



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, March 21, 2024

4:00 PM

Oro Loma Sanitary District Boardroom  
2655 Grant Avenue, San Lorenzo, CA 94580

This meeting will also be teleconferenced:

Teleconference link: <https://us02web.zoom.us/j/89796898677>

Call-in: 1(669) 900-6833 and enter Webinar ID number: 897 9689 8677

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

## CONSENT CALENDAR

- |        |   |
|--------|---|
| MOTION | 5. Commission Meeting Minutes of February 15, 2024                          |
|        | 6. List of Disbursements for February 2024 – See Item No. FM4               |
|        | 7. Treasurer’s Report for February 2024 – See Item No. FM5                  |
|        | 8. Second Quarter Expense Summary, Fiscal Year 2023/2024 – See Item No. FM6 |

## REGULAR CALENDAR

- |             |   |
|-------------|---|
| INFORMATION | 9. <b>General Manager’s Report</b><br>(The General Manager will report on EBDA issues.)   |
| INFORMATION | 10. <b>Report from the Managers Advisory Committee</b><br>(The General Manager will report on Managers Advisory Committee activities.)  |
| INFORMATION | 11. <b>Report from the Regulatory Affairs Committee</b><br>(The General Manager will report on the meeting.)  |
| MOTION      | 12. <b>Motion Authorizing the General Manager to Execute Amendment No. 1 to the Professional Services Agreement with Pacific EcoRisk for Effluent Toxicity Testing in the Amount of \$10,020, for a Total Not to Exceed Amount of \$129,639 – See Item No. RA10</b><br>(The Commission will consider the motion.) |
| INFORMATION | 13. <b>Report from the Financial Management Committee</b><br>(The General Manager will report on the meeting.)  |

- MOTION**      **14. Motion Authorizing the General Manager to Execute an Agreement with Redwood Public Law LLP for General Counsel Services – See Item No. FM8**  
(The Commission will consider the motion.)
- MOTION**      **15. Motion Authorizing the General Manager to Approve an Engagement of Legal Services with Meyers Nave for Specialized Legal Services – See Item No. FM9**  
(The Commission will consider the motion.)
- INFORMATION**      **16. Report from the Operations & Maintenance Committee**  
(The Operations & Maintenance and General Managers will report on the meeting.)
- MOTION**      **17. Motion Approving Revisions to Rules of the Commission**  
(The Commission will consider the motion.)
- INFORMATION**      **18. Items from the Commission and Staff**  
(The Commission and staff may address items of general interest.)

### **19. 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 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](mailto: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>.

**Next Scheduled Commission meeting is  
Thursday, April 18, 2024 at 4:00 pm**

## GLOSSARY OF ACRONYMS

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

## GLOSSARY OF ACRONYMS

<b>O&amp;M</b>	Operations & Maintenance	<b>SSMP</b>	Sewer System Management Plan
<b>OLEPS</b>	Oro Loma Effluent Pump Station	<b>SSO</b>	Sanitary Sewer Overflow
<b>OLSD</b>	Oro Loma Sanitary District	<b>SWRCB</b>	State Water Resources Control Board
<b>OMB</b>	Office of Management and Budget	<b>TDS</b>	Total Dissolved Solids
<b>P</b>	Phosphorous	<b>TIN</b>	Total Inorganic Nitrogen
<b>PAHs</b>	Polynuclear Aromatic Hydrocarbons	<b>TMDL</b>	Total Maximum Daily Load
<b>PCBs</b>	Polychlorinated Biphenyls	<b>TP</b>	Total Phosphorus
<b>PLC</b>	Programmable Logic Controller	<b>TRC</b>	Total Residual Chlorine
<b>PFAS</b>	Per and Polyfluoroalkyl Substances	<b>TSO</b>	Time Schedule Order
<b>POTW</b>	Publicly Owned Treatment Works	<b>TSS</b>	Total Suspended Solids
<b>QA/QC</b>	Quality Assurance / Quality Control	<b>UEPS</b>	Union Effluent Pump Station
<b>Region IX</b>	Western Region of EPA (CA, AZ, NV & HI)	<b>USD</b>	Union Sanitary District
<b>ReNUWit</b>	Re-Inventing the Nation's Urban Water Infrastructure Engineering Research Center	<b>UV</b>	Ultraviolet Treatment
<b>RFP</b>	Request For Proposals	<b>VFD</b>	Variable Frequency Drive
<b>RFQ</b>	Request For Qualifications	<b>VOCs</b>	Volatile Organic Compounds
<b>RMP</b>	Regional Monitoring Program	<b>WAS</b>	Waste Activated Sludge
<b>RO</b>	Reverse Osmosis	<b>WDR</b>	Waste Discharge Requirements
<b>RRF</b>	Renewal and Replacement Fund	<b>WEF</b>	Water Environment Federation
<b>RWB</b>	Regional Water Board	<b>WET</b>	Whole Effluent Toxicity or Waste Extraction Test
<b>RWQCB</b>	Regional Water Quality Control Board	<b>WIN</b>	Water Infrastructure Network
<b>SBS</b>	Sodium Bisulfite	<b>WLA</b>	Waste Load Allocation (point sources)
<b>SCADA</b>	Supervisory Control and Data Acquisition	<b>WPCF</b>	Water Pollution Control Facility
<b>SCAP</b>	Southern California Alliance of POTWs	<b>WQBEL</b>	Water Quality Based Effluent Limitation
<b>SEP</b>	Supplementary Environmental Project	<b>WQS</b>	Water Quality Standards
<b>SFEI</b>	San Francisco Estuary Institute	<b>WRDA</b>	Water Resource Development Act
<b>SFEP</b>	San Francisco Estuary Partnership	<b>WRF</b>	Water Research Foundation
<b>SLEPS</b>	San Leandro Effluent Pump Station	<b>WWTP</b>	Wastewater Treatment Plant
<b>SRF</b>	State Revolving Fund	<b>WWWIFA</b>	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 February 15, 2024
- Item No. 6 List of Disbursements for February 2024 – See Item No. FM4
- Item No. 7 Treasurer’s Report for February 2024 – See Item No. FM5
- Item No. 8 Second Quarter Expense Summary, Fiscal Year 2023/2024 – See Item No. FM6

## **Recommendation**

Approve Consent Calendar

**ITEM NO. 5 COMMISSION MEETING MINUTES OF FEBRUARY 15, 2024**

**1. Call to Order**

Chair Lathi called the meeting to order at 4:00 P.M. on Thursday, February 15, 2024 at the Oro Loma Sanitary District, 2655 Grant Avenue, San Lorenzo, CA 94580.

**2. Pledge of Allegiance**

**3. Roll Call**

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

Absent: None

Attendees:	Jacqueline Zipkin	East Bay Dischargers Authority
	Howard Cin	East Bay Dischargers Authority
	Juanita Villaseñor	East Bay Dischargers Authority
	Eric Casher	Legal Counsel
	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 January 18, 2024**

**6. List of Disbursements for January 2024**

**7. Treasurer's Report for January 2024**

Commissioner Andrews moved to approve the Consent Calendar. The motion was seconded by Commissioner Johnson and carried with the following roll call vote:

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

## REGULAR CALENDAR

### **8. General Manager's Report**

The General Manager (GM) acknowledged that February 15 is the 50th anniversary of EBDA. The GM also reported that EBDA, in collaboration with Oro Loma Sanitary District and San Francisco Estuary Partnership, hosted a Design Charette on the First Mile Horizontal Levee project on January 23. On February 8, the Water Board completed its annual NPDES inspection of the Marina Dechlorination Facility (MDF) and San Leandro Water Pollution Control Plant. The GM reminded the Commission that Form 700 filings are due April 2.

### **9. Report from the Managers Advisory Committee**

The GM reported on the February 5, 2024, Managers Advisory Committee (MAC) meeting. The MAC discussed the status of the nutrients watershed permit. The Administrative Draft has been issued, and comments are due on March 6.

### **10. Report from the Financial Management Committee**

The GM reported on the February 14, 2024, meeting of the Financial Management Committee. The Committee reviewed the disbursement list and treasurer's report and recommended approval. The Committee also reviewed the Authority's insurance program and the Financial Transactions Report submitted to the State Controller's Office.

### **11. Report from the Operations and Maintenance Committee**

The Operations and Maintenance (O&M) Committee met with staff on February 13, 2024. The O&M Manager provided updates on recent events, including PG&E power outages. The O&M Manager also provided project updates on the Hayward Effluent Pump Station (HEPS) Pump Replacement Project and the Oro Loma Effluent Pump Station (OLEPS) Automatic Transfer Switch Upgrade. The GM provided updates on the Cargill and Advanced Quantitative Precipitation Information (AQPI) projects. Then, the Committee reviewed the Public Access Policy and recommended approval.

### **12. Motion Approving the Public Access to Authority Property Policy**

Commissioner Azevedo moved to approve the item. The motion was seconded by Commissioner Andrews and carried with the following roll call vote:

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

### **13. Report from the Personnel Committee**

The Personnel Committee met with staff on February 13, 2024. The Committee discussed employee benefit assumptions for the FY 2024/2025 budget. The Committee asked staff to survey other agencies for retiree health benefits and present a summary at the next Committee meeting. The Committee reviewed the proposed changes to the Rules of the Commission and recommended that the policy be brought to the Commission for adoption.

in March.

**14. Items from Commission and Staff**

Commissioner Andrews suggested combining EBDA's 50<sup>th</sup> anniversary celebration with Earth Day.

**15. Closed Session**

Pursuant to Government Code 54957, the Commission entered Closed Session at 4:39 pm to discuss appointment of the General Counsel.

**16. Reconvene to Open Session**

The Commission reconvened to Open Session at 4:55 pm. Chair Lathi noted there were no reportable actions from closed session.

**17. Adjournment**

Chair Lathi adjourned the meeting at 4:56 pm.



**ITEM NO. 9 GENERAL MANAGER'S REPORT**

The General Manager will discuss items of interest to EBDA.

**ITEM NO. 10 REPORT FROM THE MANAGERS ADVISORY COMMITTEE**

**MANAGERS ADVISORY COMMITTEE  
AGENDA**

**Monday, March 4, 2024  
2:00 pm**

**Via Zoom**

- 1. Wet Weather Info Sharing**
- 2. Nutrients Watershed Permit Negotiation**
- 3. CASA Air Toxics Pooled Emissions Study**
- 4. Debrief Meeting with BAAQMD EO on 2/29**
- 5. EBDA Budget Considerations**
- 6. EBDA Commission Agenda**
- 7. Managers Information Sharing**

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## **ITEM NO. 11**

### **REGULATORY AFFAIRS COMMITTEE AGENDA**

**Monday, March 18, 2024**

**11:45 A.M.**

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

**This meeting will be teleconferenced from the following location:  
Guest Parking Area Located on Ocaso Camino, West of and Closest to the  
Intersection of Paseo Padre Parkway**

**Teleconference link: <https://us02web.zoom.us/j/82810609847>  
Call-in: 1(669) 900-6833 and enter Webinar ID number: 828 1060 9847**

**Committee Members: Andrews (Chair); Lathi**

- 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. Regulatory Reporting Checklist**  
(The Committee will review a checklist of completed regulatory reporting items.)
- RA6. NPDES Annual Report**  
(The Committee will review the Authority's Annual Report submittal.)
- RA7. BACWA Key Regulatory Issues Summary**  
(The Committee will review BACWA's issues summary.)
- RA8. Study of PFAS in Bay Area Wastewater**  
(The Committee will discuss the study recently completed by San Francisco Estuary Institute.)
- RA9. Nutrients Watershed Permit Update**  
(The Committee will review a recently submitted annual report and receive a status update on negotiations.)

**RA10. Motion Authorizing the General Manager to Execute Amendment No. 1 to the Professional Services Agreement with Pacific EcoRisk for Effluent Toxicity Testing in the Amount of \$10,020, for a Total Not to Exceed Amount of \$129,639**

(The Committee will consider the motion.)

**RA11. Adjournment**

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**Next Scheduled Regulatory Affairs Committee Meeting  
May 13, 2024 at 12:00 p.m.**

**ITEM NO. RA5 REGULATORY REPORTING CHECKLIST**

**Recommendation**

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

**Strategic Plan Linkage**

1. **Regulatory Compliance:** Proactively meet or exceed regulatory requirements for protection of the environment and public health.

**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 September 1, 2023 through February 29, 2024; there are no outstanding activities.

Agenda Explanation  
East Bay Dischargers Authority  
Regulatory Affairs Committee  
March 18, 2024

<i>Authority</i>	<i>Required Action</i>	<i>Occurrence</i>	<i>Date Completed</i>
Bay Area Air Quality Management District	Pay renewal fee for <i>Permit to Operate</i> Plant #14528	Annual	9/15/2023
Alliant Insurance Services, Inc	CSRMA Pooled Liability Program Renewal Questionnaire	Annual	9/27/2023
Division of Occupational Safety & Health	Permit #A002244-80 to Operate Air Pressure Tank (Inspection & Renewal) NOTE: CALL APIP TO SCHEDULE INSPECTION.	Quinquennial	10/18/2023
Division of Occupational Safety & Health	Permit #A002245-80 to Operate Air Pressure Tank (Inspection & Renewal) NOTE: CALL APIP TO SCHEDULE INSPECTION.	Quinquennial	10/18/2023
State Water Resources Control Board	NPDES Quarterly Report (Jul-Sep)	Quarterly	10/27/2023
ADP Business Payroll	Payroll Tax Return Download Quarter 3	Quarterly	11/2/2023
Alameda County	Financial Statements Submittal	Annual	11/28/2023
State Controller's Office	Financial Statements Submittal	Annual	11/28/2023
Various	Financial Statements Submittal	Annual	11/28/2023
Various	EE Training (See: Log EE_Training)	Monthly	12/11/2023
State Water Resources Control Board	Annual Waste Discharge Permit Fee	Annual	12/15/2023
State Compensation Insurance Fund	Payroll Report, Semi-Annual Jul 01 - Jan 01	Semi-Annual	1/10/2024
Alliant Insurance Services, Inc	Pollution Liability Insurance Program Renewal	Annual	1/12/2024
Internal Revenue Service	Distribute W-2 forms to employees/commissioners	Annual	1/16/2024
East Bay Dischargers Authority	Review the Emergency Response Plan and Contingency Plan	Annual	1/22/2024
East Bay Dischargers Authority	Review the OLSA SPCC Plan	Annual	1/22/2024
Internal Revenue Service	Distribute <i>Form 1099 (NEC or MISC)</i> to vendors/contractors	Annual	1/25/2024
Division of Occupational Safety & Health	OLEPS Crane Inspection/Certification	Annual	1/25/2024
Internal Revenue Service	File Form 1096 (Form 1099 summary) w/ IRS - If paper forms are submitted	Annual	1/25/2024
ADP Business Payroll	Print W-2 copies for EBDA payroll file (EE W-2 forms will be delivered)	Annual	1/26/2024
AICo Environmental Health	OLEPS CUPA HMBP & Inventory Reporting (CERS ID 10188879)	Annual	1/26/2024
City of San Leandro	MDF CUPA HMBP & Inventory Reporting (CERS)	Annual	1/26/2024
State Controller's Office	Special Districts Financial Transactions Report (FTR)	Annual	1/29/2024
State Water Resources Control Board	NPDES Annual Report	Annual	1/30/2024
Department of Industrial Relations	Form 300A Posting	Annual	1/31/2024
Bureau of Labor Statistics	Report monthly employment figures, include Commissioners and Staff	Monthly	2/12/2024
Bay Area Air Quality Management District	Complete <i>Data Update</i> form Plant #13187 - Permit Expiration Date: May 1	Annual	2/20/2024
Alliant Insurance Services, Inc	Public Official Bond Renewal - JTZ	Annual	2/26/2024
Alliant Insurance Services, Inc	Public Official Bond Renewal - HC	Annual	2/26/2024
State Water Resources Control Board	NPDES monthly reports	Monthly	2/28/2024
State Water Resources Control Board	NPDES Quarterly Report (Oct-Dec)	Quarterly	2/28/2024
Regional Water Quality Control Board	Recycled Water monthly reports	Monthly	2/29/2024

**ITEM NO. RA6 NPDES ANNUAL REPORT**

**Recommendation**

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

**Background**

Each year at the end of January, EBDA is required by its NPDES permit to submit an annual report. The report provides a compendium of the status of EBDA's facilities, major projects undertaken by the Member Agencies, and discharge quality.

**Discussion**

EBDA's Annual Self-Monitoring Report is attached for the Commission's information.

# 2023 NPDES SELF-MONITORING PROGRAM ANNUAL REPORT

NPDES PERMIT NO. CA0037869

East Bay Dischargers Authority  
City of San Leandro  
Oro Loma Sanitary District  
Castro Valley Sanitary District  
City of Hayward  
Union Sanitary District

January 30, 2024





## Table of Contents

### **Contents**

Section 1: Comprehensive Discussion of Treatment Plant Performance and Compliance .....	3
Section 2: List of Analyses for Which the Discharger Is Certified .....	7
Section 3: Plan View Drawing or Map Showing the Discharger's Facility, Flow Routing, Sampling and Observation Station Locations.....	10
Section 4: Results of Facility Report Reviews .....	19
Section 5: BACWA Watershed Permitting and Monitoring .....	24
Section 6: Effluent Characterization Study and Report .....	25

## Section 1: Comprehensive Discussion of Treatment Plant Performance and Compliance

Major milestones and construction projects completed at the EBDA member treatment plants in 2023 included the following:

- Oro Loma/Castro Valley Sanitary Districts (OLSD/CVSan)
  - Installed new iron sponge vessel to remove H<sub>2</sub>S as a redundant system to chemical dosing. This was a proactive effort to maintain compliance with air board regulations due to the shortage in chemical supply experience throughout the industry.
  - Continuing to operate a full scale sidestream nitrification process using Microvi's biocatalyst. As constructed, approximately 100,000 gpd of belt press filtrate will be treated each day. The sidestream contains approximately 17% of the total influent nitrogen. To date, the process reduces ammonia concentrations by 70%. Staff continues to work to improve the performance with a 90% removal target. The process is designed to reduce ammonia to nitrite or nitrate, which is readily available for denitrification in the mainstream process.
  - Much of the Oro Loma Sanitary District's Capital Program spending has shifted to the collection system. The District is approximately 60% complete with its goal to replace 40 miles of sewer pipe by 2029 at an approximate cost of \$60M. The District has completed four of ten planned contracts in 2023 with two currently actively in construction, one out to bid and expects to award two more in 2024.
  - Oro Loma Sanitary District worked to improve chlorine dosing to EBDA by adding automation to the chlorine system that maintains a chlorine residual setpoint at the disinfection channel chlorine injection point and programming a minimum sodium hypochlorite feed rate to prevent low chlorine residual dips during low flow events. We have also relocated our sensor locations to better monitor chlorine residual more immediately.
- Union Sanitary District (USD)
  - Enhanced Treatment and Site Upgrade (ETSU) Program phase 1A construction is ongoing. The design for phase 1B has commenced and is expected to be out to bid mid calendar year 2024. Phase 1A will modify the existing aeration basins, add an 8th aeration basin, and relocate existing administrative/operations/maintenance buildings to allow for phase 1B to be built. Phase 1B will construct new secondary clarifiers, return activated sludge pump station (RAS), waste activated sludge pump station (WAS) and new effluent pump station, including new chlorine contact channels. The completion of the ETSU program will allow USD to be an earlier adopter of nutrient removal.

- New Standby Generator system is construction will be completed in 2025. Long lead times for electrical equipment have slowed the completion of this project. This project also upgrades a portion of the facility's electrical distribution system, by replacing Substation #2.
- WAS Gravity Belt Thickener is in design to replace aging solids process equipment.
- Rehabilitation of the district's Digester #6, which is the second largest digester, is underway.
- City of Hayward
  - The recycled water membrane treatment system had its first full year in service and distributed 60 million gallons of recycled water in total. Averaging 250K to 300K gallons of water per day during the peak season.
  - The Headworks project is substantially complete. In 2023 the contractor installed a permanent dewatering system for the foul-air line to reliably run the biofilter and punch list items to be completed in 2024. We are working with BAAQMD to permit the biofilter.
  - The 12KV Switch Gear replacement project was awarded to Carollo in late 2021. The project bid was awarded in summer of 2022, the design has begun, and construction was scheduled to begin in late 2023. Due to extremely long lead times the start date has been pushed to mid-2024.
  - The nutrient management upgrades and admin building project was awarded to Brown and Caldwell in August of 2022. Planning has begun and it will take 2 years to design the nutrient upgrades. The admin building design is 90% complete, the EQ basin design is 60% complete and the phase II nutrient upgrade design is in the early stages and will continue in 2024.
  - The effluent pump and motors will be replaced in 2024. The old concrete bases will be demolished. New anchors and rebar will be installed and new larger concrete bases will be poured before installing the new pumps and motors.
- City of San Leandro
  - "Micro-grid" battery system installation nearing completion. Other energy efficiency projects including digester mixing and aeration equipment expected to commence early 2024.
  - CEQA approval of the Treatment Wetland project is expected in early 2024. Phase I, including sludge stabilization and soil relocation, is expected to start in summer 2024 with final construction and commissioning expected in 2025. This project was selected for a \$2.975M grant from US EPA through the Water Quality Improvement Fund.
  - A Capital Improvement Plan project commenced in late 2023 and is expected to be completed in early 2024. The plan will delineate necessary

projects for the Water Pollution Control Plant and the collection system from 2024 through 2034. This plan will include options for further reducing nutrients.

- Disaster recovery from the 2022-23 floods, including rehabilitation of damaged facilities and replacement of damaged equipment. Upgrades to allow diversion of excess flow to the treatment pond will complete in January 2024.

EBDA's major projects in 2023 included the following:

- EBDA continues to implement its Asset Management Plan to ensure appropriate renewal and replacement of infrastructure. The estimated total restoration cost over 20 years is approximately \$11.3 million. This includes \$420,000 annually through 2030 (for a total of \$4.2 million) that EBDA is contributing for capital improvements to the Union Effluent Pump station, per EBDA's Amended and Restated Joint Powers Agreement.
- In 2023, EBDA replaced the emergency outfall weir at the Oro Loma Effluent Pump Station. This project involved removing the existing lumber weir and replacing it with a new permanent stainless-steel weir at an increased height, increasing system detention time and delaying or preventing an unanticipated bypass in the event of a catastrophic failure at OLEPS. EBDA also performed Wet Well Sluice Gate Repairs and Preventative Maintenance at OLEPS.
- EBDA continued to advance the Hayward Effluent Pump Station (HEPS) Pump Replacement project. This project to replace all four pumps and motors was awarded in January 2023, and pumps were delivered in December 2023. Installation is beginning in early 2024.
- EBDA substantially completed a project to replace the roofs on the EBDA Office Building, the Marina Dechlorination Facility (MDF) SBS Storage Building, and OLEPS. EBDA also completed interior upgrades to its Administration Building, including new flooring and paint.
- EBDA continued its key role in the Transforming Shorelines Project. This project, funded by an EPA Water Quality Improvement Fund grant, includes design of a full-scale horizontal levee south of Oro Loma ("First Mile" project), continued research at Oro Loma's horizontal levee pilot, advancement of pilot wetlands projects at San Leandro and Hayward, and building capacity for nature-based solutions among Bay Area wastewater agencies. In close coordination with East Bay Regional Park District, Hayward Area Shoreline Planning Agency, and San Francisco Estuary Partnership, EBDA has been managing the First Mile and Hayward projects. In 2023, the First Mile team completed a draft set of 30% design drawings. A design charrette for the project is being held in January 2024, which will inform future project phases and partnerships.
- In late 2021, EBDA started a project to update programming and automation associated with sodium bisulfite (SBS) dosing at the MDF. These updates were

needed to implement the change to EBDA's effluent limit for total residual chlorine (TRC), which was adopted as a blanket permit amendment by the Regional Water Board in October 2021, and then again in November 2023. The new TRC effluent limit is expected to reduce SBS usage by approximately 85%, or a \$250,000 budgetary savings. Programming was completed in December 2023, and implementation began on January 2, 2024.

- EBDA has been working closely with Cargill, Inc. to develop a project that would deliver mixed sea salt brine from Cargill's solar salt ponds in Newark to EBDA's transport system for dilution and discharge. In 2023, EBDA's Commission approved an Environmental Impact Report (EIR) for the project, which is available here: <https://ebda.org/projects/cargill-partnership/>. Following EIR approval, Cargill made the decision to further evaluate an alternate pipeline route that goes along paths near the Bay instead of through City streets that are already congested with utilities. A project update meeting was held with regulatory agency representatives, including Regional Water Board staff, in December 2023 to discuss the proposed change. Cargill is now in the process of re-engineering the pipeline and consulting with landowners. They are also re-evaluating the connection to EBDA, assessing the feasibility of connecting downstream of MDF to avoid corrosion impacts to EBDA's system. Cargill's preliminary schedule shows revised CEQA analysis in 2025, and construction beginning sometime between 2027 and 2029 depending on permitting, with operation commencing between 2031 and 2033.
- EBDA's Member Agencies recycled approximately 1007 million gallons in 2023, a 23% increase over 2022. The increase is primarily attributed increases in Hayward's recycled water deliveries, both to the Russell City Energy Center (RCEC), and to other irrigation and industrial uses through their Phase 1 Recycled Water Project. For consistency with recycled water totals submitted through GeoTracker, the totals presented below include in-plant reuse.

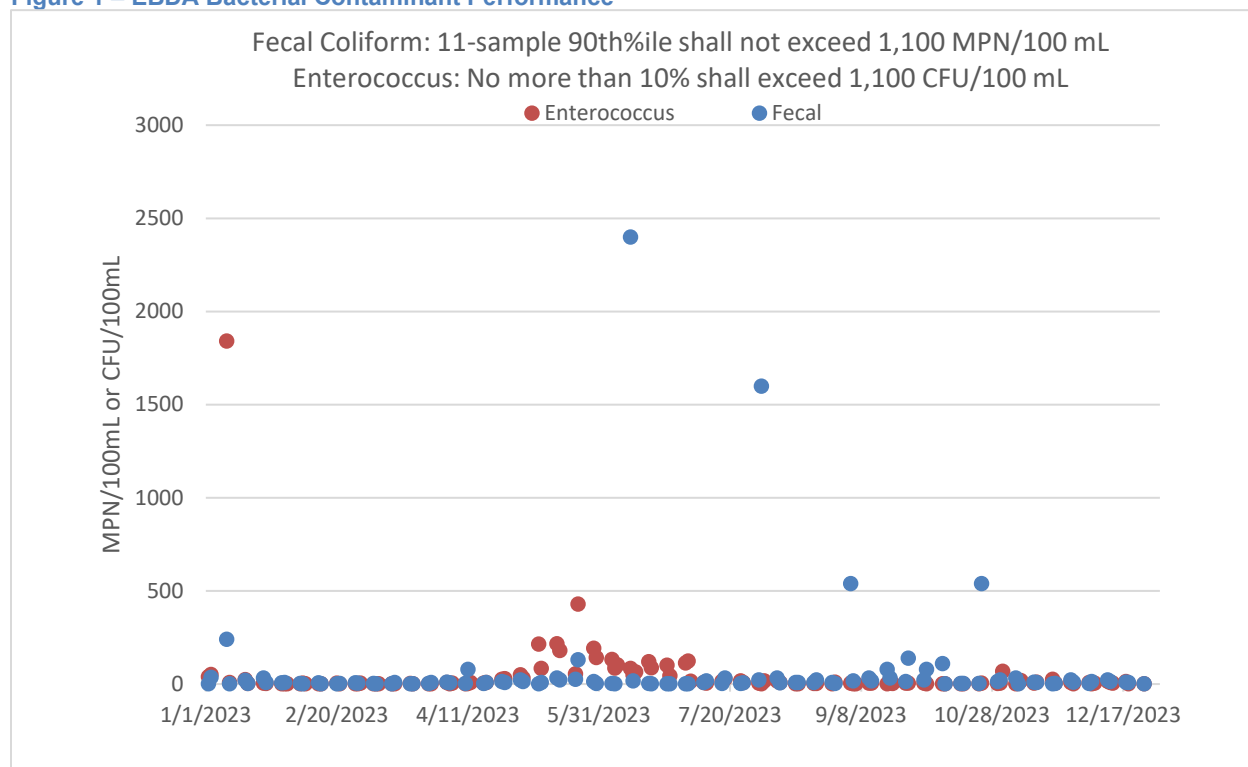
As shown in the following table, including the LAVWMA agencies, water recycling accounted for more than 3 billion gallons, about 14% of EBDA's outfall discharge last year of approximately 22.1 billion gallons. Overall, this is consistent with last year's totals and ratio.

<i>Agency</i>	<i>2023 Recycled Water Production (MG)</i>
Hayward	541
San Leandro	74
EBDA Skywest Project	9
Oro Loma Sanitary District	18
Union Sanitary District	365
<b>EBDA Total</b>	<b>1007</b>
Livermore	506
Dublin San Ramon Services District (DSRSD)	1524
<b>LAVWMA Total</b>	<b>2030</b>
<b>Grand Total</b>	<b>3037</b>

### Bacterial Compliance

The chart that follows presents pathogen data from samples through the year. Note that permit limits are calculated as monthly geometric means or monthly 90%ile samples. Sporadically, at random intervals, a high sample can be detected. This outcome is probably due to the sloughing of pipe biofilms into the sample line. These non-representative events are why permit compliance is determined by geometric means. EBDA and its member agencies worked hard over the past few years to improve chlorine dosing to prevent periodic increases in bacterial contamination, which had occurred in prior years. This increased attention to chlorine dosing has led to consistent compliance with limits.

Figure 1 – EBDA Bacterial Contaminant Performance



### Treatment Plan Compliance – San Leandro

The Albertsons-Safeway milk processing plant at 2000 Adams Street is the biggest single discharger to the San Leandro WPCP. From mid-January to March 2023, repeated high strength discharges from the plant caused upsets to the plant processes. One of these discharges included 3000-5000 gallons of heavy cream, which recorded a grab-sample COD of 287,000. When operators notice a drop in dissolved oxygen in the aeration basin, they typically divert flow to wet-weather storage. However, during a three-week period in February, the discharges were so frequent that all available storage capacity was used. This resulted in an exceedance of the weekly average CBOD limit for the week of February 12-18, caused primarily by a CBOD result of 58 mg/L on February 15.

These problems continued in March 2023. Operations staff noted that the CBOD removal efficiency of the Fixed Film Reactor (FFR) was lower than normal. A brief FFR flush, in which the rotation of the distribution arms is slowed to remove excess biofilm, is normally scheduled daily. However, because of the wet weather and repeated discharges from the milk plant, the FFR had not been flushed in 8 days. In an effort to improve the removal efficiency, Operations staff initiated a flush of the FFR, in which the rotation of the arms is slowed to remove excess biofilm. This normally causes a temporary drop in dissolved oxygen in the aeration basin. However, the plant was experiencing excess loading at the same time. The low DO from the FFR flush masked the low DO from the influent, so Operations staff waited for several hours before starting to divert to the storage basins. This series of events resulted in a CBOD over 90 mg/L on March 16, 2023 and a weekly average of 55.1 mg/L for the week of March 12-18.

Plant management and pretreatment staff have been in communication with the milk plant leadership, including the issuance of multiple notices of violation. The plant has since installed additional tankage to capture accidental discharges and have improved their operations to limit these discharges. In addition, a Sentry biological activity sensor has been installed in the influent channel. This sensor converts biological activity into an electrical signal, which provides plant staff notices of high loading (or low activity, an indication of possible toxicity). This removes the dependence on DO as an indicator and allows staff to divert flow earlier in the process and limit the impact on the aerobic treatment process.

During the latter half of the year, as the milk discharges subsided, the plant performed excellently, with TSS and CBOD removal rates frequently exceeding 99%.

## **Section 2: List of Analyses for Which the Discharger Is Certified**

EBDA conducts no analyses of its own. Each member agency is certified by the State Water Resources Control Board for standard water quality tests such as BOD, TSS, pH, DO, enterococcus, and fecal coliform. City of San Leandro staff performs these analyses on the combined effluent. Beginning in 2024, Oro Loma Sanitary District is allowing their ELAP certification to lapse, and all compliance samples will be analyzed by certified contract laboratories.

All metals and organics analyses are performed by the Authority's contract laboratory, Caltest Analytical Laboratory. Caltest's lab is certified for these analyses. Caltest subcontracts for analytical work on some items, including dioxin and furan compounds and PCBs to other certified labs.

Pacific Eco-Risk (PER), also a certified laboratory, conducts the required acute and chronic toxicity testing for the Authority.

Copies of all laboratory reports are maintained on file at the Authority's office and are available for review upon request. Said reports are not included in this report.

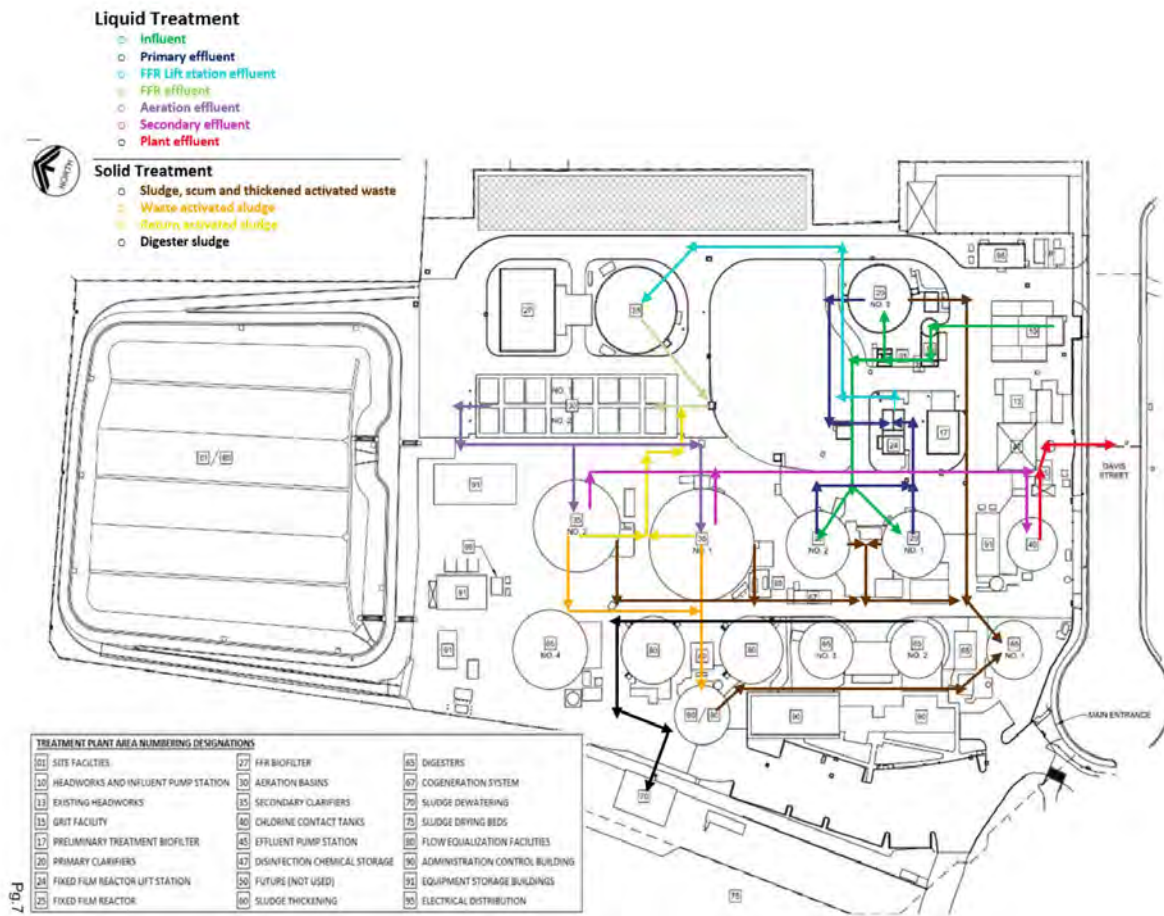


### Section 3: Plan View Drawing or Map Showing the Discharger's Facility, Flow Routing, Sampling and Observation Station Locations

#### Marina Dechlorination Facility



# San Leandro Plant – Process Flow Diagram

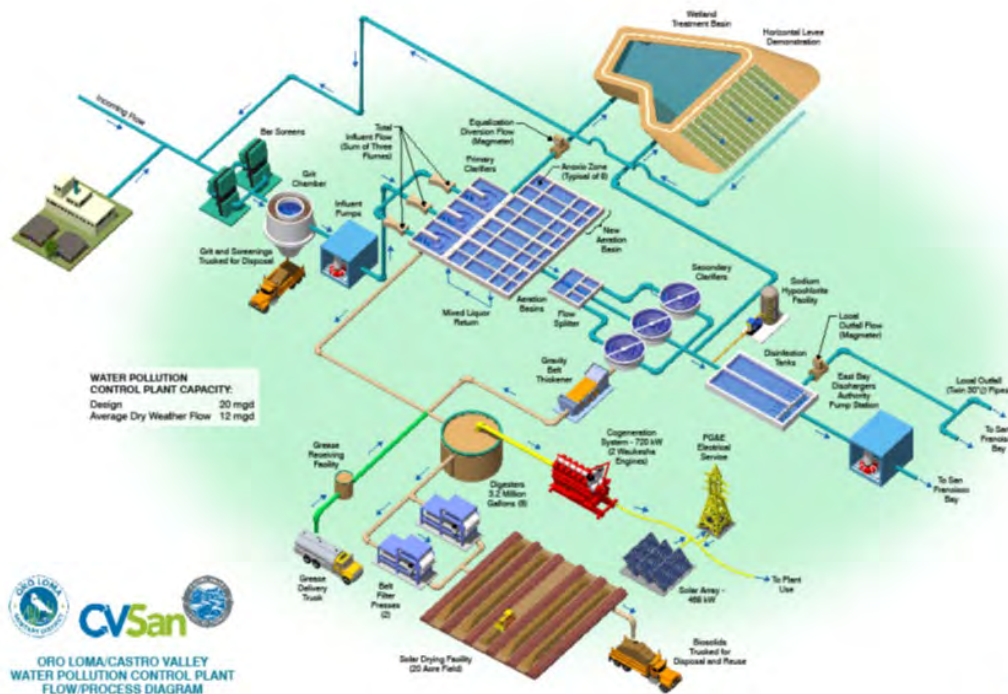


## San Leandro Plant – Sampling Locations





## OLSD/CVSan Plant – Process Flow Diagram



## OLSD/CVSan Plant – Sampling Locations



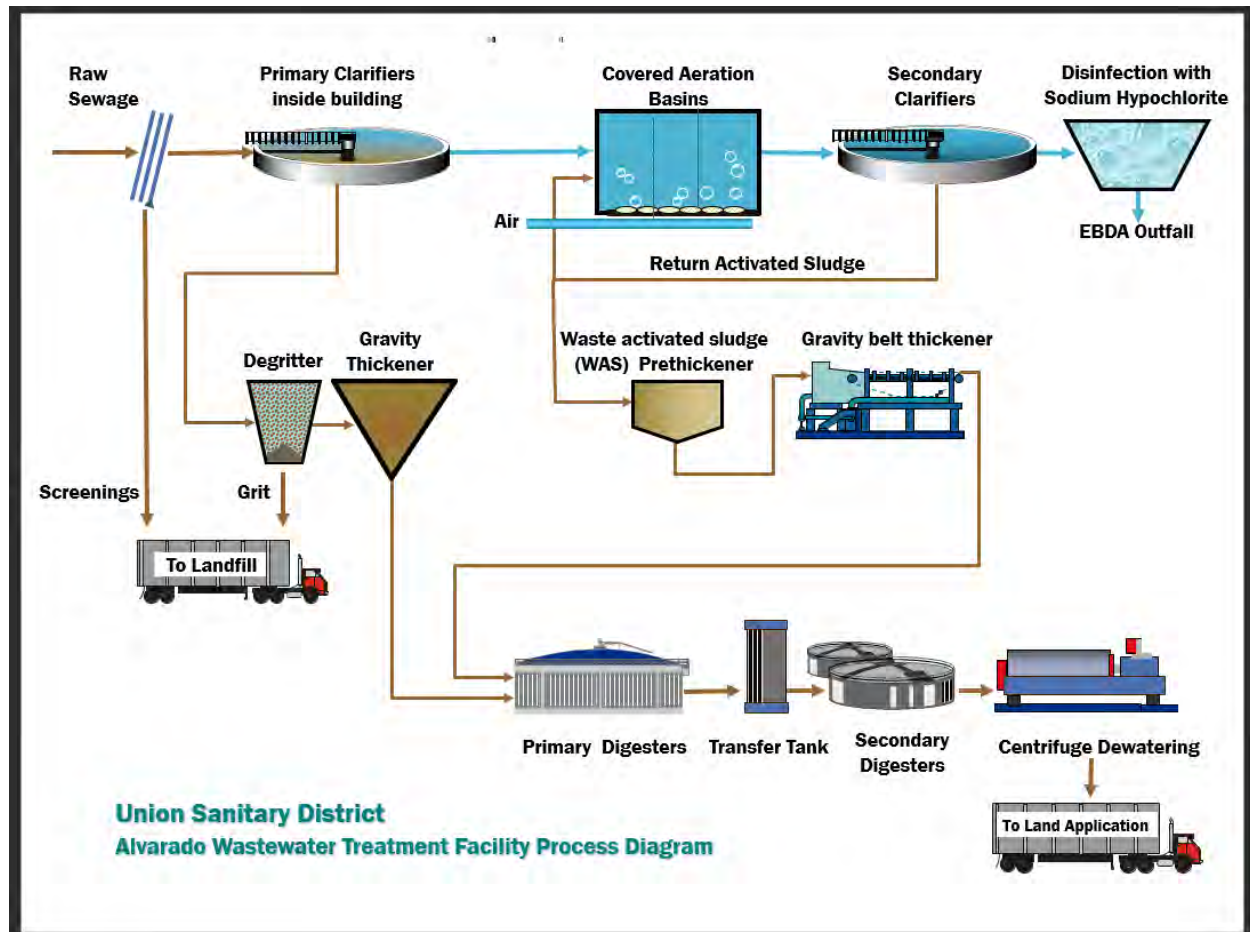
[illegible]

## Hayward Plant – Sampling Locations





## USD Plant – Process Flow Diagram





## USD Plant – Sampling Locations



## Section 4: Results of Facility Report Reviews

The tables in this section summarize the status of reviewing and updating the following documents: Operations & Maintenance (O&M) Manual, Contingency Plan, Spill Prevention Plan, and Wastewater Facilities Status Report.

### EBDA Facilities

REPORTS	REVIEW DATE	REVIEW PROCEDURES	PLANNED ACTIONS	SCHEDULE
O&M Manual	Jan 2024	Updated on an as-needed basis and reviewed annually by the EBDA O&M Manager.	<p>The Authority maintains a comprehensive O&amp;M Manual for the joint-use facilities. Chapters of the Manual are regularly reviewed and updated. EBDA's Wet Weather SOP is reviewed annually and updated as needed.</p> <p>In January 2024, the O&amp;M Manual was updated to incorporate a revised Chlorine Process Control Plan for the Marina Dechlorination Facility, consistent with Order No. R2-2023-0023. The Plan describes the process for ensuring that residual chlorine is zero at EBDA's discharge to the Bay, which occurs at the diffusers 37,000 feet offshore 23.5 feet under the water surface.</p>	Performed annually
Contingency Plan	Jan 2024	Updated annually by EBDA O&M and Administration Managers. EBDA is included in the Alameda County's Office of Emergency Service's Utility Unit.	The Emergency Operating Contingency Plan is supported by Operations & Maintenance Agreements between Member Agencies, which are compatible with their existing plans and known to all other local and county agencies for emergency purposes. Operation and maintenance activities are contracted with the Member Agencies for routine work. Emergency work is performed sometimes by Member Agencies and sometimes through contracts with private specialty firms.	Performed annually
Spill Prevention Plan	The SPCC Plan was updated in April and July of 2022.	Reviewed annually by EBDA O&M Manager	No major changes planned for 2024.	Performed as needed
Wastewater Facilities Status Report	Jan 2024	EBDA continues to implement a comprehensive Renewal and Replacement Program. The Authority has an Asset Management Plan that covers all critical equipment.	<p>In 2023, EBDA completed the following projects:</p> <ul style="list-style-type: none"> <li>• UEPS payment #3 of 10 for a total of \$4.2 M</li> <li>• OLEPS Emergency Outfall Upgrade</li> <li>• Building Roof Replacements</li> <li>• Administration Building Interior Improvements</li> </ul> <p>In 2024, the Authority is continuing work on the following upgrades to the EBDA system:</p> <ul style="list-style-type: none"> <li>• HEPS Pump Replacement Project</li> <li>• OLEPS ATS Replacement</li> </ul>	<p>Anticipated Completion:</p> <p>HEPS Pump Replacements, June 2024</p> <p>OLEPS ATS Replacement, June 2025</p>

## San Leandro Treatment Plant

Document	Review Date	Review Procedures	Planned Actions	Schedule
O&M Manual	Sections assigned and updated throughout the year	O&M manuals and SOPs are written and revised as necessary by designated Plant Operators and reviewed by the Operations Supervisor and Plant Manager	Review O&M chapters and SOPs as needed. Continue developing and revising SOPs for plant processes. O&M is a mix of electronic and older paper as we transition; we have fewer and fewer paper versions per year.	Performed continuously
Contingency Plan	January 2023	WPCP management reviews, edits and approves	Current contingency plan updated as needed with changes. A significant revision is planned for 2024 with more detailed plans for specific scenarios.	Performed annually
Spill Prevention Plan	November 2023	WPCP management reviews, edits and approves	Currently up to date.	Performed annually
Wastewater Facilities Status Report	January 2024		<p>Capital Improvement Planning project will complete in early 2024, with implementation of urgent projects expected to start late 2024</p> <p>Annual Street Overlay and Sewer Point Repair Project</p> <p>Construction will be completed for microgrid battery backup system and other energy efficiency improvements.</p> <p>Treatment Wetland project will receive regulatory approval, and the City plans to begin construction in summer 2024. This project will treat approximately 20% of the ADWF to remove nitrogen and other contaminants through both technological and biological processes.</p> <p>Design and bid, rehab. and upgrade of 3 sewer lift stations and force main in 2024 and 2025.</p>	Maintenance and project schedule for 2024

## Oro Loma/Castro Valley Sanitary District Treatment Plant

Document	Review Date	Review Procedures	Planned Actions	Schedule
O&M Manual	Ongoing	Continual reviews and revisions as necessary when new processes come online or when modifications are made to current processes.	The District has completed developing a computer based training program for the 25 unit processes in the treatment plant (including the EBDA OLEPS pump station). Staff will continue to train on the modules.	Ongoing
Contingency Plan	September 2023	Management team completed its review and updated document to reflect changes in contact information or equipment/facility changes.	Continue to make updates as needed, at least annually.	Annually
Spill Prevention Plan	December 2022	The District performed a significant update to its plan in 2022 to reflect administrative audit findings from CUPA.	Currently up to date and will update as necessary.	As needed
Wastewater Facilities Status Report	January 2023		<p>The District continues to execute its planned 10-year, \$168M capital program. The program includes extensive sewer pipe renewal (1.5% of system/year; the District is working to replace 40 miles (15%) of its 271-mile collection system by 2029), Digester Construction in 2025, and Cogeneration System Replacement in 2030.</p> <p>By the end of 2023, the District had completed 60% of the construction to replace 40 miles of the collection system and began the design for the Digester Rehabilitation Project.</p>	10-Year Capital Plan (Updated December 2023)

## Hayward Water Pollution Control Facility

REPORTS	REVIEW DATE	REVIEW PROCEDURES	PLANNED ACTIONS	SCHEDULE
O&M Manual	Ongoing	COH WPCF electronic O&M manuals, including SOP's, are reviewed, and updated throughout the year by staff. Revisions are made to Sections and SOP's	Create new SOPs as required and review and update older SOPs throughout the year. Continually review and update O&M sections. Brown and Caldwell will be looking into a fully revised O&M as part of the nutrient management project.	SOP's and O&M sections are reviewed continuously
Contingency Plan	January 2024	The entire plan is reviewed by the WPCF manager with updates and edits made by the Senior Secretary.	Continue to make updates as needed.	Performed annually
Spill Prevention Plan	January 2024	Plan reviewed by WPCF Manager every January. Changes made by Senior Secretary.	Make updates as needed.	Performed annually
Wastewater Facilities Status Report	Jan 2024	<p>The phase II Facilities Plan was completed in 2020.</p> <p>The city will implement projects as recommended in the 2020 Phase II Facilities Plan.</p>	<p>Complete Capital Improvement Projects according to the 10-year Master Plan CIP.</p> <p>In 2023, The City of Hayward WPCF completed the following projects:</p> <ul style="list-style-type: none"> <li>Headworks Project substantially complete with the installation of the biofilter Dewatering system complete. Punch list items to be completed in 2024.</li> <li>Design of the 12KV switchgear project.</li> </ul> <p>Planned for 2024:</p> <ul style="list-style-type: none"> <li>We are working with BAAQMD to permit the biofilter and working with the contractor on punch list items for the dewatering system.</li> <li>The replacement of the effluent pumps will begin in 2024.</li> <li>Construction of the new 12KV switchgear replacement project will begin in 2024.</li> <li>The admin building project design will be complete in 2024 and the RFP will go out.</li> <li>The EQ basin design will be complete and the RFP will go out in 2024.</li> <li>The phase II nutrient upgrade design will continue in 2024.</li> </ul>	10-year Master Plan CIP planning changes are made every year in July with mid-year adjustments made in January/February

## Union Sanitary District Treatment Plant

Document	Review Date	Review Procedures	Planned Actions	Schedule
O&M Manual	Ongoing	Plant O&M documents are incorporated into the District's Competency-Based Training Program. USD utilizes Microsoft Sharepoint software to track document review.	Plant management reviews training documents and SOP's as changes occur (i.e., following construction) or as scheduled.	Each individual training module and SOP has a review frequency of 3 years.
Contingency Plan	December 2023	Plant Manager reviews and updates the Contingency Plan annually.	None. Contingency Plan was updated in December 2023.	Complete next review by December 2024.
Spill Prevention Plan	December 2023	Spill Prevention Plan is incorporated into our Contingency Plan and is reviewed at the same time.	None. Spill Prevention Plan was reviewed in December 2023.	Complete next review by December 2024.
Wastewater Facilities Status Report	December 2023	<p>USD's Master Plans address most of the Facilities Evaluation requirements. Our Plant Master Plan is updated every 5 years and Pump Station and Collection System Master Plans are updated as needed. Asset management data is updated on an ongoing basis. CIP and Operating plans and budgets are reviewed and revised annually.</p> <p><b>2023 Projects Completed/in-progress:</b></p> <ul style="list-style-type: none"> <li>Standby Power Upgrade (Construction in progress)</li> <li>Plant Miscellaneous Improvements (Construction in progress)</li> </ul> <p><b>ETSU: Phase 1A</b></p> <ul style="list-style-type: none"> <li>Aeration Basin Modification (Construction in progress)</li> <li>Campus relocation (Construction in progress)</li> </ul>	<p>Complete capital improvements in accordance with 20-year CIP plan. Implement annual rate adjustments for Sewer Service Charges and Capacity Fees in accordance with 10-year financial plan.</p> <p><b>2024 Projects Planned:</b></p> <ul style="list-style-type: none"> <li>WAS Gravity Belt Thickener (In Design)</li> <li>Anaerobic Digester #6 Rehab (In Design)</li> <li>Electrical Switchboard and MCC Replacements (In Design)</li> </ul> <p><b>ETSU: Phase 1B</b></p> <ul style="list-style-type: none"> <li>New Secondary Clarifiers. (In Design)</li> <li>New Effluent Pump Station (In Design)</li> <li>New RAS/WAS Pump Station (In Design)</li> </ul>	<p>20-year CIP annual update in June.</p> <p><b>Master Plans:</b></p> <ul style="list-style-type: none"> <li>Alvarado Basin MP 2023-25</li> <li>Newark Basin MP 2025-27</li> <li>Irvington Basin 2027-29</li> <li>Pump Station Asset Condition Assessment 2028-31</li> <li>Plant Asset Condition Assessment 2025-27</li> <li>Plant Solids System/Capacity Assessment 2032-34</li> </ul>

## **Section 5: BACWA Watershed Permitting and Monitoring**

EBDA participates in a number of group processes coordinated by the Bay Area Clean Water Agencies (BACWA) to fulfill permit requirements, including Receiving Water Quality Monitoring, TMDL/SSO Support, Mercury and PCBs Watershed Permit Support, Nutrients Watershed Permit Support, and Implementation of Copper Action. Participation in these items is described in an annual BACWA letter to the Regional Water Board found here:

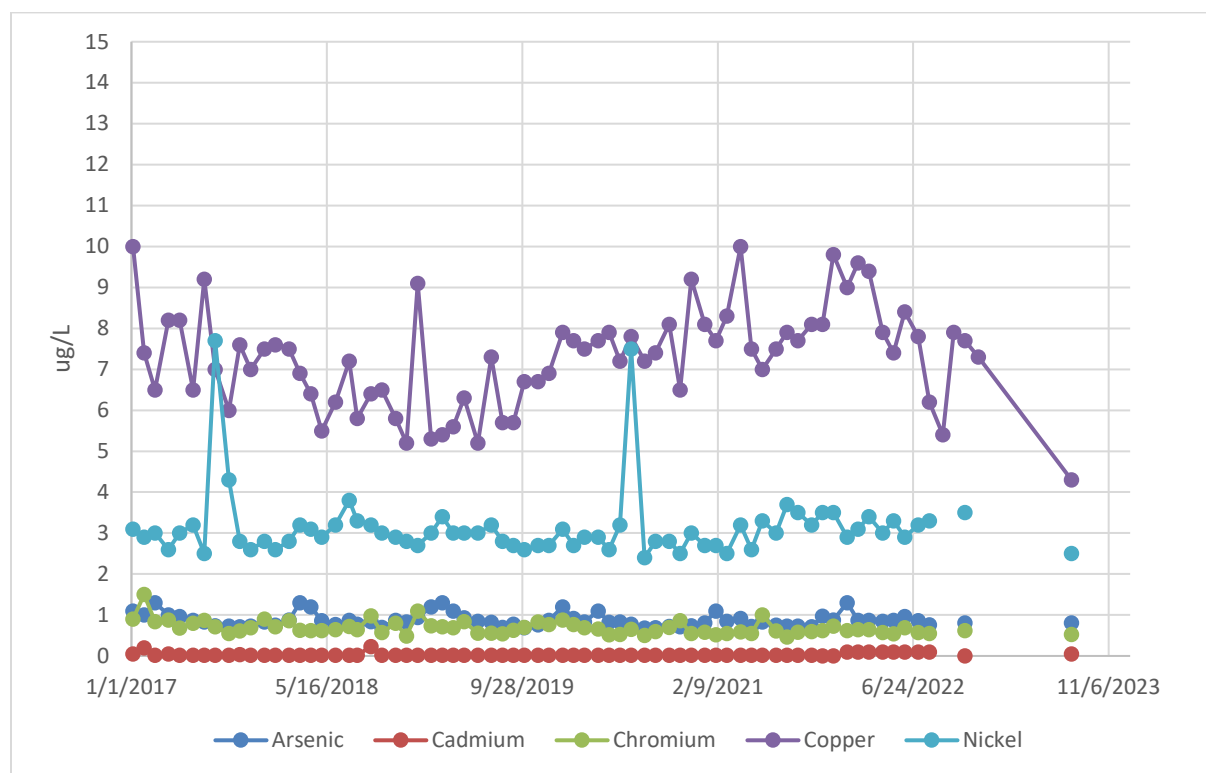
<https://bacwa.org/document/bacwa-npdes-permit-letter-2024/>

## Section 6: Effluent Characterization Study and Report

EBDA regularly monitors and evaluates discharges from the common outfall and each contributing plant's effluent to identify any concerning trends. No significant increases over past performance were noted in 2023 data.

As shown in Figure 2, five years of metals data continue to show flat trends. Cyanide is rarely detected.

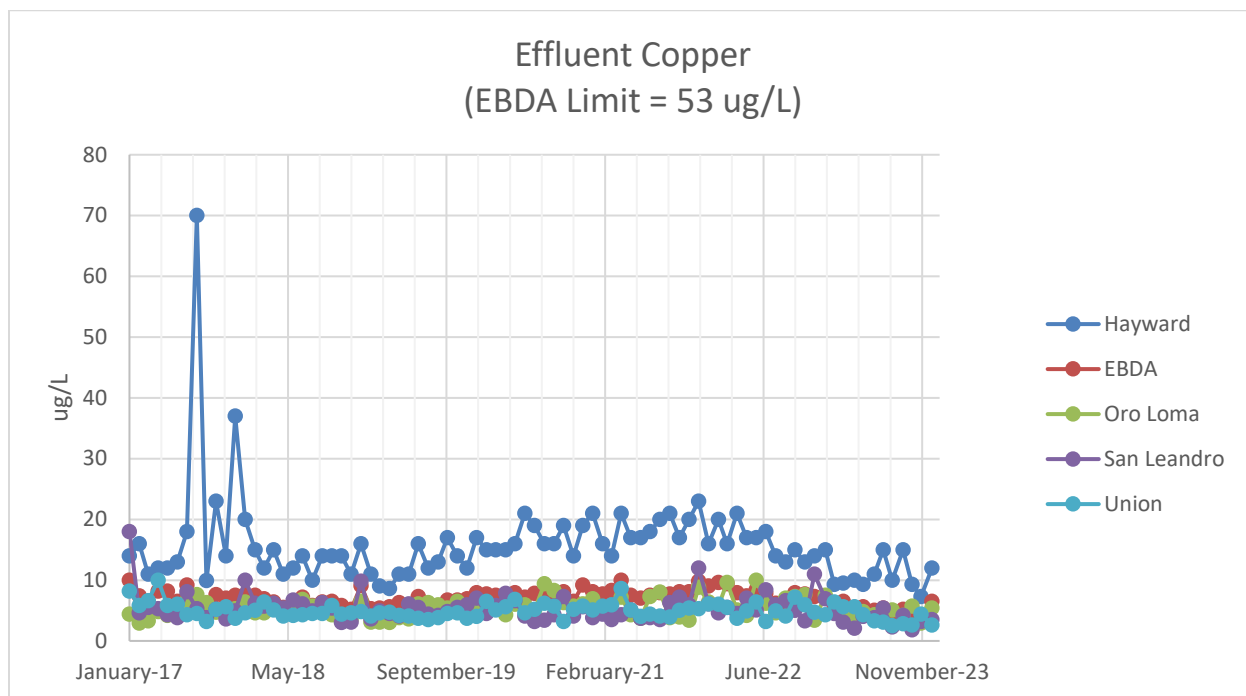
Figure 2 – EBDA Effluent Metals Trends



EBDA's five-year trend for copper shows that while individual member agency effluent concentrations have varied, EBDA's common outfall concentration consistently averaged less than 20 ppb, versus a permit limit of 53 ppb (see Figure 3).

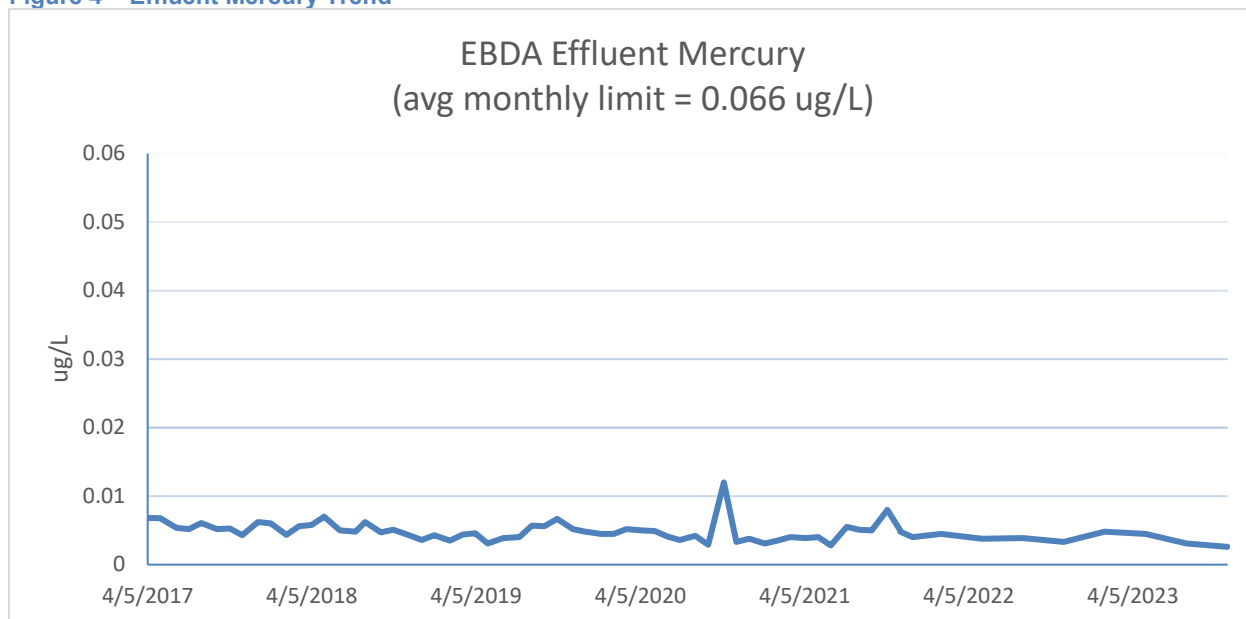


Figure 3 – Effluent Copper Trend



EBDA's effluent mercury concentrations also continue to be well below permit limits, as shown in Figure 4.

Figure 4 – Effluent Mercury Trend



## ITEM NO. RA7 BACWA KEY REGULATORY ISSUES SUMMARY

### Recommendation

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

### Strategic Plan Linkage

2. **Regulatory Compliance:** Proactively meet or exceed regulatory requirements for protection of the environment and public health.
  - a. Represent EBDA and the Member Agencies' interests by preemptively engaging in development of emerging regulations and permits and advocating for reasonable, science-based decisions.
  - c. Ensure compliance with non-NPDES permits and regulatory requirements, including air quality and hazardous waste.
  - e. Track and share scientific and regulatory developments related to emerging contaminants, and advocate for source control.

### 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 February 7, 2024

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	Biosolids	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
<b>NUTRIENTS IN SAN FRANCISCO BAY</b>			
<ul style="list-style-type: none"> <li>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.</li> <li>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.</li> </ul>	<ul style="list-style-type: none"> <li>For FY24, BACWA is contributing \$1.8M to fund scientific research needed to make management decisions for the 3<sup>rd</sup> Watershed Permit. This payment completes the science funding requirement in the 2<sup>nd</sup> Watershed Permit.</li> <li>The focus of current scientific efforts is improving model representation of biogeochemistry, light attenuation, dissolved oxygen, and harmful algal bloom dynamics.</li> <li>The science team is also developing an Assessment Framework for Open Bay habitats and Lower South Bay sloughs.</li> <li>In summer 2022, a harmful algae bloom in San Francisco Bay brought increased public attention to this topic. A smaller bloom recurred in summer 2023. In both cases, the NMS science team modified the science plan to conduct monitoring and assist with data interpretation.</li> </ul>	<ul style="list-style-type: none"> <li><b>Continue to participate in NMS steering committee, Nutrient Technical Workgroup, and planning subcommittee meetings, and provide funding for scientific studies.</b></li> <li>Continue to assist with preparation of a brief "State of the Science" document summarizing the scientific accomplishments of the NMS team for public use.</li> <li>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.</li> </ul>	<p>BACWA Nutrients Page: <a href="https://bacwa.org/nutrients/">https://bacwa.org/nutrients/</a></p> <p>NMS FY24 Science Program Plan Materials <a href="https://drive.google.com/drive/folders/16H_sQ8AuogHy-eo9QZx2A9Ph9MTecg5j?usp=drive_link">https://drive.google.com/drive/folders/16H_sQ8AuogHy-eo9QZx2A9Ph9MTecg5j?usp=drive_link</a></p> <p>NMS Work Products <a href="https://sfbaynutrients.sfei.org/books/reports-and-work-products">https://sfbaynutrients.sfei.org/books/reports-and-work-products</a></p> <p>BACWA Nutrient FAQ <a href="https://bacwa.org/wp-content/uploads/2023/01/BACWA-Nutrient-Fact-Sheet.pdf">https://bacwa.org/wp-content/uploads/2023/01/BACWA-Nutrient-Fact-Sheet.pdf</a></p> <p>2023 SF Bay Algal Bloom <a href="https://bacwa.org/general/2023-algal-bloom-in-sf-bay-updated-8-3-2023/">https://bacwa.org/general/2023-algal-bloom-in-sf-bay-updated-8-3-2023/</a></p>

Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
<b>SF BAY NUTRIENT WATERSHED PERMIT</b>			
<ul style="list-style-type: none"> <li>• The 1<sup>st</sup> Nutrient Watershed Permit was adopted in 2014, and required a regional study on Nutrient Treatment by Optimization and Upgrades, completed in 2018.</li> <li>• The 2<sup>nd</sup> Nutrient Watershed Permit was adopted in 2019. It includes:               <ul style="list-style-type: none"> <li>○ Continued individual POTW nutrient monitoring and reporting;</li> <li>○ Continued group annual reporting;</li> <li>○ Significantly increased funding for science;</li> <li>○ Regional assessment of the feasibility and cost for reducing nutrients through nature-based systems and recycled water;</li> <li>○ 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</li> <li>○ Recognition of “early actors” who are planning projects that will substantially decrease TIN loads.</li> </ul> </li> <li>• 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"> <li>○ Group Annual Reporting</li> <li>○ Regional Studies on Nature-Based Systems and Recycled Water</li> <li>○ Support of scientific studies through the Regional Monitoring Program (RMP) with \$11M over the five-year permit term.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Studies related to Recycled Water and Nature-Based Systems were completed in June 2023, as required by the 2<sup>nd</sup> Nutrient Watershed Permit.</li> <li>• 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 2<sup>nd</sup> Watershed Permit is based on a water year (Oct. 1 – Sept. 30). The Group Annual Report for 2022-2023 was completed on February 1, 2024.</li> <li>• In response to the summer 2022 algae bloom, Regional Water Board staff plan to include significant TIN load reduction requirements in the 3<sup>rd</sup> Watershed Permit. The NMS modeling team tested several load reduction scenarios to inform the new requirements. Based on this modeling, Regional Water Board staff are currently proposing dry season load limits that are about 40% lower than actual loads from the 2022 dry season.</li> <li>• The current concept proposed by the Regional Water Board is for the permit to contain interim limits for dry season TIN loads that are effective immediately and “final limits” that become effective after 10 years. The 10-year clock could be modified in subsequent permits if the “final limits” become more stringent, so the term “final” only applies to this specific permitting action.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Review and comment on the administrative draft and Tentative Order versions of the forthcoming 3<sup>rd</sup> Nutrient Watershed Permit. The administrative draft is expected in February 2024, and the Tentative Order will be available later in the spring.</b></li> <li>• Advocate for sufficient time for agencies to implement nutrient load reduction projects, include those with involving innovative technologies, recycled water, and nature-based solutions.</li> <li>• BACWA continues to convene a Nutrient Strategy Team to develop BACWA’s key tenets for the 3<sup>rd</sup> Watershed Permit, and <b>members are encouraged to participate</b>. The Nutrient Strategy Team is actively engaging with the Regional Water Board to expand upon the key tenets and discuss implementation details for the 3<sup>rd</sup> Watershed Permit, including the magnitude and timing of required load reductions.</li> <li>• Agencies will continue to report nutrient monitoring data both through CIWQS and directly to BACWA.</li> </ul>	<p>2nd Nutrient Watershed Permit:  <a href="http://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2019/R2-2019-0017.pdf">www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2019/R2-2019-0017.pdf</a></p> <p>Special Studies of Recycled Water and Nature-Based Solutions:  <a href="http://bacwa.org/document-category/2nd-watershed-permit-studies/">bacwa.org/document-category/2nd-watershed-permit-studies/</a></p> <p>BACWA Group Nutrient Annual Reports:  <a href="http://bacwa.org/document-category/nutrient-annual-reports/">bacwa.org/document-category/nutrient-annual-reports/</a></p> <p>Presentations from 2023 BACWA Annual Members Meeting  <a href="http://bacwa.org/document-category/2023-annual-meeting/">bacwa.org/document-category/2023-annual-meeting/</a></p> <p>BACWA September 2023 Status of 3<sup>rd</sup> Watershed Permit Negotiations  <a href="http://bacwa.org/wp-content/uploads/2023/09/WSP-Negotiations-Update-2023-09-05.pdf">bacwa.org/wp-content/uploads/2023/09/WSP-Negotiations-Update-2023-09-05.pdf</a></p> <p>BACWA Concerns related to Compliance Timelines in the 3<sup>rd</sup> Watershed Permit  <a href="http://bacwa.org/document/bacwa-comments-on-nutrient-removal-timelines-2024-01-29/">bacwa.org/document/bacwa-comments-on-nutrient-removal-timelines-2024-01-29/</a></p>

Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
<b>CHLORINE RESIDUAL COMPLIANCE</b>			
<ul style="list-style-type: none"> <li>The Basin Plan effluent limit for residual chlorine is 0.0 mg/L. Prior to 2024, residual chlorine was 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%).</li> <li>Prior to 2024, agencies were overdosing their effluent with the dechlorination agent, sodium bisulfite, to prevent chlorine violations, a practice which cost the region approximately \$2 million each year.</li> <li>Regional Water Board staff and BACWA have worked together for more than decade to modify the effluent limit for chlorine residual.</li> </ul>	<ul style="list-style-type: none"> <li>In 2020, the Regional Water Board adopted a Basin Plan Amendment that incorporated EPA’s ambient water quality criteria for chlorine into the Basin Plan. Since the Basin Plan Amendment was not approved by EPA, it did not go into effect.</li> <li>In November 2023, the Regional Water Board adopted an NPDES Permit Amendment that modifies effluent limits for residual chlorine for most dischargers. The revised limits are based on a translation of the Basin Plan’s existing narrative toxicity objective. The NPDES Permit Amendment includes: <ul style="list-style-type: none"> <li>Limits calculated based on a 0.013 mg/L water quality objective in marine and estuarine waters, and incorporating dilution for deep water dischargers. The limits will be applied as a 1-hour average.</li> <li>A Minimum Level of 0.05 mg/L for online continuous monitoring systems.</li> </ul> </li> <li>The NPDES Permit Amendment requires most dischargers to prepare a Chlorine Process Control Plan targeting a chlorine residual of 0.0 mg/L at discharge points. The Chlorine Process Control Plan is part of the Operation and Maintenance Manual; updates are to be summarized with annual self-monitoring reports.</li> </ul>	<ul style="list-style-type: none"> <li><b>Comply with new effluent limits for residual chlorine, new reporting requirements, and new Chlorine Process Control Plan requirements beginning January 1, 2024.</b></li> <li>BACWA has prepared a guidance document for agencies to use to meet the new chlorine process control requirement.</li> </ul>	<p>Blanket NPDES Permit Amendment, Effective January 1, 2024:  <a href="http://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2023/R2-2023-0023.pdf">www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2023/R2-2023-0023.pdf</a></p> <p>BACWA Guidance on Complying with Amended NPDES Permit Requirements for Residual Chlorine  <a href="http://bacwa.org/document/complying-with-amended-npdes-permit-requirements-for-residual-chlorine-2023-12-20/">bacwa.org/document/complying-with-amended-npdes-permit-requirements-for-residual-chlorine-2023-12-20/</a></p>

Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
<b>PESTICIDES</b>			
<ul style="list-style-type: none"> <li>• 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.</li> <li>• EPA reviews all registered pesticides at least once every 15 years. Each review allows opportunity for public comment.</li> <li>• 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.</li> </ul>	<ul style="list-style-type: none"> <li>• 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 FY24 is \$69k.</li> <li>• The Regional Water Board leverages BACWA's efforts to provide their own comment letters.</li> <li>• The August 2023 version of the BAPPG/BACWA Pesticide Watch List added indoor uses of Quaternary Ammonia Compounds, whose usage has been increasing in recent years.</li> <li>• 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. CalDPR is also pursuing a significant increase to the "Mill Fee," a tax on pesticide sales, to fund some activities identified in the Roadmap. The proposed tax increase was included with the Governor's State Budget Proposal for FY25 and would be applicable to all pesticides, including sodium hypochlorite.</li> <li>• Baywise.org has flea and tick control messaging for pet owners and veterinarians. In addition, the BACWA website offers toolkits for conducting outreach to pet owners and veterinary offices.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>BACWA members can conduct public and veterinary office outreach using the newly available flea and tick outreach toolkits.</b></li> <li>• Advocate for implementation of specific actions from the Sustainable Pesticide Management Roadmap.</li> <li>• Continue to comment on EPA pesticide re-registrations and CalDPR actions.</li> <li>• Engage with EPA on proposed changes to the regulatory approval process for pesticides.</li> <li>• Work with veterinary associations on messaging with respect to flea and tick control alternatives.</li> <li>• Continue to develop summaries of EPA actions on pesticides.</li> <li>• Look for opportunities to work with CalDPR on pesticides research.</li> <li>• Work with other regional associations, such as CASQA to collaborate on funding pesticide regulatory outreach.</li> </ul>	<p>BACWA Pesticide Regulatory Support Page: <a href="https://bacwa.org/bappg-pesticides/">bacwa.org/bappg-pesticides/</a></p> <p>Flea and Tick Outreach Toolkits: <a href="https://bacwa.org/bappg-pesticides/flea-and-tick-outreach-toolkits/">bacwa.org/bappg-pesticides/flea-and-tick-outreach-toolkits/</a></p> <p>Baywise flea and tick pages: <a href="https://baywise.org/residential/for_you_r_pets/">baywise.org/residential/for_you_r_pets/</a></p> <p>CalDPR Sustainable Pest Management Roadmap <a href="https://www.cdpr.ca.gov/docs/sustainable_pest_management_roadmap/">www.cdpr.ca.gov/docs/sustainable_pest_management_roadmap/</a></p> <p>BACWA coalition letter on modernizing the pesticide approval process <a href="https://bacwa.org/document/bacwa-nacwa-coalition-comments-on-fda-epa-pesticide-modernization-2023-04-25/">bacwa.org/document/bacwa-nacwa-coalition-comments-on-fda-epa-pesticide-modernization-2023-04-25/</a></p> <p>BAPPG/BACWA Pesticides Watch List <a href="https://bacwa.org/wp-content/uploads/2023/08/FINAL-BACWA-Pesticides-Watch-List-Aug-2023.pdf">bacwa.org/wp-content/uploads/2023/08/FINAL-BACWA-Pesticides-Watch-List-Aug-2023.pdf</a></p>



Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
<b>MERCURY AND PCBs</b>			
<ul style="list-style-type: none"> <li>• The Mercury &amp; PCBs Watershed Permit is based on Total Maximum Daily Loads (TMDLs) for San Francisco Bay for each of these pollutants.</li> <li>• The Mercury &amp; PCBs Watershed Permit was most recently reissued in December 2022, and it continues to require discharger support for risk reduction activities. BACWA is funding risk reduction activities on behalf of its members to comply with this permit provision. For FY24, BACWA has budgeted \$12,500 to support risk reduction activities related to fish consumption.</li> <li>• Aggregate mercury and PCBs loads have been well below waste load allocations through 2022, the last year for which data have been compiled.</li> <li>• EPA Method 1668C for measuring PCB Congeners has not been promulgated by EPA. Effluent limitations are based on PCB Aroclors quantified using EPA Methods 625.1 or 608.3.</li> <li>• 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.</li> </ul>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• BACWA supported risk reduction programming by two grantees to fulfill requirements of the 2017 Mercury &amp; PCBs Watershed Permit. In August 2023, BACWA arranged for the grantees to present their work to Regional and State Water Board staff.</li> <li>• Through 2026, State Water Board and Regional Water Board staff are working on a Bioaccumulation Monitoring Program Realignment effort in the San Francisco Bay region. BACWA intends to support risk reduction activities related to this effort, which may include tribal outreach on fishing and fish consumption.</li> <li>• In January 2022, monitoring requirements for mercury were reduced for most dischargers by a blanket NPDES Permit amendment (Order R2-2021-0028). Revised monitoring frequencies are also reflected in the reissued permit.</li> <li>• Recent consolidations among contract laboratory providers of PCB analysis via EPA Method 1668C has led to difficulties with electronic reporting.</li> </ul>	<ul style="list-style-type: none"> <li>• BACWA Lab and Permits Committee members are working to facilitate smoother electronic reporting of PCB congeners via EPA Method 1668C.</li> <li>• Continue to 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 2022 permit.</li> <li>• 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.</li> <li>• 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.</li> </ul>	<p>2022 Mercury &amp; PCBs Watershed Permit (Effective Feb. 1, 2023)  <a href="https://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2022/R2-2022-0038.pdf">https://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2022/R2-2022-0038.pdf</a></p> <p>Risk Reduction Materials (Updated August 2023)  <a href="https://bacwa.org/mercurypcb-risk-reduction-materials/">https://bacwa.org/mercurypcb-risk-reduction-materials/</a></p> <p>NPDES Permit Amendment for Monitoring and Reporting  <a href="https://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2021/R2-2021-0028.pdf">https://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2021/R2-2021-0028.pdf</a></p> <p>Mercury and PCB Load Trends 2013- 2022 (Updated July 2023)  <a href="https://www.waterboards.ca.gov/sanfranciscobay/board_info/agendas/2023/July/6_ssr.pdf">https://www.waterboards.ca.gov/sanfranciscobay/board_info/agendas/2023/July/6_ssr.pdf</a></p>

Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
<b>STATE WATER BOARD TOXICITY PROVISIONS</b>			
<ul style="list-style-type: none"> <li>The State Water Board adopted the Statewide Toxicity Provisions in October 2021 as state policy for water quality control for all inland surface waters and estuaries. The Provisions establish:               <ul style="list-style-type: none"> <li>Use of Test of Significant Toxicity (TST) as statistical method to determine toxicity, replacing EC25/IC25;</li> <li>Numeric limits for chronic toxicity for POTWs &gt;5 MGD and with a pretreatment program; smaller POTWs will receive effluent targets and only receive limits if Reasonable Potential is established;</li> <li>Regional Water Board discretion on whether to require RPAs for acute toxicity</li> <li>For POTWs with <i>Ceriodaphnia dubia</i> as most sensitive species, numeric targets rather than limits were in effect until completion of a statewide quality assurance study in December 2023.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>EPA approved the Statewide Toxicity Provisions on May 1, 2023, and they became effective on June 1, 2023. Individual NPDES permits reissued in the San Francisco Bay Region are implementing the Toxicity Provisions and requiring use of the TST for chronic toxicity testing. Reissued permits no longer require acute toxicity monitoring.</li> <li>EPA has not yet approved the Alternate Test Procedure for whole effluent toxicity testing. Until the Alternate Test Procedures are approved, the Regional Water Board has advised that dischargers should use the full five-concentration series for all tests, including routine monitoring and Species Sensitivity Screening Studies.</li> <li>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 are now required by the provisions to do sensitive species screening once every 15 years.</li> <li>The State Water Board is collaborating with stakeholders on a special study to improve the quality of <i>Ceriodaphnia dubia</i> testing. The multi-laboratory study of toxicity testing has been completed and presented to the State Water Board. CASA held an information webinar for members in December 2023.</li> </ul>	<ul style="list-style-type: none"> <li><b>Begin conducting toxicity testing using the Statewide Toxicity Provisions.</b> As of June 2023, member agencies with individual NPDES permits reissued after August 2022 have automatically transitioned to the new toxicity testing requirements.</li> <li><b>Plan to conduct a species sensitivity screening</b> 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.</li> <li>Members hiring a contract laboratory to perform testing using <i>Ceriodaphnia dubia</i> should utilize the <i>Ceriodaphnia dubia</i> Quality Assurance Guidance Recommendations, including the performance metrics listed in Appendix E of the report.</li> </ul>	<p>SWRCB Toxicity Page: <a href="http://www.swrcb.ca.gov/water_issues/programs/state_implementation_policy/tx_ass_cntrl.shtml">http://www.swrcb.ca.gov/water_issues/programs/state_implementation_policy/tx_ass_cntrl.shtml</a></p> <p>Regional Water Board presentation on implementation of Statewide Toxicity Provisions from December 2020: <a href="https://bacwa.org/wp-content/uploads/2021/01/Slides-from-RWQCB-Regarding-R2-Tox-Language-in-NPDES-Permits-2020-12-08.pdf">https://bacwa.org/wp-content/uploads/2021/01/Slides-from-RWQCB-Regarding-R2-Tox-Language-in-NPDES-Permits-2020-12-08.pdf</a></p> <p>EPA Approval of Statewide Toxicity Provisions <a href="https://bacwa.org/wp-content/uploads/2023/05/05.01.2023-EPA-CWA-303c-Approval-of-California-Toxicity-Provisions.pdf">https://bacwa.org/wp-content/uploads/2023/05/05.01.2023-EPA-CWA-303c-Approval-of-California-Toxicity-Provisions.pdf</a></p> <p><i>Ceriodaphnia dubia</i> Quality Assurance Guidance Recommendations (SCCWRP) <a href="https://ftp.sccwrp.org/pub/download/DOCUMENTS/CeriodaphniaQA/October2023Deliverable.pdf">https://ftp.sccwrp.org/pub/download/DOCUMENTS/CeriodaphniaQA/October2023Deliverable.pdf</a></p> <p>CASA Webinar on Lessons from <i>Ceriodaphnia</i> Study <a href="https://casaweb.org/resources/speaker-presentations/">https://casaweb.org/resources/speaker-presentations/</a></p>



Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
<b>COMPOUNDS OF EMERGING CONCERN (CECS)</b>			
<ul style="list-style-type: none"> <li>Pharmaceuticals and other trace compounds of emerging concern (CECs) are ubiquitous in wastewater at low concentrations and have unknown effects on aquatic organisms.</li> <li>The State Water Board has formed a Pretreatment and CECs Unit.</li> <li>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.</li> </ul>	<ul style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>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.</li> </ul>	<ul style="list-style-type: none"> <li>Continue to participate in the RMP Emerging Contaminants Workgroup.</li> <li>Participate in RMP studies by collecting wastewater samples at member facilities. Recent studies have focused on Quaternary Ammonium Compounds (which can interfere with treatment plant biological processes), sunscreen chemicals, bisphenols, and ethoxylated surfactants.</li> <li>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.</li> </ul>	<p>RMP Emerging Contaminant Workgroup:  <a href="http://www.sfei.org/rmp/ecwg#ab-1-4">http://www.sfei.org/rmp/ecwg#ab-1-4</a></p> <p>BACWA CECs White Paper:  <a href="https://bacwa.org/document/bacwa-cec-white-paper-updated-june-2020/">https://bacwa.org/document/bacwa-cec-white-paper-updated-june-2020/</a></p> <p>NPDES Permit Amendment for Monitoring and Reporting  <a href="https://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2021/R2-2021-0028.pdf">https://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2021/R2-2021-0028.pdf</a></p> <p>State Water Board CECs webpage:  <a href="https://www.waterboards.ca.gov/water_issues/programs/cec/index.html">https://www.waterboards.ca.gov/water_issues/programs/cec/index.html</a></p>

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<b>MICROPLASTICS</b>			
<ul style="list-style-type: none"> <li>• Microplastic pollution is a environmental threat with the potential to impact wastewater disposal and reuse, as well as biosolids end uses.</li> <li>• 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.</li> </ul>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• OPC is funding a study of microplastic removal through wastewater treatment processes. The study commenced in 2021 with a pilot study involving BACWA member agency participation. Full-scale sampling and analysis of influent, effluent, and biosolids was completed in 2023.</li> <li>• The Revised 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.</li> <li>• Additional research to improve scientific understanding of microplastics in aquatic ecosystems will be needed to support a future impairment determination for the Bay. The Water Boards and OPC are supporting allocation of funding towards these research efforts.</li> <li>• Ongoing microplastics investigations by the RMP are focused on tire particles in stormwater.</li> </ul>	<ul style="list-style-type: none"> <li>• Continue to participate in the RMP Microplastics Workgroup.</li> <li>• Three BACWA member agencies are participating in the OPC-funded microplastic study. A final report is expected in spring 2024. CASA has also funded the study team at the Southern California Coastal Water Research Project (SCCWRP) to complete add-on work comparing results between different sampling methods, including use of an autosampler. The add-work will be completed approximately six months later.</li> <li>• Continue tracking State Water Board and Ocean Protection Council actions via the CASA Microplastics Workgroup.</li> </ul>	<p>BACWA Microplastics Fact Sheet:  <a href="https://bacwa.org/wp-content/uploads/2019/09/BACWA-Microplastics-flyer.pdf">https://bacwa.org/wp-content/uploads/2019/09/BACWA-Microplastics-flyer.pdf</a></p> <p>SFEI Microplastics project:  <a href="https://www.sfei.org/projects/microplastics">https://www.sfei.org/projects/microplastics</a></p> <p>Ocean Protection Council Microplastics Strategy:  <a href="https://www.opc.ca.gov/webmaster/ftp/pdf/agenda_items/2022_0223/Item_6_Exhibit_A_Statewide_Microplastics_Strategy.pdf">https://www.opc.ca.gov/webmaster/ftp/pdf/agenda_items/2022_0223/Item_6_Exhibit_A_Statewide_Microplastics_Strategy.pdf</a></p> <p>2024 California Integrated Report / 303(d) List  <a href="https://www.waterboards.ca.gov/water_issues/programs/water_quality_assessment/2024-integrated-report.html">https://www.waterboards.ca.gov/water_issues/programs/water_quality_assessment/2024-integrated-report.html</a></p>

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<b>PER- AND POLYFLUOROALKYL SUBSTANCES (PFAS)</b>			
<ul style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>All PFAS are persistent in the environment, can accumulate within the human body, and have demonstrated toxicity at relatively low concentrations.</li> <li>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.</li> <li>In 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.</li> <li>In 2021, the formation of an “EPA Council on PFAS” was announced.</li> </ul>	<ul style="list-style-type: none"> <li>The EPA and State of California are developing drinking water standards for PFAS compounds. <ul style="list-style-type: none"> <li>DDW has developed drinking water notification and response levels for PFOA, PFOS, Perfluorobutane Sulfonic Acid (PFBS), and Perfluorohexane Sulfonic Acid (PFHxS).</li> <li>EPA has released final health advisories for PFOA (0.004 ng/L) and PFOS (0.02 ng/L).</li> <li>In 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.</li> </ul> </li> <li>EPA is conducting pretreatment standards rulemaking for three types of industrial users: Metal Finishing, Organic Chemicals, Plastics and Synthetic Fibers, and landfills.</li> <li>In 2022, EPA proposed a rule designating PFOA and PFOS as hazardous substances under CERCLA (the Superfund law). The designation could impact effluent disposal and biosolids programs.</li> <li>In January 2024, EPA completed development of Method 1633, a new analytical method for PFAS in complex matrices like wastewater. Method 1633 is a Clean Water Act method and is recommended for use in pretreatment programs and NPDES permitting.</li> </ul>	<ul style="list-style-type: none"> <li>BACWA’s Regional PFAS Study was conducted by SFEI in two phases: <ul style="list-style-type: none"> <li>In Phase 1 (2020), fourteen facilities collected samples of influent, effluent, reverse osmosis concentrate, and biosolids.</li> <li>In Phase 2 (2022), six agencies conducted sampling of influent, effluent, and biosolids; residential sewersheds, commercial and industrial users; hauled organic waste used as digester feed; and groundwater.</li> <li>The study found that residential areas and industrial laundries are potential sources of PFAS.</li> <li>The final report is now complete, and is available upon request. BACWA has also prepared a PFAS Study Summary for members’ use.</li> </ul> </li> <li>Continue tracking developments at the federal, state and regional level, in particular to understand the impact of the CERCLA designation on biosolids reporting.</li> <li>Continue to support PFAS source control efforts by participating in monitoring studies, and by supporting regulatory and legislative efforts to limit the use of PFAS.</li> </ul>	<p>BACWA PFAS Study Summary  <a href="https://bacwa.org/wp-content/uploads/2024/02/BACWA-PFAS-Study-Summary-2024-02-07.pdf">bacwa.org/wp-content/uploads/2024/02/BACWA-PFAS-Study-Summary-2024-02-07.pdf</a></p> <p>SWRCB PFAS Resources:  <a href="http://www.waterboards.ca.gov/pfas/">www.waterboards.ca.gov/pfas/</a></p> <p>EPA PFAS Resources  <a href="http://www.epa.gov/pfas">www.epa.gov/pfas</a></p> <p>EPA PFAS Strategic Roadmap  <a href="http://www.epa.gov/pfas/pfas-strategic-roadmap-epas-commitments-action-2021-2024">www.epa.gov/pfas/pfas-strategic-roadmap-epas-commitments-action-2021-2024</a></p> <p>EPA NPDES Permitting Guidance (Dec. 2022)  <a href="http://www.epa.gov/system/files/documents/2022-12/NPDES_PFAS_State%20Memo_December_2022.pdf">www.epa.gov/system/files/documents/2022-12/NPDES_PFAS_State%20Memo_December_2022.pdf</a></p> <p>Presentation on BACWA’s Regional PFAS Study at RMP 2023 Annual Meeting  <a href="http://www.sfei.org/projects/rmp-annual-meeting">www.sfei.org/projects/rmp-annual-meeting</a></p> <p>EPA Methods for PFAS  <a href="http://www.epa.gov/cwa-methods/cwa-analytical-methods-and-polyfluorinated-alkyl-substances-pfas">www.epa.gov/cwa-methods/cwa-analytical-methods-and-polyfluorinated-alkyl-substances-pfas</a></p> <p>CA Labs Certified for Method 1633  <a href="http://www.waterboards.ca.gov/pfas/docs/pfas-laboratories.pdf">www.waterboards.ca.gov/pfas/docs/pfas-laboratories.pdf</a></p>

Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
<b>SANITARY SEWER SYSTEMS GENERAL ORDER</b>			
<ul style="list-style-type: none"> <li>• In 2022, the State Water Board reissued the statewide Sanitary Sewer Systems General Order (SSS-WDR). The reissued order replaced the 2006 Order and the 2013 Monitoring and Reporting Program.</li> <li>• The State Water Board's goals for the update were: <ul style="list-style-type: none"> <li>○ Updating the 2006 Order</li> <li>○ Clarifying compliance expectations and enhancing enforceability</li> <li>○ Addressing system resiliency, including climate change impacts</li> <li>○ Identifying valuable data and eliminating non-valuable reporting requirements</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• The reissued order became effective on June 5, 2023.</li> <li>• The first annual reports due under the reissued order are due April 1, 2024.</li> <li>• The reissued SSS-WDR contains numerous new and modified requirements, such as: <ul style="list-style-type: none"> <li>○ A prohibition on discharges to groundwater;</li> <li>○ Reduced spill reporting requirements for small spills (spills from laterals or &lt;50 gallons);</li> <li>○ New spill monitoring requirements such as photo documentation and faster water quality sampling;</li> <li>○ New requirements for preparation of Sewer System Management Plans (SSMPs), including a focus on system resiliency, prioritizing corrective actions, and coordinating with stormwater agencies;</li> <li>○ Modified annual reporting requirements;</li> <li>○ New mapping requirements; and</li> <li>○ 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).</li> </ul> </li> <li>• Maintaining an updated SSMP continues to be a core requirement of the SSS-WDR. Beginning in May 2025, SSMP updates will be required every six years (instead of five) and must contain the 11 updated elements described in the reissued SSS-WDR.</li> </ul>	<ul style="list-style-type: none"> <li>• Continuing working through the Collections System Committee to update a guidance document for Sewer System Management Plans (SSMPs). BACWA has hired a consultant to assist with this task, and work is underway.</li> <li>• Complete a member survey of sewer lateral ordinances in the region. Prompted by changes to the reissued SSS-WDR and ongoing concerns about infiltration and inflow (I&amp;I), some agencies are considering changes to their practices regarding sewer lateral maintenance and replacement.</li> <li>• Continue to coordinate with CASA and CWEA on training opportunities for members as they transition to enrollment under the new SSS-WDR.</li> </ul>	<p>State Water Board SSS-WDR page:  <a href="https://www.waterboards.ca.gov/water_issues/programs/ssso/">https://www.waterboards.ca.gov/water_issues/programs/ssso/</a></p> <p>Reissued SSS-WDR (General Order 2022-0103-DWQ), Effective June 5, 2023  <a href="https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2022/wqo-2022-0103-dwg.pdf">https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2022/wqo-2022-0103-dwg.pdf</a></p> <p>Materials from Clean Water Summit Partners Webinars on Reissued SSS-WDR  <a href="https://casaweb.org/ssss-wdr/">https://casaweb.org/ssss-wdr/</a></p> <p>SSMP and Audit Due Dates Lookup Tool from State Water Board  <a href="https://www.waterboards.ca.gov/water_issues/programs/ssso/lookup/">https://www.waterboards.ca.gov/water_issues/programs/ssso/lookup/</a></p>

Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
<b>LABORATORY ACCREDITATION</b>			
<ul style="list-style-type: none"> <li>• In May 2020, the State Water Board adopted new comprehensive regulations for the Environmental Laboratory Accreditation Program.</li> <li>• Adoption of the new regulations was required by AB 1438, legislation that became effective in 2018.</li> <li>• The new ELAP regulations are replacing the current state-specific accreditation standards with a national laboratory standard established by The NELAC Institute (TNI).</li> <li>• Compliance with TNI standards was required beginning <b>January 1, 2024</b>.</li> </ul>	<ul style="list-style-type: none"> <li>• The TNI standards apply to every ELAP-certified laboratory, regardless of certificate expiration date and regardless of location. Some laboratories have not yet been assessed to the TNI standard. Starting January 1, 2024, ELAP will be sending laboratories a written request asking for information about assessment plans and requesting a TNI-compliant Quality Assurance manual.</li> <li>• The TNI standards pose a particular challenge to small laboratories, many of which are closing because they cannot economically meet the new standards. ELAP has reported a 15% reduction in the number of accredited laboratories in California since 2020, and a 25% reduction since 2015. This reduction is contributing to significantly higher ELAP fees for the remaining laboratories. ELAP fees increased by 30% in FY24. ELAP is investigating fee structure options that would reduce impacts on small laboratories. Fee restructuring will not occur until FY25 or later.</li> <li>• ELAP is now implementing EPA's 2021 Method Update Rule. ELAP has advised labs to update any outdated methods by February 2024.</li> <li>• Since 2021, the BACWA Lab Committee has been hosting training sessions on the TNI standards.</li> </ul>	<ul style="list-style-type: none"> <li>• The BACWA Lab Committee will host Q&amp;A sessions on the TNI standards in February, April, and June 2024. The free virtual training sessions are open to BACWA members holding a valid copy of the 2016 TNI Standard. Diane Lawver of Quality Assurance Solutions, LLC, is providing the training. BACWA's TNI training sessions are recorded, and a link is available upon request.</li> <li>• Continue to work through BACWA's Laboratory Committee to support members as they navigate laboratory accreditation under the new TNI standards.</li> <li>• Publicize training opportunities offered by consultants, ELAP, and others.</li> </ul>	<p>State Water Board's 'Roadmap to ELAP Accreditation' page:  <a href="https://www.waterboards.ca.gov/drinking_water/certlic/labs/roadmap_to_elap_accreditation.html">https://www.waterboards.ca.gov/drinking_water/certlic/labs/roadmap_to_elap_accreditation.html</a></p> <p>State Water Board's ELAP regulations page:  <a href="http://www.waterboards.ca.gov/drinking_water/certlic/labs/elap_regulations.shtml">http://www.waterboards.ca.gov/drinking_water/certlic/labs/elap_regulations.shtml</a></p> <p>BACWA Training Session flyer:  <a href="https://bacwa.org/wp-content/uploads/2023/06/BACWA-Lab-TNI-Training-Series-Flyer-FY24.pdf">https://bacwa.org/wp-content/uploads/2023/06/BACWA-Lab-TNI-Training-Series-Flyer-FY24.pdf</a></p> <p>ELAP Timeline Guidance Tool:  <a href="https://www.waterboards.ca.gov/drinking_water/certlic/labs/docs/2022/elap-scheduler-1-1.xlsx">https://www.waterboards.ca.gov/drinking_water/certlic/labs/docs/2022/elap-scheduler-1-1.xlsx</a></p> <p>ELAP Implementation of 2021 Method Update Rule  <a href="https://www.waterboards.ca.gov/drinking_water/certlic/labs/mur.html">https://www.waterboards.ca.gov/drinking_water/certlic/labs/mur.html</a></p>



Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
<b>BIOSOLIDS</b>			
<ul style="list-style-type: none"> <li>Regulatory drivers are leading to the phase-out of biosolids used as alternative daily cover (ADC) or disposed in landfills. SB 1383, adopted in September 2016 requires organics diversion:               <ul style="list-style-type: none"> <li>-50% by 2020 (relative to 2014)</li> <li>-75% by 2025 (relative to 2014)</li> </ul>               CalRecycle is the state agency responsible for implementation.             </li> <li>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"> <li>Diverted biosolids must be anaerobically digested and/or composted to qualify as landfill reduction.</li> <li>CalRecycle is accepting applications to qualify other specific treatment technologies as landfill reduction (per Article 2 of SB 1383).</li> <li>Local ordinances restricting land application are disallowed.</li> </ul> </li> <li>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.</li> <li>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.</li> </ul>	<ul style="list-style-type: none"> <li>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.</li> <li>In December 2023, Sutter County revised its ordinance to allow land application of Class A biosolids, reversing its previous ban. The change was made to conform to SB 1383. CalRecycle and biosolids stakeholders continue to conduct outreach to counties with restrictive ordinances.</li> <li>CalRecycle reviewed the first application under Article 2 ("H Cycle"), and determined it conditionally qualifies as equivalent to landfill diversion/reduction. CalRecycle plans to provide additional clarification on technologies that <i>already</i> comply with SB 1383, and need not apply under Article 2 (e.g., land application of biosolids that have not been anaerobically digested).</li> <li>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 apply to biosolids treated via pyrolysis.</li> <li>New York and Michigan are imposing restrictions on land application of biosolids with levels of PFAS &gt;20 ppb for PFOA or PFOS. Based on the recently completed regional study of PFAS, few BACWA members are likely to exceed those thresholds for land-applied biosolids.</li> </ul>	<ul style="list-style-type: none"> <li>BACWA's next Biosolids Trends Survey Report will be completed in 2024 and will cover 2021-2023. It will replace the most recent (2021) version, which covers 2018-2020.</li> <li>Continue to follow emerging science and regulatory developments regarding PFAS in biosolids (see page 9).</li> <li>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.</li> <li>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.</li> <li>Meet with BAAQMD regularly in 2024 to discuss alignment of state and local regulations.</li> </ul>	<p>BACWA 2021 Biosolids Trends Survey Report:  <a href="https://bacwa.org/wp-content/uploads/2021/12/BACWA-2021-Biosolids-Trends-Survey-Report.pdf">https://bacwa.org/wp-content/uploads/2021/12/BACWA-2021-Biosolids-Trends-Survey-Report.pdf</a></p> <p>BABC website:  <a href="http://www.bayareabiosolids.com/">http://www.bayareabiosolids.com/</a></p> <p>CASA White Paper on SB 1383 Implementation:  <a href="https://bacwa.org/document/sunmary-of-sb-1383-and-its-implementation-casa-2020/">https://bacwa.org/document/sunmary-of-sb-1383-and-its-implementation-casa-2020/</a></p> <p>CalRecycle - Short-Lived Climate Pollutant Reduction Strategy  <a href="https://www.calrecycle.ca.gov/organics/slcp">https://www.calrecycle.ca.gov/organics/slcp</a></p> <p>CalRecycle Procurement FAQ (Updated by AB 1885)  <a href="https://calrecycle.ca.gov/organics/slcp/faq/recycledproducts/">https://calrecycle.ca.gov/organics/slcp/faq/recycledproducts/</a></p> <p>SB1383 Article 2 Determination  <a href="https://calrecycle.ca.gov/organics/slcp/recyclingfacilities/article2/">https://calrecycle.ca.gov/organics/slcp/recyclingfacilities/article2/</a></p> <p>SB 1383 Procurement FAQ (including interim rules for POTWs)  <a href="https://calrecycle.ca.gov/organics/slcp/faq/recycledproducts/">https://calrecycle.ca.gov/organics/slcp/faq/recycledproducts/</a></p>

Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
<b>CLIMATE CHANGE MITIGATION</b>			
<ul style="list-style-type: none"> <li>• 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"> <li>◦ Short-lived climate pollutants</li> <li>◦ Carbon sequestration on Natural and Working Lands</li> <li>◦ Largest emitters (transportation, electricity, and industrial sectors)</li> </ul> </li> <li>• SB 1383 (Short-Lived Climate Pollutant Reduction) calls for: <ul style="list-style-type: none"> <li>◦ 40% methane reduction by 2030</li> <li>◦ 75% diversion of organic waste from landfills by January 1, 2025</li> <li>◦ Policy / regulatory development encouraging production/use of biogas</li> </ul> </li> <li>• BAAQMD developed a Clean Air Plan requiring GHG emissions supporting CARB's 2050 target (80% below 1990 levels).</li> <li>• 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 in 2024.</li> <li>• 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.</li> </ul>	<ul style="list-style-type: none"> <li>• CARB is pursuing rapid fleet conversion to zero-emission vehicles (ZEVs), including medium and heavy-duty vehicles, through the Advanced Clean Fleet rule. The Advanced Clean Fleet rule allows organization to opt into one of two programs, with exceptions: <ul style="list-style-type: none"> <li>◦ <b>Public Fleets (default):</b> Requires 50% of vehicles added to be ZEV by 2024, and 100% by 2027.</li> <li>◦ <b>High Priority Fleet (Group 3):</b> With exceptions, requiring 10% of vehicles added to be ZEV by 2030 and 100% by 2042.</li> </ul> </li> <li>• Complete conversion will be difficult for heavy-duty specialty trucks and will remove a potential market for biogas. CASA has requested to continue allowance of biogas as a sustainable transportation fuel.</li> <li>• In addition to pushing for ZEVs, CARB is proposing changes to the Low Carbon Fuel Standard with increasing emphasis on hydrogen as a transportation fuel. Conversion of biogas into hydrogen remains to be demonstrated.</li> <li>• In 2022, the CPUC mandated that CA's four largest gas utilities (including PG&amp;E) procure biomethane. PG&amp;E has an active biomethane procurement program, with more solicitations expected in 2024.</li> <li>• In 2023, EPA finalized updates to its Renewable Fuel Standard Set Rule allowing apportionment of renewable identification numbers (RINs) or "Credits for food-waste-based (D5) or sludge-based (D3) biogas.</li> </ul>	<ul style="list-style-type: none"> <li>• Review and comment on the draft Low Carbon Fuel Standards, which reduces the viability of biomethane use as CNG in vehicles. Comments are due February 20<sup>th</sup>, and a public hearing will be held March 21<sup>st</sup>.</li> <li>• Track implementation of the Advanced Clean Fleet Regulations, which CARB is discussing with a newly formed Truck Regulation Implementation Group w/ supporting subgroups.</li> <li>• Follow the fate of proposed legislation (AB 1594) that could exempt some public utility specialty vehicles from the Advanced Clean Fleet Regulations as part of the TRIG discussions. Can only be integrated into the ACF with amendments to the ACF in 2025.</li> <li>• Closely follow rule development of Proposed Regulation 13 (climate pollutants), which BAAQMD may revisit in 2024.</li> <li>• Look for ways to inform BAAQMD on opportunities and challenges related to climate change mitigation by Bay Area POTWs, including education about anaerobic digesters and POTW operations.</li> <li>• Work with PG&amp;E and BAAQMD to explore options for POTWs to inject biogas into PG&amp;E pipelines.</li> </ul>	<p>Climate Change Scoping Plan, including 2022 Update:  <a href="https://ww2.arb.ca.gov/our-work/programs/ab-32-climate-change-scoping-plan">https://ww2.arb.ca.gov/our-work/programs/ab-32-climate-change-scoping-plan</a></p> <p>CARB Low Carbon Fuel Standard:  <a href="https://ww2.arb.ca.gov/our-work/programs/low-carbon-fuel-standard">https://ww2.arb.ca.gov/our-work/programs/low-carbon-fuel-standard</a></p> <p>CARB Advanced Clean Fleet Rule:  <a href="https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets">https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets</a></p> <p>SB 1383:  <a href="https://www.calrecycle.ca.gov/organics/slcp">https://www.calrecycle.ca.gov/organics/slcp</a></p> <p>BAAQMD Regulation 13  <a href="http://www.baaqmd.gov/rules-and-compliance/rules/regulation-13-climate-pollutants">http://www.baaqmd.gov/rules-and-compliance/rules/regulation-13-climate-pollutants</a></p> <p>EPA Renewable Fuel Standards  <a href="https://www.epa.gov/renewable-fuel-standard-program/final-renewable-fuels-standards-rule-2023-2024-and-2025">https://www.epa.gov/renewable-fuel-standard-program/final-renewable-fuels-standards-rule-2023-2024-and-2025</a></p> <p>PG&amp;E Procurement  <a href="http://www.pge.com/rngrfo">http://www.pge.com/rngrfo</a>, &amp; <a href="https://casaweb.org/wp-content/uploads/2023/11/PGE-at-CASA-Webinar.pdf">https://casaweb.org/wp-content/uploads/2023/11/PGE-at-CASA-Webinar.pdf</a></p>

Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
<b>CLIMATE CHANGE ADAPTATION</b>			
<ul style="list-style-type: none"> <li>Climate change and water resilience are a strategic priority of both the State Water Board and Regional Water Board.</li> <li>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.</li> <li>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.</li> <li>In April 2022, the State released a Climate Adaptation Strategy, including an updated climate change assessment for the Bay Area region.</li> <li>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 (SLR) by 2050.</li> <li>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.</li> </ul>	<ul style="list-style-type: none"> <li>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.</li> <li>Separately from the Basin Plan amendment, the NDPES division has released information regarding permitting of nature-based solutions.</li> <li>Shallow groundwater response to SLR 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.</li> <li>The Bay Conservation and Development Commission (BCDC) is developing regional SLR adaptation planning guidelines for the Bay Area as part of the Regional Shoreline Adaptation Plan. The guidelines must be adopted by Dec 31, 2024, to comply with SB 272, signed by the Governor in Oct. 2023. SB 272 requires cities and counties to develop regional sea level rise adaptation plans by 2034.</li> <li>The Ocean Protection Council (OPC) has issued a draft 2024 SLR guidance update reflecting the latest projections. Previous projections for extreme SLR (i.e., H++ scenario) have been removed, and the range of projections has narrowed considerably, especially for 2050. Updates to the Coastal Commission's "Critical Infrastructure at Risk" SLR planning guidance are expected to follow.</li> </ul>	<ul style="list-style-type: none"> <li><b>Review and understand the updated projections in the OPC's 2024 Draft SLR Guidance document.</b> OPC will hold informational webinars in February, and comments are due March 4<sup>th</sup>.</li> <li><b>Identify contact(s) at each agency to join BACWA's Climate Change Community of Practice.</b> BACWA plans to host a webinar series in 2024 on technical topics related to climate change, such as sea level rise projections and changes in precipitation. The Climate Change Community of Practice will provide a forum to discuss these topics.</li> <li>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.</li> <li>Prepare for engagement with the Regional Water Board on expectations for SLR planning.</li> <li>Continue to work with Regional Water Board and other resource agencies to look for regulatory solutions to encourage wetlands projects for shoreline resiliency.</li> </ul>	<p>OPC 2024 Draft Sea Level Rise Guidance  <a href="https://opc.ca.gov/2024/01/draft-slr-guidance-2024/">https://opc.ca.gov/2024/01/draft-slr-guidance-2024/</a></p> <p>California Coastal Commission's <i>Critical Infrastructure at Risk</i>  <a href="https://documents.coastal.ca.gov/assets/slr/SLR%20Guidance_Critical%20Infrastructure_12.6.2021.pdf">https://documents.coastal.ca.gov/assets/slr/SLR%20Guidance_Critical%20Infrastructure_12.6.2021.pdf</a></p> <p>California Climate Adaptation Strategy  <a href="https://climateresilience.ca.gov">https://climateresilience.ca.gov</a></p> <p>BayCAN Funding Tracker  <a href="https://www.baycanadapt.org/">https://www.baycanadapt.org/</a></p> <p>Bay Adapt Joint Platform (includes Regional Shoreline Adaptation Planning info)  <a href="https://www.bayadapt.org/">https://www.bayadapt.org/</a></p> <p>NPDES Permitting for Nature-Based Solutions  <a href="https://bacwa.org/wp-content/uploads/2022/08/NPD-ES-Permitting-for-Nature-Based-Solutions-5.pdf">https://bacwa.org/wp-content/uploads/2022/08/NPD-ES-Permitting-for-Nature-Based-Solutions-5.pdf</a></p> <p>2023 Report on Shallow Groundwater Response  <a href="https://www.sfei.org/projects/shallow-groundwater-response-sea-level-rise">https://www.sfei.org/projects/shallow-groundwater-response-sea-level-rise</a></p>



Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
<b>TOXIC AIR CONTAMINANTS</b>			
<ul style="list-style-type: none"> <li>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.</li> <li>Per the Rule, BAAQMD will conduct site-specific Health Risk Screening Analyses and determine each facility's prioritization score (PS). BAAQMD will conduct Health Risk Assessments (HRAs) for all facilities with a cancer PS&gt;10 or non-cancer PS&gt;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).</li> <li>AB 617 (Community Air Protection Program) – requires CARB to harmonize community air monitoring, reporting, &amp; 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.</li> <li>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 &gt;500 to &gt;1,700.</li> </ul>	<ul style="list-style-type: none"> <li>In December 2023, BAAQMD released Regulatory Concepts for Amendments to Rule 11-18. The amendments outline procedures for HRAs, among other program details. Updated prioritization scores were also released.</li> <li>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).</li> <li>In 2021, BAAQMD amended Rule 2-5 to reduce allowable levels of toxic air contaminants in new source permitting. In 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.</li> <li>In July 2023, the EPA announced a proposal to revise its Air Emissions Reporting Requirements (AERR). CARB has applied to submit information on behalf of California facilities.</li> </ul>	<ul style="list-style-type: none"> <li><b>Review and Comment on the Regulatory Concepts for Amendments to Rule 11-18.</b> A public workshop will be held February 15<sup>th</sup>, and comments are due February 29<sup>th</sup>.</li> <li>Continue participating in the BAAQMD workgroup to discuss toxic air contaminants, rule development, and related air quality regulatory issues.</li> <li><b>Report “business as usual” for air toxics through 2028 (through year 2027 data).</b> CARB is preparing a message to Air Districts confirming POTWs can delay reporting new compounds until the two-step process is complete. 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.</li> <li><b>For budget planning purposes, BACWA members with permitted capacity ≥ 5 MGD should expect the study to cost approximately \$3,700 per MGD of actual average annual daily flow (not permitted dry weather flow).</b> Study costs will be refined and spread over four years. BACWA will assist CASA in collecting funds from participants who are also BACWA's members.</li> </ul>	<p>BAAQMD Facility Risk Reduction Program Updates (Rule 11-18):  <a href="https://www.baaqmd.gov/community-health/facility-risk-reduction-program">https://www.baaqmd.gov/community-health/facility-risk-reduction-program</a></p> <p>BAAQMD Rule 2-5  <a href="https://www.baaqmd.gov/rules-and-compliance/rules/reg-2-permits?rule_version=2021%20Amendments">https://www.baaqmd.gov/rules-and-compliance/rules/reg-2-permits?rule_version=2021%20Amendments</a></p> <p>CARB page on AB 617 and AB 2588:  <a href="https://ww2.arb.ca.gov/our-work/programs/criteria-and-toxics-reporting">https://ww2.arb.ca.gov/our-work/programs/criteria-and-toxics-reporting</a>  <i>Final Statement of Reasons</i>  <a href="https://ww3.arb.ca.gov/board/15day/ctr/fsor.pdf">https://ww3.arb.ca.gov/board/15day/ctr/fsor.pdf</a></p> <p>Timing of Rule 11-18 vs. Process for AB 617  <a href="https://bacwa.org/document/baaqmd-rule-11-18-vs-carb-two-step-process-for-ab-617-feb-2023/">https://bacwa.org/document/baaqmd-rule-11-18-vs-carb-two-step-process-for-ab-617-feb-2023/</a></p> <p>EPA Air Emissions Reporting Requirements  <a href="https://www.epa.gov/air-emissions-inventories/air-emissions-reporting-requirements-aerr">https://www.epa.gov/air-emissions-inventories/air-emissions-reporting-requirements-aerr</a></p>

Background Highlights	Challenges and Recent Updates	Next Steps for BACWA	Links/Resources
<b>RECYCLED WATER</b>			
<ul style="list-style-type: none"> <li>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 and administrative requirements.</li> <li>In 2018, the State Water Board adopted uniform water recycling criteria for two types of Indirect Potable Reuse: surface water augmentation and groundwater augmentation.</li> <li>In December 2023, the State Water Board adopted uniform water recycling criteria for two types of Direct Potable Reuse: raw water augmentation and treated water augmentation.</li> <li>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. There are not yet any Indirect or Direct Potable Reuse projects in Region 2, although several are in the planning stage.</li> </ul>	<ul style="list-style-type: none"> <li>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. The rulemaking process for onsite non-potable reuse is slated to begin by Spring 2024 with a projected Board adoption in Fall 2024.</li> <li>In June 2023, BACWA completed a Regional Evaluation of Potential Nutrient Discharge Reduction by Water Recycling, as required by the 2<sup>nd</sup> Nutrient Watershed Permit.</li> <li>The State Water Board has launched a “Strike Team” to assess how California will meet new recycled water goals listed in California’s Water Supply Strategy: 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, such as funding.</li> <li>In December 2023, the Regional Water Board approved a Basin Plan Amendment that will allow greater flexibility for NPDES permitting of reverse osmosis concentrate discharges to San Francisco Bay. The Basin Plan Amendment must be approved by the State and USEPA before it is goes into effect.</li> </ul>	<ul style="list-style-type: none"> <li>Review draft regulations for Onsite Non-Potable Reuse when they are released by State Water Board staff, which is expected as soon as spring 2024.</li> <li>Build on successes of the September 2023 workshop on interagency collaboration. Wastewater and water agency representatives convened to discuss challenges and opportunities for expanding water recycling in the Bay Area.</li> <li>Continue to track the role of recycled water projects in diverting nutrient loads from San Francisco Bay. Load reductions are expected to be a requirement of the 2024 Nutrient Watershed Permit (see page 2).</li> <li>Track California legislation with potential impacts on recycled water funding, mandates, or regulations.</li> </ul>	<p>Water Boards Recycled Water Policy and Regulations  <a href="http://www.waterboards.ca.gov/water_issues/programs/recycled_water/">www.waterboards.ca.gov/water_issues/programs/recycled_water/</a></p> <p>Direct Potable Reuse Regulations  <a href="http://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/dpr-regs.html">www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/dpr-regs.html</a></p> <p>Onsite Nonpotable Reuse Regulations  <a href="http://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/onsite_nonpotable_reuse_regulations.html">www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/onsite_nonpotable_reuse_regulations.html</a></p> <p>BACWA Special Studies of Recycled Water and Nature-Based Systems:  <a href="http://bacwa.org/document-category/2nd-watershed-permit-studies/">bacwa.org/document-category/2nd-watershed-permit-studies/</a></p> <p>California’s Water Supply Strategy (August 2022)  <a href="http://Resources.ca.gov/-/media/CNRA-Website/Files/Initiatives/Water-Resilience/CA-Water-Supply-Strategy.pdf">Resources.ca.gov/-/media/CNRA-Website/Files/Initiatives/Water-Resilience/CA-Water-Supply-Strategy.pdf</a></p> <p>December 2023 Basin Plan Amendment  <a href="http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/planningtmdls/amendment_s/NPDES_corrections.html">www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/planningtmdls/amendment_s/NPDES_corrections.html</a></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	SLR	Sea Level Rise
EC25/IC25	25% Effect Concentration/25% Inhibition Concentration	SSMP	Sewer System Management Plan
ELAP	Environmental Laboratory Accreditation Program	TMDL	Total Maximum Daily Load
ELTAC	Environmental Laboratory Technical Advisory Committee	TIN	Total Inorganic Nitrogen
EPA	United States Environmental Protection Agency	TNI	The NELAC Institute
FIFRA	Federal Insecticide, Fungicide, and Rodenticide Act	TST	Test of Significant Toxicity
FY	Fiscal Year	WQO	Water Quality Objective
GHG	Greenhouse Gas	ZEV	Zero-Emission Vehicle
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. RA8 STUDY OF PFAS IN BAY AREA WASTEWATER

### Recommendation

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

### Strategic Plan Linkage

1. **Regulatory Compliance:** Proactively meet or exceed regulatory requirements for protection of the environment and public health.
  - e. Track and share scientific and regulatory developments related to emerging contaminants, and advocate for source control.

### Background

Per- and polyfluoroalkyl substances (PFAS) are a large group of human-made substances that are very resistant to heat, water, and oil. PFAS have been used extensively 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. All PFAS are persistent in the environment, can accumulate within the human body, and have demonstrated toxicity at relatively low concentrations. PFOA and PFOS, two of the most common PFAS compounds, were found in the blood of nearly all people tested in several national surveys.

### Discussion

The Bay Area Clean Water Agencies (BACWA) and San Francisco Estuary Institute (SFEI) recently completed a study evaluating PFAS in wastewater in the Bay Area. Phase 1, completed in 2021, focused on samples influent, effluent, and biosolids. In Phase 2, completed in December 2023, researchers worked with wastewater agencies to sample further up in sewersheds with a goal of identifying sources of PFAS to wastewater treatment plants. The attached summary provides relevant background for the study, an overview of study findings, and related resources.



Bay Area Clean Water Agencies and San Francisco Estuary Institute

## Study of PFAS in Bay Area Wastewater

### KEY POINTS

PFAS are ubiquitous in numerous everyday products and in the environment.

As long as PFAS continues to be produced and used in consumer products, PFAS will be present in wastewater influent, effluent, and biosolids.

### WHAT MAKES THIS STUDY UNIQUE?

This study quantified PFAS in wastewater using a comprehensive lab method called the Total Oxidizable Precursors (TOP) assay. This method quantifies more of the PFAS than other typical lab methods, which means this study was able to better track PFAS through the treatment process. Sampling of residential areas was another unique study feature.

### WHERE IS THE PFAS IN WASTEWATER COMING FROM?

Residential users appear to be a significant source of PFAS to Bay Area wastewater treatment plants. Among industrial and commercial facilities included in this study, industrial laundries showed the highest concentrations, followed by car washes.

### HOW MUCH PFAS IS IN BAY AREA WASTEWATER?

PFAS concentrations in Bay Area wastewater (see Figure 1 on page 3) were similar to levels seen in other communities in California. There are currently no PFAS standards directly applicable to biosolids or San Francisco Bay wastewater discharges. Most biosolids samples were below the “action levels” for land application recently adopted in other states.

### What are PFAS?

Per- and polyfluoroalkyl substances (PFAS) are a large group of human-made compounds that are resistant to heat, water, and oil. Common PFAS-containing products include non-stick cookware, cardboard/paper food packaging, water-resistant clothing, carpets, personal care products, and fire-fighting foam. PFAS do not break down in the environment, can accumulate within the human body, and can be toxic at relatively low concentrations.

Publicly Owned Treatment Works (POTWs) receive PFAS from residential, commercial, and industrial customers in their service areas. Some PFAS transform to other PFAS compounds during the treatment process, but are not destroyed. PFAS received in POTW influent ultimately partition into effluent, air, or biosolids depending on the individual compound’s chemical characteristics.

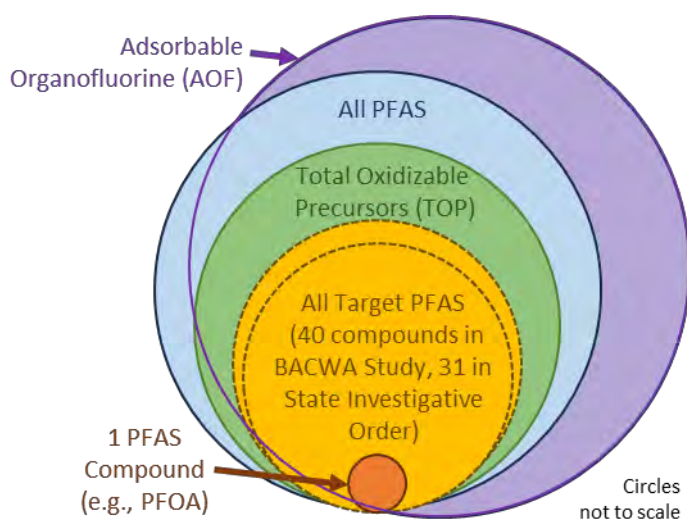
## Why did BACWA Complete this Study?

In 2019, the State Water Board started requiring testing of drinking water systems and other high-risk locations for PFAS such as landfills, airports, industrial chrome-platers, refineries & bulk terminals, and POTWs<sup>a</sup>. The Bay Area Clean Water Agencies (BACWA) worked with State and Regional Water Board staff to respond to the need for testing at POTWs. BACWA worked with scientists at San Francisco Estuary Institute (SFEI) to design and complete a two-phase study<sup>b,c</sup>:

- **Phase 1** (Fall 2020). Fourteen representative facilities collected influent, effluent, and biosolids samples to test for PFAS. Facilities were selected based on their size, location, level of industry in their service area, treatment technology, and whether they had participated in previous SFEI PFAS studies, so that trends in individual PFAS compounds could be tracked over time. The final report for Phase 1 was released in October 2021<sup>d</sup>.
- **Phase 2** (Mid-2022). Seven facilities collected influent and effluent samples, and five of the seven also collected biosolids samples for PFAS analysis. Samples were also collected upstream of POTWs in residential areas and at select industrial and commercial facilities. Industrial facilities were selected that had not already been included in the State Water Board's investigative orders. Phase 2 was completed by larger agencies that volunteered to participate. Results from Phase 2 were shared at the Regional Monitoring Program Annual Meeting in October 2023<sup>e</sup>, and the final report for Phase 2 was completed in December 2023. The report is available from BACWA staff upon request.

While the State Water Board required wastewater samples (influent, effluent, biosolids) to be measured for a specified 31 individual PFAS analytes, the BACWA-SFEI study went beyond this list and used a target method that included 40 individual analytes. Additionally, this study included another method called the Total Oxidizable Precursors (TOP) assay. The TOP assay involves oxidizing the sample to convert PFAS to terminal transformation products, then analyzed

with the Target method. The total PFAS quantified with the TOP method includes not only the 40 analytes in the Target method, but additionally includes PFAS precursors that can transform to those 40 analytes. The advantage of the TOP analysis is that it gives a better estimate of all PFAS in a sample, and not just the 40 individual analytes included in the analytical method (see conceptual schematic at left). Both the target and TOP assay quantified PFAS using USEPA Method 1633. Phase 2 also included analysis of Adsorbable Organofluorine (AOF) via USEPA Draft Method 1621.







## What did the Study Find?

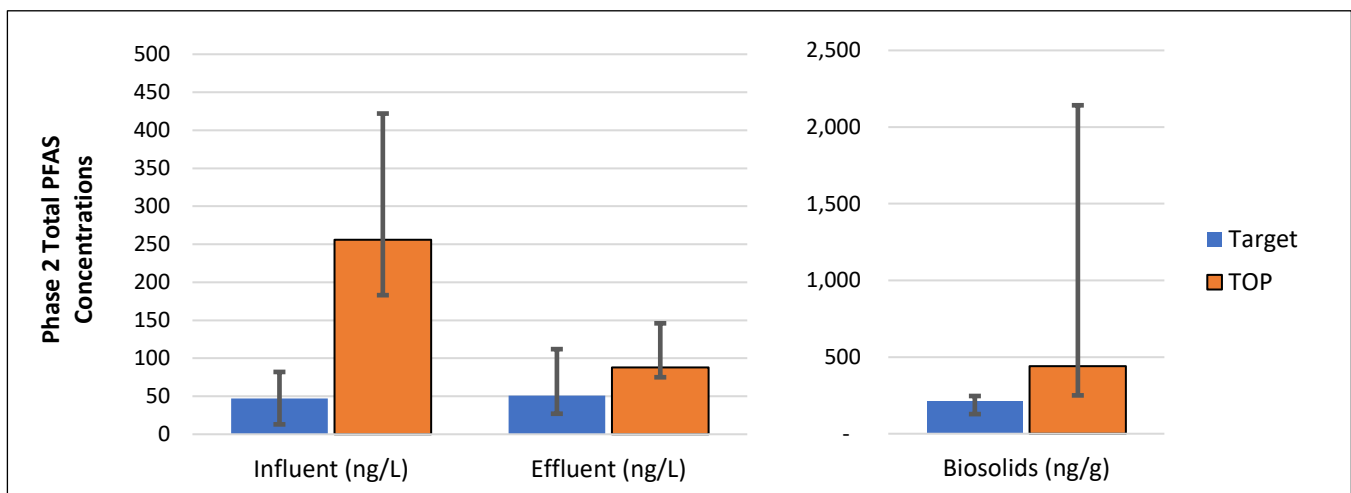
### KEY FINDING

In Phase 2, TOP analysis was completed for influent, effluent, and biosolids from 5 facilities.

On average, about half of the mass of total quantified PFAS contained in POTW influent was partitioned to biosolids.

Phase 1 of the study demonstrated that sampling a representative selection of POTWs (rather than all POTWs) was an appropriate strategy for characterizing PFAS. PFAS levels were similar across the 14 participating facilities, as summarized in the Phase 1 report<sup>d</sup>. Both phases of this BACWA-SFEI study showed similar results to the State Water Board's Investigative Order<sup>f</sup> for the targeted analysis. This study also showed that the targeted analysis only captures a fraction of total PFAS compounds. In Phase 2 influent samples, for example, the median for sum of PFAS via the TOP method was 5 times greater than the median for sum of PFAS via target analysis, while the ratio was about 2 for effluent.

Phase 2 showed that PFAS in influent is both transformed and partitioned to biosolids before leaving as treated effluent, as shown below in **Figure 1**. This finding may seem self-evident, but the results of the Phase 1 study and the statewide Investigative Order were not conclusive on this point. Based on targeted analysis, the total quantified PFAS concentration is often *higher* in effluent than influent, potentially leading to the false conclusion that PFAS are added or created within treatment plants. As expected, total quantified PFAS based on Phase 2 TOP analysis conclusively showed substantial removal from influent to effluent at each of the seven facilities sampled (*see orange bars for influent and effluent, Figure 1*). AOF data showed a similar trend.



**Figure 1.** Phase 2 Total Quantified PFAS based on a sum of targeted analysis of 40 compounds (“Target”) and Total Oxidizable Precursors analysis (“TOP”). Note TOP results includes 40 compounds included in Target method, plus PFAS precursors that are converted to one of the 40 Target compounds. Influent and effluent data are in units ng/L and Biosolids are in ng/g (dry weight). The height of each bar chart indicates the median, while the error bars show the minimum and maximum. Phase 1 data are excluded because the TOP analysis was not performed.

## How do PFAS Levels in Bay Area Wastewater Compare to Regulatory Thresholds?

There are currently no water quality criteria for PFAS directly applicable to San Francisco Bay. USEPA has developed draft aquatic life criteria<sup>g</sup>, and plans to develop human health criteria based on fish consumption (see side bar). Although surface water quality criteria are still in development, both the State Water Board and USEPA have developed regulatory thresholds for drinking water. Drinking water criteria are not applicable to most Bay Area POTWs, since the Bay is not used as a drinking water supply. They are included here for informational purposes only.

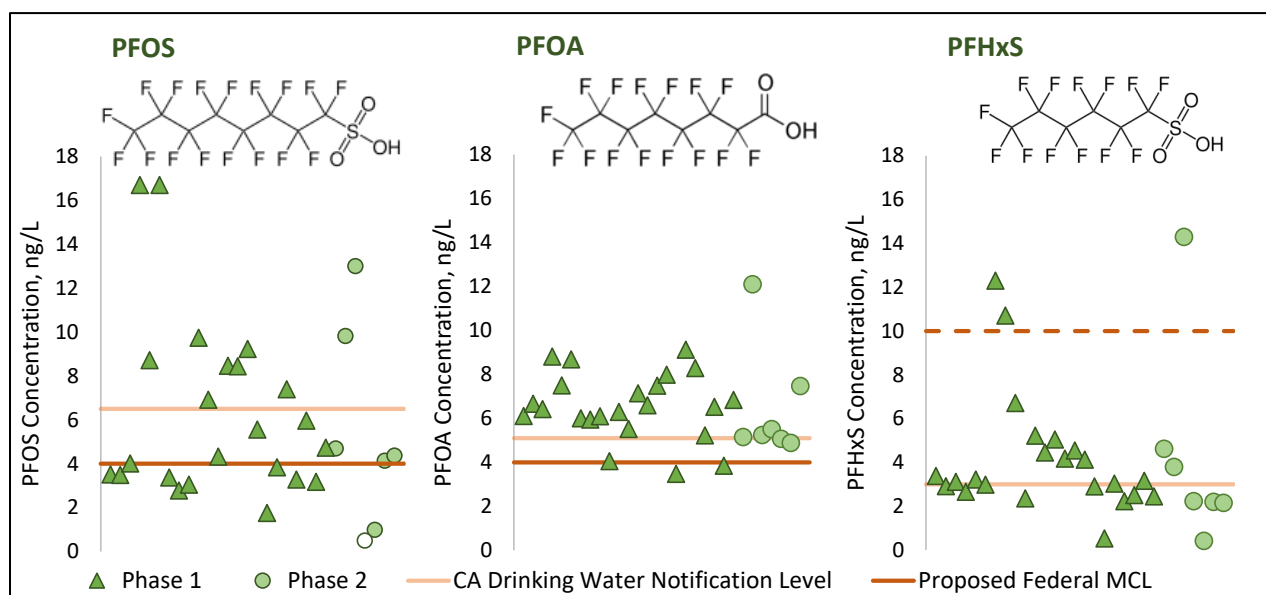
The State Water Board has adopted notification levels of 6.5 ng/L for perfluorooctane sulfonic acid (PFOS), 5.1 ng/L for perfluorooctanoic acid (PFOA), and 3 ng/L for perfluorohexane sulfonic acid (PFHxS)<sup>h</sup>. The USEPA's proposed drinking water Maximum Contaminant Level (MCL) is 4 ng/L for PFOS and PFOA<sup>i</sup>. The proposed MCL for PFHxS is included as part of a unitless "Hazard Index." Effluent concentrations observed from Phase 1 and 2 are compared to these thresholds in **Figure 2**. Although production of both PFOS and PFOA has been phased out in the United States, these compounds were detected in all but one of the study's effluent samples. Some PFOS and PFOA may come from the transformation of other PFAS compounds. Typical concentrations were near or above the proposed federal MCLs.

### PFAS IN THE BAY



Through the Regional Monitoring Program, SFEI scientists are monitoring PFAS in San Francisco Bay water, sediment, and sport fish. PFOS is the predominant compound in sport fish, and fish caught in the South Bay have the highest concentrations. Stormwater and wastewater are both possible sources of PFAS in sport fish.

As part of its PFAS Strategic Roadmap, USEPA is planning to publish water quality criteria based on fish consumption in Fall 2024. In the future, the levels of PFAS in sport fish may cause San Francisco Bay to be listed as an impaired water body per section 303(d) of the federal Clean Water Act.

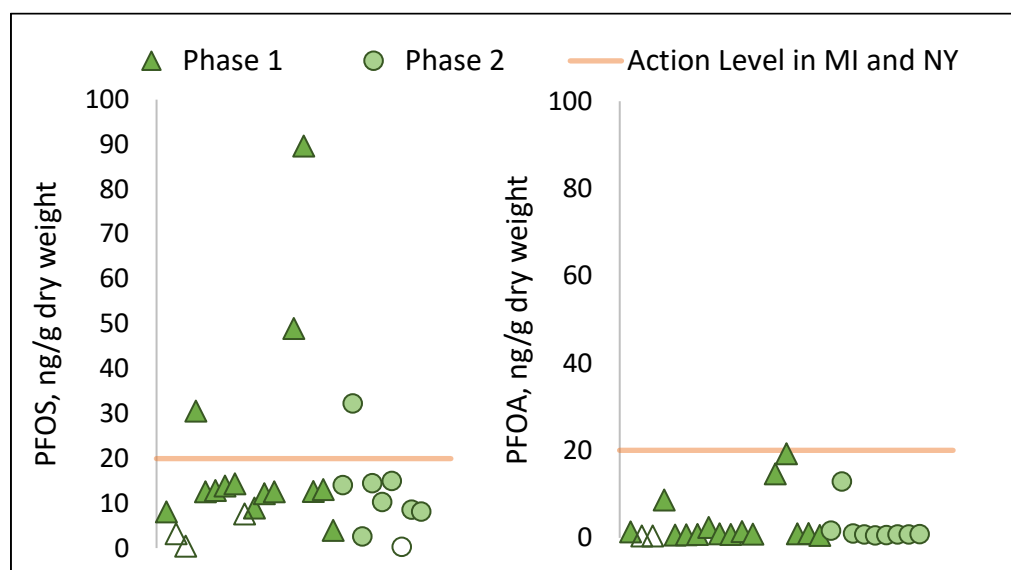


**Figure 2.** Phase 1 and 2 effluent concentrations of PFOA, PFOS, and PFHxS compared to California notification levels and proposed USEPA Maximum Contaminant Levels (MCLs) for drinking water. For PFHxS, the proposed MCL is illustrated with a dashed line at 10 ng/L; the unitless Hazard Index of 1.0 is calculated by dividing PFHxS concentrations by 10. The 3 other compounds included in the Hazard Index were primarily non-detects. The open circle for PFOS indicates a non-detected value; all filled shapes indicate a detected result.



## How do PFAS Levels in Bay Area Biosolids Compare to Regulatory Thresholds?

PFAS is a potential concern for biosolids end uses, particularly land application or other uses where PFAS could migrate to food crops or drinking water. There are currently no federal or state standards for PFAS in biosolids. However, several other states have established “action levels” for biosolids that may be “industrially impacted.” When PFOA or PFOS concentrations in biosolids exceed the action level of 20 ng/g ( $\mu\text{g}/\text{kg}$  or ppb), utilities in Michigan<sup>j</sup> and New York<sup>k</sup> are subject to restrictions on biosolids recycling. In this BACWA-SFEI study, the only biosolids samples that exceeded these thresholds were from agencies that have exceptionally long storage times in lagoons and storage beds, which may allow more time for PFAS transformations to occur or allow PFAS to become more concentrated on a dry weight basis.



**Figure 3.** Phase 1 and 2 biosolids concentrations of PFOA and PFOS (ng/g dry weight) compared to action levels in Michigan and New York. Filled shapes indicate detected values. Unfilled shapes indicate non-detects.

## Where is PFAS in Bay Area Wastewater Coming From?

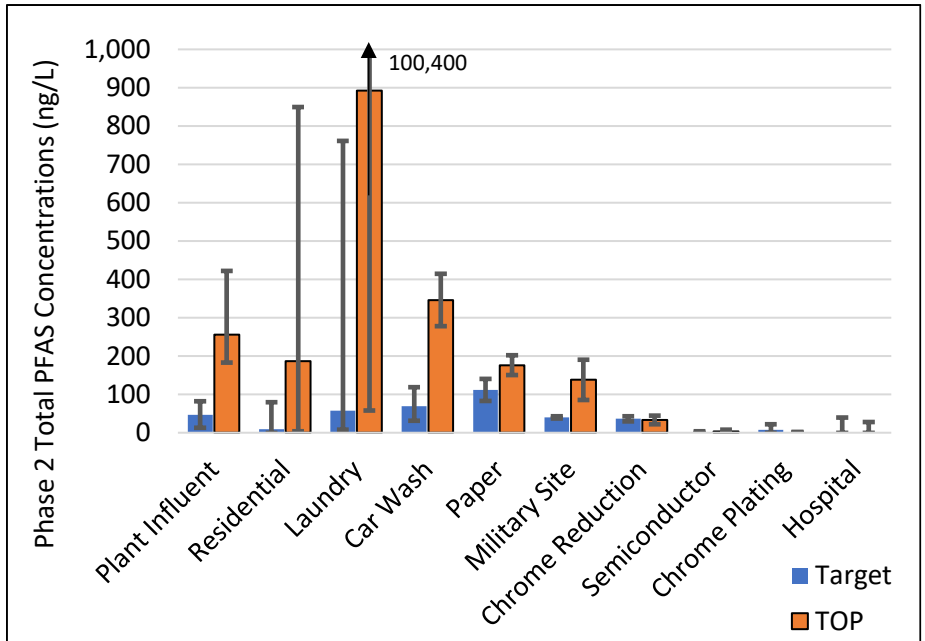
To identify potential sources of PFAS, Phase 2 of the BACWA-SFEI study focused on sampling in residential areas and at commercial and industrial facilities. Samples were collected from residential areas (n=14), industrial laundries (n=5), hospitals (n=4), facilities with chrome plating onsite (n=3), semiconductor manufacturing (n=2), car washes (n=3), a military site, and a pulp paperboard manufacturing facility. Landfill leachate is also a known source of PFAS in wastewater that was previously sampled under a State Water Board investigative order<sup>a</sup>. Results of this study’s collection system monitoring are shown in **Figure 4** and indicate that:

- **Residential** samples showed a large range of total quantified PFAS concentrations. The median sum of TOP and target analytes were only slightly lower than those found in plant influent.
- **Industrial Laundries.** Concentrations of total quantified PFAS measured as TOP were significantly higher than median influent concentrations at several (but not all) industrial



laundries. These facilities typically launder uniforms, linens, floor mats, and similar items. Some laundered textiles could contain intentionally added PFAS (e.g., for stain resistance).

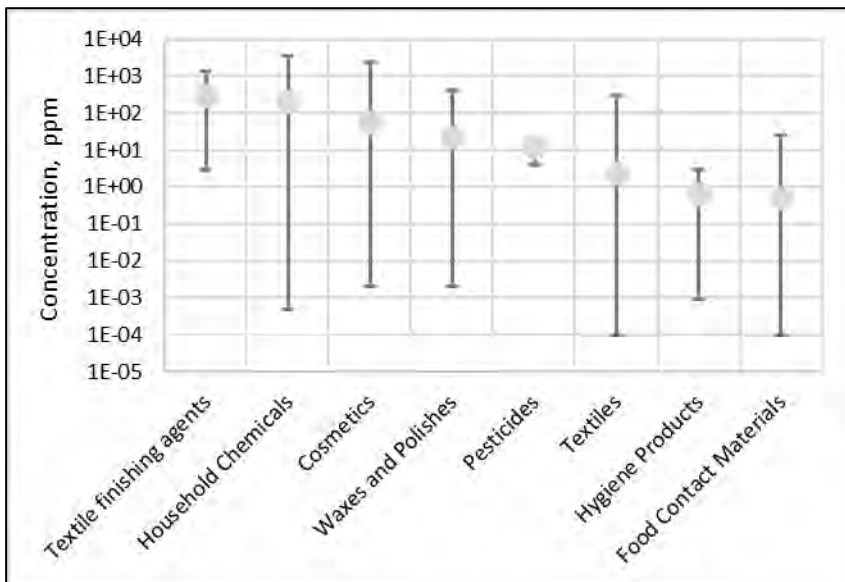
- **Car Washes** showed total PFAS measured as TOP at moderately higher concentrations than plant influent. Unlike industrial laundries, however, there were not any extremely high values at the car washes, and discharge flow rates tend to be lower at the car washes.



**Figure 4.** Comparison of Phase 2 plant influent results with residential, commercial, and industrial wastewater (ng/L). Total PFAS is based on a sum of targeted analysis of 40 compounds (“Target”) and Total Oxidizable Precursor analysis (“TOP”). The height of each bar chart indicates the median, while the error bars show the minimum and maximum.

At most Bay Area treatment plants, more than 95% of flows are from residential and commercial customers. Phase 2 results indicate that residential areas may contribute PFAS at concentrations similar to plant influent, which means that residential users may be the dominant source of PFAS to many treatment facilities. PFAS is found in many consumer products, including textiles, household chemicals, cosmetics, and food packaging, at concentrations several orders of

magnitude higher than those found in this study, as shown in **Figure 5**. This source of PFAS can only be controlled by removing or reducing the amount of PFAS found in consumer products.



**Figure 5.** PFAS concentrations in select categories of consumer products. Figure adapted from Dewapriya et al., 2023<sup>1</sup>. The round marker indicates the average, while the error bars show the minimum and maximum values. The units (ppm) are equivalent to ng/L x 1,000,000.

## What is BACWA Doing Next?

BACWA and its members are interested in developing actionable data that will inform future source control or other management efforts. To start, BACWA and its members plan to continue working with SFEI, the Water Board, and the California Department of Toxic Substances Control to identify consumer products with PFAS that have a potential nexus to wastewater, stormwater, and surface waters like San Francisco Bay. In the coming years, SFEI plans to continue studying PFAS in stormwater and the Bay, while BACWA will continue to focus on identifying controllable sources within sewer service areas.

## Where Can I Find More Information?

### USEPA PFAS Strategic Roadmap:

<https://www.epa.gov/pfas/pfas-strategic-roadmap-epas-commitments-action-2021-2024>

<sup>a</sup> SWRCB Investigative Order for POTWs:

[https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2020/wqo2020\\_0015\\_dwq.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2020/wqo2020_0015_dwq.pdf)

<sup>b</sup> Study of PFAS in Bay Area POTWs: Phase 1 Sampling and Analysis Plan:

<https://bacwa.org/wp-content/uploads/2020/12/SFEI-Final-PFAS-SAP-Phase-1-2020-11-23.pdf>

<sup>c</sup> Study of PFAS in Bay Area POTWs: Phase 2 Sampling and Analysis Plan: <https://bacwa.org/wp-content/uploads/2022/03/Final-PFAS-Phase-2-SAP-2022-03-28.pdf>

<sup>d</sup> Study of PFAS in Bay Area POTWs, Phase 1 Memo:

[https://bacwa.org/wp-content/uploads/2023/03/Memo\\_BACWA-PFAS-Phase-1.pdf](https://bacwa.org/wp-content/uploads/2023/03/Memo_BACWA-PFAS-Phase-1.pdf)

<sup>e</sup> Lin, D. and Fono, L. Investigation of PFAS Sources to Municipal Wastewater. Presentation to 2023 Regional Monitoring Program Annual Meeting, October 2023. Video and slides available at

<https://www.sfei.org/projects/rmp-annual-meeting>

<sup>f</sup> Aflaki, R. "What can we learn from the GeoTracker PFAS data?" Presentation to CASA; Available at

<https://casaweb.org/wp-content/uploads/2023/10/Aflaki-Roshan.pdf>

<sup>g</sup> USEPA, 2022. "Fact Sheet: Draft 2022 Aquatic Life Ambient Water Quality Criteria for PFOA and PFOS. "Available at <https://www.epa.gov/system/files/documents/2022-04/pfoa-pfos-draft-factsheet-2022.pdf>

<sup>h</sup> SWRCB. "PFAS Regulations for California Drinking Water." Available at

[https://www.waterboards.ca.gov/drinking\\_water/certlic/drinkingwater/pfas.html](https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/pfas.html)

<sup>i</sup> USEPA. Proposed PFAS National Drinking Water Regulation. Available at

<https://www.epa.gov/sdwa/and-polyfluoroalkyl-substances-pfas>

<sup>j</sup> Michigan Department of Environment, Great Lakes, and Energy. "Interim Strategy – Land Application of Biosolids Containing PFAS (2024)." Available at

<https://www.michigan.gov/egle/about/organization/water-resources/biosolids/pfas-related>

<sup>k</sup> New York State Department of Environmental Conservation. "Biosolids Recycling in New York State – Interim Strategy for the Control of PFAS Compounds." September 7, 2023. Available at

[https://extapps.dec.ny.gov/docs/materials\\_minerals\\_pdf/dmm7.pdf](https://extapps.dec.ny.gov/docs/materials_minerals_pdf/dmm7.pdf)

<sup>l</sup> Dewapriya, P., et al. "Per- and polyfluoroalkyl substances (PFAS) in consumer products: Current knowledge and research gaps." Journal of Hazardous Materials Letters, Volume 4, November 2023, 100086. <https://doi.org/10.1016/j.hazl.2023.100086>

## ITEM NO. RA9 NUTRIENTS WATERSHED PERMIT UPDATE

### Recommendation

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

### Strategic Plan Linkage

2. **Regulatory Compliance:** Proactively meet or exceed regulatory requirements for protection of the environment and public health.
  - b. Represent EBDA and the Member Agencies' interests by preemptively engaging in development of emerging regulations and permits and advocating for reasonable, science-based decisions.
7. **External Collaboration:** Collaborate with external stakeholders to build strong relationships for joint problem-solving and to expand EBDA's and its Member Agencies' reach.
  - b. Partner with regulators to develop and implement permits and programs leading with science and lessons learned.

### Background

While the loads of nutrients such as nitrogen and phosphorus to San Francisco Bay are higher than other estuaries, the Bay has historically been very resilient, and negative impacts of nutrient enrichment such as eutrophication have not occurred. Scientists believe this resilience to stem at least in part from high turbidity (i.e., the Bay is cloudy); which blocks the light that phytoplankton need to grow; presence of filter-feeding clams, which reduce phytoplankton concentrations; and strong tidal mixing, which reduces nutrient concentrations. Over the last decade, concerning trends caused the scientific and regulatory communities to question whether the Bay's resilience is weakening.

To begin to proactively address these nutrient-related risks, Bay Area wastewater agencies, through the Bay Area Clean Water Agencies (BACWA), have participated since 2012 in a positive collaboration with a wide variety of stakeholders to implement a Nutrient Management Strategy that focuses on conducting scientific research and modeling to determine the effects of nutrients on the Bay ecosystem, and protective levels of nutrient loading going forward. BACWA worked closely with staff of the San Francisco Bay Regional Water Quality Control Board (Water Board) to negotiate a Watershed Permit for nutrients, which was issued in 2014 and reissued in 2019.

In Summer 2022, a harmful algae bloom caused unprecedented decreases in dissolved oxygen in the Bay, resulting in significant fish kills. While it is unclear exactly what triggered this bloom, its timing did correspond with a prolonged period of unusually clear skies in the Bay Area, making available more light than usual for photosynthesis. Scientists believe that the bloom was nitrogen limited, meaning that nitrogen loads to the Bay sustained the bloom and likely contributed to its extent and duration. This conclusion, along with the increased media attention garnered by the event, has led to public and

political pressure on wastewater agencies and on regulators, particularly the Water Board, to act quickly to reduce nutrient loads to the Bay, with a goal of preventing or lessening the impact of future blooms. A brief, and thankfully less consequential, recurrence of the bloom last summer amplified that pressure.

### **Discussion**

EBDA and our partners with BACWA are currently negotiating the third Watershed Permit for nutrients. An administrative draft of the permit was provided to stakeholders on February 15, 2024, and an informal workshop was held on February 28. The draft was consistent with what had been previously communicated by Water Board staff. Specifically, the permit relies on modeling to set a Bay-wide target of 40% reduction in nitrogen loads by 2034. Reductions are then allocated to individual dischargers in the form of effluent limits that would be enforceable in 2034. While the Water Board has expressed support for continuing to refine the underlying science and for allowing additional time for multi-benefit projects, no commitments to longer timeframes are made in the draft permit. The draft permit also does not include any recognition of “early actors” – agencies like EBDA and LAVWMA members who invested in nitrogen reduction projects in advance of requirements.

In the February 28 workshop, representatives of BayKeeper expressed many common concerns with BACWA. They feared that the firm and fast deadlines would result in single-benefit projects and were concerned about the precedent set by not honoring commitments to early actors. Because Water Board staff believes that their hands are tied by legal constraints, BACWA and EBDA are jointly conferring with Clean Water Act attorneys at Meyers Nave to identify areas of flexibility.

In response to the Water Board’s request for comments on the administrative draft by March 6, EBDA submitted the attached letter. EBDA staff also contributed to a permit markup submitted by BACWA. Water Board staff has indicated that they expect to issue a Tentative Order, which is a formal public draft of the permit, in late March or early April. They are planning for a June 2024 permit adoption before the current Watershed Permit expires July 1. Staff will continue to keep the Commission apprised of developments in the negotiation.



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*A Joint Powers Public Agency*

Mr. Gaurav Mittal  
Water Resources Control Engineer  
San Francisco Bay Regional Water Board  
1515 Clay St., #1400  
Oakland, CA 94612  
[Gaurav.Mittal@Waterboards.ca.gov](mailto:Gaurav.Mittal@Waterboards.ca.gov)

March 6, 2024

RE: Administrative Draft of Nutrient Watershed Permit (NPDES PERMIT CA0038873)

Dear Mr. Mittal,

The East Bay Dischargers Authority (EBDA) appreciates this opportunity to comment on the administrative draft of the third Watershed Permit for Nutrients. EBDA is a joint powers authority made up of the Cities of San Leandro and Hayward, and the Castro Valley, Oro Loma, and Union Sanitary Districts. Including contract flows from the Livermore-Amador Valley Water Management Agency, EBDA efficiently and reliably manages the wastewater resources of one million East Bay residents and thousands of businesses to protect human and environmental health. Along with our partners in the Bay Area Clean Water Agencies (BACWA), EBDA has been an active participant in and advocate for the Nutrient Management Strategy since its inception. Our agencies believe strongly in collaborative, science-based decision-making. We appreciate the challenge the Regional Water Quality Control Board (Water Board) is facing in crafting a permit that is responsive to the 2022 Harmful Algal Bloom and protective of the Bay going forward, while acknowledging the magnitude of investments that will be required to meaningfully reduce nutrient discharges.

The EBDA agencies have long been viewed across the region as leaders in implementation of multi-benefit projects. Four of our six plants have significant recycled water programs, with Dublin-San Ramon Services District (DSRSD) recycling all of its effluent at times of peak summer demand. Four of the six plants also have nature-based projects in development that have the potential to provide flood control and habitat benefits while removing nutrients. This approach was famously demonstrated at the Oro Loma Horizontal Levee Demonstration Site, where research continues on the water quality benefits of subsurface treatment in natural systems.

EBDA will be providing proposed markups to the administrative draft permit as part of BACWA's. We wanted to take the opportunity in this letter to highlight two key requests, which are further detailed below:

- **Provide early actors with more time to achieve ultimate load reductions.**
- **Incorporate compliance flexibility to address variability in recycled water demand.**

CHAIR  
Anjali Lathi  
Union S.D.

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Fred Simon  
Oro Loma S.D.

COMMISSIONER  
Ralph Johnson  
Castro Valley S.D.

COMMISSIONER  
Bryan Azevedo  
City of San Leandro

COMMISSIONER  
Angela Andrews  
City of Hayward

GENERAL MANAGER  
Jacqueline T. Zipkin  
LEGAL COUNSEL  
Eric S. Casher

### **Early Action**

In 2019, the EBDA agencies moved forward with a suite of projects intended to provide the Bay with a head start on nutrient reduction. These projects are summarized in Attachment A to this letter. EBDA members secured financing, increased rates, and began implementing projects on the basis that they would be considered “Early Actors.” In the second Watershed Permit, Fact Sheet p. F-16 states (emphasis added):

If the most up-to-date scientific information indicates that nutrient loads must be capped *or reduced*, the Regional Water Board will recognize early actions (i.e., Dischargers’ capital or operational improvements or other means that significantly reduce nutrient loads during this Order term) when considering compliance with nutrient load caps or reductions in a subembayment. This will likely result in findings that no further actions by these Dischargers will be necessary for the design life of the associated capital improvements, provided that other Dischargers can implement capital improvements to reduce nutrient loads below the subembayment cap.

EBDA’s member agencies have taken the vulnerability of the Bay to nutrients seriously and have invested in an “all of the above” approach to reducing our loads within the current permit term and beyond. As summarized in the table, EBDA has already reduced loads by 1000 kg/d from 2019 levels. These load reductions create an important bridge that provides ongoing environmental value while other agencies finalize their nutrient reduction strategies. In addition, significant projects are underway – both traditional upgrades and multi-benefit projects – that will result in additional reductions during the next permit term.

On the understanding that after implementing their planned projects, the EBDA agencies would be moved to the “back of the line” and not asked to make further upgrades until other agencies made reductions, the EBDA agencies went above and beyond what was required of us. The cost of these projects approaches \$1B, and the agencies have fully leveraged their financial resources to make them happen. Yet according to this administrative draft, our best efforts are still not enough. As shared with Water Board staff in presentations on December 20, 2023 and January 9, 2024, EBDA estimates that at the time that final limits would become enforceable under the proposed permit, after our major projects have been completed, our dry season total inorganic nitrogen load (TIN) will be 6,300 kg/d. Including all feasible optimization measures, and using “best case” assumptions for what the project designs can achieve and for recycled water demand, EBDA estimates our load could potentially get as low as 5,000 kg/d. However, this is still shy of EBDA’s effluent limit of 4,500 kg/d, and would put us in noncompliance.

While we are willing to take additional steps to further reduce nutrient loads beyond these projects, we simply will not have the financial capacity to do so within a 10-year compliance schedule. Acknowledgement of this reality was the impetus behind the early actor language in the previous Watershed Permit. EBDA requests that the Water Board honor the previous permit language, or at a minimum, provide additional time (e.g. 10 years, 2044 compliance date) to comply for agencies that have achieved verifiable load reductions or have broken ground on improvements during the current permit term.

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					Eric S. Casher

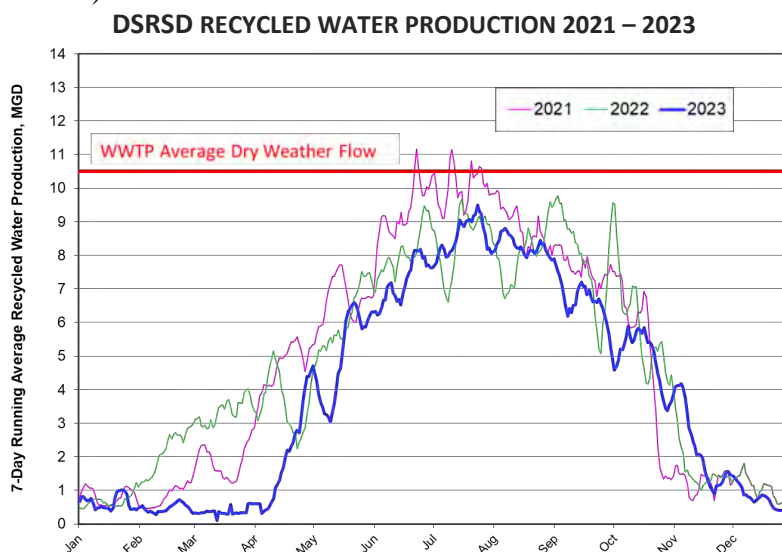


If the permit fails to recognize early actors, it will have a chilling effect on agencies considering whether to go beyond minimum requirements in the future. As we heard at the February 28 workshop, this issue is also important to Baykeeper, as they recognize the consequences for future water quality improvement if agencies fear that moving forward in advance of regulation may invite additional requirements rather than relief.

While we appreciate the Water Board’s statement in the Fact Sheet that it “will consider available regulatory mechanisms to provide Dischargers that identify multi-benefit projects likely to result in total inorganic nitrogen loads below the final effluent limitations more time to comply,” we believe that this additional time should be afforded to early actors as well. Moreover, we request that the Water Board include a compliance pathway in the permit provisions as well to provide additional certainty that our agencies will not be forced into an enforcement context after having done everything that was asked of us and more. EBDA would support development of a TMDL, Water Quality Attainment Strategy, or similar implementation approach to comprehensively establish appropriate limits and timelines for protecting the Bay from future algal blooms.

### **Recycled Water Demand Variability**

EBDA’s agencies have been leaders in water recycling, with DSRSD serving as a model for the region and exploring agreements to take on additional agencies’ effluent to meet peak summer demands, and Hayward recently expanding its recycled water deliveries. Continuing to support and expand water recycling as a strategy for dry season nutrient load diversion is a stated priority for the wastewater community, environmental NGO community, and the Water Board. However, recycled water demands are not within wastewater agencies’ control, and are highly variable. For example, a very wet spring can significantly depress recycled water demand in May, leading temporarily to higher nutrient discharges. As illustrated in the figure below, recycled water demands reached their maximum in 2021, followed by two years of decline due to wet weather. Recycled water demands were notably lower in May 2023 following a historically wet winter (25% lower compared to 2021).



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EBDA believes it is counter to our common goals to penalize agencies for temporary demand decreases and force investment in plant upgrades, diverting financial resources from expanding water recycling programs. DSRSD estimates that adding nutrient reduction at its wastewater treatment plant could cost approximately \$54 million and divert future funding away from expanding the recycled water program. This expansion, in contrast, would reduce nutrient loads to the Bay overall by diverting wastewater from neighboring agencies to meet recycled water peak demands.

To address this inherent variability and incentivize expansion of recycled water programs, EBDA requests two revisions to the administrative draft:

- **Exclude the month of May** which historically has the largest variation in recycled water demand. Wet hydrologic conditions result in lower demand and risk of algal blooms. Drier hydrologic conditions naturally result in higher recycled water demands and increased nutrient reductions.
- Base compliance with final seasonal limitations on a **3-year rolling average** of from discharges from June 1 – September 30.

### Conclusion

EBDA's members have done everything that has been expected of us and more. We have invested significant capital in treatment plant upgrades to remove nutrients. We have maximized water recycling to provide water supply and nutrient diversion. We have pioneered multi-benefit nature-based approaches to nutrient removal. We might be able to do more – further optimize our processes, explore sidestream treatment, expand water recycling – but we need more time. We respectfully request that the Water Board include concrete assurances in the third Watershed Permit that longer compliance pathways will be available so that agencies that are engaged in multi-benefit projects and those that have implemented early action will not be held in violation of effluent limits in 2034.

We welcome your questions and continued collaboration on these challenging issues. You can reach me at (510) 278-5910 or [jzipkin@ebda.org](mailto:jzipkin@ebda.org).

Sincerely,



Jackie Zipkin, P.E.  
General Manager

Cc:

Eileen White, Tom Mumley, Bill Johnson, Robert Schlipf – Regional Water Board  
Ellen Blake, Peter Kozelka – USEPA Region 9  
Lorien Fono – Bay Area Clean Water Agencies  
Jon Rosenfield, Ian Wren – San Francisco Baykeeper

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### EBDA Nutrient Reduction Early Action and Multi-Benefit Projects

Agency	Plant Upgrade	Water Recycling	Nature-based Solutions
Oro Loma/Castro Valley Sanitary Districts	\$20M Nutrient Optimization Project was placed into operation in 2020. Oro Loma's load in 2022 was 304 kg/d. Using their 2022 flows and pre-upgrade concentrations, their load would have been 1388 kg/d - a <b>reduction of over 1000 kg/d</b> that potentially decreased the severity of the algal bloom.	Recycled Water provided to former Skywest Golf Course during dry season.	The pioneering Oro Loma Horizontal Levee Demonstration Project has provided the data and framework to support many projects around the Bay that will achieve water quality improvement while also enhancing habitat and offering flood protection. EBDA is also continuing to pursue the First Mile Horizontal Levee Project, which was recently funded for final design and permitting and would receive Oro Loma effluent.
Union Sanitary District	Currently in construction on a \$509M upgrade, designed to achieve a 50% nutrient load reduction. Expected project completion in 2029.	Participating in Regional Purified Water Pilot Project with Alameda County Water District, Zone 7, San Francisco PUC, Dublin San Ramon Services District, and others.	Horizontal levee project being evaluated in cooperation with South Bay Salt Ponds as part of continuing work by BACWA assessing Nature-Based Solutions for Nutrient Removal.
City of Hayward	Currently in design on a \$300M upgrade, designed to achieve a 30% nutrient load reduction. Expected project completion in 2029.	Currently send 1-2 MGD of recycled water to Russel City Energy Center year-round (subject to RCEC's demands). An additional ~0.5 MGD is provided to irrigation customers.	Feasibility studies completed and design underway for a treatment wetland and horizontal levee at the former Hayward Oxidation Ponds.
City of San Leandro	Currently evaluating optimization strategies and sidestream treatment options.	Recycled water provided to Monarch Bay Golf Course for irrigation.	Construction expected to commence this summer on a treatment wetland at the plant site. Studies will begin this Spring on expanded treatment wetland concepts on additional land owned by the City.
Dublin San Ramon Services District (DSRSD)		DSRSD maximizes water recycling during the dry season. At times, demand exceeds the capacity of DSRSD's effluent, and no flow (or corresponding nutrient load) is sent to EBDA.	
City of Livermore		Recycled water program diverts approximately 1/3 of Livermore's flow and load in the dry season.	

**ITEM NO. RA10 MOTION AUTHORIZING THE GENERAL MANAGER TO EXECUTE AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH PACIFIC ECORISK FOR EFFLUENT TOXICITY TESTING IN THE AMOUNT OF \$10,020, FOR A TOTAL NOT TO EXCEED AMOUNT OF \$129,639**

**Recommendation**

Approve a motion authorizing the General Manager execute an amendment to the contract with Pacific EcoRisk.

**Strategic Plan Linkage**

3. **Regulatory Compliance:** Proactively meet or exceed regulatory requirements for protection of the environment and public health.
  - b. Maintain consistent compliance with EBDA's National Pollutant Discharge Elimination System (NPDES) Permit.

**Background**

EBDA's NPDES discharge permit requires testing of the effluent's acute and chronic toxicity to ensure that the discharge is not impacting the biota living around the outfall. Tests are performed using live organisms, and their survival and growth response are measured while exposed to a range of concentrations of effluent. The Authority has used Pacific EcoRisk, an independent contract laboratory, for bioassay testing services for the past thirteen years. City of San Leandro staff previously conducted acute toxicity testing at the Marina Dechlorination Facility (MDF), while chronic toxicity was contracted to Pacific EcoRisk. Conducting toxicity testing is very labor intensive and contains significant inherent risk, since you are dealing with live organisms. Only a handful of large wastewater agency labs currently maintain chronic toxicity testing in-house.

In May 2022, the EBDA Commission authorized a five-year contract with Pacific EcoRisk to perform all toxicity testing through the current NPDES permit term.

**Discussion**

Per the NPDES permit, EBDA sends samples of final effluent collected at MDF to Pacific EcoRisk for toxicity testing. Historically, those samples had zero chlorine, as EBDA removed all chlorine prior to discharge to comply with a 0.0 mg/L instantaneous maximum total chlorine residual limit. As discussed previously, EBDA's permit was recently amended to allow a chlorine residual of 0.98 mg/L as a one-hour average. EBDA is therefore no longer fully dechlorinating the final effluent.

Having chlorine present interferes with toxicity tests, so Pacific EcoRisk must now add a step to their testing process to dechlorinate EBDA's samples. The cost of implementing this dechlorinating step was not included in Pacific EcoRisk's original quote, so staff is recommending amending the contract to add it to the scope. The following table summarizes the projected cost increase. Staff notes that Pacific EcoRisk only bills EBDA for work actually conducted.

Agenda Explanation  
East Bay Dischargers Authority  
Regulatory Affairs Committee  
March 18, 2024

2022 Estimate		2024 Estimate	
Fiscal Year	Cost	Price Escalation	Cost
2022/2023	\$ 21,648		\$ 21,648
2023/2024	\$ 22,730	5%	\$ 23,768
2024/2025	\$ 23,867	5%	\$ 26,716
2025/2026	\$ 25,060	5%	\$ 28,052
2026/2027	\$ 26,313	5%	\$ 29,455
Total	\$ 119,619		\$ 129,639



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**ITEM NO. 13**

**FINANCIAL MANAGEMENT COMMITTEE AGENDA**

**Wednesday, March 20, 2024**

**8:00 AM**

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

**Committee Members: Simon (Chair); Andrews**

**FM1. Call to Order**

**FM2. Roll Call**

**FM3. Public Forum**

**FM4. Disbursements for February 2024**  
(The Committee will review the Lists of Disbursements.)

**FM5. Treasurer's Report for February 2024**  
(The Committee will review the Treasurer's Report.)

**FM6. Second Quarter Expense Summary, Fiscal Year 2023/2024**  
(The Committee will review the FY 2023/2024 second quarter expenses.)

**FM7. Preliminary Budget Considerations**  
(The Committee will provide feedback to staff on considerations for the FY 2024/2025 Budget.)

**FM8. Motion Authorizing the General Manager to Execute an Agreement with Redwood Public Law LLP for General Counsel Services**  
(The Committee will consider the motion.)

**FM9. Motion Authorizing the General Manager to Approve an Engagement of Legal Services with Meyers Nave for Specialized Legal Services**  
(The Committee will consider the motion.)

**FM10. 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  
March 20, 2024

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](mailto: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>.

<b>Next Scheduled Financial Management Committee is Wednesday, April 17, 2024 at 8:00 am</b>
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**ITEM NO. FM4 DISBURSEMENTS FOR FEBRUARY 2024**

Disbursements for the month of February totaled \$316,355.73.

Reviewed and Approved by:

<hr/>	
Fred Simon, Chair	Date
Financial Management Committee	

<hr/>	
Jacqueline T. Zipkin	Date
Treasurer	

**EAST BAY DISCHARGERS AUTHORITY**  
**List of Disbursements**  
**February 2024**

Check #	Payment Date	Invoice #	Vendor Name	Description	Invoice Amount	Disbursement Amount
26375	02/15/2024	352002	CITY OF HAYWARD	HEPS O&M OCT-DEC	50,847.60	50,847.60
26387	02/15/2024	003058	UNION SANITARY DISTRICT	UEPS O&M - NOV	32,996.05	32,996.05
26383	02/15/2024	6899	ORO LOMA SANITARY DISTRICT	OLEPS O&M - DEC	24,227.50	24,227.50
26378	02/15/2024	395152	CITY OF SAN LEANDRO	MDF O&M - DEC	22,493.45	22,493.45
26394	02/29/2024	193173	ENVIRONMENTAL SCIENCE ASSOCIATES	FIRST MILE PROJECT WORK ORDER NO. 3	16,689.25	16,689.25
26389	02/29/2024	INV-0000350697	BLACKBAUD	FE NXT ACCTG SOFTWARE SUBSCRIPTION 3/05/24-3/04/25	13,876.93	12,629.18
26389	02/29/2024	CRM-0000007020	BLACKBAUD	FE ACCTG SOFTWARE SUBSCRIPTION CR	(296.22)	
26389	02/29/2024	CRM-0000007019	BLACKBAUD	FE ACCTG SOFTWARE SUBSCRIPTION CR	(951.53)	
26398	02/29/2024	16280	REGIONAL GOVERNMENT SERVICES	MANAGEMENT AND ADMINISTRATIVE SERVICES	7,146.70	7,146.70
26381	02/15/2024	EA06-1223	EOA, INC	TOTAL RESIDUAL CHLORINE (TRC) EFFLUENT LIMIT IMPLEMENTATION	6,387.00	6,387.00
26391	02/29/2024	55816	CALCON	MDF AUTOMATION UPGRADE PLC & SCADA PROGRAMMING	3,880.80	5,161.00
26391	02/29/2024	55817	CALCON	MDF AUTOMATION UPGRADE NEW REPORTS	1,280.20	
26390	02/29/2024	11509510	BROWN & CALDWELL	ENGINEERING SERVICES - BRINE ASSESSMENT PP39	3,161.29	3,161.29
26380	02/15/2024	39867	CRANE TECH INC	OLEPS ANNUAL INSPECTION & CERTIFICATION OF 15-TON BRIDGE CRANE	1,408.44	1,408.44
26376	02/15/2024	52205708	CITY OF HAYWARD	EMPLOYEE BENEFIT PROGRAMS - FEB	1,370.66	1,370.66
26382	02/15/2024	213346	MEYERS NAVE	LEGAL SERVICES - DEC	1,324.36	1,324.36
26382	02/15/2024	213347	MEYERS NAVE	LEGAL SERVICES - BRINE PROJECT	1,120.60	1,120.60
26374	02/15/2024	88423	CAYUGA INFORMATION SYSTEMS	IT SERVICES	945.00	945.00
26386	02/15/2024	4246-0445-5568-7627	U.S. BANK	PURCHASING CARD EXPENSES	921.97	921.97
26392	02/29/2024	716721	CALTEST	LAB TESTING SERVICES - JAN	900.16	900.16
26385	02/15/2024	1001649290	STATE COMPENSATION INSURANCE FUND	WORKERS COMPENSATION - FEB	878.00	878.00
26377	02/15/2024	394597	CITY OF SAN LEANDRO	MDF CUPA ANNUAL HAZARDOUS MATERIALS & WASTE FEE	804.00	804.00
26388	02/29/2024	42600	BA MORRISON	HEPS HVAC SERVICE	405.00	690.00
26388	02/29/2024	42601	BA MORRISON	ADMIN HVAC SERVICE	285.00	
26396	02/29/2024	259675962	ORKIN	MDF PEST CONTROL SERVICE	232.99	232.99
26384	02/15/2024	CD_000745871	RINGCENTRAL INC	DIGITAL PHONE SERVICE	212.58	212.58
26393	02/29/2024	4004554	CALTRONICS	COPIER USAGE AND MAINTENANCE 1/18/24-2/17/24	194.35	194.35
26397	02/29/2024	150.55	PITNEY BOWES INC	DIGITAL MAILING SYSTEM QUARTERLY LEASE CHARGE	150.55	150.55
26379	02/15/2024	55358	COMPUTER COURAGE	WEBSITE HOSTING	150.00	150.00
26395	02/29/2024	Jan-24	JACQUELINE ZIPKIN	REIMBURSABLE EXPENSES	28.60	28.60
					<b>193,071.28</b>	<b>193,071.28</b>
				<b>ELECTRONIC PAYMENTS</b>		
	02/02/2024	5105948980-0	PG&E	GAS & ELECTRIC SERVICE	47,345.81	47,345.81
	02/02/2024	100000017421027	CALPERS	HEALTH PREMIUMS - FEB	8,249.51	8,249.51



**EAST BAY DISCHARGERS AUTHORITY**  
**List of Disbursements**  
**February 2024**

Check #	Payment Date	Invoice #	Vendor Name	Description	Invoice Amount	Disbursement Amount
	02/02/2024	100000017386073	CALPERS	PENSION CONTRIBUTION, CLASSIC 1/16 - 31/2024	5,710.87	5,710.87
	02/20/2024	100000017417137	CALPERS	PENSION CONTRIBUTION, CLASSIC 2/01 - 15/2024	5,710.87	5,710.87
	02/05/2024	6569864	MISSION SQUARE	DEFERRED COMPENSATION 1/31/2024	2,106.70	2,106.70
	02/20/2024	6593080	MISSION SQUARE	DEFERRED COMPENSATION 2/15/2024	2,106.70	2,106.70
	02/13/2024	51048304397166	AT&T	MDF TELEPHONE SERVICE	277.95	277.95
	02/05/2024	2402036472	INTERMEDIA.NET INC	EMAIL EXCHANGE HOSTING	121.87	121.87
	02/20/2024	9955571083	VERIZON WIRELESS	WIRELESS PHONE SERVICES	63.04	63.04
<b>TOTAL ELECTRONIC PAYMENTS</b>					<b>71,693.32</b>	<b>71,693.32</b>
<b>PAYROLL</b>						
	02/28/2024		ADP, LLC	PAYROLL PERIOD: 02/16-29/2024	27,452.24	27,452.24
	02/14/2024		ADP, LLC	PAYROLL PERIOD: 02/01-15/2024	23,914.22	23,914.22
	02/09/2024	653555467	ADP, LLC	PAYROLL FEES, 1/16-31/2024	102.06	102.06
	02/23/2024	654737243	ADP, LLC	PAYROLL FEES, 2/01-15/2024	87.86	87.86
	02/21/2024	654138423	ADP, LLC	PAYROLL FEES, TAX REPORTING	34.75	34.75
<b>TOTAL PAYROLL</b>					<b>51,591.13</b>	<b>51,591.13</b>
<b>TOTAL DISBURSEMENTS</b>					<b>316,355.73</b>	<b>316,355.73</b>

**ITEM NO. FM5 TREASURER'S REPORT FOR FEBRUARY 2024**

The cash balance as of February 29, 2024 is \$4,715,420.78. EBDA's LAIF balance is \$1,285,144.77, and the average monthly effective yield for February is 4.122%. EBDA's CAMP balance is \$1,540,574.99, and CAMP's 7-day yield is 5.47%.

**Approval is recommended.**

**EAST BAY DISCHARGERS AUTHORITY  
TREASURER'S REPORT  
February 2024**

FUND	FUND DESCRIPTION	BEGINNING CASH BALANCE	DEBITS (INCREASE)	CREDITS (DECREASE)	ENDING CASH BALANCE
12	OPERATIONS & MAINTENANCE	\$ 796,053.41	\$ 1,295,714.26	\$ 287,070.17	\$ 1,804,697.50
13	PLANNING & SPECIAL STUDIES	78,861.96	380,207.57	16,689.25	442,380.28
14	RECLAMATION O & M (SKYWEST)	77,256.99	0.00	2,013.82	75,243.17
15	BRINE ACCEPTANCE	151,223.03	3,560.04	4,281.89	150,501.18
31	RENEWAL & REPLACEMENT	2,241,710.60	7,188.65	6,300.60	2,242,598.65
<hr/>					
TOTALS		\$ 3,345,105.99	\$ 1,686,670.52	\$ 316,355.73	\$ 4,715,420.78

Feb-24  
3/12/2024

SUPPLEMENTAL TREASURER'S REPORT

DATE	TRANSACTION	RECEIPT	DISBURSEMENT CHECKING	DISBURSEMENT PAYROLL	PAYROLL TRANSFER	LAIF	CAMP	WELLS FARGO CHECKING BALANCE	WELLS FARGO PAYROLL BALANCE	LAIF BALANCE	CAMP BALANCE	TOTAL CASH
01/31/24	BALANCE							502,144.38	24,430.50	1,285,144.77	1,533,386.34	3,345,105.99
02/01/24	DIVIDENDS	7,188.65					7,188.65	502,144.38	24,430.50	1,285,144.77	1,540,574.99	3,352,294.64
02/01/24	DEPOSIT - CARGILL	28,925.82						531,070.20	24,430.50	1,285,144.77	1,540,574.99	3,381,220.46
02/01/24	DEPOSIT - ORO LOMA	335,446.27						866,516.47	24,430.50	1,285,144.77	1,540,574.99	3,716,666.73
02/02/24	ELECTRONIC BILL PAY		5,710.87					860,805.60	24,430.50	1,285,144.77	1,540,574.99	3,710,955.86
02/02/24	ELECTRONIC BILL PAY		8,249.51					852,556.09	24,430.50	1,285,144.77	1,540,574.99	3,702,706.35
02/02/24	ELECTRONIC BILL PAY		47,345.81					805,210.28	24,430.50	1,285,144.77	1,540,574.99	3,655,360.54
02/05/24	ELECTRONIC BILL PAY		121.87					805,088.41	24,430.50	1,285,144.77	1,540,574.99	3,655,238.67
02/05/24	ELECTRONIC BILL PAY		2,106.70					802,981.71	24,430.50	1,285,144.77	1,540,574.99	3,653,131.97
02/05/24	DEPOSIT - CVSAN	179,487.35						982,469.06	24,430.50	1,285,144.77	1,540,574.99	3,832,619.32
02/08/24	DEPOSIT - LAVWMA	500,110.09						1,482,579.15	24,430.50	1,285,144.77	1,540,574.99	4,332,729.41
02/09/24	PAYROLL FEES			102.06				1,482,579.15	24,328.44	1,285,144.77	1,540,574.99	4,332,627.35
02/12/24	DEPOSIT	500.00						1,483,079.15	24,328.44	1,285,144.77	1,540,574.99	4,333,127.35
02/12/24	PAYROLL TRANSFER				75,000.00			1,408,079.15	99,328.44	1,285,144.77	1,540,574.99	4,333,127.35
02/13/24	DEPOSIT - USD	579,376.69						1,987,455.84	99,328.44	1,285,144.77	1,540,574.99	4,912,504.04
02/13/24	ELECTRONIC BILL PAY		277.95					1,987,177.89	99,328.44	1,285,144.77	1,540,574.99	4,912,226.09
02/14/24	PAYROLL			23,914.22				1,987,177.89	75,414.22	1,285,144.77	1,540,574.99	4,888,311.87
02/15/24	DISBURSEMENT		146,087.21					1,841,090.68	75,414.22	1,285,144.77	1,540,574.99	4,742,224.66
02/20/24	DEPOSIT - ABAG	55,635.65						1,896,726.33	75,414.22	1,285,144.77	1,540,574.99	4,797,860.31
02/20/24	ELECTRONIC BILL PAY		63.04					1,896,663.29	75,414.22	1,285,144.77	1,540,574.99	4,797,797.27
02/20/24	ELECTRONIC BILL PAY		5,710.87					1,890,952.42	75,414.22	1,285,144.77	1,540,574.99	4,792,086.40
02/20/24	ELECTRONIC BILL PAY		2,106.70					1,888,845.72	75,414.22	1,285,144.77	1,540,574.99	4,789,979.70
02/21/24	PAYROLL FEES			34.75				1,888,845.72	75,379.47	1,285,144.77	1,540,574.99	4,789,944.95
02/23/24	PAYROLL FEES			87.86				1,888,845.72	75,291.61	1,285,144.77	1,540,574.99	4,789,857.09
02/28/24	PAYROLL			27,452.24				1,888,845.72	47,839.37	1,285,144.77	1,540,574.99	4,762,404.85
02/29/24	DISBURSEMENT		46,984.07					1,841,861.65	47,839.37	1,285,144.77	1,540,574.99	4,715,420.78
TOTAL		1,686,670.52	264,764.60	51,591.13	75,000.00	-	7,188.65					
CURRENT BALANCE								1,841,861.65	47,839.37	1,285,144.77	1,540,574.99	4,715,420.78

①

②

③

④

Reconciliation - 02/29/2024

① Bank Statement Balance	\$ 1,947,580.98
Less: Outstanding Checks	105,719.33
	\$ 1,841,861.65
② Payroll Bank Statement	\$ 47,839.37
③ LAIF Statement	\$ 1,285,144.77
④ CAMP Statement	\$ 1,547,292.16
Less: Accrual Income Dividend	6,717.17
	\$ 1,540,574.99

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 SECOND QUARTER EXPENSE SUMMARY, FISCAL YEAR 2023/2024**

**Recommendation**

Approve the Second Quarter Expense Summary for Fiscal Year 2023/2024.

**Strategic Plan Linkage**

3. **Financial:** Develop financial strategies and practice sound fiscal management to ensure wise use of ratepayers' resources.
  - b. Proactively manage expenditures to stay within adopted budget.

**Background**

The Second Quarter Expense Summary for FY 2023/2024 is attached for the Committee's review. Expenses are presented by Program and by Account Code. These categories have been grouped to provide an overview of Authority expenses. The tables include discussion of particular items that varied significantly (>10%) from the budget.

**Discussion**

At the end of the second quarter, 50% through the fiscal year, EBDA's spending is slightly over budget, at 51% spent. Staff notes that the Authority's most significant annual fees including BACWA dues, Nutrient Surcharge, Water Research Foundation, and NPDES permit fee have been paid in the first half of the year, and therefore those line items are expected to revert to budget at year end.

O&M spending is tracking slightly low at 46% through the second quarter. The budget for maintenance and repair of the force main was somewhat conservative this year as we transitioned service from San Leandro to USD. Spending is expected to increase in that category as the year progresses. That said, O&M spending overall is likely to be low thanks to decreased chemical needs for sodium bisulfite resulting from the change in total residual chlorine effluent limit that took effect January 1.

# East Bay Dischargers Authority

## EXPENSE SUMMARY BY PROGRAM

FY 2023/2024 THROUGH DECEMBER 31, 2023 (50% of YEAR)

	YTD Expenses	Budget	Revenues Cargill, Grant, & Skywest	Variance	% of Budget	Explanations for Variance Over 10%
<b>O&amp;M EFFLUENT DISPOSAL</b>						
General Administration	\$619,887	\$1,487,812		(\$867,925)	42%	
Outfall & Force mains	\$49,046	\$269,800		(\$220,754)	18%	Budget was conservative as we transitioned service providers.
Marina Dechlor Facility	\$268,632	\$614,100		(\$345,468)	44%	
Oro Loma Pump Station	\$269,963	\$613,000		(\$343,037)	44%	
Hayward Pump Station	\$81,605	\$186,000		(\$104,396)	44%	
Union Pump Station	\$222,031	\$466,000		(\$243,969)	48%	
Bay & Effluent Monitoring	\$512,308	\$729,867		(\$217,559)	70%	BACWA dues paid for FY.
<b>TOTAL O&amp;M EFFLUENT DISPOSAL</b>	<b>\$2,023,472</b>	<b>\$4,366,579</b>	<b>\$0</b>	<b>(\$2,343,107)</b>	<b>46%</b>	
<b>SPECIAL PROJECTS</b>						
NPDES Permit Fees	\$685,195	\$693,023		(\$7,828)	99%	Permit fee paid for FY.
Regional Monitoring Program	\$0	\$293,760		(\$293,760)	0%	Fees will be paid later this year.
Alternative Monitoring and Reporting	\$0	\$32,314		(\$32,314)	0%	Fees will be paid later this year.
Nutrient Surcharge	\$240,143	\$240,143		\$0	100%	Fee paid for FY.
Water Research Foundation	\$27,553	\$27,665		(\$112)	100%	Fee paid for FY.
Strategic Planning	\$363	\$0		\$363	-	
Nature-Based Solutions Study	\$101,619	\$200,000	\$101,619	(\$200,000)	51%	
Solar Feasibility Study	\$2,264	\$5,000		(\$2,736)	45%	
Bruce Wolfe Memorial	\$0	\$1,000		(\$1,000)	0%	Contribution will be made later this year.
<b>TOTAL SPECIAL PROJECTS</b>	<b>\$1,057,136</b>	<b>\$1,492,905</b>	<b>\$101,619</b>	<b>(\$537,387)</b>	<b>64%</b>	
<b>TOTAL AGENCY-FUNDED PROGRAMS</b>	<b>\$3,080,608</b>	<b>\$5,859,484</b>	<b>\$101,619</b>	<b>(\$2,880,494)</b>	<b>51%</b>	
<b>WATER RECYCLING</b>						
Skywest Golf Course	\$19,322	\$36,000	\$18,000		54%	
<b>TOTAL WATER RECYCLING</b>	<b>\$19,322</b>	<b>\$36,000</b>	<b>\$18,000</b>		<b>54%</b>	
<b>BRINE ACCEPTANCE</b>						
Brine Acceptance	\$43,271		\$43,271			All work performed is reimbursed by Cargill.
<b>TOTAL BRINE ACCEPTANCE</b>	<b>\$43,271</b>		<b>\$43,271</b>			
<b>TOTAL ALL PROGRAMS</b>	<b>\$3,143,201</b>	<b>\$5,895,484</b>	<b>\$162,889</b>	<b>(\$2,915,172)</b>	<b>51%</b>	

# East Bay Dischargers Authority

## PRELIMINARY EXPENSE SUMMARY BY ACCOUNT

FY 2023/2024 THROUGH DECEMBER 31, 2023 (50% OF YEAR)

	YTD Expenses	Budget	Revenues Cargill, Grant, & Skywest	Variance	% of Budget	Explanations for Variance Over 10%
4010 - Salary	\$318,963	\$663,595	\$10,654	(\$355,285)	46%	
4020 - Benefits	\$126,268	\$257,217		(\$130,949)	49%	
4030 - Commissioner Compensation	\$13,920	\$45,000		(\$31,080)	31%	Budget assumes maximum number of meetings.
4070 - Insurance	\$38,365	\$75,900	-	(\$37,535)	51%	
4080 - Memberships & Subscriptions	\$159,948	\$166,472		(\$6,524)	96%	BACWA & WRF dues paid for the FY.
4100 - Supplies, Variable	\$333,583	\$670,000		(\$336,417)	50%	
4100 - Supplies, Fixed	\$6,871	\$23,000		(\$16,129)	30%	Deferred replacement of several computers.
4110 - Contract Services	\$24,669	\$60,841		(\$36,172)	41%	
4120 - Professional Services	\$346,674	\$598,831	\$139,385	(\$391,541)	35%	Revenues from Cargill and grant bring item under budget overall.
4140 - Rents & Fees	\$935,443	\$939,446		(\$4,003)	100%	Fees paid for FY.
4141 - NPDES Fines	\$0	\$9,000		(\$9,000)	0%	Reserve funds in case of enforcement.
4150 - Maintenance & Repair	\$320,272	\$937,100	\$11,281	(\$628,109)	33%	Force Main budget was conservative as we transitioned service providers.
4160 - Monitoring	\$102,736	\$558,282	\$1,570	(\$457,116)	18%	RMP fees not billed yet
4170 - Travel	\$4,585	\$18,000		(\$13,415)	25%	Reduced travel due to many meetings transitioning to video conference.
4191 - Utility, Variable	\$409,747	\$864,800	-	(\$455,053)	47%	
4200 - Acquisitions & Other	\$1,158	\$8,000	-	(\$6,842)	14%	Allowance for Skywest capital projects.
<b>TOTAL ALL ACCOUNTS</b>	<b>\$3,143,201</b>	<b>\$5,895,484</b>	<b>\$162,889</b>	<b>(\$2,915,172)</b>	<b>51%</b>	



## ITEM NO. FM7 PRELIMINARY BUDGET CONSIDERATIONS

### Recommendation

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

### Strategic Plan Linkage

3. **Financial:** Develop financial strategies and practice sound fiscal management to ensure wise use of ratepayers' resources.
  - b. Proactively manage expenditures to stay within adopted 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.

A complete draft budget for FY 2024/2025 will be presented for the Committee's consideration in April 2024, with a goal of Commission adoption in May 2024.

### Discussion

Staff expects the FY 2024/2025 to be very similar to the FY 2023/2024 budget total. Staff notes the following considerations:

- Labor and benefits assumptions were reviewed with the Personnel Committee in February 2023. Per that Committee's direction, staff is assuming a 2.6% cost of living adjustment for salaries. Overall, salary and benefits costs are expected to increase by approximately 9%. This is due to the fact that, as discussed with the Personnel Committee, medical benefits are projected to increase by up to 12%. In addition, EBDA was not required to make an unfunded accrued liability contribution to the Authority's pension plan in FY 2023/2024 but will be making a \$21,000 payment next fiscal year.
- The State Water Resources Control Board is currently expecting to increase National Pollutant Discharge Elimination System (NPDES) Permit Fees by 2%. This is significantly less than the 8.8% and 11.8% increases implemented in the past two years. The SWRCB continues refining their fee schedule each year until August, and fee increases could go up or down in that time. Staff is assuming the 2% for now and will keep the Commission apprised of changes.
- While chemicals costs continue to rise on a unit cost basis, staff is proposing a significant decrease in EBDA's chemical budget due to implementation of the new

effluent limit for chlorine residual. As discussed in Item No. OM5, EBDA has gone from spending over \$68,000 on sodium bisulfite deliveries in the second quarter this fiscal year, prior to implementation of the new chlorine limit, to spending zero in quarter three. This decrease in chemical cost in FY2024/2025 will offset the increases to benefits costs noted above, as well as other expected increases.

- As in previous years, PG&E costs are expected to increase.
- At the recommendation of the MAC, staff has added \$100,000 to the NPDES Permit Issues budget to provide flexibility in responding to the Nutrient Watershed Permit. As discussed in Item No. RA9, the Regional Water Board is scheduled to adopt the third Watershed Permit in June 2024. While staff is hopeful that negotiation prior to adoption will result in a workable permit, budgeting funds will provide flexibility for retaining technical and/or legal support in the event that EBDA decides to appeal the permit.
- Staff is not recommending any new Special Studies at this time.
- Staff expects to continue efforts associated with the Cargill project in FY 2024/2025. This project will continue to be shown as part of a separate brine fund that recognizes the revenue associated with Cargill's complete reimbursement of EBDA's expenditures.

**ITEM NO. FM8 MOTION AUTHORIZING THE GENERAL MANAGER TO EXECUTE AN AGREEMENT WITH REDWOOD PUBLIC LAW LLP FOR GENERAL COUNSEL SERVICES**

**Recommendation**

Approve the motion authorizing a legal services agreement with Redwood Public Law LLP for Eric S. Casher to continue serving as Authority General Counsel.

**Strategic Plan Linkage**

4. **Sustained Organization:** Sustain a functional, productive, resilient organization to ensure EBDA can strive to achieve its Mission and Vision.

**Background**

In 2016, Eric S. Casher began working for the Authority as General Counsel, through a contract with Meyers Nave. Mr. Casher took over this role from Meyers Nave founding partner Steve Meyers. Mr. Casher informed the Authority of his transition from Meyers Nave to Redwood Public Law in early February 2024.

**Discussion**

The Commission met in closed session on February 15, 2024, to discuss Mr. Casher's transition to Redwood Public Law. At the conclusion of the meeting, the Commission expressed a desire for Mr. Casher to continue serving as General Counsel through an agreement with Redwood Public Law. Redwood Public Law is a newly formed law firm that is focused on public agency representation and will include, in addition to Mr. Casher, a number of other attorneys that serve as City Attorneys for cities throughout the Bay Area and beyond. Alex Mog, Oro Loma Sanitary District's General Counsel, as well as Erica Gonzalez and other attorneys currently providing legal services to the Authority will be joining Redwood Public Law along with Mr. Casher.

Mr. Casher is an experienced attorney who has provided legal services to the Authority for nearly eight years. Over that period of time, Mr. Casher has consistently provided excellent legal services to the Authority, managing the full range of legal issues the Authority faces, and served as a trusted advisor and counsel to the Commission and staff. A new legal services agreement with Redwood Public Law has been prepared and is consistent with the agreement approved by Oro Loma Sanitary District on March 5, 2024. A copy of the legal services agreement for Redwood Public Law is attached. The agreement contains the same rates as those that currently exist with Meyers Nave, and thus there will be no fiscal impact as a result of this agreement. In addition, at the Commission's request, the agreement is being proposed with no explicit termination date, and with an annual process for reviewing General Counsel performance and increasing billing rates by CPI.

**LEGAL SERVICES AGREEMENT BETWEEN  
EAST BAY DISCHARGERS AUTHORITY  
AND  
REDWOOD PUBLIC LAW**

**THIS AGREEMENT** for legal services is made by and between the East Bay Dischargers Authority ("EBDA") and Redwood Public Law, a Limited Liability Partnership, with offices located at 66 Franklin Street, Ste. 300, Oakland, CA 94607, ("Attorney") (together sometimes referred to as the "Parties") as of March 15, 2024 (the "Effective Date") in San Lorenzo, California.

**Section 1. SERVICES.** Subject to the terms and conditions set forth in this Agreement, Attorney shall provide to EBDA the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 Term of Services.** The term of this Agreement shall begin on the Effective Date, shall end on June 30, 2025, and shall automatically renew for additional year each year on July 1, subject to a satisfactory performance review as provided in Section 1.2, or unless the term of the Agreement is otherwise terminated as provided for in Section 8. The time provided to Attorney to complete the services required by this Agreement shall not affect the EBDA's right to terminate the Agreement, as provided for in Section 8.
- 1.2 Standard of Performance.** Attorney shall perform all legal services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Attorney is engaged in the geographical area in which Attorney practices its profession. Attorney shall prepare all work products required by this Agreement in a professional manner and shall conform to the standards of quality normally observed by a person practicing in Attorney's profession. Attorney shall conduct an annual performance evaluation with the EBDA Commission.
- 1.3 Assignment of Personnel.** Attorney shall assign only competent personnel to perform services pursuant to this Agreement. For the purposes of this Agreement, the EBDA Commissioners appoints Eric Casher as EBDA General Counsel. Attorney may discharge and/or change its staff at any time without the consent of EBDA. However, the EBDA Commission shall approve all appointments to the position of EBDA General Counsel.
- 1.4 Time.** Attorney shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 1.1 above and to satisfy Attorney's obligations hereunder.

**Section 2. COMPENSATION.** EBDA hereby agrees to pay Attorney an hourly fee as set forth in Exhibit A and all reimbursable expenses incurred in performing the work. Attorney shall

submit all invoices to EBDA in the manner specified herein. Except as specifically authorized by EBDA, Attorney shall not bill EBDA for duplicate services performed by more than one person. Attorney and EBDA acknowledge and agree that compensation paid by EBDA to Attorney under this Agreement is based upon Attorney's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Attorney. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Attorney and its employees, agents, and subcontractors may be eligible. EBDA therefore has no responsibility for such contributions beyond compensation required under this Agreement.

**2.1 Invoices.** Attorney shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- The beginning and ending dates of the billing period;
- A detailed summary of each task;
- A list of all attorneys working on each file

**2.2 Monthly Payment.** EBDA shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. EBDA shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Attorney.

**2.3 Hourly Fees.** Fees for work performed by Attorney on an hourly basis shall not exceed the amounts shown on the following fee schedule attached hereto as Exhibit A. Fees listed in Exhibit A shall be adjusted at the beginning of each fiscal year, commencing July 1, 2024, pursuant to the Consumer Price Index for All Urban Consumers (CPI-U) for San Francisco-Oakland-Hayward, CA for the period of January 1 through December 30 of the previous year., rounded up to the nearest five dollars (\$5.00) per hour. However, such adjustment shall be no less than 2.0% and no more than 5.0% per year.

**2.4 Reimbursable Expenses.** In addition to payment of legal fees, EBDA shall reimburse Attorney for all reasonable costs incurred in the course of providing legal services to the EBDA. Such costs include all third-party expenses relating to litigation, duplicating, delivery charges, computerized legal research, filing fees, and consulting expenses. Costs for third-party expenses under \$100.00 will be paid by Attorney and will be reimbursed by EBDA; costs for third-party expenses that exceed \$100.00 shall be approved for payment by the Attorney and sent to the EBDA for direct payment. EBDA shall be billed actual costs, only, without an additional markup. Attorney will not charge for travel time and expenses for attending regularly scheduled meetings of the EBDA Commission, nor for time spent preparing detailed billing statements.

**2.5 Payment of Taxes.** Attorney is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

**2.6 Payment upon Termination.** In the event that the EBDA or Attorney terminates this Agreement pursuant to Section 8, the EBDA shall compensate the Attorney for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Attorney shall maintain adequate logs and timesheets in order to verify costs incurred to that date.

**Section 3. FACILITIES AND EQUIPMENT.** Attorney shall, at its sole cost and expense, provide all equipment that may be necessary to perform the services required by this Agreement. EBDA shall make all facilities available to Attorney that are necessary to perform services required by this Agreement.

**Section 4. INSURANCE REQUIREMENTS.** Before beginning any work under this Agreement, Attorney, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Attorney and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Attorney shall provide proof satisfactory to EBDA of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects to the EBDA. Attorney shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Attorney's bid. Attorney shall not allow any subcontractor to commence work on any subcontract until Attorney has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to EBDA. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution.

**4.1 Workers' Compensation.** Attorney shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Attorney. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per accident. In the alternative, Attorney may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code.)

Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the EBDA. The insurer, if insurance is provided, or the Attorney, if a program of self-insurance is provided, shall waive all rights of subrogation against the EBDA and its officers, officials, employees, and volunteers for loss arising from work performed under this Agreement.

**4.2 Commercial General and Automobile Liability Insurance.**

**4.2.1 General requirements.** Attorney, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than TWO MILLION DOLLARS (\$2,000,000.00) per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

**4.2.2 Minimum scope of coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (ed. 11/88) or GL 0002 (ed.1/73) covering comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (ed. 12/90) Code 1. No endorsement shall be attached limiting the coverage.

#### **4.3 Professional Liability Insurance.**

**4.3.1 General requirements.** Attorney, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than FIVE MILLION DOLLARS (\$5,000,000) covering the licensed professionals' errors and omissions. Any deductible or self-insured retention shall not exceed \$150,000 per claim.

**4.3.2 Claims-made limitations.** The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that



precedes the date of this Agreement, Attorney must provide extended reporting coverage for a minimum of five (5) years after completion of the Agreement or the work. The EBDA shall have the right to exercise, at the Attorney's sole cost and expense, any extended reporting provisions of the policy, if the Attorney cancels or does not renew the coverage.

- d. A copy of the claim reporting requirements must be submitted to the EBDA prior to the commencement of any work under this Agreement.

#### **4.4 All Policies Requirements.**

**4.4.1 Acceptability of Insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

**4.4.2 Verification of Coverage.** Prior to beginning any work under this Agreement, Attorney shall furnish EBDA with complete copies of all endorsements. Copies of policies are available upon request by the EBDA.

**4.4.3 Notice of Reduction in or Cancellation of Coverage.** A certified endorsement shall be attached to all insurance obtained pursuant to this Agreement stating that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the EBDA. In the event that any coverage required by this section is reduced, limited, cancelled, or materially affected in any other manner, Attorney shall provide written notice to EBDA at Attorney's earliest possible opportunity and in no case later than ten (10) working days after Attorney is notified of the change in coverage.

**4.4.4 Additional Insured; primary insurance.** A certified endorsement at least as broad as Insurance Services Office form number CG 20 10 (11/85 ed.) shall be attached to all policies stating that the EBDA and its officers, employees, agents, and volunteers shall be covered as additional insureds with respect to each of the following: liability arising out of activities performed by or on behalf of Attorney, including the insured's general supervision of Attorney; products and completed operations of Attorney, as applicable; premises owned, occupied, or used by Attorney; and automobiles owned, leased, or used by the Attorney in the course of providing services pursuant to this Agreement. The coverage shall contain no special limitations on the scope of protection afforded to EBDA or its officers, employees, agents, or volunteers. A certified endorsement shall be attached to all policies stating that coverage is primary insurance with respect to the EBDA and its officers, officials,

employees and volunteers, and that no insurance or self-insurance maintained by the EBDA shall be called upon to contribute to a loss under the coverage.

**4.5 Remedies.** In addition to any other remedies EBDA may have if Attorney fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, EBDA may, at its sole option exercise any of the following remedies, which are alternatives to other remedies EBDA may have and are not the exclusive remedy for Attorney's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Attorney to stop work under this Agreement or withhold any payment that becomes due to Attorney hereunder, or both stop work and withhold any payment, until Attorney demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

**Section 5. INDEMNIFICATION AND ATTORNEY'S RESPONSIBILITIES.** Attorney shall indemnify, defend with counsel reasonably acceptable to the EBDA, and hold harmless the EBDA and its officials, officers, employees, agents, and volunteers from and against any and all losses, liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct or negligent acts or omissions of Attorney or its employees, subcontractors, or agents, by acts for which they could be held strictly liable, or by the quality or character of their work. The foregoing obligation of Attorney shall not apply when (1) the injury, loss of life, damage to property, or violation of law arises wholly from the negligence or willful misconduct of the EBDA or its officers, employees, agents, or volunteers and (2) the actions of Attorney or its employees, subcontractor, or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law. It is understood that the duty of Attorney to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by EBDA of insurance certificates and endorsements required under this Agreement does not relieve Attorney from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Attorney acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

In the event that Attorney or any employee, agent, or subcontractor of Attorney providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of

EBDA, Attorney shall indemnify, defend, and hold harmless EBDA for the payment of any employee and/or employer contributions for PERS benefits on behalf of Attorney or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of EBDA.

## **Section 6.     STATUS OF ATTORNEY.**

- 6.1     Independent Contractor.** At all times during the term of this Agreement, Attorney shall be an independent contractor and shall not be an employee of EBDA. EBDA shall have the right to control Attorney only insofar as the results of Attorney's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3; however, otherwise EBDA shall not have the right to control the means by which Attorney accomplishes services rendered pursuant to this Agreement. Notwithstanding any other EBDA, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Attorney and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by EBDA, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of EBDA and entitlement to any contribution to be paid by EBDA for employer contributions and/or employee contributions for PERS benefits.
- 6.2     No Guarantee.** Attorney agrees to provide conscientious, competent and diligent services and at all times will seek to achieve solutions that are just and reasonable. However, because of the uncertainty of the legal process, the interpretation and changes in the law and many unknown factors, Attorney cannot and does not warrant, predict or guarantee results or the final outcome of any case, matter, proceeding or project.

## **Section 7.     LEGAL REQUIREMENTS.**

- 7.1     Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2     Compliance with Applicable Laws.** Attorney and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.
- 7.3     Licenses and Permits.** Attorney represents and warrants to EBDA that Attorney and its employees, agents, and any subcontractors have all professional licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice law. Attorney

represents and warrants to EBDA that Attorney and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions.

- 7.4 Nondiscrimination and Equal Opportunity.** Attorney shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Attorney under this Agreement. Attorney shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Attorney thereby.

Attorney shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

## **Section 8. TERMINATION AND MODIFICATION.**

- 8.1 Termination.** EBDA may terminate this Agreement at any time and without cause upon ninety (90) days written notification to Attorney. In the event of termination, Attorney shall be entitled to compensation for services performed to the effective date of termination. EBDA, however, may condition payment of such compensation upon Attorney delivering to EBDA any or all documents, electronically stored information, photographs, computer software, video and audio tapes, and other materials provided to Attorney or prepared by or for Attorney or the EBDA in connection with this Agreement. Upon termination, Attorney shall cooperate with EBDA to transfer all necessary files to the EBDA's new attorney(s), except for those matters that are proprietary to Attorney. Attorney may terminate this Agreement without cause upon ninety (90) days written notification to EBDA. Attorney may terminate this Agreement immediately for cause when outstanding invoices for legal services and /or costs are more than ninety (90) days past due. However, Attorney will work with the EBDA General Manager to resolve all disputes pertaining to outstanding legal invoices prior to providing notice of termination.
- 8.2 Extension.** This Agreement shall automatically renew every year, unless ninety (90) days prior to the termination of the initial term, or any other subsequent term, EBDA sends notice of termination to Attorney.

- 8.3 **Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.
- 8.4 **Assignment and Subcontracting.** EBDA and Attorney recognize and agree that this Agreement contemplates personal performance by Attorney and is based upon a determination of Attorney's unique professional competence, experience, and specialized professional knowledge. Moreover, a substantial inducement to EBDA for entering into this Agreement was and is the personal reputation and competence of Attorney. Attorney may not assign this Agreement or any interest therein without the prior written approval of the EBDA. Attorney shall not subcontract any portion of the performance contemplated and provided for herein without prior written approval of the EBDA.
- 8.5 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between EBDA and Attorney shall survive the termination of this Agreement.
- 8.6 **Options upon Breach by Attorney.** If Attorney materially breaches any of the terms of this Agreement, EBDA's remedies shall include, but not be limited to, the following:
- 8.6.1 Immediately terminate the Agreement; and
  - 8.6.2 Retain all work products prepared by Attorney pursuant to this Agreement.

**Section 9. KEEPING AND STATUS OF RECORDS.**

- 9.1 **Records Created as Part of Attorney's Work.** All reports or any other documents or materials, in electronic or any other form that Attorney prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder, shall be the property of the EBDA. Attorney hereby agrees to deliver those documents to the EBDA upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the EBDA and are not necessarily suitable for any future or other use.

**Section 10. MISCELLANEOUS PROVISIONS.**

- 10.1 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Alameda or in the United States District Court for the Northern District of California.
- 10.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
- 10.6 Use of Recycled Products.** Attorney shall endeavor to prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- 10.7 Conflict of Interest.** Attorney may serve other clients, but none whose activities within the corporate limits of EBDA or whose business, regardless of location, would place Attorney in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 et seq.

Attorney shall not employ any EBDA official in the work performed pursuant to this Agreement. No officer or employee of EBDA shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 et seq.

Attorney understands that, if this Agreement is made in violation of Government Code §1090 et. seq., the entire Agreement is void and Attorney will not be entitled to any compensation for services performed

pursuant to this Agreement, including reimbursement of expenses, and Attorney will be required to reimburse the EBDA for any sums paid to the Attorney. Attorney understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

**10.8 Solicitation.** Attorney agrees not to solicit EBDA employees either orally or through any written materials, for employment with Attorney's office and EBDA agrees not to solicit any Attorney's employees for employment with the EBDA for the duration of this Agreement.

**10.9 Contract Administration.** This Agreement shall be administered by the EBDA General Manager who shall act as the EBDA's representative. All correspondence shall be directed to or through the EBDA General Manager or his or her designee.

**10.10 Notices.** Any written notice to Attorney shall be sent to:

Redwood Public Law  
Attn: Managing Principal  
66 Franklin Street, Ste. 300  
Oakland, CA 94607

Any written notice to EBDA shall be sent to:

East Bay Dischargers Authority  
Attn: General Manager  
2651 Grant Avenue  
San Lorenzo, CA 94580

**10.11 Integration: Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between EBDA and Attorney and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.

**10.12 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

The Parties have executed this Agreement as of the Effective Date.

EAST BAY DISCHARGERS AUTHORITY

REDWOOD PUBLIC LAW

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Jackie Zipkin, General Manager

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Eric S. Casher



**EXHIBIT A**  
**SCOPE OF SERVICES AND COMPENSATION**

**Scope of Services**

Attorney shall provide all necessary legal services as counsel to EBDA. Attorney shall serve at the pleasure of the EBDA Commission and perform such duties including, but not limited to, preparation and review of agreements, leases, resolutions, and other documents of legal import; attendance at all regular and special meetings of the EBDA Commission; render legal opinions and advise on matters of EBDA business; represent EBDA in all litigation where EBDA is a party; and such other duties or services generally performed by a general counsel and necessary to assist EBDA in achieving its goals in a sound legal manner.

**Compensation**

Attorney shall be compensated according to the following hourly fee schedule:

<b>Category</b>	<b>Hourly Fees</b>
<b>(a) Administrative</b>	
General Counsel Services, including appearances at meetings, consultations, preparation of agreements or other documents, appearance before administrative bodies and litigation, if any. The hourly rate will not include travel time.	\$343
<b>(b) Litigation</b>	
Litigation services performed by member of Attorney's law firm.	\$377
<b>(c) Cargill</b>	
Legal services related to EBDA's project with Cargill, including preparation and review of agreements or other documents.	Of Counsel \$496 Principal \$523 Senior Principal \$575

Specialized legal services matters shall be approved by the EBDA General Manager and memorialized in writing prior to engagement at the specialized legal services rate.

Administrative and Litigation Fees listed shall be adjusted at the beginning of each fiscal year, commencing July 1, 2024, pursuant to the Consumer Price Index for All Urban Consumers (CPI-U) for San Francisco-Oakland-Hayward, CA for the period of January 1 through December 30 of the previous year, rounded up to the nearest five dollars (\$5.00) per hour. However, such adjustment shall be no less than 2.0% and no more than 5.0% per year.

Costs shall be reimbursed pursuant to Section 2.4 of this Agreement.

**ITEM NO. FM9 MOTION AUTHORIZING THE GENERAL MANAGER TO APPROVE AN ENGAGEMENT OF LEGAL SERVICES WITH MEYERS NAVE FOR SPECIALIZED LEGAL SERVICES**

**Recommendation**

Approve the motion authorizing an engagement of legal services with Meyers Nave.

**Strategic Plan Linkage**

1. **Regulatory Compliance:** Proactively meet or exceed regulatory requirements for protection of the environment and public health.
  - a. Represent EBDA and the Member Agencies' interests by preemptively engaging in development of emerging regulations and permits and advocating for reasonable, science-based decisions.
  - b. Maintain consistent compliance with EBDA's National Pollutant Discharge Elimination System (NPDES) Permit.
3. **Financial:** Develop financial strategies and practice sound fiscal management to ensure wise use of ratepayers' resources.
  - b. Identify and manage opportunities for revenue generation.

**Background**

EBDA first selected Meyers Nave in March 2010 through a competitive bidding process to replace its retiring General Counsel. In addition to General Counsel services, Meyers Nave has assisted EBDA with other legal expertise, including on issues related to NPDES compliance. The compensation rate determined through that 2010 competitive bid has been adjusted historically by the Commission on an annual basis to correspond with inflation.

**Discussion**

As discussed in Item No. FM8, the Authority's General Counsel, Eric Casher, is departing Meyers Nave in March 2024. The Commission met in closed session on February 15, 2024 to discuss Mr. Casher's transition to Redwood Public Law. The Commission expressed a desire for Mr. Casher to continue serving as General Counsel through his new firm. The Commission also supported continuing to contract with Meyers Nave for specialized legal services related to NPDES permitting.

Meyers Nave's regulatory team, led by Greg Newmark, has been providing significant support on the Cargill project over the past several years. In addition, Mr. Newmark and his team are currently advising EBDA on reissuance of the Nutrients Watershed Permit (see Item No. RA9). The same Meyers Nave team is also supporting BACWA in the Nutrients Watershed Permit negotiation, providing synergy and the ability to spread costs over multiple agencies.

Staff is recommending that the Commission approve the attached Letter of Engagement with Meyers Nave for continued support on these two matters and other NPDES-related

issues as may arise. This engagement would supersede the 2010 contract. Meyers Nave has proposed billing rates consistent with their specialized legal services for other municipal clients. The rates would escalate annually based on CPI. Staff notes that all work on the Cargill project is fully reimbursable.

March 13, 2024

**VIA E-MAIL**

**PERSONAL & CONFIDENTIAL**

Jacqueline Zipkin  
General Manager  
East Bay Dischargers Authority  
2651 Grant Ave.  
San Lorenzo, CA 94580  
jzipkin@ebda.org

**Re: Engagement of Legal Services**

Dear Jackie:

Thank you for retaining Meyers Nave (“Meyers Nave”) to perform legal services in connection with East Bay Dischargers Authority (“Client”) of which you are General Manager. We appreciate the opportunity to serve as your lawyers and look forward to working with you.

This letter sets forth our agreement concerning the legal services we will provide and our fee arrangements for those services. Please read this entire agreement before signing and returning it to us.

**1. Scope of Engagement.** We will provide the legal services reasonably required to represent and advise you in connection with: 1) representing and advising Client regarding Cargill, Incorporated’s Mixed Sea Salts Processing and Brine Discharge Project; 2) represent and advise Client regarding the San Francisco Bay Regional Water Quality Control Board’s Administrative Draft Order R2-2024-00XX, NPDES Permit CA0038873 (the “Draft Nutrient Permit”), and subsequent versions of that permit; and 3) other NPDES Permit-related matters, including but not limited to matters related to the Waste Discharge Requirements issued to EBDA by the San Francisco Bay Regional Water Quality Control Board, Order R2-2022-0023, NPDES Permit CA0037869 (the “EBDA Permit”), and subsequent versions of that permit. Our work is limited to such services. We will also provide legal services for additional matters that you request of us, provided we agree to perform that additional work. A letter confirming such additional work shall bring such work within the scope of this agreement.

**2. Fees and Personnel.** As compensation for our services, our fees will be based on our current standard billing rate for the personnel performing services under this agreement at the time such services are rendered. Our standard billing rates for attorneys and paralegals are attached as Attachment 1.

I will be the principal in charge of representing your interests. If other attorneys and/or paralegals are assigned to work on your matter, the then current hourly rates of those individuals will be utilized. This agreement retains the legal services of our law firm and not of a particular attorney. Hourly rates are subject to reasonable change, usually at the beginning of each year.

**3. Retainer.** As discussed, the Firm will not require a retainer to commence services related to this matter. However, the Firm reserves the right to require a retainer in the future if it determines that circumstances warrant.

**4. Disbursements and Expenses.** In addition to hourly fees, we may incur out-of-pocket expenses related to your representation. Our Statement of Fee and Billing Information, which sets forth the details of our disbursement and expense policy, is attached as Attachment 2.

**5. Billing and Payment Responsibilities.** We will send monthly statements which are due within 30 days of receipt. If you have any questions about an invoice, please promptly telephone or write me so that we may discuss these matters. Our Statement of Fee and Billing Information sets forth the details of our fee and billing policy.

**6. Termination of Services.** You may terminate our services at any time by written notice. After receiving such notice, we will cease providing services. We will cooperate with you in the orderly transfer of all related files and records to your new counsel.

We may terminate our services at any time with your consent or for good cause. Good cause exists if (a) any statement is not paid within 60 days of its date; (b) you fail to meet any other obligation under this agreement and continue in that failure for 15 days after we send written notice to you; (c) you have misrepresented or failed to disclose material facts to us, refused to cooperate with us, refused to follow our advice on a material matter, or otherwise made our representation unreasonably difficult; or (d) any other circumstance exists in which ethical rules of the legal profession mandate or permit termination, including situations where a conflict of interest arises. If we terminate our services, you agree to execute a substitution of attorneys promptly and otherwise cooperate in effecting that termination.

Termination of our services, whether by you or by us, will not relieve the obligation to pay for services rendered and costs incurred before our services formally ceased.

**7. Insurance.** During the term of this engagement, this law firm shall take out and maintain general liability and property damage insurance in amounts not less than \$1,000,000; professional errors and omissions insurance, in amounts not less than \$2,000,000

per occurrence; and \$4,000,000 aggregate, which insurance may not be canceled or reduced in required limits of liability unless at least ten days advance written notice be given to you.

**8. No Guarantee of Outcome.** Any comments made by us about the potential outcome of this matter are expressions of opinion only and are not guarantees or promises about any outcome or results.

**9. Dispute Resolution.** In the event you become dissatisfied with any aspect of our relationship, we encourage you to bring such concerns to our attention immediately. If we are unable to resolve any dispute, either arising out of or in connection with this Agreement or relating to the services performed by our firm or any of its attorneys, to our mutual satisfaction, our firm will first comply with any mandatory dispute resolution procedures that may apply to any such dispute.

If we are unable to resolve any dispute, and after mandatory dispute resolution procedures have been waived or exhausted, the parties shall submit such dispute to final and binding arbitration in Alameda County, California before the American Arbitration Association, pursuant to its then prevailing rules, unless the parties agree in writing to a different arbitration method or forum.

By signing this agreement, you acknowledge and agree that you have read and understand this arbitration provision. You understand that by agreeing to arbitration we each give up the right to present our claims or defenses for trial by a judge or jury, and we also give up the right to an appeal. The initial resort to the courts by either party shall not be considered a waiver of that party's right to compel binding arbitration under this provision. This agreement shall be governed by and construed in accordance with the laws of the State of California without regard to principles of conflicts of laws.

**10. Document Retention.** In the course of the Firm's representation of East Bay Dischargers Authority, you may provide us with and we may obtain documents that are relevant to the representation. Some of those documents may be important to you and so that there is no confusion we find that it is useful at the inception of the representation for us to communicate our Document Retention Policy. Meyers Nave is committed to using less paper and eliminating unnecessary copies of documents. Documents of Record can be either hard copies or digital, regardless of the form they took originally when created or received by the Firm. Whenever it is proper and practicable, the Firm prefers Documents of Record (official version) to be in a digital format. Further, if record is stored electronically, then paper copies may be deemed duplicative and may be purged. This helps us manage information, helps the environment and helps us control costs. The materials pertaining to this matter belong to you and you may access them or have duplicates provided to you at any time during your representation with the exception of certain Meyers Nave Firm and accounting information. At the conclusion of this matter, no further representation will be provided and we recommend that you make arrangements to retrieve all original documents.

It is the Firm's general policy that we maintain records for a period of seven (7) years after conclusion of the matter, although due to certain practical considerations that is not always possible. Additionally, while we take steps to ensure that all records are held in strict confidence and maintained in a secure location, we cannot guarantee that something beyond our control will not occur resulting in damage to client records.

Thus, if in the course of our representation you provide us with original documents that you consider important or desire to keep, we recommend that, first, you inform us in writing that the documents are important. And second, we ask that you take immediate possession of such documents upon the conclusion of our representation. If we do not hear from you, we will generally retain only the documents and materials pertaining to this matter which we designate as vital for a period of seven (7) years. After which such documents will be destroyed unless, before that time, you notify us in writing that you wish to take possession of them.

**11. Entire Agreement; Full Understanding; Modifications in Writing.** This letter contains our entire agreement about our representation. Any modifications or additions to this letter agreement must be made in writing.

**12. Joint Representation.** Our firm maintains of counsel agreements with certain legal specialists. Because these individuals are deemed independent contractors under the applicable provisions of the tax laws and not employees of our firm, it is necessary that you consent to dual representation by our firm and the specialist in the event the matter which you have engaged us to handle requires the use of that specialist. This arrangement has no effect whatsoever on the cost of your legal services, rather it is an ethical requirement that we disclose this fact and that you consent. You are consenting by signing this letter.

**13. Conflicts.** Meyers Nave has recently been retained represent the Bay Area Clean Water Agencies (BACWA) regarding the Draft Nutrient Permit. We have evaluated potential conflict of interest issues regarding this matter, and understand that there is no present adversity between BACWA and Client. Nevertheless, because Meyers Nave currently represents Client, we intend to treat the proposed engagement by BACWA and the current representation of Client as a "joint representation." This does not mean that our clients would have to file joint pleadings in the event of a lawsuit or would necessarily be precluded from presenting separate arguments.

The representation of multiple clients in the same matter generally creates the potential for a future conflict of interest. This could happen, for example, in the following hypothetical situations: (1) a lawyer may receive conflicting instructions from the clients so that the lawyer cannot follow one client's instruction without violating another client's instruction; (2) the clients may have conflicting objectives so that the lawyer cannot effectively advance one client's objective without detrimentally affecting another client's objective; or (3) the lawyer's duty to maintain the confidentiality of one client's information conflicts with the lawyer's duty to make full disclosure to the other client regarding the subject of the joint representation.

We make this disclosure to you in an abundance of caution. We believe we can competently represent BACWA and Client while fulfilling all of the duties we have to each client because of their common interests in this matter. We do not foresee any conflicts at this time and the joint representation may result in economic or tactical advantages. Although we do not expect any actual conflict to arise, it is possible that issues might arise as to which our representation of Client might be materially limited by our joint representation.

Under California Evidence Code section 962 and California case law, there is no attorney/client privilege between the joint clients so that any information we receive from one client in connection with the Draft Nutrient Permit matter cannot be withheld from another client in the same matter during or after the joint representation. Such information could be used by another client if a conflict of interest ever arises.

By accepting the terms of the representation, Client agrees that it will not seek to disqualify Meyers Nave or any expert witness from representing BACWA regarding the Draft Nutrient Permit matter because of this firm's representation of Client. If the lawyer-client relationship between Client and Meyers Nave with respect to the Draft Nutrient Permit terminates for any reason, Client agrees the firm may continue to represent BACWA in that matter.

We ask that you consider this consent request carefully. You may wish to confer with independent legal counsel regarding this consent, and should feel free to do so. If, after review and consideration of the foregoing BACWA and Client consent to the representations as described herein, please sign a copy of this letter and return it to me as soon as possible. Again, we thank you for allowing us the opportunity to serve as your lawyers.

Sincerely,



Gregory J. Newmark

These terms are accepted and agreed to as of the date of this letter.

East Bay Dischargers Authority

By: \_\_\_\_\_  
Jacqueline T. Zipkin  
General Manager

5600987.3



**ATTACHMENT 1**

**MEYERS NAVE  
RATE SHEET**

Sr. Principal	\$610
Principal	\$590
Of Counsel	\$550
Sr. Associate	\$480
Associate	\$430
Paralegal	\$305

**Our rates adjust every July 1 (appropriate date) by the greater of 3% or the relevant local CPI increase over the prior 12 month period, rounded to the nearest \$5.**

## ATTACHMENT 2

### MEYERS NAVE STATEMENT OF FEE AND BILLING INFORMATION

The following is a general description of our fee and billing policies. These general policies may be modified by the specific engagement letter or agreement to which this summary is attached.

**Professional Fees.** Our fees for professional services are based on the fair value of the services rendered. To help us determine the value of our services, our attorneys and paralegals maintain time records for each client and matter. Our attorneys and paralegals are assigned hourly rates which are based on years of experience, specialization, training and level of professional attainment. We adjust our rates periodically (usually at the beginning of each year) to take into account inflation and the increased experience of our professional personnel. To keep professional fees at a minimum, legal work that does not require more experienced attorneys will be performed, where feasible, by attorneys with lower billing rates. Of course, the quality of the work is paramount, and we do not sacrifice quality to economy.

Before undertaking a particular assignment, we will, if requested, provide you with a fee estimate to the extent possible. Estimates are not possible for some matters, however, and cannot be relied on in many others because the scope of our work will not be clear at the outset. When a fee estimate is given, it is only an estimate; it is not a maximum or minimum fee quotation. The actual fee may be more or less than the quoted estimate.

**Retainer.** Our normal practice is to require a retainer to cover a portion of the anticipated attorneys' fees and costs. Any retainer will be placed in the firm's trust account. At the conclusion of our services, we will return to our client any unapplied retainer, after deducting payment for charges billed or to-be-billed for services and any remaining out-of-pocket expenses.

**Billing And Payment Procedures.** Unless other arrangements are made at the time of the engagement, invoices will be sent monthly. Invoices for outside services exceeding \$100 may be billed separately. Occasionally, however, we may defer billing for a given month or months if the accrued fees and costs do not warrant current billing or if other circumstances would make it appropriate to defer billing.

Our invoices contain a brief narrative description of the work performed; if requested, the initials of the attorney who performed the work will appear on the statement. The invoice will include a line item reflecting in-house administrative costs. The firm's in-house administrative costs include duplicating, facsimile charges, telephone charges, E-mail, postage, mileage and other administrative expenses.

The firm will be reimbursed for all outside services incurred in the course of providing legal services to our client(s). Outside services will include, but are not limited to, all third-party

expenses, delivery charges, travel expenses, outside research services, filing fees, expert witness and expert consultant fees.

If you have any questions regarding an invoice, the Finance Director or Executive Director is available to answer your questions. For any unresolved matters, the Bar Association has an arbitration mechanism that can be used to resolve such matters.

**Late Payments.** Statements for services are payable upon presentation and, in all events, within thirty (30) days after receipt. Occasionally a client has difficulty in making timely payments. To avoid burdening those clients who pay their statements promptly with the added costs we incur as a result of late payments, a late charge will be assessed on statements not paid within thirty (30) days. The maximum monthly late payment charge will be 1.5% per month. In the unlikely event we are required to institute legal proceedings to collect fees and costs, the prevailing party will be entitled to reasonable attorneys' fees and other costs of collection.

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

*A Joint Powers Public Agency*

## **ITEM NO. 16**

### **OPERATIONS & MAINTENANCE COMMITTEE AGENDA**

**Tuesday, March 19, 2024**

**2:00 PM**

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

**This meeting will be teleconferenced from the following location:  
Guest Parking Area Located on Ocaso Camino, West of and Closest to the  
Intersection of Paseo Padre Parkway**

**Teleconference link: <https://us02web.zoom.us/j/88293365682>  
Call-in: 1(669) 900-6833 and enter Webinar ID number: 882 9336 5682**

**Committee Members: Johnson (Chair); Lathi**

**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. 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 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 Villaseñor at [juanita@ebda.org](mailto: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.

Agenda Explanation  
East Bay Dischargers Authority  
O&M Agenda  
March 19, 2024

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 is  
Tuesday, April 16, 2024, at 2:00 pm**

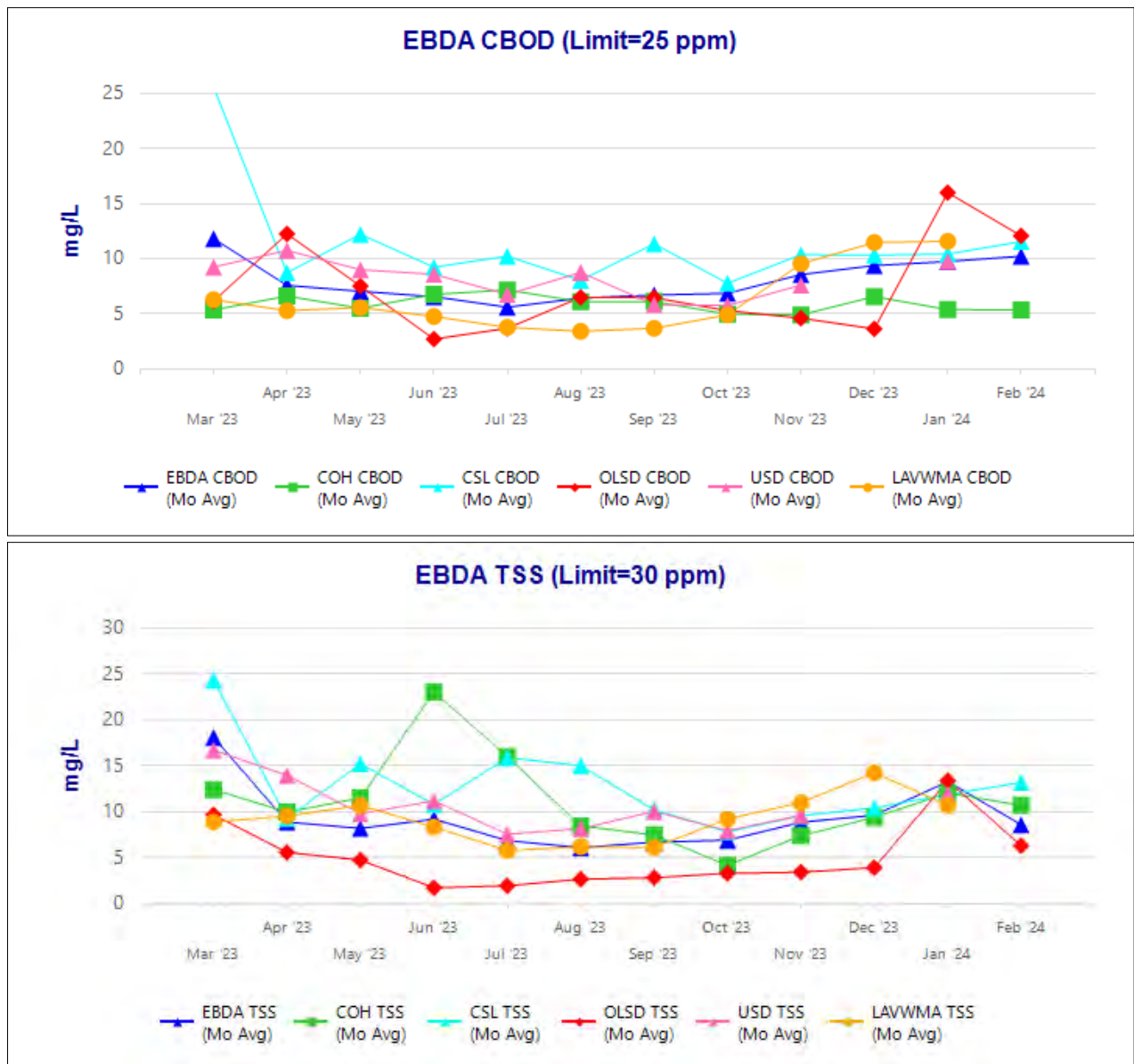
## ITEM NO. OM4 EBDA PERMIT COMPLIANCE

### Recommendation

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

### Discussion

There were no NPDES permit violations in January. Member Agency CBOD and TSS performance are shown below. A table with bacterial indicators follows.



## EBDA Bacterial Indicators

Date	FECAL	ENTERO
	MPN/ 100mL	MPN/ 100mL
Limit (90th Percentile)	1100	1100
Limit (Geomean)	500	280
<b>March 2023 Geomean</b>	<b>3</b>	<b>2</b>
<b>April 2023 Geomean</b>	<b>10</b>	<b>7</b>
<b>May 2023 Geomean</b>	<b>15</b>	<b>122</b>
<b>June 2023 Geomean</b>	<b>8</b>	<b>83</b>
<b>July 2023 Geomean</b>	<b>7</b>	<b>18</b>
<b>August 2023 Geomean</b>	<b>17</b>	<b>5</b>
<b>September 2023 Geomean</b>	<b>47</b>	<b>4</b>
<b>October 2023 Geomean</b>	<b>18</b>	<b>3</b>
<b>November 2023 Geomean</b>	<b>8</b>	<b>8</b>
<b>December 2023 Geomean</b>	<b>7</b>	<b>5</b>
1/1/2024	4	4
1/2/2024	2	2
1/8/2024	27	2
1/9/2024	11	< 2
1/15/2024	8	< 2
1/16/2024	79	8
1/22/2024	13	22
1/23/2024	49	17
1/29/2024	13	2
1/30/2024	7	6
<b>January 2024 Geomean</b>	<b>12</b>	<b>4</b>
2/5/2024	8	13
2/6/2024	< 2	6
2/7/2024	NA	22
2/12/2024	33	20
2/13/2024	7	130
2/14/2024	NA	24
2/19/2024	2	4
2/20/2024	17	6
2/26/2024	13	13
2/27/2024	7	15
<b>February 2024 Geomean</b>	<b>8</b>	<b>15</b>



## **ITEM NO. OM5 STATUS REPORT**

### **Union Effluent Pump Station (UEPS)**

No change; all equipment is operational.

### **Hayward Effluent Pump Station (HEPS)**

#### **Effluent Pump Replacement Project**

The new pumps and motors were delivered in December and are being stored at the Hayward Water Pollution Control Facility until they are installed. Pump Repair Service (PRS) is in the process of changing concrete subcontractors for this project. The new concrete subcontractor plans to start work in the next several weeks on the new concrete base for Effluent Pump No. 4. Because Effluent Pump No. 4 had previously been removed, starting this work during wet weather will not decrease the current capacity of the pump station. This work will involve demolishing the old concrete pump base, coring holes in the pump station to install new threaded rod pump anchors, installing new rebar, and pouring the new concrete pump base. The work also includes coating of the metal sleeve around the hole in the pump station that the pump sits in. Depending on the condition of the metal sleeve, it may need to be replaced with a new stainless-steel sleeve. Once the new Effluent Pump No. 4 is installed, it will be put in service and tested for several weeks before work is started on the next pump.

#### **Pond 3 Valve Actuator Replacement**

As part of the FY 2022/2023 RRF project list, EBDA agreed to split the cost of a new Pond 3 valve actuator with the City of Hayward. The actuator is the property of the City of Hayward, but replacing it will benefit both the City and EBDA. The current actuator does not have a feedback loop, so the information displayed on SCADA is limited. During wet weather storm events, having better information on SCADA will greatly improve EBDA operations. The ability to automatically divert flow to Pond 3 will save EBDA the cost of pumping the flow to Pond 7, which requires using the HEPS pumps. The ability to automatically divert flow to Pond 3 will also save the City the cost of adding sodium hypochlorite to the diverted flow. This project also includes the programming necessary to add the valve operations to SCADA. The new valve actuator was delivered in late 2023, and EBDA is coordinating the installation with City of Hayward staff. Calcon, EBDA's contract electrical and instrumentation contractor, has already begun work on the project, including procuring the radios and Programmable Logic Controller (PLC) that will communicate with and control the new valve actuator.

### **Oro Loma Effluent Pump Station (OLEPS)**

#### **Automatic Transfer Switch Upgrade**

Todd Beecher, EBDA's contract electrical engineer, has commenced the design of two new automatic transfer switches (ATSs) at OLEPS. The two new ATSs will improve reliability of the pump station in the event of a power outage. If the PG&E power fails, the

OLEPS emergency generator is the primary source of backup power. Currently, if the emergency generator fails to start, operators can manually switch to the secondary source of backup power from OLSD. The installation of two new ATSs will allow the switch from primary to secondary backup to occur automatically. This ATS work is being completed as part of Phase Two of the OLEPS Electrical Upgrades. Replacement of the breakers and refurbishment of the Main Switchboard was completed in Phase One of the OLEPS Electrical Upgrades last year.

### **Skywest Pump Station**

#### **Recycled Water Production**

During the month of February 2024, the Skywest Recycled Water System did not produce any recycled water.

### **Marina Dechlorination Facility (MDF)**

#### **Total Residual Chlorine (TRC) Effluent Limit Implementation and Automation Upgrades**

As discussed previously, EBDA's new NPDES permit effluent limit for TRC, which took effect on January 1, 2024, is a one-hour average of 0.98 mg/L. On January 2, 2024, EBDA turned off its continuous feed of sodium bisulfite (SBS). The SBS savings at MDF have already been substantial.

Below is the SBS usage before and after the new TRC effluent limit implementation on January 2, 2024:

Timeframe	Gallons of SBS Used
December 2023	10,912
January 1-2, 2024	484
New Limit Implemented	
January 3-31, 2024	1,176
February 2024	1,229

In FY 2023/2024 Quarter 2 (October – December 2023), EBDA spent \$68,448 on SBS. This quarter, EBDA is not going to purchase any SBS.

#### **Analyzer Upgrade Project**

A previous RRF project list included \$75,000 to replace the chlorine and sodium bisulfite (SBS) analyzers at MDF. With the new TRC effluent limit pending at the time, the purchase of new analyzers was postponed. Now that the new TRC effluent limit has been implemented, staff is in the process of selecting and purchasing a new chlorine analyzer. The new analyzer will be installed in the location previously occupied by the SBS analyzer that is no longer necessary now that EBDA does not discharge excess SBS. Once operational, the new chlorine analyzer will be used as a backup to the two existing online

analyzers (one which measures influent chlorine residual and one which measures effluent chlorine residual). When the first new analyzer is operational for a period of time and demonstrates its reliability, staff will evaluate the purchase of additional new chlorine analyzers.

### **Force Main**

No change; all equipment is operational.

### **Operations Center**

No change; all equipment is operational.

### **Miscellaneous Items**

#### **Underground Service Alerts**

EBDA received twelve (12) Underground Service Alert (USA) tickets during the month of February 2024. Five required an Electronic Positive Response (EPR) and calls/emails to the excavators, and of the five, one required field verification.

#### **Wet Weather**

During the month of February 2024, there was one significant rain event that required one OLEPS diesel pump to operate for 10.6 hours on 2/04/2024. During this rain event, when extra pumping capacity was available with the equipment already online, EBDA requested extra flow from all Member Agencies. There were no capacity exceedance events during the month of February.

Total rainfall for the month of February 2024 (in inches) was as follows:

Oakland	Hayward	Livermore
3.71	5.57	3.11

Noteworthy daily rainfall for the month of February 2024 (in inches) was as follows:

Date	Oakland	Hayward	Livermore
2/01/2024	0.34	0.46	0.48
2/02/2024	0.31	0.30	0.20
2/03/2024	0.37	0.85	0.34
2/04/2024	0.60	0.54	0.40
2/07/2024	0.47	0.72	0.00
2/17/2024	0.28	0.40	0.22
2/18/2024	0.27	0.56	0.46
2/19/2024	0.15	0.15	0.26
2/20/2024	0.34	0.51	0.18

The MDF peak flow of 159.5 MGD was recorded at 1:27 pm on February 4, 2024, and the average daily flow at MDF was 123.1 MGD on that day.

Average daily flow at MDF was as follows:

Date	MDF Average Daily Flow - MGD
July 2023 Monthly Average	54.1
December 2023 Monthly Average	66.6
January 2024 Monthly Average	81.5
February 2024 Monthly Average	88.6
2/04/2024	123.1
2/01/2024 – 2/8/2024	105.9
2/19/2024	104.2
2/21/2024	100.0

## **Special Projects**

### **Cargill Brine Project**

As discussed at previous Commission Meetings, following certification of the Final Environmental Impact Report (EIR) for the proposed project, Cargill informed EBDA staff that they have made the decision to re-evaluate the “Bayside” pipeline route. Cargill is continuing to refine the route and expects it to be very similar to the Bayside alternative outlined in the EIR. Cargill has held several meetings with landowners along the new proposed route in recent weeks, including East Bay Regional Park District, City of Hayward, and California Department of Fish and Wildlife. Additional meetings are planned with City of San Leandro and Alameda County Flood and Water Conservation District.

Cargill’s preliminary schedule shows revised CEQA analysis in 2025, and construction beginning sometime between 2027 and 2029 depending on permitting, with operation commencing between 2031 and 2033. Staff may bring an interim agreement between EBDA and Cargill to the Commission for consideration in 2024, as the parties continue to negotiate the final operating agreement.

### **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 Las Trampas Regional Wilderness Park in December 2022. Data from the Rocky Ridge site finally became available in early December 2023, and can be viewed and downloaded from the AQPI [website](#). 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, which they expect to make available before the 2024-2025 wet season. Staff will be planning a site visit to Rocky Ridge for interested Commissioners and other parties in the coming months.

**ITEM NO. 17 MOTION APPROVING REVISIONS TO RULES OF THE COMMISSION**

**Recommendation**

Approve a motion adopting the 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.

With the passage of AB 2449 allowing remote participation in meetings under certain circumstances, the Rules were updated in in June 2023 to add a new Rule IV. Remote Participation in Meetings.

**Discussion**

Staff proposes the following revisions, as discussed at the February 2024 Personnel Committee and Commission meetings, to the Rules of the Commission:

- Designate regular meeting locations for the Commission and Committees.
- Clarify that a quorum must be present at the designated regular location.

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# **EAST BAY DISCHARGERS AUTHORITY**

## **RULES OF THE COMMISSION**

**March 2024**

# EAST BAY DISCHARGERS AUTHORITY

## RULES OF THE COMMISSION

### Contents

RULE I.	OFFICERS OF THE COMMISSION .....	1
A.	Chair.....	1
B.	Vice-Chair.....	2
C.	General Manager.....	2
D.	Treasurer and Auditor .....	2
E.	Term.....	2
RULE II.	MEETINGS OF THE COMMISSION.....	2
A.	Call of Meetings.....	2
1.	Regular Meetings .....	2
2.	Special Meetings.....	2
3.	Emergency Meetings .....	2
B.	Notice of Meetings.....	2
C.	Regular Meeting Location .....	3
D.	Agenda of Meetings .....	3
E.	Meetings Open to the Public.....	3
F.	Order of Business.....	3
G.	Procedure. ....	3
1.	Role of Chair.....	3
2.	Convening the Meeting and Quorum.....	4
3.	Consent Calendar .....	4
4.	General Principles for Discussion or Debate .....	4
5.	Motions .....	5
6.	Voting .....	6
7.	Time Limit on Meetings .....	6
8.	Adjournment .....	6
9.	Minutes .....	6
RULE III.	COMMITTEES OF THE COMMISSION .....	6
A.	Standing Committees .....	6
1.	Financial Management Committee .....	7
2.	Operations and Maintenance Committee.....	7
3.	Personnel Committee.....	7
4.	Regulatory Affairs Committee.....	7
B.	Ad Hoc Committees.....	7
C.	Committee Members and Alternates .....	7
RULE IV.	REMOTE PARTICIPATION IN MEETINGS .....	7
A.	Quorum in Person .....	7
B.	Remote Participation Pursuant to AB 2449 .....	8
C.	Remote Participation under the Brown Act.....	8
RULE V.	COMMUNICATIONS TO THE COMMISSION.....	9
A.	General.....	9

1.	Agenda Items .....	9
2.	Non-Agenda Items .....	9
B.	Time Limits on Public Comments .....	9
RULE VI.	COMMISSIONER COMMUNICATIONS.....	9
A.	Communications with Staff .....	9
B.	Communications on behalf of EBDA .....	9
C.	Communications with the Public .....	10
RULE VII.	SUSPENSION/AMENDMENT/REPEAL .....	10
<b>ATTACHMENT 1 .....</b>		<b>11</b>
<b>ATTACHMENT 2 .....</b>		<b>12</b>
<b>ATTACHMENT 3 .....</b>		<b>13</b>



## **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 Commission<sup>1</sup>. 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

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

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. Regular Meeting Location. Unless otherwise specified, the Regular Meeting Location for the Commission shall be the Board Room of Oro Loma Sanitary District at 2655 Grant Ave. San Lorenzo.

- D. Agenda of Meetings. The General Manager shall prepare the agenda of all meeting 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.

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

- F. 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.

- G. 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 at the Regular Meeting Location of a single Standing Committee member is sufficient to constitute a quorum (see Resolution 05-13). The Regular Meeting Location for

Committees shall be the EBDA Conference Room at 2651 Grant Ave. San Lorenzo.

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
- A quorum is present at the Regular Meeting Location; 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*
<b>MEETING CONDUCT (PRIVILEGED) MOTIONS</b>				
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
<b>DISPOSITION (SUBSIDIARY) MOTIONS</b>				
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
<b>MAIN MOTIONS</b>				
To Take Action; To Reconsider	Yes	Yes	Yes	Majority + Weighted

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\* 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**

<b><u>Name of Agency</u></b>	<b><u>No. of Votes</u></b>
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.

**ITEM NO. 18 ITEMS FROM THE COMMISSION AND STAFF**

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

**ITEM NO. 19 ADJOURNMENT**