

**NOTICE OF A REGULAR MEETING
OF THE BOARD OF DIRECTORS OF THE
OLIVENHAIN MUNICIPAL WATER DISTRICT
1966 Olivenhain Road, Encinitas, CA 92024
Tel: (760) 753-6466 • Fax: (760) 753-5640
VIA TELECONFERENCE AND IN PERSON**

Pursuant to AB3035, effective January 1, 2003, any person who requires a disability related modification or accommodation in order to participate in a public meeting shall make such a request in writing to Stephanie Kaufmann, Executive Secretary, for immediate consideration.

DATE: WEDNESDAY, SEPTEMBER 8, 2021

TIME: 4:00 P.M.

PLACE: Hybrid Regular Meeting VIA TELECONFERENCE AND IN PERSON

Pursuant to the State of California Executive Order, and in the interest of public health, OMWD is temporarily taking actions to mitigate the COVID-19 pandemic by holding Board Meetings electronically or by teleconference. This meeting will be a hybrid of in person and teleconference. Our Boardroom will be open to the public, however, masks must be worn.

To join this meeting via phone, please dial:

(669) 900-9128 or (346) 248-7799

Meeting ID: 864 7518 5742 and Password: 350546

Public Participation/Comment: Members of the public can participate in the meeting by emailing your speaker slip on an agenda item to the Board Secretary at skaufmann@olivenhain.com by 3:00 P.M. the day of the meeting. If you do not receive a confirmation email that your comment has been received, please call (760) 632-4648. The subject line of your email should clearly state the item number you are commenting on and should include your name and phone number to ensure you are called on and have the opportunity to comment. All comments will be emailed to the Board of Directors. In person participation can also be had by attending the meeting in the Boardroom at 1966 Olivenhain Rd. Encinitas, CA 92024.

*NOTE: ITEMS ON THE AGENDA MAY BE TAKEN OUT OF SEQUENTIAL ORDER
AS THEIR PRIORITY IS DETERMINED BY THE BOARD OF DIRECTORS*

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. DETERMINATION OF A QUORUM
5. ADOPTION OF AGENDA

6. PERSONAL APPEARANCES AND PUBLIC COMMENTS
7. PRESENTATION OF AWARDS AND HONORABLE MENTIONS

Service Awards and Promotions from 2020

- * Rudy Petrovski – Instrument Control Technician II – 15 years – September 2020
- * Sean Stevenson – Water Treatment Plant Operator III – 15 years – September 2020
- * Tammi Bowman – Accountant I – 5 years – October 2020
- * Marlo Reed – Inspector II – 20 years – October 2020
- * Brandon Barnick – Field Services Supervisor – GYO Promotion – October 2020
- * Jennifer Joslin – Human Resources Manager – GYO Promotion – October 2020
- * Cameron Adams – Utility II – Promotion – October 2020

Current Service Awards, Promotions and Honorable Mentions

- * William Broadhead – Water Reclamation Operator III – 5 years – August
- * Josh Westbrook – Utility III – New Hire – August

8. CONSIDER APPROVAL OF THE MINUTES OF THE AUGUST 18, 2021 REGULAR BOARD OF DIRECTORS MEETING
9. CONSENT CALENDAR

*NOTE: ANY ITEM MAY BE REMOVED FROM THE CONSENT CALENDAR
FOR DISCUSSION*

C-a	CONSIDER ADOPTION OF A RESOLUTION MAKING CEQA FINDINGS FOR THE RANCHO PASEANA RECYCLED WATER METER PROJECT AND ORDER A NOTICE OF EXEMPTION BE FILED WITH THE COUNTY CLERK, COUNTY OF SAN DIEGO
C-b	CONSIDER VOTING FOR THE ASSOCIATION OF CALIFORNIA WATER AGENCIES REGION 10 BOARD OF DIRECTORS
C-c	CONSIDER APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT WITH WEST YOST IN THE AMOUNT OF \$136,000 FOR ON-SITE RECYCLED WATER SUPPORT SERVICES FOR THE MANCHESTER AVENUE RECYCLED WATER PIPELINE PROJECT AND AUTHORIZE THE GENERAL MANAGER TO SIGN ON BEHALF OF OMWD

10. CONSIDER ADOPTION OF AN ORDINANCE AMENDING THE DISTRICT'S ADMINISTRATIVE AND ETHICS CODE (Article 8 – Water Rates & Charges and Article 25 – Use of Reclaimed and Non-Potable Water) AND ADOPTING A WET WEATHER INCENTIVE PROGRAM FOR RECYCLED WATER DELIVERIES IN THE DISTRICT'S SOUTHEASTERN RECYCLED WATER SYSTEM
11. CONSIDER UPDATE ON ELFIN FOREST RECREATIONAL RESERVE (INFORMATIONAL ITEM)
12. CONSIDER ADOPTION OF AN ORDINANCE AMENDING THE DISTRICT'S ADMINISTRATIVE AND ETHICS CODE (Article 26 – Regulations of the Elfin Forest Recreational Reserve and other District Parks)

13. CONSIDER ADOPTION OF A RESOLUTION OF THE BOARD OF DIRECTORS OF THE OLIVENHAIN MUNICIPAL WATER DISTRICT REGARDING ITS INTENTION TO ISSUE TAX-EXEMPT OBLIGATIONS FOR WASTEWATER (SEWER) CAPITAL IMPROVEMENT PROJECTS
14. CONSIDER ADOPTION OF AN ORDINANCE AMENDING THE DISTRICT'S ADMINISTRATIVE AND ETHICS CODE (Article 6 – Regulations Governing Purchases & Surplus Sales)
15. CONSIDER UPDATE ON THE COVID-19 EMERGENCY DECLARATION
16. INFORMATIONAL REPORTS
 - A. PRESIDENT
 - B. GENERAL MANAGER
 - C. CONSULTING ENGINEER
 - D. GENERAL COUNSEL
 - E. SAN DIEGO COUNTY WATER AUTHORITY REPRESENTATIVE
 - F. LEGISLATIVE
 - G. TWELVE MONTH CALENDAR / OTHER MEETINGS / REPORTS BY BOARD MEMBERS PER AB 1234
17. CORRESPONDENCE
18. AUTHORIZATION TO ATTEND UPCOMING MEETINGS / CONFERENCES / SEMINARS
19. FUTURE AGENDA ITEMS
20. CONSIDER PUBLIC COMMENTS
21. CLOSED SESSION
 - A) CONSIDER CLAIM – HILLSIDE PATIO HOMES HOA [PURSUANT TO GOVERNMENT CODE SECTION 54956.9] • Additional Facts: Claim received on August 17, 2020. Claim rejected on September 9, 2020.
 - B) CONSIDER LITIGATION – LYNXT ENTERPRISES, LLC VS. PARS SORRENTO VALLEY SCIENCE PARK 1, LP [PURSUANT TO GOVERNMENT CODE SECTION 54956.9] • Additional Facts: OMWD was served a complaint as a nominal defendant.
 - C) CONSIDER LITIGATION – OLIVENHAIN MUNICIPAL WATER DISTRICT VS. GEOMAT TESTING LABORATORIES, INC., ET AL. [PURSUANT TO GOVERNMENT CODE SECTION 54956.9]
 - D) CONFERENCE WITH LEGAL COUNSEL: ANTICIPATED LITIGATION – ONE CASE [PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(4)]
 - E) CONSIDER CLAIM – SAN DIEGO GAS AND ELECTRIC [PURSUANT TO GOVERNMENT CODE SECTION 54956.9] • Additional Facts: Incident occurred on July 10, 2019. Claim received on July 23, 2021.

- F) CONSIDER OMWD LABOR NEGOTIATIONS (Negotiation Team – General Manager, Kimberly Thorner; HR Manager, Jennifer Joslin) [PURSUANT TO GOVERNMENT CODE SECTION 54957.6] • Additional Facts: Update on Negotiations.

- 22. OPEN SESSION

- 23. ADJOURNMENT



Memo

To: Board of Directors
From: Stephanie Kaufmann, Executive Secretary
Via: Kimberly A. Thorner, General Manager
Subject: BOARD MEETING MINUTES

Draft minutes of the most recently held Board of Directors meeting will be provided separately. Following Board approval, the minutes will be posted on the District's website.

Memo

Date: September 8, 2021
To: Olivenhain Municipal Water District Board of Directors
From: Jason P. Hubbard, Engineering Manager
Via: Kimberly A. Thorner, General Manager
Subject: **CONSIDER ADOPTION OF A RESOLUTION MAKING CEQA FINDINGS FOR THE RANCHO PASEANA RECYCLED WATER METER PROJECT AND ORDER A NOTICE OF EXEMPTION BE FILED WITH THE COUNTY CLERK, COUNTY OF SAN DIEGO**

Purpose

The purpose of this agenda item is to consider adoption of the proposed Resolution and California Environmental Quality Act (CEQA) findings which would authorize staff to file a Notice of Exemption (NOE) for the installation of a recycled water meter and flow control facility to serve Rancho Paseana located at 16094 San Dieguito Road with the San Diego County Clerk.

Recommendation

Staff recommends adoption of the proposed Resolution which makes CEQA findings for the declaration of the recycled water meter and flow control facility installation as an exempt project under California Public Resources Code 21084 and CEQA Guidelines Article 19, Section 15303(d), which allows categorical exemptions for the construction and location of limited numbers of new, small facilities or structures including water mains and other utility extensions. Staff also recommends approval to file the NOE for the project with the County Clerk for posting per CEQA Guidelines Section 15062.

Alternative(s)

Although the project qualifies as a project exempt from CEQA under Public Resources Code 21084 and CEQA Guidelines Sections 15303(d), the Board could:

- Adopt the NOE and direct staff to not file the NOE, which would increase the Statute of Limitations for filing protests against the project from 35 days to 180 days; or
- Determine CEQA is not required for this project and not adopt the Resolution; or
- Decide an NOE is not adequate to meet CEQA requirements for this project and direct staff to initiate an Initial Study to develop an alternative CEQA document, such as a Mitigated Negative Declaration.

Background

OMWD produces over 1 million gallons of recycled water daily at the 4S Ranch Water Reclamation Facility which is delivered to irrigation customers in the Southwest Quadrant of OMWD's recycled system for use at Homeowners Association common areas, schools, parks, streetscapes, sports parks, and golf courses. The recycled water supply is augmented by recycled water purchases from the Rancho Santa Fe Community Services District and the City of San Diego. OMWD continues to focus on expanding its recycled water deliveries to provide a reliable, locally-produced, drought-proof water supply to offset the use of imported drinking water for irrigation.

Rancho Paseana is a horse ranch situated over four (4) parcels in Rancho Santa Fe consisting of approximately 225 acres, with a race track, barns, staff living quarters, and a 4,000 acre-foot water storage pond. Currently, well water and water from four (4) OMWD potable irrigation meters provide landscape irrigation and dust control. Rancho Paseana staff approached OMWD with a request for a recycled water connection, to augment and blend the well water in their storage pond. OMWD's 8-inch diameter Recycled Main Extension 153 runs adjacent to the southern property line, within an OMWD easement. The project includes a connection to Recycled Main Extension 153.

OMWD had previously prepared a CEQA Initial Study/Mitigated Negative Declaration for a connection to Main Extension 153 for the Surf Cup Recycled Water Project (ECORP 2018). The survey area evaluated for biological resources encompassed the proposed recycled water meter and flow control facility connection point. RECON Environmental (RECON) used the ECORP document as a baseline for the biological and vegetative communities in the area. RECON conducted three (3) additional site visits (April 1, 2021, April 14, 2021, and July 27, 2021) to verify and update vegetation mapping and plant and

wildlife species inventories within the proposed work area with a buffer of 100 feet. A majority of the area mapped was either highly disturbed coastal sage scrub or non-native cover. A native shrub layer made up of primarily coastal goldenbush was noted. A total of 0.40 acres of vegetation would be impacted by the project. The majority of this impact is temporary (400 feet of conduit, connection point to Main Ext. 153) and once the project is complete the impacted areas will be recontoured and reseeded with a native mix, including goldenbush, after construction. No sensitive wildlife were identified during the surveys and the project is scheduled to be constructed outside of the bird nesting season, although provisions are included in the Resolution in the event a part of the project extends past February 15, 2022. Additional avoidance measures listed in RECON's Letter Report dated August 2, 2021, will be implemented.

California Public Resources Code (PRC) Section 21084 allows for exemption from CEQA for certain classes of projects having been determined not to have a significant impact on the environment. CEQA Guidelines Section 15300.2 exclude certain projects from utilizing these exemptions; however, this section does not apply to this project as the project will not impact an environmental resource of hazardous or critical concern and the cumulative impact of successive projects in the same location is not significant. CEQA Guidelines Article 19, Section 15303(d), which allows for categorical exemptions for construction and location of limited numbers of new, small facilities or structures including water mains and other utility extensions also applies to this project.

Fiscal Impact

This project is funded in the FY 20/21 budget via the 'Retrofit Potable Meters to Recycled' project which was budgeted at \$97,000. The installation of a recycled water meter and flow control facility to serve Rancho Paseana is estimated to cost \$75,000 of the \$97,000. There is a \$50 County Clerk fee for filing the NOE.

Is this a Multi Fiscal Year Project? **No**

In which FY did this capital project first appear in the CIP budget? **2021**

Total Rancho Paseana Project Budget: **\$ 75,000**

Current Fiscal Year Appropriation Retrofit Potable Meters to Recycled project: **\$ 97,000**

To Date Approved Appropriations: **\$ 97,000**

Target Rancho Paseana Project Completion Date: **February 15, 2022**

Expenditures and Encumbrances as of August 18, 2021: **\$ 6,218**

Is this change order within the appropriation of this fiscal year? **N/A**

If this change order is outside of the appropriation, Source of Fund: **N/A**

Discussion

The project is located in previously disturbed upland habitat which contains an invasive species. Staff issued a task order to RECON under a two-year As-Needed Agreement approved by the Board at their June 2020 meeting, to conduct a biological survey and vegetation mapping in the proposed work zone. RECON has prepared a letter report detailing their findings and verified earlier findings that there are no sensitive species impacted by the project. Per the letter report, the following avoidance measures shall be undertaken:

- Project disturbance limits shall be clearly delineated prior to construction
- Open trenches will be backfilled the same day or animal entrapment-proofed
- If construction occurs during the nesting season a pre-construction survey will be conducted and a biological monitor shall be retained during construction if necessary
- All temporary impact areas shall be returned to pre-existing conditions and reseeded with a native seed mix

Recycled water demands for Rancho Paseana are anticipated to be 200-500 acre-feet annually. Flows to Rancho Paseana's on-site storage pond will be regulated so as not to impact the other existing recycled water customers in the area.

Staff is available to answer any questions.

Attachment(s):

Resolution;

Notice of Exemption;

Survey Exhibit;

RECON Letter Report issued August 2, 2021;

Site Map

RESOLUTION NO. 2021-

RESOLUTION OF THE BOARD OF DIRECTORS OF THE
OLIVENHAIN MUNICIPAL WATER DISTRICT MAKING
CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS
FOR THE RANCHO PASEANA RECYCLED WATER METER
AND CONNECTION PROJECT AND ORDERING A NOTICE
OF EXEMPTION FILED WITH THE COUNTY CLERK,
COUNTY OF SAN DIEGO

WHEREAS, the Olivenhain Municipal Water District owns and operates a recycled water transmission and distribution pipeline (Main Extension 153) in conformance with Title 22 standards and regulations in the County of San Diego, State of California. Main Extension 153 lies in an easement adjacent to the southern portion of Rancho Paseana (Assessor's Parcel Number 302-082-22-00) in Rancho Santa Fe; and

WHEREAS, Rancho Paseana is a privately owned horse ranch situated on 225 acres, with a race track, barns, living quarters, and a 4000 acre-foot water storage pond. Currently Rancho Paseana, uses a blend of well water and potable irrigation water for landscape irrigation and dust control. Rancho Paseana lies within the jurisdictional service boundaries of the District and has requested recycled water service from the District; and

WHEREAS, the recycled water service project entails the installation of a six-inch tap and 400 feet of communications conduit within the District's existing easement and a three-inch recycled water meter and above-ground flow control facility within an easement to be secured from Rancho Paseana at the south end Assessor's Parcel No. 302-082-22-00; and

WHEREAS, the project is located in a previously disturbed upland habitat. A biological study and vegetation map has been prepared to verify earlier findings that the proposed construction area does not contain any sensitive species; and

WHEREAS, project disturbance limits shall be clearly delineated prior to construction; if construction occurs during the nesting season a pre-construction survey will be conducted and a biological monitor shall be retained during construction if necessary; all temporary impact areas shall be returned to pre-existing conditions; and the temporary impact area will be reseeded with a native seed mix; and

WHEREAS, the project is exempt from the California Environmental Quality Act (CEQA) in accordance with Public Resources Code Section 21084 and CEQA Guidelines Section 15303(d) which provides categorical CEQA exemption for new construction and location of limited numbers of new, small facilities including water mains and other utility extensions; and

WHEREAS, the project is not subject to any of the exceptions under CEQA Guidelines Section 15300.2. This project does not impact an environmental resource, have a cumulative impact, does not contain unusual circumstances that would result in a significant impact, does not impact scenic highways, hazardous waste sites, or historical resources; and

WHEREAS, pursuant to the CEQA Guidelines, the Olivenhain Municipal Water District Board of Directors has caused to be prepared a Notice of Exemption according to

RESOLUTION NO. 2021 - continued

CEQA Guidelines Section 15062, stating that the project is exempt according to California Public Resources Code 21084 and CEQA Guidelines Section 15303(d); and

WHEREAS, having heard, considered and reviewed information from interested persons who expressed their views to the Board of Directors, it is in the interest of the Olivenhain Municipal Water District and the people it serves to order a Notice of Exemption filed with the County Clerk, County of San Diego.

NOW, THEREFORE, the Board of Directors of the Olivenhain Municipal Water District does hereby find, determine, resolve and order as follows:

SECTION 1: The foregoing facts are found and determined to be true and correct.

SECTION 2: In accordance with the California Environmental Quality Act Guidelines Section 15061, the Board of Directors finds and determines that the Rancho Paseana Recycled Water Meter Project is exempt from CEQA for the following reasons:

- 1) California Public Resources Code Section 21084 directs the Office of Planning and Research to develop guidelines including a list of classes of projects that have been determined not to have a significant impact on the environment and shall be exempt from CEQA.
- 2) CEQA Guidelines Article 19, Section 15303(d) allows for the categorical Class 3 exemption of new construction and location of limited numbers of new, small facilities including water mains and other utility extensions.
- 3) The exceptions enumerated in CEQA Guidelines Article 19, Section 15300.2 do not apply to this project as the project will not impact an environmental resource of hazardous or critical concern, have a cumulative impact, does not contain unusual circumstances that would result in a significant impact, does not impact scenic highways, hazardous waste sites, or historical resources

SECTION 3: The Board of Directors of the Olivenhain Municipal Water District hereby directs District Staff to promptly file a Notice of Exemption with the County Clerk of the County of San Diego stating that the project is exempt from CEQA in accordance with Public Resources Code Sections 21084 and CEQA Guidelines Section 15303(d).

PASSED, ADOPTED AND APPROVED at a regular meeting of the Board of Directors of the Olivenhain Municipal Water District held on Wednesday, September 8, 2021.

Lawrence A. Watt, President
Board of Directors
Olivenhain Municipal Water District

ATTEST:

Robert F. Topolovac, Secretary
Board of Directors
Olivenhain Municipal Water District

Notice of Exemption**Appendix E**

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

County Clerk

County of: San Diego

1600 Pacific Highway, Suite 260

San Diego, CA 92112

From: (Public Agency): Olivenhain MWD
1966 Olivenhain Road
Encinitas, CA 92024

(Address)

Project Title: Rancho Paseana Recycled Water Meter and Connection

Project Applicant: Olivenhain Municipal Water District

Project Location - Specific:

16094 San Dieguito Road, Rancho Santa Fe, CA 92067

Project Location - City: _____ Project Location - County: San Diego

Description of Nature, Purpose and Beneficiaries of Project:

Installation of a new six-inch tap and three-inch recycled water meter and flow control facility on recycled water Main Ext. 153 to offset potable irrigation water currently being used for landscape irrigation and dust control on a 225 acre horse ranch. All temporary impacts will be recontoured to pre-existing conditions and reseeded with a native mix. The project will offset 200-500 AF of potable water irrigation use annually.

Name of Public Agency Approving Project: Olivenhain Municipal Water District

Name of Person or Agency Carrying Out Project: Olivenhain Municipal Water District

Exempt Status: **(check one):**

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☒ Categorical Exemption. State type and section number: 15303(d)
- ☐ Statutory Exemptions. State code number: _____

Reasons why project is exempt:

The project is exempt per CEQA Guidelines Section 15303(d) which provides exemption for the construction and location of limited numbers of small, new facilities or structures including water mains and other utility extensions and is not subject to Section 15300.2 exemptions. If construction occurs during the nesting season a pre-construction survey will be conducted and a biological monitor shall be retained if required.

Lead Agency

Contact Person: Jason P. Hubbard Area Code/Telephone/Extension: 760-753-6466 x105

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: _____ Date: _____ Title: _____

▪ Signed by Lead Agency Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: _____





An Employee-Owned Company

August 2, 2021

Ms. Karen Ogawa
Olivenhain Municipal Water District
1966 Olivenhain Road
Encinitas, CA 92024

Reference: Biological Resources Letter for the Olivenhain Water District Rancho Paseana Project
(RECON Number 9719-4)

Dear Ms. Ogawa:

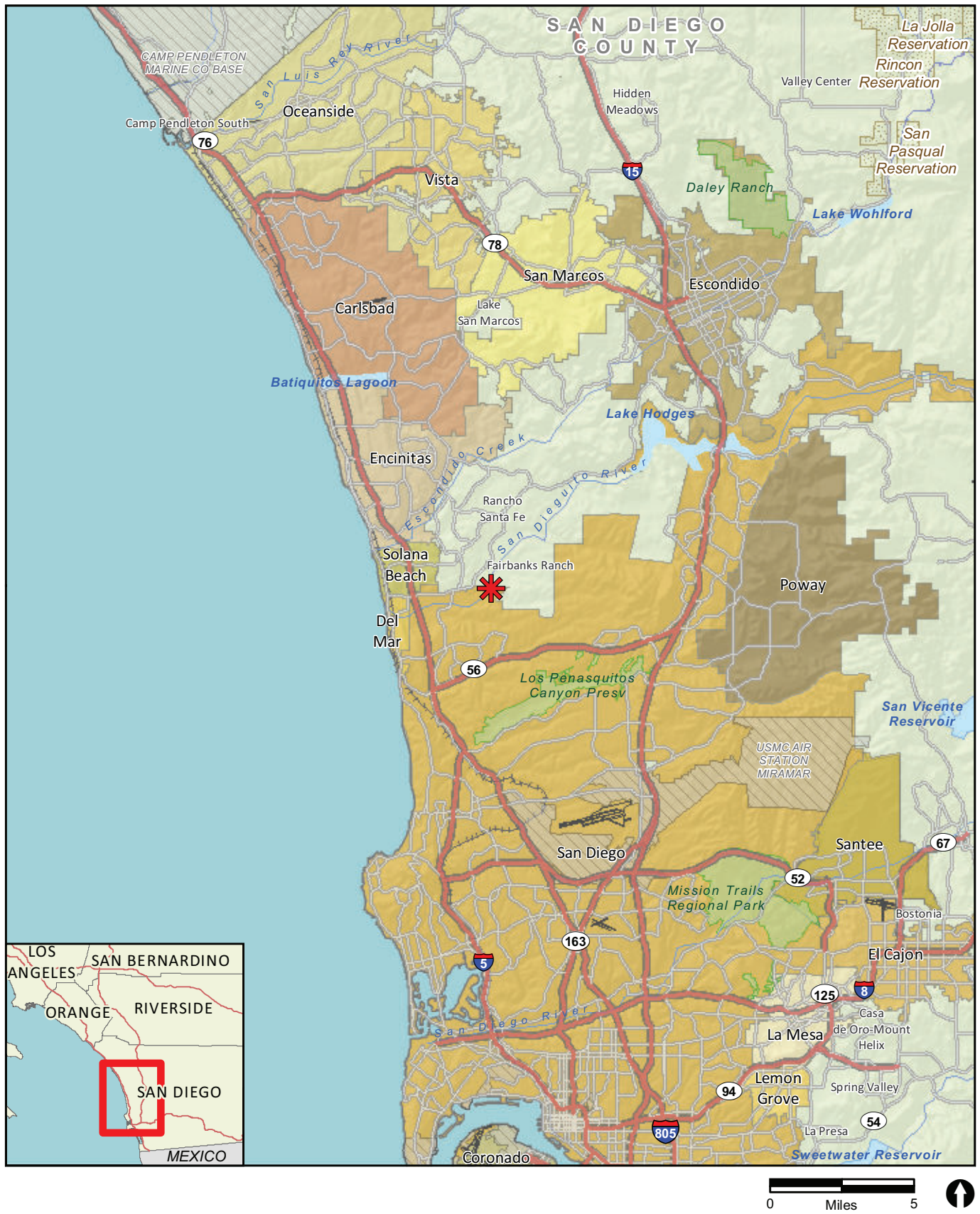
This letter report serves to evaluate the proposed impacts from the installation and connection of a new recycled water meter assembly to serve Rancho Paseana. This also serves as an update to the Biological Resources Assessment for the Olivenhain Municipal Water District (OMWD) 153A Recycled Water Pipeline Extension Project prepared by ECORP Consulting, Inc (ECORP) (ECORP 2018). It provides minor vegetation mapping updates and assesses potential biological impacts and recommends avoidance, minimization, and mitigation measures.

1.0 Project Location and Description

The Olivenhain Water District Rancho Paseana Project (project) is located in the Fairbanks Ranch community in central coastal San Diego County (Figure 1). It is located within the San Dieguito river valley (Figure 2) and is located between Morgan Run Club and Resort and Fairbanks Ranch Country Club. Surrounding land uses consist of an equestrian ranch property (Rancho Paseana) to the north, Morgan Run Club and Resort to the west, Fairbanks Ranch Country Club to the south, and undeveloped open space immediately surrounding the project (Figure 3). OMWD holds an easement located within the southern portion of the project area (see Figure 3).

The project would consist of the construction of a recycled water meter assembly adjacent to the Rancho Paseana property fence and connection to an OMWD recycled water pipeline, located within an OMWD easement to the south (see Figure 3). A trench would be excavated from the assembly to the OMWD recycled water pipeline. A maximum construction corridor of 40 feet will be required to complete the project. Vegetation would be removed temporarily from the trench and pipeline connection area, whereas any vegetation within the area around the assembly would be removed permanently.

All work within the OMWD easement will be staked and construction fencing will be installed prior to any construction work commencing, to be overseen by a biologist. Vegetation will be removed by back dragging the backhoe front bucket as needed to a maximum width of 20 feet for pipeline work and 15 feet for conduit. Work will involve the installation of approximately 400 linear feet (400 feet in the vegetated area, 510 feet overall) of two 1-inch Sch80 PVC conduits at 2-3 feet deep, encased in sand with warning tape 1 inch over the conduit. Sweeps will be installed and brought up into two to three pull boxes located along the alignment. Pull boxes will sit on 12 inches of ¾ inch rock. Trench for conduit to be dug with a 12- to 18-inch bucket with a backhoe (Case/580L). Work will also involve the 6-inch connection to an existing 8-inch waterline with a tapping sleeve and running approximately 40-50 feet of 3-inch C-900 purple pipe to a location outside the OMWD easement for the installation of an enclosed above ground flow control valve and meter. Work will involve three to four crew members using two to three standard 1-ton utility trucks (Ford F-550) and flatbed truck (Ford F-450). Pre-mixed imported sand will be delivered with a dump truck (Ford F-650). All trench spoils will be re-compacted into the trench and/or spread within the work area. All work to be completed within two weeks. After work is completed, site to be cleaned and prepped for hydroseeding.



 Project Location

FIGURE 1
Regional Location

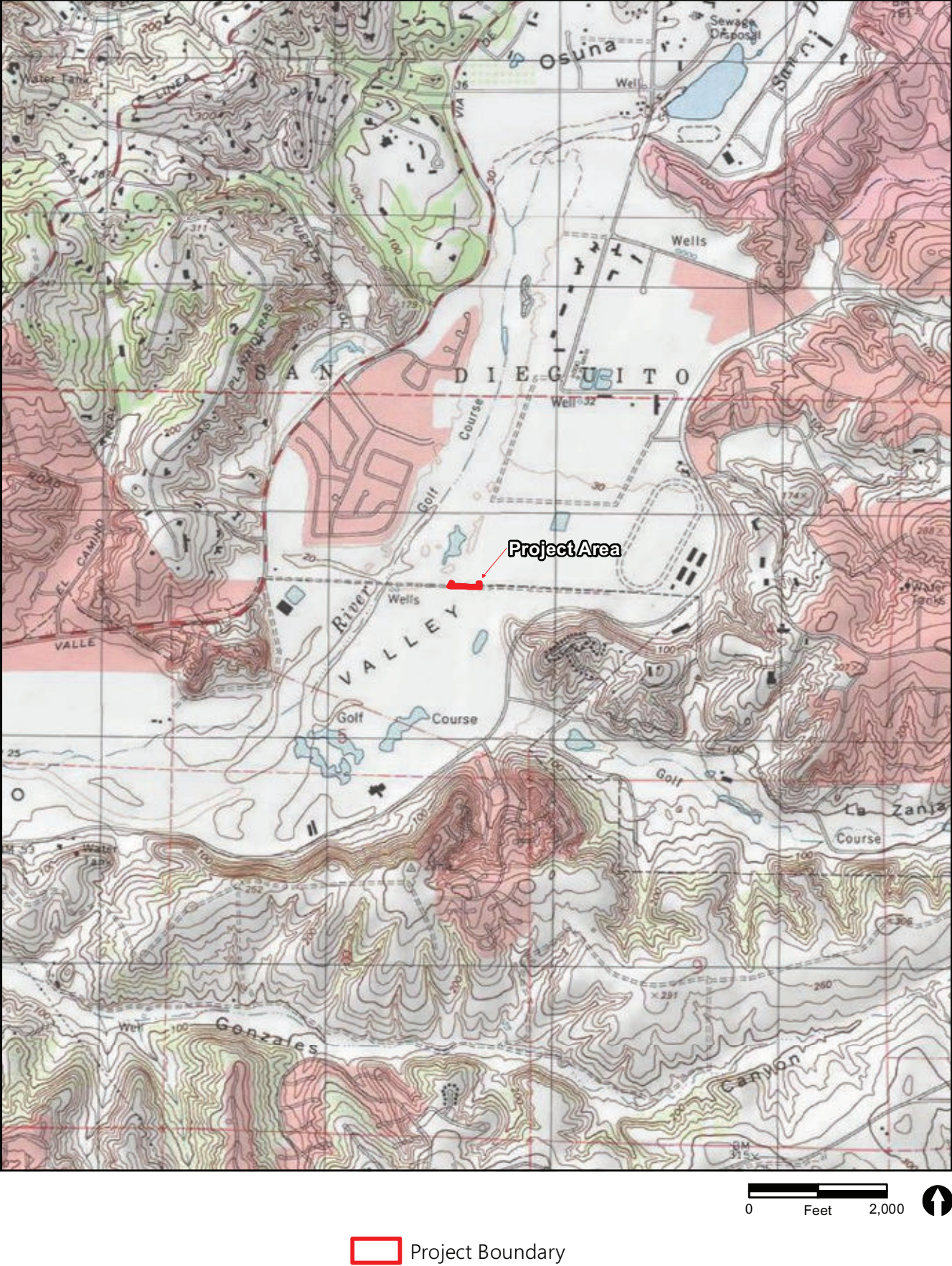





FIGURE 2
Project Location on USGS Map



-  Project Boundary
-  Survey Area
-  OMWD Easement

0 Feet 150



FIGURE 3
Project Location on Aerial Photograph

OMWD previously prepared CEQA documentation for the 153A Recycled Water Pipeline Extension project. The survey area evaluated for biological resources includes the project and survey area included in the current project (ECORP 2018). This document analyzed a larger area than the current project and was reviewed and used as a baseline for the current survey effort.

2.0 Survey Methods

Baseline biological data for this project is from field work conducted by ECORP on August 14, 2018 (ECORP 2018). RECON biologist Wendy Loeffler conducted several supplemental site visits to verify and update vegetation mapping and species inventories on April 1, April 14, and July 27, 2021. Each survey focused on a slightly different portion of the project as the project location and description was modified. Species noted during each survey were incorporated.

Ms. Loeffler conducted the survey on foot within a 3.67-acre survey area within the potential 40-foot-wide work area, plus all land within 100 feet. Vegetation communities were mapped in the field on a 1-inch-equals-100-feet aerial photograph flown in January 2021. Vegetation community classifications follow Oberbauer et al. (2008). All plant and animal species detected within the survey area were noted. Animal species were identified directly or detected from calls, tracks, scat, nests, or other sign.

Nomenclature used in this letter follows the Jepson Online Interchange (Jepson Flora Project 2020), the California Native Plant Society (CNPS) online database (CNPS 2020) or Rebman and Simpson (2014) for plants, Evans (2008) for invertebrates, Chesser et al. (2020) for birds, and Bradley et al. (2014) and American Society of Mammalogists (2020) for mammals.

3.0 Existing Biological Resources









3.1 Vegetation Communities/Land Cover Types

Five vegetation communities/land cover types were identified during the updated biological survey: disturbed coastal scrub, non-native grassland, extensive agriculture, disturbed land, and developed land (Figure 4; Table 1). The updated vegetation map is largely the same as that from the ECORP report, with notable exception that some of the disturbed land mapped by ECORP has been remapped as disturbed coastal scrub as discussed below.

Table 1 Vegetation Communities/Land Cover Types within the Survey Area			
Vegetation Community/ Land Cover Type	Area (acres)		
	Project Area (Impacts)	100-foot Survey Buffer	Total
Disturbed coastal scrub	0.33	1.92	2.25
Non-native grassland	0.01	0.20	0.21
Extensive agriculture	0.01	0.41	0.42
Disturbed land	0.05	0.31	0.36
Developed	--	0.43	0.43
TOTAL	0.40	3.27	3.67

Disturbed coastal scrub is the dominant vegetation community in the survey area and is located in the open space area adjacent to the dirt access road that runs between Morgan Run Club and Resort and the fields at Rancho Paseana. This community is highly disturbed, with a high percent coverage of non-native weedy species; however, the area supports a shrub layer dominated primarily by one native shrub species: coastal goldenbush (*Isocoma menziesii*).



- | | |
|--|---|
|  Project Boundary |  Disturbed Coastal Scrub |
|  Survey Area |  Extensive Agriculture |
|  OMWD Easement |  Non-native Grassland |
| |  Disturbed Land |
| |  Developed |

0 Feet 100



FIGURE 4
Existing Biological Resources

The majority of the mapped area is at least 50 percent cover by non-native grasses and weeds, including oats (*Avena* sp.), black mustard (*Brassica nigra*), castor bean (*Ricinus communis*), horehound (*Marrubium vulgare*), rattail sixweeks grass (*Festuca myuros*), red brome (*Bromus rubens*), radish (*Raphanus sativus*), and dwarf nettle (*Urtica urens*). This area was mapped as disturbed land by ECORP (2018) based on the high level of disturbance. Given the smaller area of mapping for the current project, the percent cover of the native coastal goldenbush within the specific survey area is likely higher than in the ECORP report, which analyzed a larger area than the current project and may account for the difference in the vegetation mapping.

Diegan coastal scrub, a form of coastal scrub, is considered a sensitive vegetation community because it supports a number of sensitive native plant and animal species. However, the highly disturbed version within the project area supports an atypical composition of coastal goldenbush that is not suitable or expected to support sensitive wildlife species, specifically the coastal California gnatcatcher (*Poliophtila californica californica*).

Non-native grassland is located within patches in the survey area where the vegetation is dominated by non-native grasses, such as red brome, rattail sixweeks grass, and salt grass (*Distichlis spicata*), intermixed with non-native weedy species, similar to the understory for disturbed coastal scrub described above. Non-native grassland is not considered sensitive.

Disturbed land is mapped in areas that have been physically disturbed and are no longer recognizable as native vegetation communities (see Figure 4). Within the survey area, this includes a largely unvegetated dirt access road that runs along the perimeter of the Rancho Paseana fields and is covered with bark mulch. Non-native grasses and weedy species are present in small patches along the edge of the access road, similar to the understory described for disturbed coastal scrub above. Disturbed habitat is not considered sensitive.

Extensive agriculture is located within the Rancho Paseana fields in the northern portion of the survey area (see Figure 4), consistent with the ECORP (2018) report. These areas support fallow paddocks used for equestrian activities. Non-native weedy species are present in patches, including soft chess (*Bromus hordeaceus*), sweetclover (*Melilotus* sp.), and dwarf nettle. Extensive agriculture is not considered sensitive.

Developed land is located in the northwest portion of the survey area and comprises the golf course and utility infrastructure facility.

3.2 Plant Species

RECON identified a total of 19 plant species within the survey area, including 5 native and 12 introduced species (Attachment 1).

3.3 Wildlife Species

RECON identified a total of 11 wildlife species during the current biological survey (Attachment 2). Species identified during the current survey include one reptile, eight bird, and one mammal species.

3.4 Sensitive Plant and Animal Species

No sensitive plant species were observed within the survey area. The ECORP report provided a detailed assessment of the potential for sensitive plant species occurrence in the survey area and identified only one sensitive plant species with moderate or high potential to occur in the survey area based on the proximity of historic observations: smooth tarplant (*Centromadia pungens* ssp. *laevis*). ECORP did not detect the species even though their surveys were conducted during the blooming period of the species, and they noted that the habitat is not typical for this species.

The species was also not detected during the three site visits, which was all conducted during the blooming period for this species. Given the small area of potential impact and lack of direct observations of this species, this species has a low potential to occur.

No sensitive wildlife species were detected within the survey area. The ECORP report identified five sensitive wildlife species with moderate to high potential to occur. Two of these, light-footed Ridgway's rail (*Rallus obsoletus levipes*) and California black rail (*Laterallus jamaicensis coturniculus*) are marsh species that are either known or have potential habitat in the vicinity; however, for the current project, there is no suitable habitat within either the project footprint or the survey area and these species are not addressed further. The other species ECORP identified with moderate to high potential to occur are San Diego black-tailed jackrabbit (*Lepus californicus bennettii*), Belding's orange-throated whiptail (*Aspidoscelis hyperythra beldingi*), and Belding's savannah sparrow (*Passerculus sandwichensis beldingi*). These species are described in more detail below.

San Diego black-tailed jackrabbit is a CDFW species of special concern that ranges from southern Kern County southward and west of the Peninsular Range into Baja California (Hall 1981). It occupies open or semi-open habitats, such as coastal sage scrub and open chaparral, though thick chaparral and rugged or rocky areas are not suitable (Bond 1977, Tremor et al. 2017). The San Diego black-tailed jackrabbit breeds throughout the year, with the greatest number of births occurring from April through May. The black-tailed jackrabbit is strictly herbivorous, preferring habitat with ample forage such as grasses and forbs. This species has a high potential to occur due to the presence of disturbed coastal scrub and extensive agricultural lands.

Belding's orange-throated whiptail is a CDFW watch list species, that ranges from the coast to the Peninsular mountain ranges from the Santa Ana River in Orange County and Colton in San Bernardino County, south to the tip of Baja California, Mexico (Stebbins and McGinnis 2018). It occurs in a variety of habitats and is most common in sandy areas of low, open sage scrub or chaparral, particularly where there is California buckwheat (*Eriogonum fasciculatum*), sage (*Salvia* spp.), or chamise (*Adenostoma fasciculatum*; Lemm 2006). This species feeds primarily on termites (*Reticulitermes* sp.), which comprise 86 percent or more of the lizard's diet (Bostic 1966). It is active during spring and summer, but is largely dormant during the fall and winter, when temperatures drop (Jennings and Hayes 1994). ECORP identified this as having moderate potential in their larger survey area but low potential within the disturbance areas. The current project footprint and survey area also supports habitat with a low potential to support this species, given the high level of disturbance and lack of prevalent observable sources of food.

Belding's savannah sparrow is state listed as endangered. It is a year-round resident in San Diego County, is restricted to coastal marshes and nests in the upper tidal salt marshes or around lagoons in vegetation dominated by pickleweed (*Salicornia* spp.), saltgrass (*Distichlis spicata*), and saltwort (*Batis maritima*) (Unitt 2004; Wheelwright and Rising 1993). Birds occur in the highest densities in marshes with full tidal flushing (CDFW 2004). Larger populations are supported in marshes of 25 acres in size or larger, and nesting success is higher where the marsh plants are denser and taller (CDFW 2004; Unitt 2004). Belding's savannah sparrows feed on the ground, foraging in the nearby mudflats, beaches, rocks, and low coastal strand vegetation (Massey 1977). Development, including dredging of salt marsh habitats, and the degradation of tidal marshes have greatly reduced available habitat for Belding's savannah sparrow. Based on the published data for this species (Unitt 2004), the current project is outside of the known breeding range for this species, which is restricted to marshes along the coastline. Given this data and lack of marsh habitat within the project area and surrounding survey buffer, this species is not expected to occur.

Coastal California gnatcatcher is federally listed as threatened and is a CDFW species of special concern. It is a resident species found in mature coastal sage scrub on the coastal slopes of southern California, especially where there is California sagebrush (*Artemisia californica*), California buckwheat, California encelia (*Encelia californica*), broom baccharis (*Baccharis sarothroides*), or coyote brush (*Baccharis pilularis*) (Atwood and Bontrager 2001). This

species was considered to not have potential to occur in the ECORP report based on their vegetation map that did not include coastal sage scrub; whereas this current report revises the mapping to include disturbed coastal scrub. However, the structure, plant composition, and level of disturbance of this vegetation community also does not provide suitable habitat for this species and it is not expected to occur.

In addition to the sensitive species discussed above, the survey area has potential to support nesting birds species protected by the federal Migratory Bird Treaty Act (MBTA) and California Fish and Game Code (CFG) Sections 3503 and 3503.5.

3.5 Wildlife Corridors

The project is located along the San Dieguito River and immediately surrounded by undeveloped land and ranch and golf course properties, all of which provide a corridor for wildlife movement in the region.

4.0 Impacts

4.1 Vegetation Communities

Direct impacts from the proposed project would occur as a result from construction of the water meter assembly, the trenching for connecting the assembly to the main recycled water pipeline, excavation of a pit wide enough to connect the pipes and trenching necessary to connect the new assembly pipeline to the existing assembly. A maximum 40-foot-wide construction area is expected to be affected during project implementation. Only the footprint of the water meter assembly will be permanent; all other impacts will be temporary, and the land will be recontoured to the pre-existing state and replanted with a native seed mix.

In total, 0.40 acre of vegetation would be impacted, including 0.33 acre of disturbed coastal scrub, 0.01 acre of non-native grassland, 0.01 acre of extensive agriculture, and 0.05 acre of disturbed land (see Table 1). The majority of this impact would be temporary as the only permanent impacts would result from the construction of the water meter assembly within the disturbed land; thus, only a small portion of the 0.05-acre impact of disturbed land would be permanent. However, impacts to disturbed land are not considered significant and would require no mitigation. The impact to extensive agriculture land is also not considered significant and would require no mitigation. The 0.33 acre of impact to disturbed coastal scrub would be temporary and will require recontouring and replanting with a native seed mix. Recommendations are provided below which will reduce any impact to less than significant.

4.2 Sensitive Plant and Animal Species

As noted above, smooth tarplant has low potential to occur in the survey area and was not observed in the project footprint. Therefore, it is not expected to be impacted.

One sensitive animal species, San Diego black-tailed jackrabbit, has high potential to occur in the survey area. However, this is a species that is highly mobile and the current project will impact a very small footprint. No direct impacts are expected to occur to this species as a result of construction activities.

The project has potential to cause direct impacts to nesting migratory birds and raptors protected by the MBTA and CFG Sections 3503 and 3503.5 if construction would occur during the breeding season (February 15 to August 30). Such direct impacts would require avoidance measures as discussed below.

5.0 Avoidance Measures

The following measures are recommended to avoid or prevent significant impacts to sensitive biological resources and nesting birds. These are consistent with measures provided by ECORP, where relevant to the current project.

1. Project disturbance limits shall be clearly identified prior to construction activities and restricted to the minimal size necessary to complete the proposed project. Placement should be overseen by a biological monitor. Silt fencing, straw wattles, and/or other relevant erosion control Best Management Practices (BMPs) are recommended to contain soil, sediment, and other materials within the designated work areas and prevent erosion and deposition onto native vegetation in the surrounding areas.
2. A biological monitor should be present during vegetation clearing to verify that construction remains within the approved limits of disturbance and to assist the construction crew in minimizing impacts to potentially occurring sensitive species.
3. Trenches or bore holes shall not be left open if they cannot be backfilled that same day. If a trench or bore-hole cannot be backfilled, placement of a wood plank with minimum dimensions of 2-inch-thick by 6-inch-wide should be placed in a manner that an animal can climb out of the hole or trench. If an animal becomes trapped in a hole or trench a qualified biologist should be contacted immediately to relocate the animal.
4. Construction should be timed to avoid the breeding season for bird species protected by the MBTA and CFGC Sections 3503 and 3503.5 (February 15 to August 30). If construction must occur during this period, additional measures should be implemented as follows:
 - a. A pre-construction clearance survey should be conducted for avian species protected by the MBTA and CFGC Sections 3503 and 3503.5. If no nesting birds are detected in the impact area, no additional measures would be required. If nesting birds are detected within the impact area, a construction avoidance buffer would be required around the nest to ensure no construction activities may occur within the buffer until the end of the breeding season or after the nest is no longer active. The radius of the avoidance buffer would be determined based on the species and location of the nest.
 - b. If nests of any species are detected during the pre-construction surveys described in Recommendation 4(a), a biological monitor should be retained to monitor construction when activities would occur adjacent to the avoidance buffer. The biological monitor should make periodic (i.e. weekly) site visits to inspect the nest and determine whether it is active.
5. Following completion of the project, all temporary impact areas should be recontoured to pre-existing conditions and reseeded with the following seed mix.

Scientific Name	Common Name
<i>Deinandra fasciculata</i>	fascicled tarplant
<i>Isocoma menziesii</i>	coastal goldenbush
<i>Lotus scoparius</i>	coastal deerweed
<i>Sambucus nigra</i> ssp. <i>caerulea</i>	blue elderberry

Ms. Karen Ogawa
Page 11
August 2, 2021

6.0 Summary

The project would result in temporary impacts to impacts to 0.04 acre of disturbed coastal scrub and has potential to impact nesting birds and raptors.

Impacts to disturbed coastal scrub would be minimized through implementation of Avoidance Measures 1, 2, and 5 above. Impacts to wildlife and nesting birds would be avoided through implementation of Avoidance Measures 3 and 4 above. With implementation of these measures, the project is not expected to result in any significant impacts and no compensatory mitigation would be required.

Please contact me at wloeffler@reconenvironmental.com or (619) 308-9333 extension 113 should you have any questions regarding this analysis or recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read "Wendy", with a long, sweeping horizontal line extending to the right.

Wendy Loeffler
Senior Biologist/Project Manager

WEL:sh

Attachments

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ATTACHMENTS

ATTACHMENT 1

Plant Species Observed

Attachment 1 Plant Species Observed			
Scientific Name	Common Name	Habitat	Origin
ANGIOSPERMS: MONOCOTS			
ARECACEAE	PALM FAMILY		
<i>Washingtonia robusta</i>	Mexican fan palm	DCS	I
POACEAE (GRAMINEAE)	GRASS FAMILY		
<i>Avena</i> sp.	oats	DCS	I
<i>Bromus hordeaceus</i>	soft chess	DCS, AG	I
<i>Bromus rubens</i> [= <i>Bromus madritensis</i> ssp. <i>rubens</i>]	red brome	DCS	I
<i>Distichlis spicata</i>	salt grass	DCS	N
<i>Festuca</i> [= <i>Vulpia</i>] <i>myuros</i>	rattail sixweeks grass	DCS	I
ANGIOSPERMS: DICOTS			
ADOXACEAE	ADOXA FAMILY		
<i>Sambucus nigra</i> ssp. <i>caerulea</i> [= <i>Sambucus mexicana</i>]	blue elderberry	DCS	N
ASTERACEAE	SUNFLOWER FAMILY		
<i>Isocoma menziesii</i>	coastal goldenbush	DCS	N
<i>Stephanomeria</i> sp.	wreath-plant	DCS	N
BORAGINACEAE	BORAGE FAMILY		
<i>Amsinckia menziesii</i>	common fiddleneck, small-flowered fiddleneck, rancher's fireweed	DCS	N
BRASSICACEAE (CRUCIFERAE)	MUSTARD FAMILY		
<i>Brassica nigra</i>	black mustard	DCS	I
<i>Raphanus sativus</i>	radish	DCS	I
<i>Sisymbrium irio</i>	London rocket	DCS	I
FABACEAE (LEGUMINOSAE)	LEGUME FAMILY		
<i>Melilotus</i> sp.	sweetclover	AG	I
FRANKENIACEAE	FRANKENIA FAMILY		
<i>Frankenia salina</i>	alkali heath	DCS	N
POLYGONACEAE	BUCKWHEAT FAMILY		
<i>Rumex crispus</i>	curly dock	AG	I

Attachment 1 Plant Species Observed			
Scientific Name	Common Name	Habitat	Origin
RUBIACEAE	MADDER FAMILY		
<i>Galium</i> sp.	bedstraw, cleavers	DCS	N
TAMARICACEAE	TAMARISK FAMILY		
<i>Tamarix</i> sp.	tamarisk	DCS	I
URTICACEAE	NETTLE FAMILY		
<i>Urtica urens</i>	dwarf nettle	DCS, AG	I
<p><i>Notes:</i> Scientific and common names were primarily derived from Jepson eFlora (Jepson Flora Project 2020). In instances where common names were not provided in this resource, common names were obtained from Rebman and Simpson (2014). Additional common names were obtained from the USDA maintained database (USDA 2013) or the Sunset Western Garden Book (Brenzel 2001) for ornamental/horticultural plants. Common names denoted with * are from County of San Diego 2010.</p>			
HABITATS AG = Agriculture DCS = Disturbed coastal scrub		ORIGIN N = Native to locality I = Introduced species from outside locality	

ATTACHMENT 2

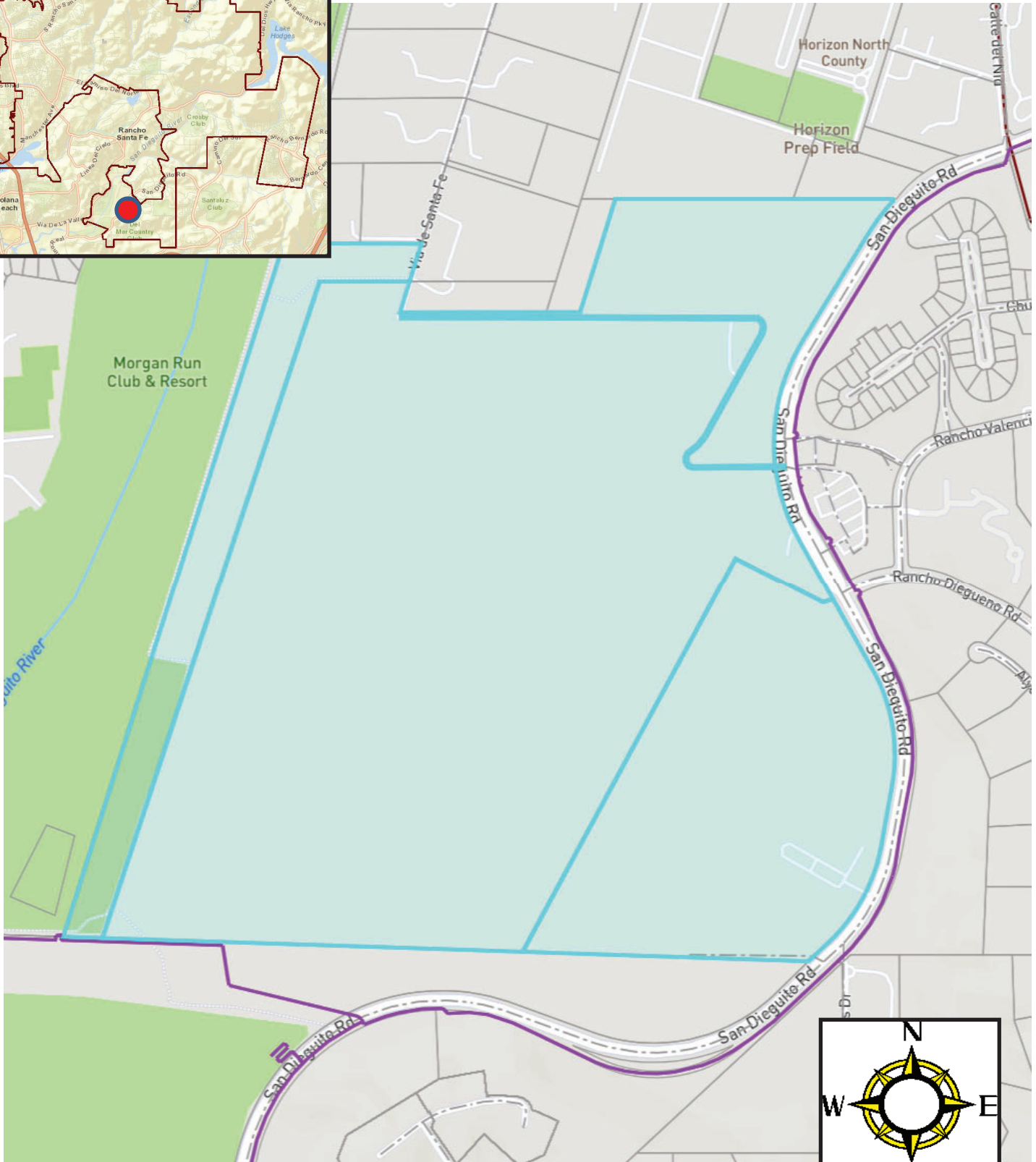
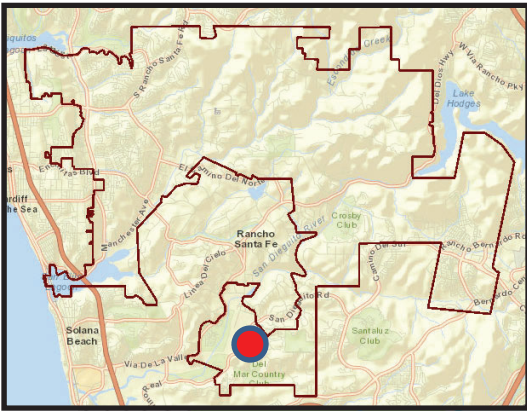
Wildlife Species Observed

Attachment 2
Wildlife Species Observed

Scientific Name	Common Name	Occupied Habitat	On-Site Abundance/ Seasonality (Birds Only)	Evidence of Occurrence
AMPHIBIANS (Nomenclature from Crother et al. 2017)				
PHRYNOSOMATIDAE	SPINY LIZARDS			
<i>Sceloporus occidentalis longipes</i>	Great Basin (=western) fence lizard	AG, DIS, DCS	C	O
BIRDS (Nomenclature from Chesser et al. 2020 and CDFW 2021)				
FALCONIDAE	FALCONS & CARACARAS			
<i>Falco sparverius</i>	American kestrel	DCS	F/ Y	O
COLUMBIDAE	PIGEONS & DOVES			
<i>Streptopelia decaocto</i>	Eurasian collared-dove (I)	DCS, DIS	F/ Y	O
<i>Zenaida macroura</i>	mourning dove	DCS	C/ Y	O
TROCHILIDAE	HUMMINGBIRDS			
<i>Calypte anna</i>	Anna's hummingbird	DCS	C/ Y	O
SYLVIIDAE	BABBLERS			
<i>Chamaea fasciata</i>	wrenit	DCS	C/ Y	O
PASSERELLIDAE	NEW WORLD PASSERINES			
<i>Melospiza melodia</i>	song sparrow	DCS	C/ Y	O
ICTERIDAE	BLACKBIRDS & NEW WORLD ORIOLES			
<i>Agelaius phoeniceus</i>	red-winged blackbird	DCS	F/ Y	O
FRINGILLIDAE	FINCHES			
<i>Spinus [=Carduelis] psaltria</i>	lesser goldfinch	DCS	C/ Y	O
<i>Haemorhous [=Carpodacus] mexicanus</i>	house finch	DCS	C/ Y	O

Attachment 2
Wildlife Species Observed

Scientific Name	Common Name	Occupied Habitat	On-Site Abundance/ Seasonality (Birds Only)	Evidence of Occurrence
MAMMALS (Nomenclature from Bradley et al. 2014; American Society of Mammalogists 2020; CDFW 2021)				
SCIURIDAE	SQUIRRELS & CHIPMUNKS			
<i>Otopermophilus [=Spermophilus] beecheyi</i>	California ground squirrel	DCS	C/ Y	O
HABITATS AG = Agriculture DCS = Disturbed coastal scrub DIS = Disturbed land SEASONALITY (birds only) Y = Year-round resident; probable breeder on-site or in vicinity EVIDENCE OF OCCURRENCE O = Observed				
ABUNDANCE (birds only; based on Garrett and Dunn 1981) C = Common to abundant; almost always encountered in proper habitat, usually in moderate to large numbers F = Fairly common; usually encountered in proper habitat, generally not in large numbers U = Uncommon; occurs in small numbers or only locally				



**RANCHO PASEANA RECYCLED WATER METER AND
CONNECTION**

Memo

Date: September 8, 2021
To: Olivenhain Municipal Water District Board of Directors
From: Stephanie Kaufmann, Executive Secretary
Via: Kimberly Thorner, General Manager
Subject: **CONSIDER VOTING FOR THE ASSOCIATION OF CALIFORNIA WATER AGENCIES REGION 10 BOARD OF DIRECTORS**

Purpose

This item is to vote for the Association of California Water Agencies Region 10 Board of Directors.

Recommendation

Staff recommends voting for the slate proposed by the Region 10 Nominating Committee. All of the San Diego County candidates are known by staff and will do an excellent job representing our region, including Ms. Dana Frieauf, who recently presented her candidacy to the OMWD Board.

Alternative(s)

The board may choose to vote for individual board candidate nominations or against participation in this election.

Background

Each of ACWA's ten regional divisions features a Board of Directors comprised of a chair and vice chair—both of whom also serve on ACWA's statewide Board of Directors—and up to five board members. Members of the board hold two-year terms.

ACWA Region 10 is comprised of Orange and San Diego counties; approximately 39 agencies make up the region's membership. The candidates in this election were nominated by Region 10 member agencies in August 2021.

Fiscal Impact

There is no cost associated with participating in this election.

Discussion

The Region 10 Nominating Committee reviewed the qualifications of each nominee and proposed a recommended slate of candidates for this election. The recommended slate includes Cathy Green, First President of Orange County Water District as Chair, and Dana Frieauf, Board Member of Santa Fe Irrigation District as Vice Chair. The recommended board members include Charles T. Gibson, Board Member of Santa Margarita Water District; Shauna Lorange, Public Utilities Director of City of San Diego Public Utilities; George Murdoch, Director of East Orange County Water District; Richard L. Vasquez, Vice President of Vista Irrigation District; and DeAna Verbeke, Board Member of Helix Water District.

Attachment: ACWA Official Region 10 Board Ballot
Candidate Statements Received

OFFICIAL REGION 10 Board Ballot

2022-2023 TERM



**Please return completed
ballot by Sept. 30, 2021**

E-mail: regionelections@acwa.com
Mail: ACWA
980 9th Street, Suite 1000
Sacramento, CA 95814

General Voting Instructions:

- 1 You may either vote for the slate recommended by the Region 10 Nominating Committee, or vote for individual candidates to serve as chair, vice chair, and board members for each county (please note rules & regulations for specific qualifications). Mark the appropriate box to indicate your decision.
- 2 Complete your agency information. The authorized representative is determined by your agency in accordance with your agency's policies and procedures.

Region 10 Rules & Regulations:

The chair and vice chair shall be from different counties. The 2022-'23 term shall consist of a chair and 2 board members from Orange County and a vice chair and 3 board members from San Diego County.

1

Nominating Committee's Recommended Slate

- ☐ I concur with the Region 10 Nominating Committee's recommended slate below.

CHAIR:

- **Cathy Green**, First Vice President, Orange County Water District (OC)

VICE CHAIR:

- **Dana Frieauf**, Director, Santa Fe Irrigation District (SD)

BOARD MEMBERS:

- **Charles T. Gibson**, Director, Santa Margarita Water District (OC)
- **Shauna Lorange**, Public Utilities Director, City of San Diego (SD)
- **George Murdoch**, Director, East Orange County Water District (OC)
- **Richard L. Vasquez**, Vice President, Vista Irrigation District (SD)
- **DeAna Verbeke**, Board Member, Helix Water District (SD)

OR

Individual Board Candidate Nominations

(See Rules & Regulations before selecting)

- ☐ I do not concur with the Region 10 Nominating Committee's recommended slate. I will vote for individual candidates below as indicated.

CANDIDATES FOR CHAIR: (CHOOSE ONE)

- ☐ **Cathy Green**, First Vice President, Orange County Water District (OC)

CANDIDATES FOR VICE CHAIR: (CHOOSE ONE)

- ☐ **Dana Frieauf**, Director, Santa Fe Irrigation District (SD)

SAN DIEGO COUNTY CANDIDATES FOR BOARD MEMBERS: (MAX OF 3 CHOICES)

- ☐ **Dana Frieauf**, Director, Santa Fe Irrigation District (SD)
- ☐ **Shauna Lorange**, Public Utilities Director, City of San Diego (SD)
- ☐ **Richard L. Vasquez**, Vice President, Vista Irrigation District (SD)
- ☐ **DeAna Verbeke**, Board Member, Helix Water District (SD)

ORANGE COUNTY CANDIDATES FOR BOARD MEMBERS: (MAX OF 2 CHOICES)

- ☐ **Charles T. Gibson**, Director, Santa Margarita Water District (OC)
- ☐ **Mark Lewis**, Chairman, Laguna Beach County Water District (OC)
- ☐ **George Murdoch**, Director, East Orange County Water District (OC)

2

AGENCY NAME

AUTHORIZED REPRESENTATIVE

DATE

Santa Fe Irrigation District



August 13, 2021

ACWA Region 10 Agency

RE: Vote for Dana Frieauf - Vice Chair ACWA Region 10 Board

Dear Honorable Board of Directors,

I am excited to announce my candidacy for Vice Chair of the Association of California Water Agencies' Region 10 Board for the 2022-2023 Term. I am thrilled to have been included on the Nominating Committee's recommended slate. The official Region 10 Board Ballot was sent out at the beginning of August. I kindly request that you consider casting your agency vote for me.

As Vice Chair I commit to collaborating with water agencies in San Diego and Orange Counties to identify, discuss and resolve water issues of mutual concern and advocate for our interests on the ACWA Board. My experience in the public sector working collaborative on local and state water policy issues has prepared me for this role.

I retired from the San Diego County Water Authority in March 2019, after working 30 years in water policy and was elected to the Santa Fe Irrigation District Board of Directors in November 2020. Throughout my career at the Water Authority and now as an SFID Board member, my priority and passion has been to work collaboratively. During my career, I coordinated with the Water Authority's 24 member agency managers to develop water plans and policies for the San Diego region. I served as an alternate on the California Urban Water Agencies Board, working with CUWA member agencies on statewide water issues. I also served on a state formed Urban Advisory Group, coordinating with water agencies statewide, to advocate our position on a 2017 Framework Report to implement Governor Brown's water conservation executive order.

I have supported ACWA and its mission my entire career. I was a contributor to the 2005 ACWA Blueprint Report, "No Time to Waste: A Blueprint for California Water" and recently served on ACWA's Water Management Committee and a technical working group that drafted water-use efficiency legislation. I have also presented at ACWA conferences on water policy and water-use efficiency issues.

It would be my honor to serve as Vice Chair on the Region 10 Board and I humbly ask for your vote. I hope you will contact me via email at DFrieauf@SFIDWater.org with your questions.

Sincerely,

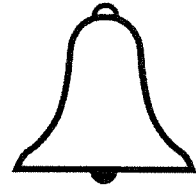
A handwritten signature in cursive script that reads "Dana".

Dana Frieauf
Santa Fe Irrigation District
Director, Division 2

BOARD OF DIRECTORS

PRESIDENT CHARLES T. GIBSON
VICE PRESIDENT JUSTIN McCUSKER
FRANK URY
SAUNDRA F. JACOBS
BETTY H. OLSON, PH.D.

DANIEL R. FERONS
GENERAL MANAGER



Santa Margarita Water District

July 14, 2021

President Lawrence A. Watt
Olivenhain Municipal Water District
1966 Olivenhain Rd.
Encinitas, CA 92024

RE: ACWA Region 10 Board

Dear President Watt,

I am delighted to announce my candidacy for re-election to the ACWA Region 10 Board of Directors is endorsed by the Santa Margarita Water District Board of Directors. I would be honored to have your and your agency's support for this important seat. The Region 10 Nominating Committee has already been selected by ACWA. On August 2, 2021, the recommended slate and any additional candidates' names (one ballot) will be e-mailed to each member agency in Region 10 to vote. Only one ballot per agency will be counted. I respectfully request that you consider voting for me.

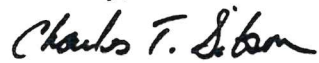
Since my election to the Santa Margarita Water District Board of Directors in 2012, I have actively participated in ACWA at both the Region 10 level and on the statewide Federal Affairs Committee. Over my last two terms on the Region 10, I have heard the unique water policy needs of our region and have contributed to helping address them. I have worked to develop the Region's work programs, policy initiatives and educational events. I have served occasionally as an alternate to the ACWA Board representing Region 10, and I participated in State-level meetings in that capacity. Currently, I am the designated Region 10 Director to report on federal matters in my capacity on ACWA's statewide Federal Affairs Committee.

I look forward to continuing my contributions to ACWA through my technical skills as a policymaker and manager--applying over 30 years of experience in both the public and private sectors. I have worked toward the mutual goals of water reliability and efficient water use. I also coordinate with leaders throughout ACWA's other regions, including those in allied industries, and nationally.

I have enclosed some background information on my experience as well as my platform for re-election to the Region 10 Board. I would be delighted to appear at one of your upcoming meetings to discuss my candidacy and answer any questions you may have. Please contact SMWD Board Secretary Kelly Radvansky if you would like me to appear, and I will do my best to be available at your convenience. It would be my honor serving on the Region 10 Board, and I humbly ask for your vote and support.

I hope you will contact Ms. Radvansky at 949/459-6642 or at kellyr@smwd.com – or me at 949/485-0658 or at charlesg@smwd.com if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Charles T. Gibson". The signature is written in a cursive, slightly slanted style.

Charles T. "Chuck" Gibson
Santa Margarita Water District
Board of Directors

cc: Kimberly Thorner, General Manager

Charles T. “Chuck” Gibson

Candidate for re-election, ACWA Region 10 Board of Directors

Special District Organizations

- Santa Margarita Water District, Board President (Elected Board Member since 2012)
- Association of California Water Agencies (ACWA) Region 10, Alternate Board Member (Current; since 2016)
- ACWA Region 10 Federal Affairs Committee, Member (Current, since 2012)
- California Special Districts Association, Member
- Orange County Water Association, Member
- Santiago Aqueduct Commission, Alternate Board Member
- Santa Margarita Dana Point Authority, Board Member

Platform

Since my election as Director of Santa Margarita Water District in 2012, I have actively participated in ACWA at both the Region 10 level and on the statewide Federal Affairs Committee based on the guiding principles of active listening and fostering collaboration among ACWA members and stakeholders. In my years on the Region 10 Board of Directors, I helped develop the Region's work program and events, occasionally attended state board meetings as an alternate representing Region 10, and participated in a variety of ad hoc committees for infrastructure and environmental matters, while encouraging active participation by ACWA's membership and stakeholders. Currently, I am also the designated Region 10 Director to report on federal matters, as well as serving on ACWA's statewide Federal Affairs Committee. I coordinate with other committee members, ACWA's general membership and related agencies and stakeholders toward the mutual goals of water reliability and water quality throughout the region. I have contributed to strengthen public awareness of water use efficiency measures, by highlighting exemplary conservation programs, desalination, water storage, water transfers and recycled water projects that are operational or approaching implementation in our region. I continue to coordinate with other leaders throughout ACWA's regions, including those in allied industries, and with others in the west and nationally to provide cost effective, reliable water. I seek to continue to contribute to ACWA using my technical skills as a policymaker and manager, applying over 30 years of experience in the private sector and public sector combined.

Memo

Date: September 8, 2021

To: Olivenhain Municipal Water District Board of Directors

From: Geoff Fulks, Operations Manager
Jason P. Hubbard, Engineering Manager

Via: Kimberly A. Thorner, General Manager

Subject: **CONSIDER APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT WITH WEST YOST IN THE AMOUNT OF \$136,000 FOR ON-SITE RECYCLED WATER SUPPORT SERVICES FOR THE MANCHESTER AVENUE RECYCLED WATER PIPELINE PROJECT AND AUTHORIZE THE GENERAL MANAGER TO SIGN ON BEHALF OF OMWD**

Purpose

The purpose of this agenda item is to consider approval of a Professional Services Agreement (PSA) with West Yost in the amount of \$136,000 for On-Site Recycled Water Support Services for the Manchester Avenue Recycled Water Pipeline (Manchester RW) Project and authorize the General Manager to sign on behalf of OMWD.

Recommendation

Staff recommends approval of a PSA with West Yost in the amount of \$136,000 for On-Site Recycled Water Support Services for the Manchester RW Project.

Alternative(s)

The Board could elect to:

- Issue a Request for Proposal (RFP) for the scope of work and evaluate qualified firms.

Background

The Manchester Avenue/South El Camino Real Recycled Water Pipeline Extension (Manchester RW) project is located in Director Division 1 (Topolovac) and constructs approximately 1.4 miles of new 6-inch PVC recycled water pipeline to extend recycled water service to Manchester Avenue/South El Camino Real from Via Poco to Tennis Club Drive in the City of Encinitas. A pre-project site survey identified 18 potential homeowner associations, schools, churches, houses of worship, and care facilities as new recycled water customers along the project alignment that can be converted from using potable water for irrigation to recycled water. This project will convert and save approximately 45 acre-feet/year of drinking water. The Manchester RW project is dependent on a recycled water supply connection with the San Elijo Joint Powers Authority (SEJPA).

Following an RFP process per Administrative and Ethics Code Section 6.9A for design services for the pipeline project, NV5 was selected on the strength of their proposal. At the September 12, 2018 meeting, the Board approved entering into a PSA with NV5 for the design of the Manchester RW project.

The draft Mitigated Negative Declaration (draft MND) and the Initial Study for the Manchester RW project were reviewed and released by the Board for public review on November 13, 2019 in compliance with CEQA requirements. A Notice of Availability was sent to the State Clearinghouse on December 1, 2019 to begin the consultation process with the responsible agencies. A mailer describing the project, including the announcement of the public comment period, an invitation to a neighborhood meeting, and setting the time and place for the public hearing was also sent to residents within 1,000 feet of the project on December 18, 2019. A neighborhood meeting was held January 7, 2020 at the Mira Costa College campus. The public hearing to consider comments on the draft MND was held at OMWD on January 15, 2020; however, no members of the public provided comments related to environmental impacts created by the Manchester RW project. The Board adopted a Resolution certifying the Final IS/MND on March 18, 2020.

Following an RFP process per Administrative and Ethics Code Section 6.9A for geotechnical services for the pipeline project, Ninyo & Moore was selected and the Board approved entering into a PSA at their August 18, 2021 meeting.

Design efforts have continued with coordination efforts involving the City of Encinitas and Caltrans. Caltrans' work on the North Coast Corridor/Interstate-5 Manchester Avenue Interchange Expansion has impacted the design of the Manchester RW project and the project schedule. Coordination efforts are wrapping up and staff anticipates bidding the construction of the Manchester RW in the next several months. The Board approved entering into a \$200,000 Cooperative Agreement with Caltrans to construct the portion of the recycled pipeline that lies within the Caltrans North Coast Corridor project on August 18, 2021.

Fiscal Impact

Funds for these services are included in the FY 21/22 annual budget for the Manchester RW Project. The Manchester RW project has been awarded a \$650,000 Proposition 84, Round 4 grant under the San Diego Integrated Regional Water Management Plan and \$750,000 in Department of Water Resources Proposition 1, Round 1 funding. Staff was also notified in August that OMWD will receive a grant award from the US Bureau of Reclamation's Title XVI Water Reclamation and Reuse Program which will offset costs for the Manchester RW project by an additional \$400,000.

Is this a Multi Fiscal Year Project? **Yes**

In which FY did this capital project first appear in the CIP budget? **2016**

Total Project Budget: **\$4,634,000**

Current Fiscal Year Appropriation: **\$3,916,500**

To Date Approved Appropriations: **\$4,634,000**

Target Project Completion Date: **June 2023**

Expenditures and Encumbrances as of August 19, 2021: **\$507,309**

Is this change order within the appropriation of this fiscal year? **N/A**

If this change order is outside of the appropriation, Source of Fund: **N/A**

Discussion

The identified recycled water customers of the Manchester RW project will require On-Site Recycled Water Support Services for conversion of the sites to use recycled water for irrigation.

The on-site services include notifying the customers of the project schedule and coordinating the conversion process. Before customers can begin using the recycled water, the sites must be in compliance with OMWD's standards and the County of San Diego Department of Environmental Health and Quality (DEHQ)'s requirements. Conversion plans are needed to meet these requirements and must be approved by DEHQ and OMWD. The sites also require inspections during the conversion construction and cross-connection testing to receive the Recycled Water Use Site Certification from DEHQ. Once the sites are certified for the use of recycled water, OMWD will coordinate the meter conversion with the user as soon as the recycled water is available.

West Yost is currently working with OMWD in support of the recycled water program, conducting site inspections and cross-connection testing, and there would be economies of scale and efficiencies by continuing with them for this effort. In addition to its work for OMWD, West Yost also provides recycled water services outlined in the scope of work for other local agencies such as the City of Oceanside, Padre Dam Municipal Water District,

Otay Water District, and Rincon del Diablo Municipal Water District. This local experience gives West Yost a significant advantage to understanding the regulatory requirements for compliance with DEHQ. Further, West Yost is able to capitalize on its familiarity with OMWD's rules, regulations and best practices resulting in a cost-effective, expedited execution of the scope of the proposed agreement. During the May 2021 Recycle Water Purveyor Meeting, the local recycled water purveyors were asked about firms that provide recycled water inspection services and West Yost was identified as the only firm that performs these services in the San Diego county area. In addition to the discussion, Otay Water District staff indicated that West Yost was the only qualified respondent to their last RFP for recycled water site inspections.

As per OMWD's Administrative and Ethics Code Article 6 Section 6.9 D: Professional Service Contracts Selection Policy

"Where it is apparent that an RFP process would be incongruous and would not result in an advantage to the District, an exception to the foregoing processes may be granted. Exceptions may include where the staff is looking for a particular skill or ability, or where a consultant is already providing current services for the District and there would be economies and efficiencies of scale by continuing with the consultant. Emergencies are also exempted from the RFP process. Staff shall consult with the General Manager and his/her designee prior to commencing the selection process in order to review if the exception to the standard procedures is warranted."

Due to the scope of this effort and details outlined above, staff does not foresee that issuing a RFP would result in an economic advantage to OMWD due to West Yost's current knowledge of OMWD's and DEHQ's recycled water programs and unavailability of other local firms to provide equivalent services.

The proposed agreement is attached for your information. Staff is available to answer any questions.

Attachment(s):

Draft Professional Services Agreement for On-Site Recycled Water Support Services

PROFESSIONAL SERVICES AGREEMENT
FOR ON-SITE RECYCLED WATER SUPPORT SERVICES
FOR THE OLIVENHAIN MUNICIPAL WATER DISTRICT

21AGRXXX
D120040

This Agreement is entered into by and between the Olivenhain Municipal Water District, a Municipal Water District organized and operating pursuant to Water Code Sections 71000 *et seq.* (hereinafter the District) and WEST YOST ASSOCIATES, a corporation organized and operating in the State of California (hereinafter “WEST YOST”).

R-E-C-I-T-A-L-S

1. The District is a public agency organized and operating pursuant to Water Code Sections 71000 *et seq.*, which provides water, recycled water, and sewer service within certain areas of Northern San Diego County.
2. The District requires the services of a recycled water support firm to on-site recycled water support services on the Manchester Avenue Recycled Water Pipeline Project within the District’s boundaries.
3. WEST YOST is a recycled water support firm licensed to do business in the State of California with expertise in on-site recycled water support services.
4. The District desires to retain WEST YOST to provide on-site recycled water support services for the Manchester Avenue Recycled Water Pipeline Project within the District’s boundaries.

C-O-V-E-N-A-N-T-S

1. Services to Be Performed. WEST YOST agrees to provide on-site recycled water support services for the Manchester Avenue Recycled Water Pipeline Project within the District’s boundaries. The services to be provided by WEST YOST are more particularly described in the Scope and Cost Proposal attached hereto as Exhibit “A” and incorporated herein

by reference. All work performed by WEST YOST shall be subject to review and approval by the District. The District shall have no obligation to approve any work found defective by the District, in its sole discretion.

2. Correction of Defective Work. WEST YOST agrees to correct all labor or materials found defective by the District at its sole cost and expense. All work found defective by the District shall be corrected in the time specified by the District by written notice to WEST YOST.

3. Price for Work. WEST YOST agrees to perform all work described in Exhibit "A" for a total price not to exceed \$136,000 for the Manchester Avenue Recycled Water Pipeline Project within the District's boundaries. No increase in this price shall be allowed without the express written consent of the District. The District shall have no obligation to grant this consent and may deny consent to any price increase, in its sole discretion.

4. Payment for Work. WEST YOST shall bill the District monthly for all labor and materials provided during the previous month. All billings shall include a complete description of all work completed during the previous month, including hours and costs of each person performing the work and shall also include a detailed description of progress to date on each task of work described in Exhibit "A." All bills shall be subject to review and approval by the District. Invoices approved by the District will be paid on a monthly basis thirty (30) days after the invoice has been approved by the District. The District shall have no obligation to pay for any work not expressly approved by the District. The District's approval shall not be unreasonably withheld. WEST YOST shall provide the District with any additional information requested by the District from time to time to support any item contained on an invoice no later than seven (7) days after a written request for this information from the District.

5. Extra Work. The District may request additional work or services from WEST YOST from time to time, as the District shall determine, in its sole discretion. WEST YOST shall not commence any extra work without a written change order expressly approved by the District, in writing. Work performed by WEST YOST without an approved change order signed by the District will not be paid for by the District. In the event the District determines that additional work is justified, the parties shall agree on the additional work to be performed and the price to be paid for this additional work prior to commencement of any additional work by WEST YOST. It

is understood by the parties that WEST YOST shall not be entitled to any payment for extra work unless the District determines that it desires extra work to be performed and a written change order has been executed by the parties. Attached as Exhibit “B” is the Request for Additional Work Form required by the District for all requests for additional work or task transfers.

6. Standard of Care. In performing all work and services required by this Agreement, WEST YOST agrees to use the highest degree of skill and expertise ordinarily exercised, under similar circumstances, by a licensed recycled water support firm with expertise to provide on-site recycled water support services and the other services described in the Scope and Cost Proposal attached as Exhibit “A.” As a material term of this Agreement, WEST YOST warrants and represents that it has secured all licenses required by federal or California law to perform all work and services required by this Agreement. WEST YOST agrees to perform all work required by this Agreement at all times in strict accordance with all applicable federal, state, and local laws and regulations which apply to the labor or materials being provided.

7. Work Performance Standards. WEST YOST agrees to perform all work and services required by this Agreement in a manner which complies with all federal and state health and safety standards and in a manner which avoids damage or injury to any real or personal property of any person or entity, including any real or personal property of the District. WEST YOST agrees to perform the work at all times in a manner which avoids the creation of any trespass or private or public nuisance during conduct of the work.

8. Liability for Work of Agents, Independent Contractors, and Subcontractors. WEST YOST shall be solely liable and responsible for all labor and materials provided by any director, officer, agent, employee, subcontractor, supplier, or independent contractor hired or retained by WEST YOST to perform any work or to provide any materials or supplies. The District shall have no liability whatsoever for any work or services performed or any materials or supplies provided by WEST YOST or its directors, officers, agents, employees, subcontractors, suppliers, or independent contractors.

9. Time for Completion of Services. As a material term of this Agreement, WEST YOST agrees to complete all work and services required by this agreement by no later than June 30, 2023. The breach of this paragraph shall constitute a material breach of this Agreement.

10. District Termination Right. The District shall have the express right to terminate this Agreement at any time without cause by giving seven (7) consecutive days advance written notice to WEST YOST. This Agreement shall be automatically terminated without further action of any party upon expiration of the seven (7) day period. Promptly upon receipt of any termination notice from the District, WEST YOST shall cease all further work and services, except as otherwise expressly directed by the District in the written termination notice. In the event the District exercises its termination right, WEST YOST shall be paid only for work and services performed and approved by the District to the date this Agreement terminates. The District shall have the express right to withhold any payment otherwise due WEST YOST to correct any labor or materials determined to be defective by the District at the time of termination. All plans, maps, drawings, reports, designs, or other writings of any type or nature prepared by WEST YOST as a result of this Agreement shall become and remain the sole property of the District. All such writings shall be provided to the District not later than seven (7) consecutive days after termination of this Agreement for any reason. All labor, supplies, work and materials provided by WEST YOST in conjunction with this Agreement shall become and remain the sole property of the District.

11. Hazardous and Toxic Waste. For purposes of this section, the term “hazardous or toxic waste” means any solid, liquid, or gaseous product classified as a hazardous or toxic waste under any federal, state, or local laws, rules, regulations, or ordinances, and all gas and oil products and by-products of every kind or nature. WEST YOST shall be solely liable and responsible for the proper clean-up and removal of all hazardous or toxic waste used, handled, stored, or spilled by WEST YOST or any director, officer, agent, employee, subcontractor, independent contractor or representative of WEST YOST. WEST YOST shall pay all fees, costs, expenses and fines necessary to clean-up or remediate any hazardous or toxic waste for which WEST YOST is liable under this paragraph in strict accordance with all federal, state and local laws, rules and regulations at WEST YOST’s sole cost and expense. WEST YOST shall not be liable for any hazardous or toxic waste used, handled, stored or spilled by the District or its directors, officers, employees or contractors.

In the event any third party, including any regulatory agency, brings any claim or cause of action against the District to clean-up or remediate any hazardous or toxic waste for which WEST

YOST is liable under this section, WEST YOST shall also indemnify and hold harmless the District and its directors, officers, agents, and employees from all claims, actions, losses, costs, fees, expenses, fines, and penalties, of whatever type or nature, including all costs of defense and attorneys fees, upon written demand for indemnity from the District.

12. Independent Contractor. As a material term of this Agreement, it is expressly agreed between the parties that WEST YOST is performing all work and services for the District pursuant to this Agreement as an independent contractor and not as an agent or employee of the District. The parties further agree and acknowledge that the District expects WEST YOST to make its own independent determination of the means and methods to perform all work required by this Agreement, and will not be directed as to any of these means or methods by the District.

13. Conflicts of Interest Prohibited. As a material term of this Agreement, WEST YOST shall not in any way attempt to use its position to influence any decision of the District in which it knows, or has reason to know, its has a financial interest other than the compensation provided in this agreement. As a material term of this Agreement, WEST YOST warrants and represents that it does not, to the best of its knowledge, have any economic interests which would conflict with any of its duties under this Agreement. WEST YOST agrees not to secure any economic interest during the performance of this Agreement which conflicts with its duties to the District under this Agreement.

14. Breach. The breach of any term or provision of this Agreement by WEST YOST shall constitute a material breach of this Agreement.

15. District Remedies for Breach. In the event WEST YOST breaches any term, covenant, or condition of this Agreement or fails to perform any work or services required by this Agreement, the District shall be entitled to elect all or any of the following remedies at the District's sole option:

15.1 Unilateral Termination. Unilaterally terminate this Agreement by written notice to WEST YOST. Upon election of this remedy by the District, Paragraph 10 governing District Termination Right shall apply; or

15.2 Specific Enforcement. Enforce any provision of this Agreement by specific performance. If this remedy is elected by the District, WEST YOST agrees that specific performance is appropriate and reasonable given the unique and special services being performed by WEST YOST and expressly waives the right to contest the right of the District to seek specific performance in any subsequent action or proceeding between the parties; or

15.3 File suit against WEST YOST for damages arising from breach of this Agreement. In the event the District elects this remedy, it shall be entitled to recover all damages authorized by law; and/or

15.4 The District shall be entitled to withhold such amounts as the District determines are appropriate, in its sole discretion, to complete the work or services required by this Agreement, or to correct any labor or materials resulting from WEST YOST's negligence.

In the event the District is required to pay any sum or amount to complete any labor or materials services required by this Agreement, or to correct any labor or materials resulting from WEST YOST's negligence, amounts paid by the District shall earn interest at the rate of one percent (1%) per month from the date of payment until the District is repaid in full.

16. Insurance. At all times during the term of this Agreement, WEST YOST must maintain a commercial liability insurance policy, workers' compensation insurance, and professional liability insurance in strict accordance with all terms of this paragraph. The insurance required by this paragraph shall be provided as follows:

16.1 Liability Insurance. Following execution of this Agreement, and prior to commencement of any work, WEST YOST shall provide the District with proof of liability insurance coverage with an insurance company licensed to do business in the State of California and acceptable to the District, providing \$1,000,000 of coverage per occurrence and \$2,000,000 minimum aggregate. The liability insurance coverage shall include each of the following types of insurance:

A. General Liability:

- | | |
|---|---|
| 1. Comprehensive Form | 6. Contractual Insurance |
| 2. Premises-Operations | 7. Broad form Property Damage, Including Completed Operations |
| 3. Explosion and Collapse Hazard | 8. Independent Contractors |
| 4. Underground Hazard | 9. Personal Liability |
| 5. Projects/Completed Operations Hazard | |

B. Auto Liability

1. Comprehensive Form
2. Owned
3. Hired

The policy shall include contractual coverage sufficiently broad to insure the matters set forth in the section entitled “Indemnity” in this Agreement. The deductible amount shall not exceed \$5,000.00. Also included in such insurance shall be a “cross-liability” or “severability of interest” clause.

16.2 Workers’ Compensation Insurance. Following execution of this Agreement and prior to commencement of any work, WEST YOST shall submit proof of insurance showing they have obtained, for the period of the agreement, full workers’ compensation insurance coverage for no less than the statutory limits covering all persons whom WEST YOST employs or may employ in carrying out the work under this agreement.

16.3 Professional Liability Insurance. Following execution of this Agreement, and prior to commencement of any work, WEST YOST shall provide the District with proof of professional liability insurance with an insurance provider licensed to do business in the State of California, providing \$1,000,000 of coverage per occurrence and \$2,000,000 minimum aggregate. This insurance shall have a deductible not to exceed \$5,000.

16.4 ACORD Certificate of Liability Insurance and Additional Insured Endorsements. All insurance required by Paragraph 16.1, 16.2, and 16.3 of this agreement shall be submitted on an ACORD Certificate of Liability Insurance. Insurers must be authorized to do business and have an agent for service of process in the State of California and have an ‘A’ financial strength rating and a financial size rating of at least Class VI in accordance with the most current A.M. Best’s Rating Guide. Additional Insured Endorsements must be provided for the Liability Insurance called out in Paragraph 16.1 with the **Olivenhain Municipal Water District**

(District), the District's Engineer/Architect, the District's Representatives, Consultants, and each of the District's Directors, Officers, Agents, and Employees named as additional insureds. The insurance must include a Waiver of Subrogation and must be Primary and non-Contributory. The additional insured endorsements must be provided on Form CG 20 10 10 01. The insurance certificate and endorsements shall be cancelable with notice delivered to the District in accordance with the policy provisions.

17. Job Site Safety. WEST YOST shall be solely liable and responsible for complying with all federal, state and local laws, rules and regulations pertaining to job safety for all agents, employees, subcontractors, suppliers, and independent contractors retained by WEST YOST to perform any work or services or to provide any materials required by this Agreement. However, WEST YOST shall not be liable or responsible for overall job site safety or the job site safety for any workers or agents employed by any construction contractor performing any work for the District on any construction project.

18. Indemnity. As a material term of this Agreement, WEST YOST agrees to hold harmless, indemnify, and defend the District and its directors, officers, employees, agents, and representatives from and against any and all demands, liability, claims, suits, actions, damages, costs, fees, expenses, fines, and penalties, of whatever type or nature, including, but not limited to, reasonable attorney fees, to the extent arising out of, pertaining to, or relating to the willful misconduct, recklessness, or negligence of WEST YOST, including its directors, officers, employees, agents, subcontractors, sub-consultants, suppliers, independent contractors, or other persons and entities employed or utilized by WEST YOST in the performance of this Agreement. In the event that any administrative proceeding, litigation or arbitration is instituted naming the District or any other indemnified parties as a defendant, the District and such other indemnified parties shall be entitled to appoint their own independent counsel to represent them, and WEST YOST agrees to pay all reasonable attorneys fees, expert fees and costs, and litigation costs associated with this defense within thirty (30) days of any billing; provided however, that WEST YOST's obligation shall be limited as provided by Civil Code Section 2782.8 to the extent that the WEST YOST establishes its proportionate percentage of fault by stipulation of all the parties to the proceeding or a final adjudicatory determination.

19. Miscellaneous Provisions.

19.1 California Law Governs. This Agreement shall be governed by California law.

19.2 Jurisdiction and Venue. In the event of any legal or equitable proceeding to enforce or interpret the terms and conditions of this Agreement, the parties agree that jurisdiction and venue shall lie only in the federal or state courts in or nearest to the North County Judicial District, County of San Diego, State of California.

19.3 Modification. This Agreement may not be altered in whole or in part except by a written modification approved by the Board of Directors of the District and executed by all the parties to this Agreement.

19.4 Attorneys' Fees. In the event any arbitration, action or proceeding is initiated to challenge, invalidate, enforce or interpret any of the terms of this Agreement, the prevailing party shall be entitled to all attorneys' fees, all expert fees and costs, and all litigation fees, costs, and expenses in addition to any other relief granted by law. This provision shall apply to the entire Agreement.

19.5 Entire Agreement. This Agreement, together with all exhibits attached hereto, contains all representations and the entire understanding between the parties with respect to the subject matter of this Agreement. Any prior correspondence, memoranda, or agreements, whether or not such correspondence, memoranda or agreements are in conflict with this Agreement, are intended to be replaced in total by this Agreement and its exhibits. WEST YOST warrants and represents that no District representative has made any oral representations or oral agreements not contained in this Agreement. WEST YOST further warrants and represents that WEST YOST has not relied upon any oral statements or promises made by any District representative or agent in executing this Agreement. The parties mutually declare that this Agreement and its exhibits constitute a final, complete and integrated agreement between the parties.

19.6 Prohibition on Assignment. WEST YOST shall not be entitled to assign or transfer all or any portion of its rights or obligations in this Agreement without obtaining the

express prior written consent of the District. The District shall have no obligation to give its consent to any assignment and may deny any requested assignment, in its sole discretion.

19.7 Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties and on their respective purchasers, successors, heirs and assigns.

19.8 Unenforceable Provisions. The terms, conditions, and covenants of this Agreement shall be construed whenever possible as consistent with all applicable laws and regulations. To the extent that any provision of this Agreement, as so interpreted, is held to violate any applicable law or regulation, the remaining provisions shall nevertheless be carried into full force and effect and remain enforceable.

19.9 Representation of Capacity to Contract. Each party to this Agreement represents and warrants that he or she has the authority to execute this Agreement on behalf of the entity represented by that individual. This representation is a material term of this Agreement.

19.10 Opportunity to be Represented by Independent Counsel. Each of the parties to this Agreement warrants and represents that it has been advised to consult independent counsel of its own choosing and has had a reasonable opportunity to do so prior to executing this Agreement.

19.11 No Waiver. The failure of either party to enforce any term, covenant or condition of this Agreement on the date it is to be performed shall not be construed as a waiver of that party's right to enforce this, or any other, term, covenant, or condition of this Agreement at any later date or as a waiver of any term, covenant, or condition of this Agreement. No waiver shall occur unless the waiver is expressly stated in writing and signed by the person for the party having the authority to expressly waive the benefit or provision, in writing. No oral waivers shall be effective against either party.

19.12 No Joint Venture and No Third Party Beneficiaries. Nothing in this Agreement is intended to create a joint venture, partnership or common enterprise relationship of any kind between the District and WEST YOST. No third parties shall be construed as beneficiaries of any term, covenant or provision of this Agreement.

19.13 Time of Essence. The parties agree that time is of the essence as to all matters specified in this Agreement. The parties mutually declare that this is a material term of this Agreement.

19.14 Notices. All letters, statements, or notices required pursuant to this Agreement shall be deemed effective upon receipt when personally served, transmitted by facsimile machine, or sent certified mail, return receipt requested, to the following addresses or facsimile numbers:

To: "WEST YOST"
West Yost Associates
Attn: Alex Bucher, P.E.
11939 Rancho Bernardo Road, Suite 100
San Diego, CA 92128
Fax No. (530) 756-5991

To: "District"
Olivenhain Municipal Water District
Attn: Kimberly A. Thorner, General Manager
1966 Olivenhain Road
Encinitas, California 92024
Fax No. (760) 753-5640

19.15 Effective Date. The effective date of this Agreement executed in counterparts in Olivenhain, California, within the North County Judicial District, County of San Diego, State of California, is _____, 2021.

Dated: _____, 2021

Olivenhain Municipal Water District,
a public agency

By: _____
Kimberly A. Thorner
General Manager

Dated: _____, 2021

West Yost Associates

By: _____

Title: _____



11939 Rancho Bernardo Road
Suite 100
San Diego CA 92128

858.505.0075 phone
530.756.5991 fax
westyost.com

May 18, 2021

SENT VIA: EMAIL

Mr. John Onkka
Water Reclamation Facilities Supervisor
Olivenhain Municipal Water District
1966 Olivenhain Road
Encinitas, CA 92024

SUBJECT: Manchester Avenue On-Site Recycled Water Support Services

Dear Mr. Onkka:

West Yost is pleased to provide to the Olivenhain Municipal Water District (District) a Scope of Services and budget estimate for on-site recycled water support services associated with the new Manchester Avenue recycled water pipeline project.

The District is currently in the design phase of a new recycled water pipeline along Manchester Avenue between Tennis Club Drive and Via Poco (Project). The pipeline, once completed, will provide customers located along the pipeline corridor a source of high-quality recycled water for landscape and agricultural irrigation purposes. It is anticipated that eighteen customers could convert their existing potable irrigation to recycled water.

Presented below is the proposed scope of services, assumptions and budget for this Project.

SCOPE OF SERVICES

Our proposed Scope of Services includes the following tasks required to obtain regulatory approval from the San Diego County Department of Health and Quality (DEHQ) for the conversion of the eighteen users to recycled water:

- Task 1. Project Management
- Task 2. Customer Coordination
- Task 3. Retrofit Plan Review
- Task 4. Site Retrofit Inspection
- Task 5. Cross-Connection Testing

Each task is further described in the following sections.

Task 1. Project Management

West Yost project manager will communicate on a regular basis with the District to discuss overall Project status including plan checks, inspections, and cross-connection testing; potential delays; and overall budget.

Task 1 Deliverables

- Monthly invoices and project status reports.

Task 2. Customer Coordination

West Yost will provide a notification letter to the 18 customers to describe the Project, the recycled water conversion process, and the site-specific conversion timeline. West Yost will then call each customer to address any potential questions and schedule, if needed, a site meeting.

If requested by a customer, West Yost will provide landscape architects and/or civil engineers references for the preparation of retrofit plans.

Task 2 Assumptions

- District will provide the name and contact information for the various site representatives.

Task 2 Deliverables

- Draft and Final customer notification letter.

Task 3. Retrofit Plan Review

West Yost will review site retrofit plans provided by the customers. The general range of tasks that will be performed are as follows:

- Evaluate retrofit plans for general compliance with District's standards and DEHQ requirements. If plans are not in general compliance, annotate the plans and/or provide correspondence to the customer or its agents identifying the necessary changes.
- Review revised retrofit plans for general conformance with District's and DEHQ comments, and for potential changes made which were not illustrated on the original plan review submittal. Return to the customer or its agents any plans not in general compliance, with annotations as necessary.
- Submit electronically to DEHQ and the District final retrofit plans for approval.

Task 3 Assumptions

- All required fees to agencies will be paid by the end users.

Task 3 Deliverables

- Approved recycled water irrigation plans.

Task 4. Site Retrofit Inspection

West Yost will provide on-site recycled water inspection services for the 18 proposed retrofit sites. The inspector shall be a Cross-Connection Control Specialist (West Yost Inspector) certified through the American Water Works Association (AWWA).

The West Yost Inspector will contact the landscape contractor to schedule a preconstruction meeting to discuss the District's rules and regulations, construction requirements, and inspection notices for mainline pressure testing.

The West Yost Inspector will schedule and coordinate with the contractor a preliminary walk through and prepare a punch list of any items to be completed prior to the final inspection. The inspection will include observing the irrigation system for general compliance with plans and specifications, and DEHQ requirements. If the system is not in general compliance, the Inspector will inform the contractor of any necessary changes. This activity may require repeat visits to the site if the contractor fails to comply with the requirements. If minor system changes are necessary during construction, the Inspector will coordinate changes with contractor and have those changes noted on the as-built drawings. If major system changes are necessary during construction, Inspector will require a re-submittal of the retrofit plans for re-review and re-approval.

The West Yost Inspector will schedule and coordinate with the contractor a final walk through and check for completion of punch list items.

Task 4 Assumptions

- Additional site visits due to the contractor failure to comply with the District requirements will be invoices on a time-and-expenses basis.

Task 4 Deliverables

- Final inspection punch list.

Task 5. Cross-Connection Testing

The West Yost Inspector will schedule and coordinate with the site representative and DEHQ the testing date for the cross-connection test.

West Yost will perform cross-connection testing following Method 1 (pressure test) of the DEHQ's recycled water and inspection manual (latest edition). The test will include two phases: a domestic (potable) water use phase shutdown test and an irrigation (recycled water) use phase shutdown test.

In the event of a cross-connection at the user's site, the user shall locate and remove the cross-connection. A follow-up cross-connection test will be conducted with DEHQ to assess the integrity of the systems.

Task 5 Assumptions

- It is assumed that the landscape contractor will be present the day of the cross-connection test. A two-hour charge will be invoiced when the contractor is not present for the test.
- Additional follow-up cross-connection testing will be invoices on a time-and-expenses basis
- Access to the backflow devices will be provided by the site's owner.
- All required fees to agencies will be paid by the end users.

Task 5 Deliverables

- Cross-connection test results.

PROJECT BUDGET

West Yost's proposed level of effort and budget for each of the tasks described above is shown in the attached project budget (Attachment A). The estimate is based on the connection of 18 sites. West Yost will perform the Scope of Services described above on a time-and-expenses basis with a not-to-exceed budget of \$136,000.

The actual level of effort estimated for these services may increase or decrease as directed by the District or due to unforeseen factors or scope changes. The District will be informed of any significant changes, and work on additional scope items will not proceed unless there is a mutual written agreement.

Thank you for providing West Yost the opportunity to be of continued service to the Olivenhain Municipal Water District. We look forward to working with you on this important project. Please call me at 858-699-1703 if you have any questions or require additional information.

Sincerely,
WEST YOST



Alex Bucher, PE
Principal Engineer II
RCE #66711



Greg Chung, PE
Vice President
RCE #58710

Attachment A: Project Budget

Manchester Avenue Recycled Water Support Services Project Budget

Olivenhain MWD

Task Description	Personnel Hours					Budget			
	Principal Engineer II	Associate Engineer I	Cross-Connection Control Specialist I	Administrative Specialist	Total Hours	Labor	ODC (printing, mileage, etc.)	Total Reimbursable Expenses	Total
Task 1 - Project Coordination									
Project Management	4	-	-	-	4	\$ 1,156	\$ 40	\$ 40	\$ 1,196
Subtotal Task 1	4	-	-	-	4	\$ 1,156	\$ 40	\$ 40	\$ 1,196
Task 2 - Project Coordination									
Customer letters (18)	1	18	-	8	27	\$ 5,017	\$ 270	\$ 270	\$ 5,287
Follow-up call to answer questions and potential site meeting	1	18	-	-	19	\$ 4,177	\$ 190	\$ 190	\$ 4,367
Subtotal Task 1	2	36	-	8	46	\$ 9,194	\$ 460	\$ 460	\$ 9,654
Task 3 - Retrofit Plan Review									
Review and approval of up to 18 new irrigation plans (typical fee is \$2,500 per plans)	8	30	297	-	335	\$ 44,729	\$ 271	\$ 271	\$ 45,000
Subtotal Task 2	8	30	297	-	335	\$ 44,729	\$ 271	\$ 271	\$ 45,000
Task 4 - Site Retrofit Inspections									
Pre-Con Meeting (2 hours per site)	-	-	36	-	36	\$ 4,356	\$ 218	\$ 218	\$ 4,574
Inspections (pressure tests, separation requirements, etc.) 16 hours per site	-	-	288	-	288	\$ 34,848	\$ 1,742	\$ 1,742	\$ 36,590
Pre-DEH Coverage Test (3 hours per site)	-	-	54	-	54	\$ 6,534	\$ 327	\$ 327	\$ 6,861
Final Punch List (2 hours per site)	4	-	36	-	40	\$ 5,512	\$ 276	\$ 276	\$ 5,788
Subtotal Task 2	4	-	414	-	418	\$ 51,250	\$ 2,563	\$ 2,563	\$ 53,813
Task 5 - Cross-Connection Testing									
Cross-Connection Testing (Potable and Irr. DEH Method 1) for 18 sites (10 hr / site)	-	-	180	-	180	\$ 21,780	\$ 1,089	\$ 1,089	\$ 22,869
Test Results charts	4	-	18	-	22	\$ 3,334	\$ 134	\$ 134	\$ 3,468
Subtotal Task 3	4	-	198	-	202	\$ 25,114	\$ 1,223	\$ 1,223	\$ 26,337
Total	22	66	909	8	1,005	\$ 131,443	\$ 4,557	\$ 4,557	\$ 136,000

Principal Engineer II \$289.00

Associate Engineer II \$216.00

Cross-Connection Control Specialist I \$121.00

Administrative Specialist II \$105.00

EXHIBIT B

**Olivenhain Municipal Water District
Request for Additional Work**

(Includes Authorization to Perform Additional Services and Inter-Task Transfers)

Consultant name West Yost Request # _____

Project name Manchester Avenue Recycled Water Pipeline Project Date Required _____

Project Task	Current Budget	Change	Revised Budget
			\$ -
			\$ -
			\$ -
Total Contract Change Amount	\$ -	\$ -	\$ -

Original Project Budget	_____
Prior requests approved	_____
This request	\$ -
Revised Project Budget	_____

Reason for requested change(s). please attach supporting documentation

Please see attached scope for details.

Signature of consultant representative _____ Date _____
e-mail _____

Email the completed form to tgarnica@olivenhain.com or mail to 1966 Olivenhain Rd., Encinitas, CA. 92024

OMWD use only below this line

Approved by _____ Date _____

D120040 _____ 21AGRXXX
Workorder number(s) to charge _____ OMWD Record No.

Original to General Manager

☐

Copies to

Originating Dept. ☐

Consultant ☐

Project Acct ☐

Memo

Date: September 8, 2021

To: Olivenhain Municipal Water District Board of Directors

From: John Onkka, Water Reclamation Facilities Supervisor
Geoff Fulks, Operations Manager

Via: Kimberly A. Thorner, General Manager

Subject: **CONSIDER ADOPTION OF AN ORDINANCE AMENDING THE DISTRICT'S ADMINISTRATIVE AND ETHICS CODE (ARTICLE 8 – WATER RATES & CHARGES AND ARTICLE 25 – USE OF RECLAIMED AND NON-POTABLE WATER) AND ADOPTING A WET WEATHER INCENTIVE PROGRAM FOR RECYCLED WATER DELIVERIES IN THE DISTRICT'S SOUTHEASTERN RECYCLED WATER SYSTEM**

Purpose

The purpose of this agenda item is to consider the adoption of an ordinance amending the Olivenhain Municipal Water District's (OMWD) Administrative and Ethics Code to revise Article 8 – Water Rates & Charges and Article 25 – Use of Reclaimed and Non-Potable Water to adopt a Wet Weather Incentive Program (WWIP) for recycled water deliveries in OMWD's southeastern recycled water system.

Recommendation

At the April 2021 Board meeting, staff was directed to proceed with developing a WWIP. Staff recommends implementing a WWIP program by adopting an ordinance and agreement.

Alternatives

The Board could choose to deny this program or request staff to seek different alternatives to mitigate the risk of overflowing the 4S Ranch Storage Basin Pond (Pond), however previous Board direction was given to develop this program.

Background

OMWD operates two distinct recycled water distribution systems, the northwest system and the southeastern system. The northwest system is operated independently with recycled water purchased from neighboring agencies (Vallecitos Water District and San Elijo Joint Powers Authority). The southeastern system utilizes recycled water produced at the 4S Ranch Water Reclamation Facility (4S WRF), the Santa Fe Valley Reclamation Facility and water purchased from the City of San Diego.

Operations associated with the 4S WRF include the 410 acre feet Pond for recycled water produced at the 4S WRF. In a typical operating year, the Pond receives recycled water overflow from the 4S WRF during the fall and winter months. During the late spring and summer months, when recycled water irrigation demands increase, the recycled water stored in the Pond is utilized to meet those increased demands. It is an annual operational objective to completely drain, clean, and inspect the Pond.

The Pond is regulated via both the 4S WRF Master Discharge Permit and the State Division of Safety of Dams. The 410 acre feet storage capacity is dictated by an 84 day plant production requirement set forth within the 4S WRF Regional Water Quality Control Board (RWQCB) Master Discharge Permit. The Pond is also designated as a dam and regulated by the California Department of Water Resources, Division of Safety of Dams.

Historically, the Pond has operated within its 410 acre feet capacity, however, the Pond level came within two feet of overflowing in 2018. A combination of recent factors has been driving recycled water demands down during the winter months. These include Home Owner's Associations (HOA) replacing grass with drought tolerate landscape, customers replacing grass with artificial turf, smart irrigation systems and weather patterns that can see long stretches of consistent wintertime rain. Unfortunately, in February 2020, due to the Pond not being drained completely in the fall after lower than anticipated demand levels, and weather that had continuous rain patterns, the Pond filled quickly and eventually overflowed into the San Diego County storm drain system which is the designed and only existing spillway. The 4S WRF does not have a permitted discharge

option aside from the recycled water distribution system, unlike most San Diego County wastewater plants which can discharge to an ocean outfall.

Unfortunately, the discharge of recycled water into the San Diego County storm drain system is not an approved use or disposal method per the Master Discharge Permit and OMWD does not have a National Pollutant Discharge Elimination System permit. Due to this discharge, the RWQCB issued a Notice of Violation (NOV) for the release of recycled water into the storm drain system (NOV - Attachment #2). After extensive discussions and meetings with RWQCB staff and in response to the NOV, OMWD developed and submitted a Pond Investigation Technical Memorandum (Tech Memo - Attachment #3) which outlined a number of measures to implement in order to prevent another discharge to the storm drain system. These actions include:

- Customer outreach and education to increase (or restore) recycled water use demands,
- Demand management, including improved metering to provide real-time data on individual users,
- **Financial incentives, including incentives for increased reuse during winter/spring months or incentives for users to provide onsite recycled water storage,**
- Increasing the number of recycled water connections and customers,
- Improved flow and demand management coordination with neighboring agencies.

The RWQCB responded to the Tech Memo with no monetary penalties however, they reserved their right to bring an enforcement action against OMWD for the unauthorized discharge and any future unauthorized discharges (Letter from RWQCB - Attachment #4).

Upon review of the situation with the Board of Directors at its' April 2021 Board meeting, staff was approved to proceed with the development of a WWIP. This program would be implemented when recycled water levels in the Pond reach levels that would suggest that the Pond is at a high risk of overflowing into the San Diego County storm drain system.

Fiscal Impact

OMWD was presented with possible fines of \$10,000 per day and \$10 dollars per gallon discharged. This would have resulted in a fine of approximately \$430,590,000. At this time, the RWQCB has not imposed a financial penalty or fined OMWD, however, if future discharges occur, enforcement action could be taken. As a result, staff hired Carollo Engineering to calculate the cost of constructing an additional recycled water reservoir

that would be capable of holding enough capacity for the discharge that occurred. Site locations are very limited and the cost is estimated at \$76,000,000. The cost and complexities to build an additional reservoir to store recycled water would far exceed costs associated with proposing an incentive to customers that utilize recycled water in order to assist OMWD in avoiding Pond overflows.

Discussion

The WWIP is intended to assist in alleviating conditions which may lead to the Pond overflowing. OMWD would ask recycled water customers to utilize recycled water during periods of lower demand, such as the cooler winter months and stretches of wet weather as these customers have the ability to store water in ponds, lakes, etc. In order to determine the level of interest and site physical capabilities, OMWD reached out to the largest recycled water irrigation customers in the southeastern recycled water system. Many of the customers expressed an interest in an incentive program and some are much better suited for the program due to onsite physical impoundments. Staff will offer the program to all users in the southeastern recycled water system but with strict guidelines that all users must continue to comply with existing recycled water regulatory requirements. Users with large impoundments may be able to take advantage of the WWIP more easily.

The WWIP proposes to execute individual agreements with each qualified customer to take our recycled water in exchange for a recycled water credit. This is in lieu of constructing an additional recycled water reservoir to store recycled water from the 4S WRF. Our financial consultant, Raftelis, has opined that the cost to build a reservoir would be far higher than giving the credit to our rate payers, and therefore this solution would save money for our rate payers and avoid Proposition 218 issues.

Implementation of the WWIP would be based on Pond trigger levels that, when reached during the fall and winter months, would allow the General Manager to implement the program.

The following table contains the monthly trigger levels:

Month	Pond level (FT)	MGal	Ac/FT	Contour Elev	Remaining Days (@ 1 MGD)
October	19	16.617	51	549	129
November	28	31.931	98	558	98
December	36	48.223	148	566	82
January	43	64.840	199	573	65
February	49	81.131	249	579	49
March	55	100.681	309	585	29

These levels are derived from historical recycled water averages that place the Pond at risk of overflowing. Once the General Manager activates the WWIP, staff will notify eligible and pre-qualified recycled water customers. In order to incentivize usage during critical periods, staff proposes to offer a recycled water credit for eligible customers. For example, one acre-foot of recycled water used by an eligible customer at no cost during the General Manager declared WWIP eligibility period would result in a credit of one additional acre-foot of recycled water that would be applied to the customer's bill following deactivation of the WWIP. Credits will be restricted to usage above and beyond the customer's normal wet weather usage in the 2019-2020 baseline time period in order to avoid customers taking advantage of the program by curtailing usage in anticipation of the WWIP. Deactivation of the WWIP will be declared by the General Manager when the monthly pond levels drop sufficiently below the trigger levels to allow for inflows into the Pond, or if the program enters the consecutive month and is below the respective Pond trigger levels.

Staff is available to respond to questions. The General Counsel has reviewed and approved this program.

Attachment(s):

Attachment 1 – Ordinance

Exhibit "A" WWIP

Attachment 2 – NOV

Attachment 3 – Tech Memo

Attachment 4 – Letter from RWQCB

Attachment 5 – PowerPoint Presentation

Attachment 1 – Ordinance with Exhibit "A" WWIP

ORDINANCE NO. 4XX

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE OLIVENHAIN MUNICIPAL WATER DISTRICT AMENDING THE DISTRICT'S ADMINISTRATIVE AND ETHICS CODE (*Article 8 – Water Rates & Charges and Article 25 – Use of Reclaimed and Non-Potable Water*);

BE IT ORDAINED by the Board of Directors of Olivenhain Municipal Water District as follows:

SECTION 1: Sections 8.1.1 of Article 8 of OMWD's Administrative and Ethics Code, Water Rates & Charges, is hereby revised to read as follows:

Sec. 8.1.1 Recycled and Non-imported Water Rates.

The water rates to be charged and collected for recycled water or non-imported sources supplied for agricultural, commercial, construction, industrial and irrigation purposes:

Rates Per Unit

Rates Effective with April 1, 2021, water bills:

Base Rate

\$3.65 per Unit

Wet Weather Incentive Program may be offered in accordance with Article 25.7.

SECTION 2: Sections 25.7 of Article 25 of OMWD's Administrative and Ethics Code, Use of Reclaimed and Non-Potable Water, is hereby added to read as follows:

Sec. 25.7 Wet Weather Incentive Program. Per Ordinance 4XX, The Wet Weather Incentive Program offers a financial incentive to recycled water customers in the Southeast Quadrant during periods of lower demand, such as cooler winter months and stretches of wet weather to assist in alleviating conditions which may lead to the Recycled Water Overflow Storage Basin (Pond) overflowing. Implementation of the Wet Weather Incentive Program is based on the Recycled Water Overflow Storage Basin trigger levels that, when reached during the fall and winter months, allow the General Manager to implement the program. Once implemented, the District offers recycled water customers an incentive to take recycled water as these customers have the ability to store water in ponds, lakes, impoundments, etc. The District will execute individual agreements with customers to utilize recycled water in the Southeast Quadrant in exchange for recycled water credits earned based upon customer usage during the program.

Deactivation of the program is declared by the General Manager when the monthly Pond levels drop sufficiently below the trigger levels to allow for inflows into the Pond, or if the program enters the consecutive month and is below the respective Pond trigger levels

SECTION 3: OMWD's Wet Weather Incentive Program is incorporated herein as Exhibit "A" (attached) to Ordinance 4XX.

PASSED, ADOPTED AND APPROVED at a regular meeting of the Board of Directors of the Olivenhain Municipal Water District held on September 8, 2021 by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Lawrence A. Watt, President
Board of Directors
Olivenhain Municipal Water District

ATTEST:

Robert F. Topolovac, Secretary
Board of Directors
Olivenhain Municipal Water District

- Exhibit "A"

**WET WEATHER INCENTIVE PROGRAM FOR RECYCLED
WATER DELIVERIES IN THE SOUTHEAST QUADRANT
OF OMWD'S RECYCLED WATER SERVICE AREA**



OLIVENHAIN MUNICIPAL WATER DISTRICT

SEPTEMBER 2021

WET WEATHER INCENTIVE PROGRAM FOR RECYCLED WATER DELIVERIES IN THE SOUTHEAST QUADRANT OF OMWD'S RECYCLED WATER SERVICE AREA

ARTICLE 1 – GENERAL PROVISIONS

SECTION 1.1 PURPOSE

Wet Weather Incentive Program. Per Ordinance 4XX, The Wet Weather Incentive Program is a voluntary program that offers a financial incentive to recycled water customers during periods of lower demand, such as cooler winter months and stretches of wet weather to assist in alleviating conditions which may lead to the Recycled Water Overflow Storage Basin (Pond) overflowing. Implementation of the Wet Weather Incentive Program is based on the Recycled Water Overflow Storage Basin Trigger Levels that, when reached during the fall and winter months, allow the General Manager to implement the program. Once implemented, the District offers recycled water customers the ability to utilize recycled water as these customers have the ability to store water in ponds, lakes, impoundments, etc. Recycled Water users will be required to sign individual agreements in order to utilize our recycled water in exchange for recycled water credits earned based upon customer usage during the program.

SECTION 1.2 AUTHORITY

This program and rules are adopted pursuant to the Olivenhain Municipal Water District Wet Weather Incentive Program for Water Deliveries in the Southeast Quadrant Ordinance which establishes provisions of the program.

SECTION 1.3 TITLE

This program shall be known and may be cited as “Wet Weather Incentive Program”.

ARTICLE 2 – DEFINITIONS

The following words and phrases whenever used in this exhibit shall have the meaning defined in this section:

1. "Pond" refers to the 4S Ranch Recycled Water Overflow Storage Basin
2. "WRF" refers to the 4S Ranch Water Reclamation facility
3. "WWIP" refers to the Wet Weather Incentive Program
4. "MGD" Million Gallons Per Day
5. "RWQCB" refers to the San Diego Regional Water Quality Control Board
6. "Trigger Levels" refers to the Recycled Water Overflow Storage Basin Trigger Levels

ARTICLE 3 – RECYCLED WATER OVERFLOW STORAGE BASIN TRIGGER LEVELS

SECTION 3.1 RECYCLED WATER OVERFLOW STORAGE BASIN TRIGGER LEVELS

The WWIP program would be triggered based on the Pond levels below that, when reached during the fall and winter months, would allow the General Manager to implement the WWIP. The General Manager is authorized by the Board of Directors to set the Pond trigger levels. When the Pond reaches the defined trigger levels at any time in the observed month, the General Manager is authorized by the Board of Directors to implement the WWIP. Subsequent to implementation of the WWIP, recycled water users with an executed agreement who utilize recycled water will be allotted a WWIP credit for each unit (one hundred cubic feet, or HCF) utilized during the declared WWIP period. When the Pond level has returned to a level below the trigger level and the risk of overflow has diminished, the District, under direction from the General Manager, will notify the Participant that the WWIP period has ended and credits will no longer be accrued.

Month	Pond level (FT)	Million Gal.	Acre/FT	Contour Elevation	Remaining Days (@ 1 MGD)
October 1	19	16.617	51	549	129
November 1	28	31.931	98	558	98
December 1	36	48.223	148	566	82
January 1	43	64.840	199	573	65
February 1	49	81.131	249	579	49
March 1	55	100.681	309	585	29

ARTICLE 4 – WET WEATHER INCENTIVE PROGRAM RECYCLED WATER PARTICIPANT AGREEMENT

SECTION 4.1 WET WEATHER INCENTIVE PROGRAM RECYCLED WATER PARTICIPANT AGREEMENT

This Wet Weather Incentive Program Recycled Water Agreement (hereinafter the "Agreement") is entered into by and between the Olivenhain Municipal Water District (hereinafter the "District"), a municipal water district organized and operating pursuant to California Water Code Sections 71000 et seq. and the Wet Weather Program Participant, (hereinafter "Participant").

C-O-V-E-N-A-N-T-S

1. **Purchase and Sale of Recycled Water.** The District has agreed to sell recycled water to the Participant and the Participant has agreed to purchase recycled water from the District subject to all existing terms and requirements of this Agreement.
2. **Agreement Period Timeframe.** As a material term of this Agreement, the District agrees to provide services required by this Agreement for a time frame of five years from execution. The District or Participant may terminate at any time by notifying the other party in writing. The breach of this paragraph shall constitute a material breach of this Agreement.
3. **Recycled Water Facilities Required To Serve The Participant.** The District shall have no obligation whatsoever to secure any permits or approvals needed to use recycled water for the Participant.
4. **Compliance with All Laws and Regulations Regarding Use of Recycled Water by the Participant.** The Participant and its successors and assigns agree to utilize all recycled water obtained from the District at all times in strict accordance with all Federal, State, and local laws, rules, and regulations; in accordance with all recycled water permits and approvals issued to the District and the Participant for the use of recycled water; and in accordance with all published and applicable recycled water regulations adopted by the District, the Regional Water Quality Control Board, the County Department of Health Services and any other governmental agency from time to time (hereinafter collectively the "Recycled Water Requirements"). In the event the Participant or any successor or assign is definitively determined by the governmental agency having appropriate jurisdiction to have violated any Recycled Water Requirements, the District shall have the unilateral right to terminate this Agreement and/or all further use of recycled water by the Participant or any successor by written notice to the Participant or any

successor or assign. The Participant and its successors and assigns shall use its best efforts to operate the recycled water system and improvements located on the Participant's property at all times to avoid leaks and in accordance with all applicable permits.

5. **Interruption of Recycled Water Supply.** The District shall have the express right to cease or interrupt the supply of recycled water to the Participant at any time determined necessary or appropriate by the District for any of the following reasons: (1) For maintenance or repair of any part of the District's recycled water system determined necessary or appropriate at any time by the District; (2) For the entire period of any emergency where the cessation or interruption of services is determined necessary or appropriate by the District; (3) During the entire period of any act of nature that damages any portion of the District's recycled water system or prevents the District from providing the recycled water through its recycled water system; (4) As the result of any order issued at any time by the Regional Water Quality Control Board or any other agency with authority over the District's recycled water system that orders the District to cease or curtail the delivery of recycled water through its system; (5) As a result of the actions or activities of any person or entity other than the District that damages or injures any part of the District's recycled water system or that the District determines requires the curtailment or limitation of recycled water from the District's recycled water system; (6) As a result of any changes in any law, regulation, or other requirement including any changes mandated by the Regional Water Quality Control Board or any other agency with authority over the District's recycled water system that requires any changes or revisions to the District's recycled water system or that the District determines requires a limitation or curtailment of the delivery of recycled water through the District's recycled water system; (7) Any interruptions of service required while the District completes any maintenance, repair or new improvements to its recycled water system determined necessary or appropriate by the District from time to time; (8) Any interruptions of service caused in whole or in part by the action or inaction of the Participant or its successors or their directors, officers, agents, employees, consultants, contractors, members or invitees. Nothing contained in this Agreement shall be construed as obligating the District to deliver recycled water at the desired flow or meeting Title 22 recycled water standards during any of these events which may interrupt or curtail the supply of recycled water to the Participant.
6. **Determination and Allotment of WWIP Credit During Wet Weather Period.** The General Manager is authorized by the Board of Directors to set the pond trigger levels in Appendix 1 of this agreement. When the Pond reaches the defined trigger levels at any time in the observed month, the General Manager is authorized by the Board of Directors to implement the WWIP. Subsequent to implementation of the WWIP, recycled water users with an executed agreement who utilize recycled water will be allotted a WWIP credit for each unit (one hundred cubic feet, or HCF) utilized during the declared WWIP period. When the Pond level has returned to a level below the trigger level and the risk of overflow has diminished, the District, under direction from the General Manager, will notify the Participant that the WWIP period has ended and credits will no longer be accrued. WWIP credits are based on upon actual usages of each recycled water user during the activated WWIP period. Participants are not charged for the usage during the declared WWIP period. The amount of the credit for each unit shall be valued at the District's per-unit rate for recycled water at the time the recycled water is used. The credits will be applied to the recycled water account holder's subsequent bill after the declared

WWIP period ends.

7. **Defense and Indemnity of District.** The Participant and its successors and assigns shall be solely liable and responsible for any and all design or construction defects in any recycled water facilities or improvements and for the proper operation, maintenance, repair and replacement of all recycled water facilities and improvements located on the Participant property. The Participant and its successors and assigns agree to hold harmless, defend, and indemnify the District and its directors, officers, agents, employees and consultants from and against any and all liability, claims, causes of action, actions, damages, losses, costs, fees, expenses or penalties, of whatever type of nature, including all attorney's fees, expert fees and costs, and court costs, reasonably arising from or related in any factual way to the permitted use of recycled water by the Participant except claims and causes of action caused by the sole active negligence or willful misconduct of the District or its agents or representatives. This indemnity provision shall survive the termination of this Agreement and remain in full force and effect for a reasonable period of time after termination of this Agreement. The breach of this indemnity provision shall constitute a material breach of this Agreement.
8. **District Remedies for Breach.** In the event the Participant or any successor or assign fails to comply with any term, covenant or condition of this Agreement or fails to pay any reasonable fees or charges of the District when due, this shall constitute a material breach of this Agreement. In the event the Participant or any successor or assigns breaches any provision of this Agreement, the District shall be entitled to elect all or any of the following remedies at the District's option:
- a. Unilaterally terminate this Agreement and/or terminate all rights of the Participant or its successors or assigns to receive any recycled water service from the District after providing the Participant with written notice and 15 days to cure the deficiencies noted. In the event of an emergency, the District shall have the right to specify a shorter period to correct any deficiencies noted or to curtail service until all deficiencies noted are corrected to the District's reasonable satisfaction. The termination shall be effective on the date that the Participant receives written notice of termination.
9. **Miscellaneous Provisions**

Jurisdiction and Venue. In the event of any legal or equitable proceeding to enforce, interpret or invalidate any term or provision of this Agreement, the parties agree that jurisdiction and venue shall lie only in the Superior Court for the North County Judicial District, County of San Diego, State of California.

Modification. This Agreement may not be altered in whole or in part except by a written modification approved by the Board of Directors of the District and executed by all the parties to this Agreement.

Attorney's Fees. In the event any action or proceeding is initiated to challenge, invalidate, enforce, or interpret any of the terms of this Agreement, the prevailing party shall be entitled to all attorney's fees, all expert fees and costs, and all litigation fees, costs, and expenses in addition to any other relief granted by law. This provision shall apply to the entire Agreement.

Entire Agreement. This Agreement and the attachments hereto, contain all representations and the entire understanding between the parties with respect to the subject matter of this Agreement. Any prior or concurrent correspondence, memoranda, or agreements, whether or not such correspondence, memoranda, or agreements are in conflict with this Agreement, are intended to be replaced in total by this Agreement. The Participant warrants and represents that no District representative has made any oral representations or oral agreements not contained in this Agreement. The Participant further warrants and represents that The Participant has not relied upon any oral statements or promises made by any District representative or agent in executing this Agreement and that this Agreement is a final integrated agreement between the parties. Oral statements or promises inconsistent with any provision of this Agreement shall be disregarded.

Assignment. The Participant shall not be entitled to assign or transfer all or any portion of its rights or obligations in this Agreement without obtaining the express prior written consent of the District. The District's consent shall not be unreasonably withheld. As a condition of such consent, the District shall be entitled to require the purchaser or assignee to execute an agreement with the District containing all the rights and benefits of this Agreement, and which contains any other reasonable terms determined necessary by the District, in its reasonable discretion. The District's consent may be conditioned upon the District's receipt and reasonable approval of financial statements demonstrating the purchaser or assignee is capable of paying for all recycled water facilities and other reasonable fees and charges required by this Agreement to reasonable satisfaction of the District, and the District's consent may be conditioned upon the purchaser, transferee or assignee satisfying reasonable financial criteria or providing letters of creditor other security acceptable to the District, in its reasonable discretion.

Unenforceable Provisions. The terms, conditions, and covenants of this Agreement shall be construed whenever possible as consistent with all applicable laws and regulations. To the extent that any provision of this Agreement, as so interpreted, is held to violate any applicable law or regulation, the remaining provisions shall nevertheless be carried into full force and effect and remain enforceable.

Representation of Capacity to Contract. Each party to this Agreement represents and warrants that he/she has the authority to execute this Agreement on behalf of the entity represented by that individual. This representation is a material term of this Agreement.

Opportunity to be Represented by Independent Counsel. Each of the parties to this Agreement warrants and represents that he/she have been advised to consult independent legal counsel of his/her own choosing and has had a reasonable opportunity to do so prior to executing this Agreement.

No Waiver. The failure of either party to enforce any term, covenant, or condition of this Agreement on the date it is to be performed shall not be construed as a waiver of that party's right to enforce this, or any other, term, covenant, or condition of this Agreement at any later date or as a waiver of any term, covenant, or condition of this Agreement. No waiver shall occur unless the waiver is expressly stated in writing and signed by the person for the party having the authority to expressly waive the benefit or provision, in writing. Any waiver of any District right must be in writing and signed by the general manager of the District to be enforceable. No oral waivers shall be effective against either party or their successors or assigns.

No Joint Venture. Nothing in this Agreement is intended to create a joint venture, partnership or common enterprise relationship of any kind between the District and The Participant. No third parties shall be construed as beneficiaries of any term, covenant or provision of this agreement.

DRAFT

To: "PARTICIPANT"

Attn: PARTICIPANT CONTACT

PARTICIPANT ADDRESS

To: "DISTRICT"

Olivenhain Municipal Water District

Attn: Kimberly A. Thorner, General Manager

1966 Olivenhain Road

Encinitas, California 92024

Effective Date. The effective date of this Agreement executed in counterparts in Encinitas, California, within the North County Judicial District, County of San Diego, State of California, is

_____.

Dated: _____

Olivenhain Municipal Water District,
a public agency

By: _____

Kimberly A. Thorner
General Manager

Dated: _____

PARTICIPANT

By: _____

PARTICIPANT

Attachment 2 – NOV

GAVIN NEWSOM
GOVERNORJARED BLUMENFELD
SECRETARY FOR
ENVIRONMENTAL PROTECTION

San Diego Regional Water Quality Control Board

May 1, 2020

Mr. Joseph Randall
Assistant General Manager
Olivenhain Municipal Water District
1966 Olivenhain Road
Encinitas, CA 92024
(Sent via email to: JRandall@olivenhain.com)

In reply refer to / attn:
202611:Ckomeylyan

Subject: Notice of Violation No. R9-2020-0105 and Investigative Order No. R9-2020-0106 Related to Alleged Violations of Order No. R9-2003-0007, *Master Reclamation Permit with Waste Discharge Requirements for the Production and Purveyance of Recycled Water for Olivenhain Municipal Water District 4-S Ranch Wastewater Treatment Plant, San Diego County*

Mr. Randall:

The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) is issuing Notice of Violation (NOV) No. R9-2020-0105 to the Olivenhain Municipal Water District (District) for the reported unauthorized discharge of tertiary treated wastewater (recycled water) into the County of San Diego's Municipal Separate Storm Sewer System (MS4). This unauthorized discharge of recycled water began on February 23, 2020 and is ongoing. The District is directed to submit additional technical information addressing the subject violation, pursuant to Water Code sections 13267¹ and 13383².

¹ Water Code section 13267, subdivision (b), authorizes the State Water Resources Control Board and Regional Water Quality Control Boards (Water Boards) to investigate and require technical or monitoring reports from any person who has discharged, discharges, or is suspected of having discharged or discharging waste in accordance with the conditions in the section.

² Water Code section 13383, subdivision (a), authorizes the Water Boards to establish monitoring, inspection, entry, reporting, and recordkeeping requirements for any person who owns or operates a publicly owned treatment works or other treatment works treating domestic sewage.

HENRY ABARBANEL, PH.D., CHAIR | DAVID GIBSON, EXECUTIVE OFFICER

Notice of Violation No. R9-2020-0105

The District owns and operates the 4-S Ranch Wastewater Treatment Plant (WTP) and manages the distribution and off-site use of the recycled water produced at the WTP. The District is required to operate and maintain the WTP in compliance with the requirements contained in Order No. R9-2003-0007, *Master Reclamation Permit with Waste Discharge Requirements for the Production and Purveyance of Recycled Water for Olivenhain Municipal Water District 4-S Ranch Wastewater Treatment Plant, San Diego County* (Order No. R9-2003-0007). To offset the use of potable water, effluent from the WTP is treated and used as recycled water for landscape irrigation purposes. Prior to distribution, recycled water produced at the WTP is pumped and temporarily stored in the WTP Wastewater Storage Pond (Pond). The Pond is a lined reservoir surrounded by residential development south of the San Dieguito River and north of Lusardi Creek. The Pond is designated as a dam and regulated by the California Department of Water Resources, Division of Safety of Dams. From the Pond, recycled water passes through a controlled inlet into a spillway that connects to the MS4 which discharges to a tributary of the San Dieguito River.

The following is a chronology of events related to the unauthorized discharge of recycled water from the Pond:

- Spring 2019 - During an inspection of the WTP and Pond, San Diego Water Board staff were notified that the Pond was near capacity, and that an unauthorized discharge of recycled water to the MS4 was likely if wet weather patterns continued. However, due to dryer weather patterns an unauthorized discharge of recycled water from the Pond did not occur.

The San Diego Water Board was also notified that similar situations have occurred twice in the past 11 years.

- Fall 2019 – The District notified San Diego Water Board staff that the Pond was nearing capacity and may discharge recycled water to the MS4 if wet weather patterns continued. Again, due to dryer weather patterns an unauthorized discharge of recycled water did not occur. The San Diego Water Board requested the District provide additional effluent and receiving water quality information. Effluent samples analyzed for constituents of concern reported concentrations in excess of established water quality objectives, but lower than the existing conditions within the receiving water.
- Fall 2019 through early 2020 – District staff met with the San Diego Water Board on various occasions to discuss possible alternatives to avoid future potential unauthorized recycled water discharges from the Pond to the MS4.

- Early Winter 2020 – The District notified the San Diego Water Board that the Wastewater Storage Pond was near capacity, and if wet weather patterns continued as forecasted, a discharge of recycled water from the Pond into the County of San Diego MS4 would be imminent.
- February 6, 2020 – The District reported the Pond was not completely emptied the previous summer and fall, and due to the early winter weather patterns, irrigation usage dropped off significantly resulting in the Pond filling towards capacity quickly. It was also reported that the District had begun storing water at the WTP in order to expand the capacity of the Pond.
- February 18, 2020 – The District informed the San Diego Water Board that recycled water usage had not increased over the last several weeks, and the District would continue to explore alternative sources for recycled water usage and storage. The District also informed the Board that the Pond was essentially at its capacity and recycled water would discharge into the MS4 within a week, depending on irrigation demands.
- February 23, 2020 – The San Diego Water Board and County of San Diego were promptly notified by the WTP Supervisor that recycled water was discharging from the Pond into the MS4, at a rate of approximately 5-10 gallons per minute (gpm). The WTP Supervisor further suggested the flow rate would likely increase later that day.
- February 25, 2020 – The San Diego Water Board and County of San Diego were notified that the flow rate of recycled water discharging from the Pond into the MS4 increased to approximately 300 gpm.
- April 8, 2020 – San Diego Water Board staff performed a drive-by inspection of the Pond and observed the continued discharge of recycled water from the Pond to the MS4.

Alleged Violations

1. Section 301 of the Federal Clean Water Act (33 U.S.C. § 1311) and Water Code section 13376

Observation: Clean Water Act section 301 and Water Code section 13376 prohibits the discharge of pollutants to surface waters except in compliance with a National Pollutant Discharge Elimination System (NPDES) permit. The District's discharges from the Pond to the MS4 and waters of the United States were not authorized by Order No. R9-2003-0007 or an NPDES permit.

2. Prohibition 2 of Order No. R9-2003-0007

Observation: Discharges of treated or untreated solid or liquid waste to navigable waters or tributary navigable waters is prohibited unless as authorized by an NPDES

permit issued by the San Diego Water Board. The District's WTP has discharged approximately 30,000 gallons of recycled water, and continues to discharge treated wastewater, into the MS4 and waters of the United States.

3. Facility Design and Operation Specification D.4 of Order No. R9-2003-0007

Observation: Pursuant to Facility Design and Operation Specification D.4 – Wet Weather Storage, the District shall provide adequate storage facilities to contain recycled water during and after periods of rainfall when disposal by irrigation cannot be successfully practiced and shall prevent the discharge of treated or untreated recycled water to any surface water body. The District's WTP has discharged approximately 30,000 gallons of recycled water, and continues to discharge treated wastewater, into the MS4 and water of the United States.

Summary of Potential Enforcement Options

These violations may subject you to any of the following additional enforcement actions by the San Diego Water Board or State Water Resources Control Board:

Other Potential Enforcement Options	Applicable Water Code Section
Technical or Investigative Order	Sections 13267 and/or 13383
Cleanup and Abatement Order	Section 13304
Cease and Desist Order	Sections 13301-13303
Time Schedule Order	Sections 13300, 13308

In addition, the San Diego Water Board may consider revising or rescinding applicable waste discharge requirements, if any, referring the matter to other resource agencies, referring the matter to the State Attorney General for injunctive relief, and referral to the municipal or District Attorney for criminal prosecution.

Investigative Order No. R9-2020-0106

As authorized by Water Code sections 13267 and/or 13383, the San Diego Water Board issues Investigative Order No. R9-2020-0106 (Investigative Order) and directs the District to submit the following information to the Board no later than **5:00 pm on September 30, 2020:**

1. Total volume of recycled water discharged from the Pond to the MS4, and the potential effects of the unauthorized discharge on the quality of the receiving surface water.
2. A description of the steps the District has or plans to take to address the Pond's inadequate storage capacity, which led to the unauthorized discharges of recycled water. This explanation must include current and potential future engineering controls and infrastructure, and standard operating procedures and management practices.

All information provided in response to this Investigative Order must include the

following signed certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The requested information is essential to evaluate the impacts of the discharged wastewater on the quality and beneficial uses of San Dieguito River, and the feasibility of clean up or abatement of the effects of the discharge. The requested information is necessary for the San Diego Water Board to determine the WTP state of compliance, the potential or actual harm to human health or the environment from activities associated with the violations, and to determine whether existing waste discharge requirements are adequate to protect beneficial uses. Therefore, the burden of preparing the requested report bears a reasonable relationship to the need for the report and the benefit to be obtained from the report.

Please submit the required information in electronic format to the San Diego Water Board by e-mail to SanDiego@waterboards.ca.gov with "202611:CKomeylyan" included in the subject heading. Each electronic document must be submitted as a single file, in Portable Document Format (PDF), and converted to text searchable format using Optical Character Recognition (OCR). All electronic documents must include scanned copies of all signature pages; electronic signatures will not be accepted.

Notifications

1. **Enforcement Discretion:** The San Diego Water Board reserves its right to take any enforcement action authorized by law for violations of the terms and conditions of this Investigative Order.
2. **Enforcement Notification:** Water Code section 13268 (a)(1) provides that any person failing or refusing to furnish technical or monitoring report information as required by Water Code section 13267(b), or falsifying any information provided therein, is guilty of a misdemeanor and may be liable civilly for an administered imposed liability of up to \$1,000 per day for each day the violation occurs.

Water Code section 13385 provides that any person failing or refusing to furnish technical or monitoring report information required pursuant to Water Code section 13383 may be liable civilly for an administered imposed liability in an amount not to exceed the sum of the of both of the following:

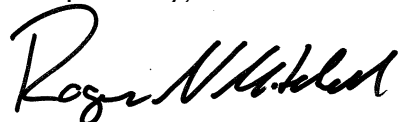
- a. Ten thousand (\$10,000) per day for each day the violation occurs.
- b. Where there is a discharge, any portion of which is not susceptible to cleanup or is not cleaned up, and the volume discharged but not cleaned up exceeds 1,000

gallons, an additional liability not to exceed ten dollars (\$10) multiplied by the number of gallons by which the volume discharged but not cleaned up exceeds 1,000 gallons.

3. **Requesting Administrative Review by the State Water Board:** Any person affected by this action of the San Diego Water Board may petition the State Water Board to review the action in accordance with section 13320 of the Water Code and California Code of Regulations title 23 section 2050. The petition must be received by the State Water Resources Control Board (Office of Chief Counsel, P.O. Box 100, Sacramento, California 95812) within 30 days of the date of this Investigative Order. Copies of the law and regulations applicable to filing petitions will be provided upon request. For instructions on how to file a petition for review, see: http://www.waterboards.ca.gov/public_notices/petitions/water_quality/wqpetition_inst_r.shtml

In the subject line of any response, please include the reference code **202611:CKomeylyan**. Please contact Ms. Sherrie Komeylyan by phone at (619) 521-3366, or via email at Chehreh.komeylyan@waterboards.ca.gov if you have any questions.

Respectfully,



Roger Mitchell, PG
Acting Branch Chief
Groundwater Protection Branch

cc via email: Mr. Joseph Randall, Assistance General Manager, Olivenhain Municipal Water District, jrandall@olivenhain.com

Mr. John Onkka, Water Reclamation Facilities Supervisor, 4S Ranch Water Reclamation Facility, Olivenhain Municipal Water District, JOnnkka@olivenhain.com

Mr. Dave Smith, Operations Manager, Olivenhain Municipal Water District, dsmith@olivenhain.com

Chiara Clemente, San Diego Regional Water Quality Control Board, Chiara.Clemente@waterboards.ca.gov

RNM:cgh:bb:ck

Tech Staff Info & Use	
Order Nos.	R9-2003-0007, R9-2020-0105 (NOV), R9-2020-0106 (IO)
Place ID	202611
Reg. Measure IDs	142438

Attachment 3 – Tech Memo



Olivenhain Municipal Water District
4S Ranch Water Reclamation Facility

Technical Memorandum
POND STORAGE INVESTIGATION

FINAL | September 2020



Olivenhain Municipal Water District
4S Ranch Water Reclamation Facility

Technical Memorandum POND STORAGE INVESTIGATION

FINAL | September 2020



District General Manager

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Appendix 1A OMWD Overflow Memo

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Abbreviations

4S	4S Ranch
AF	acre-feet
AFY	acre-feet per year
AMI	advanced metering infrastructure
BOD	biochemical oxygen demand
BOD ₅	5-day biochemical oxygen demand test
CEQA	California Environmental Quality Act
ft	feet
GIS	Geographic Information System
gpm	gallons per minute
HOA	homeowners' association
I&I	inflow and infiltration
in	inch(es)
in/day	inches per day
M	million
MG	million gallons
mg/L	milligrams per liter
mgd	million gallons per day
MS4	Municipal Separate Storm Sewer System (e.g. storm drains)
NOAA	National Oceanic and Atmospheric Administration
NPDES	National Pollutant Discharge Elimination System
OMWD	Olivenhain Municipal Water District
Pond	Recycled Water Storage Pond
RWQCB	California Regional Water Quality Control Board, San Diego Region
SE	Southeast
SFV WRF	Santa Fe Valley Wastewater Reclamation Facility
TM	technical memorandum
TSS	total suspended solids
UV	ultraviolet
WRF	4S Ranch Water Reclamation Facility

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Section 1

INTRODUCTION

The Olivenhain Municipal Water District (OMWD) operates the 4S Ranch Water Reclamation Facility (WRF) located in San Diego, California. The WRF serves the 4S Ranch (4S) and Southeast (SE) Quadrant service areas for the OMWD recycled water system. The SE Quadrant service area is also served by purchased water from the City of San Diego and Rancho Santa Fe Community Services District. The treatment and reuse of recycled water at the WRF is regulated by Regional Water Quality Control Board (RWQCB) Order No. R9-2003-0007. Order No. R9-2003-0007 establishes master water reclamation requirements for the treatment and reuse of up to 1.6 million gallons per day (mgd) of filtered and disinfected recycled water.

The main function of the 410 acre-feet (AF) Recycled Water Storage Pond (Pond) is to store water during the winter months. The Pond is a lined reservoir with a capacity of approximately 120 days at the current plant flow rate of 1.1 mgd. The Pond is also designated as a dam and regulated by the California Department of Water Resources, Division of Safety of Dams.

The WRF does not have a discharge option aside from the recycled water distribution system, unlike most San Diego County wastewater plants which can discharge to an ocean outfall. The Pond has an emergency overflow connection to the County of San Diego's storm drain system (MS4) which discharges to a tributary of the San Dieguito river but had never discharged into the storm drain until recently. The WRF operating permit does not list the storm drain as an acceptable discharge location, however it is designated as the overflow with the Division of Safety of Dams.

Below is a sequential list of events related to the unexpected and unauthorized discharge of recycled water from the Pond to the MS4 system that took place in 2020:

- 2017-2019 – The 2017-2019 large rain events resulted in increased winter-time water levels in the Pond, but the Pond did not overflow, and the Pond was emptied (as is typical) prior to the start of the 2018-2019 wet season.
- 2019 – OMWD recycled water demands during 2019 decreased to the point where the storage Pond was not emptied prior to the start of the 2019-2020 wet season, and the District began communication with the RWQCB staff to raise concerns about rising water levels in the Pond. The RWQCB staff requested special effluent and water quality sampling information which was provided by OMWD.
- Fall 2019-Early 2020 – OMWD met with the RWQCB staff on several occasions to discuss possible alternatives to avoid Pond overflow.
- January 2020 – OMWD notified the RWQCB that the Pond was near capacity and would overflow into the MS4 system if above-average wet weather patterns continued as forecasted.
- February 18, 2020 – OMWD informed the RWQCB that recycled water usage had not increased since the early winter, and Pond levels continued to rise.

- February 23, 2020 – The Pond began to overflow into the County of San Diego storm drain system at a rate of approximately 300-600 gallons per minute (gpm) for sixty days.
- April 22, 2020 – Recycled water demands increased to the point where the Pond overflow into the MS4 system terminated and the Pond level begins to drop back into the typical operating range. The total overflow volume approximately totaled 43,000,000 gallons over the sixty-day period.
- May 2020 – OMWD received a Notice of Violation letter and Investigative Order from the RWQCB.

As a result of the recent discharges, OMWD has hired Carollo Engineers, Inc. to review the recent flows and recycled water usage and to identify options to prevent future overflow events. This technical memorandum (TM) will concentrate on identifying improvements to the recycled water storage system including possible improvements to the Pond, new storage options, additional users, or possible discharge options.

Section 2

BACKGROUND

OMWD's recycled water distribution system is comprised of three primary service areas: The 4S Ranch, Northwest and Southeast Quadrants. This report will focus on the 4S and Southeast Quadrant of OMWD served by the WRF as shown in Figure 1. The WRF is supplied with wastewater collected from the 4S Ranch and Rancho Cielo areas in North County San Diego.

The collections enter the recycling process at the WRF, located at 16595 Dove Canyon Road. The facility produces over one million gallons (MG) of recycled water per day which is distributed to the 4S and SE metered connections. In addition to the recycled water produced at the WRF, OMWD purchases recycled water from Rancho Santa Fe Community Services District and the City of San Diego through existing water purchase agreements. The Rancho Santa Fe Community Services District is land locked and OMWD is the only discharge option.

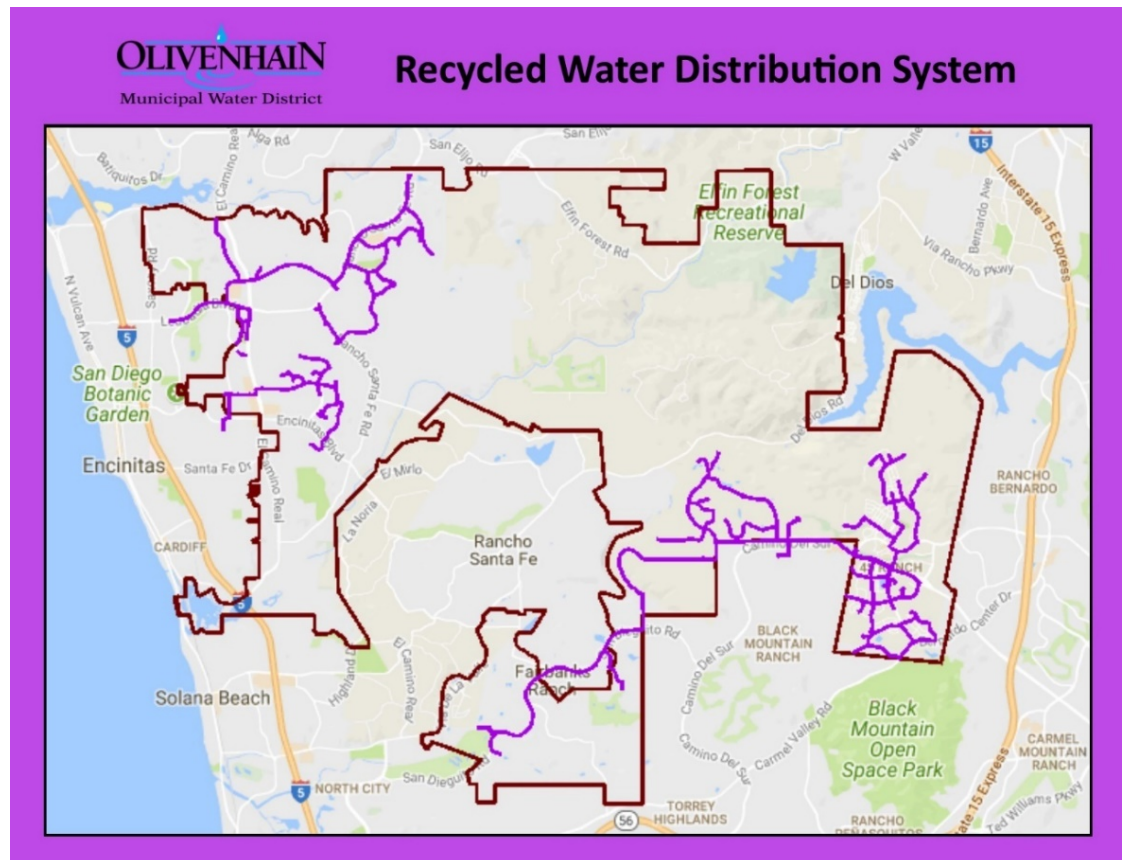


Figure 1 OMWD Recycled Water Distribution System

2.1 Data Collection

As part of the investigation into conditions leading up the Pond overflow, the project team coordinated with OMWD staff and others to obtain various datasets that allowed understanding of existing site constraints and opportunities to implement feasible solutions. Various reports, agreements, user meter data, plant flow meter data, Geographic Information System (GIS) and plant drawings from OMWD were collected and evaluated for this project.

2.1.1 Regional Rainfall

Rain gauge data from the local National Oceanic and Atmospheric Administration (NOAA) precipitation station located near Camino Del Norte and Camino San Bernardo is presented in Table 1. The data demonstrates a prolonged rainy season from 2019 through the first half of 2020. 2019 featured a wet winter that dampened demand for the year.

Table 1 4S Ranch Rainfall

Quarter	Rain Days	Average (in/day)	Total (in)
2013	43	0.16	7.01
2014	34	0.20	6.73
2015	40	0.23	9.09
2016	37	0.36	13.47
2017	27	0.42	11.4
2018	32	0.32	10.25
Qtr1	15	0.34	5.13
Qtr2	6	0.05	0.31
Qtr3	1	0.11	0.11
Qtr4	10	0.47	4.7
2019	48	0.37	17.7
Qtr1	29	0.38	10.92
Qtr2	9	0.10	0.88
Qtr3	0	0.00	0.00
Qtr4	10	0.59	5.9
2020	28	0.43	12.13
Qtr1	17	0.37	6.35
Qtr2	11	0.53	5.78

Abbreviations: in/day - inches per day; in - inch(es)

2.1.2 Service Area Demand

The review of monthly metered connections within the 4S and SE service lines indicates that the average annual demand from 2008-2019 for the region is 1,765 acre-feet per year (AFY) (1.57 mgd). Recycled Water users in OMWD's service area include homeowners' association (HOA) common areas, schools, parks, streetscapes, and golf courses. The users in OMWD's service area generally utilize recycled water to supplement natural rainfall for irrigation.

OMWD user meter data shows a clear correlation between the total annual rainfall and annual recycled water demand from the 4S and SE service lines. The comparison between annual recycled water demand and San Diego rainfall is shown in Figure 2. As is typical with San Diego Region recycled water programs, the 4S and SE service area meter data show a clear trend of increased recycled water use in the summer months, and a sharp drop off in usage during winter months. The figure shows an increase in demand when the annual rainfall drops below nine inches (in) for the year to an average of 1,910 AFY (1.71 mgd). Similarly demand in the 4S and SE service lines decrease to an average of 1,560 AFY (1.39 mgd) when rainfall surpasses nine inches of total rainfall for the year. The figure highlights the significant drop in demand that occurred through 2019 and 2020. This unexpected drop in demand is a primary reason Pond levels remained high prior to the release.

Figure 3 demonstrates a consistent seasonal fluctuation from 2008 through the first half of 2020. The average monthly demand has generally decreased from 2008 to 2020 (152 AF/month to 140 AF/month).

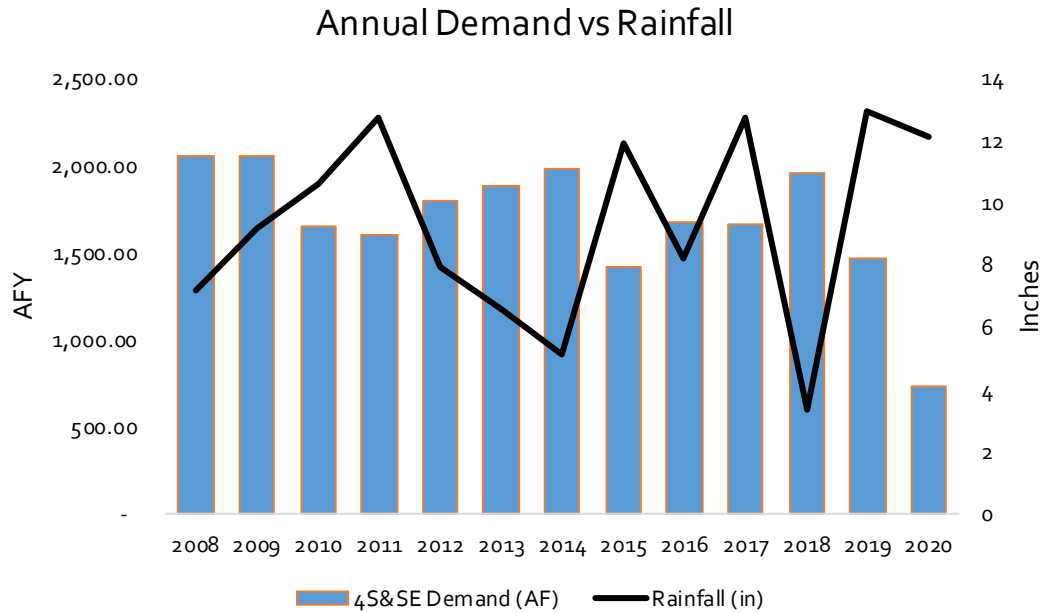


Figure 2 Annual Recycled Water Demand vs Rainfall

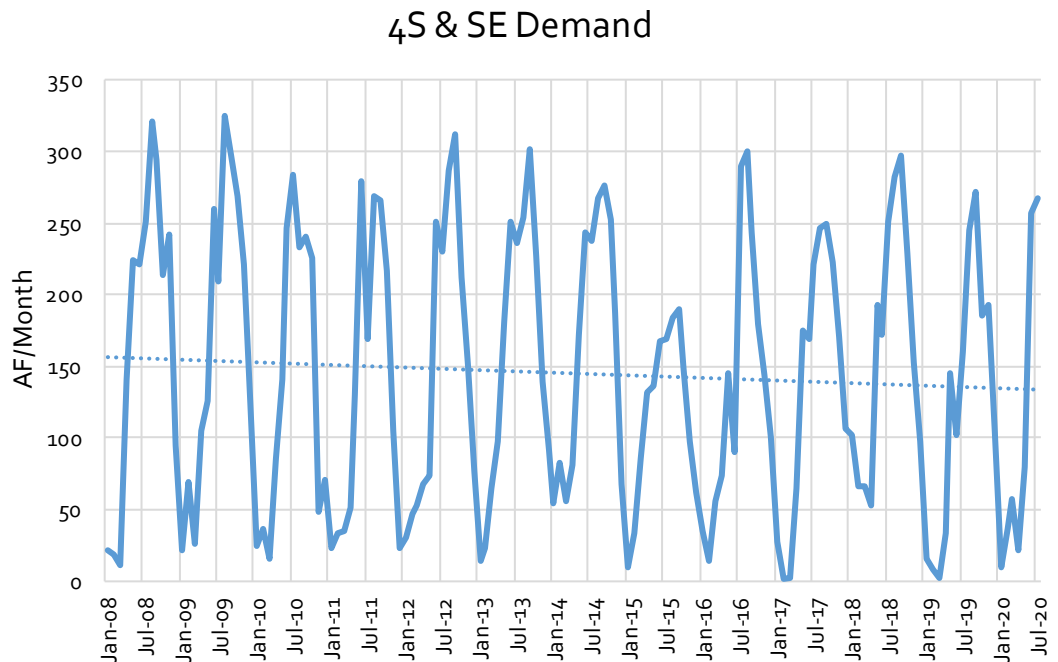


Figure 3 Monthly Demand 4S & SE Service Lines

2.2 4S Ranch Water Reclamation Facility

Treated recycled water from the WRF flows through the ultraviolet (UV) Effluent flow meter and into the Forebay prior to entering the distribution pump stations. Water in the Forebay is pumped to distribution into the Santa Fe Valley Reservoir through the Forebay meter or sent to

the Reclaim Pump Station to enter the Thelma Miller Reservoir. The Forebay is a wet well with an overflow structure that conveys flow to the Pond. Any flow that does not go out to distribution through the two pump stations is sent to the Pond for storage.

Water in the Pond is used to supplement the recycled water demand of the two main distribution flow meters when demand surpasses the plant effluent. Flow from the Pond back to the Forebay is captured by the Pond flow meter. The configuration of flow meters throughout the WRF are presented in Figure 4.

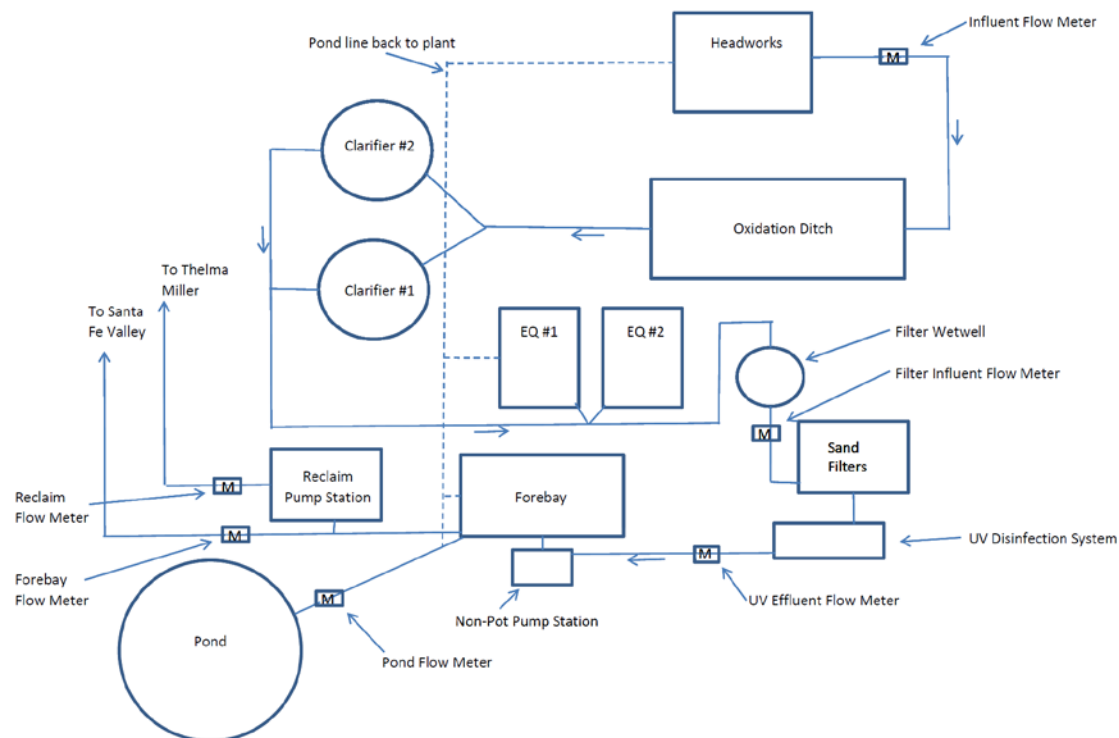


Figure 4 4S Ranch Water Reclamation Facility Diagram

The flow from the two distribution pump stations fluctuates throughout the year as depicted in Figure 5. The operational strategy for the WRF is to fill the Pond during the fall and winter months when demand is low and supplement the plant production with Pond flow in the spring and summer when demands rise. This operational strategy has historically allowed the WRF to safely operate at a consistent production rate of 0.9-1.1 mgd during the past decade.

Figure 5 also demonstrates that inflow and infiltration (I&I) is not a significant issue within the sewershed of the WRF. As shown in the figure, peak plant flows during wet weather periods (e.g. January through March) are not significantly greater than flows that occur during dry weather months.

The recent production level of the WRF has not decreased in a similar fashion to the demands in the service area. This presents a very unique situation where demands have decreased due to conservation strategies implemented throughout the region and the state to address drought concerns. The majority of operating wastewater treatment plants in the San Diego County have experienced decreasing influent flows while concentrations have remained steady or increased. This indicates that the same, or more, amount of waste is entering the system, but it is carried by

less water. Obvious results of conservation. This is not the case at the WRF, where flows have remained steady. This offset between the average demand and production places additional strain on the storage facilities available to the WRF.

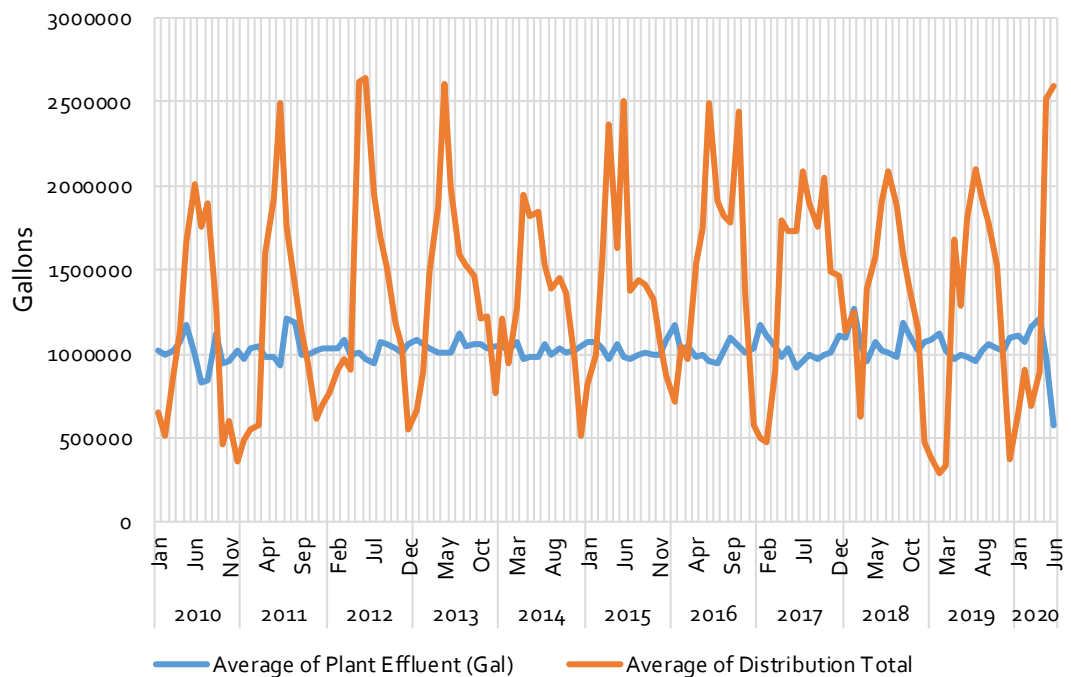


Figure 5 Monthly Plant Distribution vs Effluent

The primary storage facility for the WRF is the Pond which has a capacity of 410 AF or 133,600,000 gallons at water elevation of 63.8 feet (ft). OMWD staff monitor the level in the Pond using a level sensor and volume conversion chart. Figure 6 illustrates how the Pond level generally rises to a peak in the spring when demands are low and falls during the summer months. The figure is missing data from when the pond level sensor was out of service during 2017.

Review of the Pond level data indicates that the lower demand resulting from a wet 2019 led to the Pond nearing capacity in the spring and prevented the Pond from fully draining at the end of the summer. OMWD historically operates the Pond to empty completely during the month of September, but in 2019 the water level never dropped below 32 ft. The inability to drain the Pond due to reduced demand in the fall of 2019 was the first indication that OMWD might not have adequate recycled water storage capacity if extreme hydrologic conditions like those that occurred during the 2019-2020 wet season. OMWD staff contacted the RWQCB at this point to make the RWQCB aware of the situation and to discuss options.

Above-average precipitation at the start of the year in 2020 created lower demand conditions that complicated efforts from OMWD staff to lower the operating level in the Pond. Because of an overall low potential for I&I within the WRF collection system, wastewater flow into the WRF remained relatively stable during early 2020. During this time, however, WRF inflows continued to exceed the limited recycled water demands, resulting in the Pond overflow event from February 23 through April 22.

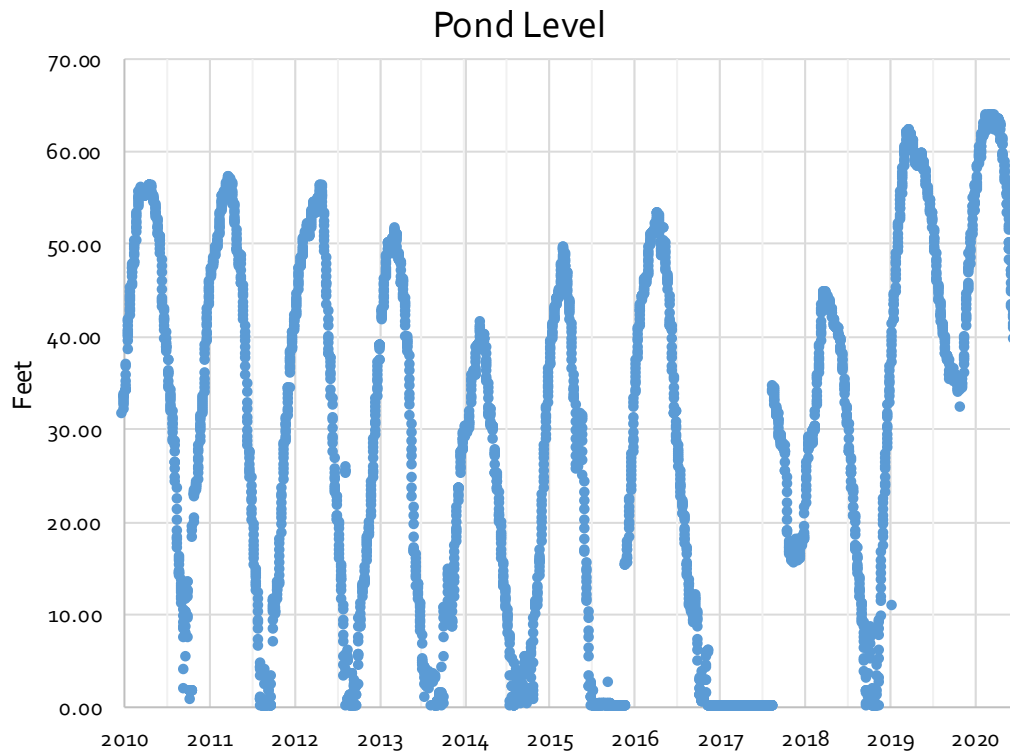


Figure 6 4S Ranch Pond Level

Review of the 4S Ranch water quality data indicates that the plant has been able to achieve low concentrations of total suspended solids (TSS) and 5-day biochemical oxygen demand test (BOD₅) over the last ten years – concentrations that are only a fraction of the TSS and biochemical oxygen demand (BOD) effluent concentration limits established within Order No. R9-2003-0007. The average influent and effluent TSS and BOD₅ of the WRF are presented in Table 2. The influent water quality at the WRF has not seen the same flow reduction and loading increase that other treatment facilities in the region are experiencing due to water conservation efforts.

Table 2 4S Ranch WRF Water Quality

Year	Average Influent BOD ₅ (mg/L)	Average Effluent BOD ₅ (mg/L)	Average Influent TSS (mg/L)	Average Effluent TSS (mg/L)
2010	234.67	3.39	292.04	3.28
2011	263.67	2.47	364.42	1.49
2012	250.19	2.83	399.96	1.61
2013	207.56	2.28	283.20	1.12
2014	168.00	2.28	229.46	1.21
2015	176.46	2.21	215.71	1.19
2016	175.67	2.14	208.48	1.18
2017	248.04	2.07	330.65	1.16
2018	241.78	2.08	360.14	1.11
2019	245.68	2.10	338.92	1.17
2020	228.35	2.00	276.29	1.00
Total Average	221.58	2.37	300.36	1.44

Abbreviation: mg/L - milligrams per liter.

2.3 Water Purchase Agreements

In addition to the recycled water produced by the WRF, OMWD has two purchase agreements in place to provide water to the Southeast Quadrant Service Area. The WRF is unable to meet all the demands of the region and purchased water accounts for approximately thirty percent of the total recycled water supply in the service area.

2.3.1 City of San Diego

The City of San Diego owns and operates the North City Water Reclamation Plant which has a capacity to produce approximately 30 mgd and has agreed to sell a portion of that flow to OMWD. OMWD entered into a twenty-year agreement in 2004 with the City of San Diego to purchase 8,000 AF (2,615 MG) of recycled water over the life of the contract. The purchase agreement has provisions to decrease the annual allotment from 500 AFY down to 300 AFY over the duration of the contract. A breakdown of the agreed purchase quantities is presented in Table 3.

Table 3 City of San Diego Schedule of Recycled Water Delivery

Calendar Range	Annual Contract Amount (MG)	Annual Contract Amount (AF)
2005-2009	163	500
2010-2019	131	400
2020-2024	98	300
Total Capacity Reservation	2,615	8,000

The agreement with the city of San Diego sets forth that the quantity of recycled water to be purchased by OMWD shall not be reduced, unless mutually agreed to in writing between both parties. In the event that demand outperformed production levels of the district, additional water would be provided by the city of San Diego through this purchase agreement. Additionally, OMWD does have the option to carry forward unused supply from the prior calendar year with a written carry forward request to the city if filed prior to December 1. OMWD and the City of San Diego have a letter agreement to extend the contract beyond 2024 an additional twenty years.

2.3.2 Rancho Santa Fe Community Services District

The Rancho Santa Fe Community Services District owns and operates the Santa Fe Valley Wastewater Reclamation Facility (SFV WRF) which has a capacity to produce approximately 0.5 MG of recycled water per day. OMWD entered into an indefinite agreement in 2004 to purchase up to an average of 500,000 gallons per day or 560 AFY of recycled water. The actual SFV WRF production level from 2012-2020 averages 170.12 AFY. The total amount sold each year is defined on a yearly basis as agreed to by both parties.

OMWD have a metered location at the inlet to the 3 MG Recycled Water Tank from the SFV WRF. The agreement requires that OMWD operate the recycled water system in Santa Fe Valley in a manner that ensures available capacity in the 3 MG Recycled Water Tank for the daily average production from the SFV WRF. The SFV WRF is land locked with no outfall and OMWD is the sole purchaser of the recycled water produced there.

2.4 Supply vs Demand

OMWD provided purchased water totals from 2010 through 2020 along with plant effluent which as presented in Figure 7. The figure depicts a difference between the total recycled water supply and demand (4S and SE) of approximately 400 AF through the first half of 2020. This difference is the approximate total capacity of the Pond. The elevated Pond level at the end of 2019 meant that the full Pond capacity was not available to offset the supplied water quantity unless demands increased.

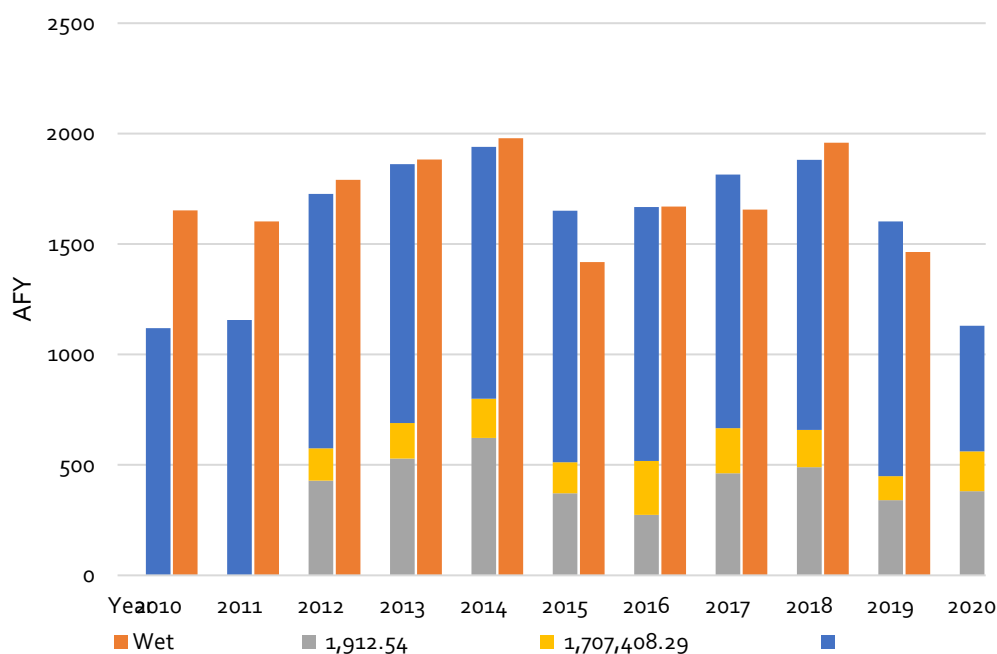


Figure 7 Yearly Supply Sources vs Demand

Two years of increased rain in 2019 and 2020, in conjunction with OMWD and customer efforts to emphasize water conservation on the recycled water side with no visible reduction in wastewater flows, have led to a reduced demand that resulted in the 2020 Pond overflow. The Pond level at the end of 2019 did not have an opportunity to recover due to a prolonged rainy season from October 2019 through March 2020. The reduction in demand over this time period resulted in the Pond overflow from February 23 through April 22, 2020.

2.5 Overflow Details

The unexpected drop in recycled water demand led to an overflow event at the Pond. The Pond overflow resulted in unauthorized discharge of tertiary treated wastewater (Recycled Water) into the MS4 system, which discharges to a tributary of the San Dieguito River. The total volume of recycled water discharged from the Pond to the MS4 was 43,083,469 gallons as documented in OMWD correspondence with RWQCB presented in Appendix 1A.

OMWD staff began gathering baseline water quality samples on February 2, 2020 and continued collecting through April 29, 2020 after the overflow event concluded. The water quality sample results indicate that total nitrogen and TKN levels increased during the overflow event, but the total Coliform contribution from the recycled water did not exceed board limits. OMWD staff collected photographs of the sample collection which are presented in Figure 8 and Figure 9.



Figure 8 PHOTO - Creek Sample #1 February 24, 2020



Figure 9 PHOTO - Creek Sample #1 April 01, 2020

There were no observable effects of biological growth in the creek area as a result of the recycled water spill. There was no evidence of harmful algal blooms or vegetation sprouting up in the area of the discharge. The wet weather experienced during the overflow period resulted in a higher water level within the creek that deposited additional vegetative debris in the area. The consistent rain events that occurred during this period increased the water flow in the creek carrying most of the nutrients out to the ocean. OMWD staff reported that the deluge of rainfall experienced on April 10, 2020 completely flushed out the creek.

2.6 Background Conclusions

The overflow condition experienced at the Pond in 2020 was caused by an unexpected imbalance between the demand and production of the system. The key to solving this issue in the future is to ensure that average annual demands are at least equal to average annual production. A summarized list of the findings of this section are presented below:

- Increased water conservation measures have not reduced flows to the 4S Ranch WRF to the same degree as has occurred at other regional facilities.
- Heavy rain and reduced demand in 2019 (approximately 25% lower demand than 2018) made it impossible to fully drain the Pond before 2019/2020 rainy season.
- An even more significant drop in demand in 2020 (approximately 50% lower demand than 2019) coupled with heavy rain increased Pond levels, ultimately resulting in the Pond overflow.
- RWQCB seasonal storage requirements are based on long-term average annual recycled water demand being equal to long-term average annual recycled water production.
- Ensuring that long-term recycled water demands are equal to or greater than long-term average recycled water production is essential.
- No amount of seasonal storage can solve the problem if long-term recycled water production exceeds long-term recycled water demand.

To reverse these recent trends OMWD is investigating alternatives and solutions that can increase demand to at least match the average annual production levels. The next section of this report will focus on solutions that can best protect OMWD from encountering this issue again.

Section 3

ALTERNATIVE ANALYSIS

This section summarizes the approach for identifying potential mitigation measures OMWD can implement to prevent a Pond overflow event in the future. The primary goal of these alternatives is to ensure that recycled water demands are commensurate with recycled water production. The alternatives investigated for this report primarily revolve around increasing the recycled water demand within the service area, but for completeness other potential alternatives have been assessed including increasing the storage available in the recycled water system, and investigation of an alternate discharge location.

3.1 Increase Recycled Water Demand

The primary avenue to manage the operating level of the Pond is to manage the demand flows required by the distribution system to match the production level. A primary challenge for the WRF is increasing distribution demands during wet years while still having the flexibility to deliver the demands required in dry years.

3.1.1 Customer Outreach and Education

One method to increase Recycled water demands during wet years is through public outreach and education. OMWD have a well-established education program geared towards reducing water use across the service area through exhibits at headquarters, pamphlets and on-line videos. Water conservation initiatives have swept across southern California to decrease the use of potable water over recent years and as a result recycled water use has trended downwards (as shown in Figure 3). Public outreach and education programs help customers distinguish between recycled water use that results from wastewater collections flow and potable water use. OMWD will increase public outreach and education efforts to encourage key customers to continue recycled water use throughout the year. One example may be to encourage users to begin irrigating three days after a rain event rather than waiting a week.

3.1.2 Recycled Water Use Incentives

Introducing incentives for customers to increase their usage during wet years will mitigate storage requirements for the WRF. The future rate configuration at OMWD was recently restructured and difficult to change in the near term. Potential incentives could be provided for year-round user storage facilities, for agreeing to take water during wet weather events, or year-to-year increased use. One promising option may be a wet weather incentive where OMWD provide a one-for-one credit to users agreeing to take additional water during wet weather. The credit could then provide an equal amount of water during high-demand periods. Any incentive program will require approval of the Board of Directors and must be structured to avoid any implications of a grant of public funds to individuals. The OMWD General Manager has committed to study a potential wet weather incentive program in late 2020 for consideration by the Board of Directors in early 2021.

3.1.3 Demand Management

Recycled water demand management is a common practice that is utilized to offset peaks within a distribution system as well as minimize discharge during non-peak hours or seasons. Common strategies that are implemented to assist with demand management include outreach and monitoring of large recycled water users (i.e. golf courses, agricultural customers, parks, etc.), installing advanced metering infrastructure (AMI) that would provide incremental usage data to refine customer diurnal patterns for both maximum (summer months) and minimum demand conditions (winter months). The approach to demand management is dependent on the size and complexity of the customer base and distribution system, customer usage patterns, and seasonal flow balance which can be determined as part of a recycled water master plan.

As an initial step, reviewing the historical demand and discharge flow data would be performed. This would assist in quantifying and understanding the system-wide usage patterns. A flow balance would be calculated to quantify excess flow discharged into the Pond under maximum and minimum demand conditions. A list of the high usage recycled water customers would be identified. If daily and hourly data is not available, customer outreach may be conducted to gain a better understanding of the watering or usage schedule (daily, weekly, and seasonal basis), which will assist in developing customer specific diurnal patterns for large users that strongly impact system operation. In addition, opportunities to stagger the watering or usage schedule can be identified. This will assist in minimizing peaks within the distribution system that create low pressure issues and identify opportunities to equalize discharged flow, thus minimizing overflow risks during non-peak times. In addition, opportunities to connect new customers may be identified that would maximize the usage of recycled water. If possible, potential customers with consistent usage trends (i.e. industrial users) would be targeted.

To further refine data and to gain a more thorough understanding of the usage patterns for all customers, AMI meters may be installed. AMI meters provide incremental usage data that can be tracked and used to refine customer specific diurnal patterns, thus improving system operation. In addition, the data can be allocated in a hydraulic model where scenarios can be performed under both maximum and minimum demand conditions to adjust operational controls and identify potential improvement projects that may be needed. Overall, the AMI data provides a more comprehensive data set that can be used to improve system operation and properly size infrastructure that may be required. The hydraulic model can also be used to optimize system operation and equalize flow discharged. OMWD should utilize the upcoming Recycled Water Master Plan to study available demand management strategies that can assist with Pond level management.

3.1.4 Future Connections

The final alternative investigated for increasing recycled water demand was adding additional users. Increasing the total number of users helps throughout the calendar year. In the winter additional users provide more opportunity for use during the lower demand period. OMWD completed a recycled water master plan in 2015 which identified future connections. The master plan identified four opportunities to expand the recycled system. Of those four opportunities, Village Park and Wanket tank are associated with the Northwest Quadrant of the OMWD service area and the Bridges Golf Course has been allocated to the North San Diego Water Reuse Coalition. The remaining opportunity includes additional customers along the Extension 153 recycled water distribution pipeline that follows San Dieguito Road and serves customers in the Fairbanks Ranch and San Dieguito Valley areas.

The master plan included the specific locations of potential customers which is shown in Table 4. The table indicates that four of the connections have already been connected at the time of this report and an additional 95.9 AFY is still available. This additional demand could account for the approximately 80 AF that overflowed in 2020. The distribution of use over the calendar year.

Table 4 Extension 153 Connections

Customer	Demand (AFY)	Cost	Connected as of August 2020
Del Mar Country Club	7.2		Yes
Fairbanks Montecito	14.7	\$40,000	
Rancho Santa Fe Farms	26.7	\$30,000	Yes
Del Rayo Estates	11.0	\$20,000	
Del Rayo Downs Pool	22.0	\$30,000	Yes
Rancho Paseana ⁽¹⁾	100		
Fairbanks Ranch Association	0.5		
Fairbanks Ranch Country Club	36.9		Yes
Senterra HOA	16.9	\$150,000	
Fairbanks Stratford	44.0	\$150,000	
Total	279.9		187.1 Remaining

Note:

(1) Recent discussions with Rancho Paseana have indicated that the expected demand is 100 AFY in lieu of 8.8 AFY indicated in the 2015 master plan.

As of August 2020, OMWD have prepared an internal shortlist of potential users that has not been published. The shortlist has been provided for this investigation in Table 5. At the time of this report the estimated future usage of these connections is 49.75 AFY.

Table 5 OMWD Potential User Shortlist

Location Name	Owner	Status	Estimated Future Usage (AFY)
Bernardo Point HOA	Bernardo Point HOA	In Process	2
Santa Fe Heights	Santa Fe Heights HOA	In Process	1
The Lakes Above Rancho Santa Fe, Unit 3	The Lakes Above Rancho Santa Fe HOA	In Process	10
The Lakes Above Rancho Santa Fe, Unit 4	The Lakes Above Rancho Santa Fe HOA	In Process	15
Wellington	The Lakes Above Rancho Santa Fe HOA	In Process	1
El Pollo Loco - Dove Canyon Road, 4S Ranch	El Pollo Loco - Dove Canyon Road, 4S Ranch	Planned	0.25
Horizon Prep	Horizon Prep	Potential	20
Salviati HOA	Salviati HOA	Potential	0.5
Total			49.75

The total future demand from the remaining Extension 153 connections and the potential user shortlist is 145.65 AFY or 47,250,000 gallons per year. These additional connections will provide an increased demand throughout the year and provide a means for preventing a future Pond overflow condition.

Beyond short term demand increase OMWD staff identified projects and schedules in the 2015 master plan for future implementation which are presented in Table 6. Each project was assigned a classification Status the Water Authority uses for water supply planning purposes:

- Verifiable – California Environmental Quality Act (CEQA) satisfied permits in hand, or contracts have been executed.
- Additional Planned – Actively pursuing but not yet at the verifiable level.
- Concept – projects in the pre-planning and pre-feasibility analysis phase.

Table 6 Master Plan Future Connections

Customer	Demand (AFY)	Status	Timing Per Master Plan
Ext. 153 Phase I	189	Concept	2025
Ext. 153 Phase II	300	Concept	2030
Bridges Golf Course	400	Concept	2025
Rancho Cielo	100	Concept	2030

3.2 Additional Storage

Creating additional storage in the recycled water system can address the discrepancy between wastewater collections flow and recycled water demand during wet years. The spill event in 2020 resulted in approximately 60 days of 300 gpm discharging into the MS4 system. 25.9 MG of additional storage would need to be added to the recycled system to account for a similar discharge level in the future.

3.2.1 Increase Usable Pond Storage

The current configuration of the Recycled Water Storage Pond is a lined reservoir with sloped sides. Increasing the volume of the Pond would require major earthwork to redefine the sloped sides or excavate the bottom of the Pond. Any project to modify the Pond would need to be completed in approximately 3 months during the fall. The Pond volume is critical to operation of the WRF in the winter when demands are low and during the summer to supplement plant production. Three months is not a long enough duration as would be required for a major rework of the Pond.

An additional option would be to increase the height of the Pond walls. Structural walls could be installed around the perimeter of the Pond to increase the vertical height and minimize earthwork required to increase the usable volume. Table 7 illustrates the Pond height needed for additional days of storage to offset a flow rate of 300 gpm.

Table 7 Pond Storage Volume Increase

Days of Storage	Reservoir Volume (Million gal)	Storage Volume (AF)	Increased Pond Height (ft)
7	4.9	15	1.7
21	14.7	45.1	5
30	21	64.5	7.2
60	43	131.9	14.7

The Recycled Water Storage Pond is classified as a dam by the California Department of Water Resources, Division of Safety of Dams. Any modification to the Pond will require a lengthy review and approval process by the Division of Safety and Dams and does not provide a near term solution to the overflow issue. The lengthy approval and design process to modifying the storage available in the Pond will not provide an immediate operational benefit and could take years to implement. It should also be noted that increasing storage volume does not address the underlying issue that resulted in the overflow. It may be more beneficial to address the core issue of lower demand and increase demand to match production.

3.2.2 New Storage Tanks

One alternative to increasing the usable volume at the Pond is to build an additional recycled water storage tank. Table 8 provides a rough order of magnitude cost associated with the storage volumes that would be required to provide relief on the recycled water system. The costs presented in the table do not include land acquisition or pipeline work that would be associated in the built out residential area around the treatment facility.

Table 8 New Tank Estimates

Storage Volume (MG)	Cost (\$/MG)	Reservoir Cost (\$M)
3.0	\$2.25	\$6.75
9.0	\$1.75	\$15.75
13.0	\$1.75	\$22.75
26.0	\$1.75	\$45.5
43.0	\$1.75	\$75.25

Abbreviation: M - million.

Adding additional storage to the recycled water system represents a substantial capital cost for a minimal benefit to operational flexibility. A new 43 MG storage tank would provide 60 days of storage for the average overflow rate of 486 gpm, but the additional capacity would only be utilized in an emergency situation like 2020. If OMWD manages the level in the Pond appropriately the additional volume would provide little to no operational benefit. Managing Pond level requires striking a balance between the average annual demand and average annual production level.

3.3 Discharge Options

The WRF does not currently have a permit for discharge. The WRF is currently configured to overflow recycled water in an emergency through a controlled inlet that connects to the MS4 which discharges to a tributary of the San Dieguito River. Discharge from the Pond to the MS4 and the waters of the United States are not permitted except in compliance with a National Pollutant Discharge Elimination System (NPDES) permit. Any such NPDES permit would likely establish nutrient concentration limits that implement nutrient and biostimulation objectives established within the RWQCB *Water Quality Control Plan for the San Diego Basin* (Basin Plan). To implement Basin Plan nitrogen and phosphorus objectives, it is probable that the WRF would need to achieve an effluent total phosphorus concentration of 0.1 mg/L and an effluent total nitrogen concentration of 1 mg/L.

3.3.1 Plant Improvements

Modifying the WRF for nutrient removal would involve significant cost. Further, the existing site has limited space for new process basins and treatment buildings. In addition to significant capital costs for nutrient removal, power and chemical costs would increase the operations costs on an annual basis regardless of the rainfall. The WRF is equipped for full denitrification but it may not prove possible to achieve a discharge limit of 1 mg/L of total nitrogen even if significant treatment upgrades are implemented.

Section 4

CONCLUSIONS AND RECOMMENDATIONS

The evaluation shows that OMWD has effectively managed the Pond levels without issue prior to the 2020 incident. Working to match demand to expected production is the most effective way for OMWD to continue to manage Pond levels and avoid a future incident. Increasing demand through increased connections, demand management strategies, and outreach and education represents the most feasible solution. So long as the demand matches the production level of the different sources for recycled water supply there will not be any issues with storage capacity. A full list of the recommended actions is presented below:

- Increase Outreach & Education related to recycled water use during wet weather months. Existing programs and customer relationships should allow this action to be easily implemented.
- Investigate a Wet Weather Incentive Program to increase demand among existing customers. This could be a year-round incentive, or an incentive triggered when the Pond level surpasses an established benchmark.
- Increasing connections to improve demand throughout the year is the next easiest correction measure to implement:
 - OMWD to complete the Recycled Water Master plan that is scheduled in their 5-year Capital Improvements Program to further confirm the potential new customers and associated demand within the 4S and Southeast service areas.
- Investigate the applicability of demand management strategies as part of the RW Master Plan and analyze the benefits different water management strategies could have for both daily and seasonal demand.
- To the extent possible, empty the Pond every year prior to the beginning of the wet season (October/November) timeframe. This provides sufficient storage in the event of significant drop in demand coupled with normal precipitation through the winter.
- Implementing these actions will allow OMWD to better manage the Pond levels and avoid a future release. The primary goal of each of these recommended actions, is to provide additional tools to safeguard that annual production requirements are equally matched by annual customer demands.

Implementing measures to restore 4S Ranch WRF demands to be at least as high as production will (1) allow the pond to be drained at the end of each dry season, regardless of whether the year is a "wet" year or "dry" year, and (2) make full use of the storage capacity of the pond which conforms with RWQCB seasonal storage capacity requirements.

Appendix 1A

OMWD OVERFLOW MEMO

Board of Directors

Edmund K. Sprague, President
Robert F. Topolovac, Vice President
Lawrence A. Watt, Treasurer
Robert M. Kephart, Secretary
Christy Guerin, Director



General Manager
Kimberly A. Thorner, Esq.
General Counsel
Alfred Smith, Esq.

March 30, 2020

California Regional Water Quality Control Board - San Diego
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

Subject: 4S Ranch WRF Wet Weather Storage Reservoir capacity exceeded

Dear California Regional Water Quality Control Board - San Diego:

This memo is in response to the Olivenhain Municipal Water District's (OMWD) 4S Ranch WRF Wet Weather Storage Reservoir (Reservoir) exceeding capacity. We have briefed and discussed this potential scenario with the Regional Board over the past few years and, despite our best efforts, the reservoir overflowed its capacity beginning on Sunday, February 23, 2020. The Reservoir continues to discharge into the storm drain system however the discharges have been intermittent at times and for a few of days water was taken out of the reservoir (this occurred in March 2020). As you are aware per OMWD's Master Discharge Permit, the 4S WRF Reservoir has an 84 day effluent capacity (410 acre feet) which is based on a plant production rate of 1.6 million gallons per day (MGD). OMWD has adhered to this regulatory requirement, the average daily effluent flows at the plant have been 1.05 MGD which greatly extends the 84 days of storage.

In anticipation of the overflow and based on Regional Board direction last year, OMWD operators began gathering baseline sampling of the Reservoir and the Creek area where the storm drain discharges. The first samples were collected on February 2, 2020 and have continued on a weekly basis.

See attached flow chart and laboratory documentation (Table 1 & Table 2) for all associated information with this situation.

OMWD has worked diligently to prevent the overflow condition. This includes connecting additional recycled water irrigation users to our distribution system, storing recycled water at the 4S Ranch WRF and contacting larger irrigation users to take additional water. Contributing factors to this situation include last year's winter rain pattern that filled the reservoir to capacity as recycled water users stopped irrigating, late spring (May 2019) rain events that suppressed irrigation use, the reservoir only



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being drained 67% during the summer and fall 2019 and another early and late winter rain pattern that had irrigation users cease to use recycled water. Since the reservoir has not come close to exceeding its capacity prior to three years ago changing weather patterns associated with climate change may be a strong contributing factor as well. Additional influences include some recycled water users replacing grass with artificial turf plus the additional rain water captured in the reservoir storage basin.

OMWD will continue to focus our efforts on resolving this issue quickly. We appreciate the previous dialogue and collaborative relationship that has been established between the Regional and OMWD and look forward to its continuation.

If you have any further questions, please do not hesitate to contact me. I can be reached at 858.451.7837, ext. 504.

Thank you for time and attention to this matter.

Sincerely,

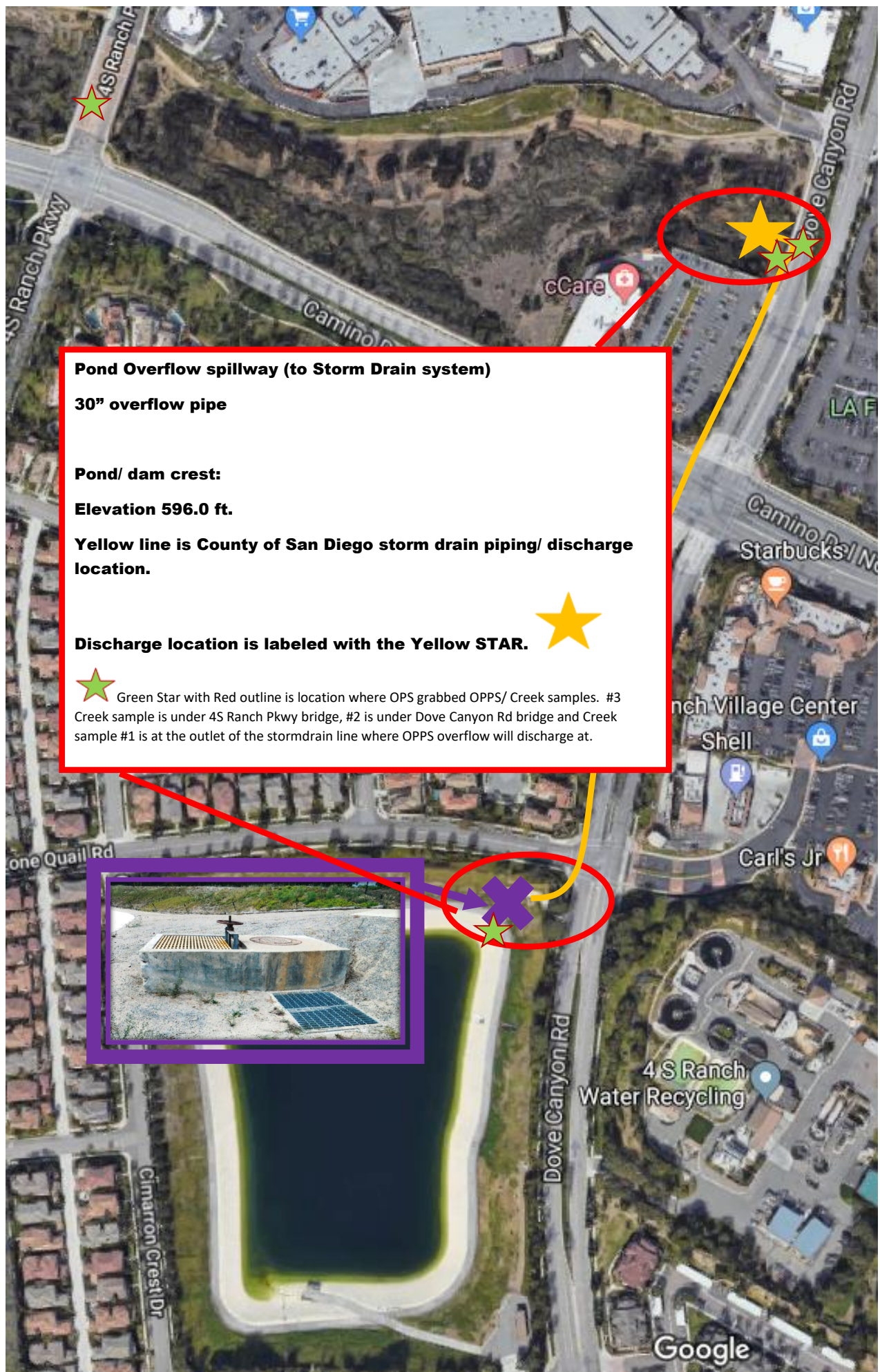


Gabriel Hernandez
Chief Plant Operator
4S Water Reclamation Facility
Olivenhain Municipal Water District

Attachments: Table 1 (Flow Data) & Table 2 (Sample Data)

Table 1:

Date	Total Plant UV Effluent flow (GPD)	Total Plant UV Effluent sent to distribution system (GPD)	Total Pond flow returned from the POND to Plant or Distribution System (GPD)	Total estimated volume to the Pond overflow/ Creek (GPD)
2/23/20	1,046,850	509,110	0	537,740
2/24/20	1,051,943	289,526	0	762,417
2/25/20	1,073,252	377,591	0	695,661
2/26/20	1,018,678	769,545	0	249,133
2/27/20	1,069,478	1,077,566	0	0
2/28/20	991,394	1,166,277	0	0
2/29/20	968,032	1,153,796	0	0
Monthly				
SUM	7,219,627	5,343,411	0	2,244,951
Average	1,031,375	763,344	0	320,707
Max	1,073,252	1,166,277	0	762,417
Min	968,032	289,526	0	0



Pond Overflow spillway (to Storm Drain system)

30" overflow pipe

Pond/ dam crest:

Elevation 596.0 ft.

Yellow line is County of San Diego storm drain piping/ discharge location.

Discharge location is labeled with the Yellow STAR.


 Green Star with Red outline is location where OPS grabbed OPPS/ Creek samples. #3 Creek sample is under 4S Ranch Pkwy bridge, #2 is under Dove Canyon Rd bridge and Creek sample #1 is at the outlet of the stormdrain line where OPPS overflow will discharge at.



Table 2:

OPPS											
Date	Ammonia as N	Nitrate/Nitrite as N	TKN	Total Nitrogen	TDS	TSS	VSS	Total Coliform	DO	CL2 Residual	PH
2/3/2020	< 0.10	5.10	1.6	6.7	693	7.2	6.1	110			
2/12/2020	< 0.10	4.06	1.4	5.5	690	6.6	6.2	4	NA	NA	NA
2/18/2020	< 0.10	4.35	1.3	5.7	701	7.1	6.4	110	NA	NA	NA
2/24/2020	< 0.10	3.52	1.1	4.6	707	4.2	< 1.0	1600	NA	NA	NA
2/27/2020	< 0.10	3.63	1.4	5	718	6.6	4.6	300	14.8	0.06	9.03
SUM	0	20.66	6.8	27.5	3509	31.7	23.3	2124	14.8	0.06	9.03
Average	0	4.132	1.36	5.5	701.8	6.34	4.66	424.8	3.7	0.015	2.2575
Max	0	5.1	1.6	6.7	718	7.2	6.4	1600	14.8	0.06	9.03
Min	0	3.52	1.1	4.6	690	4.2	4.6	4	14.8	0.06	9.03

Creek Sample #1											
Date	Ammonia as N	Nitrate/Nitrite as N	TKN	Total Nitrogen	TDS	TSS	VSS	Total Coliform	DO	CL2 Residual	PH
02/03/20	< 0.10	2.27	0.5	2.8	1750	2.2	1.1	1600			
2/12/2020	< 0.10	2.24	0.05	2.7	1710	9.6	3.6	900	NA	NA	NA
2/18/2020	< 0.10	2.36	< .5	2.8	2120	1.7	1.7	1600	NA	NA	NA
2/24/2020	< 0.10	3.12	0.07	3.8	1160	< 1.0	< 1.0	1600	NA	NA	NA
2/27/2020	< 0.10	3.73	1.4	5.1	720	5.3	3.7	1600	9.6	< .05	8.85
SUM	0	13.72	2.02	17.2	7460	18.8	10.1	7300	9.6	0	8.85
Average	0	2.744	0.404	3.44	1492	3.76	2.02	1460	2.4	0	2.2125
Max	0	3.73	1.4	5.1	2120	9.6	3.7	1600	9.6	0	8.85
Min	0	2.24	0.05	2.7	720	1.7	1.1	900	9.6	0	8.85

Table 2:

Creek Sample #2											
Date	Ammonia as N	Nitrate/Nitrite as N	TKN	Total Nitrogen	TDS	TSS	VSS	Total Coliform	DO	CL2 Residual	PH
2/3/2020	< 0.10	< .50	0.5	0.5	1730	1.7	< 1.0	900			
2/12/2020	< 0.10	0.06	< .5	< .5	1080	< 1.0	< 1.0	900	NA	NA	NA
2/18/2020	< 0.10	0.07	< .5	< .5	1520	< 1.0	< 1.0	900	NA	NA	NA
2/12/2020	< 0.10	0.14	< .5	< .5	1040	1.5	< 1.0	1600	NA	NA	NA
2/27/2020	< 0.10	2.66	1.1	3.8	878	4.2	3	900	9.14	< .05	8.38
SUM	0	2.93	1.6	4.3	6248	7.4	3	5200	9.14	0	8.38
Average	0	0.586	0.32	0.86	1249.6	1.48	0.6	1040	2.285	0	2.095
Max	0	2.66	1.1	3.8	1730	4.2	3	1600	9.14	0	8.38
Min	0	0.06	0.5	0.5	878	1.5	3	900	9.14	0	8.38

Creek Sample #3											
Date	Ammonia as N	Nitrate/Nitrite as N	TKN	Total Nitrogen	TDS	TSS	VSS	Total Coliform	DO	CL2 Residual	PH
2/3/2020	< 0.10	0.25	< .5	0.8	1710	14.2	3.5	500			
2/12/2020	< 0.10	0.07	< .5	< .5	1000	< 1.0	< 1.0	1600	NA	NA	NA
2/18/2020	< 0.10	0.07	< .5	< .5	1640	< 1.0	< 1.0	1600	NA	NA	NA
2/24/2020	< 0.10	0.10	< .5	< .5	1040	2.4	1.8	1600	NA	NA	NA
2/27/2020	< 0.10	2.87	1	3.9	840	2.2	1.8	1600	8.7	< .05	8.14
SUM	0	3.36	1	4.7	6230	18.8	7.1	6900	8.7	0	8.14
Average	0	0.672	0.2	0.94	1246	3.76	1.42	1380	2.175	0	2.035
Max	0	2.87	1	3.9	1710	14.2	3.5	1600	8.7	0	8.14
Min	0	0.07	1	0.8	840	2.2	1.8	500	8.7	0	8.14

Board of Directors

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Kimberly A. Thorner, Esq.
General Counsel
Alfred Smith, Esq.

April 29, 2020

California Regional Water Quality Control Board - San Diego
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

Subject: 4S Ranch WRF Wet Weather Storage Reservoir capacity exceeded (continued follow-up MEMO & data)

Dear California Regional Water Quality Control Board - San Diego:

This memo is in follow-up to the previous memo (that was sent March 30, 2020) regarding the Olivenhain Municipal Water District's (OMWD) 4S Ranch WRF Wet Weather Storage Reservoir (Reservoir) exceeding capacity.

See attached March 2020 flow chart and laboratory documentation (Table 1 & Table 2) for all associated information with this situation.

The overflow discharge from the storage pond was terminated as of April 26, 2020. OMWD continues our efforts to understand why the storage pond capacity was exceeded despite 4S Ranch WRF flow rates that are significantly below permitted capacity. To this end, OMWD is in the process of retaining outside technical assistance to study the issue and assist OMWD in developing an action plan to prevent future recurrence of the overflow. We appreciate the previous dialogue and collaborative relationship that has been established between the Regional Water Board and OMWD and look forward to its continuation as we develop and implement a plan to resolve this issue.



1966 Olivenhain Road • Encinitas, CA 92024
Phone (760) 753-6466 • Fax (760) 753-1578 • www.olivenhain.com



If you have any further questions, please do not hesitate to contact me. I can be reached at 858.451.7837, ext. 504.

Thank you for time and attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to be 'MH' followed by a stylized flourish.

Gabriel Hernandez
Chief Plant Operator
4S Water Reclamation Facility
Olivenhain Municipal Water District

Attachments: Table 1 (Flow Data) & Table 2 (Sample Data)

Table 1:

Date	Total Plant UV Effluent flow (GPD)	Total Plant UV Effluent sent to distribution system [RWPS+SFV] (GPD)	Total Pond flow returned from the POND to Plant or Distribution System (GPD)	Total estimated volume to the Pond overflow/ Creek (GPD)
3/1/20	1,094,403	537,609	0	556,794
3/2/20	1,066,891	1,296,563	233,100	0
3/3/20	1,139,970	876,899	0	263,071
3/4/20	1,180,355	1,447,495	83,024	0
3/5/20	1,161,792	1,241,699	0	0
3/6/20	1,110,061	1,262,984	0	0
3/7/20	1,099,057	1,305,548	0	0
3/8/20	937,688	1,000,245	0	0
3/9/20	1,218,331	512,118	0	706,213
3/10/20	1,146,795	818,733	0	328,062
3/11/20	1,158,668	134,152	0	1,024,516
3/12/20	1,338,464	309,499	0	1,028,965
3/13/20	1,241,848	316,042	0	925,806
3/14/20	1,190,797	281,528	0	909,269
3/15/20	1,181,493	303,290	0	878,203
3/16/20	1,232,314	217,731	0	1,014,583
3/17/20	1,201,191	195,240	0	1,005,951
3/18/20	1,243,858	103,883	0	1,139,975
3/19/20	1,268,728	0	0	1,268,728
3/20/20	1,160,573	247,471	0	913,102
3/21/20	1,145,342	227,070	0	918,272
3/22/20	1,112,153	93,850	0	1,018,303
3/23/20	1,293,100	169,616	0	1,123,484
3/24/20	1,082,199	247,284	0	834,915
3/25/20	1,180,786	449,478	0	731,308
3/26/20	1,196,966	230,971	0	965,995
3/27/20	1,198,556	122,557	0	1,075,999
3/28/20	1,148,816	141,514	0	1,007,302
3/29/20	1,164,048	268,219	0	895,829
3/30/20	1,090,602	281,922	0	808,680
3/31/20	1,080,380	204,212	0	876,168
Monthly				
SUM	36,066,225	14,845,422	316,124	22,219,493
Average	1,163,427	478,885	10,198	716,758
Max	1,338,464	1,447,495	233,100	1,268,728
Min	937,688	0	0	0

Table 2:

OPPS											
Date	Ammonia as N	Nitrate/Nitrite as N	TKN	Total Nitrogen	TDS	TSS	VSS	Total Coliform	DO	CL2 Residual	PH
3/2/2020	<0.10	3.40	1.2	4.6	655	6.0	4.4	900	11.0	<0.05	9.14
3/4/2020	<0.10	3.95	1.3	5.3	727	4.6	3.2	1700	12.6	<0.05	9.11
3/9/2020	<0.10	3.78	1.2	5	733	2.5	2.2	1700	8.1	<0.05	9.02
3/11/2020	<0.10	3.58	1.1	4.7	766	1.9	1.9	140	11.4	<0.05	9.06
3/16/2020	<0.10	3.42	1.2	4.6	636	2.0	2	300	10.1	<0.05	8.94
3/18/2020	0.2	3.26	1.2	4.5	679	1.8	1.8	300	9.5	<0.05	8.75
3/23/2020	0.23	3.36	1.2	4.6	695	12.9	6.9	300	9.1	<0.05	8.61
3/25/2020	0.27	3.40	1.4	4.8	694	2.4	2.1	50	8.7	<0.05	8.62
3/30/2020	0.26	3.56	1.3	4.9	639	1.4	1.3	70	12.2	<0.05	8.13
Monthly Totals											
SUM	0.96	31.71	11.1	43	6224	35.5	25.8	5460	92.65	0	79.38
Average	0.11	3.52	1.23	4.78	691.56	3.94	2.87	606.67	10.29	0	8.82
Max	0.27	3.95	1.4	5.3	766	12.9	6.9	1700	12.6	0	9.14
Min	0.2	3.26	1.1	4.5	636	1.4	1.3	50	8.05	0	8.13

Creek Sample #1											
Date	Ammonia as N	Nitrate/Nitrite as N	TKN	Total Nitrogen	TDS	TSS	VSS	Total Coliform	DO	CL2 Residual	PH
3/2/2020	<0.10	3.50	1.2	4.7	774	3.4	2.8	5000	8.29	<0.05	8.14
3/4/2020	<0.10	3.65	1.1	4.8	880	3.5	2.2	1700	9.61	<0.05	8
3/9/2020	<0.10	3.30	1.8	5.1	941	4.1	2.7	16000	7.25	<0.05	7.84
3/11/2020	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
3/16/2020	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
3/18/2020	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
3/23/2020	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
3/25/2020	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
3/30/2020	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Monthly Totals											
SUM	0	10.45	4.1	14.6	2595	11	7.7	22700	25.15	0	23.98
Average	0.00	1.16	0.46	1.62	288.33	1.22	0.86	2522.22	2.79	0.00	2.66
Max	0	3.65	1.8	5.1	941	4.1	2.8	16000	9.61	0	8.14
Min	0	3.3	1.1	4.7	774	3.4	2.2	1700	7.25	0	7.84

**NA reference samples that were skipped due to unsafe accessibility associated with rain events.

Table 2:

Creek Sample #2											
Date	Ammonia as N	Nitrate/Nitrite as N	TKN	Total Nitrogen	TDS	TSS	VSS	Total Coliform	DO	CL2 Residual	PH
3/2/2020	<0.10	0.13	0.5	0.6	724	<1.0	<1.0	9000	8.49	<0.05	7.42
3/4/2020	0.55	0.19	0.7	0.9	237	18	3.9	2400	9.53	2.1	8.12
3/9/2020	<0.10	0.50	0.6	1.1	1470	10.9	3.4	1100	5.74	0.11	7.48
3/11/2020	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
3/16/2020	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
3/18/2020	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
3/23/2020	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
3/25/2020	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
3/30/2020	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Monthly Totals											
SUM	0.55	0.82	1.8	2.6	2431	28.9	7.3	12500	23.76	2.21	23.02
Average	0.06	0.09	0.20	0.29	270.11	3.21	0.81	1388.89	2.64	0.25	2.56
Max	0.55	0.5	0.7	1.1	1470	18	3.9	9000	9.53	2.1	8.12
Min	0.55	0.13	0.5	0.6	237	10.9	3.4	1100	5.74	0.11	7.42

Creek Sample #3											
Date	Ammonia as N	Nitrate/Nitrite as N	TKN	Total Nitrogen	TDS	TSS	VSS	Total Coliform	DO	CL2 Residual	PH
3/2/2020	<0.10	0.40	0.6	1	649	2.3	1	5000	7.04	<0.05	7.45
3/4/2020	0.14	0.44	0.5	0.9	770	1.6	<1.0	1700	9.28	<0.05	7.57
3/9/2020	<0.10	0.23	0.6	0.8	1440	<1.0	<1.0	700	5.83	<0.05	7.55
3/11/2020	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
3/16/2020	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
3/18/2020	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
3/23/2020	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
3/25/2020	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
3/30/2020	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Monthly Totals											
SUM	0.14	1.07	1.7	2.7	2859	3.9	1	7400	22.15	0	22.57
Average	0.02	0.12	0.19	0.30	317.67	0.43	0.11	822.22	2.46	0.00	2.51
Max	0.14	0.44	0.6	1	1440	2.3	1	5000	9.28	0	7.57
Min	0.14	0.23	0.5	0.8	649	1.6	1	700	5.83	0	7.45

**NA reference samples that were skipped due to unsafe accessibility associated with rain events.

Board of Directors

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General Manager

Kimberly A. Thorner, Esq.

General Counsel

Alfred Smith, Esq.

June 4, 2020

California Regional Water Quality Control Board - San Diego
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

Subject: 4S Ranch WRF Wet Weather Storage Reservoir capacity exceeded (continued follow-up MEMO & data)

Dear California Regional Water Quality Control Board - San Diego:

This memo is in follow-up to the previous memos (that were sent March 30, 2020 and April 29, 2020) regarding the Olivenhain Municipal Water District's (OMWD) 4S Ranch WRF Wet Weather Storage Reservoir (Reservoir) exceeding capacity. Discharge at this area completely halted beginning on April 22, 2020 (at approximately 2006 that evening).

See attached April 2020 flow chart and laboratory documentation (Table 1 & Table 2) for all associated information with this situation.

OMWD will continue to focus our efforts on resolving this issue in the future and as mentioned previously we will be sharing our plans to mitigate this from becoming a reoccurrence. We appreciate the previous dialogue and collaborative relationship that has been established between the Regional Water Quality Control Board and OMWD and look forward to its continuation. Again, please expect further dialogue with the District on these matters and solutions moving forward.

If you have any further questions, please do not hesitate to contact me. I can be reached at 858.451.7837, ext. 504.



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Thank you again for time and attention to this matter.

Sincerely,

Gabriel Hernandez
Chief Plant Operator
4S Water Reclamation Facility
Olivenhain Municipal Water District

Attachments: Table 1 (Flow Data) & Table 2 (Sample Data)

Table 1:

Date	Total Plant UV Effluent flow (GPD)	Total Plant UV Effluent sent to distribution system [RWPS+SFV] (GPD)	Total Pond flow returned from the POND to Plant or Distribution System (GPD)	Total estimated volume to the Pond overflow/ Creek (GPD)
4/1/20	1,118,561	138,638	0	979,923
4/2/20	1,086,092	425,812	0	660,280
4/3/20	1,132,558	687,216	0	445,342
4/4/20	1,108,771	565,202	0	543,569
4/5/20	1,118,557	358,927	0	759,630
4/6/20	1,190,010	643,880	0	546,130
4/7/20	1,314,216	349,218	0	964,998
4/8/20	1,319,907	305,954	0	1,013,953
4/9/20	1,307,332	166,540	0	1,140,792
4/10/20	1,649,280	65,435	0	1,583,845
4/11/20	1,656,642	325,383	0	1,331,259
4/12/20	1,510,774	112,113	0	1,398,661
4/13/20	1,268,382	182,393	0	1,085,989
4/14/20	1,234,470	180,131	0	1,054,339
4/15/20	1,150,634	247,919	0	902,715
4/16/20	1,183,001	258,203	0	924,798
4/17/20	1,195,846	686,650	0	509,196
4/18/20	1,128,381	543,489	0	584,892
4/19/20	1,143,644	385,865	0	757,779
4/20/20	1,167,995	572,535	0	595,460
4/21/20	1,106,693	573,208	0	533,485
4/22/20	1,099,626	797,636	0	301,990
4/23/20	1,158,390	1,382,472	0	0
4/24/20	1,064,054	1,280,090	0	0
4/25/20	1,121,821	1,479,459	0	0
4/26/20	1,097,156	1,656,323	0	0
4/27/20	1,223,709	2,278,453	0	0
4/28/20	1,127,661	2,193,083	0	0
4/29/20	1,116,789	1,478,054	0	0
4/30/20	1,068,714	1,299,895	0	0
Monthly				
SUM	36,169,666	21,620,176	0	18,619,025
Average	1,205,656	720,673	0	620,634
Max	1,656,642	2,278,453	0	1,583,845
Min	1,064,054	65,435	0	0

Table 2:

OPPS											
Date	Ammonia as N (mg/l)	Nitrate/Nitrite as N (mg/l)	TKN (mg/l)	Total Nitrogen (mg/l)	TDS (mg/l)	TSS (mg/l)	VSS (mg/l)	Total Coliform (MPN/100 ml)	DO (mg/l)	CL2 Residual (mg/l)	pH (pH Units)
4/1/2020	0.46	3.56	1.1	4.7	707	2.7	2.5	30	9.24	<0.05	8.44
4/6/2020	0.24	3.48	1.2	4.7	687	1.5	1.5	23	8.73	<0.05	8.35
4/8/2020	0.29	3.26	1.6	4.9	677	9.6	4.2	5000	7.8	0.06	8.23
4/13/2020	0.41	3.53	1.4	4.9	670	<1	<1	22	9.21	<0.05	8.08
4/15/2020	0.39	3.54	1.4	4.9	654	1.2	1.1	23	8.34	<0.05	8.11
4/20/2020	0.36	3.48	1.5	5.0	678	1.9	1.9	130	9.41	<0.05	8.23
4/22/2020	0.34	3.48	1.0	4.5	744	1.8	1.7	30	8.62	<0.05	8.28
Monthly Totals											
SUM	2.49	24.33	9.2	33.6	4817	18.7	12.9	5258	61.35	0.06	57.72
Average	0.36	3.48	1.31	4.80	688.14	2.67	1.84	751.14	8.76	0.01	8.25
Max	0.46	3.56	1.6	5.0	744	9.6	4.2	5000	9.41	0.06	8.44
Min	0.24	3.26	1.0	4.5	654	1.2	1.1	22	7.8	0.06	8.08

Creek Sample #1											
Date	Ammonia as N (mg/l)	Nitrate/Nitrite as N (mg/l)	TKN (mg/l)	Total Nitrogen (mg/l)	TDS (mg/l)	TSS (mg/l)	VSS (mg/l)	Total Coliform (MPN/100 ml)	DO (mg/l)	CL2 Residual (mg/l)	pH (pH Units)
4/1/2020	0.26	3.48	0.09	4.4	722	1.1	1	260	9.12	<.05	8.27
4/6/2020	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
4/15/2020	0.35	3.44	1.4	4.8	672	<1.0	<1.0	170	9.82	<0.05	7.98
4/20/2020	0.32	3.48	1.4	4.9	739	1.2	1.1	330	9.37	<0.05	8.16
4/22/2020	0.30	3.38	1.3	4.7	747	1.6	1.5	130	8.67	<0.05	8.08
4/29/2020	0.03	2.56	0.6	3.2	1500	<1.0	<1.0	9000	8.88	<0.05	7.89
Monthly Totals											
SUM	1.26	16.34	4.79	22	4380	3.9	3.6	9890	45.86	0	40.38
Average	0.21	2.72	0.80	3.67	730.00	0.65	0.60	1648.33	7.64	0.00	6.73
Max	0.35	3.48	1.4	4.9	1500	1.6	1.5	9000	9.82	0	8.27
Min	0.03	2.56	0.09	3.2	672	1.1	1	130	8.67	0	7.89

** NA or skipped entries reference samples that were skipped due to unsafe accessibility associated with rain events.

Table 2:

Creek Sample #2											
Date	Ammonia as N (mg/l)	Nitrate/Nitrite as N (mg/l)	TKN (mg/l)	Total Nitrogen (mg/l)	TDS (mg/l)	TSS (mg/l)	VSS (mg/l)	Total Coliform (MPN/100 ml)	DO (mg/l)	CL2 Residual (mg/l)	pH (pH Units)
4/1/2020	0.2	3.04	1.1	4.1	857	61.8	20.3	700	9.6	<.05	7.92
4/6/2020	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
4/15/2020	<0.02	0.43	0.6	1	964	<1.0	<1.0	1600	8.59	<0.05	7.43
4/20/2020	0.11	0.98	0.8	1.8	1160	11.2	4.3	3000	8.22	0.07	7.68
4/22/2020	0.18	1.96	0.7	2.7	1040	1.1	<1.0	9000	8.06	<0.05	7.74
4/29/2020	0.05	0.09	0.5	0.6	1590	<1.0	<1.0	2200	6.39	<0.05	7.46
Monthly Totals											
SUM	0.54	6.5	3.7	10.2	5611	74.1	24.6	16500	40.86	0.07	38.23
Average	0.09	1.08	0.62	1.70	935.17	12.35	4.10	2750.00	6.81	0.01	6.37
Max	0.2	3.04	1.1	4.1	1590	61.8	20.3	9000	9.6	0.07	7.92
Min	0.05	0.09	0.5	0.6	857	1.1	4.3	700	6.39	0.07	7.43

Creek Sample #3											
Date	Ammonia as N (mg/l)	Nitrate/Nitrite as N (mg/l)	TKN (mg/l)	Total Nitrogen (mg/l)	TDS (mg/l)	TSS (mg/l)	VSS (mg/l)	Total Coliform (MPN/100 ml)	DO (mg/l)	CL2 Residual (mg/l)	pH (pH Units)
4/1/2020	<.10	2.80	1	3.8	863	1.2	<1.0	800	8.33	<.05	7.70
4/6/2020	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
4/15/2020	0.18	1.94	0.8	2.7	902	1.5	<1.0	800	8.24	<0.05	7.63
4/20/2020	0.12	2.66	0.9	3.6	882	4.1	3.5	1300	8.17	<0.05	7.80
4/22/2020	0.08	2.64	0.5	3.1	953	2.2	1.6	1700	7.23	<0.05	7.69
4/29/2020	0.06	0.31	0.6	0.9	1590	2.2	1.6	3000	6.94	<0.05	7.59
Monthly Totals											
SUM	0.44	10.35	3.8	14.1	5190	11.2	6.7	7600	38.91	0	38.41
Average	0.07	1.73	0.63	2.35	865.00	1.87	1.12	1266.67	6.49	0.00	6.40
Max	0.18	2.8	1	3.8	1590	4.1	3.5	3000	8.33	0	7.8
Min	0.06	0.31	0.5	0.9	863	1.2	1.6	800	6.94	0	7.59

** NA or skipped entries reference samples that were skipped due to unsafe accessibility associated with rain events.

Attachment 4 – Letter from RWQCB



San Diego Regional Water Quality Control Board

December 10, 2020

In reply refer to: 229725:CKomeylyan

Kimberly A. Thorner
General Manager
Olivenhain Municipal Water District
1966 Olivenhain Road
Encinitas, California 92024

Receipt of Response to Investigative Order No. R9-2020-0106

Ms. Thorner,

The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) received Olivenhain Municipal Water District's (OMWD's) response to Investigative Order No. R9-2020-0106 (IO) on September 30, 2020. The San Diego Water Board issued the IO to OMWD for the unauthorized discharge of approximately 43 million gallons of recycled water from its storage pond into an unnamed tributary to San Dieguito River from February 23 to April 22, 2020, in violation of requirements contained in Order No. R9-2003-0007, *Master Reclamation Permit with Waste Discharge Requirements for the Production and Purveyance of Recycled Water for Olivenhain Municipal Water District, 4-S Ranch Wastewater Treatment Plant (4SRWWTP)*. OMWD's IO response included a report titled *Olivenhain Municipal Water District 4S Ranch Water Reclamation Facility, Technical Memorandum, Storage Pond Investigation* dated September 2020. The IO response calculated the discharge volume, reviewed potential actions to address the violation, and selected several actions OMWD found feasible to prevent future unauthorized discharges. OMWD's response satisfies the information requests of the IO. OMWD's proposed actions include the following:

- Increase recycled water use through public outreach and education
- Improve water reuse demand management through customer outreach and installation of real-time meters for the largest users
- Provide customers financial incentives for increased water reuse during the winter and spring or onsite recycled water storage
- Empty the storage pond prior to the beginning of every wet season (October/November)

HENRY ABARBANEL, PH.D., CHAIR | DAVID GIBSON, EXECUTIVE OFFICER

December 10, 2020

While OMWD is confident that implementation of its proposed actions will prevent future unauthorized discharges, the San Diego Water Board remains skeptical and encourages OMWD to continue looking for options to ensure that wastewater flow volumes do not again exceed the available capacity for off-site use of the recycled water produced by the 4SRWWTP. The San Diego Water Board reserves its right to bring an enforcement action against OMWD for the unauthorized discharge and any future unauthorized discharges. Please continue to report progress on the implementation of the actions recommended in the IO response in future OMWD Self-Monitoring Reports.

If you have any questions about this matter, please contact Ms. Chehreh Komeylyan at (619) 521-3366 or at chehreh.komeylyan@waterboards.ca.gov.

Sincerely,

 Digitally signed by Kelly Dorsey
Date: 2020.12.10 10:03:21
Water Boards

KELLY DORSEY, P.G.
Assistant Executive Officer

KKD:rnm:dtb:cmc:ftm

Copies to:

Chiara Clemente, San Diego Water Board, Chiara.Clemente@waterboards.ca.gov
Catherine Hagan, State Water Board, Catherine.Hagan@waterboards.ca.gov
Chehreh Komeylyan, San Diego Water Board, CKomeylyan@waterboards.ca.gov
Roger Mitchell, San Diego Water Board, Roger.Mitchell@waterboards.ca.gov
Vincent Vu, State Water Board, Vincent.Vu@waterboards.ca.gov

Technical Staff Information

Regulatory Measure IDs: 131775 (WDRs No. R9-2003-0007)
437986 (NOV No. R9-2020-0105)
438251 (IO No. R9-2020-0106)

Primary Indexing No: CW-229725 (16595 Dove Canyon Road, San Diego, CA 92127)
Party ID: 32563 (Olivenhain Municipal Water District)
WDID: 9 000000371

Attachment 5 – PowerPoint Presentation

Wet Weather Incentive Program

September 8, 2021



OLIVENHAIN
Municipal Water District

4S Ranch Water Reclamation Facility

- The 410 acre-feet (AF) 4S Ranch Recycled Water Overflow Storage Basin Pond (Pond) is the discharge point of the 4S Ranch Water Reclamation Facility (4S WRF) during winter months
- Pond is subject to the Master Discharge Permit and the State Division of Safety of Dams
- Storage capacity is dictated by an 84 day plant production (Master Discharge Permit)

Recycled Water Storage

- The region experienced historic rain events in 2020 and several factors have caused recycled water demands to drop including drought tolerant landscaping, artificial turf and smart irrigation systems
- 2018- Pond level came within two feet of overflowing
- February 2020- Overflow event
- 4S WRF does not have an approved discharge option aside from the recycled water distribution system in contrast to the majority of San Diego County wastewater plants that have the approval and ability to discharge to the ocean

4S WRF Notice of Violation (NOV)

February 2020- Pond overflow event caused discharge of recycled water into San Diego County storm drain resulting in a NOV from the San Diego Regional Water Quality Control Board (RWQCB)



OMWD NOV Response

- September 2020 - Developed and submitted to the RWQCB a Storage Pond Investigative Technical Memorandum which outlined measures in order to prevent another discharge to the County storm drain system
- One measure was a commitment by staff to visit the OMWD Board by Spring 2021 with an incentive program
- OMWD Board approved moving forward at the April 2021 meeting
- RWQCB responded with no monetary penalties
 - Reserved their right to bring an enforcement action for the unauthorized discharge and any future unauthorized discharges
 - Potential fines were over \$430,000,000

Wet Weather Incentive Program

- The Wet Weather Incentive Program (WWIP) was developed to alleviate conditions which may lead to the Pond overflowing
- The WWIP will consist of:
 - Executing individual agreements to utilize recycled water in exchange for a recycled water credit in the southeast system only
 - Monitor Pond levels each year starting in late fall and extending into spring. The program will be activated by the General Manager if monthly Pond trigger levels are met
 - Requesting program participants to utilize recycled water during periods of lower demands when Pond levels reach defined trigger levels
 - Customers with large water impoundments will be the most active in this program
 - The WWIP will have an incentive offer of a 1 for 1 credit: 1 unit used will result in 1 unit of credit applied to the customers bill

Questions?



Memo

Date: September 8, 2021
To: Olivenhain Municipal Water District Board of Directors
From: Jeff Anderson, Park Supervisor
Via: Kimberly A. Thorner, General Manager
Subject: **CONSIDER UPDATE ON ELFIN FOREST RECREATIONAL RESERVE
(INFORMATIONAL ITEM)**

Purpose

The purpose of this agenda item is to provide an update to the board on the status of EFRR parking lot expansion efforts, the safety of ingress and egress at EFRR, and the results of Goldspotted Oak Borer (GSOB) surveying within EFRR. The parking/ingress/egress updates in particular will satisfy Annual Objective #26 (“Report to board on the status of EFRR parking lot expansion efforts and the safety of ingress and egress at EFRR”).

Recommendation

This is an informational item; no action is required.

Alternative(s)

Not applicable; informational item only.

Background

At its February 10 meeting, the board granted final approval of the 2021 Annual Objectives. Among the objectives that were approved were Objective #23 (“Monitor oak trees within EFRR for signs of Golden Spotted Oak Borer beetle damage, document findings, and report findings to EFRR Executive Committee”), and the aforementioned Objective #26.

Directors Bruce-Lane and Watt serve on the EFRR Executive Committee which oversees the implementation of EFRR’s policies, programs, projects and annual objectives. This committee meets annually or as needed, and consists of representatives from both OMWD and the Escondido Creek Conservancy.

The committee has met twice to date in 2021; on March 23 and September 8. Information about GSOB was presented to the committee at each of these meetings, satisfying Objective #23, and is included in the attached presentation for the full board’s reference. Staff also reported at both committee meetings regarding parking/ingress/egress at EFRR.

Fiscal Impact

Not applicable; informational item only.

Discussion

This is an update to the board on the current status of expanding parking at EFRR, safe ingress and egress at EFRR, and results of the first GSOB survey within EFRR. Staff will review the attached presentation with the board at the September 8 meeting.

Attachments: Presentation—Update on Elfin Forest Recreational Reserve



UPDATE ON ELFIN FOREST RECREATIONAL RESERVE

SEPTEMBER 8, 2021

PARKING LOT EXPANSION UPDATE



- ❖ EFRR usage has increased 76% over last ten years
- ❖ EFRR parking lots do not have capacity for demand Jan - Apr
- ❖ Per recommendation of the Mobility Study, the county of San Diego has taken away most shoulder parking on Harmony Grove Rd for safety reasons



PARKING LOT EXPANSION UPDATE



- ❖ OMWD has submitted for outside funding to expand overflow parking lot seven times since 2015
- ❖ OMWD continues to seek outside grant funding for overflow parking lot expansion project
- ❖ OMWD is now soliciting the county to acquire funding support for parking lot expansion project

PARKING LOT EXPANSION UPDATE



- ❖ In 2021, cost estimate for project was reduced \$230K by replacing asphalt surface with decomposed granite
- ❖ Staff will continue to seek outside funding for this project until successful or as otherwise directed
- ❖ Fee parking at EFRR may be considered again once overflow parking lot expansion project has been completed

SAFETY INGRESS/EGRESS AT EFRR



- ❖ In early 2021, county completed installation of no parking signage along Harmony Grove Rd to eliminate hazardous parking situations near EFRR
- ❖ Signage was effective for about two weeks
- ❖ No Parking signage was not being enforced by CHP
- ❖ Staff has learned that parking enforcement is low on CHP priority list, but park rangers have been advised to continue to call CHP when No Parking signs are being violated

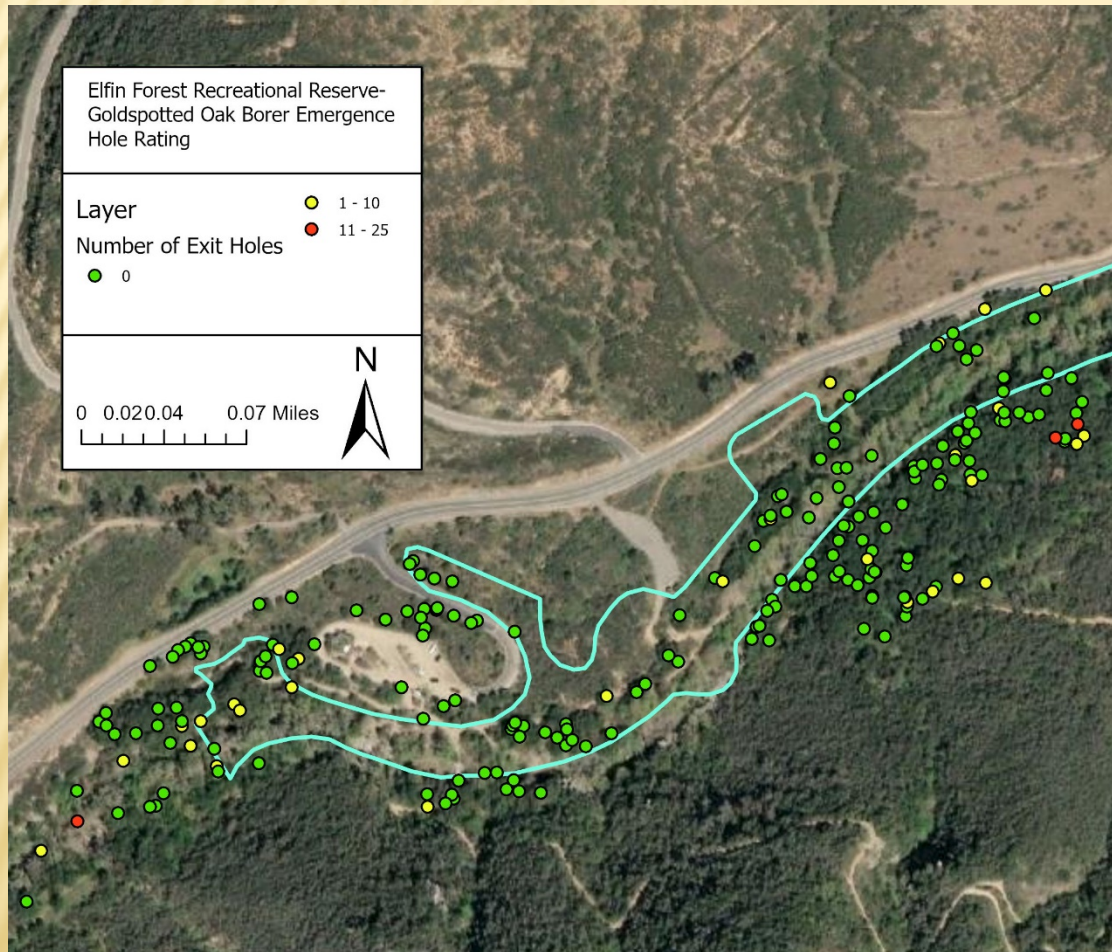
GOLDSPOTTED OAK BORER (BACKGROUND)



- ❖ Goldspotted Oak Borer (GSOB) originated from southeastern Arizona and was first observed in San Diego County in 2004
- ❖ GSOB has killed 80,000+ oak trees in San Diego County
- ❖ Park rangers are collaborating with Escondido Creek Conservancy to survey oak trees in EFRR
- ❖ In 2021 rangers collected data on 223 trees in EFRR



GOLDSPOTTED OAK BORER (GSOB)



- ❖ Oak assessment parameters include
 - Number of exit holes
 - Crown rating
 - Diameter breast height (DBH)
 - Bark staining
 - Woodpecker foraging
- ❖ Exit holes
 - = 0
 - = 1-10
 - = 11-25

GOLDSPOTTED OAK BORER (GSOB)



Data Summary

Emergence hole rating	Number of trees (total=223)
0 (no exit holes)	187
1 (<10)	30
2 (10-25)	3
3 (>25)	0

Crown Rating	Number of trees (total=223)
1 (full, 0% leaf loss)	76
2 (light thinning, 10-25% leaf loss)	108
3 (moderate thinning, 25-50% leaf loss)	32
4 (severe thinning, >50% leaf loss)	4
5 (dead, no living foliage)	3

Overall Health Rating	Number of trees (total=223)
Healthy	189
Mild Injury	29
Moderate Injury	2
Severe Injury	3

GOLDSPOTTED OAK BORER (GSOB)



- ❖ Majority of oaks in EFRR are young and healthy
- ❖ Older/larger oaks are preferable hosts to GSOB
- ❖ Staff will conduct survey of oaks again 2022 to determine trend in health before committing to action
- ❖ Staff will consider action plan recommended by US Forest Service and other local agencies/organizations when plan is announced
- ❖ Staff will remove infected oaks that are in close proximity to trails as needed and plant oak saplings in its place

QUESTIONS?



Memo

Date: September 8, 2021
To: Olivenhain Municipal Water District Board of Directors
From: Jeff Anderson, Park Supervisor
Via: Kimberly A. Thorner, General Manager
Subject: **CONSIDER ADOPTION OF AN ORDINANCE AMENDING THE DISTRICT'S ADMINISTRATIVE AND ETHICS CODE (Article 26 – Regulations of the Elfin Forest Recreational Reserve and other District Parks)**

Purpose

The purpose of this item is to consider adoption of the attached ordinance amending Article 26 of the Administrative and Ethics Code for proposed changes to the dog leash rule at Elfin Forest Recreational Reserve. These changes were discussed with and supported by the EFRR Executive Committee—consisting of Directors Bruce-Lane and Watt—on August 10, 2021.

Recommendation

With the support of the EFRR Advisory Committee and EFRR Executive Committee, staff is recommending that the board adopt the attached ordinance.

Alternative(s)

- The board may leave Article 26 of the Administrative and Ethics Code “as is.” However, the change has been proposed to increase the safety of all trail users (including dogs) at EFRR.
- The board may decide not to approve the proposed changes and instruct staff to adopt other changes.

Background

When EFRR opened to the public in 1992, dogs were allowed off leash if they were under effective voice control of their owner. In 2004, trail conflict increased between dogs and other trail users which resulted in an ad hoc committee being formed that consisted of representatives of each user group at EFRR (hikers, dog owners, mountain bikers, equestrians). In September 2004, OMWD’s Board of Directors approved a more restrictive dog leash rule requiring dogs to be on leash at all times on the Way Up Trail seven days a week, and allowed dogs to be off leash if they were under effective voice control on trails located beyond the top of the Way Up Trail Monday through Friday. Dogs are required to be on leash throughout EFRR on all weekends and holidays.

Fiscal Impact

Minimal fiscal impact will result from updating signage to reflect this change to EFRR’s rules and regulations.

Discussion

Since 2004, usage at EFRR has nearly doubled (up 95%), which has resulted in more congestion on all trails, more potential for conflict between trail user groups, and thus an impact to safety of all users. When dog attacks/incidents occur at EFRR and are reported by the involved parties, an incident report is created by staff. Reported dog attack incidents are few, but when they are reported, they often involve serious injury to the dogs involved, conflict between dog owners, and can result in considerable costs from emergency vet visits. EFRR is one of the last public open spaces in San Diego County that allows dogs off leash other than designated dog parks and a few beaches, but even with EFRR’s current less-restrictive dog leash rules, park users regularly disregard this rule and hike with their dog(s) off leash.

Staff is proposing to change the dog leash rule to mirror state and county dog leash regulations to increase safety at EFRR. Requiring dogs to be on a hand-held leash no longer than six feet at all times while at EFRR will increase the safety of other hikers, mountain bikers, equestrians, dogs, and will protect the flora and fauna of EFRR. Having a clear and uniform dog leash rule throughout EFRR will aid park rangers in enforcing this rule, and it will aid EFRR users in clearly understanding EFRR's leash rule. The trail user that stands to benefit the most from this rule change are dogs themselves. Dogs are overwhelmingly less likely to be involved in a dog-dog, dog-human, dog-bike, dog-horse, or dog-snake incident if they are on leash at all times.

If approved by the board, it is staff's intention to begin notifying EFRR patrons that this new policy will be enforced effective January 1, 2022. This will allow time to update signage and trail maps and increase public awareness of the new policy.

Attachment: Ordinance

ORDINANCE NO. 4xx

AN ORDINANCE OF THE BOARD OF DIRECTORS OF
OLIVENHAIN MUNICIPAL WATER DISTRICT
AMENDING THE DISTRICT'S ADMINISTRATIVE AND ETHICS CODE
(Article 26 – Regulations of the Elfin Forest Recreational Reserve and Other District Parks)

BE IT ORDAINED by the Board of Directors of Olivenhain Municipal Water District as follows:

SECTION 1: Article 26 of OMWD's Administrative and Ethics Code, Regulations of the Elfin Forest Recreational Reserve and Other District Parks, is hereby amended to read as shown on Exhibit A (attached).

PASSED, APPROVED, AND ADOPTED at a regular meeting of Olivenhain Municipal Water District's Board of Directors held this 8th day of September 2021.

Lawrence A. Watt, President
Board of Directors
Olivenhain Municipal Water District

ATTEST:

Robert F. Topolovac, Secretary
Board of Directors
Olivenhain Municipal Water District

OLIVENHAIN MUNICIPAL WATER DISTRICT ADMINISTRATIVE AND ETHICS CODE	Article No. 26	Page 1 of 2
	Title REGULATIONS OF ELFIN FOREST RECREATIONAL RESERVE AND OTHER DISTRICT PARKS	
	Latest Revision Date February 12, 2020 <u>September 8, 2021</u>	Ordinance No. 4xx

ARTICLE 26. REGULATIONS OF THE ELFIN FOREST RECREATIONAL RESERVE AND OTHER DISTRICT PARKS

Sec. 26.1. Declaration of Policy.

California Water Code Section 71660 et seq. empowers the District to construct, maintain, improve, and operate public recreation facilities pertinent to any water facilities operated or contracted to be operated by the District. The District may by Ordinance provide regulations binding upon all persons to govern the use of such facilities, including regulations imposing reasonable charges for the use thereof. Violation of District regulations relating to vehicle speed limits, defacement of District property, the use, possession or discharge of firearms, weapons or fires, the creation of fire hazards, being under the influence of intoxicating beverages or drugs, or remaining on, or re-entering District premises after an authorized District officer or employee has specifically withdrawn consent for a person to utilize District facilities, is a misdemeanor. Violation of any other regulation of the District adopted pursuant to California Water Code Section 71660 et seq. is an infraction.

Sec. 26.2 revised via Ordinance No. 449 / May 17, 2017

Sec. 26.2. revised via Ordinance No. 410 / November 6, 2013

Sec. 26.2. revised via Ordinance No. 312 / October 27, 2004

Sec. 26.2. Regulations for the Use of Elfin Forest Recreational Reserve and Other District Park Facilities.

The terms of the regulations pertaining to use of Elfin Forest Recreational Reserve and all other District park and recreational facilities, and any revisions thereto, are incorporated herein by reference. These regulations shall apply to all persons using recreational areas, parks, and District facilities within these park and recreational areas which are owned, operated, or controlled by the District and shall apply to all portions of such recreational areas and parks.

Sec. 26.3 revised via Ordinance No. 449/ May 17, 2017

Sec. 26.3. Enforcement of Regulations.

All State and County Law Enforcement officers are hereby authorized to enter onto all or any portion of the District's recreational areas, parks, and related facilities and to enforce all

OLIVENHAIN MUNICIPAL WATER DISTRICT ADMINISTRATIVE AND ETHICS CODE	Article No. 26	Page 2 of 2
	Title REGULATIONS OF ELFIN FOREST RECREATIONAL RESERVE AND OTHER DISTRICT PARKS	
	Latest Revision Date February 12, 2020 <u>September 8,</u> <u>2021</u>	Ordinance No. 4xx

ARTICLE 26.

REGULATIONS OF THE ELFIN FOREST RECREATIONAL RESERVE AND OTHER DISTRICT PARKS

park and recreational regulations adopted by the District. The District's General Manager or his/her designee is also hereby authorized to enforce all District regulations and to delegate enforcement authority to other employees of the District as the General Manager deems appropriate from time to time. The authority of State and County Law Enforcement officers and the District's General Manager, or his/her designated representatives, to enforce these rules and regulations includes the express authority to expel any person or vehicle acting in violation of any District, State, or County rule or regulation and the express authority to take all other actions deemed necessary by these officials to enforce the rules and regulations of the District as amended from time to time.

Sec. 26.4.

Punishment for Violation of District Regulations.

Every person convicted of an infraction for a violation of any regulation of the District shall be subject to fines in accordance with California Water Code Section 71600. Any person in violation of any District regulations relating to vehicle speed limits, defacement of District property, the use, possession or discharge of firearms or weapons, the starting of any fire, the creation of any fire hazard, being under the influence of intoxicating beverages or illegal drugs, or remaining on, or re-entering District property governed by these rules and regulations posted hours of operation, or after a law enforcement or authorized District employee has specifically withdrawn consent for a person to utilize District facilities shall constitute a misdemeanor.

OLIVENHAIN MUNICIPAL WATER DISTRICT

Regulations for the Recreational Facilities Operated by the District, Including Elfin Forest Recreational Reserve

Section No.	Section Name
1	Declaration of Policy
2	Fee Schedule
3	Application of Regulations
4	Definitions
5	Breaking, Cutting, or Injuring Plants
6	Care of Wildlife
7	Taking Wood
8	Motor Vehicles and Other Conveyances
9	Bicycles
10	Glass Beverage Containers Prohibited
11	Regulation of Equestrians
12	Pollution of Streams
13	Dogs
14	Geocaching
15	Camp Fires
16	Camping
17	Disposal of Rubbish and Garbage
18	Unreasonable Noises
19	Advertising
20	Hunting

21	Possession and Use of Firearms and Weapons
22	No Smoking Allowed
23	Night Closing
24	Fireworks Prohibited
25	Permit for Organized Public Programs
26	Special Event Policy
27	Illegal Drugs
28	Care of District Property
29	Off Trail Travel
30	Care of Watershed
31	Military Use of Recreational Facilities and Parks
32	Exemptions from Regulations
33	Punishment for Violation of Regulations
34	Enforcement of Regulations
35	Severability

Section 1: Declaration of Policy

California Water Code Section 71660 et seq. empowers the District to construct, maintain, improve, and operate public recreation facilities pertinent to any water facilities operated or contracted to be operated by the District. The District may by Ordinance provide regulations binding upon all persons to govern the use of such facilities, including regulations imposing reasonable charges for the use thereof. Violation of District regulations relating to vehicle speed limits, defacement of District property, the use, possession, or discharge of firearms, weapons, or fires, the creation of fire hazards, being under the influence of intoxicating beverages or drugs, or remaining on, or re-entering District premises after an authorized District officer or employee has specifically withdrawn consent for a person to utilize District facilities, is a misdemeanor. Violation of any other regulation of the District adopted pursuant to California Water Code Section 71660 et seq. is an infraction.

Section 2: Fee Schedule

Persons using District park or recreational facilities shall be required to pay the applicable fees in accordance with the EFRR Fee Schedule.

All fees described in this policy will be paid to Olivenhain Municipal Water District.

Race Events Fees

- A \$300 administration fee will be paid to OMWD prior to any approved race event.
- A \$5 per participant fee will be collected by the Race Organizer and paid to OMWD for any approved race event.

Interpretive Center Facility Rentals Hourly Fees

- OMWD Customer Non-Profit Organization: \$100/hour
- Non-OMWD Customer Non-Profit Organization: \$125/hour
- OMWD Customer Private Event: \$200/hour
- Non-OMWD Customer Private Event: \$250/hour
- \$300 deposit is required upon reservation.
- Rentals extending after EFRR hours are subject to an additional \$100/hour fee.

Special Events in Trail Areas Fees

- \$250 per hour (including setup, breakdown and cleanup)

Commercial Activities in Trail Areas Fees

- \$5 per participant

Photo/Film Event Fees

- Fees for still photography shoots are \$50 per hour, \$200 half-day, \$400 whole day.
- Fees for film/video shoots are \$100 per hour, \$400 half-day, \$800 whole day.
- Fees for using the Reserve as a production base are \$500 per day. An additional \$50 catering fee will apply if a caterer is present.
- Fees for use of the Reserve during closed hours (see Section 23) are \$100 per hour additional to those fees specified above.
- Total payment for the permit is due prior to the event.

Section 3: Application of Regulations

The regulations set forth by the District shall govern all persons using any recreational areas, parks, or associated facilities owned, operated, or controlled by Olivenhain Municipal Water District ("District") and shall apply to all portions of such recreational areas and parks including all portions specifically mentioned in the Regulations for the Use of Olivenhain Water Storage Project and Elfin Forest Recreational Reserve and other District park and recreational facilities.

Section 4: Definitions

Alcoholic Beverages. For purposes of this title, the term alcoholic beverages shall include alcohol, spirits, liquor, wine, beer, and every liquid or solid containing one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances. No alcohol is allowed within the EFRR except when it is associated with an approved Special Event Permit.

Park Manager. Park Manager is defined as the General Manager and/or his or her designee with the responsibility of overseeing the Reserve, including but not limited to the Park Supervisor, Customer Services Manager, or Assistant General Manager.

Peace Officer. Peace Officer is defined as any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

Section 5: Breaking, Cutting or Injuring Plants

No person shall pluck, take, remove, damage, or destroy any flower, shrubbery, plant, vine, tree, grass, ground cover, or other natural or cultivated growth in any park or recreational area of the District except with prior written permission of the Park Manager.

Section 6: Care of Wildlife

It shall be unlawful for any person to hunt, molest, harm, frighten, kill, trap, chase, tease, shoot, throw projectiles at, or otherwise disturb any animal, reptile, or bird in any District park or recreational area unless otherwise authorized in writing by the Park Manager.

Section 7: Taking Wood

No person shall cut or remove any wood or fallen trees in or from any park or recreational area of the District except with written permission of the Park Manager.

Section 8: Motor Vehicles and Other Conveyances

- a) It shall be unlawful for any person at any time to operate or drive an automobile, truck, trailer, motorcycle, electric bicycle, motor scooter, motorbike, or any other type of motor vehicle in a District park or recreational area, unless such vehicles are in a designated parking or staging area or on a County of San Diego maintained road, without prior written permission from the Park Manager.
- b) No person in a park or recreational area shall fail to comply with all applicable provisions of California Vehicle Code and traffic laws in regard to equipment, signs, speed limits, and operation of vehicles together with such regulations as are contained in these regulations.
- c) No person shall park any vehicle within a park or recreational area except for the duration of their visit.
- d) Vehicles parked in violation of California Vehicle Code Sections 22651(r) or 22652 may be subject to removal from the park or recreational area at the vehicle owner's expense.
- e) These provisions shall not apply to motor vehicles and motorized equipment for District maintenance, patrol vehicles in the process of conducting maintenance, operation, or enforcement activities within any District park or recreational area and contractors/consultants, performing work for the District as authorized by the Board of Directors or the District's General Manager or his/her designee.
- f) No person shall illegally park a vehicle within the boundaries of a park or recreational area, or leave a vehicle parked during closed hours without advance written permission from the Park Manager. The District reserves the right to lock vehicles within the boundaries of a park or recreational area or tow vehicles illegally parked within the boundaries of a park or recreational area at the vehicle owners' expense.

- g) Operation of drones or unmanned aircraft systems in a District park or recreation area requires advance written permission from the Park Manager.

Section 9: Bicycles

- a) It shall be unlawful for any person to ride a bicycle of any type on grounds other than designated trails. Bicyclists shall be permitted to use hiking trails and paths designated for pedestrian use, but must use due care and caution to not interfere with hikers or equestrian users.
- b) Bicycle speed limits shall be as follows:
- Fifteen (15) miles/hour maximum in all recreational and park areas
 - Five (5) miles/hour within one hundred (100) feet of pedestrians and equestrians
- c) Bicyclists must dismount in the immediate presence of horses.
- d) Bicyclists must observe points of congestion on trails and slow their speed at these choke points.
- e) Bicyclists should participate in the Bike Bell Program, wherein bikers are encouraged to pick up a bell from a container at the trailhead of the Way Up Trail and then return the bell upon exiting the trail. This will allow other users to hear them approaching.
- f) Electric bicycles are not permitted within the boundaries of a District park or recreational area.
- g) Helmets and appropriate protective equipment must be worn by all bicycle riders within a District park or recreational area.

Section 10: Glass Beverage Containers Prohibited

No person shall possess any glass beverage container in any park or recreational area of the District except that the sponsor of an organized public event may obtain written permission in advance from the Park Manager to possess glass beverage containers, provided that the containers remain under the sponsor's control and are not distributed to participants of the event.

Section 11: Regulation of Equestrians

No horses shall be ridden on any District park or recreational area except on designated equestrian routes and trails.

Section 12: Pollution of Streams

No person shall contaminate or pollute, or cause to be contaminated or polluted, any water of any creek flowing through or within any park or recreational area, or to deposit or cause to be deposited any refuse, rubbish, or other waste matter of any kind or character, in such waters, or to wash or clean vehicles, clothing, animals, or persons in the waters of any creek or reservoir.

Section 13: Dogs

Dogs will be required to remain on a hand-held leash no longer than six feet at all times in all areas of ~~EFRR, the Reserve on Saturday, Sunday, and holidays. Monday through Friday (non-holidays) dogs will be allowed off leash only on the upper trails (i.e., at the top of the Way Up Trail dogs can come off leash). Dogs need to remain on leash in all common areas such as picnic areas, the lower trails, and on the Way Up Trail, at all times.~~ Dog owners must properly dispose of their pet's waste while utilizing District parks or recreation areas. Owners are responsible for any damage, harm, or injury caused by their dog.

Section 14: Geocaching

EFRR recognizes geocaching – a treasure hunt that utilizes the Global Positioning System (GPS) and the internet to find caches – as a recreational experience. However, not all areas of EFRR are suitable for geocaching due sensitive habitat. This geocaching policy was developed to facilitate responsible geocaching such that EFRR can meet its mission.

Register cache:

- Caches must be registered by completion and approval of a registration form prior to placing a cache.
- Registration forms are available online at Geocache Registration Form and will include the following information:
 - a) Geocache owner information,
 - b) Description and photo of cache and description of cache contents,
 - c) Coordinates, description and photo of proposed cache location.

Approval of a proposed cache location will be based upon the following criteria:

Location

- Caches must be placed within 3 feet of existing trails, overlooks, or picnic areas.
- No off trail hiking or disturbance of cultural, historical, or biological resources.
- Caches must be hidden without impacting flora/fauna. Caches may not be buried.
- Geocaches must be at least 0.10 miles apart.

Size and labeling

- Cache size is limited to 8x6x4 inches.
- Geocache name must be clearly visible on exterior of waterproof container.

Number

- The number of caches within EFRR is limited to fifteen (15).
- An individual may register up to three (3) caches within EFRR at any one time.

Cache Items

- No food items.
- No dangerous, hazardous, offensive, or otherwise inappropriate items.
- Caches may not contain any commercial advertising or content.

Cache Owner Responsibilities:

- Caches must be checked every six months.
- Once cache registration has expired, the owner is responsible for removing the cache and deactivating the online coordinate posting.
- Failure to remove a cache and deactivate the coordinate posting within seven days of registration expiration (or if cache was inappropriately placed) may negate further approvals.

A Geocache Registration Form must be submitted and approved prior to cache placement.

Section 15: Camp Fires

It shall be unlawful to make any fire of any kind at any time within any District park or recreational area.

Section 16: Camping

No person or group of persons shall camp overnight or remain overnight within any park or recreational area.

Section 17: Disposal of Rubbish and Garbage

No person shall throw, dump, or otherwise place or cause to be placed, or leave, either directly or indirectly, any rubbish, garbage, sewage, or waste matter, or any trash or refuse of any kind or character, other than in receptacles established and maintained for such purposes. No person shall bring or cause to be brought any rubbish, garbage, sewage, waste matter, trash, or refuse of any kind for the purpose of disposing of same in the park either in the receptacles described herein, or at any other place.

Section 18: Unreasonable Noises

- a) No person shall operate any form of speaker or any other sound amplification device in any park without first obtaining the written permission of the Park Manager.
- b) No person, either by voice, mechanical device, tumultuous or other offensive conduct, or otherwise, shall create, permit, or cause to be created, any loud or unusual noises at any time which create a nuisance. Noises determined to be too loud or offensive shall be promptly reduced or discontinued as directed by any peace officer or authorized District employee.

Section 19: Advertising

No person shall display or post any plates, markers, signs, commercial, or message in any park or recreational area without prior written approval of the Park Manager.

Section 20: Hunting

No person shall hunt, fish, trap, or take any wild game, animals, birds, or eggs in any park or recreational area except with the prior written permission of the Park Manager.

Section 21: Possession and Use of Firearms and Weapons

No person shall take, carry, or transport any firearm, pellet gun, pump gun, zip gun, air rifle, bow and arrow, BB gun, or weapon of any kind in, upon, through, or across any park or recreational area without first having obtained a written permit from the Park Manager.

Section 22: No Smoking Allowed

No person shall carry upon or across any park or recreational area any lighted smoking or inflammable material. The possession of any object containing a lighted or vaporized tobacco product or any other lighted or vaporized weed or plant, or the lighting or vaporizing of any object containing a tobacco product or any other weed or plant is prohibited.

Section 23: Night Closing

No person shall enter or remain in any park or recreational area during closed hours without prior written permission from the Park Manager. Unauthorized entering or remaining in any park or recreational area during closed hours constitutes trespassing and is subject to enforcement as outlined in Sections 33 and 34 of this document.

All parks and recreational areas shall be closed to the public in accordance with the following schedule:

From the Daylight Saving Time end through January 20:
5:00 p.m. to 8:00 a.m.

From January 21 through February 21:
5:30 p.m. to 8:00 a.m.

From February 22 through Daylight Saving Time begin:
6:00 p.m. to 8:00 a.m.

From Daylight Saving Time begin through April 2:
7:00 p.m. to 8:00 a.m.

From April 3 through September 2:
7:30 p.m. to 8:00 a.m.

From September 3 through September 25:
7:00 p.m. to 8:00 a.m.

From September 26 through October 18:
6:30 p.m. to 8:00 a.m.

From October 19 through Daylight Saving Time end:
6:00 p.m. to 8:00 a.m.

The Reserve will be closed from 5:00 p.m. December 24 to 8:00 a.m. December 26 and no person shall enter or remain in any park or recreational area during this time except persons or groups receiving prior written permission from the Park Manager.

Section 24: Fireworks Prohibited

No fireworks of any kind shall be lit within or discharged towards any District park or recreation area.

Section 25: Permit for Organized Public or Private Programs

No person shall conduct any organized public program, public assemblage or public address in any public park without first obtaining the written permission of the Park Manager. All Special Uses and Special Events are subject to the rules in the EFRR Special Event Policy and Fee Schedule. The General Manager or his/her designee has the authority to approve or reject Special Use or Special Event requests at his or her discretion.

- 1) Special Use Permits shall be required under the following circumstances:
 - a) A group of eight (8) or more people
 - b) A group of four (4) or more horses
 - c) A group of four (4) or more vehicles

Violations of regulations by permitted groups may result in forfeiture of future permits.

- 2) Special Event Permits shall be required under any of the following circumstances:
 - a) Any event in the park that is expected to have 40 participants or more
 - b) Any event that requires the temporary closure of any portion of the park to the public
 - c) Any commercial or for-profit use of the park
 - d) Any organized ceremony in the park

Section 26: Special Event Policy

Fees applicable to the following are listed in the fee schedule Section 2 of this document.

Insurance Requirements for all Events and Rentals

Each event organizer for any event included in this policy must obtain a \$1 million per incident and \$2 million aggregate commercial general liability insurance policy naming Olivenhain Municipal Water District as an additional insured. If alcohol is to be included as part of an event, the insurance policy must include Liquor Liability Coverage.

Race Events

OMWD recognizes that EFRR is a desirable location for race events, and strives to find the balance between safely offering these types of events at EFRR while still offering adequate access of EFRR's trails and facilities to the public during these events. For that reason, any proposed race event (e.g., mountain bike, running, duathlon, etc.) will be handled on a case-by-case basis. Minimum requirements for race events are:

- Event organizer must demonstrate their competency in running events of this nature in open space parks.
- Rancho Santa Fe Fire Protection District must have its safety requirements satisfied for any event that is to take place within or to pass through EFRR. Written documentation of approval is required.
- All race participants and staff must sign an OMWD liability release form.

- No lasting damage or changes to EFRR may occur as a result of any race event.
- For any race event that includes areas outside EFRR, race organizer must provide proof that permission has been granted for the event to take place on other property(ies).

Interpretive Center Facility Rentals

OMWD owns and operates the unique Elfin Forest Interpretive Center Honoring Susan J. Varty (EFIC) at Elfin Forest Recreational Reserve. This 1,000-square-foot facility is generally open to the public and staffed by EFRR docents, but can be made available for private special events. Due to the nature of EFIC's contents, a Park Ranger is required to be on site for all interpretive center facility rentals and that staff time is built into the rental fee schedule.

Interpretive Center Rental Rules and Conditions

Renters of the EFIC agree to the following rules and conditions:

- Minimum rental time is 2 hours.
- Deposit is required upon reservation.
- Deposit is refundable up to 72 hours prior to reservation.
- Rental time includes setup, breakdown, and cleanup of facility.
- Renters are responsible for the contents of the EFIC and will be charged for missing or damaged items and for additional cleanup if costs exceed the deposit amount.
- Setup and breakdown must occur immediately before and after rental.
- EFIC is subject to closure during severe weather. If this occurs, renter can reschedule or request a refund.
- Maximum event size is 50 people.
- Staging area parking is not guaranteed for renters of EFIC.
- Children must be under adult supervision at all times.
- Alcohol use by a private party does not require a Liquor License from the State Department of Alcoholic Beverage Control or EFRR when the following conditions exist: 1) when there is no payment for contracted vendor services who are providing the alcohol; 2) when there are no donations, fees, or charges requested if attending the event; and 3) when the event is not open to the general public.
- If a group contracts with a caterer or beverage vendor to supply the alcohol, then it is the responsibility of the event organizer to ensure that the service provider has a valid Liquor License.
- Alcohol service must end one hour prior to the end of the event.
- Rentals extending after EFRR hours are subject to an additional fee as specified in Section 2.
- EFIC is not available for rental on weekends or holidays.
- The use of an open flame is limited to outdoor space heaters and chaffing dish heating devices.

Special Events in Trail Areas

OMWD realizes that EFRR offers many scenic areas that are perfect for special events such as secluded, small wedding ceremonies. Due to the popularity of EFRR for its recreational opportunities, special events in trail areas are permitted but limited to the following:

- Events may only take place Monday through Friday (holidays excluded).
- Events may take place on trails, viewing areas, overlooks or picnic areas.
- Events at the Elfin Forest Interpretive Center are allowed but are subject to the Interpretive Center Facility Rental restrictions above.
- Events in trail areas must be 30 persons or less.
- No trail or access to a trail may be blocked by the event.
- Events including a photographer/videographer must also obtain a separate Special Event Permit for those activities.

Commercial Activities in Trail Areas

EFRR was created to provide unique recreational opportunities to the general public. Many service-based businesses (e.g., fitness trainers, dog walkers, day camps, etc.) utilize public areas to serve their clients. These activities displace the general public and detract from the overall experience EFRR was intended to convey to its patrons. For this reason, entities that would like to utilize EFRR's amenities for their business are required to satisfy the following requirements:

- Commercial activities are not permitted on weekends and holidays.
- Groups may not exceed 40 people or 5 animals.
- Groups must carpool to minimize impact on parking.
- Groups must obtain a Special Event Permit prior to arriving at EFRR.
- Fees for non-profit organizations or school groups may be waived at the discretion of OMWD.

Photo/Film Events

EFRR offers a variety of scenery for still photographers and filmmakers for backdrops and film footage. OMWD appreciates the beauty and diversity of its facilities and encourages the use of EFRR for photo and film opportunities, while maintaining the integrity of the environment and the enjoyment of its visitors.

OMWD reserves the right to reject permit applications for photo/film shoots that contain subject matter that OMWD, in its sole discretion, determines is inappropriate.

Reservation procedures and fees for using EFRR are outlined below:

- A minimum of a \$1,000,000 insurance policy naming Olivenhain Municipal Water District is required.
- Requests for photo/film permits may be made by completing a Special Event Permit application and emailing it to efrrfriends@olivenhain.com.

Please allow a minimum of 72 hours (not including weekends and holidays) processing time prior to scheduled film/photo shoot.

- A walk-through may also be required with OMWD ranger staff to determine the location, if the facility can accommodate the requested use, and if staff film monitors will be required. Film monitors and/or additional ranger staff is at the expense of the filmmaker/photographer and will be collected by OMWD.
- Any special requests/needs will be handled on an individual basis at the time of the application.
- EFRR is open from 8:00 a.m. until sunset. Requests for early entry or late stay will result in an additional fee per Section 2.
- Because weekends and holidays are generally the busiest times at EFRR, all filming activities (including preparation/setup) are only permitted to take place Monday through Friday during EFRR hours.
- Photography activities on weekends and holidays are permitted on a case by case basis.

Section 27: Illegal Drugs

No person shall use, possess, or be under the influence of any federally illegal or illicit drug in any area of any park or recreational area of the District.

Section 28: Care of District Property

It shall be unlawful for any person to mark, deface, disfigure, injure, destroy, tamper with, displace, or remove any equipment, buildings, tables, benches, railings, fencing, paving, irrigation materials, utilities, or parts or appurtenances thereof, signs, notices, place cards, District property, including but not limited to, monuments, stakes, posts or any other boundary markers, or other structures, equipment, facilities, or materials within any park or recreational area.

Section 29: Off Trail Travel

It shall be unlawful for any person or group of persons to travel off any marked or designated trail by any means, including by foot, horse, or bicycle, except to enter a developed area of a park or recreational facility.

Section 30: Care of Watershed

It shall be unlawful for any person to conduct any activity within a District park or recreational facility which may degrade the watershed of that facility and/or the resulting quality of water within that watershed.

Section 31: Military Use of Recreational Facilities and Parks

- a) No organized military use of any District park or recreational facility by the ROTC, National Guard, or any other military unit shall be allowed without first obtaining written permission from the General Manager or his/her designee. Requests to use a park shall be submitted to the Park Manager and shall include a description of the proposed use.
- b) The General Manager or his/her designee may approve a request by a military unit if he/she finds:
 - 1. The number of participants is few, so as not to adversely impact the park or members of the public;
 - 2. The availability of alternative sites has been considered and use of a District recreational area is the only feasible alternative;
 - 3. The area of use is remote, so as to diminish the impact of the use on members of the public;
 - 4. The group requesting the use will wear either civilian clothing or understated military uniforms (i.e., no helmets, flak vests, etc.);
 - 5. Training and other uses will be of a non-threatening nature, such as hiking with backpacks, running, or exercises involving the use of a map and compass to navigate over unfamiliar terrain; and
 - 6. No weapons and ammunition will be used, no practice grenades will be used, no mock weapons will be used.
- c) The General Manager or his/her designee may deny permission, or revoke permission if permission has been granted, upon finding that a group cannot or has not obeyed the conditions or restrictions imposed by the General Manager or his/her designee. If permission is denied or revoked because of unauthorized use or violation of conditions or restrictions, the offending group shall be denied permission to use parks for five years from the date said unauthorized use or violation is determined to have been committed.

Section 32: Exemptions from Regulations

The provisions of these regulations shall not apply to or restrict any officer, employee, volunteer, or agent of the District, or any other peace officer when such person is acting to enforce any of these regulations.

Section 33: Punishment for Violation of Rules

Violation of these regulations relating to vehicle speeds, defacement of District property, the use, possession, or discharge of firearms, weapons, or fireworks,

the creation of fire hazards, being under the influence of intoxicating beverages or drugs, or remaining on or re-entering District premises after an authorized District officer or other peace officer has specifically withdrawn consent for a person to utilize District facilities is a misdemeanor. Violation of any other or regulation shall constitute an infraction punishable by fines as prescribed by Water Code Section 71660.

Section 34: Enforcement of Regulations

All peace officers as defined in Section 4 of this document, are hereby authorized to enter onto all or any portion of the District's recreational areas, parks, and related facilities and to enforce all park and recreational rules and regulations adopted by the District. The District's General Manager is also hereby authorized to enforce all District rules and regulations and to delegate enforcement authority to other employees of the District as the General Manager deems appropriate from time to time. District Park Rangers shall have the authority to enforce all Reserve rules and regulations, to revoke the permit of, or eject any person from the park who is in violation of these rules and regulations. The authority of peace officers and the District's General Manager, or his/her designated representatives, to enforce these regulations includes the express authority to expel any person or vehicle acting in violation of any District, federal, state, or county rule or regulation and the express authority to take all other actions deemed necessary by these officials to enforce the regulations of the District as amended from time to time. Citations will be issued per these regulations if determined necessary by Park Rangers.

Section 35: Severability

The District's regulations for Elfin Forest Recreational Reserve facilities and other District park and recreational facilities and their various parts, sections, and clauses thereof are declared by the Board of Directors to be severable. If any part, sentence, paragraph, section, subsection, clause, phrase, part, or portion thereof is judged unconstitutional or invalid by a competent jurisdiction, the remainder of these regulations shall not be effected thereby. The Board of Directors hereby declares that it would have passed these regulations and each part thereof, regardless of the fact that one or more of such parts would be declared unconstitutional or invalid.

Memo

Date: September 8, 2021
To: Olivenhain Municipal Water District Board of Directors
From: Rainy Selamat, Finance Manager
Via: Kimberly Thorner, General Manager
Subject: **CONSIDER ADOPTION OF A RESOLUTION OF THE BOARD OF DIRECTORS OF THE OLIVENHAIN MUNICIPAL WATER DISTRICT REGARDING ITS INTENTION TO ISSUE TAX-EXEMPT OBLIGATIONS**

Purpose

The purpose of this item is to consider adoption of a resolution of the Board regarding its intention to issue tax-exempt bonds to pay for the Neighborhood One Sewer Pump Station and the Headworks Screening System at the 4S Wastewater Treatment Plant. The issuance of the sewer bonds was included in the Mid-Term Biennial Budget presentation to the Board at the June 2021 meeting and as part of the 2020 Waste Water Rate Study Report that was used for the Proposition 218 notice that was mailed to the District's Waste Water customers.

Adopting the resolution would allow the District to get reimbursement for the project costs incurred between the resolution's date and the date that the tax-exempt bonds are issued from the proceeds of tax-exempt bonds, should the District decide to proceed with debt financing.

This item was discussed with the Finance Committee members (Director Guerin and Director Watt) at the Committee meeting on August 3, 2021. The resolution has also been reviewed by the District's General Counsel, Mr. Alfred Smith.

Recommendation

Staff recommends the Board adopt the attached resolution so that project costs incurred between the resolution's date and the bond issuance date are reimbursed by bond proceeds, should the District proceed with debt financing.

Alternatives

The Board could decide to delay adoption of this resolution to a later date, or not to adopt the resolution.

Background

Over the next five years, the District is planning to execute over \$20.5 million in wastewater capital replacement and rehabilitation projects per its ten-year wastewater capital spending plan. As part of the 2020 Wastewater Rate Study Report and Mid-term Biennial Budget update, the District included a new debt issuance of \$5 million in fiscal year 2022 in order to prevent a rate spike or depletion of its wastewater reserves in light of the intensive capital project load in wastewater.

Proceeds from this debt issuance will be used to finance significant sewer capital improvement projects, including the rehabilitation of the existing Neighborhood One Sewer Pump Station and the Headworks Screening System improvements at the 4S Ranch Wastewater Treatment Plant.

Fiscal Impact

If approved by the Board, approximately \$5 million of the 2021 bond proceeds will be used to finance the construction of certain rehabilitations, replacements, and modifications to the existing Neighborhood One Sewer Pump Station and the Headworks Screening System at the 4S Wastewater Treatment Plant. The projects will consist of installation of new and modified components (including new pumps, electrical systems, mechanical systems, odor control equipment, structural modifications, automatic screen and wash press equipment replacement) used in the wastewater (sewer) treatment and collection process to improve the overall 4S Wastewater Treatment Plant operational performance.

Recommendation

Staff recommends the Board adopt the attached resolution so that project costs incurred between the resolution's date and the bond issuance date are reimbursed by bond proceeds, should the District proceed with debt financing.

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Costs incurred on these projects between the resolution date and the debt issuance date will be reimbursed via the bond proceeds, should the board decide to adopt this resolution, and also approve the issuance of debt at a later date.

Discussion

The attached resolution reflects an official action by the Board in order to comply with certain law and regulations related to issuance of any tax-exempt obligations. The resolution was prepared by the District's bond counsel, Stradling, Yocca, Carlson, & Rauth. The resolution was discussed and approved by the District's Finance Committee members (Director Guerin and Director Watt) at the August 3rd Finance Committee meeting.

Today's action only passes the resolution that allows costs to be retroactively included as reimbursable to this date. This action does not mean that the Board has to issue debt in October. Debt issuance will be decided by the Board at a later date if the terms are favorable.

Staff also had several discussions with the District's Municipal Advisor, Fieldman and Rolapp, regarding debt financing options and will be available for a discussion during the meeting.

Attachments: Presentation and Resolution of Intent

RESOLUTION NO. _____

RESOLUTION OF THE BOARD OF DIRECTORS OF THE
OLIVENHAIN MUNICIPAL WATER DISTRICT
REGARDING ITS INTENTION TO ISSUE TAX-EXEMPT
OBLIGATIONS

WHEREAS, the Board of Directors of the Olivenhain Municipal Water District (the “Issuer”) desires to finance the costs of acquiring certain public facilities and improvements, as provided in Exhibit A attached hereto and incorporated herein (the “Project”);

WHEREAS, the Issuer intends to finance the acquisition of the Project or portions of the Project with the proceeds of the sale of obligations the interest upon which is excluded from gross income for federal income tax purposes (the “Obligations”); and

WHEREAS, prior to the issuance of the Obligations the Issuer desires to incur certain expenditures with respect to the Project from available monies of the Issuer which expenditures are desired to be reimbursed by the Issuer from a portion of the proceeds of the sale of the Obligations;

NOW, THEREFORE, the BOARD OF DIRECTORS OF THE OLIVENHAIN MUNICIPAL WATER DISTRICT DOES HEREBY RESOLVE, ORDER AND DETERMINE AS FOLLOWS:

SECTION 1. The Issuer hereby states its intention and reasonably expects to reimburse Project costs incurred prior to the issuance of the Obligations with proceeds of the Obligations. Exhibit A describes either the general character, type, purpose, and function of the Project, or the fund or account from which Project costs are to be paid and the general functional purpose of the fund or account.

SECTION 2. The reasonably expected maximum principal amount of the Obligations is \$[5,500,000].

SECTION 3. This resolution is being adopted on or prior to the date (the “Expenditures Date or Dates”) that the Issuer will expend monies for the portion of the Project costs to be reimbursed from proceeds of the Obligations.

SECTION 4. Except as described below, the expected date of issue of the Obligations will be within eighteen months of the later of the Expenditure Date or Dates and the date the Project is placed in service; provided, the reimbursement may not be made more than three years after the original expenditure is paid. For Obligations subject to the small issuer exception of Section 148(f)(4)(D) of the Internal Revenue Code, the “eighteen-month limit” of the previous sentence is changed to “three years” and the limitation of the previous sentence beginning with “; provided,” is not applicable.

SECTION 5. Proceeds of the Obligations to be used to reimburse for Project costs are not expected to be used, within one year of reimbursement, directly or indirectly to pay debt service with respect to any obligation (other than to pay current debt service coming due within the next succeeding one year period on any tax-exempt obligation of the Issuer (other than the Obligations)) or

to be held as a reasonably required reserve or replacement fund with respect to an obligation of the Issuer or any entity related in any manner to the Issuer, or to reimburse any expenditure that was originally paid with the proceeds of any obligation, or to replace funds that are or will be used in such manner.

SECTION 6. This resolution is consistent with the budgetary and financial circumstances of the Issuer, as of the date hereof. No monies from sources other than the Obligation issue are, or are reasonably expected to be reserved, allocated on a long-term basis, or otherwise set aside by the Issuer (or any related party) pursuant to their budget or financial policies with respect to the Project costs. To the best of our knowledge, this Board of Directors is not aware of the previous adoption of official intents by the Issuer that have been made as a matter of course for the purpose of reimbursing expenditures and for which tax-exempt obligations have not been issued.

SECTION 7. The limitations described in Section 3 and Section 4 do not apply to (a) costs of issuance of the Obligations, (b) an amount not in excess of the lesser of \$100,000 or five percent (5%) of the proceeds of the Obligations, or (c) any preliminary expenditures, such as architectural, engineering, surveying, soil testing, and similar costs other than land acquisition, site preparation, and similar costs incident to commencement of construction, not in excess of twenty percent (20%) of the aggregate issue price of the Obligations that finances the Project for which the preliminary expenditures were incurred.

SECTION 8. This resolution is adopted as official action of the Issuer in order to comply with Treasury Regulation § 1.150-2 and any other regulations of the Internal Revenue Service relating to the qualification for reimbursement of Issuer expenditures incurred prior to the date of issue of the Obligations, is part of the Issuer's official proceedings, and will be available for inspection by the general public at the main administrative office of the Issuer.

SECTION 9. All the recitals in this Resolution are true and correct and this Board of Directors so finds, determines and represents.

PASSED, ADOPTED AND APPROVED at a regular Board meeting of the Board of Directors of the Olivenhain Municipal Water District held on September 8, 2021.

Lawrence A. Watt, President
Board of Directors
Olivenhain Municipal Water District

Attest:

Robert F. Topolovac, Secretary
Board of Directors
Olivenhain Municipal Water District

EXHIBIT A

DESCRIPTION OF PROJECT

Approximately \$5 million of the 2021 bond proceeds will be used to finance the construction of certain rehabilitations, replacements, and modifications to the existing Neighborhood One Sewer Pump Station and the Headworks Screening System at the 4S Wastewater Treatment Plant. The projects will consist of installation of new and modified components (including new pumps, electrical systems, mechanical systems, odor control equipment, structural modifications, automatic screen and wash press equipment replacement) used in the wastewater (sewer) treatment and collection process to improve the overall 4S Wastewater Treatment Plant operational performance.

2021 SEWER FINANCING PLAN

Board Meeting
September 8, 2021



Overview

- Identified \$5 million in critical capital projects for the sewer system at the 4S Wastewater Treatment Plant that can be financed with debt
 - Included in the District's Proposition 218 Notice
 - Included in the District's Mid-term Biennial Budget update process
- Existing 2018 Sewer Revenue Bonds with CB&T/ZB
 - Approximately \$4 million outstanding with a final maturity in 2028
 - The loan can be called at par on any date
- Refunding of existing 2015A and 2016A Water Revenue Bonds (public offering)
 - Negative Net Present Savings: - \$474,000 – bonds can only be refinanced on taxable basis prior to call dates in 2025 and 2026
- Conclusion: Financial Plan is to finance needed sewer capital projects through a private placement and refinance the existing 2018 Sewer Revenue Bonds
 - Estimated NP Savings: about \$100,000 after cost of issuance – new money to pay for rehab neighborhood 1 pump station and the Headworks Screening projects (sewer) and refinancing of 2018 sewer bonds
 - Estimated Cost of Issuance: Total of \$110,000 for new money and refunding

Debt Financing Options

➤ Legal Covenants

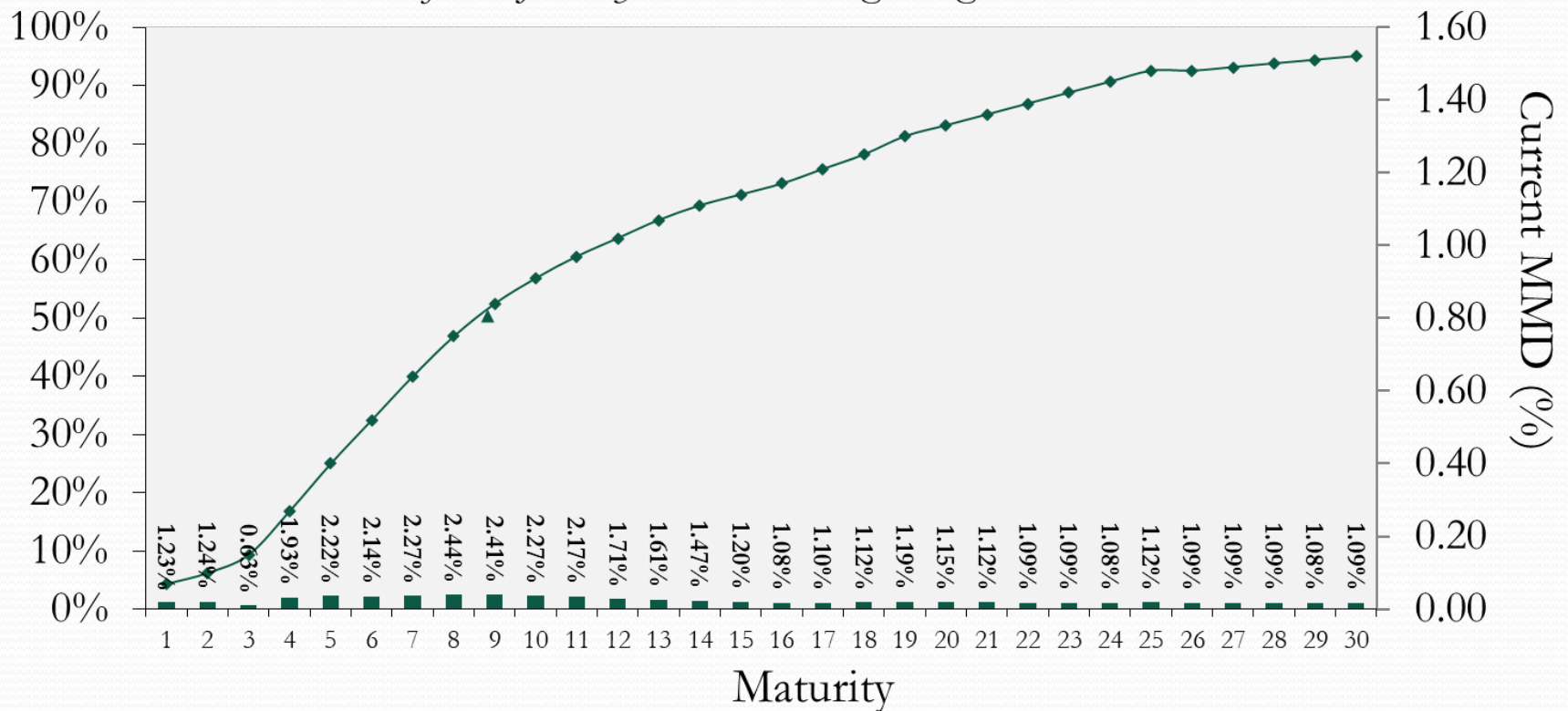
- Rate covenant: pledge to set rates of the Wastewater system = 125% of annual debt payments
 - Current rate covenant is 125% on the 2018 Loan

➤ Public offering v. Private Placements

- Public Offering requires disclosure document and underwriter
 - Preliminary Official Statement: used to sell debt to investors
 - Describes transaction, credit and legal rights of parties
- Private Placement sold directly to typically one investor (bank)
 - Typically, no formal disclosure required
 - No credit rating; this has been the District's approach to finance sewer capital funding
 - Typically, more cost effective where capital funding is below \$10 million
 - Placement Agent used to solicit RFP to multiple banks

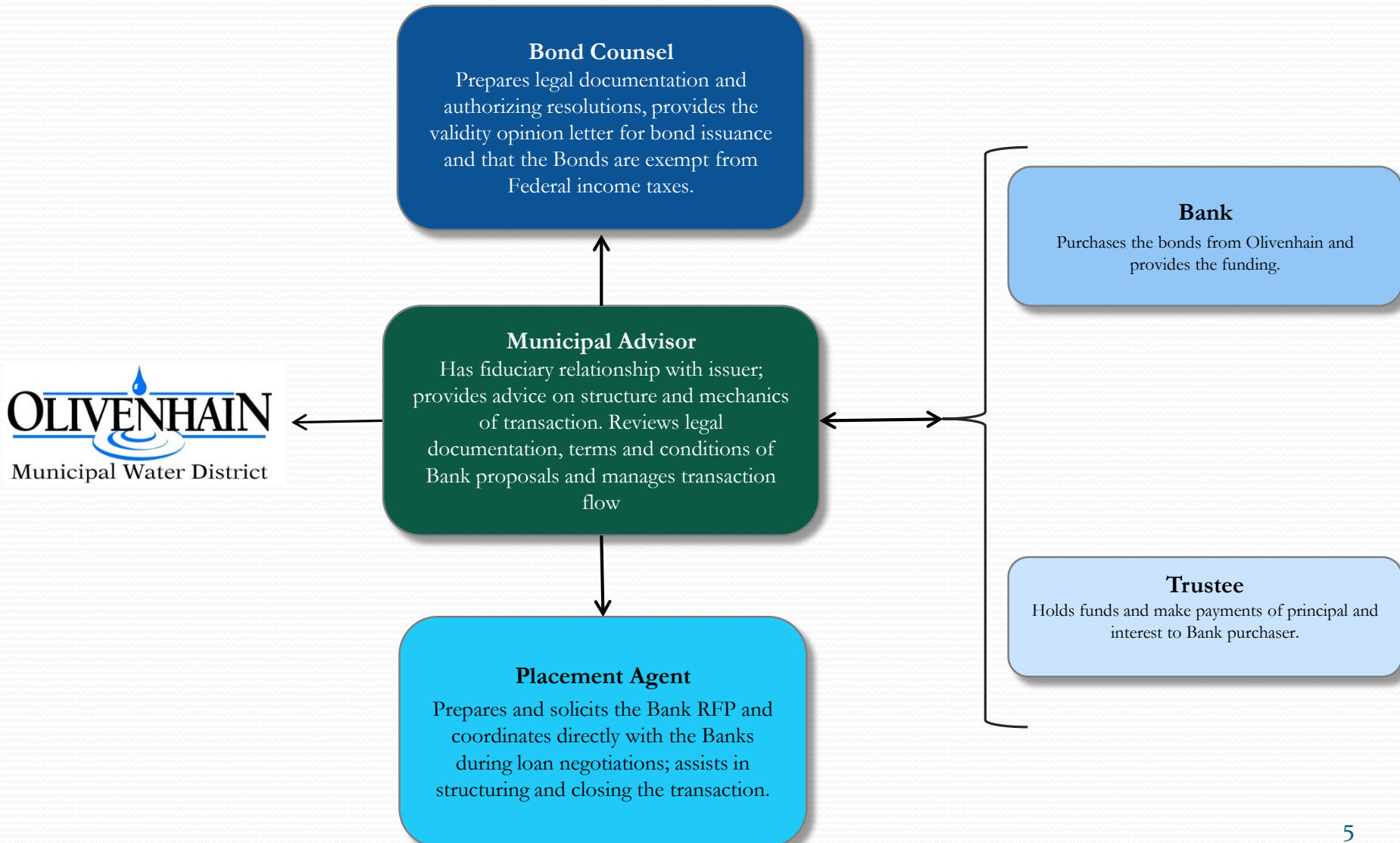
Rates are still low

Current "AAA" MMD and Percentage of Time Historical "AAA" MMD has been Lower than Current "AAA" MMD
from January 2, 1998 through August 27, 2021



2021 Bonds Team

Roles and Responsibilities



Debt Financing Update

- Municipal Advisor: Fieldman Rolapp and Associate
- Bond Counsel: Stradling Yocca Carlson & Rauth
- Placement Agent: Hilltop Securities
- Trustee: US Bank
- Bank: TBD
- Progress:
 - Finalized Bid Forms
 - Distributed Bid Terms with Bid Forms on August 20, 2021 to eighteen banks
 - Bid Due: September 3, 2021
 - Substantially final legal documents will be brought before the Board in October

Debt Financing Timeline

Date	Description
Tuesday, August 3, 2021	Finance Committee Meeting to review and approve: a) Financing plan and process b) Financing team selection c) Resolution of Intent to Issue Tax-exempt obligations
Friday, August 20, 2021	Distribute Private Placement Bank RFP
Wednesday, September 8, 2021	Board Meeting to approve to provide update on financing and to adopt Resolution of Intent
Wednesday, September 8 , 2021	Received Bank RFPs
Wednesday, September 22, 2021	Finance Committee Meeting: a) Review of Bank selection and bid results
Wednesday, September 29, 2021	Distribute drafts of legal documents
Wednesday, October 13, 2021	Board Meeting to approve and adopt: a) Resolution approving issuance of 2021 Installment Purchase Agreement(s) and forms of the legal documents
Tuesday, October 26, 2021	Pre-closing
Wednesday, October 27, 2021	Closing and receipt of funds Prepayment of prior CB&T 2018 Loan

Board Action Item and Next Steps

- Consider and adopt Reimbursement Resolution to allow the District to recover prior incurred capital costs (September 8, 2021)
- Finance Committee to review proposals and bid results at its next meeting (September 22, 2021)
- Board to approve resolution approving issuance of 2021 Installment Purchase Agreement(s) and forms of the legal documents (October 13, 2021)
- Tentative Closing Date: October 27, 2021

Questions?

Memo

Date: September 8, 2021
To: Olivenhain Municipal Water District Board of Directors
From: Geoff Fulks, Operations Manager
Jason Hubbard, Engineering Manager
Via: Kimberly A. Thorner, General Manager
Subject: **CONSIDER ADOPTION OF AN ORDINANCE AMENDING THE DISTRICT'S ADMINISTRATIVE AND ETHICS CODE (Article 6 – Regulations Governing Purchases & Surplus Sales)**

Purpose

The purpose of this agenda item is to update Article 6 of Olivenhain Municipal Water District's (OMWD) Administrative and Ethics Code. Updating Article 6 is an Annual Objective for 2021 to bring the policy in-line with industry standards.

Recommendation

Staff recommends that the Board adopt the Ordinance amending OMWD's Administrative and Ethics Code with the noted revisions.

Background

The purpose of Article 6 of the Administrative and Ethics Code is to ensure procurement decisions made by OMWD are in compliance with state regulations, are transparent and accountable, set fair procedures for awarding contracts and provide clear expectations. The last revision to OMWD's Article 6 was made on May 17, 2017 and did not include adjustments of purchase authority limits.

The proposed updates are intended to bring OMWD's procurement policies and processes up-to-date, and in-line with industry best practices. The suggested updates, if approved, will create more efficient and transparent processes, will provide more flexibility for critical operational needs, and will bring purchase authority limits to current levels based on past rates of inflation.

Finance Committee Directors Watt and Guerin and General Counsel have reviewed the updates and recommended bringing this item to the full Board.

Fiscal Impact

There is no fiscal impact associated with amending this section of the Administrative and Ethics Code.

Discussion

Key updates to Article 6 include:

- Define Single and Sole Source Procurement
- Creation of Single and Sole Source Procurement Form
- Increase Authority and Change Order Limits based on CPI
- Define Pre-Qualification process
- Remove language referencing Annual Budget
- Additional definitions of Exceptions to Competitive Bidding Requirements
- Additional definitions to the Professional Service Contracts Selection Policy

Staff is available for discussion with the Board during the meeting.

ORDINANCE NO. 4XX

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE OLIVENHAIN MUNICIPAL WATER DISTRICT AMENDING THE DISTRICT'S ADMINISTRATIVE AND ETHICS CODE (*Article 6 – Regulations Governing Purchases and Surplus Sales*);

BE IT ORDAINED by the Board of Directors of Olivenhain Municipal Water District as follows:

SECTION 1: Article 6 of OMWD's Administrative and Ethics Code, Organization of Board of Directors, is hereby revised to read as shown on Exhibit A (attached).

PASSED, ADOPTED AND APPROVED at a regular meeting of the Board of Directors of the Olivenhain Municipal Water District held on September 8, 2021 by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Lawrence A. Watt, President
Board of Directors
Olivenhain Municipal Water District

ATTEST:

Robert F. Topolovac, Secretary
Board of Directors
Olivenhain Municipal Water District

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	Title: REGULATIONS GOVERNING PURCHASE & SURPLUS SALES (EXCLUDING FINANCIAL INVESTMENTS)	
	Latest Revision Date May 17, 2017 September 8, 2021	Ordinance No. 4XX

ARTICLE 6. REGULATIONS GOVERNING PURCHASES & SURPLUS SALES

Sec. 6.1.A. revised by Ordinance No. 4XX / ~~November 2, 2016~~ September 8, 2021

Sec. 6.1. General.

- A. Each purchase shall follow the appropriate procedures identified for that type of purchase. Separate procedures have been established for the procurement of supplies, equipment, non-professional services, public works contracts, and professional services contracts.
- B. The Board reviews and approves an ~~annual~~ budget authorizing the purchase of materials, supplies, equipment and inventory; funding for capital items and projects; professional services and the general operation of the District's potable water, recycled water, wastewater, and Elfin Forest Recreational Reserve.

~~G. A Sole Source purchase is one where there is only one vendor capable of providing a good or service making it impossible to obtain competitive bids. A Single Source purchase is one where there are multiple sources of supply but the purchase should be made from a specific vendor for particular reasons. Few situations should arise that justify Sole or Single Source procurement, and such situations must be thoroughly analyzed before determining a non-competitive environment for a purchase exists. Sole or Single Source procurement may be conducted if: the purchase item is obtainable only from that vendor based on availability and compatibility criteria or in emergency circumstances. Sole source purchases shall be supported by written documentation (hard or electronic copy) approved and authorized by the General Manager and forwarded and maintained in a project or accounts payable file. Final authorization of a sole source purchase will be approved according to the purchasing procedures identified for each type of purchase.~~

(a) the purchase item is unique or obtainable only from that vendor based on availability; (b) replaces like-in kind equipment or facilitates effective maintenance, or avoids disruption to critical processes, such as water meters, pumps and motors and online analyzers; (c) when it is in the best interest of the District, avoids start-up costs, avoids interruptions to District business or good business practices; or (d) an emergency is declared by General Manager in accordance with Section 3.2.1.

Sole or Single Source purchases shall be supported by written documentation and an approved Sole or Single Source form (hard or electronic copy) authorized by and within the General Manager or Assistant General Manager authorized limits (Sec. 6.2).

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For Sole Source procurements, such documentation shall include an explanation of: (a) the unique nature of the requirement; (b) the basis upon which the District determined that there is only one known vendor able to meet the need; (c) the steps taken to identify potential competitors; and (d) the basis upon which the District determined the cost to be reasonable.

For Single Source procurements, such documentation shall include: (a) the circumstances leading to the selection of the vendor; (b) the alternatives considered; (c) the rationale for selecting the specific vendor; and (d) the basis upon which the District determined the cost to be reasonable. Examples for documenting a reasonable fair market cost for Sole Source and Single Source procurements may include, but are not limited to, market surveys, records of previous similar purchases, a comparison of product catalogs, published price lists, consulting other purchasing officials, or other factors within the District's professional expertise and experience.

Approved Sole or Single Source procurement form and documentation shall be maintained in a project or accounts payable file and held per retention policy. Final authorization of Sole and Single Source purchases will be approved according to the purchasing procedures identified for each type of purchase.

- A. Any ~~item~~ expenditure exceeding ~~\$50,000~~ \$75,000 which is not provided for in the annual budget or appropriated by the Board of Directors will require approval by the Board of Directors prior to purchase, except for ~~items deemed to be of urgent necessity by the General Manager or designee. Non-Discretionary Purchases (Sec. 6.4-I) and expenditures deemed to be an emergency by the General Manager in accordance with Section 3.2.1. Items~~ Expenditures provided for in the annual budget shall be procured by the General Manager within the amount set in the budget.
- B. The General Manager shall execute all contracts on behalf of the District with the exception of routine annual maintenance and service contracts such as office equipment and facilities maintenance which may be executed by the department manager from which the contract originated within the authorization limits and competitive bidding requirements limits of Section 6.2.

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ARTICLE 6. REGULATIONS GOVERNING PURCHASES & SURPLUS SALES

Sec. 6.2. Authority Limits and Competitive Bid Requirements - Supplies, Equipment, and Non-professional services.

- A. Purchases up to ~~\$2,500~~ \$5,000 for supplies, equipment, and non-professional services shall be made at the discretion of the Department Supervisor without the need for a competitive bid.
- B. Purchases up to ~~\$15,000~~ \$25,000 for supplies, equipment, and non-professional services shall be made at the discretion of the Department Manager through the use of a competitive bid process when practical. At least three bids or quotes shall be obtained based on appropriate procedures identified for that type of purchase.
- C. Purchases up to ~~\$35,000~~ \$50,000 for supplies, equipment, and non-professional services shall be made through the use of a competitive bid process at the discretion of the Assistant General Manager. At least three bids or quotes must be obtained based on appropriate procedures identified for that type of purchase.
- D. Purchases up to ~~\$50,000~~ \$75,000 for supplies, equipment, and non-professional services must be made through the use of a competitive bid process at the discretion of the General Manager. At least three bids or quotes must be obtained based on appropriate procedures identified for that type of purchase.
- E. Purchases over \$75,000 for supplies, equipment, and non-professional services will require a formal bid process, including, but not limited to, the preparation and circulation of a request for a proposal to qualified sources, as determined in the discretion of the General Manager or designee, to permit reasonable competition consistent with the nature and requirements of the proposed purchases. If the supplies, equipment or non-professional service is not provided for in the budget, Board approval is required.

Sec. 6.3. Public Work Contracts

- A. Contractors for Public Work will be required to provide proof of insurance and other requirements according to applicable public contracting laws and regulations.
- B. Public Works Contracts for Work not exceeding \$35,000 shall be procured at the discretion of the General Manager. While not specifically required by this section, competitive quotations for public works are always encouraged and may be requested by the General Manager prior to approving the contract.

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- C. Public Works Contracts for Work exceeding \$35,000 not done by Force Account. When work is not to be done by the District itself by force account, and the amount involved is \$35,000 or more, and competitive bidding of the contract is required by law, any contract for such work shall be let to the lowest responsive and responsible bidder after publication of notice inviting sealed bids in a newspaper or periodical of general circulation to be designated by the General Manager for such time as shall be fixed by law. A canvas of all bids received shall be presented by the General Manager to the Board of Directors, together with a statement of the lowest responsive bid and the General Manager's recommendation on the bidder who should receive the award. Such recommendation shall be subject to approval by the Board of Directors prior to award of the contract on which bids were received. The Board of Directors may reject any and all bids, determine that a bid is non-responsive, determine that a bidder is not responsible, or take such further action.
- D. Pre-Qualification. The General Manager is hereby authorized to prequalify bidders. Bidders may be prequalified on an annual basis or on a project specific basis. Such prequalification shall be consistent with the requirements of the California Public Contract Code.

Sec. 6.4. Exceptions to Competitive Bidding Requirements: ~~Quotation and Bidding.~~ ~~The following purchases shall not be subject to the competitive quotation and bidding requirements contained in this section:~~

The competitive bidding policies specified in this article shall not apply in the following cases or circumstances:

- ~~A. Personal service contracts requiring a particular skill or ability.~~
- ~~B. Contracts for purchase of patented products.~~
- ~~C. Contracts for experimental or unique products.~~
- ~~D. The acquisition or disposition of real or personal property.~~
- ~~E. Where an emergency exists requiring completion of the work.~~
- ~~F. Contracts where competitive proposals or bids would be incongruous and would not result in any advantage to the District.~~

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~~G. Insurance coverage proposals.~~

~~H. All professional service contracts.~~

~~I. Any contract not required to be competitively bid under California law.~~

- A. Where an emergency has been declared by the General Manager in accordance with Section 3.2.1
- B. Sole or Single Source purchases as defined in Section 6.1.C.
- C. Any contract not required to be competitively bid under California law.
- D. A contract for the acquisition or disposal of any real property.
- E. A contract for the purchase of water or water rights.
- F. A contract for experimental or unique products.
- G. A contract for legal, engineering and other professional services.
- H. Contracts where competitive proposals or bids would be incongruous and would not result in any advantage to the District.
- I. Non-Discretionary Items – Payments to utilities, temporary employment agencies, software license renewals that support critical business activities, insurance providers, healthcare providers, national, state and local agencies that relate to regulatory or routine obligations and expenses essential to the District's ability to provide service approved in operating and capital budgets.
- J. Materials in instances where the work and materials are considered critical or may be purchased regularly using a blanket purchase order. Such items shall be bid periodically but not less than biennially in order to ensure best pricing:
 - 1. Asphalt and Concrete
 - 2. Aggregate (sand, base and similar materials)
 - 3. Treatment Chemicals
 - 4. Laboratory Supplies and Testing Services
 - 5. Office Supplies
 - 6. Warehouse Supply Purchases to Maintain Established Inventory Levels within Budget

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ARTICLE 6. REGULATIONS GOVERNING PURCHASES & SURPLUS SALES

- A. Each purchase shall be requested and executed using the appropriate form or document. The standard purchasing forms and documents, depending on type of purchase, shall be the purchase request, purchase order, bid package, Sole or Single Source procurement form, and service contract. Forms or documents can be submitted in hard or electronic copy.
All contracts and purchase orders (electronic or hard copy) must be approved and signed by authorized individuals.
- B. Approved purchase orders will be used for most purchases. Exceptions include items covered by other contracts, utilities and similar services recurring professional services, water purchases, postage, expense reimbursements, newspaper ads, subscriptions, petty cash items, and other items of similar nature.

Sec. 6.6. Surplus Sales.

- A. Surplus items having a saleable value shall be accumulated by District personnel and may be sold at the discretion of the General Manager or his/her designee. Surplus items with an estimated value in excess of \$500 for a specific category shall be appropriately advertised and either auctioned or sold on a negotiated basis depending upon the circumstances. The General Manager or his/her designee shall determine the method of sale and the objective shall always be to obtain the maximum benefit possible for the District. The Asset Disposal Form shall be completed on all surplus items sold or disposed of for auditing purposes. In the case of surplus property determined by the General Manager to be trash or scrap with De Minimus value, staff may dispose of the property in an appropriate manner
- B. All applicable laws governing sales of surplus District property shall be adhered to, including restrictions on District Board Directors, employees, and/or Directors or employees' relatives receiving such property.

Sec. 6.7. Delegation to General Manager

- A. The General Manager or his/her designee is authorized to negotiate for and enter into agreements for work to be done by consultants and contractors where the project has been previously approved by the Board of Directors and funds have been appropriated or budgeted. The General Manager or his/her designee shall comply with bidding requirements as contained in Article 6 of the Administrative Code.

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- B. Hydraulic analysis for subdivisions and line extensions shall be considered and, if appropriate, approved by the General Manager. The General Manager is authorized to execute the District's standard subdivision agreement with the developer or proponent.
- C. The General Manager is authorized to approve the transfer in writing of water commitments from one owner to another in accordance with Article 13, Section 13.8.K of the District's Administrative Code.

Sec. 6.8. Regulations Governing Change Orders ~~for District Contracts for the Construction of Public Works~~

The General Manager shall have certain authority for the signing of change orders governing District contracts. This authority shall extend only to projects that have Board approved appropriations in sufficient amounts to cover the costs of the change order(s). Change orders shall be presented to the Board of Directors at the earliest opportunity for their information and/or approval.

- A. Change orders less than ~~\$50,000~~ ~~\$75,000~~ may be approved and signed at the discretion of the General Manager.
- B. Change orders totaling more than ~~\$50,000~~ ~~\$75,000~~ per contract shall be reviewed and approved by the Board of Directors.
- C. Construction Change Orders decreasing the contract value or No-Cost Construction Change Orders may be executed by the Department Manager.

Sec. 6.9. Professional Service Contracts Selection Policy

Professional service providers are those entities that provide advice, opinions, technical expertise, general and administrative services to support the District's potable water, recycled water, wastewater, and Elfin Forest Recreational Reserve operations. Examples of professional service providers include attorneys, accountants, financial consultants, banking services, invoice processing and bill pay providers, public relations professionals, educational trainers, engineers, surveyors, material and special inspectors/testers, construction managers, realtors, right-of-way service providers, landscape service providers, information technology specialists, etc. Depending upon the trade, these individuals may or may not hold professional licenses.

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- A. For professional service contracts that are anticipated to be less than \$200,000, staff shall provide written or oral Requests for Proposals (RFPs) to at least two firms. A short form RFP is acceptable. No rating/interview panel is required. ~~Approval criteria shall include, but not be limited to, experience, expertise, availability and qualifications of consultants staff, completeness and responsiveness of proposal, and cost.~~
- B. For professional service contracts that are anticipated to ~~be between~~ exceed \$200,000 ~~to \$500,000~~, staff shall request proposals in writing to at least three firms. A detailed RFP shall be used. An in-house panel shall be established for rating/interviewing and shall consist of at least one person from a different department than the one conducting the detailed RFP process. ~~The in-house panel may conduct interviews at the discretion of the department manager for the department conducting the detailed RFP process. Approval criteria shall include, but not be limited to, experience, expertise, availability and qualifications of consultants staff, completeness and responsiveness of proposal, and cost.~~
- ~~C. For professional service contracts that are anticipated to exceed \$500,000, staff shall provide formal written requests to at least three firms. A detailed RFP shall be used. An in-house panel shall be established for rating/interviewing and shall consist of at least one person from a different department than the one conducting the RFP process. In addition, an outside person from another agency or organization having experience or expertise in the services being requested shall also be on the rating interview panel.~~
- D.C. Where it is apparent that an RFP process would be incongruous and would not result in an advantage to the District, an exception to the foregoing processes may be granted. Exceptions may include where the staff is looking for a particular skill or ability, or where a consultant is already providing current services for the District and there would be economies and efficiencies of scale by continuing with the consultant. Emergencies are also exempted from the RFP process. Staff shall consult with the General Manager and his/her designee prior to commencing the selection process in order to review if the exception to the standard procedures is warranted.
- E.D. Authority Limits and Amendment Requirements

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1. Purchases up to \$5,000 for professional services and amendments shall be made at the discretion of the Department Supervisor.
2. Purchases up to \$25,000 for professional services and amendments shall be made at the discretion of the Department Manager.
3. Purchases up to \$50,000 for professional services and amendments at the discretion of the Assistant General Manager.
4. Purchases up to \$75,000 for professional services and amendments at the discretion of the General Manager.
5. Purchases over \$75,000 for professional services and amendments not provided for in the budget, Board approval is required.

Memo

Date: September 8, 2021
To: Olivenhain Municipal Water District Board of Directors
From: Kimberly A. Thorner, General Manager
Subject: **CONSIDER UPDATE ON THE COVID-19 EMERGENCY DECLARATION**

Purpose

The purpose of this Board item is to provide an update on the COVID-19 Emergency Declaration. The General Manager declared an emergency on March 12, 2020 and the Board has received updates of this emergency declaration at all subsequent Board Meetings. The Board shall receive an update of the General Manager's emergency action at subsequent Board Meetings until we are no longer in the state of emergency.

Recommendation

This is an informational update pursuant to the Administrative and Ethics Code §3.2.1. No Board action is required. To date, twelve employees have gotten COVID-19 and there has been two breakthrough cases but there has been no workplace outbreak.

Background

Pursuant OMWD's Administrative and Ethics Code §3.2.1, it is under my authority as the General Manager to declare an emergency if there is an unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent and mitigate the loss or impairment of life, health, property, or essential public services. COVID-19 poses an imminent danger to the health of OMWD employees and customers. After notifying the Board via email, I declared a state of emergency regarding COVID-19 on March 12, 2020 based on the threat of the spreading pandemic.

There have been a series of email communications with the Board, staff, teleconferences with other General Managers in the County, and multiple messages conveyed to customers ensuring that OMWD's water is safe. The chart below shows the ongoing efforts we are taking here at OMWD to help navigate and mitigate the COVID-19 emergency while remaining prepared and reliable to our customers and community.

CORONAVIRUS (COVID-19) ACTIONS

DATE	ACTION
February 2020	OMWD began actively monitoring situation.
March 5, 2020	Staff begins formulating outreach plan and design of OMWD's online COVID-19 Response Center.
March 9, 2020	Staff participated in regional meeting regarding COVID-19 at the San Diego County Water Authority.
March 11, 2020	OMWD's online COVID-19 Response Center published.
	Social Media outreach regarding water safety during COVID-19.
March 12, 2020	Emergency Declaration made by GM to ensure critical supplies, parts, and inventory are in stock or can be purchased more freely. OMWD implemented Pandemic Response Plan.
	Staff advised not to report to work if they exhibit any signs or symptoms.
	Travel to large conferences, group meetings, and trainings by OMWD employees suspended until further notice.
	Public Tours of OMWD delayed until further notice. Events and workshops postponed.
	Laptops and phones to be ordered in anticipation of telecommuting needs.
	Elfin Forest Recreational Reserve's Interpretive Center closed until further notice.
March 13, 2020	OMWD's lobby temporarily closed until further notice.
	Disconnection moratorium for customers facing financial difficulty.
March 16, 2020	Staff advised not to report to work if family/friends/people they have interacted with exhibited any symptoms.
	Employees can work remotely or on alternate schedules, so long as essential services are not interrupted.
	All non-vital construction, outside work, and outside meetings are cancelled.
	Social distancing policies implemented within the District. (E.g. no sharing vehicles, no congregating, etc.)

	OMWD Sick Time Bank established for employees to donate sick leave to those who do not have enough accrued sick time to meet their needs, thereby encouraging employees to call in sick if needed.
March 17, 2020	OMWD's Emergency Operations Center plans reviewed in order to prepare should it be activated.
	General Manager participates on region-wide water teleconference regarding status of all water agencies. All agencies commit to mutual aide, especially at the operator level. OMWD begins providing San Diego County Water Authority and San Diego County Office of Emergency Services with daily status updates via WEBEOC.
March 18, 2020	OMWD's regularly scheduled board meeting transitioned to teleconference format.
March 21, 2020	California Public Utilities Commission informed that OMWD has initiated a temporary disconnection moratorium.
March 22, 2020	OMWD's Elfin Forest Recreational Reserve closed until further notice.
March 23, 2020	OMWD participated in second teleconference meeting regarding wastewater mutual aid with SEJPA, LWWD, VWD, Oceanside, Carlsbad, and Encina.
	Finance Department creates account to track costs associated with COVID-19.
March 24, 2020	Schedules further modified to ensure as much social distancing as possible; operations divisions separated into alternating teams to allow for separation on a weekly basis. Teams not working are to stay home, safe and sober in the event of an emergency need. Remaining administrative employees authorized remote working capability with laptops.
March 25, 2020	Deployed additional laptops to enable additional employees to work from home.
	Filmed informational video about the safety of our water that will be released in the near future.
	Prepared a list of shovel ready projects to CWA.
March 26, 2020	Sent an informational mailer to all customers regarding the safety of their water supply.
	Secured adequate supply of N95 masks for employees.
March 27, 2020	Staff has contacted certified retired operators to determine their ability to provide support in the event our current staff was impacted.
March 30, 2020	Made and distributed hand sanitizer to be used as needed.
	OMWD participated in third teleconference meeting regarding wastewater mutual aid with SEJPA, LWWD, VWD, Oceanside, Carlsbad, and Encina.
March 31, 2020	Posted an informational video about the safety of our water on website and social media.

April 3, 2020	Secured Zoom meeting software license; Reviewed security protocols to ensure a safe and successful meeting.
April 6, 2020	Ordered cloth masks for each employee to take home and have while out in the community
	Provided one dust mask and gloves for employee significant others and family members who you are exposed to on a daily basis to wear while out in the community.
April 7, 2020	Participated in an EPA COVID-19 Webinar
	Provided employees with an Essential Worker letter in the event that they are stopped by law enforcement while on the clock.
April 15, 2020	Submitted a Request for Public Assistant (RPA) to FEMA within 30 days of our area being designated in the emergency declaration. OMWD anticipates submitting for costs that were incurred outside of normal business practices to respond to the emergency, including additional overtime paid due to the isolation of employees in shifts.
	Participated in an ACWA webinar: COVID-19 Response: Understanding the Financial Aspects.
	Distributed COVID care package supplies to Board Members with sanitizer, masks, and gloves.
April 16, 2020	Received 275 gallons of hand sanitizer to distribute to all OMWD facilities.
April 23, 2020	Participated in the ACWA Brown Act COVID Webinar.
April 28, 2020	Discussed transitioning efforts with Managers and Supervisors.
	Established guidelines for contractor work at the DCMWTP.
May 1, 2020	Presented on a Governments COVID 19 Town Hall Webinar hosted by The Pun Group.
May 4, 2020	OMWD participated in third teleconference meeting regarding wastewater mutual aid with SEJPA, LWWD, VWD, Oceanside, Carlsbad, and Encina.
May 5, 2020	Prepared list of OMWD shovel ready projects to MWD.
May 11, 2020	OMWD participated in fourth teleconference meeting regarding wastewater mutual aid with SEJPA, LWWD, VWD, Oceanside, Carlsbad, and Encina.
	Per the May 10 County Order for essential workers, all employees are to wear face coverings while in public. Thermometers for temperature checks have been ordered.
May 12, 2020	Secured software to enable front desk phone rollover capabilities.
May 14, 2020	Provided COVID-19 IgG Antibody Testing for employees and family members.
May 20, 2020	Executed a Resolution for California Office of Emergency Services (Cal OES) and Federal Emergency Management Agency (FEMA) Funding for expenditures incurred by the District as a result of the COVID-19 Pandemic.

May 26, 2020	Replaces the podium PC in the Boardroom that had Zoom issues.
June 1, 2020	Modified employee work schedules to stagger shifts and isolate, ended the shelving of employees.
	Created a Telecommuting Policy; currently under management review.
June 2, 2020	Hosted an Employee Forum via Zoom.
June 15, 2020	Reopened the Elfin Forest Recreational Reserve with the following restrictions: require that visitors have face coverings at all times and they must be worn when six feet of social distancing is not possible.
June 15, 2020	Slowly started to increase in office presence with fewer telecommuting shifts.
June 17, 2020	Revised the Annual Goals and Objectives to reflect the impacts of COVID-19.
June 19, 2020	Reminded employees that masks should be worn outside of offices in the halls and/or when in a meeting when unable to stay 6 feet apart.
June 22, 2020	Reopened the Lobby with the following restriction: visitors and receptionist to wear face masks.
June 26, 2020	Moved back to increased telecommuting and split shifts due to COVID surge.
June 30, 2020	Closed lobby due to non-compliance with the County Health Order requiring all visitors to wear facial coverings.
July 22, 2020	Implemented employee temperature and COVID-19 symptom certification portal, with mandatory/daily reporting.
July 29, 2020	Implemented emergency sick leave for employees through the end of the calendar year to cover the time off pursuant to the Families First Coronavirus Act (FFCRA). The emergency sick leave time will only be for COVID-19 quarantine related situations and separate from normal sick leave.
July 30, 2020	Review emergency telecommuting policy with managers for implementation in August.
August 1, 2020	Continued split schedules, remote site reporting, distancing, and telecommuting for all employees.
August 31, 2020	Started research on the August 8 Executive Order for payroll tax deferral and its applicability to OMWD.
September 1, 2020	Implemented Telecommuting Policy District wide.
	EOC books updated.
September 15, 2020	Switched to regional reporting to SDCWA to once per week versus daily.

September 22, 2020	Directed supervisors to continue split schedules, telecommuting, remote site reporting, and distancing through at least the end of November. Will revisit as needed.
September 22, 2020	Updated all supervisors on new legislation regarding COVID outbreaks in the workplace and employee notification.
October 28, 2020	Reminded all employees on the importance of resisting COVID fatigue.
November 4, 2020	Requested Supervisors prepare plans in case San Diego gets second Purple Tier rating on 11/10/20.
November 10, 2020	Implemented increased distancing/remote work, modifications to use of Wellness Center, switch to Zoom meetings if unable to distance, lobby remains closed, reinforced importance of mask wearing and daily self-reporting.
November 19, 2020	Reminded employees to have the essential worker letter if out on OMWD business, duty calls, or leaks, etc., past the curfew.
December 1, 2020	Began working with staff on plan for the reinstitution of late charges in 2021.
December 1, 2020	Implemented further distancing work from home schedules due to purple tier.
December 8, 2020	Prepared social media posts for OMWD's COVID preparedness and response.
December 17, 2020	Signed on to a Vaccine Coalition letter to the California Community Vaccine Advisory Committee regarding prioritization of water sector essential critical infrastructure workers for COVID vaccination.
December 21, 2020	Email to all employees about COVID reporting requirements.
January 19, 2021	Ordered hands free door openers for bathrooms.
January 25, 2021	Divided the District into 6 separate workplaces (pods) with physical barriers to separate pods, closed Wellness Center to those without a COVID vaccine, shut down the ice machine, modified warehouse access with new procedures, secured mass testing if needed, approved the purchase of new air filters for the HVAC system that are MERV 13 rated, and secured a contract for industrial cleaning services in case of an outbreak in a pod.
February 1, 2021	Created a COVID Task Force with employee representatives from each pod that will meet bi-weekly.
February 9, 2021	Held a COVID Task Force Meeting.
February 22, 2021	Held a COVID Task Force Meeting.
February 23, 2021	Addressed respirator N95 needs, porta potties deployed, and more sanitizer.

March 2, 2021	Contacted the County of San Diego and determined vaccine eligibility for emergency operations center (EOC) employees, duty operators, and those on call to respond.
March 4, 2021	Distributed individual approval letters to employees as emergency service workers to schedule vaccine appointment.
March 8, 2021	Coordinated with SDCWA on CALFire vaccinations for OMWD employees.
March 22, 2021	Held a COVID Task Force Meeting.
March 23, 2021	Employees eligible to sign up for CALFire vaccinations.
March 30, 2021	Joined CSDA Coalition on COVID relief for Special Districts.
April 15, 2021	Held a COVID Task Force Meeting.
April 19, 2021	HR coordinated a COVID Wellness Challenge
April 29, 2021	Email to all employees about the path moving forward – removing the pod walls, vaccinated employee exposure requirements, targeted lobby re-opening, self-certification form, and meeting requirements, and reminded employees that mask wearing and social distancing is still required at OMWD subject to OSHA requirements.
May 4, 2021	Held a COVID Task Force Meeting.
May 5, 2021	Removed the Pod walls.
May 10, 2021	Reopened the front lobby.
May 11, 2021	Email to all employees about continued mask wearing until OSHA guidelines are updated, self-certification on Target Safety, and schedules starting late May/early June.
June 9, 2021	CALOSHA voted unanimously to withdraw the revisions approved on June 3 that are currently at OAL for review but have not yet become effective. CALOSHA will review the new mask guidance and bring any recommended revisions to the board. All OMWD precautions will remain in effect until the CALOSHA meeting and decision.
June 9, 2021	Held a COVID Task Force Meeting.
June 15, 2021	Email to all employees on the updated CalOSHA ruling – fully vaccinated employees do not have to wear masks, provide proof or self-attest, social distancing rules no longer apply, and N-95 masks are available for any employee who wants one. These revised regulations will be in effect for 210 days, unless they revisit it earlier in the event of a surge in statewide cases.
June 22, 2021	Email to all employees that the wellness facility may now be used at 50% capacity. If not vaccinated, you can use the facility, but must be masked.

July 21, 2021	Held a COVID Task Force Meeting.
July 23, 2021	Email to all employees with a reminder of the COVID guidelines – self certification on Target Safety, mask wearing if unvaccinated.
July 27, 2021	Email to all employees regarding the CDC's new guidance asking employees who are vaccinated to use their own discretion on mask wearing indoors at this time, and not mandating employee vaccinations (or weekly testing) at this time.
August 21, 2021	Re-instituted masks required indoors immediately unless you are in your office alone with door shut and asked that meetings be Zoom whenever possible.
August 31, 2021	Held a COVID Task Force Meeting

Fiscal Impact

Staff has reviewed all mission critical chemicals, supplies, parts, and inventory on hand and was instructed to order 120 days of mission critical supplies and chemicals to store here at OMWD. OMWD is using funds from Water and Wastewater Operating Reserves to pay for these expenditures, as water sales have been lower than projected through March 2020 due to weather conditions. Total expenditures in the categories of information technology, inventory, supplies, and customer service total \$322,841.34 as of the publishing of this memo. Of this amount, only \$124,954.15 represents special expenditures that would not have otherwise been incurred but for the COVID-19 pandemic. The remaining \$197,887.19 of expenditures represents parts, supplies, chemicals and materials that were ordered earlier than normal in order to have 5 to 6 months of supplies, materials, chemicals and parts on hand in case of lack of availability. The chart below reflects the COVID-19 expenditures incurred since March 12, 2020. OMWD submitted a Request for Public Assistant (RPA) to FEMA on September 18, 2020. OMWD has submitted for costs that were incurred outside of normal business practices to respond to the emergency, including additional overtime paid due to the isolation of employees in shifts. To date, OMWD's FEMA claim is still pending and we are awaiting direction as to what will be reimbursed. OMWD's FEMA representative indicated that the delay is due to the Presidential transition and that FEMA has been prioritizing vaccine projects.

COVID-19 Expenditures Incurred Since March 12, 2020

Item	Cost	Category	Note
Laptops	30,605.96	Information Technology	15 laptops
Laptop backpacks	486.33	Information Technology	15 laptops

Zoom meetings	2,398.80	Information Technology	
Duo 2 FA	980.00	Information Technology	
Mitel IP Phone Licenses	1,290.00	Information Technology	
Jabra headsets	645.24	Information Technology	
Sonim phones	611.55	Information Technology	
Samsung phones w/ Case and Hotspot	2,171.00	Information Technology	
Wireless mice & misc. supplies	528.47	Information Technology	
Bluetooth keyboards & mice, headsets, and phone chargers	440.47	Information Technology	
Spray bottles for sanitizer	940.00	Supplies	
Hand soap	817.00	Supplies	
Gloves, Glycerol, Hydrogen Peroxide, Distilled Water, batteries, safety glasses, and stock up of other warehouse supplies	7,957.06	Supplies	Warehouse supplies for the next 5-6 months.
Pinesol disinfectant	459.00	Supplies	
Janitorial supplies – hand wipes, paper towels, trash bags, cleaner, hand soap, facial tissue, bleach, toilet paper, hand sanitizer, etc.	9,352.33	Supplies	Janitorial supplies for the next 5-6 months.
Dust masks (not N95)	322.71	Supplies	
Hand sanitizer packets	397.33	Supplies	
Propanol	515.23	Supplies	
Pacific Pipeline Supply- hydrants, gate valves, copper pipe, repair couplings, and various other inventory items	100,714.07	Inventory	Inventory restock for the next 5-6 months.
AquaMetric - meters	68,954.48	Inventory	Inventory restock for the next 5-6 months.

Hach - Laboratory supplies - reagents and other supplies (WTP)	4,738.00	Supplies	6 month supply
IDEXX - Laboratory supplies - BAC-T bottles (WTP)	315.08	Supplies	120 day supply
Nalco - Water treatment chemicals - 7768 polymer barrels, four 55 gallon drums (WTP)	5,053.83	Supplies	
Sterling Water Technologies - Water treatment chemicals - ACH coagulant 2,000 gallons to top off tank (WTP)	8,759.40	Supplies	
Traffic cones to block off street parking (EFRR)	385.21	Supplies	
Custom COVID-19 park closure signs (EFRR)	221.10	Supplies	
COVID-19 Safety of Your Water Postcard - printing and mailing	9,559.69	Customer Service	Quantity sent: 25,584 postcards
Hair Trigger LLC - Hand Sanitizer	15,015.63	Supplies	Qty. 55 - 5 gallon buckets
Masks, disinfectants, hand soap, DIY hand sanitizer supplies	1,921.24	Supplies	
Barricades (EFRR)	56.01	Supplies	
Hydrogen peroxide, propanol for DIY cleaners	922.48	Supplies	
Disposable gloves	556.19	Supplies	
N95 Masks	242.44	Supplies	
Masks for employees	1,293.50	Supplies	
Containers for hand sanitizer	53.17	Supplies	
Propanol	412.19	Supplies	
Disposable gloves	1,559.72	Supplies	
Reusable masks	118.01	Supplies	
Hydrogen peroxide for DIY cleaners	161.85	Supplies	

Disinfectants, hand sanitizer packets, reusable masks, spray bottles, disposable gloves	2,019.92	Supplies	
Fork/Spoon/knife dispensers	47.97	Supplies	
Hydrogen peroxide for DIY cleaners	107.90	Supplies	
Cleaning wipes	2,248.56	Supplies	
Reusable masks	1,787.86	Supplies	
Thermometers, batteries for thermometers, bins to hold thermometers, bottles for hand sanitizer.	2,940.38	Supplies	
Disinfecting wipes, hand sanitizer, cleaning supplies	1,694.39	Supplies	
Custom COVID-19 park signs (EFRR)	738.24	Supplies	
Disinfecting wipes, alcohol wipes	467.61	Supplies	
Washable Masks (Qty. 400)	1,869.61	Supplies	
N95 masks (Qty. 1,000)	5,710.75	Supplies	
N95 masks (Qty. 130), spray bottles, utensil dispensers, thermometers, touchless soap dispensers, reusable masks (Qty. 250), hand soap	6,959.25	Supplies	
Customer COVID-19 courtesy letters for past due accounts	1,546.51	Customer Service	
Touchless items for Building D including: touchless soap dispensers, touchless paper towel dispensers, hands-free trash cans,	1,656.20	Supplies	
Wall-mounted forehead thermometer (touchless)	109.90	Supplies	
Disposable masks (Qty. 950)	292.82	Supplies	
Disposable masks (Qty. 1,000), alcohol wipes (24 packs)	672.32	Supplies	

Thermometers (5), Surface disinfectant spray (49), alcohol wipes (24 packs).	704.70		
Surface disinfectant, alcohol wipes, disposable face masks	628.42	Supplies	
Materials for temporary walls to divide Building D into pods.	658.29	Supplies	
N95 Masks (Qty 300), disinfectant	1,384.34	Supplies	
Heating, Ventilation, and Air Conditioning (HVAC) Filters	3,868.00	Supplies	
Disposable masks (Qty. 1,500)	398.35	Supplies	
N95 masks (Qty. 80) and thermometers (Qty. 3)	177.76	Supplies	
Disposable masks (500), N95 masks (240), alcohol wipes.	1002.20	Supplies	

Category	Total
Information Technology	40,990.12
Inventory	169,668.55
Supplies	101,076.47
Customer Service	11,106.20
Grand Total	322,841.34

Discussion

OMWD will continue to take proactive measures to stay ahead of the curve while keeping customers supplied with safe and reliable drinking water. Monthly COVID-19 emergency updates will continue at each subsequent board meeting until further notice. The district will continue our objectives to protect the health and safety of employees and customers; and ensure the continuity of business operations.

OMWD is proud to not have had a workplace outbreak nor any workplace transmission of COVID due to the proactive measures since February of 2020.

Memo

A

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS
PRESIDENT

Any report will be oral at the time of the Board meeting.

Memo

B

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS
GENERAL MANAGER

There will not be a written report this meeting; any oral report will be provided at the time of the Board Meeting. There will be two written reports at the October Board Meeting.

Memo

C

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS
CONSULTING ENGINEER

Any report will be given orally at the meeting.

Memo

D

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS

GENERAL COUNSEL

Any written report will be attached; any oral report will be provided at the time of the Board Meeting.



TO: Olivenhain Municipal Water District

FROM: Alfred Smith

DATE: September 8, 2021

RE: Attorney Report: Clean Water Act Update
150152-0005

I. INTRODUCTION.

On August 4, 2021, the U.S. Environmental Protection Agency (“EPA”) and U.S. Army Corps of Engineers (“Army Corps”) announced the start of a long anticipated rulemaking process to revise the regulatory definition of “waters of the United States” (“WOTUS”) under the federal Clean Water Act (“CWA”). The WOTUS Rule sets forth the geographic reach of the federal government’s authority to regulate streams, wetlands and other water bodies pursuant to the CWA.

This most recent proposal from the Biden Administration seeks to replace one of the Trump Administration’s most controversial environmental regulations, which is now viewed by the federal government as significantly reducing clean water protections. The new rule is expected to focus on restoring federal regulation to ephemeral streams, ditches and adjacent wetlands.

Notably, however, the rule that the Biden Administration now seeks to replace was hailed by the regulated community as a welcome check on agency overreach, providing clarity and reducing the time it takes the federal government to make a determination of jurisdiction. The Trump-era rule redefined what qualified as “waters of the United States,” narrowed waterways that were covered by federal Clean Water Act regulation, and allowed project developers to avoid seeking federal permits for work that could impact those waters.

Although there is no set timeline for the Biden Administration proposal, it is expected that the process will take at least two to three years to complete given the public notice and comment process. Litigation following the rule’s promulgation is anticipated. Litigation upon the rescission and replacement of the existing rule is also deemed likely.

The *Federal Register* notice states that the EPA and Army Corps will follow a two-step rulemaking process. First, the two agencies will propose a “foundational” rule to rescind the Trump Administration’s 2020 Navigable Waters Protection Rule (“NWPR”), and temporarily replace it with the regulatory definition in use prior to the

Obama Administration's 2015 WOTUS rule. In other words, the 1986 definitions of WOTUS would again control agency decision-making.

Second, the federal agencies will undertake a rulemaking process to "build upon" the foundational rule and to propose a new definition. This process is similar to the approach that the Trump Administration took when rescinding and prioritizing the replacement of the 2015 Obama Rule.

II. BACKGROUND AND THE NWPR RULE.

The 2020 NWPR Rule interprets the term "waters of the United States" to encompass four basic classifications of jurisdictional waters set forth in 33 C.F.R. § 328.3(a)(1)-(4):

- (1) the territorial seas and traditional navigable waters;
- (2) perennial and intermittent tributaries that contribute surface water flow to such waters;
- (3) certain lakes, ponds and impoundments of jurisdictional waters; and
- (4) wetlands adjacent to other jurisdictional waters.

The NWPR also includes a list of "non-jurisdictional" waters that are specifically excluded from the definition of "waters of the United States." The NWPR makes clear that all waters not specifically identified as "jurisdictional" in subsection (a), discussed above, are not jurisdictional. The list of categorically excluded waters includes ephemeral features that flow only in direct response to precipitation, including ephemeral streams, swales, ditches that are not tributaries, or diffuse stormwater runoff and stormwater control features constructed or excavated in upland or in non-jurisdictional waters to convey, treat, infiltrate or store stormwater runoff.

The Trump Administration's NWPR was being actively litigated when Biden won the 2020 presidential election. Rather than defend the rule, the U.S. Department of Justice requested a voluntary remand in order to propose a replacement. When initially announcing the intent to revise the NWPR rule on June 9, 2021, EPA Administrator Michael Regan stated that the EPA and Army Corps determined that the NWPR definition put in place by the Trump Administration "is leading to significant environmental degradation."

According to the Army Corps, the NWPR has led to "a 25 percentage point reduction in determinations of waters that would otherwise be afforded protection," with the most significant changes in Southwestern states. In particular, the categorical exclusion of "ephemeral" streams from the regulatory definition of a WOTUS was a significant change. Ephemeral streams are dry most of the year and have water only

due to precipitation. EPA stated that a new rule will establish "a durable definition of 'waters of the United States' based on Supreme Court precedent and drawing from the lessons learned from the current and previous regulations, as well as input from a wide array of stakeholders, so we can better protect our nation's waters, foster economic growth, and support thriving communities."

III. SUMMARY OF THE BIDEN ADMINISTRATION'S NOTICE.

The August notice from the Biden Administration makes clear that the federal agencies will focus on several key aspects of the WOTUS definition. First, EPA and the Army Corps stated they will focus on the science concerning the connectivity of streams and the scope of jurisdictional tributaries. Noting that ephemeral streams were categorically excluded from jurisdiction in the NWPR, the EPA and Army Corps seek feedback on whether consideration of several factors such as indicators of channelization, physical indicators such as indicators of ordinary high water mark, flow regime, flow duration, watershed size, landscape position, stream network density or distance from a traditional navigable water would mean that more tributaries should be regulated. These factors may also be used to, again, regulate ditches built in upland areas (which were categorically excluded under the NWPR). The agencies have made clear their intent to reconsider the regulation of streams and other waterbodies that lack regular flow.

The notice also announces the federal agencies' intent to reconsider the definition of "adjacent" wetlands. Noting that each regulatory definition of "waters of the United States" has taken a different approach in determining adjacency for purposes of jurisdiction under the CWA and to the jurisdiction of non-adjacent waters, the notice states that the 2015 Obama definition would have led to many more wetlands being regulated as "adjacent" than under the NWPR.

The notice also states that the EPA and Army Corps will identify "characteristics that could allow for clarity, implementability, and/or regionalization in defining adjacency and identifying jurisdictional waters -- including whether there are appropriate distances or other factors to limit adjacency, whether there are certain situations where case-specific significant nexus determinations would more appropriately determine jurisdiction, and whether there are certain types of waters with particular features or characteristics that could provide clear and implementable distinctions between jurisdictional and non-jurisdictional waters." This would expand beyond the current definition, which focuses on the necessity of a physical or hydrological connection.

The notice further states the agencies' intent to consider certain issues that are the foundation of the Biden Administration's regulatory regime, such as climate implications, environmental justice, and state and tribal interests. The notice states that the agencies will attempt to account for the effects of a changing climate in identifying jurisdictional waters and possibly focus on certain waters as important for protection.

Finally, the August notice solicits public feedback on the issues discussed above and announced a series of five virtual public hearings that will take place starting this summer. In addition, the agencies announced their intention to host a series of 10 field hearings to solicit feedback on regional differences regarding the impact of potential changes to the existing WOTUS regulatory definition.

IV. CONCLUSION.

It is clear that the Biden Administration seeks to make significant changes to the WOTUS rule under its belief that the current version has resulted in significant losses of streams and wetlands. The NWPR, however, has wide support among the regulated community, which notes that it allows local control by allowing the States to assume primary jurisdiction in water protection. The EPA and Army Corps' proposed two-step rulemaking process is likely to attract substantial public input and potential litigation upon the first step, and litigation inevitably upon the second.

The Biden Administration efforts to make changes to the WOTUS rule finds support in a recent District Court decision. On August 30, 2021, U.S. District Judge Rosemary Marquez invalidated the Trump-era revisions to the Clean Water Act. (*Pasqua Yaqui Tribe v. EPA*, D. Ariz., No. 4:20-cv-00266). In the *Pasqua* case, Judge Marquez, an Obama appointee, ruled that the Trump Administration's revisions had "fundamental, substantive flaws, counter to the law's intent."

In the *Pasqua* case, six Native American tribes sued the EPA and related parties alleging harm to the environment caused by the Trump-era revisions. The *Pasqua* litigation is one of multiple legal challenges against the Trump administration's repeal of the Obama-era NWPR, which expanded the scope of protected waters subject to federal regulation.

In July, the EPA and Army Corps asked Judge Marquez to remand the NWPR so the two agencies could take another look at the Trump administration's definition of "waters of the United States" that are subject to federal oversight. Judge Márquez noted in her August 30th court order that neither side opposed the federal government's request but emphasized the possibility of "serious environmental harm" without getting rid of the law entirely. Judge Marquez accordingly concluded:

"Making the EPA and Army Corps of Engineers reconsider the NWPR was not enough without also vacating the law, since letting it exist would risk serious environmental harm. The agencies published the NWPR notwithstanding feedback from the EPA Science Advisory Board that the NWPR conflicts with established science, disregards key aspects of the 2015 Connectivity Report, and weakens protection of the nation's waters in contravention of the CWA's objectives."

Unless the case is appealed, both the Trump and Obama rules are off the books, leaving the nation's waters to protection under the 1986 rule -- which environmentalists, farmers and developers alike criticized as being so contradictory and vague that it resulted in thousands of legal disputes over water pollution that dragged on for decades. One of the few things all sides could agree on about the 1986 rule was that it required a very complicated, time-consuming process to determine which water bodies were subject to federal regulation. The Biden Administration announced it will continue to move forward with the two-step rulemaking process announced in August, with the hopes of having a new Clean Water Act rule formulated in the next two years.

AES

Memo

E

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS

SAN DIEGO COUNTY WATER AUTHORITY REPRESENTATIVE

Any report will be oral at the time of the Board meeting.



SUMMARY OF FORMAL BOARD OF DIRECTORS' MEETING AUGUST 26, 2021

- 8.1 Monthly Treasurer's Report on Investments and Cash Flow.
The Board noted and filed the Treasurer's report.
- 8.2 Resolution establishing amount due from the city of San Diego for the In-Lieu Charge as a condition of providing water service for Fiscal Year 2022.
The Board adopted Resolution 2021-19 establishing an amount due of \$2,601,556.11 from the City of San Diego for the In-Lieu charge for Fiscal Year 2022.
- 8.3 Amendment to Professional Services Contract with Ace Janitorial Services, Inc. for Routine Janitorial Services.
The Board approved an amendment to the professional services contract with Ace Janitorial Services, Inc. for continued janitorial services to the Water Authority through August 31, 2022, for a period of 12 additional months, and increasing total contract funding by \$78,600, to an amount not to exceed \$157,200.
- 8.4 Approve Capacity Fee Refund to CornerStone Communities.
The Board authorized the General Manager to issue a capacity charges refund in the amount of \$154,500 to CornerStone Communities.
- 8.5 Coachella Mid-Canal Storage Project Cost-Sharing Agreement - Phase 1.
The Board authorize the General Manager to execute an agreement between the San Diego County Water Authority, the Coachella Valley Water District (CVWD), and the San Luis Rey River Indian Water Authority (SLR) for cost-sharing of activities related to the design and environmental review of the potential Coachella Mid-Canal Storage Project – Phase 1 for an amount not to exceed \$305,000.
- 8.6 Consideration to Approve 24-month Regional Communications and Outreach Service Contracts to Katz & Associates for \$360,000 and Southwest Strategies for \$120,000.
The Board authorized the General Manager to execute two 24-month contracts (from September 1, 2021 through September 30, 2023) for Regional Communications and Outreach Services with Katz & Associates for a total compensable contract amount of \$360,000 (exclusive of reimbursable expense allowance) over the contract term and a contract with Southwest Strategies for a total compensable contract amount of \$120,000 (exclusive of reimbursable expense allowance) over the contract term.
- 8.7 Approval of Minutes.
The Board approved minutes of the Special Administrative and Finance Committee Budget Workshops of June 8, 2021, June 10, 2021, and June 15, 2021 and the Formal Board of Directors' meeting of June 24, 2021.



8.8 Adopt resolution supporting candidates for President and Vice-President of the Association of California Water Agencies.

The Board adopted Resolution No. 2021-20 supporting Pam Tobin for President of the Association of California Water Agencies; Resolution No. 2021-21 supporting Cathy Green for Vice-President of the Association of California Water Agencies; and Resolution No. 2021-22 supporting Dana Frieauf for Vice-Chair of Region 10 for the Association of California Water Agencies.

Memo

F

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS
LEGISLATIVE REPORT

Any written report will be attached; any oral report will be provided at the time of the Board Meeting.

TO: Olivenhain Municipal Water District
FROM: Ashley Walker, Senior Policy Advisor, Nossaman LLP
Jennifer Capitolo, Jennifer M. Capitolo and Associates LLC
DATE: September 1, 2021
RE: August Public Policy Report

State Legislative Update:

2021-22 Legislative Session:

The Legislature reconvened from their Summer recess on August 16. The Legislature is still working on several budget trailer bills as we head into the final two weeks of session. There are also a few COVID-19 related bill proposals being discussed and debated with different industries for feedback. The final day of session is September 10. All bills must be in print for 72 hours prior to being voted on.

Executive Orders and Actions Related to Wildfires and COVID-19: This list is compiled from CalOES, California Health and Human Services, California Department of Public Health, and FEMA.

- August 25 - Governor Newsom announced that California has secured a Fire Management Assistance Grant (FMAG) from the Federal Emergency Management Agency (FEMA) to help ensure the availability of vital resources to suppress the French Fire in Kern County.
- August 24 - Governor Newsom announced that the White House has approved California's request for a Presidential Major Disaster Declaration to bolster the ongoing emergency response to wildfires and support impacted communities in Lassen, Nevada, Placer and Plumas counties.
- August 23 - The U.S. Food and Drug Administration granted full approval of the COMIRNATY/Pfizer-BioNTech COVID-19 Vaccine. Governor Newsom requested a Presidential Major Disaster Declaration to assist state and local wildfire response and recovery efforts in Lassen, Nevada, Placer, Plumas, Shasta, Siskiyou, Tehama and Trinity counties.
- August 20 - Governor Newsom signed an executive order to support communities impacted by recent wildfires and bolster response and recovery efforts. The order expedites debris removal and cleanup of hazardous waste resulting from the fires; extends the state's prohibition on price gouging in impacted counties through October 20, 2021; and helps ensure adequate staffing for fire response by waiving work hour limitations for retired annuitants, among other provisions.
- August 18 - CDPH strengthened requirements already in effect for mega events in the Beyond the Blueprint Framework, announcing that proof of vaccination, or a negative COVID-19 test within 72 hours before an event starts, will be required for indoor gatherings where 1,000 or more participants or spectators are attending. The U.S. Department of Health and Human Services (HHS) announced a plan for administering Covid-19 booster shots later this fall, pending final Food and Drug Administration (FDA) evaluation and recommendations from the Centers for Disease Control and Prevention's (CDC's) Advisory Committee on Immunization Practices (ACIP).
- August 17 - Governor Gavin Newsom announced that California has secured two Fire Management Assistance Grants (FMAGs) from the Federal Emergency Management Agency (FEMA) to help ensure the availability of vital resources to suppress the Monument Fire burning

in Trinity County and the Dixie Fire in Lassen County. A FMAG was also secured for the Caldor Fire in El Dorado County. Governor Gavin Newsom proclaimed a state of emergency for El Dorado County due to the Caldor Fire.

- August 16 - Governor Gavin Newsom signed an executive order to ensure the state's health care facilities continue to have the staffing and resources needed to prevent potential strain on the state's health care delivery system and to provide staffing flexibility for schools to ensure continuity of in-person instruction for all students. California Department of Public Health (CDPH) issued a new public health order requiring hospitals statewide to accept transfer patients from facilities with limited ICU capacity when clinically appropriate. The order will take effect August 18, 2021.
- August 11 - The California Department of Public Health (CDPH) today issued a new public health order requiring all school staff to either show proof of full vaccination or be tested at least once per week.
- August 10 - Governor Gavin Newsom proclaimed a state of emergency for Trinity County due to the McFarland and Monument fires; Tehama County due to the McFarland and Dixie fires; and Shasta County due to the McFarland Fire

Legislative Proposals:

- **AB 339 (Lee): State and local government: open meetings.** This bill requires, until December 31, 2023, that city councils and boards of supervisors in jurisdictions over 250,000 residents provide both in-person and teleconference options for the public to attend their meetings.
District's position: No longer applies to the District.
Status: On the Senate Floor.
- **AB 361 (Rivas): Open meetings: local agencies: teleconferences.** This bill allows local agencies to use teleconferencing without complying with specified Brown Act restrictions in certain state emergencies.
District's position: Support.
Status: On the Senate Floor.
- **AB 377 (Rivas): Water quality: impaired waters.** Would require all California surface waters to attain applicable beneficial uses by January 1, 2050. The bill would require the state board and regional boards, when issuing an NPDES permit, a waste discharge requirement, or a waiver of a waste discharge requirement, to require that the discharge to surface water does not cause or contribute to an exceedance of an applicable water quality standard in receiving waters, and to not authorize the use of a best management practice permit term to authorize a discharge to surface water that causes or contributes to an exceedance of an applicable water quality standard in receiving waters.
District's position: Oppose.
Status: No longer moving through the legislative process in 2021.
- **AB 1434 (Friedman): Urban water use objectives: indoor residential water use.** The bill would establish, beginning January 1, 2023, until January 1, 2025, the standard for indoor residential water use as 48 gallons per capita daily. The bill would establish, beginning January 1, 2025, the standard as 44 gallons per capita daily and, beginning January 1, 2030, 40 gallons per capita daily. The bill would eliminate the requirement that the department, in coordination with the state board, conduct necessary studies and investigations and jointly recommend to the Legislature a standard for indoor residential water use.
District's position: Oppose.
Status: No longer moving through the legislative process in 2021.

- AB 1500 (E. Garcia): Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2022.** Would enact the Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2022, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$6,700,000,000 pursuant to the State General Obligation Bond Law to finance projects for safe drinking water, wildfire prevention, drought preparation, flood protection, extreme heat mitigation, and workforce development programs.

Recommended position: Work with the District's delegation and Legislature to ensure District priorities are included, and support.

Status: Two-year bill.
- SB 45 (Portantino): Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2022.** Would enact the Wildfire Prevention, Safe Drinking Water, Drought Preparation, and Flood Protection Bond Act of 2022, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$5,510,000,000 pursuant to the State General Obligation Bond Law to finance projects for a wildfire prevention, safe drinking water, drought preparation, and flood protection program.

Recommended position: Work with the District's delegation and Legislature to ensure District priorities are included, and support.

Status: Two-year bill.
- SB 222 (Dodd): Water Affordability Assistance Program.** This bill would establish the Water Affordability Assistance Fund (Fund) in the State Treasury. The Fund would provide water affordability assistance for drinking water and wastewater services to low-income ratepayers and ratepayers who are experiencing economic hardship. Money in the Fund would be made available upon appropriation by the Legislature to the State Water Board for three purposes:

 1. Direct water bill assistance;
 2. Water bill credits to renters, individuals, or households that pay other amounts, fees, or charges related to residential water and wastewater service;
 3. Water crisis assistance;

District's position: Oppose Unless Amended.

Status: On the Assembly Floor.
- SB 223 (Dodd): Discontinuation of residential water service.** The bill would require the written policy on discontinuation of residential service for nonpayment to include an arrearage management plan, and, for those systems that provide water audits or have the capacity to do so, to include a free water audit offered to low-income households with water usage that is above the annual average volume usage of their customer class.

The bill would require the State Water Board to provide technical assistance to very small community water systems, to assist with compliance with these requirements and to establish a bridge loan program to assist very small community water systems that may suffer revenue loss or delayed collection while complying with these requirements. The bill would also require the State Water Board to develop a template for a written policy on discontinuation of residential service for nonpayment, on or before September 1, 2022, to aid very small community water systems in complying with the requirement to have a written policy on discontinuation of residential service for nonpayment.

This bill would revise the conditions under which urban and community water systems and very small community water systems are prohibited from discontinuing residential service for nonpayment. The bill would prohibit these systems from discontinuing residential service for nonpayment during a state or local emergency. The bill would prohibit these systems from

discontinuing residential water service for nonpayment until a payment by a customer has been delinquent for at least 120, rather than 60, days and the total amount of the delinquency, exclusive of late charges and interest, is at least \$400. The bill would also prohibit these systems from discontinuing residential water service for nonpayment to a master-metered multifamily residence with at least 4 units or to a master-metered mobile home park.

Existing law requires an urban and community water system to impose specified fees for reconnection of service for customers with a household income below 200% of the federal poverty line. This bill would instead require an urban and community water system and very small community water system to waive fees for disconnection and reconnection of service for those customers.

District's position: Oppose.

Status: Two-year bill.

- **SB 323 (Caballero): Local government: water or sewer service: legal actions.** The bill provides public agency water and sewer service rates the same protections already afforded to fees and charges that fund other essential government services. It would allow water agencies more financial certainty by helping to prevent costly and time-consuming litigation challenging rates and charges years after they have been adopted and collected, while still ensuring that adopted rates and charges comply with Proposition 218 and other existing laws.

Recommended position: Support. Sponsored by ACWA.

Status: On the Assembly Floor.

State Water Resources Control Board

Arrearage Assistance - The Draft California Water and Wastewater Arrearage Payment Program Guidelines have been posted and can be accessed at:

https://www.waterboards.ca.gov/arrearage_payment_program/docs/notice_arrearage.pdf.

The Board Workshop is scheduled for September 9, 2021 at 9:00 a.m. Comment Deadline on the Draft Guidelines is due by 12 noon on September 10, 2021 and the arrearage survey is also due on September 10, 2021. The Board Consideration of adopting the Draft Guidelines is scheduled for September 21, 2021

Drought Update - California continues to experience deepening drought conditions statewide. As of August 26, the Drought Monitor now shows over 88% of California is classified in Extreme to Exceptional Drought.

In August, the State Water Resources Control Board (Water Board) issued orders imposing water right curtailment and reporting requirements in the Sacramento San Joaquin Delta watershed. The Water Board will host an informational webinar to provide an overview of the recent curtailment and reporting orders on August 31, 2021. On September 21, the Water Board will begin reporting monthly reporting water suppliers' progress toward achieving the voluntarily 15% water use reductions called for in the Governor's July 6 Executive Order and they will make subsequent updates on a monthly basis. Staff will compare cumulative monthly data, starting with July 2021, to cumulative values from the corresponding time period in 2020. Reports can be found on the Conservation Portal.

Lead Service Line Stakeholder Working Group – The State Water Board's Division of Drinking Water (DDW) has been working with water systems on the implementation of SB 427 (2017). Water systems have completed the initial phase of the legislation by compiling a material inventory of user service lines. SB 417 also required water systems with identified lead or unknown material user service lines to provide a timeline for replacement of the user service lines. To date, approximately 100 timelines have been approved by the State Water Board. On Friday, August 27, 2021, the State Water Board

convened a group of water system representatives and stakeholders to discuss and provide input to a draft Technical Report Information Order which DDW intends to issue to water systems undergoing construction based on their replacement timelines in 2022.

Water Loss Performance Standards – The Water Board staff continues to develop proposed water loss performance standards to implement California Water Code Section 10608.34 (SB 555 by Wolk, 2015). Formal rulemaking is now not expected to begin until November or December. Final water loss standards adopted by the State Water Board will require urban water suppliers (serving potable water to 3,000 or more connections or serving 3,000 or more acre feet of water) to meet individually calculated volumetric distribution system leak loss reduction targets by 2028. Many water suppliers are likely to have difficulty achieving aggressive leak loss performance standards, especially if required reductions are not locally cost effective.

Jennifer Capitolo continues to engage with the water supplier coalition to address significant technical and policy concerns associated with the Water Board's economic model and proposed standard-setting process. As part of this process AWWA CA NV's Water Loss Committee scheduled a webinar for August 24 that featured the results of [a study by the UC Davis Center for Water-Energy Efficiency \(CWEE\)](#) "Developing Water Loss Performance Standards – An Economic Leak/Loss Reduction Model". This webinar was well attended by water loss stakeholders, as well as Water Board members and staff.

Department of Water Resources

The Department of Water Resources (DWR) and State Water Board continue to implement the comprehensive water conservation and drought planning legislation of 2018, AB 1668 (Friedman) and SB 606 (Hertzberg).

Indoor Water Use Study – Release of the final Indoor Residential Water Use Study and proposed recommendations to the Legislature. On July 19 DWR and the Water Board conducted a second public webinar to report out comments received and seek additional comments, but they indicated that they intend to continue to recommend reducing the indoor water use standard from 52.5 to 47 gpcd in 2025, and further lowering it from 50 to 42 gpcd in 2030. Staff indicated that they do not intend to respond to comments, which will be conveyed with the report to the legislature. Water suppliers and associations statewide broadly oppose this recommendation. Legislative action will be required to reduce the indoor standard, likely in 2022.

Outdoor Irrigation Standard and Residential Landscape Area Measurement (LAM) – DWR continues to develop its proposed Outdoor Water Use Standard and is expected to present it for comment at a yet-to-be scheduled webinar. Jennifer Capitolo will continue to work with water coalition partners to provide input to DWR on technical and policy matters that will impact how individual water supplier outdoor irrigation standards are established.

Commercial, Industrial and Institutional (CII) Irrigation Standard and Performance Measures – DWR continues to develop a water use standard for CII outdoor landscape areas irrigated with dedicated meters, a proposed statewide CII classification system, and CII performance measures.



**Olivenhain Legislative Report 2021-22
Report as of 9/1/2021**

Oppose Unless Amended

AB 339 (Lee D) Local government: open and public meetings.

Last Amend: 8/25/2021

Status: 8/26/2021-Read second time. Ordered to third reading.

Location: 8/26/2021-S. THIRD READING

Calendar: 9/1/2021 #143 SENATE ASSEMBLY BILLS - THIRD READING FILE

Summary: The Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. Under existing law, a member of the legislative body who attends a meeting where action is taken in violation of this provision, with the intent to deprive the public of information that the member knows the public is entitled to, is guilty of a crime. This bill would require local agencies to conduct meetings subject to the act consistent with applicable state and federal civil rights laws, as specified.

Position

Oppose Unless
Amended

SB 222 (Dodd D) Water Rate Assistance Program.

Last Amend: 8/30/2021

Status: 8/31/2021-Read second time. Ordered to third reading.

Location: 8/31/2021-A. THIRD READING

Calendar: 9/1/2021 #219 ASSEMBLY THIRD READING FILE - SENATE BILLS

Summary: Would establish the Water Rate Assistance Fund in the State Treasury to help provide water affordability assistance, for both drinking water and wastewater services, to low-income ratepayers and ratepayers experiencing economic hardship in California. The bill would require the Department of Community Services and Development to develop and administer the Water Rate Assistance Program established by the bill.

Position

Oppose Unless
Amended

Support

AB 361 (Rivas, Robert D) Open meetings: local agencies: teleconferences.

Last Amend: 8/30/2021

Status: 8/31/2021-Read second time. Ordered to third reading.

Location: 8/31/2021-S. THIRD READING

Calendar: 9/1/2021 #332 SENATE ASSEMBLY BILLS - THIRD READING FILE

Summary: Would, until January 1, 2024, authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting during a declared state of emergency, as that term is defined, when state or local health officials have imposed or recommended measures to promote social distancing, during a proclaimed state of emergency held for the purpose of determining, by majority vote, whether meeting in person would present imminent risks to the health or safety of attendees, and during a proclaimed state of emergency when the legislative body has determined that meeting in person would present imminent risks to the health or safety of attendees, as provided.

Position
Support

AB 8 (Smith R) Unemployment benefits: direct deposit.

Status: 1/11/2021-Referred to Com. on INS.

Location: 1/11/2021-A. INS.

Summary: Current law requires unemployment compensation benefits that are directly deposited to an account of the recipient's choice to be deposited to a qualifying account. Current law defines "qualifying account" for these purposes to mean a demand deposit or savings account at an insured financial institution in the name of the person entitled to receipt of public assistance payments or a prepaid card account that meets certain requirements, including that the prepaid card account may not be attached to any credit or overdraft feature that is automatically repaid from the account after delivery of the payment. This bill would, by July 1, 2021, provide that the recipient of the unemployment compensation benefits has the right to choose whether the benefits payments are directly deposited into a qualifying account or applied to a prepaid debit card.

Position

AB 9 (Wood D) Fire safety and prevention: wildfires: fire adapted communities: Office of the State Fire Marshal: community wildfire preparedness and mitigation.

Last Amend: 7/14/2021

Status: 8/31/2021-Ordered to special consent calendar.

Location: 8/31/2021-S. CONSENT CALENDAR

Calendar: 9/1/2021 #339 SENATE SEN SPECIAL CONSENT CALENDAR - NO. 11

Summary: Would establish in the Department of Conservation the Regional Forest and Fire Capacity Program to support regional leadership to build local and regional capacity and develop, prioritize, and implement strategies and projects that create fire adapted communities and landscapes by improving ecosystem health, community wildfire preparedness, and fire resilience. The bill would require, among other things, the department to, upon an appropriation by the Legislature, provide block grants to regional entities, as defined, to develop regional strategies that develop governance structures, identify wildfire risks, foster collaboration, and prioritize and implement projects within the region to achieve the goals of the program.

Position

AB 19 (Santiago D) Unemployment insurance compensation: COVID-19 pandemic: temporary benefits.

Status: 1/11/2021-Referred to Com. on INS.

Location: 1/11/2021-A. INS.

Summary: The federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act) temporarily provides for expanded unemployment benefits through the federal Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC) provisions of the CARES Act. This bill would require the Employment Development Department to provide, until July 1, 2022, following the termination of assistance pursuant to PUA and PEUC or any other federal or state supplemental unemployment compensation payments for unemployment due to the COVID-19 pandemic, in addition to an individual's weekly benefit amount as otherwise provided for by existing unemployment compensation law, unemployment compensation benefits equivalent to the terminated federal or state supplemental unemployment compensation payments for the remainder of the duration of time the individual is unemployed due to the COVID-19 pandemic, notwithstanding the weekly benefit cap. The bill would prohibit any unemployment compensation benefits authorized by the bill from being charged against the reserve account of any employer.

Position

AB 24 (Waldron R) Unemployment insurance: benefit determination deadlines.

Status: 4/29/2021-In committee: Set, first hearing. Hearing canceled at the request of author.

Location: 1/11/2021-A. INS.

Summary: Current law establishes procedures for the filing, determination, and payment of benefit claims, and those benefits are payable from the Unemployment Fund. Current law requires the department to promptly pay benefits if it finds the claimant is eligible and to promptly deny benefits if it finds the claimant is ineligible for benefits. Current law requires the department to consider facts submitted by an employer in making this determination and also provides for the department to audit claims, as specified. Existing law provides a procedure for a claimant or a base employer to challenge a determination of the computation or recomputation of the benefits. This bill would require the department to provide a claimant with a notification of the computation used to determine their benefits within 30 days of the receipt of the claim and to respond to a challenge by the claimant or the base employer based on the computation or recomputation of benefits within 15 days of the receipt of the protest, except as specified.

Position

AB 36 (Gallagher R) Design-build contracting: Town of Paradise

Status: 8/26/2021-Read third time. Passed. Ordered to the Assembly. (Ayes 36. Noes 0.). In Assembly. Ordered to Engrossing and Enrolling.

Location: 8/26/2021-A. ENROLLMENT

Summary: Would authorize the Paradise Irrigation District to use the design-build contracting process to award a contract for a water conveyance pipeline from the Town of Paradise to the City of Chico. The bill would authorize the Town of Paradise to use the design-build contracting process to provide for the provision of sewer treatment to the Town of Paradise, including for infrastructure connecting the Town of Paradise to an existing treatment facility.

Position

AB 79 (Committee on Budget) Budget Act of 2020.

Last Amend: 4/8/2021

Status: 5/18/2021-Re-referred to Com. on B. & F.R.

Location: 5/18/2021-S. BUDGET & F.R.

Summary: The Budget Act of 2020 made appropriations for the support of state government for the 2020-21 fiscal year. This bill would amend the Budget Act of 2020 by amending and adding items of appropriation and making other changes. This bill would declare that it is to take effect immediately as a Budget Bill.

Position

AB 84 (Committee on Budget) Employment: rehiring and retention: displaced workers.

Last Amend: 4/8/2021

Status: 5/18/2021-Re-referred to Com. on B. & F.R.

Location: 5/18/2021-S. BUDGET & F.R.

Summary: Would, until December 31, 2024, require an employer, as defined, to offer its laid-off employees specified information about job positions that become available for which the laid-off employees are qualified, and to offer positions to those laid-off employees based on a preference system, in accordance with specified timelines and procedures. The bill would define the term "laid-off employee" to mean any employee who was employed by the employer for 6 months or more in the 12 months preceding January 1, 2020, and whose most recent separation from active service was due to a reason related to the COVID-19 pandemic, including a public health directive, government shutdown order, lack of business, a reduction in force, or other economic, nondisciplinary reason related to the COVID-19 pandemic. The bill would require an employer to keep records for 3 years, including records of communications regarding the offers.

Position

AB 87 (Committee on Budget) Juvenile Justice.

Last Amend: 4/26/2021

Status: 5/18/2021-Re-referred to Com. on B. & F.R.

Location: 5/18/2021-S. BUDGET & F.R.

Summary: Current law establishes the Division of Juvenile Justice within the Department of Corrections and Rehabilitation to operate facilities to house specified juvenile offenders. Current law, commencing July 1, 2021, prohibits further commitment of wards to the Division of Juvenile Justice unless the ward is otherwise eligible to be committed to the division and a motion was filed to transfer the ward from the juvenile court to a court of criminal jurisdiction. Current law requires that all wards committed to the division prior to July 1, 2021, remain within the custody of the division until the ward is discharged, released, or transferred. This bill would require a court to consider, as an alternative to commitment to the Division of Juvenile Justice, placement in local programs established as a result of the realignment of wards from the Division of Juvenile Justice to county-based custody.

Position

AB 100 (Holden D) Drinking water: endpoint devices: lead content.

Last Amend: 6/24/2021

Status: 8/31/2021-Ordered to special consent calendar.

Location: 8/31/2021-S. CONSENT CALENDAR

Calendar: 9/1/2021 #341 SENATE SEN SPECIAL CONSENT CALENDAR - NO. 11

Summary: The California Safe Drinking Water Act requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health. Current law prohibits, with certain exceptions, the use of any pipe, pipe or plumbing fitting or fixture, solder, or flux that is not lead free in

the installation or repair of any public water system or any plumbing in a facility providing water for human consumption. Current law defines "lead free" for purposes of conveying or dispensing water for human consumption to mean not more than 0.2% lead when used with respect to solder and flux and not more than a weighted average of 0.25% lead when used with respect to the wetted surfaces of pipes and pipe fittings, plumbing fittings, and fixtures. This bill would, commencing January 1, 2023, prohibit a person from manufacturing, and offering for sale in the state, an endpoint device, as defined, that does not meet a certain lead leaching standard. The bill would, commencing July 1, 2023, prohibit a person from introducing into commerce or offering for sale in the state an endpoint device that does not meet that lead leaching standard.

Position

AB 125 (Rivas, Robert D) Equitable Economic Recovery, Healthy Food Access, Climate Resilient Farms, and Worker Protection Bond Act of 2022.

Last Amend: 4/12/2021

Status: 4/15/2021-From committee: Do pass and re-refer to Com. on NAT. RES. (Ayes 10. Noes 0.) (April 15). Re-referred to Com. on NAT. RES.

Location: 4/15/2021-A. NAT. RES.

Summary: Would enact the Equitable Economic Recovery, Healthy Food Access, Climate Resilient Farms, and Worker Protection Bond Act of 2022, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$3,302,000,000 pursuant to the State General Obligation Bond Law, to finance programs related to, among other things, agricultural lands, food and fiber infrastructure, climate resilience, agricultural professionals, including farmers, ranchers, and farmworkers, workforce development and training, air quality, tribes, disadvantaged communities, nutrition, food aid, meat processing facilities, fishing facilities, and fairgrounds.

Position

AB 252 (Rivas, Robert D) Department of Conservation: Multibenefit Land Repurposing Program.

Last Amend: 8/26/2021

Status: 8/30/2021-Read second time. Ordered to third reading.

Location: 8/30/2021-S. THIRD READING

Calendar: 9/1/2021 #214 SENATE ASSEMBLY BILLS - THIRD READING FILE

Summary: Would establish the Multibenefit Land Repurposing Program, for purposes of assisting groundwater sustainability agencies in critically overdrafted basins achieve their groundwater sustainability goal by providing grants to public and private entities for projects and programs that reduce groundwater use by converting irrigated agricultural land to new uses that both reduce groundwater demand or use and provide some other measurable benefits to the environment or broader community.

Position

AB 297 (Gallagher R) Fire prevention.

Last Amend: 4/21/2021

Status: 4/22/2021-Re-referred to Com. on NAT. RES.

Location: 2/12/2021-A. NAT. RES.

Summary: Would continuously appropriate \$480,000,000 and \$20,000,000 to the Department of Forestry and Fire Prevention and the California Conservation Corps, respectively, for fire prevention activities, as provided.

Position

AB 304 (Quirk D) Contaminated sites: waste releases or surface or groundwater contamination: local oversight: remedial actions.

Last Amend: 8/31/2021

Status: 8/31/2021-Read third time and amended. Ordered to second reading.

Location: 8/31/2021-S. SECOND READING

Calendar: 9/1/2021 #13 SENATE ASSEMBLY BILLS - SECOND READING FILE

Summary: Whenever a release of waste occurs and remedial action is required, current law authorizes a responsible party, as defined, to request that a local officer supervise the remedial action. Current law authorizes a local officer to agree to supervise the remedial action if the local officer determines that certain conditions have been met. Current law requires that remedial action to be carried out only pursuant to a remedial action agreement, which includes specified elements, entered into by the local officer and the responsible party, and authorizes the local officer to withdraw from the agreement, after giving the responsible party adequate notice, at any time after making specified findings. Current law requires a local officer to provide written notification that includes specified information to the Department of Toxic Substances Control and the appropriate regional water quality control board at least 10 working days before entering into a remedial action agreement with a responsible party. This bill would authorize a responsible party to request the local officer to oversee a remedial investigation, as defined, or a remedial action, as defined, or both, only if the release of waste is not being overseen by the department or a regional water quality control board.

Position

AB 315 (Stone D) Voluntary stream restoration property owner liability: indemnification.

Last Amend: 8/26/2021

Status: 8/30/2021-Read second time. Ordered to third reading.

Location: 8/30/2021-S. THIRD READING

Calendar: 9/1/2021 #219 SENATE ASSEMBLY BILLS - THIRD READING FILE

Summary: Would require a qualifying state agency, as defined, that funds a project to restore fish and wildlife habitats to indemnify and hold harmless a real property owner who voluntarily allows their real property to be used for such a project from civil liability for property damage or personal injury resulting from the project if the project meets specified requirements, including that the liability arises from, and the real property owner or any person or entity retained by the real property owner does not perform, the construction, design specifications, surveying, planning, supervision, testing, or observation of construction related to the project. The bill would authorize a qualifying state agency to enter into an agreement with the United States government, or subdivision thereof, to share the cost of any civil liability incurred.

Position

AB 322 (Salas D) Energy: Electric Program Investment Charge program: biomass.

Last Amend: 8/18/2021

Status: 8/31/2021-In Assembly. Concurrence in Senate amendments pending. May be considered on or after September 2 pursuant to Assembly Rule 77.

Location: 8/31/2021-A. CONCURRENCE

Calendar: 9/1/2021 #39 ASSEMBLY CONCURRENCE IN SENATE AMENDMENTS

Summary: Current law creates in the State Treasury the Electric Program Investment Charge Fund to be administered by the State Energy Resources Conservation and Development Commission and requires the PUC to forward to the

Energy Commission, at least quarterly, moneys for those EPIC programs the PUC has determined should be administered by the Energy Commission for deposit in the fund. Current law requires the Energy Commission, in administering moneys in the fund for research, development, and demonstration programs, to develop and implement the EPIC program for the purpose of awarding funds to projects that may lead to technological advancement and breakthroughs to overcome barriers that prevent the achievement of the state's statutory energy goals and that may result in a portfolio of projects that are strategically focused and sufficiently narrow to make advancement on the most significant technological challenges. Current law, until January 1, 2023, requires the Energy Commission to expend certain percentages of the moneys appropriated from the fund for technology demonstration and deployment at sites that benefit certain communities. This bill would require the Energy Commission to consider, in the investment planning process for the EPIC program, funding for eligible biomass conversion to energy projects, as specified.

Position

AB 350 (Villapudua D) Agriculture: Cannella Environmental Farming Act of 1995: technical assistance grant program: groundwater conservation planning.

Last Amend: 8/26/2021

Status: 8/30/2021-Read second time. Ordered to third reading.

Location: 8/30/2021-S. THIRD READING

Calendar: 9/1/2021 #221 SENATE ASSEMBLY BILLS - THIRD READING FILE

Summary: Would require, upon an appropriation of funds, the Department of Food and Agriculture to establish and administer a 3-year grant program to fund technical assistance to support landowners located in a critically overdrafted basin, as defined, in reaching water use reduction goals established pursuant to the Sustainable Groundwater Management Act. The bill would require the department, in its development of the grant program, to establish various criteria, guidelines, restrictions, processes, and requirements for the qualification and administration of grants to technical assistance providers, as specified. The bill would authorize the department to use specified guidelines to administer this program. The bill would require the grant program to fund one or more technical assistance providers in each critically overdrafted basin. The bill would require the department to ensure that at least 25% of the grant program funds are used to provide technical assistance to socially disadvantaged farmers and ranchers, as defined.

Position

AB 418 (Valladares R) Emergency services: grant program.

Last Amend: 5/24/2021

Status: 8/31/2021-Ordered to special consent calendar.

Location: 8/31/2021-S. CONSENT CALENDAR

Calendar: 9/1/2021 #352 SENATE SEN SPECIAL CONSENT CALENDAR - NO. 11

Summary: Would establish the Community Power Resiliency Program (program), to be administered by the Office of Emergency Services, to support local governments' efforts to improve resiliency in response to power outage events, as provided. The bill would require the office to allocate funds, pursuant to an appropriation by the Legislature, to local governments, special districts, and tribes for various purposes relating to power resiliency, and would require certain entities, in order to be eligible for funding, to either describe the portion of their emergency plan that includes power outages or confirm that power outages will be included when the entity revises any portion of their emergency plan.

Position

AB 442 **(Mayes I) Surface Mining and Reclamation Act of 1975: exemption: Metropolitan Water District of Southern California: master reclamation plan.**
Last Amend: 8/16/2021

Status: 8/24/2021-Read second time. Ordered to third reading.

Location: 8/24/2021-S. THIRD READING

Calendar: 9/1/2021 #125 SENATE ASSEMBLY BILLS - THIRD READING FILE

Summary: The Surface Mining and Reclamation Act of 1975 prohibits a person, with exceptions, from conducting surface mining operations unless, among other things, a permit is obtained from, a specified reclamation plan is submitted to and approved by, and financial assurances for reclamation have been approved by the lead agency for the operation of the surface mining operation. The act exempts certain activities from the provisions of the act, including, among others, emergency excavations or grading conducted by the Department of Water Resources or the Central Valley Flood Protection Board for the specified purposes; surface mining operations conducted on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources for the purpose of the State Water Resources Development System or flood control; and surface mining operations on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Central Valley Flood Protection Board for the purpose of flood control. This bill would additionally exempt from the provisions of the act emergency excavations or grading conducted by the Metropolitan Water District of Southern California (MWD) for its own operations and infrastructure for specified purposes.

Position

AB 602 **(Grayson D) Development fees: impact fee nexus study.**

Last Amend: 8/26/2021

Status: 8/30/2021-Read second time. Ordered to third reading.

Location: 8/30/2021-S. THIRD READING

Calendar: 9/1/2021 #245 SENATE ASSEMBLY BILLS - THIRD READING FILE

Summary: Current law requires a city, county, or special district that has an internet website to make available on its internet website certain information, as applicable, including its current schedule of fees and exactions. This bill, among other things, would require, on and after January 1, 2022, a local agency that conducts an impact fee nexus study to follow specific standards and practices, including, but not limited to, (1) that prior to the adoption of an associated development fee, an impact fee nexus study be adopted, (2) that the study identify the existing level of service for each public facility, identify the proposed new level of service, and include an explanation of why the new level of service is necessary, and (3) if the study is adopted after July 1, 2022, either calculate a fee levied or imposed on a housing development project proportionately to the square footage of the proposed units, or make specified findings explaining why square footage is not an appropriate metric to calculate the fees.

Position

AB 642 **(Friedman D) Wildfires.**

Last Amend: 8/16/2021

Status: 8/26/2021-From committee: Do pass. (Ayes 7. Noes 0.) (August 26). Read second time. Ordered to third reading.

Location: 8/26/2021-S. THIRD READING

Calendar: 9/1/2021 #189 SENATE ASSEMBLY BILLS - THIRD READING FILE

Summary: Current law requires the Director of Forestry and Fire Protection to identify areas of the state as very high fire hazard severity zones, as provided. Current law requires a local agency, within 30 days of receiving a transmittal from the director that identifies very high fire hazard severity zones, to make the information

available for public review. This bill would require the director to identify areas in the state as moderate and high fire hazard severity zones. The bill would modify the factors the director is required to use to classify areas into fire hazard severity zones, as provided. The bill would require a local agency, within 30 days of receiving a transmittal from the director that identifies fire hazard severity zones, to make the information available for public comment.

Position

[AB 648](#) (Fong R) Greenhouse Gas Reduction Fund: healthy forest and fire prevention: appropriation.

Status: 2/25/2021-Referred to Com. on NAT. RES.

Location: 2/25/2021-A. NAT. RES.

Summary: Would continuously appropriate, beginning in the 2021-22 fiscal year and ending in the 2028-29 fiscal year, \$200,000,000 of the annual proceeds from the Greenhouse Gas Reduction Fund to the Department of Forestry and Fire Protection for (1) healthy forest and fire prevention programs and projects that improve forest health and reduce greenhouse gas emissions caused by uncontrolled wildfires and (2) prescribed fire and other fuel reduction projects through proven forestry practices consistent with the recommendations of the California Forest Carbon Plan, including the operation of year-round prescribed fire crews and implementation of a research and monitoring program for climate change adaptation.

Position

[AB 652](#) (Friedman D) Product safety: juvenile products: chemicals: perfluoroalkyl and polyfluoroalkyl substances.

Last Amend: 8/18/2021

Status: 8/19/2021-Read second time. Ordered to third reading.

Location: 8/19/2021-S. THIRD READING

Calendar: 9/1/2021 #120 SENATE ASSEMBLY BILLS - THIRD READING FILE

Summary: Would, on and after July 1, 2023, prohibit a person, including a manufacturer, from selling or distributing in commerce in this state any new, not previously owned, juvenile product, as defined, that contains regulated perfluoroalkyl and polyfluoroalkyl substances (PFAS), as defined. The bill would require a manufacturer to use the least toxic alternative when replacing PFAS chemicals in a juvenile product.

Position

[AB 692](#) (Waldron R) Lake Wohlford Dam: grant funding: liquidation.

Last Amend: 5/25/2021

Status: 8/31/2021-Ordered to special consent calendar.

Location: 8/31/2021-S. CONSENT CALENDAR

Calendar: 9/1/2021 #372 SENATE SEN SPECIAL CONSENT CALENDAR - NO. 11

Summary: The Disaster Preparedness and Flood Prevention Bond Act of 2006, approved by the voters as Proposition 1E at the November 7, 2006, statewide general election, authorizes the issuance of bonds in the amount of \$4,090,000,000 for the purposes of financing disaster preparedness and flood prevention projects. The act makes \$300,000,000 of that amount available, upon appropriation to the Department of Water Resources, for grants for stormwater flood management projects, as specified. Current law appropriates \$300,000,000 to the department for those purposes and requires those funds to be available for encumbrance until June 30, 2020, and for liquidation until June 30, 2023. This bill would instead make those funds that were appropriated to the department and allocated to the City of Escondido

for use on the Lake Wohlford Dam project available for liquidation until June 30, 2028, if the City of Escondido uses a skilled and trained workforce for the Lake Wohlford Dam project.

Position

AB 697 (Chau D) Forest resources: national forest lands: Good Neighbor Authority Fund: ecological restoration and fire resiliency projects.

Last Amend: 8/26/2021

Status: 8/30/2021-Read second time. Ordered to third reading.

Location: 8/30/2021-S. THIRD READING

Calendar: 9/1/2021 #251 SENATE ASSEMBLY BILLS - THIRD READING FILE

Summary: Would reorganize the law relating to the State Treasury the Good Neighbor Authority Fund. The bill would require the Secretary of the Natural Resources Agency, under an agreement between the state and the federal government, to establish a program for purposes of conducting ecological restoration and fire resiliency projects on national forest lands, with priority given to forest restoration and fuels reduction projects that are landscape scale and are focused on ecological restoration and to community fire protection and protection of water infrastructure and other infrastructure. The bill would require projects to be based on the best available science and emphasize the use of prescribed fire where appropriate.

Position

AB 781 (Daly D) Flood control projects: County of Orange: subvention funds.

Last Amend: 3/4/2021

Status: 8/31/2021-Ordered to special consent calendar.

Location: 8/31/2021-S. CONSENT CALENDAR

Calendar: 9/1/2021 #376 SENATE SEN SPECIAL CONSENT CALENDAR - NO. 11

Summary: Would authorize the state to provide subvention funds, as prescribed, to the County of Orange for a specified flood control project at an estimated cost to the state of the sum that may be appropriated for state cooperation by the Legislature and upon a determination by the Department of Water Resources that the project meets specified requirements. The bill would provide that the state assumes no liability for damages that may result from the project by authorizing the provision of subvention funds, or by the appropriation of those subvention funds.

Position

AB 818 (Bloom D) Solid waste: premoistened nonwoven disposable wipes.

Last Amend: 7/1/2021

Status: 8/31/2021-In Assembly. Concurrence in Senate amendments pending. May be considered on or after September 2 pursuant to Assembly Rule 77.

Location: 8/31/2021-A. CONCURRENCE

Calendar: 9/1/2021 #26 ASSEMBLY CONCURRENCE IN SENATE AMENDMENTS

Summary: Would require, except as provided, certain premoistened nonwoven disposable wipes manufactured on or after July 1, 2022, to be labeled clearly and conspicuously with the phrase "Do Not Flush" and a related symbol, as specified. The bill would prohibit a covered entity, as defined, from making a representation about the flushable attributes, benefits, performance, or efficacy of those premoistened nonwoven disposable wipes, as provided. The bill would establish enforcement provisions, including authorizing a civil penalty not to exceed \$2,500 per day, up to a maximum of \$100,000 per violation, to be imposed on a covered entity who violates those provisions.

Position

AB 1110 (Rivas, Robert D) Zero-emission vehicles: Clean Vehicles Ombudsperson: Climate Catalyst Revolving Loan Fund Program.

Last Amend: 8/26/2021

Status: 8/30/2021-Read second time. Ordered to third reading.

Location: 8/30/2021-S. THIRD READING

Calendar: 9/1/2021 #282 SENATE ASSEMBLY BILLS - THIRD READING FILE

Summary: Would establish the Clean Vehicles Ombudsperson, to be appointed by and report directly to the Director of GO-Biz, and would require the ombudsperson to consult with appropriate entities in identifying available programs and incentives offered by the state that can help to reduce costs and increase participation in a statewide contract or leveraged procurement agreement, as specified. The bill would also require the ombudsperson to convene 2 or more workshops of an advisory committee to aid the ombudsperson in identifying and publishing best practices in adopting zero-emission fleet vehicles for public agencies and identifying appropriate candidate vehicles for bulk purchase, leveraged procurement, or other means of widespread adoption by public entities, as specified. The bill would also require the ombudsperson to develop, and recommend that DGS adopt, criteria for evaluating vehicle purchase options or other means of widespread and streamline adoption options, as provided.

Position

AB 1200 (Ting D) Plant-based food packaging: cookware: hazardous chemicals.

Last Amend: 8/23/2021

Status: 8/24/2021-Read second time. Ordered to third reading.

Location: 8/24/2021-S. THIRD READING

Calendar: 9/1/2021 #133 SENATE ASSEMBLY BILLS - THIRD READING FILE

Summary: Would prohibit, beginning January 1, 2023, any person from distributing, selling, or offering for sale in the state any food packaging that contains regulated perfluoroalkyl and polyfluoroalkyl substances or PFAS, as defined. The bill would require a manufacturer to use the least toxic alternative when replacing PFAS chemicals. The bill would define "food packaging," in part, to mean a nondurable package, packaging component, or food service ware that is comprised, in substantial part, of paper, paperboard, or other materials originally derived from plant fibers.

Position

AB 1250 (Calderon D) Water and sewer system corporations: consolidation of service.

Last Amend: 7/5/2021

Status: 8/31/2021-Ordered to special consent calendar.

Location: 8/31/2021-S. CONSENT CALENDAR

Calendar: 9/1/2021 #393 SENATE SEN SPECIAL CONSENT CALENDAR - NO. 11

Summary: The California Safe Drinking Water Act provides for the operation of public water systems, which include small community water systems, and imposes on the State Water Resources Control Board related regulatory responsibilities and duties. Current law authorizes the state board to order consolidation of public water systems where a public water system or state small water system serving a disadvantaged community consistently fails to provide an adequate supply of safe drinking water, as provided. This bill, the Consolidation for Safe Drinking Water Act of 2021, would authorize a water or sewer system corporation to file an application and obtain approval from the Public Utilities Commission through an order authorizing the water

or sewer system corporation to consolidate with a small community water system or state small water identified as failing or at risk of failing by the state board.

Position

AB 1403 (Levine D) Emergency services.

Last Amend: 6/9/2021

Status: 8/16/2021-Read second time. Ordered to third reading.

Location: 8/16/2021-S. THIRD READING

Calendar: 9/1/2021 #91 SENATE ASSEMBLY BILLS - THIRD READING FILE

Summary: The California Emergency Services Act authorizes the Governor to proclaim a state of emergency when specified conditions of disaster or extreme peril to the safety of persons and property exist, and authorizes the Governor to exercise certain powers in response to that emergency. Current law defines the term "state of emergency" to mean a duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by, among other things, fire, storm, or riot. This bill would additionally include a "deenergization event," defined as a planned power outage, as specified, within those conditions constituting a state of emergency.

Position

AB 1500 (Garcia, Eduardo D) Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2022.

Last Amend: 5/11/2021

Status: 5/20/2021-Joint Rule 62(a), file notice suspended. From committee: Do pass and re-refer to Com. on RLS. (Ayes 12. Noes 3.) (May 20). Re-referred to Com. on RLS.

Location: 5/20/2021-A. RLS.

Summary: Would enact the Safe Drinking Water, Wildfire Prevention, Drought Preparation, Flood Protection, Extreme Heat Mitigation, and Workforce Development Bond Act of 2022, which, if approved by the voters, would authorize the issuance of bonds in the amount of \$7,080,000,000 pursuant to the State General Obligation Bond Law to finance projects for safe drinking water, wildfire prevention, drought preparation, flood protection, extreme heat mitigation, and workforce development programs.

Position

AB 1570 (Committee on Natural Resources) Public resources: omnibus bill.

Last Amend: 8/30/2021

Status: 8/31/2021-Read second time. Ordered to third reading.

Location: 8/31/2021-S. THIRD READING

Calendar: 9/1/2021 #330 SENATE ASSEMBLY BILLS - THIRD READING FILE

Summary: Would require the Department of Forestry and Fire Protection to assist local governments in preventing future high-intensity wildland fires and instituting appropriate fuels management by making its wildland fire prevention and vegetation management expertise available to local governments to the extent possible within the department's budgetary limitations. The bill would explicitly define, for these purposes, "local governments" to include cities, counties, and special districts. The bill would also make changes to related findings and declarations by the Legislature.

Position

ACA 1 (Aquiar-Curry D) Local government financing: affordable housing and public infrastructure: voter approval.

Status: 4/22/2021-Referred to Coms. on L. GOV. and APPR.

Location: 4/22/2021-A. L. GOV.

Summary: The California Constitution prohibits the ad valorem tax rate on real property from exceeding 1% of the full cash value of the property, subject to certain exceptions. This measure would create an additional exception to the 1% limit that would authorize a city, county, city and county, or special district to levy an ad valorem tax to service bonded indebtedness incurred to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure, affordable housing, or permanent supportive housing, or the acquisition or lease of real property for those purposes, if the proposition proposing that tax is approved by 55% of the voters of the city, county, or city and county, as applicable, and the proposition includes specified accountability requirements.

Position

ACR 33 (Friedman D) Wildfire mitigation.

Status: 8/31/2021-In Assembly. Ordered to Engrossing and Enrolling.

Location: 8/31/2021-A. ENROLLMENT

Summary: This measure would state the Legislature's commitment to improving wildfire outcomes in the State of California by investing in science-based wildfire mitigation strategies that will benefit the health of California forests and communities. The measure would also state that the Legislature calls upon public and private stakeholders to work jointly to identify, discuss, and refine, as necessary, procedures concerning treatment of forested lands for the purpose of, among other things, wildfire risk mitigation.

Position

SB 5 (Atkins D) Affordable Housing Bond Act of 2022.

Last Amend: 3/10/2021

Status: 3/18/2021-Re-referred to Coms. on HOUSING and GOV. & F.

Location: 3/18/2021-S. HOUSING

Summary: Would enact the Affordable Housing Bond Act of 2022, which, if adopted, would authorize the issuance of bonds in the amount of \$6,500,000,000 pursuant to the State General Obligation Bond Law. Proceeds from the sale of these bonds would be used to fund affordable rental housing and homeownership programs. The bill would state the intent of the Legislature to determine the allocation of those funds to specific programs. This bill would provide for submission of the bond act to the voters at the November 8, 2022, statewide general election in accordance with specified law.

Position

SB 27 (Skinner D) Carbon sequestration: state goals: natural and working lands: registry of projects.

Last Amend: 8/30/2021

Status: 8/31/2021-Read second time. Ordered to third reading.

Location: 8/31/2021-A. THIRD READING

Calendar: 9/1/2021 #204 ASSEMBLY THIRD READING FILE - SENATE BILLS

Summary: Would require, no later than July 1, 2023, the Natural Resources Agency, in coordination with the California Environmental Protection Agency, the State Air Resources Board, the Department of Food and Agriculture, and other relevant state agencies, to establish the Natural and Working Lands Climate Smart Strategy and, in developing the strategy, to create a framework to advance the state's climate goals.

The bill would require the state board, as part of its scoping plan, to establish specified carbon dioxide removal targets for 2030 and beyond.

Position

SB 33 (Cortese D) Apprenticeship: annual report: task force.

Last Amend: 4/7/2021

Status: 6/17/2021-Re-referred to Com. on RLS. pursuant to Assembly Rule 96.

Location: 6/17/2021-A. RLS.

Summary: Would require the Director of Industrial Relations, on or before September 1, 2022, to convene a task force to promote apprenticeship for all populations throughout the state, to be known as the Construction Apprenticeship Advancement Task Force, with membership as prescribed. The bill would require the task force, in consultation with specified entities, to study the recruitment, retention, and barriers to entry of women and other minority, underrepresented, and disadvantaged populations in the State of California for purposes of ensuring apprenticeship opportunities are more inclusive of those populations.

Position

SB 37 (Cortese D) Contaminated Site Cleanup and Safety Act.

Last Amend: 8/30/2021

Status: 8/31/2021-Read second time. Ordered to third reading.

Location: 8/31/2021-A. THIRD READING

Calendar: 9/1/2021 #282 ASSEMBLY THIRD READING FILE - SENATE BILLS

Summary: Current law requires designated local enforcement agencies to compile and submit to the Department of Resources Recycling and Recovery a list of all solid waste disposal facilities from which there is a known migration of hazardous waste, and requires the department to compile these lists into a statewide list. Current law requires these agencies to update the information as appropriate, but at least annually, and to submit the information to the Secretary for Environmental Protection. Under existing law, the Secretary for Environmental Protection is required to consolidate the information provided by these state agencies and distribute the information in a timely fashion to each city and county in which sites on the lists are located and to any other person upon request. This bill would enact the Contaminated Site Cleanup and Safety Act and would recodify the above-described provisions with certain revisions. The bill would repeal the requirement for the state agencies to provide their respective lists to the Secretary for Environmental Protection and instead require these agencies to post the lists on their respective internet websites.

Position

SB 52 (Dodd D) State of emergency: local emergency: planned power outage.

Last Amend: 8/26/2021

Status: 8/31/2021-In Senate. Concurrence in Assembly amendments pending.

Location: 8/31/2021-S. CONCURRENCE

Calendar: 9/1/2021 #35 SENATE UNFINISHED BUSINESS

Summary: Would define a 'deenergization event' as a planned power outage, as specified, and would make a deenergization event one of those conditions constituting a local emergency, with prescribed limitations.

Position

SB 63 (Stern D) Fire prevention: vegetation management: public education: grants: defensible space: fire hazard severity zones.

Last Amend: 8/30/2021

Status: 8/31/2021-Read second time. Ordered to third reading.

Location: 8/31/2021-A. THIRD READING

Calendar: 9/1/2021 #210 ASSEMBLY THIRD READING FILE - SENATE BILLS

Summary: Would, among other things, require the Director of Forestry and Fire Protection to identify areas of the state as moderate and high fire hazard severity zones and would require a local agency to make this information available for public review and comment, as provided. By expanding the responsibility of a local agency, the bill would impose a state-mandated local program. This bill would also make conforming changes.

Position

SB 208 (**Dahle** R) **Sierra Nevada Conservancy: Sierra Nevada Region: subregion: definitions: annual report.**

Last Amend: 4/6/2021

Status: 8/30/2021-Read second time. Ordered to third reading.

Location: 8/30/2021-A. THIRD READING

Calendar: 9/1/2021 #123 ASSEMBLY THIRD READING FILE - SENATE BILLS

Summary: Current law requires the Sierra Nevada Conservancy to make an annual report to the Legislature and to the Secretary of the Natural Resources Agency regarding expenditures, land management costs, and administrative costs. This bill would modify areas listed under the definitions of the "Sierra Nevada Region" and its "subregions," as specified, for these purposes. The bill would require the conservancy to include, in its report regarding expenditures, land management costs, and administrative costs for the year 2022, recommendations to the Legislature for legislation to change the name of the conservancy and the governing board of the Sierra Nevada Conservancy, and to change the structure of the regions, subregions, and board, to align the conservancy with its recent expansion in the Counties of Shasta, Siskiyou, and Trinity.

Position

SB 259 (**Wilk** R) **Public Utilities Commission: oversight of electrical corporations.**

Status: 2/22/2021-Art. IV. Sec. 8(a) of the Constitution dispensed with. (Ayes 32. Noes 4.) Joint Rule 55 suspended. (Ayes 32. Noes 4.)

Location: 1/26/2021-S. RLS.

Summary: Would state the intent of the Legislature to enact legislation to strengthen the Public Utilities Commission's oversight of electrical corporations' efforts to reduce their fire risk and use of deenergization events.

Position

SB 267 (**Hertzberg** D) **Property taxation: active solar energy systems: partnership flip transactions.**

Last Amend: 8/16/2021

Status: 8/30/2021-Read second time. Ordered to third reading.

Location: 8/30/2021-A. THIRD READING

Calendar: 9/1/2021 #131 ASSEMBLY THIRD READING FILE - SENATE BILLS

Summary: Would provide that for a legal entity that owns an active solar energy system pursuant to a partnership flip transaction, as defined, neither an initial transfer of a capital and profits interest in the legal entity, nor any subsequent change in the allocation of the capital and profits of the legal entity among the members, shall be deemed to constitute a transfer of control of, or of a majority interest in, the legal entity. The bill would provide that if the parties to a partnership flip transaction

sell or exchange ownership of the partnership or limited liability company in a transaction or series of transactions, that are separate and apart from the partnership flip transaction conducted pursuant to the bill's provisions, in such a manner that a change in ownership of the partnership or limited liability company occurs, as specified, then the bill's provisions do not apply to that transaction or transactions.

Position

SB 273 (Hertzberg D) Water quality: municipal wastewater agencies.

Last Amend: 6/21/2021

Status: 8/30/2021-Assembly amendments concurred in. (Ayes 39. Noes 0.) Ordered to engrossing and enrolling.

Location: 8/30/2021-S. ENROLLMENT

Summary: Would authorize a municipal wastewater agency, as defined, to enter into agreements with entities responsible for stormwater management for the purpose of managing stormwater and dry weather runoff, as defined, to acquire, construct, expand, operate, maintain, and provide facilities for specified purposes relating to managing stormwater and dry weather runoff, and to levy taxes, fees, and charges consistent with the municipal wastewater agency's existing authority in order to fund projects undertaken pursuant to the bill. The bill would require the exercise of any new authority granted under the bill to comply with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. The bill would require a municipal wastewater agency that enters into or amends one of these agreements after January 1, 2022, to file a copy of the agreement or amendment with the local agency formation commission in each county where any part of the municipal wastewater agency's territory is located, but would exempt those agreements and amendments from local agency formation commission approval except as required by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

Position

SB 274 (Wieckowski D) Local government meetings: agenda and documents.

Last Amend: 4/5/2021

Status: 8/30/2021-Enrolled and presented to the Governor at 1 p.m.

Location: 8/30/2021-S. ENROLLED

Summary: The Ralph M. Brown Act requires meetings of the legislative body of a local agency to be open and public and also requires regular and special meetings of the legislative body to be held within the boundaries of the territory over which the local agency exercises jurisdiction, with specified exceptions. Current law authorizes a person to request that a copy of an agenda, or a copy of all the documents constituting the agenda packet, of any meeting of a legislative body be mailed to that person. This bill would require a local agency with an internet website, or its designee, to email a copy of, or website link to, the agenda or a copy of all the documents constituting the agenda packet if the person requests that the items be delivered by email. If a local agency determines it to be technologically infeasible to send a copy of the documents or a link to a website that contains the documents by email or by other electronic means, the bill would require the legislative body or its designee to send by mail a copy of the agenda or a website link to the agenda and to mail a copy of all other documents constituting the agenda packet, as specified.

Position

SB 282 (Dahle R) State Water Resources Control Board.

Status: 2/22/2021-Art. IV. Sec. 8(a) of the Constitution dispensed with. (Ayes 32. Noes 4.) Joint Rule 55 suspended. (Ayes 32. Noes 4.)

Location: 2/1/2021-S. RLS.

Summary: Current law establishes the State Water Resources Control Board, consisting of 5 members, in the California Environmental Protection Agency to exercise certain powers relating to water rights, water quality, and safe and reliable drinking water. This bill would make a nonsubstantive change in these provisions.

Position

SB 319 (Melendez R) Land use: development fees: audit.

Status: 8/30/2021-Enrolled and presented to the Governor at 1 p.m.

Location: 8/30/2021-S. ENROLLED

Summary: Current law authorizes a person to request an audit to determine whether a fee or charge levied by a local agency exceeds the amount reasonably necessary to cover the cost of any product, public facility, or service provided by the local agency. If a local agency does not comply with the above-described disclosure requirement for 3 consecutive years, existing law prohibits the local agency from requiring that person to make a specified deposit and requires the local agency to pay the cost of the audit. This bill, additionally, would require that audit to include each consecutive year the local agency did not comply with the disclosure requirement. The bill would make clarifying changes to that provision.

Position

SB 323 (Caballero D) Local government: water or sewer service: legal actions.

Last Amend: 8/16/2021

Status: 8/23/2021-Read second time. Ordered to third reading.

Location: 8/23/2021-A. THIRD READING

Calendar: 9/1/2021 #94 ASSEMBLY THIRD READING FILE - SENATE BILLS

Summary: Current law prohibits a local agency from imposing fees for specified purposes, including fees for water or sewer connections, as defined, that exceed the estimated reasonable cost of providing the service for which the fee is charged, unless voter approval is obtained. Existing law provides that a local agency levying a new water or sewer connection fee or increasing a fee must do so by ordinance or resolution. Current law requires, for specified fees, including water or sewer connection fees, any judicial action or proceeding to attack, review, set aside, void, or annul an ordinance, resolution, or motion adopting a new fee or service charge or modifying an existing fee or service charge to be commenced within 120 days of the effective date of the ordinance, resolution, or motion according to specified procedures for validation proceedings. Except as provided, this bill would require any judicial action or proceeding to attack, review, set aside, void, validate, or annul an ordinance, resolution, or motion adopting, modifying, or amending water or sewer service fees or charges adopted after January 1, 2022, to be commenced within 120 days of the effective date or the date of final passage, adoption, or approval of the ordinance, resolution, or motion, whichever is later.

Position

SB 332 (Dodd D) Civil liability: prescribed burning operations: gross negligence.

Last Amend: 6/23/2021

Status: 8/30/2021-Read second time. Ordered to third reading.

Location: 8/30/2021-A. THIRD READING

Calendar: 9/1/2021 #139 ASSEMBLY THIRD READING FILE - SENATE BILLS

Summary: Would provide that no person shall be liable for any fire suppression or other costs otherwise recoverable for a prescribed burn if specified conditions are met, including, among others, that the burn be for the purpose of wildland fire hazard reduction, ecological maintenance and restoration, cultural burning, silviculture, or

agriculture, and that, when required, a certified burn boss review and approve a written prescription for the burn. The bill would provide that any person whose conduct constitutes gross negligence shall not be entitled to immunity from fire suppression or other costs otherwise recoverable, as specified. The bill would define terms for its purposes.

Position

SB 369 (Pan D) Flood control: Yolo Bypass Cache Slough Partnership Multibenefit Program.

Last Amend: 6/14/2021

Status: 8/30/2021-Read second time. Ordered to third reading.

Location: 8/30/2021-A. THIRD READING

Calendar: 9/1/2021 #147 ASSEMBLY THIRD READING FILE - SENATE BILLS

Summary: Would establish the Yolo Bypass Cache Slough Partnership Multibenefit Program to support the development and implementation of projects within the Yolo Bypass and Cache Slough region. The bill would define "Yolo Bypass Cache Slough Partnership" to mean the multiagency partnership established pursuant to a memorandum of understanding signed in May 2016 by a total of 15 participating federal, state, and local agencies. The bill would require the participating state agencies, including the Natural Resources Agency, the Department of Water Resources, the Department of Fish and Wildlife, the Central Valley Flood Protection Board, the State Water Resources Control Board, and the Central Valley Regional Water Quality Control Board, to work in collaboration with the participating federal and local agencies and the City of West Sacramento, if it chooses to participate, to advance specified objectives in the Yolo Bypass and Cache Slough region.

Position

SB 372 (Levva D) Medium- and heavy-duty fleet purchasing assistance program: zero-emission vehicles.

Last Amend: 7/12/2021

Status: 8/30/2021-Read second time. Ordered to third reading.

Location: 8/30/2021-A. THIRD READING

Calendar: 9/1/2021 #148 ASSEMBLY THIRD READING FILE - SENATE BILLS

Summary: Current law establishes the Air Quality Improvement Program that is administered by the State Air Resources Board for purposes of funding projects related to, among other things, the reduction of criteria air pollutants and improvement of air quality. Pursuant to its existing statutory authority, the state board has established the Clean Vehicle Rebate Project, as a part of the Air Quality Improvement Program, to promote the use of zero-emission vehicles by providing rebates for the purchase of new zero-emission vehicles. Current law, the California Pollution Control Financing Authority Act, establishes the California Pollution Control Financing Authority, with specified powers and duties, and authorizes the authority to approve financing for projects or pollution control facilities to prevent or reduce environmental pollution. This bill would establish the Medium- and Heavy-Duty Zero-Emission Vehicle Fleet Purchasing Assistance Program within the Air Quality Improvement Program to make financing tools and nonfinancial supports available to operators of medium- and heavy-duty vehicle fleets to enable those operators to transition their fleets to zero-emission vehicles.

Position

SB 378 (Gonzalez D) Local government: broadband infrastructure development project permit processing: microtrenching permit processing ordinance.

Last Amend: 6/29/2021

Status: 8/31/2021-In Senate. Concurrence in Assembly amendments pending.

Location: 8/31/2021-S. CONCURRENCE

Calendar: 9/1/2021 #38 SENATE UNFINISHED BUSINESS

Summary: Would require a local agency to allow, except as provided, microtrenching for the installation of underground fiber if the installation in the microtrench is limited to fiber. The bill would also require, to the extent necessary, a local agency with jurisdiction to approve excavations to adopt or amend existing policies, ordinances, codes, or construction rules to allow for microtrenching. The bill would provide that these provisions do not supersede, nullify, or otherwise alter the requirements to comply with specified safety standards. The bill would authorize a local agency to impose a fee for its reasonable costs on an application for a permit to install fiber, as provided. By imposing new duties on local agencies with regard to the installation of fiber, the bill would impose a state-mandated local program.

Position

SB 391 (Min D) Common interest developments: emergency powers and procedures.

Last Amend: 7/8/2021

Status: 8/30/2021-Enrolled and presented to the Governor at 1 p.m.

Location: 8/30/2021-S. ENROLLED

Summary: The Davis-Stirling Common Interest Development Act governs the management and operation of common interest developments. Current law defines a board meeting as a congregation, as provided, or a teleconference, as provided. Current law requires, among other things, a board meeting held by teleconference to identify at least one physical location so that members of the association may attend, except as provided. This bill would establish alternative teleconferencing procedures for a board meeting or a meeting of the members if gathering in person is unsafe or impossible because the common interest development is in an area affected by a federal, state, or local emergency. The bill would also make a conforming change.

Position

SB 396 (Dahle R) Forestry: electrical transmission or distribution lines: clearances: notice and opportunity to be heard: internal combustion engines: fire toolbox.

Last Amend: 7/12/2021

Status: 8/30/2021-Read second time. Ordered to third reading.

Location: 8/30/2021-A. THIRD READING

Calendar: 9/1/2021 #152 ASSEMBLY THIRD READING FILE - SENATE BILLS

Summary: Current law prohibits any person, except as specified, from using or operating any vehicle, machine, tool, or equipment powered by an internal combustion engine operated on hydrocarbon fuels, in any industrial operation located on or near any forest, brush, or grass-covered land between April 1 and December 1 of any year, or at any other time when ground litter and vegetation will sustain combustion permitting the spread of fire, without providing and maintaining, for firefighting purposes only, suitable and serviceable tools, as prescribed. Current law requires a sealed box of tools to be located within the operating area and accessible in the event of a fire, which fire toolbox shall contain: one backpack pump-type fire extinguisher filled with water, 2 axes, 2 McLeod fire tools, and a sufficient number of shovels so that each employee at the operation can be equipped to fight fire. This bill would require a dedicated set of tools to be located within the operating area and accessible in the event of a fire, which fire toolbox shall contain: a sufficient number of fire extinguishers, axes, 2 McLeod fire tools, and shovels so that, when added to any other tools on the industrial operation, each employee at the operation can be

equipped to fight fire. The bill would make other nonsubstantive changes to these provisions.

Position

SB 403 (Gonzalez D) Drinking water: consolidation.

Last Amend: 7/5/2021

Status: 8/30/2021-Read second time. Ordered to third reading.

Location: 8/30/2021-A. THIRD READING

Calendar: 9/1/2021 #153 ASSEMBLY THIRD READING FILE - SENATE BILLS

Summary: The California Safe Drinking Water Act authorizes the State Water Resources Control Board to order consolidation with a receiving water system where a public water system or a state small water system, serving a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water or where a disadvantaged community is substantially reliant on domestic wells that consistently fail to provide an adequate supply of safe drinking water. This bill would revise those consolidation provisions, including, among other revisions, authorizing the state board to also order consolidation where a water system serving a disadvantaged community is an at-risk water system, as defined, or where a disadvantaged community is substantially reliant on at-risk domestic wells, as defined.

Position

SB 423 (Stern D) Energy: firm zero-carbon resources.

Last Amend: 8/30/2021

Status: 8/31/2021-Read second time. Ordered to third reading.

Location: 8/31/2021-A. THIRD READING

Calendar: 9/1/2021 #243 ASSEMBLY THIRD READING FILE - SENATE BILLS

Summary: Would require the Energy Commission to timely incorporate into its integrated energy policy reports nonfossil fuel-based electricity resources that can individually, or in combination, deliver electricity with high availability for the expected duration of multiday extreme or atypical weather events and facilitate integration of eligible renewable energy resources into the electricity grid and the transition to a zero-carbon electricity grid, referred to as "firm zero-carbon resources."

Position

SB 462 (Borgeas R) Disaster relief: Creek Fire: allocation to local agencies.

Status: 5/20/2021-May 20 hearing: Held in committee and under submission.

Location: 3/22/2021-S. APPR. SUSPENSE FILE

Summary: The California Disaster Assistance Act requires the Director of Emergency Services to provide financial assistance to local agencies for their personnel costs, equipment costs, and the cost of supplies and materials used during disaster response activities, incurred as a result of a state of emergency proclaimed by the Governor, subject to specified criteria. Under the act, the state share for eligible project costs is generally 75% of total eligible costs, and for specified incidents, the state share is up to 100% of total eligible costs. The act continuously appropriates moneys in the Disaster Assistance Fund and its subsidiary account, the Earthquake Emergency Investigations Account, without regard to fiscal year, for purposes of the act. This bill would allow for a state share of up to 100% of total eligible costs related to the Creek Fire that started on September 4, 2020, in the Counties of Fresno and Madera.

Position

SB 496 (Laird D) Flood control: water development projects: Pajaro River.

Last Amend: 7/8/2021

Status: 8/30/2021-Read second time. Ordered to third reading.

Location: 8/30/2021-A. THIRD READING

Calendar: 9/1/2021 #160 ASSEMBLY THIRD READING FILE - SENATE BILLS

Summary: Current law provides for state cooperation with the federal government in the construction of specified flood control projects. For certain flood control projects authorized on or after January 1, 2002, or for which specified findings have been made on or after that date, existing law requires the state to pay 50% of specified nonfederal costs. Current law authorizes the state to pay up to 70% of those nonfederal costs upon the recommendation of the Department of Water Resources or the Central Valley Flood Protection Board if either entity determines that the project will advance one of several objectives. This bill would authorize, upon certain conditions, the state to provide up to 100% of the costs to the Counties of Monterey and Santa Cruz, or to local agencies in those counties, for the project for flood control on the Pajaro River in the Counties of Monterey and Santa Cruz.

Position

SB 533 (Stern D) Electrical corporations: wildfire mitigation plans: deenergization events.

Last Amend: 7/1/2021

Status: 8/30/2021-Read second time. Ordered to third reading.

Location: 8/30/2021-A. THIRD READING

Calendar: 9/1/2021 #165 ASSEMBLY THIRD READING FILE - SENATE BILLS

Summary: Would require that an electrical corporation's wildfire mitigation plan identify circuits that have frequently been deenergized to mitigate the risk of wildfire and the measures taken, or planned to be taken, by the electrical corporation to reduce the need for, and impact of, future deenergization of those circuits, including replacing, hardening, or undergrounding any portion of the circuit or of upstream transmission or distribution lines.

Position

SB 552 (Hertzberg D) Drought planning: small water suppliers: nontransient noncommunity water systems.

Last Amend: 8/30/2021

Status: 8/31/2021-Read second time. Ordered to third reading.

Location: 8/31/2021-A. THIRD READING

Calendar: 9/1/2021 #253 ASSEMBLY THIRD READING FILE - SENATE BILLS

Summary: Current law required the Department of Water Resources, in consultation with the State Water Resources Control Board, to propose to the Governor and the Legislature, by January 1, 2020, recommendations and guidance relating to the development and implementation of countywide drought and water shortage contingency plans to address the planning needs of small water suppliers and rural communities, as provided. This bill would require small water suppliers, as defined, serving 1,000 to 2,999 service connections, inclusive, and nontransient noncommunity water systems that are schools, no later than July 1, 2023, to develop and maintain an abridged Water Shortage Contingency Plan that includes specified drought-planning elements.

Position

SB 559 (Hurtado D) Department of Water Resources: water conveyance systems: Water Conveyance Restoration Fund.

Last Amend: 8/30/2021

Status: 8/31/2021-Read second time. Ordered to third reading.

Location: 8/31/2021-A. THIRD READING

Calendar: 9/1/2021 #254 ASSEMBLY THIRD READING FILE - SENATE BILLS

Summary: Would establish the Water Conveyance Restoration Fund in the State Treasury to be administered by the Department of Water Resources in consultation with the State Water Resources Control Board and the Department of Fish and Wildlife. The bill would require all moneys deposited in the fund to be expended, upon appropriation by the Legislature, in support of subsidence repair costs, including environmental planning, permitting, design, and construction and necessary road and bridge upgrades required to accommodate capacity improvements. The bill would require the Director of Water Resources to apportion money appropriated from the fund, subject to specified requirements, for the Friant-Kern Canal, Delta-Mendota Canal, San Luis Field Division of the California Aqueduct, and San Joaquin Division of the California Aqueduct.

Position

SB 594 (Glazer D) Elections: redistricting.

Last Amend: 8/26/2021

Status: 8/31/2021-In Senate. Concurrence in Assembly amendments pending.

Location: 8/31/2021-S. CONCURRENCE

Calendar:

9/2/2021 9 a.m. - John L. Burton Hearing Room (4203) SENATE ELECTIONS AND CONSTITUTIONAL AMENDMENTS, GLAZER, Chair

9/1/2021 #42 SENATE UNFINISHED BUSINESS

Summary: The California Constitution establishes the Citizens Redistricting Commission for the purpose of drawing district lines for the election of Members of the State Senate, Assembly, Congress, and the State Board of Equalization, and requires the commission to do so by August 15 in each year ending in the number one thereafter. For redistricting occurring in 2021, the Supreme Court of California, by peremptory writ of mandate in *Legislature of State of California v. Padilla* (2020) 9 Cal.5th 867, extended that deadline to December 15, 2021, or to a later date if specified conditions are met, due to a delay in the release of federal census data caused by the COVID-19 pandemic. This bill would, for the June 7, 2022, statewide direct primary election, make various changes, as specified, to existing law relating to candidate nominations and compilation of registered voter data in order to accommodate the extended state redistricting deadline.

Position

SB 626 (Dodd D) Department of Water Resources: Procurement Methods.

Last Amend: 6/21/2021

Status: 8/31/2021-In Senate. Concurrence in Assembly amendments pending.

Location: 8/31/2021-S. CONCURRENCE

Calendar: 9/1/2021 #43 SENATE UNFINISHED BUSINESS

Summary: Current law authorizes the Department of Transportation, regional transportation agencies, and the San Diego Association of Governments to engage in a Construction Manager/General Contractor project delivery method (CM/GC method) for specified public work projects. This bill would, until January 1, 2033, authorize the Department of Water Resources to utilize the CM/GC method, as specified, for no more than 7 projects for elements of State Water Facilities, as defined. The bill would require the Department of Water Resources, on all projects delivered by the department, to use department employees or consultants under contract with the department to perform all project design and engineering services related to design,

and construction inspection services, required for the CM/GC method consistent with specified existing law.

Position

SB 776 (Gonzalez D) Safe drinking water and water quality.

Last Amend: 8/30/2021

Status: 8/31/2021-Read second time. Ordered to third reading.

Location: 8/31/2021-A. THIRD READING

Calendar: 9/1/2021 #275 ASSEMBLY THIRD READING FILE - SENATE BILLS

Summary: Thee California Safe Drinking Water Act requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health. Current law provides that the California Safe Drinking Water Act does not apply to small state water systems, except as specified. This bill would expand the application of the act to small state water systems, as specified.

Position

SB 821 (Committee on Natural Resources and Water) Sacramento-San Joaquin Delta: Delta Independent Science Board.

Last Amend: 7/5/2021

Status: 8/30/2021-Urgency clause adopted. Assembly amendments concurred in. (Ayes 39. Noes 0.) Ordered to engrossing and enrolling.

Location: 8/30/2021-S. ENROLLMENT

Summary: Current law establishes the Delta Independent Science Board and sets forth the composition of the board, including requiring the board to consist of no more than 10 members appointed by the Delta Stewardship Council. Current law requires the board to provide oversight of the scientific research, monitoring, and assessment programs that support adaptive management of the Sacramento-San Joaquin Delta through periodic reviews of each of those programs, as specified. Current law requires the board to submit to the council a report on the results of each review, including recommendations for any changes in the programs reviewed by the board. This bill would require the council to contract for the services of the members of the board, as specified. The bill would exempt these contracts from specified provisions of law governing public contracting. The bill would require the council to establish procedures for contracting for the services that are subject to these contracts.

Position

Memo

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To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS

TWELVE MONTH CALENDAR/OTHER MEETINGS / REPORTS

Any report will be oral at the time of the Board meeting. Please refer to the TWELVE MONTH Calendar (attached) for meetings attended.

TWELVE MONTH CALENDAR OF EVENTS (AS OF 9/2/21)

Date(s)	Event	Time	Location	Attending Board Member(s)	Additional Information (Speakers' Topic, Cohosts, etc.)
<u>AUGUST 2021</u>					
19-Aug	CSDA Quarterly Dinner	6:00 PM	94th Aero Squadron	Bruce-Lane	
22-Aug	Safety Committee Meeting	2:30 PM		Meyers, Topolovac	
24-Aug	Conference Call RE: Water Loss & Customer Inquiries			Bruce-Lane	
25-Aug	Conference Call RE: Safety Committee & Insurance Committee			Watt	
26-Aug	Meeting RE: Safety Committee & Insurance Issues			Meyers	
31-Aug	Conference Call RE: CWA Issues			Guerin	
<u>SEPTEMBER 2021</u>					
7-Sep	San Dieguito Valley Brackish Valley Groundwater Project Site Tour	12:00 PM		Bruce-Lane	

Memo

To: Olivenhain Municipal Water District Board of Directors

Subject: INFORMATIONAL REPORTS

CORRESPONDENCE

Any correspondence is attached.

Board of Directors

Lawrence A. Watt, President
Kristie Bruce-Lane, Vice President
Christy Guerin, Treasurer
Robert F. Topolovac, Secretary
Neal Meyers, Director



General Manager
Kimberly A. Thorner, Esq.
General Counsel
Alfred Smith, Esq.

August 26, 2021

The Honorable Peter DeFazio, Chair
Committee on Transportation and Infrastructure
U.S. House of Representatives
2165 Rayburn House Office Building
Washington, DC 20515-6256

The Honorable Grace Napolitano, Chair
Subcommittee on Water Resources and Environment
Committee on Transportation and Infrastructure
U.S. House of Representatives
2165 Rayburn House Office Building
Washington, DC 20515-6256

RE: Infrastructure package- recycled water project inclusion

Dear Chair DeFazio and Chair Napolitano:

On behalf of Olivenhain Municipal Water District, I am writing to urge you to invest in water recycling and related federal programs as part of the bipartisan infrastructure package and a reconciliation package being finalized by year-end. OMWD provides 87,000 customers in northern San Diego County with water, wastewater, recycled water, hydroelectric, and recreational services.

OMWD appreciates your efforts to enact historic infrastructure legislation that invests in climate change solutions such as recycled water. As you work to finalize both a bipartisan infrastructure package and a reconciliation package, OMWD encourages you to invest in water recycling and related federal programs to help communities build climate resilience and a secure economic future.

By investing in federal water recycling programs now, Congress can give communities the tools and resources they need to prepare for and manage the impacts of climate change, including drought, aquifer depletion, flooding, and land subsidence. Water reuse, also known as water recycling, is the process of intentionally capturing wastewater, stormwater, saltwater or graywater and cleaning it as needed for a designated beneficial freshwater purpose, such as drinking, industrial processes, groundwater replenishment, and watershed restoration.

Water recycling has proven to be a central feature in innovative, integrated approaches to solving water management challenges. Potable water supplies are vulnerable during drought periods and can be restricted during times of water shortages. Recycled water is considered a drought-proof supply because it is not linked to weather fluctuations and is available year-round, effectively offsetting potable water demand. Furthermore, since recycled water is produced locally, it cannot be disrupted from shortages caused by earthquakes, wildfires, and other natural disasters that may occur in other parts of the state.



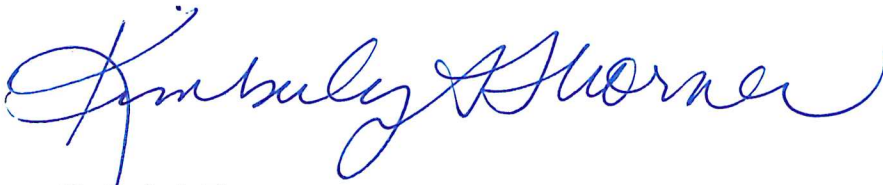
Expanding recycled water distribution has the added benefit of reducing wastewater discharges and associated coastal stressors. Reducing the amount of wastewater discharged to the Pacific Ocean can benefit water quality along our precious coastlines.

In order to build a modern, resilient, and equitable water infrastructure that can sustain local economies and address climate change challenges, OMWD urges Congress to use upcoming budget reconciliation legislation to invest at least \$200 million per year in mandatory funding in the Pilot Program for Alternative Water Source Grants. This is a competitive grants program through which the U.S. Environmental Protection Agency would provide cost share to agencies such as OMWD to engineer, design, construct, and test alternative water source systems, including water reuse systems. The program will ensure that communities throughout Southern California can access water recycling tools to solve local water challenges.

In addition to investing at least \$200 million per year in the Alternative Water Source Grants Program through budget reconciliation, we urge you to enact the Infrastructure and Jobs Act, which includes \$1 billion for water recycling programs administered by the Bureau of Reclamation. OMWD has previously applied for and received grant funding through Bureau of Reclamation's Title XVI funding programs, which has directly supported the development of new recycled water infrastructure to combat drought.

Investment in water reuse builds communities that are modern, sustainable and stable—ready for families to flourish and businesses to grow. OMWD thanks you for your support and leadership on this issue. If you or your committee should need any additional information, please do not hesitate to contact me at 760-753-6466 or kthorner@olivenhain.com.

Regards,



Kimberly A. Thorner
General Manager

CC: Representative Mike Levin
Representative Darrell Issa
Representative Scott Peters

Board of Directors

Lawrence A. Watt, President
Kristie Bruce-Lane, Vice President
Christy Guerin, Treasurer
Robert F. Topolovac, Secretary
Neal Meyers, Director



General Manager
Kimberly A. Thorne, Esq.
General Counsel
Alfred Smith, Esq.

August 26, 2021

The Honorable Tom Carper, Chair
Committee on Environment and Public Works
United States Senate
410 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Tammy Duckworth, Chair
Subcommittee on Fisheries, Water, and Wildlife
United States Senate
410 Dirksen Senate Office Building
Washington, DC 20510

RE: Infrastructure package- recycled water project inclusion

Dear Chair Carper and Chair Duckworth:

On behalf of Olivenhain Municipal Water District, I am writing to urge you to invest in water recycling and related federal programs as part of the bipartisan infrastructure package and a reconciliation package being finalized by year-end. OMWD provides 87,000 customers in northern San Diego County with water, wastewater, recycled water, hydroelectric, and recreational services.

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By investing in federal water recycling programs now, Congress can give communities the tools and resources they need to prepare for and manage the impacts of climate change, including drought, aquifer depletion, flooding, and land subsidence. Water reuse, also known as water recycling, is the process of intentionally capturing wastewater, stormwater, saltwater or graywater and cleaning it as needed for a designated beneficial freshwater purpose, such as drinking, industrial processes, groundwater replenishment, and watershed restoration.

Water recycling has proven to be a central feature in innovative, integrated approaches to solving water management challenges. Potable water supplies are vulnerable during drought periods and can be restricted during times of water shortages. Recycled water is considered a drought-proof supply because it is not linked to weather fluctuations and is available year-round, effectively offsetting potable water demand. Furthermore, since recycled water is produced locally, it cannot be disrupted from shortages caused by earthquakes, wildfires, and other natural disasters that may occur in other parts of the state.



Expanding recycled water distribution has the added benefit of reducing wastewater discharges and associated coastal stressors. Reducing the amount of wastewater discharged to the Pacific Ocean can benefit water quality along our precious coastlines.

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Regards,



Kimberly A. Thorner
General Manager

CC: Senator Dianne Feinstein
Senator Alex Padilla

Memo

To: Olivenhain Municipal Water District Board of Directors

Subject: AUTHORIZATION TO ATTEND UPCOMING MEETINGS /
CONFERENCES / SEMINARS

The Board may desire to attend a meeting that requires Board approval.

Memo

To: Olivenhain Municipal Water District Board of Directors

Subject: FUTURE AGENDA ITEMS

The Board may have items to be considered at a Future Board meeting.

Memo

To: Olivenhain Municipal Water District Board of Directors

Subject: CONSIDER PUBLIC COMMENTS

There may be public comments before the Board meeting is adjourned.

Memo

To: Olivenhain Municipal Water District Board of Directors

Subject: CLOSED SESSION

It may be necessary to go into Closed Session.

Memo

To: Olivenhain Municipal Water District Board of Directors

Subject: ADJOURNMENT

We are adjourned.