALIFORNIA, JUNE 15, 2023 ADOPTED BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSENT:
ABSTAIN:

CHAIR
EAST BAY DISCHARGERS AUTHORITY

ATTEST: _____
GENERAL MANAGER
EAST BAY DISCHARGERS AUTHORITY
EX OFFICIO SECRETARY

ITEM NO. 22 RESOLUTION APPROVING UPDATES TO THE PERSONNEL POLICY

Recommendation

Approve a resolution adopting the updated Personnel Policy.

Background

The Authority's Personnel Policy was last revised in November 2020. Staff periodically reviews the Personnel Policy to ensure consistency with current applicable laws and industry best practices. Draft revisions were reviewed and discussed with the Personnel Committee in March and May 2023.

Discussion

The following changes were made to the Personnel Policy:

- As discussed previously, a cost-of-living-adjustment (COLA) range was established in the Personnel Policy for FY 2020/2021, and it is to be reviewed every three years. Based on input from the Personnel Committee at its February meeting, staff recommended that the COLA language be updated for FY 2023/2024 to reflect a floor-to-ceiling range of 2% - 5%. At its March meeting, the Committee supported this recommendation.
- The table summarizing employment types and relevant status and benefits was updated to correct benefits currently provided to Regular Part-time staff.
- Pronouns were updated and simplified, where appropriate.
- The Sick Leave and Bereavement Leave sections were updated to conform to current law. Based on feedback from the Committee in March, the Sick Leave section now references the governing legislation – the Healthy Workplaces/Healthy Families Act of 2014.
- Revisions to the Family Leave section were made to clarify the applicability of Family Medical Leave Act (FMLA) and California Family Rights Act (CFRA) to EBDA and its employees. Per feedback in March, further clarification was added regarding the term “designated person” and its use under CFRA. AB 1041 expanded the class of people an employee may take leave to care for under CFRA to include a designated person, who can be identified when the leave is requested. While an employer may limit an employee to one designated person per 12-month period if desired, staff recommends providing flexibility for employees to designate at the time of the leave request.
- Lastly, the California Public Records Act was recodified effective January 1, 2023; reference to the code has been updated.

The Personnel Committee reviewed the proposed version of the Policy in May 2023 and recommended adoption.

Personnel Policy

Reviewed February 17, 2005
Reviewed March 16, 2006
Revised March 15, 2007
Revised March 19, 2009
Revised July 16, 2009
Revised November 23, 2009
Revised April 21, 2011
Revised March 22, 2012
Revised March 21, 2013
Revised November 21, 2013
Revised May 15, 2014
Revised May 19, 2016
Revised September 22, 2016
Revised October 18, 2018
Revised August 15, 2019
Revised January 16, 2020
Revised November 19, 2020
Revised June 15, 2023

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SECTION I – DEFINITIONS

Allocation	The assignment of a position to an appropriate class on the basis of the nature, difficulty and responsibility of duties actually performed.
Applicant	Any person who has made application for a position.
Authority	The East Bay Dischargers Authority.
Candidate	A qualified applicant who has been selected to participate in the selection process.
Class or Classification	A position or group of positions, the duties and responsibilities of which are sufficiently similar so that the same descriptive title, examples of duties and tests for fitness may apply.
Class Specification	A written description of duties, responsibilities and desirable qualifications for employment in a classification.
Commission	The East Bay Dischargers Authority Commission, the legislative and governing body of the Authority.
Compensation	The salary, wage, allowances and all forms of valuable consideration paid to any employee by reason of service in any position.
Demotion	A change of an employee from one position to any other position having a lower maximum salary.
Eligible	A person whose name is on an active employment list.
Employment List	A list of persons who may be considered for appointment to a specific position with the Authority.
Employee	A person officially appointed to a position in the adopted Classification Plan.
Examination	The selection procedure used to measure the relative fitness of persons applying for positions with the Authority.
Full-Time Schedule	The Authority considers full-time employment to be forty (40) hours per week.
General Manager	The General Manager of the Authority, as appointed by the Commission or their duly designated representative.

Job Description	A written description of duties, responsibilities and desirable qualifications for employment in a specific position.
Part-time Position	A position to which an employee shall be assigned for less than forty hours per week.
Personnel Committee	A panel advisory to the Commission on personnel matters consisting of two members of the Commission.
Position	A group of current duties and responsibilities designated by the Commission as requiring the employment of one person.
Probationary Appointment	A working test period during which an employee selected from an employment list is required, by actual performance, to demonstrate fitness for the duties of the position to which appointed.
Promotion	A change of an employee from one position to another position that has a higher maximum salary.
Provisional Appointment	Appointment for a period not to exceed six months to a position for which no employment list exists.
Reallocation	Change in the assignment of a position from one existing class to a new class resulting from a change in the Classification Plan.
Regular Appointment	The type of status granted to an employee who has successfully completed a probationary period.
Seniority	The total length of satisfactory service of an employee within each specific class.
Suspension	Temporary separation of employment with or without pay.
Temporary Appointment	Assignment of an employee to a position for a limited duration.
Termination	Permanent separation of an employee from Authority service.
Unclassified Position	Certain management, professional or confidential positions designated by the Commission to fall outside the classified service and to be exempted from certain provisions of these Rules.

SECTION II – GENERAL PROVISIONS

Purpose

The Personnel Policy is established to provide a comprehensive personnel system and procedure for its administration whereby the Authority may:

1. Establish consistent employment practices.
2. Provide guidelines for recruiting and selection of the best candidates.
3. Establish a fair and equitable compensation system.
4. Provide for the welfare of all employees.
5. Establish guidelines for separation of employment.

Employment under this Personnel Policy shall not constitute an employment contract, and the General Manager may interpret and implement the provisions included in this document as deemed appropriate. Any changes to this document must be in writing and must be adopted by resolution of the Commission. Copies shall be provided to employees so that they are aware of all changes to the Personnel Policy. No oral statements shall in any way change or alter the provisions of this Personnel Policy.

Applicability

This Personnel Policy shall apply to all employees of the Authority. In the case of conflicting language, an employment agreement shall supersede this Personnel Policy. The following list of persons are exempt from this document:

1. Commissioners of the Authority
2. Members of Committees advisory to the Commission
3. Persons engaged under contract to supply expert, professional, technical or other services
4. Volunteer personnel

Administration

The Commission shall appoint, and may remove, a General Manager who shall have responsibility for and control of the affairs of the Authority and who shall, among other duties, administer the personnel system set forth herein, including preparation and maintenance of the Classification and Compensation Plans, all essential records required for maintenance of the system and application of the rules, and shall enforce the provisions herein and all other pertinent regulations, directives and policies.

The Commission shall appoint a Personnel Committee consisting of two members of the Commission, the function of which is to review and make recommendations on all personnel matters coming before the Commission for action, including revision to the Classification or Compensation Plans and these Rules, and to hear appeals as indicated herein. Action by the Committee with respect to grievances (Section XVIII) shall be final

and shall not require further action by the Commission unless appealed to the full Commission.

Non-Discrimination (Equal Employment Opportunity)

No person within the service of the Authority, or seeking entry thereto, shall be employed, promoted, demoted, suspended, discharged, in any way favored or discriminated against, or retaliated against for charging acts of discrimination in accordance with Federal Equal Employment Opportunity Laws (EEO) and State of California Department of Fair Employment and Housing Act. This includes but is not limited to the following protected classes and activities:

- Age (40 and over)
- Ancestry
- Citizenship
- Color
- Disability (mental and physical) including HIV and Aids
- Equal Compensation
- Denial of Family and Medical Care Leave
- Gender, Gender Identity, Transgender and Gender Expression
- Genetic Characteristics and Genetic Information
- Marital Status
- Medical Condition
- Military or Veteran Status
- National Origin
- Political Affiliation
- Race
- Religion
- Religious Creed
- Sex (which includes pregnancy, childbirth and medical conditions related to pregnancy or childbirth)
- Sexual Orientation
- Whistleblowing

The Authority is an equal opportunity employer and its personnel policies shall be administered in accordance with applicable state and federal law.

Incompatible Activities

No officer or employee of the Authority shall:

1. Participate in any political activity during working hours on the Authority premises.
2. Use for private gain or advantage the influence of an Authority position or the facilities, equipment or supplies of the Authority.
3. Solicit or accept any favors or gifts from persons, concerns or corporations who have, or seek to have, business contacts with the Authority.

4. Divulge confidential information to anyone to whom issuance of such information has not been authorized by the General Manager.
5. Participate in any employment or other activity which, will prevent the employee from completing assigned duties in an efficient and capable manner, which brings discredit upon the Authority, or which might result in a conflict of interests between the employee's private interest and official duties and responsibilities, or in any event which has not been approved by the General Manager.
6. Provide information or services to contractors or other persons, which would give a competitive advantage over others dealing with the Authority.

Violation

Violation of these rules shall be grounds for rejection of application, removal from an eligible list, suspension, demotion, discharge or other discipline of employees deemed appropriate under the circumstances.

Severability

If any section, subsection, sentence, clause or phrase herein or any application thereof to any person or circumstance, is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Policy.

SECTION III – CLASSIFICATION PLAN

Preparation

The General Manager may review the duties and responsibilities of all positions within the Authority service. All positions shall be grouped into classes and each class shall include those positions sufficiently similar in respect to their duties and responsibilities that similar requirements as to training, experience, knowledge, skills, personal qualities, and the same salary range may be made to apply with equity to all positions in the same class.

Content

The Classification Plan shall have written class specifications, which shall include concise descriptive titles, physical requirements and working conditions as required by the Americans with Disabilities Act, general descriptions of the essential duties and responsibilities of the class including job definitions, and statements of the required and desirable qualifications.

Each class specification outlines the main characteristics and qualification requirements of positions allocated to the class and gives examples of duties which employees holding such positions may properly be required to perform. The class specification is descriptive and explanatory, but not restrictive. The listing of particular examples of duties does not preclude the assignment of other tasks and duties of related kind or character or of lesser skills. The statement of desirable qualifications in a class specification is intended to be

used as a guide in selecting candidates for employment as an aid in the preparation of competitive examination, and for use in determining the relative value of positions in one class with positions in other classes. Such personal characteristics as honesty, sobriety and industry are deemed to be included in all class requirements and need not be specifically mentioned.

Nothing in the class specifications is to be interpreted as restricting a supervisor in assigning an employee of one class to perform the duties of a higher class for limited relief periods. Such assignment to perform the work of a higher class for a limited period comes within the requirements of work in all classes.

Adoption

Before the Classification Plan or any part thereof shall become effective, it shall be adopted by the Commission upon recommendation of the Personnel Committee.

Revisions

Each basic revision in the Classification Plan shall be made in the same manner as the Plan was originally established.

The General Manager may review duties of positions and prepare recommendations to the Personnel Committee for action by the Commission to ensure that the Plan is kept current and those changes in existing classes, the establishment of new classes or the abolition of classes is properly reflected in the Classification Plan.

The General Manager may reallocate a position to a different class whenever its duties change materially. Any proposed reallocation to be made shall be made with the knowledge of the employee concerned.

Whenever a new position is proposed, the General Manager shall prepare a comprehensive statement of the circumstances and description of the proposed duties and responsibilities and recommend allocation of the position to an appropriate class in the Classification Plan. No new position shall be filled by an individual until the position has been created by the Commission and until there is an approved class specification describing the work to be performed which has been adopted under the Classification Plan.

Reclassification of a position may not be used to circumvent the procedures concerning demotion, promotion, or compensation.

Incumbents of Reclassified Positions

When a position is reclassified from one class to another, the employee occupying the position may be retained in the position without further competitive examination provided that:

1. It is determined by the General Manager that the reclassification results from a change in duties and responsibilities that have already occurred.

2. The performance of the duties and responsibilities of the incumbent have been satisfactory.
3. The General Manager certifies that the incumbent possesses the knowledge, skills and abilities necessary to perform the duties of the new class.

The incumbent has regular status in the class to which the position was formerly allocated.

SECTION IV – COMPENSATION PLAN

Content

The Compensation Plan shall consist of a schedule of monthly salary ranges, the method of computing hourly equivalents of actual salaries, and a summary list of additional benefits provided by the Authority.

Preparation

At least once annually, prior to the beginning of the fiscal year, the General Manager shall prepare a tentative Compensation Plan and shall present it to the Personnel Committee for review and recommendation to the Commission.

In preparing the tentative plan, the General Manager shall take into consideration class-by-class salary comparisons with Member Agencies and other comparable agencies to be designated by the Personnel Committee and across-the-board compensation adjustments received by Member Agencies since the last EBDA adjustment. Appropriate consideration shall be given to adjustments of the cost of living as measured by the Consumer Price Index for All Urban Consumers (CPI-U), the base figure for comparison shall be the San Francisco-Oakland-Hayward, CA for the period of January 1 through December 30 of the previous year. Adjustments in the cost of living shall be considered once a year as the General Manager prepares the Compensation Plan. The cost-of-living adjustment (COLA) shall be based on the above index within a floor-to ceiling-range of 2% - 5%. The COLA range shall be reviewed every three years. In adopting a COLA, the Commission may also consider the short- and long-term financial status of the Authority. Effective July 1, by adoption of an amended Compensation Plan, adjustments shall be applied to the salary range of each position to reflect the COLA.

Adoption

The Compensation Plan for all employees shall be established by the Commission upon recommendation of the Personnel Committee prior to the effective date of any amendments thereto.

Administration

The Compensation Plan shall be administered by the General Manager. The General Manager, after review by the Personnel Committee and approval by the full Commission, shall determine the actual salary of individual employees, within the ranges established

in the compensation plan, based on an evaluation of the employee's qualifications, performance and merit.

Salary step increases shall be earned, shall be subject to satisfactory service, and shall not be considered a right of the employee. After an employee completes twelve (12) months of continuous service in the same position, the employee may be advanced to the next higher rate of compensation as set forth in the Compensation Plan upon approval of the General Manager. Subsequent step increases shall be effective annually on the anniversary of the employee's hire date until the employee reaches the top step of the range. After reaching step 5, the employee shall remain at the same rate provided for at step 5 while continuing to serve in the same position, subject to satisfactory service.

A written performance evaluation shall accompany a recommendation for salary advancement. Performance standards are based on satisfactory achievement of the qualifications outlined in the classification plan in addition to customary employment standards, such as knowledge of the position; quality of work; ability to handle responsibility; acceptable rate of productivity; demonstrated initiative; and an acceptable attendance record. Performance evaluations, which may include employee comments or rebuttals, shall be maintained in the employee's personnel file. A copy shall be provided to the employee.

SECTION V – RECRUITMENT AND APPLICATION

Recruiting

Public announcement of all employment opportunities shall be made at least three weeks prior to the final filing date of the announcement. The General Manager shall prepare an official announcement for posting in appropriate public places and its publication in appropriate news media or trade journals. The announcement shall contain all information of importance for potential applicants. Suitable and effective methods of distributing information concerning employment opportunities and securing the most qualified candidates available for competition shall be practiced.

Application

Applications for employment shall be made readily available to potential applicants. Applications filed with the Authority shall be filed at the time, place, and manner prescribed in the job announcement and, once filed, shall become the property of the Authority.

Disqualification of Applicants

The Authority may reject an application, may disqualify an applicant in an examination, may refuse to place a name on an eligibility list, or may remove a name from an eligibility list for any legitimate reason, including but not limited to the following:

1. Substantive failure to fulfill any of the qualifications for the class or position for which the application is made.

2. Failure to pass written examinations required by the Authority.
3. Failure to pass the appraisal board interview.
4. Failure to pass a pre-offer background check and/or post-offer physical examination.
5. Failure to furnish true statements of material facts.
6. Practice or attempted practice of fraud or deception in connection with filing an application or during examination.
7. Previous dismissal from any public service for cause.
8. Previous resignation from the Authority or a Member Agency without adequate notice or under other prejudicial circumstances.
9. Being under the influence of intoxicant(s) that would impair the applicant's ability to perform in a safe and competent manner.
10. Previous conviction of a crime against person or property of a violent nature.
11. Failure of an applicant, after notification, to present themselves promptly at the time and place designated for any portion of the examination.
12. Obtaining either directly or indirectly, information about an examination that, as an applicant or competitor, would give applicant an unfair advantage or to which applicant was not entitled.
13. Failure to respond to communications concerning the applicant's availability for employment.
14. Request by the applicant that their name be withheld from consideration.

Confidentiality

The names of applicants and information contained on applications for employment shall not be made public.

Verification

Information presented on applications may, during the course of the hiring process, be verified, and applicants may be subject to a background check by the Authority. The Authority has the right to conduct a complete and exhaustive background investigation of all applicants seeking employment.

Exemption

All at-will positions shall be exempted from the foregoing recruitment and application procedure. Recruitment and application for at-will positions shall be conducted in a manner established by the Commission as vacancies occur.

SECTION VI – SELECTION PROCEDURE

The selection procedure shall be impartial, of a practical nature, and shall indicate a good faith effort to fairly measure and evaluate capacities of the applicants to execute the

essential duties and responsibilities of the position to which they seek to be appointed. Applicants participating in the recruitment shall compete in the same process and follow the same selection methodology. The selection procedure may include any one or a combination of the following:

- A. Information extracted from the application form, resume and other pertinent documentation submitted;
- B. Written, practical (hands-on), or physical tests or examinations, or any combination thereof;
- C. Oral interview with an appraisal board and/or one-on-one interview with Authority staff; and/or,
- D. Other appropriate means.

Applications shall be screened and evaluated. The most qualified candidates will be selected to participate in the selection process.

The Authority shall notify each applicant in writing of their standing as important steps in the selection process are completed. Once a candidate is selected and a job offer is made, the other candidates on the eligibility list shall be notified of the fact, and informed that their names will remain on the eligibility list for that position for a period of one year.

Medical Examination

Before any appointment may be made to a regular position, the individual shall be required to satisfactorily pass a medical examination given by a regularly licensed physician designated by the Authority and made at the Authority's expense. No person shall be given a probationary or regular appointment that, at the time of such appointment, is physically unable to satisfactorily fulfill the duties of the position. An eligible candidate may be accepted conditionally when it is the opinion of the examining physician that the individual's physical disqualification may be temporary or when it is deemed that treatment may satisfactorily correct any impairment. Such impairment shall be corrected no later than one month prior to the completion of the employee's probationary period. Regular employees being appointed to positions involving increased physical effort may also be required to satisfactorily pass an appropriate physical examination.

SECTION VII – EMPLOYMENT LISTS

Establishment

At the completion of the examination process, an employment list containing the names of all persons who have successfully passed all parts of the selection process shall be prepared by the General Manager.

Order of Names

The names of successful candidates shall be placed on the employment list in the order of their final ratings. If two or more candidates have final scores that are identical, these candidates shall occupy an identical position on the employment list.

Duration of List

Each employment list shall normally remain in force for one year from the date of its establishment, except that the General Manager, may extend the list for an additional period of time up to one year.

Removal of Names

The name of any eligible candidate may be removed or withheld from an employment list for any of the reasons specified in Section V.

Restoration of Names

An eligible candidate's name shall be reinstated to an employment list in the same relative position as originally held upon showing cause satisfactory to the General Manager.

Termination of List

An employment list may be terminated prior to its usual expiration date upon recommendation of the General Manager and approval of the Commission when it is considered to be in the best of interest of the Authority.

SECTION VIII – APPOINTMENT

The power to appoint, discipline and dismiss employees of the classified service shall be vested in the General Manager or designee.

The successful candidate will be required to provide proof of identity and authorization to work in the United States. Documentation of eligibility to work in the United States will be required as a condition of employment.

Oath

In accordance with California Constitution Article 20, Section 3, and as mandated by California Government Code Sections 3100-3109, all public employees are declared to be disaster service workers, and must take and subscribe to an oath of loyalty as a condition of employment.

Regular Appointments

Regular appointments shall be made by the General Manager or designee from established eligibility lists. Candidates appointed to regular positions shall be considered in a probationary status until successfully completing the probationary period. For employees who are not classified as at-will, regular appointments shall be made upon successful completion of the probationary period.

Provisional Appointments

The General Manager may make a provisional appointment to a position if there is no eligibility list for the class, and if the needs of the service require that the position be filled before a selection process can be completed. A provisional appointee shall:

- Meet the requirements of training and experience established for the position;
- Not be continued for more than thirty (30) days after an eligibility list for the position has been established, unless there are no candidates on such eligibility list who are available or wish to be considered for appointment to the position;
- Not serve under provisional appointment for longer than a 12-month period except when employed for a specific contract undertaken by the Authority.

Temporary Appointments

If an employee is needed for a temporary period, certification shall be made from the names of those eligible candidates, if any are available, that have indicated willingness to accept temporary employment and appointment shall be made by the General Manager. The duration of the temporary appointment shall be limited to the period of the need.

The acceptance or refusal of a temporary appointment shall not affect an eligible candidate's standing on an employment list and the period of temporary service shall not constitute a part of a probationary period. Successive temporary appointments to the same position shall not be made nor shall an individual receive continued temporary appointments. If an appropriate employment list does not exist, an offer of temporary appointment may be made to a person who has not qualified under provision of these rules, but through a comparable process.

Part-Time Appointments

If an employee is needed for less than a total of 40 hours per week, a part-time appointment shall be made by the General Manager from eligible candidates that have indicated willingness to accept part-time employment. The Authority is responsible for following the same recruitment/selection process for part-time employees as for regular, full-time employees.

SECTION IX – EMPLOYMENT STATUS

Probationary Status

The first six (6) months of employment is a period of evaluation for all regular employees and is called a Probationary Period. This is a time to monitor both work performance and work habits of the newly appointed employee. The probationary period may be extended for an additional period, not to exceed six (6) additional months, if an employee requires additional evaluation. If an employee successfully completes the probationary period, the employee moves from probationary status to regular status.

If, at the sole determination of the Authority, the newly appointed employee is unsuccessful in completing the probationary period, the employee shall be terminated with no right of appeal or hearing.

Regular full-time employees occupying management or supervisory positions are not subject to probationary periods and serve as at-will employees at the pleasure of the Authority; they can be terminated anytime, with or without cause.

Regular Full-Time Status

Regular full-time employees are not in a temporary status and are regularly scheduled to work the Authority's full-time schedule. Generally, they are eligible for the full benefits package, subject to the terms, conditions and limitations of each benefit program.

Employees in this employment status have completed the probationary period and work a forty (40) hour work week on a regular basis.

At-Will Status

An at-will employee is one whose employment may be terminated at the discretion of the Commission and/or General Manager at any time with or without cause. At-will positions include managerial employees whose terms of employment are stipulated in a written employment agreement signed by both parties. At-will status also applies to any probationary, provisional, and/or temporary employee.

At-will employees shall enjoy the same statutory protections of regular employees, including laws that prohibit discrimination or harassment based on protected classes such as those listed in the [Non-Discrimination section](#) of the General Provisions in Section II. At-will employees shall also be entitled to engage in protected activities without fear of retaliation, such as filing a charge of discrimination, whistleblowing or participating in an investigation.

Rules providing pre-discipline meeting rights and post-discipline appeal rights for discipline or separation for cause do not apply to at-will employees.

Part-Time Employment

Part-time positions are those that are required on a long-term basis and are scheduled to work less than 40 hours per week. Part-time employees do not serve a probationary period. At the end of each 2080 hours worked, the part-time employee is eligible for a salary step increase based on satisfactory performance. Such employees serve at the discretion of the General Manager, are at-will, and can be terminated any time, with or without cause. The General Manager shall periodically review the part-time positions to determine that there are appropriate staffing levels to meet the needs and requirements of the Authority and make adjustments as necessary.

Part-time employees shall be entitled to participate in the Authority's benefit programs as specified in the Compensation Plan. The Authority's payment toward these insurance programs shall be proportionate to the employee's scheduled work hours.

Temporary Employment

Temporary employees are hired as interim replacements if regular staff are unavailable, to temporarily supplement the workforce, or to assist in the completion of a specific project or set of projects for a limited duration. Employment beyond any initially-stated period does not in any way imply a change in employment status.

Temporary full-time employees are scheduled to work the Authority's full-time schedule. Temporary part-time employees are scheduled to work less than 40 hours per week. Employees in temporary classes are not eligible for benefits or accrued leaves, with the exception of sick leave.

Resignation

An employee who resigns shall present notice in writing to the Authority at least 14 calendar days prior to the effective date of the resignation.

Reduction in Force

The Commission may separate any employee, without prejudice, because of lack of work or funds, or because of material change in duties or organization. No regular employee, however, shall be separated while there are provisional, probationary or temporary employees serving in the same class; provided, however, a regular employee otherwise subject to separation under this Policy may elect voluntary demotion to a lower class if vacancies exist. The order of separation due to reduction in force shall be based upon seniority. All employees subject to separation under these provisions shall receive written notice at least 14 calendar days prior to the effective date.

A summary of employment types and relevant status and benefits is provided in the following table:

	Status	Benefits
Temporary Part-time	At-will	Sick leave only
Temporary Full-time	At-will	Sick leave only
Regular Part-time	At-will	All proportionate to scheduled work hours
Probationary Full-time	At-will	All
Regular Full-time	Subject to discipline procedures	All

SECTION X – DISCIPLINE AND GENERAL RULES OF CONDUCT

It is expected that all employees shall render the best possible service and reflect credit on the Authority. Therefore, the highest standards of professional conduct are essential and expected of all employees. This Section does not apply to temporary, probationary, and provisional employees, though the Authority holds these employees to the same high

standards of professional conduct. Discipline for at-will employees is at the discretion of the General Manager.

Disciplinary Actions

The Authority may invoke the following types of disciplinary actions:

- a) Verbal Warning
- b) Written Reprimand
- c) Suspension With or Without Pay
- d) Reduction in Pay
- e) Demotion
- f) Disciplinary Probation
- g) Discharge/Termination

Grounds for Discipline

Disciplinary measures may be taken for any good and sufficient cause. Authority employees who are employed at-will, including temporary, provisional, and probationary employees, are not subject to the requirement of good cause, and are not entitled to pre-discipline procedures or appeals under these policies and may be separated with or without advance notice.

Good cause exists not only when there has been an improper act or omission by an employee in the employee's official capacity, but when any conduct by an employee brings discredit to the Authority, affects the employee's ability to perform their duties, causes other employees to be unable to perform their duties, or involves any improper use of the employee's position for personal advantage or the advantage of others. Rules requiring good cause do not apply to at-will employees. The type of disciplinary action shall depend on the seriousness of the offense and the relevant employment history of the employee. Causes for disciplinary action against an employee may include, but shall not be limited to, the following:

- a) Misstatements or omissions of fact in completion of the employment application or to secure appointment to a position with the Authority.
- b) Furnishing knowingly false information in the course of the employee's duties and responsibilities.
- c) Inefficiency, incompetence, carelessness or negligence in the performance of duties.
- d) Violation of safety rules.
- e) Violation of any of the provisions of these personnel rules and regulations or Authority policies.
- f) Inattention to duty.
- g) Tardiness, or overstaying lunch periods.

- h) Being under the influence of an intoxicating beverage or non-prescription drug, or prescription drugs not authorized by the employee's physician, while on duty or on Authority property, or when called in for emergency duty.
- i) Disobedience to proper authority, refusal or failure to perform assigned work, to comply with a lawful order, or to accept a reasonable and proper assignment from an authorized supervisor.
- j) Any violation of the Authority's No Harassment Policy.
- k) Unauthorized soliciting on Authority property.
- l) Unauthorized absence without leave; failure to report after leave of absence has expired or after a requested leave of absence has been disapproved, revoked or canceled; or any other unauthorized absence from work.
- m) Conviction of a felony, or a misdemeanor involving moral turpitude, or a violation of a federal, state or local law which negatively impacts the employee's ability to effectively perform assigned job or brings discredit to the Authority.
- n) Offensive treatment of the public or other employees.
- o) Falsifying any Authority document or record.
- p) Misuse of Authority property; improper or unauthorized use of Authority equipment or supplies, damage to or negligence in the care and handling of Authority property.
- q) Fighting, assault, and/or battery.
- r) Theft or sabotage of Authority property.
- s) Sleeping on the job, except as specifically authorized for 24-hour duty personnel.
- t) Accepting bribes or kickbacks.
- u) Intimidation or interference with the rights of any employee.
- v) Outside work or any other activity or conduct which creates a conflict of interest with Authority work, which causes discredit to the Authority, negatively impacts the effective performance of Authority functions or is not compatible with good public service.
- w) Failure to maintain the minimum qualifications, including necessary licenses or certifications specified for the position.
- x) Abusive or intemperate language toward or in the presence of others in the workplace.
- y) Any other conduct of equal gravity to the reasons enumerated above as determined by the Authority.

Procedure for Disciplinary Action

Regular employees covered by this policy shall be governed by the following provisions:

Written Notice

The General Manager shall issue a written notice of discipline, describing the intended discipline, the basis for the discipline, and attaching any documents upon which the discipline is based. The affected employee may respond by submitting a rebuttal to be lodged in the employee's personnel file, and in the case of a suspension of one to four days, shall have the ability to present their side of the story by responding orally or in writing before the discipline becomes final within five working days of the notice being issued. Any such response to a proposed suspension of one to four days shall be considered before a final decision is made. For minor discipline—any action up to and including a suspension of four (4) working days—no further appeal shall be permitted. For disciplinary actions of suspensions of more than four (4) working days, a reduction in pay resulting in loss of pay equal to or exceeding a suspension of more than four (4) days, demotion or termination (serious discipline), employees shall retain pre-discipline meeting and post-discipline appeal rights as described below.

Pre-Discipline Meeting

For serious discipline, the employee shall receive written notice of the charges upon which the disciplinary action is based, the materials upon which the charges are based, and the employee's rights under *Skelly vs. State Personnel Board*, 15 Cal.3d 194 (1975.) The employee then has an opportunity to respond, either orally or in writing.

The General Manager shall designate an individual to convene a meeting to review the employee's response and position before imposing discipline. As soon as practical following the meeting, the designated individual shall present their written opinion for consideration by the General Manager. If the General Manager is not the direct supervisor of the employee, the General Manager may convene the meeting.

The employee shall be entitled to a representative of their choice; provided, however, that the inability of a particular representative to attend the meeting shall not cause a continuance of the meeting. At the meeting, the employee shall be provided the opportunity to respond to the charges and to present any new information for consideration by the General Manager or their designee.

Final Action

After the employee responds to the charges, they shall be given by the General Manager a final notice of discipline to be imposed and an opportunity to appeal the discipline after it is imposed, in accordance with the rules contained herein. The notice shall include the final decision, the effective date of the discipline, and the facts upon which the discipline is based.

Appeal

For serious discipline, employees shall have the right to appeal the final decision. The notice of appeal must be received within seven (7) calendar days from the date of the final notice of discipline, or the right to appeal is waived and the discipline shall become final.

The appeal shall be heard by an independent hearing officer from the Office of Administrative Hearings of the State of California; a neutral mediator from another recognized organization; or a neutral mediator selected by mutual agreement of the employee and the Authority.

The costs of the hearing officer shall be borne by the Authority. Either party may request that the matter be transcribed. The requesting party shall bear the expense of the transcript.

The hearing officer shall have the authority to convene the hearing, receive evidence through testimony and documents, and to make findings of fact and conclusions about the discipline. The hearing officer may recommend an outcome, but the final authority rests with the Commission. The hearing officer shall serve a recommended decision on the Authority and the employee. The Commission shall issue a final decision. The Commission's decision is reviewable by administrative writ of mandamus.

SECTION XI – HOURS OF WORK

Hours of Work

A full-time employee shall be scheduled to work a forty (40) hour work week within a seven (7) day work period. Employees may vary their starting and ending times with management approval, and provided there is sufficient coverage during the hours the Authority is open to the public.

The General Manager may vary the working hours of any employee within the limits of State Law or other labor regulations should the need arise. Daily attendance records shall be kept and certified for payroll purposes. Any employee absent without leave, who fails to return to work within 24 hours after notice to return, shall be subject to disciplinary action.

Overtime

Authorized or required work performed by non-exempt employees in excess of forty (40) hours per week shall be deemed overtime.

Overtime Rate

Overtime shall be paid at the rate of one and one-half (1.5) times the straight-time hourly rate. Overtime hours may be paid on the next regular pay check. With the approval of the General Manager prior to performance of the overtime work, employees may choose to receive compensatory time off rather than overtime pay. Compensatory time shall be used or paid to the employee within a 12-month period from the date earned.

Call Back

When an employee is required to return to work following a lapse of at least one hour after their normal working hours, a minimum of two hours shall be recorded.

Exception

Exempt positions shall not accrue overtime but may adjust their working hours in lieu thereof as approved by the General Manager.

SECTION XII – HOLIDAYS

Authority Holidays

The following days shall be holidays for all full-time Authority employees:

New Year's Eve	December 31
New Year's Day	January 1
Martin Luther King's Birthday	3 rd Monday in January
President's Day	3 rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Day after Thanksgiving	4th Friday in November
Christmas Eve	December 24
Christmas Day	December 25

If a holiday falls on a Sunday, the following Monday shall be observed as a holiday. If a holiday falls on a Saturday, the preceding Friday shall be observed as a holiday. A part-time employee's holiday leave shall be proportionate to their scheduled work hours.

Floating Holidays

Full-time employees are allotted twenty-eight (28) hours of floating holiday to be used within the fiscal year, July 1 – June 30. Use of the allotted hours shall be approved by the General Manager. Floating holiday leave hours do not accrue and employees will not be compensated for unused hours.

A person hired after July 1, or a temporary full-time employee hired to work for less than 12 months, shall be provided the pro rata share of floating holiday hours for the number of months of work in the fiscal year compared to the annual allotment of twenty-eight (28) floating holiday hours per year.

Floating holiday hours shall be reconciled upon an employee's permanent separation from the Authority. Hours used in excess of those earned shall be deducted from the employee's final pay.

Compensation for Holidays Worked

Holidays shall be worked only on order and authorization of the General Manager. Work performed by a non-exempt employee on a holiday shall be compensated at the rate of one and one-half (1.5) times the straight-time hourly rate.

SECTION XIII – LEAVES AND VACATIONS

Vacation Leave Policy

Vacation leave is an earned benefit of eligible employees and its use shall be approved by the General Manager. Employees shall take vacation leave in increments of one (1) hour. Leave begins to accrue upon date of hire, but shall not be granted to the employee for use during the first six (6) months of employment. Vacation is accrued for all regular hours worked and shall continue to be earned during other authorized leaves with pay.

Vacation Leave Allowance

All full-time employees shall earn vacation leave at the rate of 80 working hours per year from the date of employment. Full-time employees shall earn an additional eight (8) hours vacation leave allowance for each full year of continuous employment thereafter, up to a maximum of 160 working hours per year. Part-time employees shall earn vacation leave proportionate to their scheduled work hours.

All eligible employees shall be permitted to accumulate unused vacation at a rate of 2-1/2 times their annual vacation allowance. Vacation accruals will be reviewed at the end of each fiscal year. If the accrual exceeds 2-1/2 times the annual allowance, the value of the excess accrual shall be paid to the employee at the end of that fiscal year and those hours shall be subtracted from the balance.

Computing and Recording Vacation Leave

Vacation leave credits shall be computed and recorded in increments of one hour. When periods of less than one full month have been worked, vacation leave credits shall be based on service computed to the nearest half month.

On July 1st of each year, employees who have completed at least six months of satisfactory full-time continuous service shall be credited in advance with vacation leave allowance for the entire fiscal year. Vacation leave shall be earned during authorized leave with pay. When a holiday falls during an employee's absence on vacation leave, it shall not be deducted from the employee's accrued leave.

Vacation leave shall be reconciled upon an employee's permanent separation from the Authority. Unused vacation leave is not transferable to retirement service credit. Leave used in excess of earned leave shall be deducted from the employee's final pay. Leave that is earned but unused at the time of separation shall be added to employee's final pay.

Sick Leave Policy

The Authority's sick leave policy complies with the Healthy Workplaces/Healthy Families Act of 2014. Sick leave shall be allowed in case of actual sickness of the employee. Sick leave shall be granted only on approval of the General Manager in increments of not less than one hour. If an employee will not be at work as scheduled, they must notify the supervisor within one-half hour of the time to report for work or at the first practical opportunity.

An employee may use a maximum of five (5) days of sick leave each fiscal year for absences caused by the illness or injury of a *family member*. A family member is defined as a child, parent, spouse or registered domestic partner, grandparent, grandchild, sibling, or designated person. A "designated person" under the Healthy Workplaces/Healthy Families Act means a person identified by the employee at the time the employee requests paid sick leave. This definition does not require the person be related by blood, or even a family-equivalent relationship. Use of sick leave for this purpose is intended to apply in serious and unforeseen conditions where the presence of the employee in the home or hospital is required for the care, legal requirement, or health of the family member. Authorization to use additional sick leave beyond the five-day maximum may be granted by the General Manager when exceptional circumstances warrant.

Sick Leave Accrual

Employees who work thirty (30) days or more within a year shall receive sick leave in accordance with the Healthy Workplace, Healthy Families Act of 2014.

Regular and Temporary Full-time employees accrue sick leave at the rate of four (4) hours per payroll period, up to 96 hours per calendar year. Part-time employees shall accrue sick leave proportionate to their scheduled work hours, with a minimum of 24 hours per year. Sick leave shall be cumulative without limit.

Computing and Recording Sick Leave

Initial crediting of sick leave shall be based on service computed to the nearest half month. Sick leave records shall be maintained on an hourly basis. On July 1st each year, an employee shall be credited in advance with the annual allowance. After an absence is approved as sick leave, it shall be deducted from the employee's leave balance. If at time of separation an employee owes the Authority for unearned sick leave, the actual time shall be deducted from their final pay.

Medical and Dental Appointments

Sick leave may be used for medical, dental, therapy or similar purposes for a minimum period of one (1) hour and should not exceed four (4) hours except in unusual circumstances. A maximum of forty (40) hours of sick leave per year may be used for medical, dental or therapy appointments for a family member when the employee's presence is required.

Payment for Unused Sick Leave

CalPERS' sick leave credit benefit is included in the Authority's pension contract. An employee whose effective date of retirement is within four months of separation from employment shall be credited with 0.004 year of service credit for each unused day of sick leave.

Upon the death of an employee prior to separation from employment, the employee's heir(s) or beneficiary(ies) shall receive compensation for sick leave earned but unused by the employee equal to 0.167% of the number of hours of sick leave, times the number of whole months of continuous employment, times the employee's hourly rate of pay at the time of death.

Bereavement Leave

Full-time regular employees shall be granted bereavement leave with pay not to exceed twenty-four (24) hours, as necessary, upon the occasion of the death of a family member. A family member is defined as a spouse, domestic partner, child, parent, parent-in-law, sibling, grandparent, or grandchild. An employee may also use other available paid time off such as vacation pay, personal leave, sick leave, or compensatory time off during their leave. The General Manager may grant bereavement leave for other relatives on a case-by-case basis. Additional leave for travel purposes not to exceed five (5) calendar days may be granted by the General Manager when circumstances warrant.

Catastrophic Leave

Full-time regular employees (i.e., excludes temporary, probational, and part-time employees), are eligible to receive catastrophic leave donations in the following circumstances:

- The employee must have exhausted all available leave (i.e., vacation and sick leave, floating holidays).
- The absence must be due to the employee's or their spouse, domestic partner, or child's life threatening or debilitating illness, injury, or condition.
- Use of catastrophic leave must be approved by the General Manager.

Employees may donate vacation leave on a voluntary basis. The employee making the donation must authorize in writing that a designated portion of their accrued vacation may be transferred from their leave account to the recipient employee's vacation account. Once made, donations are irrevocable.

All donated hours shall be converted to the donor's hourly rate, and the equivalent dollar amount shall be deposited and converted to hours at the recipient's hourly rate. Donors must retain a minimum of eighty (80) hours of their own vacation leave.

Family Leave

The California Family Rights Act (CFRA) and Family Medical Leave Act (FMLA) entitle eligible employees of covered employers to take unpaid, job-protected leave for certain

specified reasons. While EBDA is a covered employer under the CFRA and FMLA, only leave benefits under the CFRA are available for eligible employees. The maximum amount of leave employees may use under this policy is twelve (12) weeks within a 12-month period.

Employees that meet the following conditions are eligible for CFRA leave:

- the employee has worked for EBDA for at least twelve (12) months; and
- the employee worked at least 1,250 hours in the 12 months prior to their leave.

Eligible employees may take CFRA leave for any of the following reasons:

- For the employee's own serious health condition.
- To care for or bond with a newborn child.
- To care for or bond with a child placed with the employee and/or the employee's registered domestic partner for adoption or foster care.
- To care for an immediate family member (spouse, parent, parent-in-law, registered domestic partner, child or registered domestic partner's child of any age, sibling, grandparent, grandchild, or designated person) with a serious health condition. A "designated person" under CFRA means any individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests the leave.

Time Off to Vote

An employee may take time off to vote at the beginning or the end of the shift, whichever provides the most time to vote. The employee may take off no more than two (2) hours without loss of pay, providing that reasonable notice is given to their supervisor.

Jury and Witness Duty

Leave is provided for employees who are called to serve jury duty or who are summoned to appear as a witness in a judicial proceeding, pursuant to a subpoena or other court order. Employees must notify the Authority as soon as practicable of the need for leave under this policy. Employees will receive time off with regular base pay for the length of service. If an employee does not have to attend court, the employee is expected to report to work. Any jury fees received by an employee shall be remitted to the Authority. Reimbursements for mileage or food may be retained by the employee.

Military Leave

Any employee who is a member of the Reserve Corps of the Armed Forces of the United States, the National Guard or the National Militia is entitled to a temporary leave while engaged in military duty ordered for purposes of military training, drills, encampment, naval cruises, and special duty or like activity. Such temporary leave does not have to exceed seventeen (17) calendar days including travel time and does not have to be compensated. Military leave shall be granted in accordance with the provisions of State law. All employees entitled to military leave shall give the General Manager an opportunity, within the limits of military requirements, to determine when such leave shall

be taken. Military leave may be granted with pay provided employees reimburse the Authority for the amount of compensation, excluding travel and sustenance, which may be earned during the leave period.

Time Off To Appear At School When Required By the School

All employers must allow a parent or guardian of a pupil to appear at the school when the school has given advance notice. It is not a requirement that the employee be compensated for the time. The employee is required to give reasonable notice to the employer. An employee may take vacation or personal leave.

Disability Leave

For employee injury or disability falling within the provision of the State Workers' Compensation Disability Act, disability compensation at the rate allowed under said Act shall be basic remuneration during the employee's period of disability. In the case of full-time employees, additional compensation equal to the difference between said employee's regular pay and disability compensation allowance shall be granted not to exceed one year for any one period of incapacity. In the event a waiting period is required before an employee's disability compensation allowance is payable, the employee's regular pay shall be provided during said waiting period.

Compensation for short- and long-term disability leave resulting from employee injury or disability not related to Workers' Compensation is addressed in the Compensation Plan. Authority employees do not pay into the California State Disability Insurance (SDI) Program.

Voluntary Leave of Absence

The Commission, upon written request of a full-time regular employee (i.e. excludes temporary, probational, and part-time employees), may grant a voluntary leave of absence, without pay, for a period up to six (6) months. Upon written request of the employee, accompanied by justification and assurance of intent to return to duty, such leave of absence may be extended by the Commission another six (6) months, for a total continuous leave not to exceed a period of one (1) year. Leaves hereby authorized shall include educational leave, maternity leave, and leave for any other purpose promoting the good of the service. Upon expiration of such a leave, the employee shall be reinstated to the position held at the time leave was granted. Failure of the employee to report promptly at its expiration, or within 24 hours after notice to return to duty, shall terminate their right to be reinstated. During such leave an employee shall not earn sick leave or vacation leave, but shall maintain seniority at the time leave was first granted.

If the employee elects to maintain benefits during a voluntary leave of absence, prior to the start of the leave period, the employee shall pay to the Authority an amount equal to 100% of medical, dental, vision and disability insurance premium costs that are due and payable during the scheduled leave period. If the employee elects to suspend or discontinue benefits during a voluntary leave of absence, they may re-enroll during the Open Enrollment period upon return to work.

SECTION XIV – EMPLOYEE EDUCATION OR TRAINING

An employee may be authorized to attend special training courses, seminars or conferences which are determined to be job-related or will enhance the employee's work performance. In addition to receiving leave with pay, the employee may be reimbursed for the cost of registration, tuition, books, supplies or other expenses incurred in attending special training courses, seminars or conferences which are job-related or will enhance work performance.

SECTION XV – EMPLOYEE HEALTH AND SAFETY

Accident Reports

Any employee involved in an accident (whether involving injury or not) while on the job, must notify their supervisor and complete the required accident report forms within 24 hours of occurrence.

Work Injury or Illness

If an employee is unable to work as a result of what is believed to be an injury or illness arising out of or in the course of employment, the employee must visit a doctor for examination and the necessary forms shall be prepared for compliance with State laws and compensation insurance. If it is determined that the injury or illness is job-related, no deduction will be made from the employee's sick leave.

Filing a false or fraudulent workers' compensation claim is a violation of Authority policy, and will result in disciplinary action, up to and including immediate termination.

Employee Health

When, in the judgment of the General Manager, an employee's health or physical condition may have an adverse effect on the performance of the employee's duties, or affect safety or health of fellow employees, the employee may be required to undergo a medical or psychological examination at the expense of the Authority.

On the basis of authoritative medical advice, the General Manager shall determine whether an employee is physically and psychologically incapacitated for the duties of their position and may take whatever action deemed appropriate.

Safety Rules

All employees shall be expected to comply with all safety rules which may be adopted by the Authority as an integral part of their job duties. Failure to comply with adopted safety rules shall be grounds for disciplinary action.

Safety Equipment

The Authority shall determine the need for protective clothing and safety equipment for all employees and shall require its use where necessary for the protection of the

employee. The Authority will furnish, at no expense to the employee, all protective clothing and safety equipment required for the employee's performance of duties.

SECTION XVI – ANTI-HARASSMENT POLICY

The Authority does not tolerate harassment of any of our employees, customers or clients. Any form of harassment which violates federal, state or local law, including, but not limited to the items listed in the [Non-Discrimination](#) section of the General Provisions in Section II is a violation of this policy and will be treated as a disciplinary matter. For these purposes the term harassment includes slurs and any other offensive remarks or jokes, and other verbal, graphic, or physical conduct. Harassment also includes sexual advances, requests for sexual favors, unwelcome or offensive touching and other verbal, graphic or physical conduct of a sexual nature.

Questions about what constitutes harassing behavior shall be directed to the General Manager or to the Commission Chair.

Harassment shall be immediately reported to the General Manager or to the Commission Chair. The Authority strictly prohibits retaliation of any kind and will not tolerate employees' attempts to hinder internal investigations and/or corrective actions. All complaints of harassment that are reported to management will be looked into as promptly as possible and may be investigated. All complaints of harassment that are reported to management will be treated to the extent allowable by law.

Harassment of our employees in connection with their work by non-employees is also strictly prohibited. Any employee who experiences harassment by a non-employee or who observes harassment of an employee by a non-employee should report such harassment to the General Manager or Commission Chair. Harassment of our customers or clients by our employees is also strictly prohibited. Any violation of this policy will result in appropriate disciplinary action, up to and including termination.

Authority employees are required to complete sexual harassment prevention training and education that meet all requirements outlined by Government Code §12950.1.

SECTION XVII – LACTATION ACCOMODATION POLICY

Per California Senate Bill (SB) 142, the Authority will provide a reasonable amount of break time to accommodate an employee desiring to express breast milk for the employee's infant child. The break time shall, if possible, run concurrently with any break time already provided to the employee. The employer shall make reasonable efforts to provide the employee with the use of a room, other than a toilet stall, in close proximity to the employee's work area, for the employee to express milk in private. The room may include the place where the employee normally works.

Employees requesting an accommodation under this policy are responsible for communicating their needs to the General Manager. The General Manager will work with the employee to make the appropriate accommodations needed, including allowing for flexible break periods if necessary.

Management will not discriminate or retaliate against any employee for exercising or attempting to exercise their rights under this policy.

If an employee feels that their rights, as described in this Policy, have been violated, they may file a complaint with the California Labor Commissioner.

SECTION XVIII – GRIEVANCES

Definition

A grievance is any dispute between the Authority and an employee or employees with respect to the meaning, interpretation, application or enforcement of Authority rules and regulations or other terms or conditions of employment. Grievance shall not include actions taken by the Authority in accordance with [Section X](#), Discipline and General Rules of Conduct, hereof.

Policy

It is the intent of the Authority to anticipate and diminish causes of grievances and to settle any which arise, at the lowest practicable level of supervision and as fairly and promptly as possible. Therefore, time limits have been established between initiation of a grievance and its occurrence and between steps of the procedure. Any grievance not initiated or pursued within these limits will be considered settled on the basis of the last timely demand or answer, unless the time is extended to a definite date by agreement of the Authority and the employee.

Any regular employee (i.e. excludes temporary, probationary, and part-time employees) shall have the right to use this grievance procedure free from restraint, discrimination, pressure or reprisal from any other employee or officer of the Authority. Each employee shall have the right to present the grievance individually or through a designated representative at any step of the procedure. Employees shall have the right to withdraw the grievance at any step in the procedure

Procedure

If an employee has a grievance which cannot be settled by informal discussion with their immediate supervisor, the employee shall proceed in the following manner:

- Step 1. Present the grievance, in writing, to the General Manager, within ten (10) working days following occurrence of the event on which the grievance is based. The General Manager shall make a thorough investigation of the reported grievance and circumstances surrounding it and render a decision, in writing, to the employee within three (3) working days.
- Step 2. If the employee is not satisfied with the decision in Step 1, they may appeal to the Personnel Committee. Such appeal must be made within five (5) working days after the General Manager's decision is received. The Personnel Committee shall make a thorough investigation and shall arrange for a hearing

of the grievance at which both the employee and the Authority shall have the right to call witnesses. The Personnel Committee shall render its decision in writing within five (5) days after close of the hearing.

- Step 3. If the employee is not satisfied with the decision of the Personnel Committee in Step 2, they may appeal to the Commission. Such appeal must be made within five (5) working days after the Personnel Committee's decision is given. The Commission or its appointed representative shall conduct an investigation and hearing within twenty (20) days and shall render a decision in writing. The decision of the Commission shall be final in all grievance proceedings.

SECTION XIX – PERSONNEL RECORDS

Personnel records are maintained in accordance with State and Federal guidelines. The personnel file shall contain, but not be limited to, performance evaluations, as well as other forms, letters, and memoranda addressed to or pertaining to an employee. If an employee refuses to sign a form, letter, or document, the supervisor shall indicate "REFUSED TO SIGN" on the document and shall sign their name as witness to the fact, and the document shall then be placed in the employee's personnel file.

The personnel employment records are confidential. Only administrative staff specifically designated by the General Manager and those persons who are in a supervisory capacity to an employee may review an employee's file. Employees may review their own file upon request by scheduling an appointment with the administrative staff.

SECTION XX – WHAT THE AUTHORITY EXPECTS OF YOU

Attitude

Every employee should display a positive attitude toward their job. A negative attitude creates a difficult working environment and prevents the Authority from providing quality service.

Business Ethics and Conflict Of Interest

The Authority requires its personnel to conduct Authority business with integrity and to maintain a high standard of personal conduct in outside activities.

Employees are expected to recognize and avoid activities or investments which involve, or might appear to involve, a conflict of interest. While it is impossible to list in this policy statement every circumstance which may suggest a possibility of conflict of interest, the standards for evaluating such activities or investments set forth in the paragraph below are suggested for use by employees in deciding whether a conflict may exist.

No employee may engage in any outside business activity, pursuit, action or investment which could by its nature or scope (with or without personal gain): be objectively construed as preventing or potentially preventing an impartial discharge of duties; or interfere with the satisfactory performance of assigned duties within the Authority; or reflect a

compromise or misuse of Authority information; or adversely affect the interests or reputation of the Authority.

Commissioners and the General Manager are required to attend ethics training classes that meet all requirements outlined by Government Code Section 53234-53235.

Electronic Systems and Media

East Bay Dischargers Authority's electronic media is provided for employees to perform job functions. Electronic media includes but is not limited to: computers, software, laptops, telephones, cellular phones, electronic mail (e-mail) and internet access. Personal use of the Authority's electronic media shall be kept to a minimum. The Authority reserves the right to access these items at any time with or without prior notice, and the employees should have no expectation of privacy when storing or exchanging information on these devices or system.

All files and records stored on Authority computers are the property of the Authority. Authority computers are for business purposes only. No personal information or personal advertising or soliciting is permitted on our computer system. Use of Authority computers for unauthorized purposes is prohibited.

Authority e-mail is to be used for business purposes only and is considered Authority property. The Authority maintains the right to access these items at any time with or without prior notice, and the employees should not assume that such messages are confidential. Inappropriate or offensive messages are prohibited. Passwords are assigned in complete confidence. Employees are not to share their passwords with anyone. Upon suspecting that someone has learned their password, the employee shall contact the General Manager immediately.

Employees shall conduct Authority business only on their Authority e-mail account, not on personal e-mail accounts.

Telephone, Voice Mail, and Cell Phone Use

The Authority has a limited number of telephone lines. It is essential that we keep those lines open for business calls. Therefore, employees are to minimize use of the Authority's telephone lines for personal calls. Use of the Authority's voice mail system for personal reasons shall also be kept to a minimum.

The Authority may provide managers with cellular phones to facilitate Authority business. Personal use of the employer-provided cell phone is excludable from the employee's income as a working condition de minimus fringe benefit.

Employees who prefer to use their personal cell phones for business reasons shall be entitled to a tax-free reimbursement in an amount equal to the monthly cost per line for Authority provided cell phones, or the employee's actual cost for their cell phone plan, whichever is lower. The reimbursement shall be paid with the first payroll of every month. The reimbursement amount shall be reviewed every January and updated as needed, to reflect the then in-effect monthly cost per line under the Authority's cellular service plan.

The Authority's cellular service plan will also be reviewed periodically to ensure that it is the most cost-effective available.

Employees must comply with submitting data from personal cell phones used for Authority business in the event of a public records request for such information.

Confidentiality

All records and files of the Authority are property of the Authority and considered confidential. No employee is authorized to copy or disclose any file or record.

Notwithstanding the confidentiality provision, requests for information are subject to the California Public Records Act, Government Code §7920, et seq., and shall be responded to in the manner permitted by law.

Copy Machines and Facsimile

The facsimile and copy machines are for legitimate business purposes only and should not be used for personal use. Employees are prohibited from using these machines for the purpose of transmitting, receiving or copying materials which may be deemed offensive or insulting. Any employee who receives such materials via facsimile transmission, the mail, or from any other source, should report the transmission immediately to the General Manager.

Gambling

Gambling is prohibited on Authority property.

Personal Mail

Employees shall minimize personal mail deliveries to the Authority premises. Mail sent to an employee at the Authority will be opened by office personnel.

Authority postage meters and letterhead may not be used for personal correspondence.

Searches and Inspections

Employees do not hold any privacy rights in any Authority property. The Authority reserves the right, at all times and without prior notice, to inspect and search any and all of its property for the purpose of determining whether any policy, rule, or directive has been violated, or when the Authority determines an inspection is necessary for purposes of promoting safety in the workplace or compliance with state and federal laws. These inspections may be conducted during or after business hours and in the presence or absence of the employee. These searches may include, without limitation, workspaces, desks, electronic devices and equipment, cabinets, motor vehicles, and where appropriate non-Authority belongings that are brought onto District property.

All files and records stored on Authority computers are the property of the Authority and may be inspected at any time. Electronic mail and voice mail messages are to be used

for business purposes only and are considered Authority property. The Authority may access these items at any time with or without prior notice, and the employee should not assume that such messages are confidential.

Unauthorized Interviews

From time to time, Authority employees may be contacted by outside parties to discuss Authority business. As a means of protecting employees and the Authority, no unauthorized interviews are permitted to be conducted by individuals representing themselves as attorneys, peace officers, investigators, reporters, or someone who wants to *ask a few questions* regarding Authority business. If an employee is asked questions about the Authority or its current or former employees, the employee is to refer that individual(s) to their supervisor. A decision will then be made as to whether that individual may conduct any interview. Similarly, an employee becomes aware of an unauthorized interview occurring at the Authority, they must immediately notify the General Manager.

This provision is not intended to, nor does it interfere with any employee's ability to speak on matters of public concern; to report suspected harassment, discrimination, retaliation, fraud, misuse of public funds/resources and/or suspected criminal activity; or to engage in any lawful whistleblowing activities.

Whistleblowing

Notwithstanding the provisions of unauthorized interviews, the Authority will not prevent an employee from disclosing information to a government agency or law enforcement agency when the employee has reasonable cause to believe the information discloses a violation of a state or federal statute or a violation or noncompliance with a state or federal rule or regulation. Furthermore, the Authority will not retaliate against an employee for making such a disclosure or for refusing to participate in an activity that would result in a violation of state or federal statute, or violation or noncompliance with a state or federal rule or regulation. Employees who believe they have been retaliated against shall promptly report such retaliation to the General Manager or Commission Chair.

EAST BAY DISCHARGERS COMMISSION
EAST BAY DISCHARGERS AUTHORITY
ALAMEDA COUNTY, CALIFORNIA

RESOLUTION NO. 23-09

INTRODUCED BY _____

RESOLUTION APPROVING UPDATES TO THE PERSONNEL POLICY

WHEREAS, the East Bay Dischargers Authority is a joint powers public agency that is required to be in compliance with federal and state laws regarding its employees; and

WHEREAS, the Authority maintains a policy of being in compliance with all applicable laws by establishing policies that provide for a comprehensive personnel system and the administration thereof; and

WHEREAS, the Authority has determined that certain updates are required to comply with current state law and to clarify the benefits that accrue to each employee status; and

WHEREAS, the Authority has updated the floor and ceiling for annual cost-of-living-adjustments, per the Policy's triennial review process; and

WHEREAS, the proposed revisions are regarded by general counsel to comply with current law; and

WHEREAS, the revised policy has been reviewed and recommended for approval by the Personnel Committee.

NOW, THEREFORE, BE IT RESOLVED, the Authority hereby adopts revisions to the Personnel Policy effective June 15, 2023.

SAN LORENZO, CALIFORNIA, JUNE 15, 2023 ADOPTED BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSENT:
ABSTAIN:

CHAIR
EAST BAY DISCHARGERS AUTHORITY

ATTEST: _____
GENERAL MANAGER
EAST BAY DISCHARGERS AUTHORITY
EX OFFICIO SECRETARY

ITEM NO. 23 ITEMS FROM THE COMMISSION AND STAFF

The Commission and staff may comment on items of general interest.

ITEM NO. 24 CLOSED SESSION

Recommendation

Provide a performance assessment of the General Manager (GM).

Background

The General Manager's performance is reviewed annually around February 28, her hire date. The review takes place in closed session at the Commission Meeting. In advance of the review, the GM provides a self-assessment of performance against the goals established the previous year. The Commissioners are each provided with a scoring sheet to complete, all of which are then compiled by the Chair for use in the assessment.

The Commission met in closed session on March 16, 2023 to discuss the GM's performance. Because not all scoring sheets were available at that time, the Commission wished to continue the performance review to a future meeting.

Discussion

The Commission will meet in closed session to discuss the following:

Public Employee Performance Evaluation (Government Code §54957(b)(1))
Title: General Manager

ITEM NO. 25 RECONVENE OPEN SESSION

ITEM NO. 26 ADJOURNMENT